

**RESOLUTION NO. 97- 68**

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING A CERTAIN PURCHASE AND SALE AGREEMENT FOR THE ACQUISITION OF PROPERTY REQUIRED FOR THE CONSTRUCTION OF THE PALM VALLEY FIRE AND EMS STATION.**

WHEREAS, the owner of certain property has executed and presented to the County the Purchase and Sale Agreement in substantially the form attached hereto as Exhibit "A", incorporated by reference and made a part hereof, agreeing to sell a two (2) acre parcel of property required for the construction of the Palm Valley Fire and EMS Station; and

WHEREAS, it is in the public interest and there is a demand from the public for the County to construct this Fire and EMS Station.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:**

1. The Board hereby approves the Purchase and Sale Agreement in substantially the form attached hereto and authorizes the County Administrator to execute such Agreement (or one in substantially this form).

2. The Clerk is instructed to file the original Purchase and Sale Agreement and mail executed copies of this Resolution and the Agreement to Famdamaly Group, c/o Rick Brown Atlantic Commercial Properties, 8761 Perimeter Park Blvd., Suite 200, Jacksonville, FL 32216.

3. The County Administrator is authorized to take action to close this Agreement and complete the purchase upon compliance with all terms of the Agreement with monies for such purchase coming from appropriate budgeted source.

ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 22 day of April, 1997.

**BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA**

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

David Bruner  
Chairman

At TEST: Cheryl Strickland, Clerk

By: Anna Beeth  
Deputy Clerk

## PURCHASE AND SALE AGREEMENT

**THIS PURCHASE AND SALE AGREEMENT** ("Agreement") is made and effective as of April 22, 1997, by and between **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose address is 4020 Lewis Speedway, St. Augustine, FL 32095, ("Buyer"), and **FAMDAMALY GROUP**, a California limited partnership, whose address is 23858 Malibu Road, Malibu, CA 90265, ("Seller").

1. Sale of Property. Seller agrees to sell and convey to Buyer and Buyer agrees to purchase and acquire from Seller upon the terms and conditions set forth herein the property and improvements located at 130 Canal Boulevard in St. Johns County, Florida, consisting of the property described below (hereinafter "Property"):

Tract 1, PALM VALLEY GARDENS, Unit 3, except the West 228.4 feet and the East 152.6 feet, thereof, according to plat thereof as recorded in Map Book 5, page 66, of the public records of St. Johns County, Florida.

Included in the Purchase Price and the sale hereunder is all of Seller's right, title and interest (if any) in and to the following (subject, however, to the "Permitted Encumbrances" as hereinafter defined):

(a) all transferable licenses and permits utilized in connection with the Property, if any; and

(b) all easements, rights-of-way, streets and other appurtenances incidental to the Property.

2. Purchase Price and Deposit.

(a) The purchase price ("Purchase Price") is \$155,000.00 subject to the prorations hereinafter provided. The Purchase Price shall be paid as follows:

<u>Payment</u>	<u>Due Date</u>	<u>Amount</u>
(i) Deposit to be held in Escrow by Escrow Agent (hereinafter defined)	Due within five (5) Days of Commission Approval (As hereinafter defined)	\$ 10,000.00
(ii) Cash to Close	Closing	\$145,000.00
<b>TOTAL PURCHASE PRICE</b>		<b>\$155,000.00</b>

Payment of the Purchase Price shall be in cash or other immediately available funds.

3. Title Evidence

(a) Buyer agrees, at its sole option and expense, to take all reasonable action to obtain within 45 days from the effective date, a title guarantee commitment ("Commitment") issued by a title company authorized to do business in Florida ("Title Company") agreeing to issue to Buyer, upon recording the Deed an owner's policy of title insurance in the amount of the Purchase Price, insuring Buyer's title to the Property subject only to the following (the "Permitted Encumbrances"):

(i) zoning, restrictions, prohibitions, regulations, ordinances and other requirements of any applicable governmental authority;

(ii) the lien of taxes and assessments for the calendar year of the Closing and all subsequent years;

(iii) restrictions and matters appearing on the plat of the Property; and

(b) Buyer shall notify Seller in writing ("Title Notice") within 10 days after Buyer's receipt of the Commitment if the Commitment cannot be obtained or it discloses any defects in the title to the Property, other than the Permitted Encumbrances. Any such defects appearing in the Commitment not timely noted by Buyer in the Title Notice shall be deemed to have been waived by Buyer. In the event the Commitment discloses any defect and such defect is timely noted in a Title Notice, Seller, at Seller's sole option and expense, shall have 60 days from the date it receives the Title Notice within which to cure such defect (with a corresponding extension of the Closing Date as necessary). If after the expiration of such 60-day period, Seller has not cured title defects, then in such event, Buyer's remedies shall be limited solely to either (x) accepting such title to the Property as Seller shall be able to convey, without adjustment to or diminution of the Purchase Price or (y) terminating this Agreement and receiving a return of the Deposit. If the Commitment cannot be obtained by Buyer after it takes all reasonable action within the allowed time, then at Buyer's option this Agreement may be terminated and the Buyer will receive a return of the deposit.

4. Identity and Obligation of Escrow Agent

(a) Southeast Title Group, Inc. St. Augustine, Florida, shall be Escrow Agent, at no additional charge to Seller or Buyer but with the right to serve as underwriter for the title insurance policy.

(b) If there is any dispute as to whether Escrow Agent is obligated to deliver the Deposit, or any other monies or documents which it holds or as to whom such Deposit, monies or documents are to be delivered, Escrow Agent shall not be obligated to make any delivery, but, in such event, may hold same until receipt by Escrow Agent of an authorization, in writing, signed by all of the parties having an interest in such dispute directing the disposition of same, or in the absence of such authorization, Escrow Agent may hold such Deposit, monies or documents until the final determination of the rights of the parties in an appropriate proceeding. If such written

authorization is not given or proceeding for such determination is not begun and diligently continued, Escrow Agent may, but is not required to, bring an appropriate interpleader action or proceeding for leave to deposit such Deposit, monies or documents in court, pending such determination. Escrow Agent shall not be responsible for any acts or omissions unless the same constitutes gross negligence or willful misconduct and upon making delivery of the Deposit, monies or documents which Escrow Agent holds in accordance with the terms of this Agreement, Escrow Agent shall have absolutely no further liability hereunder. In the event Escrow Agent places the Deposit, monies or documents that have actually been delivered to Escrow Agent in the Registry of the Circuit Court in and for the County in which the Property is located and files an action of interpleader, naming the parties hereto, Escrow Agent shall be released and relieved from any and all further obligation and liability hereunder or in connection herewith.

5. Closing. Unless extended by the terms of Section 3 or the other provisions hereof, the closing of the sale of the Property ("Closing") shall take place at the offices of Southeast Title Group, Inc. 93-A Orange Street, St. Augustine, Florida, 32084, on or before July 15, 1997, ("Closing Date"), TIME BEING OF THE ESSENCE.

6. Prorations. Any real property taxes shall be prorated on the basis of the current year's taxes, if known, at the highest allowable discount. If the Closing shall occur before the amount of current taxes shall have been determined, such taxes shall be apportioned upon the basis of the taxes for the most recent calendar year available and shall be promptly readjusted when the current taxes (at the highest allowable discount) are ascertained.

7. Seller's Representations. Seller represents to Buyer that he owns fee simple title to the Property and has full right and authority to execute this Agreement and consummate the transactions contemplated hereby subject to the terms, provisions and conditions hereof.

8. Closing Procedure and Documents.

(a) At the Closing, simultaneously with the payment of the Purchase Price by Buyer, Seller shall deliver or cause to be delivered to Buyer the following:

(i) a statutory warranty deed ("Deed") conveying the fee simple title to the Property, subject to the Permitted Encumbrances and the matters referred to on the Commitment;

(ii) an assignment, without recourse to or warranty by, Seller, of any transferable licenses and permits respecting the Property;

(iii) a FIRPTA affidavit;

(iv) an affidavit in the form required by the Title Company to delete the standard printed exception relating to the "gap" and to remove the standard printed exceptions for mechanics' lien and parties in possession other than Occupancy Tenants (except to the extent the

same constitute Permitted Encumbrances).

(b) At the Closing, Escrow Agent shall deliver the Deposit and Buyer shall deliver the cash to close, to Seller, in accordance with Section 2. Buyer shall execute and deliver to Seller such consents and authorizations as Seller may reasonably deem necessary to evidence the authority of Buyer to purchase the Property and to consummate all of the actions required to be taken by Buyer under this Agreement.

(c) At the Closing, Seller and Buyer shall mutually execute and deliver to each other a closing statement in customary form.

(d) At the Closing, Seller and Buyer shall execute such further documents and agreements as are appropriate or necessary to consummate the transaction as herein contemplated.

9. Closing Expenses. Buyer shall pay the state documentary stamps required to be affixed to the Deed, the cost of the owner's title policy issued pursuant to the Commitment, the cost of recording the Deed, all of the expenses in connection with recording fees and the cost of the survey. Each party shall bear the expense of its own legal counsel and appraisals. Seller will pay any real estate commissions owed as a result of the sale.

10. Survey and Legal Description. Between this date and Closing, Buyer, at its election and expense, may have the Property surveyed. Buyer shall provide written notice ("Survey Notice") to Seller within 10 days after Buyer's receipt of any such new survey ("Survey") if the Survey discloses any encroachments or any other title defects affecting the Property (other than Permitted Encumbrances). All such encroachments or defects so noted in the Survey Notice are to be regarded for all purposes under this Agreement as title defects and, as such, are to be treated in the manner provided in Section 3. Any such title defects shown on the Survey and not timely noted in the Survey Notice to Seller shall be deemed to have been waived by Buyer. Attached hereto as Exhibit A is a sketch graphically depicting the Property.

11. Risk of Loss. If, prior to the Closing, the Property or any portion thereof shall be taken pursuant to an exercise of the power of eminent domain or condemnation or shall be damaged by fire or other casualty, Buyer may elect to terminate this Agreement and receive the return of the Deposit, or to proceed with the Closing, without adjustment to the Purchase Price, but Buyer shall receive an assignment of Seller's right to any condemnation or insurance proceeds.

12. Condition of Property and Buyer's Right of Inspection. Buyer shall have the right for ninety (90) days from the date of this Agreement ("Inspection Termination Date") to enter upon the Property for the purpose of physically inspecting the Property and conducting surveys, studies and tests or assessments including but not limited to Phase 1 Environmental Study, Real Estate Appraisal, and Engineering analysis to determine the Property's suitability for Buyer's intended purpose. Seller hereby gives Buyer the right to enter upon, test and inspect the Property at Buyer's sole cost and risk. Buyer agrees to provide Seller with copies of all reports conducted on the

Property. If Buyer determines that the Property is unsuitable, Buyer shall give written notice to Seller advising of such unsuitability and electing to terminate this Agreement on or prior to the Inspection Termination Date. If the Real Estate Appraisal is ten percent (10%) or more, less than the sales price this shall constitute unsuitability. Such notice of termination must be given on or before the Inspection Termination Date. If such notice is timely give, the Deposit shall be returned to Buyer, and upon such return, this Agreement shall terminate. After Inspection Termination Date, Buyer acknowledges the Property is being sold in "as is" condition.

13. Default. (a) Default by Seller. If Seller defaults in the performance of any of Seller's obligations in this Agreement or breaches any warranty or representation, Buyer may receive an immediate refund of the Deposit, and then at its option either may terminate this Agreement and sue for damages or sue for specific performance. (b) Default by Buyer. If Buyer defaults in the performance of any of Buyer's obligations in this Agreement for any reason, other than Seller's default or the termination of this Agreement pursuant to the specific provisions hereof, Seller will be entitled to receive the Deposit as Seller's sole and exclusive remedy for any such default, Seller hereby waiving any rights it might otherwise have to sue for damages or specific performance, and this Agreement and the rights of the parties hereunder shall immediately and automatically terminate.

14. Survival. All covenants, terms, provisions, representations and warranties set forth in this Agreement, except as specifically provided otherwise herein, shall at the Closing be merged into the Deed.

15. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same Agreement.

16. Modification Must Be In Writing. No modification or termination of this Agreement shall be valid unless executed in writing and signed by the applicable duly authorized representatives of Seller and Buyer.

17. No Waiver. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

18. Assignability. This Agreement may not be assigned by Seller or Buyer without the written consent of all parties.

19. Time. Time is of the essence of all provisions of this Agreement.

20. Governing Law, and Venue. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Florida. The invalidation of one or more

of the terms of this Agreement shall not affect the validity of the remaining terms. It is agreed venue for determination of such disputes shall be in St. Johns County.

21. Notices. Any notice hereunder must be in writing and delivered personally or by United States Mail, Registered or Certified, Return Receipt Requested; United States Express Mail; or Federal Express or equivalent courier service, and shall be effective only if and when received by the party to be notified. For purposes of notice, the addresses of the parties shall be as set forth below or as may be designated by notice to the other from time to time.

Seller:	Famdaly Group c/o Atlantic Commercial Properties 8761 Perimeter Park Blvd., Suite 200 Jacksonville, Florida 32216
Buyer:	St. Johns County Nicholas M. Meiszer, County Administrator 4020 Lewis Speedway St. Augustine, Florida 32095
Escrow Agent:	Southeast Title Group, Inc. Luanne Hickey 93-A Orange Street St. Augustine, Florida 32084

22. Entire Agreement. This Agreement constitutes the entire agreement between the parties and there are no agreements, representations or warranties, oral or written, which have not been incorporated herein.

23. Applicability. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and, to the extent that assignment is permitted hereunder, their assigns.

24. Commissions Due. Seller hereby represents and warrants that the real estate brokerage commission will be paid by the Seller to Atlantic Commercial Properties in connection with the transaction contemplated herein. Buyer hereby represents and warrants that they are not a party to any real estate brokerage commission agreements.

25. Commission Approval. This Agreement is subject to the adoption of a resolution by the St. Johns County Board of County Commissioners authorizing the County Administrator to execute this Agreement and approving the performance of this Agreement by Buyer.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement effective as of the date first above written.

Laura S. Taylor  
Witness Name Laura S. Taylor

Trish Garber  
Witness Name TRISH GARBER

ATTEST: CHERYL STRICKLAND, CLERK

BY: Trish Garber  
Deputy Clerk

David Rose  
Witness Name David Rose

Anita Legg  
Witness Name Anita Legg

BUYER:

ST. JOHNS COUNTY, FLORIDA

Nicholas M. Meizer  
Name NICHOLAS M. MEIZER  
Title COUNTY ADMINISTRATOR

SELLER:

FAMDAMALY GROUP

Partners  
Title Partners

Deposit received by Southeast Title Group, Inc.(Escrow Agent), which the Escrow Agent agrees to retain in accordance with the terms and conditions of the within Agreement.

ESCROW AGENT:

By: Luanne R. Hickey  
Name: Luanne R. Hickey  
Title: ESCROW MANAGER  
Date: May 21, 1997