

Buyer: LDA  
APN. N/A

### **PURCHASE OPTION AGREEMENT**

This PURCHASE OPTION AGREEMENT ("Agreement") is entered into this \_\_\_\_ day of \_\_\_\_\_ 2017 ("Effective Date") by and between the CITY OF CHULA VISTA, a chartered municipal corporation ("City"), and Land Developers & Associates Corporation, a California corporation ("LDA"). The City and LDA may be referred to herein individually as a "party" and collectively as the "parties".

### **RECITALS**

WHEREAS, City is the fee simple owner of that certain real property located north of E Street and west of Interstate 5, and more particularly described in the legal description in Exhibit "A" and as further depicted on the map in Exhibit "B", both of which are attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, LDA is the owner of two parcels adjacent to and abutting the Property with said parcels currently being identified as San Diego County Assessor's Parcel No's 565-310-09 and 565-310-25 ("LDA Land"); and

WHEREAS, LDA has proposed to the City to develop the LDA Land and Property in strict accordance with the plans, drawings, and specifications to be approved by the City and all applicable agencies with jurisdiction (the "Development"); and

WHEREAS, LDA desires to purchase the Property from the City and the City desires to transfer the Property to LDA in accordance with the terms and conditions of this Agreement in order to facilitate the Development; and

WHEREAS, the transfer of the Property is consistent with the City's strategic goal of Operational Excellence by utilizing under-utilized land to generate revenue for the City while relieving the City of the burden of maintenance.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City and LDA agree as follows:

## AGREEMENT

### 1. OPTION TO ACQUIRE.

1.1 Grant of Option. City hereby grants to LDA an option to purchase the Property, upon all of the terms, covenants, and conditions contained in this Agreement (the "Option").

1.2 Option Period. Except as otherwise provided herein, this Option shall commence upon the Effective Date of this Agreement and shall continue for a period of five (5) calendar years (the "Option Period").

1.3 Conditions Precedent to Exercise of Option. LDA shall not be permitted to exercise the Option until all of the following conditions have been satisfied:

- LDA obtains all necessary regulatory approvals from the California Coastal Commission to proceed with construction and completion of the Development;
- LDA obtains all necessary government agency approvals required to proceed with the construction and completion of the Development; and
- LDA and the City agree to and execute a Purchase and Sale Agreement for the sale of the Property from the City to LDA (the "Purchase and Sale Agreement"). The Purchase and Sale Agreement shall, at a minimum, include those material terms set forth on Exhibit "C" hereto, which is incorporated herein, and other industry standard terms for the sale of unimproved real property.

When it is appropriate to do so, the parties agree to use reasonable and good faith efforts to negotiate mutually agreeable terms and conditions for the Purchase and Sale Agreement.

LDA agrees and covenants for itself, its successors and assigns to diligently pursue satisfaction of all of the above conditions throughout the duration of the Option Period. LDA acknowledges that its failure to diligently pursue the satisfaction of the above conditions, in the sole and reasonable discretion of the City, at any time during the Option Period shall constitute a material breach of this Agreement.

LDA acknowledges and agrees that by the granting the Option, neither City nor the Chula Vista City Council is obligating itself to any other governmental agent, board, commission, or agency with regard to any other discretionary action relating to the Development, the LDA Land, or the Property. Discretionary actions include, but are not limited to rezoning, variances, conditional use permits, environmental clearances or any other governmental agency approvals which may be required for the construction or completion of the Development.

1.4 Consideration for Option. In consideration for the grant of the Option, LDA shall pay to City the sum of Two Hundred Dollars (\$200.00) (the "Option Payment"). The Option Payment consideration is solely consideration for City's grant of the Option under this Agreement and shall not be consideration for or applicable to the herein referenced Purchase and Sale Agreement for the Property.

1.5 Exercise of Option. LDA may exercise the Option only upon: (1) satisfaction of all conditions precedent identified in section 1.3 of this Agreement, and (2) LDA not being in material breach of any term or condition of this Agreement. Should it elect to do so, LDA shall exercise the Option by delivering to the City, on or before 4:00 p.m. on the last day of the Option Period, written notice of LDA's election to exercise the Option ("Exercise Notice"). The Exercise Notice shall, at a minimum, include the following: (i) an acknowledgement that the Option is being exercised without condition or qualification; (ii) an acknowledgement that the conditions precedent contained in section 1.3 of this Agreement have been satisfied; and (iii) the date and manner of delivery of the Exercise Notice.

1.6 Automatic Termination. In the event that LDA does not properly exercise the Option as set forth in this Agreement within the Option Period, the Option shall automatically terminate without any notice to LDA, and all rights of LDA in the Property shall immediately cease.

1.7 Document to Remove Cloud. This Agreement constitutes only an Option to purchase the Property, and although the Option granted hereby shall automatically terminate with respect to the Property unless exercised in the manner and within the time period provided herein, or shall otherwise terminate as provided in Section 1.6, LDA agrees to execute, acknowledge, and deliver to City within ten (10) days after City's request therefor, any documentation required by a reputable title company of City's choice to remove any cloud from the title of City that might arise as a result of the Option herein granted.

## 2. GENERAL PROVISIONS

### 2.1 Notices.

a. Any notice or payment required or permitted to be given hereunder shall be in writing and may be served personally or by United States Mail, postage prepaid, addressed as follows:

To LDA: Land Developers & Associates Corporation  
5950 Canoga Avenue, Suite 500  
Woodland Hills, California 91367

To City: City of Chula Vista  
Economic Development Department  
276 Fourth Avenue  
Chula Vista, CA 91910  
Attention: Rick Ryals

b. Any party entitled or required to receive notice under this Agreement may, by like notice designate a different address to which notices shall be sent.

2.2 Incorporation of Recitals. The recitals above are incorporated into the Agreement as though fully set forth herein.

2.3 Compliance with Law. LDA shall at all times in the construction, maintenance, occupancy, and operation of and within the easement area, comply all applicable laws, statutes,

ordinances, and regulations of City, County, State, and Federal Governments, whether or not said laws are expressly stated or referred to herein. In addition, LDA shall comply with any and all notices issued by City under the authority of any such law, statute, ordinance, or regulation.

2.4 City Approval. Execution of this Agreement is contingent upon approval of the City Council of the City of Chula Vista.

2.5 Time is of the Essence. Time is of the essence of each and every term, condition, obligation and provision of this Agreement. If the Option is not exercised in the manner provided herein before the expiration of the Option Period, LDA shall have no interest in the Property and the Option shall not be revived by any subsequent payment or any further action by LDA.

2.6 Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument. Facsimile signatures are acceptable provided they are followed by hard copy originals within five days.

2.7 Severability. If any portion of this Agreement shall be declared by any court of competent jurisdiction to be invalid, illegal, or unenforceable, such portion shall be deemed severed from this Agreement, and the remaining parts of this Agreement shall remain in full force and effect, as fully as though such invalid, illegal or unenforceable portion had never been part of this Agreement.

2.8 Assignment. LDA may not assign or transfer this Agreement and the rights under it without City's prior written consent. If such written consent is given, the terms, conditions, rights, and obligations under this Agreement shall be binding upon and shall inure to LDA's assigns.

2.9 Successors. This Agreement shall bind and inure to the benefit of the respective heirs, personal representatives, successors, and assigns of the parties to this Agreement.

2.10 Third Party Rights. Nothing in this Agreement, express or implied, is intended to confer on any person, other than the parties to this Agreement and their respective successors and assigns, any rights or remedies under or by reason of this Agreement.

2.11 Governing Law. This Agreement is executed and delivered in the State of California and shall be construed and enforced in accordance with, and governed by, the laws of the State of California.

IN WITNESS WHEREOF, the duly authorized representative of each party has executed this Agreement effective upon the date first written above.

**LDA:**

**CITY: City of Chula Vista**

BY: \_\_\_\_\_

# EXHIBIT "A"

SHEET 1 OF 1

## LEGAL DESCRIPTION CITY OF CHULA VISTA

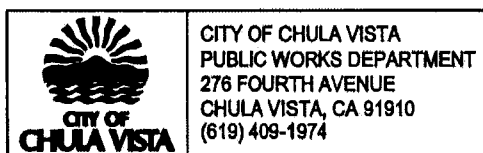
### PARCEL 6

**PARCEL 6** DESCRIBED IN "RELINQUISHMENT OF HIGHWAY RIGHT OF WAY IN THE CITY OF CHULA VISTA" FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON JULY 29, 1974 AS FILE/PAGE 74-202931 OF OFFICIAL RECORDS; **AND** AS SHOWN ON RELINQUISHMENT MAP NO. 21787, FILED FOR RECORD AS STATE HIGHWAY MAP NO. 140, AND FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON JUNE 11, 1974 AS FILE NO. 74-154774 OF OFFICIAL RECORDS, IN THE CITY OF CHULA VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA.

**EXCEPTING** THEREFROM THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF QUARTER SECTION 161 OF RANCHO DE LA NACION, IN THE CITY OF CHULA VISTA, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 166, FILED MAY 11, 1869, IN THE OFFICE OF COUNTY RECORDER OF SAN DIEGO COUNTY, **LYING** SOUTHERLY AND SOUTHEASTERLY OF THE FOLLOWING DESCRIBED LINE AS DEPICTED ON STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION DISTRICT 11 - RIGHT OF WAY MAP NO. 2530, DATED JANUARY 1984:

**COMMENCING** AT A POINT ON THE SOUTHERLY LINE OF SAID QUARTER SECTION 161, DISTANT ALONG SAID SOUTHERLY LINE NORTH 72°06'38" EAST 20.00 FEET FROM A SPIKE MARKING THE SOUTHWESTERLY CORNER OF SAID QUARTER SECTION 161, SAID POINT ALSO BEING ON THE EASTERLY LINE OF THAT 40 FOOT RAILROAD RIGHT OF WAY AS DESCRIBED IN DEED TO CORONADO RAILROAD COMPANY, RECORDED DECEMBER 29, 1894 IN BOOK 236, PAGE 167 OF DEEDS OF SAID COUNTY; THENCE ALONG SAID RAILROAD RIGHT OF WAY LINE NORTH 17°42'25" WEST A DISTANCE OF 40.00 FEET TO A POINT ON THE NORTHERLY LINE OF THAT 40 FOOT WIDE STRIP OF LAND AS RESERVED FOR A PUBLIC ROAD IN DEED TO GREGG ROGERS, RECORDED OCTOBER 11, 1922 IN BOOK 915, PAGE 60 OF DEEDS OF SAID COUNTY; THENCE ALONG SAID RAILROAD RIGHT OF WAY LINE NORTH 17°42'25" WEST A DISTANCE OF 143.20 FEET TO A POINT ALONG SAID RAILROAD RIGHT OF WAY LINE, SAID POINT BEING ALSO THE **TRUE POINT OF BEGINNING**; THENCE LEAVING SAID RAILROAD RIGHT OF WAY LINE NORTH 12°29'19" EAST A DISTANCE OF 472.98 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE WESTERLY, HAVING A RADIUS OF 470 FEET; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 29°41'14" A DISTANCE OF 243.53 FEET TO A POINT ON THE WESTERLY LINE OF PARCEL 1 OF LAND CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED MAY 29, 1969 AS DOCUMENT NO. 95061 OF OFFICIAL RECORDS OF SAID COUNTY.

CONTAINING 1.26 ACRES, MORE OR LESS



*Gregory E. Tschersch*  
GREGORY E. TSCHERSCH, P.L.S. 8814  
LICENSE EXPIRES 06/30/2017

1/28/2016  
DATE

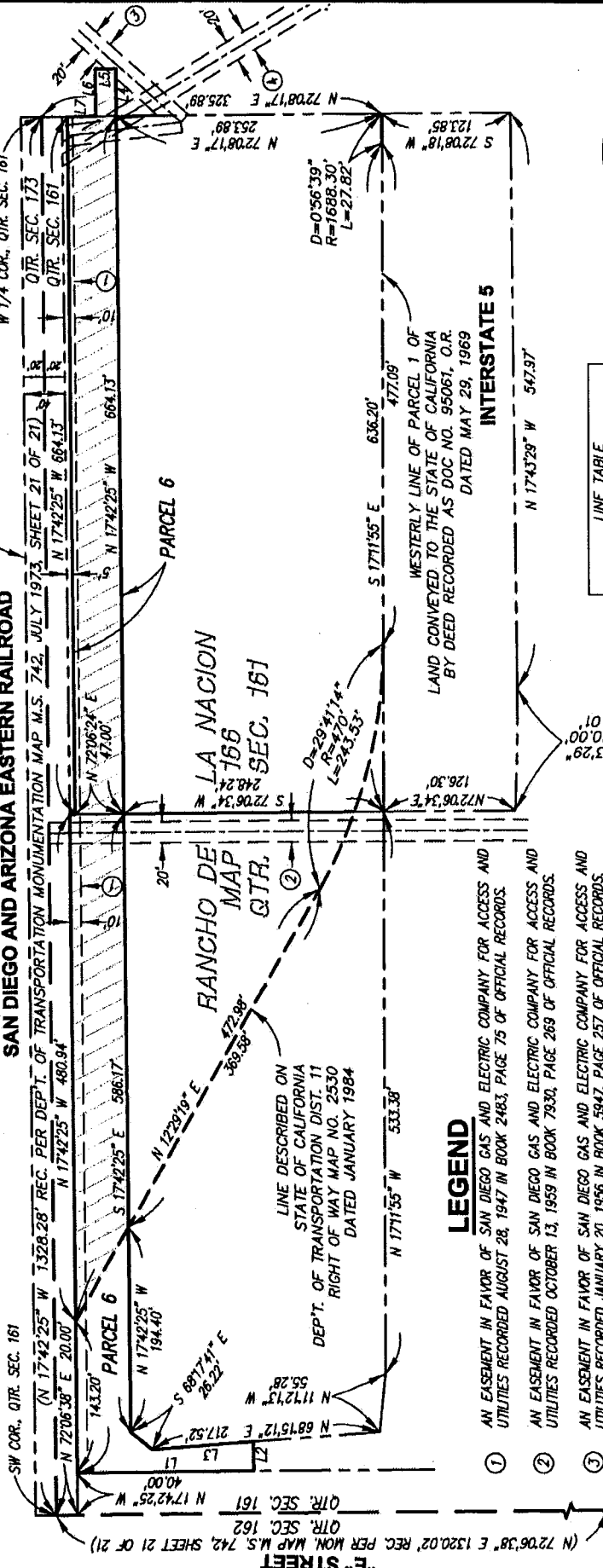
FILE NO. JY-022

EXHIBIT "B"

CITY OF CHULA VISTA

SAN DIEGO AND ARIZONA EASTERN RAILROAD

40' RAILROAD RIGHT OF WAY DEED TO CORONADO RAILROAD COMPANY RECORDED DECEMBER 29, 1894 IN BOOK 236, PAGE 167

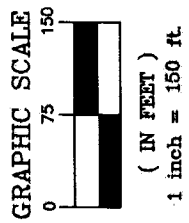


LEGEND

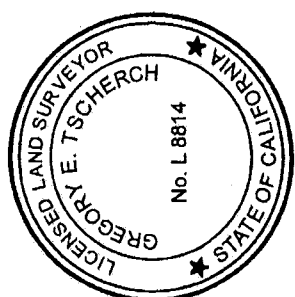
- ① AN EASEMENT IN FAVOR OF SAN DIEGO GAS AND ELECTRIC COMPANY FOR ACCESS AND UTILITIES RECORDED AUGUST 28, 1947 IN BOOK 2483, PAGE 75 OF OFFICIAL RECORDS.
- ② AN EASEMENT IN FAVOR OF SAN DIEGO GAS AND ELECTRIC COMPANY FOR ACCESS AND UTILITIES RECORDED OCTOBER 13, 1959 IN BOOK 7930, PAGE 269 OF OFFICIAL RECORDS.
- ③ AN EASEMENT IN FAVOR OF SAN DIEGO GAS AND ELECTRIC COMPANY FOR ACCESS AND UTILITIES RECORDED JANUARY 20, 1956 IN BOOK 5947, PAGE 257 OF OFFICIAL RECORDS.
- ④ AN EASEMENT IN FAVOR OF THE CITY OF SAN DIEGO, A MUNICIPAL CORPORATION FOR A PUBLIC SEWER OR SEWERS AND INCIDENTAL PURPOSES RECORDED AUGUST 25, 1961 AS FILE NO. 146600 OF OFFICIAL RECORDS.

- PARCEL 6 BOUNDARY
- RIGHT OF WAY / PROPERTY LINE
- CENTERLINE
- EASEMENT LINE
- AREA DESCRIBED IN LEGAL DESCRIPTION

**CITY OF CHULA VISTA**  
 PUBLIC WORKS DEPARTMENT  
 276 FOURTH AVENUE  
 CHULA VISTA, CA 91910  
 (619) 409-1974



LINE NO.	BEARING	LENGTH
L1	N 72°06'38" E	169.06'
L2	N 17°53'20" W	27.78'
L3	N 68°15'12" E	96.84'
L4	N 17°42'25" W	45.00'
L5	N 72°17'35" E	20.00'
L6	N 17°42'25" W	45.05'
L7	N 72°08'17" E	27.00'



*Gregory E. Tschersch* 1/28/2016  
 DATE  
 GREGORY E. TSCHERCH, P.L.S. 8814  
 LICENSE EXPIRES 06/30/2017  
 FILE NO. JY-022

**EXHIBIT "C"**

**PURCHASE AND SALE AGREEMENT  
TERMS AND CONDITIONS**

In accordance with the Option Agreement, the parties acknowledge that in addition to other industry standard terms and conditions for the sale of unimproved real property, as negotiated between the parties, the terms and conditions below, in substantially the same format, shall be included in any Purchase and Sale Agreement for the Property that is to proposed to be entered into between the parties:

<b>Section</b>	<b>Term and Condition</b>
<b>Property</b>	City agrees to sell to LDA and LDA agrees to purchase from City, in accordance with the terms and conditions of the Purchase and Sale Agreement, all of the following (collectively referred to as the " <b>Property</b> "):  The real property, including all right, title and interest therein, located at INSERT STREET ADDRESS, Chula Vista, California, San Diego County Assessor's Parcel No. [ INSERT ].
<b>Purchase Price</b>	LDA shall pay City the sum of Twenty Five Thousand and 00/100 Dollars (\$25,000.00) (the "Purchase Price"), subject to such apportionments, adjustments and credits as are provided in the Purchase and Sale Agreement.
<b>"AS IS, WHERE IS"</b>	LDA is expressly purchasing the Property in its existing condition "AS-IS, WHERE-IS, AND WITH ALL FAULTS" with respect to all facts, circumstances, conditions and defects, and, City has no obligation to determine or correct any such facts, circumstances, conditions or defects or to compensate LDA for same. City has specifically bargained for the assumption by LDA of all responsibility to investigate the Property, laws and regulations, rights, facts, violations, and of all risk of adverse conditions and has structured the Purchase Price and other terms of the Purchase and Sale Agreement in consideration thereof. LDA has undertaken all such investigations of the Property, laws and regulations, rights, facts, and violations as LDA deems necessary or appropriate under the circumstances as to the status of the Property and based upon same, LDA is and will be relying strictly and solely upon such inspections and examinations and the advice and counsel of its own consultants, agents, legal counsel and officers. LDA is and will be fully satisfied that the Purchase Price is fair and adequate consideration for the Property and, by reason of all the foregoing, LDA assumes the full risk of any loss or damage occasioned by any fact, circumstance, condition or defect pertaining to the Property.

<b>No Warranty</b>	City disclaims all warranties of any kind or nature whatsoever (including, without limitation, warranties of habitability and fitness for particular purposes and with respect to the presence of hazardous materials on, above, or beneath the Property), whether expressed or implied including, without limitation warranties with respect to the Property. LDA acknowledges that it is not relying upon any representation of any kind or nature made by City, or its elected or appointed officials, employees or agents with respect to the Property, and that, in fact no such representations were made. To the extent required to be operative, the disclaimers and warranties contained herein are "conspicuous" disclaimers for purposes of any applicable law, rule, regulation or order.
<b>City Release</b>	LDA shall rely solely upon LDA's own knowledge of the Property based on its investigation of the Property and its own inspection of the Property in determining the Property's physical condition and LDA agrees that it shall assume the risk that adverse matters, including but not limited to, construction defects and adverse physical and environmental conditions may not have been revealed by LDA's investigations. LDA releases City, and its elected and appointed officials, employees, and agents from and against any and all claims which LDA or any party related to or affiliated with LDA (each, a "LDA Related Party") has or may have arising from or related to any matter or thing related to or in connection with the Property. This release shall be given full force and effect according to each of its express terms and provisions, including those relating to unknown and unsuspected claims, damages and causes of action. To the extent required to be operative, the disclaimers and warranties contained herein are "conspicuous" disclaimers for purposes of any applicable law, rule, regulation or order.
<b>Conditions to Closing</b>	<p>The obligation of City to close title shall be expressly conditioned upon the fulfillment by and as of the time of the Closing of each of the conditions listed below:</p> <p>(a) LDA shall have: (i) executed and delivered to City all of the documents; (ii) paid the full balance of the Purchase Price; (iii) paid all other sums of money required under this Purchase and Sale Agreement and (iv) taken or caused to be taken all of the other action required of LDA pursuant to this Agreement.</p> <p>(b) LDA shall not be in default of any covenant or agreement to be performed by LDA under the Option Agreement of the Purchase and Sale Agreement, and shall have performed all other obligations required to be performed by it under this Option Agreement and Purchase and Sale Agreement.</p>