

## Fourth Amendment to Development Agreement

## RECITALS

**WHEREAS**, Company and City desire to make certain additional amendments to the Development Agreement to establish certain rights and obligations related to the Phase Four Land;

**NOW, THEREFORE**, for and in consideration of the mutual covenants, conditions, and promises made one to the other, Company and City agree as follows:

1. The capitalized words and phrases set forth in this Fourth Amendment shall have the same meanings as set forth in the Development Agreement except as otherwise amended in this Fourth Amendment.
2. The Development Agreement is hereby amended as follows:

- A. Exhibit “B” titled “Concept Plan” shall be amended in its entirety and depicted as set forth in Attachment 1, attached hereto and incorporated herein by reference.
- B. The definition of “Land” in Article II is amended to read as follows:

“Land” shall mean, collectively (i) the real property described in **Exhibit “A”** and (ii) the Phase Four Land.

- C. The definition of “Option Agreement” in Article II is amended to read as follows:

“Option Agreement” shall mean that certain *Option Agreement* by and between the Coppell Economic Development Foundation, Inc. (“CEDF”) and the Company dated November 29, 2010, setting forth the terms and conditions by which the Company has the right to exercise an option purchase the Option Land in phases, inclusive of all subsequent amendments to the Option Agreement entered between the Company and CEDF.

- D. The definition of “Option Land” as set forth in Article II is amended to read in its entirety as follows:

“Option Land” shall mean (i) the real property described in Exhibit “A-1” and (ii) the Phase Four Land; provided, however, if the real property described in Exhibit “A-1” and/or the Phase Four Land is replatted in accordance with City’s subdivision regulations, the description of the Option Land shall be deemed to be amended to conform to the lot and block designations set forth in the final plat of such replatted portion of the Option Land without the necessity of execution of a written amendment to this Agreement.

- E. Article I is amended to add the definitions for the phrases “Phase Four Land” and “Temporary Construction Easement” to read as follows:

“Phase Four Land” the real property to be described as Lot 1X and Lots 14R through 25R, Block G, Replat Old Town Addition, an addition to the City of Coppell, Dallas County, Texas, according to the proposed replat

to be recorded in the Map Records of Dallas County, Texas, said lots being depicted in Exhibit "A-2," attached hereto and incorporated herein by reference

"Temporary Construction Easement" means that certain Temporary Construction Easement" between City and Company recorded May 4, 2012, as Instrument No. 201200128407 in the Official Public Records, Dallas County, Texas.

- F. The definition of "Planned Development District Ordinance" as set forth in Article II is amended to read in its entirety as follows:

"Planned Development District Ordinance" shall mean the planned development zoning ordinance governing the development of the Land, including any amendments thereto enacted subsequent to the Effective Date.

- G. The phrase "fifty-five (55)" wherever it appears in the Development Agreement is amended to read "sixty-seven (67)".

- H. Add a new Article VII-A titled "Phase Four Project" to read as follows:

#### **Article VII-A Phase Four Project**

City and Company agree that the Phase Four Land shall be developed subject to the following terms and conditions.

1. City agrees to design and construct and/or install, at City's initial expense: (i) the "couplet" street and related parking spaces, (ii) a median on Burns Street, (iii) street lights substantially matching those elsewhere in the Project, and (iv) water lines and related taps to serve the proposed lots within the Phase Four Land (collectively, the "City Phase Four Work") substantially as shown on the site plan attached hereto as Exhibit "D" ("the Phase Four Site Plan").
2. Company shall, at Company's expense, prepare and submit to City an application for a replat of the Phase Four Land substantially consistent with the layout of lots set forth on the Phase Four Site Plan (the "Phase Four Plat"). City agrees to sign such application as owner of the Phase Four Property if City is the owner of the Phase Four Property at the time the application for replat is submitted to City and to reasonably cooperate in the prosecution of said application for replat. City agrees to approve the replat of the Phase Four Property provided the application for replat and all related

drawings are complete and otherwise comply with City's applicable subdivision regulations.

3. Notwithstanding anything contained in Paragraph 2 above to the contrary, prior to commencing the City Phase Four Work, City shall seek approval from Company of the design plans for the City Phase Four Work (the "City Design Plans") and a change order to the City's contract for the re-construction of Burns Street providing a fixed cost for completion of the City Phase Four Work substantially as set forth in Exhibit "E" attached hereto (the "Change Order"). If Company does not approve the City Design Plans and the Change Order within ten (10) days following submission to Company, City shall have no obligation to perform the City Phase Four Work and Company shall have the option of either (i) terminating this Fourth Amendment and related Third Amendment to the Option Agreement, or (ii) performing the City Phase Four Work at its own cost (but Company shall receive a \$55,700 credit at the Closing on the Phase Four Purchase Price of the Phase Four Land) in accordance with the City Design Plans. No material changes shall be made in the design of the City Phase Four Work without the approval of City and Company, which shall not be unreasonably delayed or denied.
4. If City performs the City Phase Four Work, Company agrees to reimburse City for the entire cost of the City Phase Four Work less the sum of \$55,700. Company shall pay such sum to City not later than ten (10) days following receipt of written notice from City certifying that the City Phase Four Work is Substantially Complete and accompanied by supporting invoices confirming the cost of the City Phase Four Work.
5. Subject to Events of Force Majeure, no later than October 1, 2017, Company shall cause the Phase Four Land to be developed into residential lots, including the common area lots, in accordance with the Phase Four Plat (the "Company Phase Four Work"). Company shall also install landscaping within the City right of way and medians within the Phase Four Land at Company's cost. If City does not perform the City Phase Four Work, Company shall also cause the City Phase Four Work to be completed in accordance with the City Design Plans. The work described in this Paragraph 5 shall include the extension of the sewer line from the adjacent alley and installation of taps for each residential lot.
6. At or prior to the re-sale of any portion of the Phase Four Land by City to Coppell Economic Development Corporation ("CEDC") for resale to Company, Company shall add to the Covenants the Phase

Four Land or portion thereof being sold and amend the Covenants to provide that the property owners association established under the Covenants assume responsibility for the maintenance of the common area lots shown on the Phase Four Plat and the portion of the median along Burns Street adjacent to the Phase Four Land.

7. Concurrently with the Closing on the first sale of any portion of the Phase Four Property to Company pursuant to the Option Agreement, Company and City agree to amend the Shared Parking Agreement to incorporate the parking spaces adjacent to the Phase Four Land to the coverage of the Shared Parking Agreement.
  8. Company and City agree to amend the Temporary Construction Easement to incorporate the Phase Four Land and the remainder of Lot 1, Block G, Old Town Addition owned by City and not included within the Phase Four Land.
  9. City agrees that so long any townhomes constructed on the Phase Four Land contain the same noise mitigation features as those incorporated into the existing adjacent townhomes, no new noise mitigation requirements will be imposed by the City, including additional studies or construction features. To the extent not in conflict with the foregoing sentence, the Replat of the Phase Four Land shall be subject to Section 6.5.
  10. For purposes of clarification, all of the City Phase Four Work (regardless of who performs the City Phase Four Work) and the sewer lines and taps installed by Company shall be considered Public Infrastructure.
- I. Add a new Exhibit "A-2" titled "Phase Four Land Depiction," Exhibit "D" titled "Phase Four Site Plan," and Exhibit "E" titled "Change Order" as set forth in Attachments 1, 2, and 3, hereto, and incorporated herein by reference.
3. Except as otherwise amended by this Fourth Amendment, the Development Agreement remains in full force and effect.
  4. This Fourth Amendment shall become effective on the date it is signed by authorized representatives of the parties hereto ("the Effective Date").

[Signature Pages Follow]

**SIGNED AND AGREED** this \_\_\_\_ day of \_\_\_\_\_, 2017.

**City of Coppel, Texas**

By: \_\_\_\_\_  
Clay Phillips, City Manager

**Attest:**

By: \_\_\_\_\_  
Christel Pettinos, City Secretary

**Agreed as to Form:**

By: \_\_\_\_\_  
City Attorney

**SIGNED AND AGREED** this \_\_\_\_ day of \_\_\_\_\_, 2017.

MAIN STREET COPPELL, LTD.,  
a Texas limited partnership

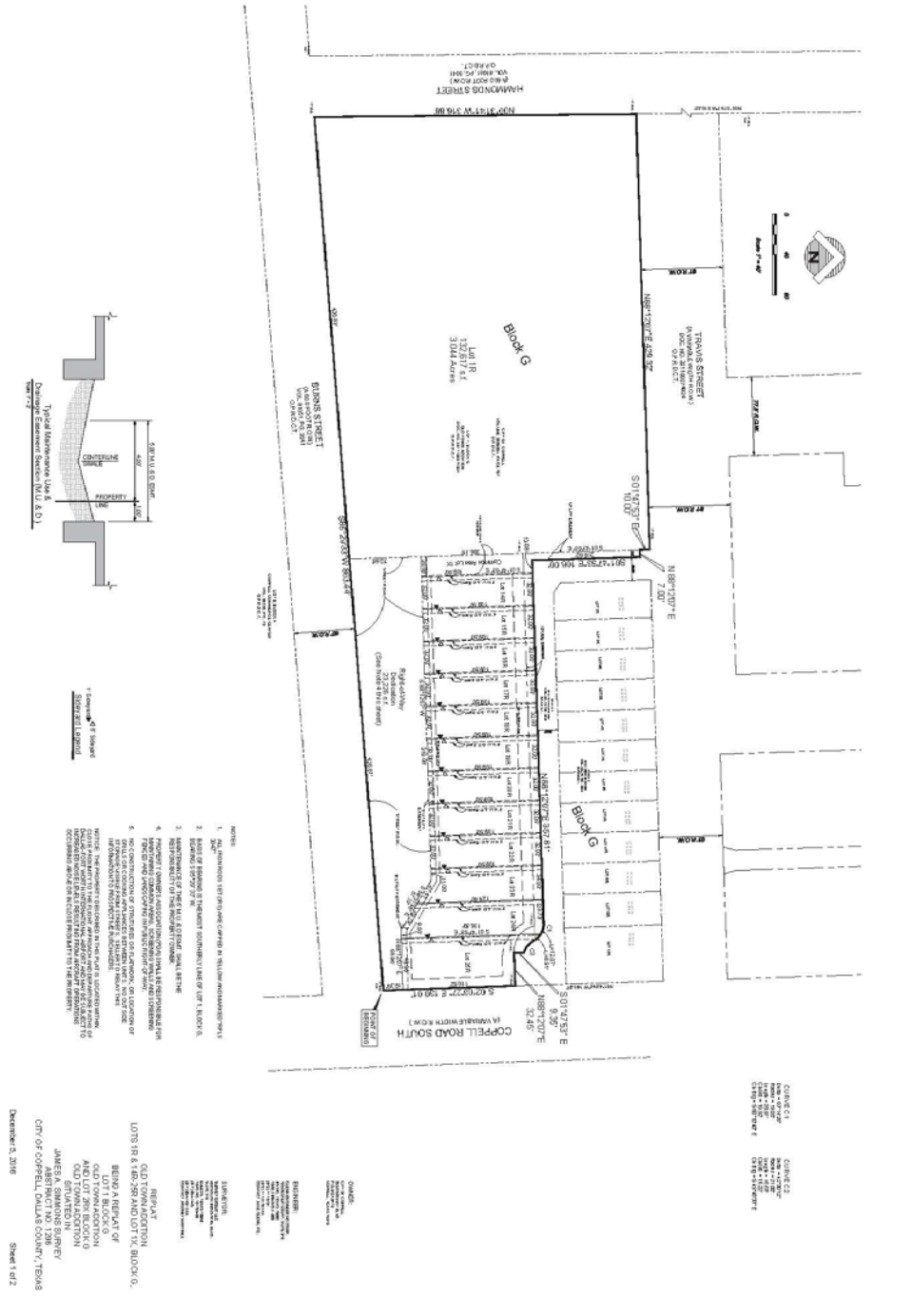
By: CSE-PROVIDENT, LLC  
a Texas limited liability company,  
its General Partner

By: \_\_\_\_\_  
Charles Cotten, Manager

# Attachment 1

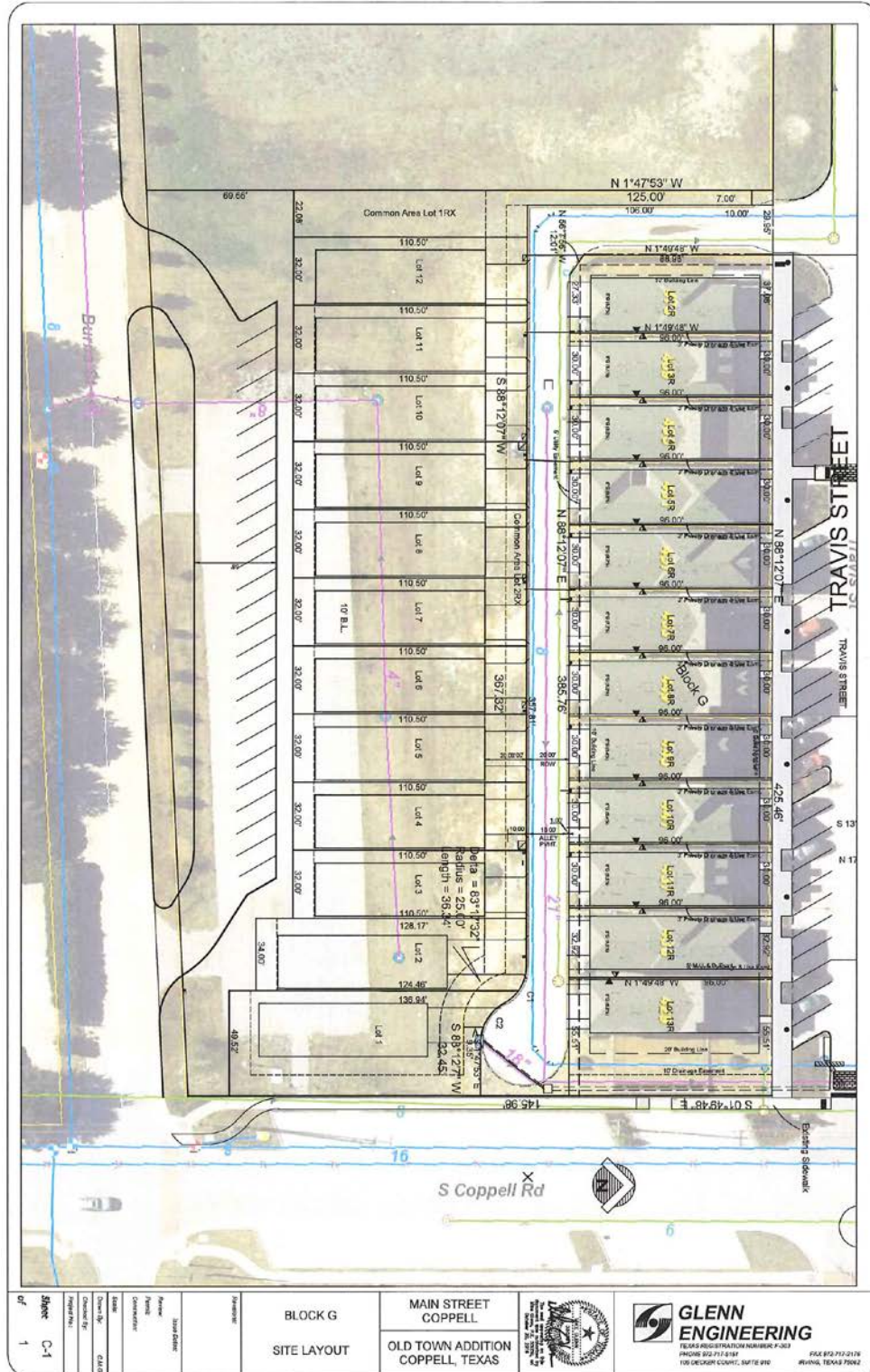
## EXHIBIT A-2

### DEPICTION OF PHASE FOUR LAND



## Attachment 2

### EXHIBIT D PHASE FOUR SITE PLAN



### Attachment 3

## EXHIBIT E CHANGE ORDER

### CITY OF COPPELL CHANGE OR EXTRA WORK ORDER

**PROJECT:** Burns Street Reconstruction

**CONTRACTOR:** RKM Utility Services, Inc

**OWNER:** City of Coppel

**CHANGE ORDER NO.:** 3

Three (3)

**DATE:**

November 29, 2016

1. This change order provides for incorporating the "slip street" design and associated utilities.
2. This change order adds 25 calendar days.

	Item	Description	Quantity	Unit	Unit Price	Total
Add:	106	Sawcut & Dispose Existing Concrete- additional quantities	2,455	SY	\$10.00	\$24,550.00
	107	9" Reinf. Concrete Paving w/ 6" integral curb- additional quantities	1,375	SY	\$55.00	\$75,625.00
	109	4" Reinf. Sidewalk Paving- additional quantities	320	SY	\$36.00	\$11,520.00
	128	1" Water Meter Service- additional quantities	1	EA	\$1,000.00	\$1,000.00
	138	Barrier Free Ramp (6' Sidewalk)- additional quantities	4	EA	\$1,500.00	\$6,000.00
	142	4" Schd. 40PVC Irrigation Sleeves- additional quantities	160	LF	\$12.00	\$1,920.00
	145	Stamped Concrete- additional quantities	60	SY	\$105.00	\$6,300.00
	146	Remove & Reset Landscaping- additional quantities	435	SY	\$6.00	\$2,610.00
	149	Parking Striping- additional quantities	500	LF	\$1.50	\$750.00
	150	3/4" future water meter (1" line, meter box, curb stop)- new item	12	EA	\$1,200.00	\$14,400.00
	151	1" future water meter (1" line, meter box, curb stop)- new item	1	EA	\$1,300.00	\$1,300.00
	152	Repair existing sanitary sewer line- new item	1	EA	\$4,500.00	\$4,500.00
	153	Install 5' inlet- new item	1	EA	\$4,500.00	\$4,500.00
	154	Connect curb to inlet- new item	2	EA	\$750.00	\$1,500.00
	155	Install 18" RCP- new item	25	LF	\$75.00	\$1,875.00

**CITY OF COPPELL  
CHANGE OR EXTRA WORK ORDER**

156	Remove existing RCP Line- new item	375	LF	\$25.00	\$9,375.00
157	Remove existing area drain	3	EA	\$450.00	\$1,350.00

**Total Additions** **\$169,075.00**


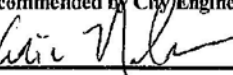

**Delete:**


**Total Deletions** **\$0.00**

**Total Revision to Contract Amount: \$169,075.00**

Original contract amount	\$944,135.00
Net increase in contract amount	\$169,075.00
Previously approved changes	\$255,765.00
Revised contract amount	\$1,368,975.00
Cumulative increase in TOTAL change order amount (Percentage)	45.0%
Net increase in contract time of completion (This Change Order)	29
Revised Contract time of completion (Including Previous Changes)	249

The contractor hereby accepts this Contract adjustment as a final and complete adjustment in full accord and

 Recommended by City Engineer	12.19.16 Date
 Agreed to by Contractor	11/29/16 Date
 Accepted by City	12/14/16 Date

# RKM Utility Services, Inc.

(972) 241-2621 Fax (972) 241-2624  
1805 Royal Lane # 107, Dallas, Texas 75229

## Burns Street Reconstruction Change Order #3

11/21/2016

Item No.	Qty.	Unit	Description	Unit Price	Extension
<b>Quantity Changes</b>					
106	2,455 SY		Sawcut. Remove & Dispose Existing Concrete (All thickness)	\$	
107	1,375 SY		9" Reinf. Concrete Paving w/6" Integral Curb	10.00 \$	24,550.00
109	320 SY		4" Reinf. Sidewalk Paving	55.00 \$	75,625.00
128	1 EA		1" Water Meter & Service	36.00 \$	11,520.00
138	4 EA		Barrier Free Ramp (6' Sidewalk)	1,000.00 \$	1,000.00
142	160 LF		4" Sched. 40 PVC Irrigation Sleeves	1,500.00 \$	6,000.00
145	60 SY		Stamped Concrete	12.00 \$	1,920.00
146	435 SY		Rem & Reset Landscaping	105.00 \$	6,300.00
149	500 LF		Parking Stripes	6.00 \$	2,610.00
				1.50 \$	750.00
<b>Added Items</b>					
150	12 EA		3/4" Future Wtr Meter (1" Line, Meter Box, Curb Stop)	1,200.00 \$	14,400.00
151	1 EA		1" Future Wtr Meter (1" Line, Meter Box, Curb Stop)	1,300.00 \$	1,300.00
152	1 LS		Repair Existing Sanitary Sewer Line	4,500.00 \$	4,500.00
153	1 EA		Install 5' Inlet	4,500.00 \$	4,500.00
154	2 EA		Connect to Curb Inlet	750.00 \$	1,500.00
155	25 LF		Install 18" RCP	75.00 \$	1,875.00
156	375 LF		Remove Existing RCP Line	25.00 \$	9,375.00
157	3 EA		Remove Existing Area Drain	450.00 \$	1,350.00
<b>Change Order</b>				<b>Total:</b>	<b>\$ 169,075.00</b>

Added Calendar Days: 25