

RESOLUTION NO. 2007- 154

RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA APPROVING THE TERMS AND AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO EXECUTE A PURCHASE AND SALE AGREEMENT BETWEEN BRENNER LAND COMPANY, LLC. AND ST. JOHNS COUNTY FOR PROPERTY NEEDED TO CONSTRUCT A PRISON FARM (SHERIFF'S AGRICULTURAL WORK CENTER).

RECITALS

WHEREAS, the Seller, Brenner Land Company, LLC. has executed a Purchase and Sale Agreement to sell approximately 90.7 acres to St. Johns County to construct a Prison Farm, hereinafter referred to as SAWC (Sheriff's Agricultural Work Center,) attached hereto as Exhibit "A" incorporated by reference and made a part hereof; and

WHEREAS, this sale is contingent upon the site successfully being rezoned to OR by Special Use for a Correctional Facility or Public Service within the 180 day inspection period as outlined in Section 25 of said Purchase and Sale Agreement; and

WHEREAS, the description and improvements of this site would be used to house sentenced inmates, for rehabilitation in a work force atmosphere of an agricultural setting; and

WHEREAS, the improvements to the site will be designed for customized tent structures with the capability for expansion, this facility will be based on the "Florida Model Jail Standards"; and

WHEREAS, the size of this site would accommodate the agricultural work center, future training facilities, and other compatible County uses; and

WHEREAS, construction of this new facility would relieve the projected overcrowding conditions and allow for a reduced housing construction cost; and

WHEREAS, this project has been approved as a Capital Improvement Project for FY 2007; and

WHEREAS, it would be in the best interest of the County to purchase this site to relieve the projected overcrowded inmate population and for the rehabilitation of the County inmates.

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

Section 1. The above recitals are incorporated by reference into the body of this Resolution and such recitals are adopted as finding of fact.

Section 2. The Board of County Commissioners hereby approves the terms of the Purchase and Sale Agreement and authorizes the Interim County Administrator to execute the agreement on behalf of the County and move forward to close this transaction.

Section 3. The Clerk of the Circuit Court is instructed to file the original Purchase and Sale Agreement in the Official Records of St. Johns County, Florida.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 29th day of May, 2007.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: Ben Rich
Ben Rich, Chairman

ATTEST: Cheryl Strickland, Clerk

RENDITION DATE 5/31/07

By: Pam Halterman
Deputy Clerk

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made and effective as of _____, 2007, by and between **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose address is 4020 Lewis Speedway, St. Augustine, Florida 32095 ("Buyer") and **BRENNER LAND COMPANY, LLC**, 577 Willow Walk Place, St. Augustine, Florida, 32086 ("Seller").

WITNESSETH:

WHEREAS, the County is desirous of purchasing approximately 91 acres (to be determined by survey) owned by the Seller and Seller is desirous of selling upon the terms and conditions hereinafter expressed; and

WHEREAS, it is in the public interest for the Buyer to acquire fee simple ownership of the entire parcel I.D. number 050410-0000 as shown in Exhibit "A", attached hereto, incorporated by reference and made a part hereof, (hereinafter "Property"); and

NOW THEREFORE, it is mutually agreed as follows:

1. Purchase Price and Deposit.

(a) The purchase price ("Purchase Price") is based on \$1,350,000 for the entire site. 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 twenty-five (25) days of Commission Approval (hereinafter defined)	\$ 135,000.00
(ii) Cash to Close	Closing Day	\$1,215,000.00
TOTAL PURCHASE PRICE		<u>\$1,350,000.00</u>

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

2. Title Evidence.

(a) Seller 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 the State of 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 or a denial thereof, if 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 or denial and such is timely noted in a Title Notice, Seller, at Sellers’ sole option and expense, shall have 60 days from the date it receives the Title Notice within which to cure such defect or denial (with a corresponding extension to the Closing Date as necessary). If after the expiration of such 60-day period, Seller has not cured title defects or denial, 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.

3. Identity and Obligation of Escrow Agent.

(a) Land Title of America Group, 3700 U.S. 1 South, St. Augustine, Florida 32086, 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 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 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.

(c) Escrow Agent shall open a separate interest bearing escrow account; any and all interest accruing on the deposit shall be applied to the purchase price.

4. Closing. Unless extended by the terms of Section 2, or other provisions hereof, the closing of the sale of the Property ("Closing") shall take place at the offices of the Escrow Agent, Land Title of America Group., 3700 U.S. 1 South, St. Augustine, Florida 32086, on or before ("December 31, 2007"), Seller reserves the right to close this transaction in the year of 2008, on a mutually agreed upon date. TIME BEING OF THE ESSENCE.

5. Prorations. Any real property taxes shall be prorated on the basis of the 2006 taxes at the highest allowable discount.

6. Seller's Representations. Sellers represent to Buyer that they owns fee simple title to the Property and have full right and authority to execute this Agreement and consummate the transactions contemplated hereby subject to the terms, provisions and conditions hereof.

7. Closing Procedure and Documents.

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

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

(ii) a Non-Foreign Certificate and Request for Taxpayer Identification Number "FIRPTA" affidavit to be signed by seller.

(iii) 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 Sellers, in accordance with Section 1. Buyer shall execute and deliver to Sellers such consents and authorizations as Sellers may reasonably deem necessary to evidence the authority of Buyer to purchase the Property and to consummate all other 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 reasonably appropriate or reasonably necessary to consummate the transaction as herein contemplated.

8. Closing Expenses Seller will pay the cost of the owner's title policy issued pursuant to the Commitment recording the deed and documentary stamps. Each party shall bear the expense of its own legal counsel.

9. Survey and Legal Description. Between this date and Closing, Buyer 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 2. 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. The survey shall delineate the boundary lines as well as specifically describing the legal description of said site.

10. Condition of Property and Buyer's Right of Inspection. Buyer shall have the right for one hundred eighty (180) 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, Environmental Mitigation Assessment Analysis, Wetland Rapid Assessment Procedures 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. 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. Such notice of termination must be given on or before the Inspection Termination Date. If such notice is timely given, the Deposit shall be returned to Buyer, and upon such return, this Agreement shall terminate.

11. Default. (a) Default by Seller. If Seller defaults by performance of any of Sellers' obligations in this Agreement or breaches any warranty or representation. Buyer may receive an immediate refund of the Deposit as Buyer's sole and exclusive remedy for any such default, Buyer 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. Seller acknowledges that time is of the essence. (b) Default by Buyer. If Buyer defaults in performance of any of Buyer's obligations in this Agreement for any reason, other than the Sellers'

default or the termination of this Agreement pursuant to the specific provisions hereof, the Sellers will be entitled to receive the Deposit as Seller 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. Buyer acknowledges that time is of the essence

12. 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.

13. 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.

14. 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.

15. 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.

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

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

18. 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.

19. 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 not be effective only if and when received by the party to be notified. For purposes of notice, the addresses of the parties shall be set forth below or as may be designated by notice to the other from time to time.

Sellers: **Brenner Land Company, LLC**
Nancy A Brenner, Managing Partner
577 Willow Walk Place
St. Augustine, Florida 32086

Buyer: **St. Johns County**
Wally J. Kropacek, Interim County Administrator
4020 Lewis Speedway
St. Augustine, Florida 32084

Escrow Agent: **Land Title of America Group**
3700 U.S. 1 South
St. Augustine, Florida 32086

20. 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.

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

22. Real Estate Commission. Buyer and Seller acknowledge that no Real Estate Commission is due or payable related to this transaction. Buyer acknowledges that Nancy A. Brenner is the Managing Member of Brenner Land Company, LLC and holds an active Real Estate Sales License in the State of Florida.

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

24. Effective Date: The effective date of this Agreement shall be the first date upon which this Agreement or its valid counterparties are properly executed by all named parties. Buyer and

Seller agree that time is of the essence in executing this contract.

25. Zoning Contingency: This sale is contingent upon Buyer successfully rezoning this site to OR by Special Use for a Correctional Facility, or Public Service within the 180 day inspection period, as mentioned in Section 10 of this Purchase and Sale Agreement.

26. Land Lease: Buyer acknowledges that subject property is currently being leased to Wesley Smith for cultivation of a crop. Lessee shall be allowed to remove crops from the 2007 Fall/Winter season in the standard manner as dictated by crop maturity. Crops shall be removed as early as December 1, 2007 but no later than February 28, 2008. Seller agrees that time is of the essence in fall planting for early crop removal.

27. Site Appraisal: This sale is contingent upon site appraising at or above the Purchase Price of \$1,350,000.00.

28. Closing Date Extension: It is hereby agreed by all parties that a 60 day closing date extension may be administered and applied to the closing date of this transaction, if needed with written notification by Buyer to Seller by the 180th day of the due diligence period mentioned in Section 10 of this Purchase and Sale Agreement.

29. Radon Gas: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over periods of time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from you county public health unit. (Section 404.056 (8), F.S.)

30. Prison Farm Site Search: St. Johns County Sheriff's Department agrees to discontinue its efforts to locate a Prison Farm, while this Purchase and Sale Agreement is in effect.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement or its counterparties.

**SELLER:
BRENNER LAND COMPANY, LLC**

Laurie Ford
Witness Name Laurie Ford

Debbie Taylor
witness name:
Debbie Taylor

[Signature] Date: 4-26-07
By: Nancy A. Brenner
Managing Member

Witness Name _____

**BUYER:
ST. JOHNS COUNTY, FLORIDA**

Witness Name: _____

Date: _____
By: **Wally J. Kropacek**
Interim County Administrator

Witness Name _____

Deputy Clerk to Attest:

Deposit received by _____, (Escrow Agent), which the Escrow agent agrees to return in accordance with the terms and conditions of the within Agreement.

ESCROW AGENT

By: Land Title of America Group

Name: _____

Title: _____

Date: _____

“Exhibit A”

The exact configuration and boundaries of “The Property” will be mutually agreed to by the SELLER and BUYER, and will be further defined by Boundary Survey to be provided as set forth in Paragraph 9, and by reference made a part hereof. In the event, the SELLER and BUYER cannot mutually agree upon the exact configuration and boundaries of “The Property” this contract will be deemed null and void, and SELLER and BUYER shall be relieved of and from any and all further obligation to one another.

Part of Lots 7 & 8, Estes & Irwin Subdivision, as recorded in Map Book 1, Pages 105, 105A & 106 of the public records of St. Johns County, Florida, said parcel of land lying in the East ½ of the Northwest ¼ of Section 4, Township 10 South, Range 28 East, St. Johns County, Florida, being more particularly described as follows:

For the Point of Reference COMMENCE at the Northwest corner of said Section 4, Township 10 South, Range 28 East; thence South 00 degrees 30 minutes 23 seconds East, along the West line of said Section 4, 50.00 feet to the intersection with the South Right-of-Way line of a 30 foot wide Canal Right-of-Way; thence North 89 degrees 35 minutes 03 seconds East, parallel with the North line of said Section 4, 1345.96 feet to the intersection of the East Right-of-Way line of a reserve road known as JE Ausley Road; thence South 00 degrees 16 minutes 01 seconds East, along said East Right-of-Way line, 74.74 feet to the POINT OF BEGINNING; thence continue South 00 degrees 16 minutes 01 seconds East, along last mentioned East Right-of-Way line, 2839.20 feet to the intersection with the North Right-of-Way line of a reserve road known as JE Ausley Road; thence North 89 degrees 02 minutes 49 seconds East, along last mentioned North Right-of-Way line, 1366.96 feet to the intersection with the West Right-of-Way line of an unnamed reserve road; thence North 00 degrees 20 minutes 30 seconds West, along last mentioned West Right-of-Way line, 2901.12 feet to the intersection with the aforementioned South Right-of-Way line of a 30 foot wide Canal Right-of-Way ; thence South 89 degrees 35 minutes 03 seconds West, along said South Canal Right-of-Way line, and parallel with the North line of said Section 4, 1173.19 feet to the intersection with the East line of a parcel as described in Deed Book 22, Page 302 of the public records of said County; thence South 00 degrees 16 minutes 01 seconds East, along said East line, 74.74 feet to the Southeast corner of said parcel, thence South 89 degrees 35 minutes 03 seconds West, along the South line of said parcel, 189.88 feet to the POINT OF BEGINNING.

Said described parcel is the same parcel of land as described in Official Records Book 1086, Page 1816 (Parcel #1) of the public records of St. Johns County, Florida.