

**SEMINOLE COUNTY GOVERNMENT  
AGENDA MEMORANDUM**

**SUBJECT:** Purchase of Fire/Rescue Emergency Training Center

**DEPARTMENT:** Public Safety **DIVISION:** EMS/Fire/Rescue

**AUTHORIZED BY:** *KMR* Kenneth M. Roberts **CONTACT:** *WES* Terry Schenk **EXT.** 5002

Agenda Date <u>10-14-03</u>	Regular <input checked="" type="checkbox"/>	Consent <input type="checkbox"/>	Work Session <input type="checkbox"/>	Briefing <input type="checkbox"/>
	Public Hearing – 1:30 <input type="checkbox"/>		Public Hearing – 7:00 <input type="checkbox"/>	

**MOTION/RECOMMENDATION:**

Approve the purchase of property located at 201 Valentine Way, Longwood, Florida for use as a Fire/Rescue Emergency Training Center for \$2.375 Million utilizing funds from the Fire/Rescue MSTU, and authorize the Chairman to execute the contract for sale and purchase and other required documents.

**BACKGROUND:**

At the August 26, 2003 BCC Meeting, staff was directed to prepare a contract for sale and purchase for the property located at 201 Valentine Way, Longwood for use as a Fire/Rescue Training Center. The asking price of the building and property was \$2.657 Million and a County-initiated appraisal returned a value of \$2.595 Million. Subsequent negotiations with the owner's representative yielded a proposed purchase price of \$2.375 Million pending BCC approval. The subject property includes a 40,000+ square foot building and 19+ acres to be used in a partnership with Seminole Community College for a future burn building and possible emergency driving track. The College currently has \$900,000 designated for construction of the burn building which would provide a safe, convenient burn building training facility for the use of Fire/Rescue personnel and College students pursuing fire certification.

Public Safety personnel would use the proposed training center for "hands-on" training activities which are currently dependent upon structures slated for demolition with the availability of sites being very sporadic. The inability to train on a routine basis causes significant fluctuations in the performance of our employees and the need to

Reviewed by:	<u><i>SA</i></u>
Co Atty:	<u><i>SA</i></u>
DFS:	<u>          </u>
Other:	<u>          </u>
DCM:	<u><i>WES</i></u>
CM:	<u><i>WES</i></u>
File No.	<u>RPS E01</u>

utilize overtime to schedule training courses in Orange or Volusia Counties since Seminole County lacks the necessary facilities. City fire departments would also use the training facility and would provide "on-going" operational funding. The proposed site is an ideal location for a training center due to its' central location within the County and its commercial zoning designation. No zoning changes are needed to operate the training center from this location.

A review of the 5 year Fire/Rescue MSTU revenues has been conducted with the conclusion that sufficient funds are available to finance the purchase over two years and would not reduce Fire/Rescue MSTU reserves below the 3% currently retained. In addition, Risk Management has been consulted in reference to additional liability insurance costs. The County's broker had no concerns related to liability since we currently operate a training program and we would be simply moving its location. Anticipated costs for the additional property damage insurance on the building itself would be \$10,000 per year. Once the burn building is erected, Seminole Community College would be responsible for its coverage similar to their climbing tower now utilized by the college and County fire departments for training.

There is no additional staffing required for operation of the training center. The current staff of 4 employees will move their location from the Public Safety Building to the training center to conduct the training activities. No additional personnel are required in facilities maintenance to service the building, however janitorial costs of approximately \$8,000 will be incurred and funded through the Fire/Rescue MSTU.

Staff anticipates a yearly savings of approximately \$56,000 due to reduced overtime costs associated with travel time, wear and tear on equipment, and rental costs of other facilities.

The attached agreement splits the cost of purchase over two fiscal years to minimize the depletion of the Fire/Rescue reserves, and the owner has agreed to this condition with the first payment of \$1.7 Million occurring in October, 2003 and the second and final payment made in October, 2004 for \$ 675,000.

CONTRACT FOR SALE AND PURCHASE

**PARTIES:** Day International, Inc., a Delaware corporation whose address is 130 West Second Street, Suite 1700, Dayton, Ohio 45402, hereinafter referred to as the SELLER, and SEMINOLE COUNTY, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter referred to as BUYER, hereby agree that the SELLER shall sell and the BUYER shall buy the property hereafter described upon the terms and conditions set forth herein.

TERMS OF THE CONTRACT FOR SALE AND PURCHASE

**THE PARTIES** hereby agree that the SELLER shall sell and the BUYER shall buy the property described in Exhibit "A" (hereafter the "Property") upon the terms and conditions which include the negotiated Standards for Real Estate Transactions set forth in this contract.

**1. LOCATION/LEGAL DESCRIPTION.**

The real property is identified as Seminole County Property Appraiser's Tax Parcel: # 27-20-30-501-0000-003A, 27-20-30-501-0000-0050 and 27-20-30-501-0000-0060 and further described as:

As Described in the Attached Exhibit "A "

The above property does not constitute the homestead of the Seller.

**2. PURCHASE PRICE:** \$ 2,375,000.00 Payment in the amount of \$1,700,000.00, as adjusted, to be made at Closing and a second payment in the amount of \$675,000.00 to be made on the earlier of October 30, 2004 or one year after Closing, all subject to the provisions of this Agreement. At Closing Buyer shall give Seller a promissory note in the amount of 675,000.00, payable as stated above and bearing no interest. If either payment is desired to be made in cash by wire transfer as directed by the SELLER; the SELLER must give the BUYER all account information at least twenty-four (24) hours in advance of Closing in order to implement a wire transfer.

**3. TITLE EVIDENCE:** Within fifteen (15) days from date of the Contract execution date, BUYER shall obtain, at SELLER's expense, an ALTA Form B Marketability title insurance commitment with fee owner's title policy to be paid for by SELLER at Closing. The title insurance policy shall be issued by the Closing agent designated in Standard E which agent shall also be the issuing agent. SELLER's expenses for title insurance shall be the minimum promulgated rate as established by the Florida Insurance Commissioner less available credits, if any.

**4.** Paragraph 4 is intentionally omitted.

**5. CLOSING DATE:** This contract shall be closed and the deed(s), note and the other Closing papers shall be delivered on or before October 27,

2003, unless extended by the parties, and SELLER agrees to deliver possession on the date of Closing. Time is of the essence as to the Closing date.

**6. RESTRICTIONS, EASEMENTS, LIMITATIONS AND ENVIRONMENTAL MATTERS:** The BUYER shall take title subject to: zoning, restrictions, prohibitions and other requirements imposed by governmental authority; restrictions and matters appearing on the plat or otherwise common to the subdivision; public utility easements of record; and taxes for year of Closing and subsequent years, provided, however, that none of the foregoing or any restriction under the control of SELLER shall prevent use of the property for a fire training facility and related fire department uses. The SELLER has provided an affidavit regarding the Environmental Conditions at the Property, a copy of which is attached hereto as Exhibit "B" to this Agreement. BUYER may, at its sole option, conduct an environmental assessment of the Property. If the environmental audit confirms the presence of an Environmental Condition at the Property not disclosed in the aforementioned affidavit then BUYER, at its sole option, may elect to terminate this Agreement and neither party shall have any further obligations under this Agreement or may elect to take the Property "as is" with no reduction in the purchase price. For purposes of this Agreement the following definitions apply:

"Environmental Condition" means the presence of any Hazardous Materials on, beneath, in, above, from or at the Property as of the date of this Contract, and the physical condition thereof as the result of any such Hazardous Materials.

"Hazardous Materials" means and includes any chemicals, industrial, hazardous, toxic or dangerous waste, substance or material, whether solid, liquid or gaseous, including without limitation petroleum products, flammable explosives, radioactive materials, asbestos, any materials containing asbestos or polychlorinated biphenyls, and, in addition to the above materials, each and every element, compound, chemical mixture, contaminate, pollutant or other substance defined as "hazardous substance", "hazardous waste" or "solid waste" or otherwise classified as hazardous or toxic under any Environmental Health and Safety Requirements, including, without limitation, the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§6901-6991, the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §§9601-9675, and any regulations promulgated under RCRA or CERCLA or as an "extremely hazardous substance" under Section 302 of the Emergency Planning and Community Right-to-Know Act of 1986, as amended, and any regulations promulgated thereunder. However, this term shall not apply to pesticide application consistent with normal agricultural purposes as defined by CERCLA §107(i), 42 U.S.C. §9607(i).

"Environmental, Health, and Safety Requirements" shall mean all federal, state, and local statutes, laws, rules, regulations, requirements and ordinances, concerning public health and safety, worker health and safety, and pollution and/or protection of the environment, as such laws are enacted an in effect on or prior to the date of this Agreement

**7. OCCUPANCY:** SELLER represents that there are no parties in occupancy other than SELLER and that the Property shall not be rented or occupied beyond Closing. SELLER agrees to deliver occupancy of Property at time of Closing. If occupancy is to be delivered prior to Closing, Buyer assumes all risk of loss to Property from date of occupancy, shall be responsible and liable for maintenance thereof from said date, and shall be

deemed to have accepted the Property, real and personal, in its existing condition as of time of taking occupancy unless otherwise noted in writing; provided, however, SELLER recognizes that the BUYER is relying upon the affidavit referred to in paragraph 6, above.

8. **ASSIGNABILITY:** BUYER may assign this Contract or any right derived thereunder to any other state, and/or local governmental agency.

9. **TYPEWRITTEN OR HANDWRITTEN PROVISIONS:** Typewritten or handwritten provisions inserted herein or attached hereto as Addenda, if any, shall control all printed provisions in conflict therewith if initialed by both parties.

10. **SPECIAL CLAUSES:**

I. BUYER shall not be responsible for any brokerage fees or commissions. SELLER shall be responsible for the payment of all real estate commissions that result from this transaction. Seller has obligated itself to pay a real estate commission in the amount of six per cent (6%) of the sales price, payable in full upon the closing of this transaction. Seller and Buyer acknowledge without objection that said commission is to be paid by SELLER as follows:

Rebman Properties, Inc.	<u>3%</u>
Hart Realty	<u>3%</u>

II. SELLER shall fully comply with the provisions of Section 286.23, Florida Statutes and shall provide at or before Closing an affidavit in the form attached hereto as Exhibit "C". SELLER warrants that no persons, firms, corporations or other entities are entitled to a real estate commission or other fees as a result of this Agreement or subsequent Closing. SELLER shall indemnify and hold BUYER harmless from any and all claims for real estate commissions or other fees referenced in this paragraph, whether disclosed or undisclosed.

III. The Closing of this Agreement is contingent upon the BUYER obtaining adequate funding for the purchase of the Property.

IV. SELLER warrants that there is a legal ingress and egress for the Property over public roads or valid, recorded easements that benefit the Property.

V. If SELLER is a corporation, at the same time that SELLER submits the Closing documents required by this Agreement, SELLER shall also submit the following to the BUYER:

1. Corporate resolution which authorizes the sale of the Property to Buyer in accordance with the provisions of this Agreement and a certificate of incumbency,

2. Certificates of good standing from the Secretary of State of the State of Florida and the appropriate authority for any other applicable State, and

3. Copy of proposed opinion of counsel as required below.

VI. If SELLER is a corporation, as a material inducement to BUYER entering into this Agreement and to consummate the transaction contemplated herein, SELLER covenants, represents and warrants to BUYER as follows:

1. The execution of this Agreement and the performance by it of various terms and conditions hereof, including, without limitation, the execution of all agreements, notices and other documents hereunder, have been duly authorized by the requisite corporate authority of SELLER, and

2. SELLER is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and is duly licensed and in good standing and qualified to own real property in the State of Florida, and

3. This Agreement, when executed and delivered, will be valid and legally binding upon SELLER and enforceable in accordance with its terms and neither the execution of this Agreement and the other instruments to be executed hereunder by SELLER, nor the performance by it of the various terms and conditions hereto will violate the Articles of Incorporation or By-Laws of SELLER, and

4. At the Closing, SELLER shall deliver to BUYER an opinion of counsel to the effect that the covenants, representations and warranties contained above are true and correct as of the Closing date. In rendering the foregoing opinion, such counsel may rely as to factual matters upon certificates of other documents furnished by partners, officers, officials and other counsel of SELLER, and upon such other documents and data as such partners, officers, officials and counsel may deem appropriate.

#### STANDARDS FOR REAL ESTATE TRANSACTIONS

**A. EVIDENCE OF TITLE:** An ALTA Form B Marketability title insurance commitment shall be obtained by BUYER at SELLER's expense and be issued by a title insurance company selected by and acceptable to BUYER agreeing to issue to BUYER, upon recording of the deed(s), an Owner's policy of title insurance in the amount of the purchase price, insuring title of the BUYER to the Property, subject only to liens, encumbrances, exceptions or qualifications set forth specifically in this Contract and all others, if any shall be discharged by SELLER at or before Closing. BUYER shall have 10 days from date of receiving evidence of title to examine same. If title is found defective, BUYER shall, within 5 days thereafter, notify SELLER in writing specifying any defect.

If said defect(s) render title unmarketable, SELLER shall have 5 days from receipt of notice within which to remove said defect(s) and, if SELLER is unsuccessful in removing them within said time, BUYER shall have the option of either (1) accepting the title as it then is, or (2) demanding a refund of all monies paid hereunder which shall be released, as to one another, of all further obligations under the Contract; provided, however, that SELLER agrees he will, if title is found to be unmarketable, use and exercise diligent efforts to correct the defect(s) in title within the time provided therefore including, but not limited to, the bringing of necessary suits.

**B. EXISTING MORTGAGES:** SELLER shall furnish a statement from the mortgagee(s), if any, setting forth principal balance, method of payment, interest rate and whether the mortgage(s) is/are in good standing. The

SELLER shall cause all mortgages to be released and/or satisfied prior to or at Closing as to the Property.

**C. SURVEY:** The BUYER may have surveys of the Property accomplished at its expense. The SELLER agrees to provide to the BUYER, at no expense, a copy of any and all existing surveys on the Property over which the SELLER exercises ownership, control or dominion. If the survey, certified by registered Florida surveyor, shows any encroachment of said Property or that improvements intended to be located on the Property in fact encroach on lands of others, or violate any of the Contract covenants, the same shall be treated as a title defect. SELLER agrees that from the date this Agreement is executed by SELLER, BUYER and its agents, upon reasonable notice, shall have the right to enter the Property for all lawful purposes in connection with this Agreement.

**D. LIENS:** SELLER shall, both as to the Property and personalty being sold hereunder, furnish to BUYER at time of Closing, an affidavit attesting to the absence, unless otherwise provided for herein, of any financing statements, claims of liens or potential lienors known to SELLER and further attesting that there have been no improvements to the Property for 90 days immediately preceding date of Closing. If the Property has been improved within said time, SELLER shall deliver releases or waivers of all mechanic's liens, executed by general contractors, subcontractors, suppliers, and materialmen, in addition to a SELLER's lien affidavit setting forth the names of all such general contractors, subcontractors, suppliers and materialmen and further reciting that in fact all bills for work to the Property which could serve as a basis for a mechanic's lien have been paid or will be paid at Closing.

**E. PLACE OF CLOSING:** Closing shall be held at the Office of the Seminole County Attorney, or such other office as the County Attorney may direct.

**F. TIME:** Time is of the essence of this Contract. Any reference herein to time periods of less than 6 days shall in the computation thereof exclude Saturdays, Sundays and legal holidays including County holidays, and any time period provided for herein which shall be on a Saturday, Sunday or legal holiday including County holidays shall extend to 5:00 p.m. of the next full County business day.

**G. DOCUMENTS FOR CLOSING:** SELLER is responsible for providing fully executed and/or recordable documents, including but not limited to, deed(s), mechanic's and/or construction lien affidavit(s), estoppel letter(s), mortgage satisfaction(s) and/or release(s), satisfaction(s) of judgment(s), Court Order(s), and any and all corrective instrument(s) that may be required in connection with perfecting the title all of which shall survive Closing. BUYER shall prepare and execute the original promissory note. Copies of the proposed Closing documents shall be exchanged at least 5 working days prior to Closing. The Statutory Warranty Deed, in addition to all common law covenants shall include the covenant of further assurances. All grantors shall be deemed to be subject to enforcement or action as to each and every covenant.

**H. EXPENSES:** State documentary stamps which are required to be affixed to the deed(s) and other instrument(s) of conveyance shall be paid by the SELLER. The costs of recording any and all corrective instruments shall be paid by SELLER (See, Section 201.01, Florida Statutes). SELLER shall pay all costs of providing an Owner's Title Insurance Commitment and the Owner's

Title Insurance Policy, as outlined in item A above. SELLER shall pay all costs of recording the deeds of conveyance, including state documentary stamp taxes, as well as any and all other closing costs, provided, however, that BUYER shall pay for its own appraisals, survey, planning studies and environmental reports/audits. Each party will pay their own attorney's fees.

**I. PRORATION OF TAXES (REAL AND PERSONAL):** Taxes shall be prorated based on the current year's tax. If Closing occurs at a date when the current year's millage is not fixed, and a current year's assessment is available, taxes will be prorated based upon such assessment and the prior year's millage. If current year's assessment is not available, then taxes will be prorated on the prior year's taxes; provided, however, that if there are complete, improvements on the Property by January 1st of the year of Closing, which improvements were not in existence on January 1st of the prior year, then taxes shall be prorated based upon the prior year's millage and at an equitable assessment to be agreed upon between the parties, failing which, request will be made to the County Property Appraiser for an informal assessment taking into consideration homestead exemption, if any. However, any tax proration; based on an estimate may, at request of either party to the transaction, be subsequently readjusted upon receipt of tax bill on condition that a statement to that effect is set forth in the Closing statement. If proration would result in BUYER paying less than 1/12th of the year's taxes, SELLER shall pay all taxes without proration.

**J. SPECIAL ASSESSMENT LIENS:** Any and all certified, confirmed and ratified special assessment liens as of the date of Closing shall be paid by SELLER. Pending liens as of date of Closing shall be assumed by BUYER; provided, however, that where the improvement has been substantially completed as of the Effective Date, such pending lien shall be considered as certified, confirmed or ratified and SELLER shall, at Closing, be charged an amount equal to the last estimate by the public body, of the assessment for the improvement. If "BUYER" is subject to such matters as a governmental entity all matters subsequent to Closing shall be applicable only if applicable to such an entity.

**K. PERSONAL PROPERTY AND MATERIALS INSPECTION, REPAIR:** Ownership of the real property, personal property or any other property located on the Property shall be transferred to the BUYER by means of an absolute Bill of Sale or by means of the deed of conveyance, as the case may be. SELLER shall remove all personal property not sold to BUYER from the Property prior to the Closing.

**L. RISK OF LOSS:** If the real property, personal property and materials mentioned in Standard K are damaged by fire or other casualty prior to Closing, costs of restoration shall be an obligation of the SELLER and Closing shall proceed pursuant to the terms of this Contract with the costs therefore escrowed at Closing. In the event the costs of repair or restoration exceeds 3% of the total purchase price, BUYER shall have the option of either taking the property as is, together with either the insurance proceeds payable by virtue of such loss or damage, if any, or of canceling this Contract. "Casualty" as used in this paragraph does not include Environmental Conditions.

**M. MAINTENANCE:** Notwithstanding provisions of Standard F, between the Effective Date and the Closing date, personal property referred to in Standard L and the real property shall be fully maintained by SELLER,



ordinary wear and tear excepted. BUYER or BUYER's designee will be permitted access for inspection prior to Closing.

**N. ESCROW:** Only the Clerk of the Circuit Court (Finance) for Seminole County shall serve as escrow agent, should an escrow agent be required as part of this transaction. The Clerk shall promptly deposit and hold all funds deposited in escrow and disburse same subject to clearance thereof in accordance with terms and conditions of an escrow agreement. In the event of doubt as to her duties or liabilities, the escrow agent may in her sole discretion, continue to hold the monies which are the subject to escrow until the parties mutually agree to the disbursement thereof, or until a judgment of a court of competent jurisdiction shall determine the rights of the parties thereto. In the event of any suit wherein escrow agent interpleads the subject matter of this escrow, the escrow agent shall be entitled to recover a reasonable attorney's fee and costs incurred, said fees and costs to be charged and assessed as court costs in favor of the prevailing party.

All parties agree that the escrow agent shall not be liable to any party or person whomsoever for misdelivery to BUYER or SELLER of monies subject to this escrow, unless such misdelivery shall be due to willful breach the escrow agreement or gross negligence on the part of the escrow agent.

**O. DEFAULT WAIVER:** If BUYER fails to perform this Contract within the time specified, SELLER, at its option, may proceed at law or in equity to enforce its legal rights under this Contract. If, for any reason other than failure of SELLER to render title marketable after diligent effort, SELLER fails, neglects or refuses to perform this Contract, the BUYER may seek specific performance without thereby waiving any action for damages resulting from Seller's breach. Failure of BUYER to insist upon strict performance of any covenant or condition of this Agreement, or to exercise any right herein contained, shall not be construed as a waiver or relinquishment for the future of any such covenant, condition or right; but the same shall remain in full force and effect.

**P. CONTRACT RECORDABLE, PERSONS BOUND AND NOTICE:** This Contract shall be recorded in the Board of County Commissioner's public records and not recorded in the official land records. This Contract shall bind and inure to the benefit of the parties hereto and their successors in interest. Whenever the context permits, singular shall include plural and one gender shall include all. Notice given by or to the attorney for either party shall be as effective as if given by or to said party. The agreements expressed herein shall survive Closing.

**Q. PRORATIONS AND INSURANCE:** Taxes, assessments, rent, interest, insurance and other expenses and revenue of the Property shall be prorated as of date of Closing under the provisions of this Contract. BUYER shall have the option of taking over any existing policies of insurance on the Property, if assumable, in which extent premiums shall be prorated. The cash at Closing shall be decreased as may be required by said prorations. All references in this Contract to prorations as of date of Closing will be deemed "date of occupancy" if occupancy occurs prior to Closing, unless otherwise provided for herein.

**R. CONVEYANCE:** SELLER shall convey title to the Property by Statutory Warranty Deed as described in item 1(b) above, which shall include all common law covenants of title and seisin which deed shall also include the covenant of further assurances and title shall be conveyed free and clear

of all liens and encumbrances subject only to matters contained in Paragraph 6 hereof and those otherwise accepted in writing by BUYER. The deed(s) must be in a form that will provide for insuring marketable title in accordance with the terms of this Contract.

**S. HAZARDOUS MATERIALS/POLLUTION:** BUYER shall have the right, prior to Closing, to come upon the Property with its employees, engineers and other personnel to inspect and conduct testing upon the Property. If BUYER confirms the presence of an Environmental Condition at the Property which is not disclosed in the Affidavit attached hereto as Exhibit "B" then BUYER may elect to cancel this Agreement or take the Property "as is" with no reduction in the purchase price.

**T. SURVIVAL:** Notwithstanding anything to the contrary in this Agreement, it is understood and agreed that SELLER's representations contained in Exhibit "B" shall survive the Closing for a period of 180 days and shall not merge into the Deed(s) to be given by SELLER at Closing. The covenants, indemnities and undertakings of SELLER set forth in this Agreement shall survive the Closing, the delivery and recording of the deed, and possession of the Property for a period of 180 days. All elements of this Agreement are consideration relative to this purchase and sale.

**U. AGREEMENT EFFECTIVE:** This Agreement or any modifications, amendment or alteration thereto, shall not be effective or binding upon any of the parties hereto until it has been executed by all of the parties hereto.

**V. ADDENDUM:** Any addendum attached hereto that is signed by the parties shall be deemed a part of this Agreement.

**W. NOTICE:** Whenever a party desires or is required to give notice unto the other, it must be given by written notice, and either delivered personally or mailed to the appropriate address indicated on the first page of this Agreement, or such other address as is designated in writing by a party to this Agreement.

**X. 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 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 your county public health unit.

**Y. OTHER AGREEMENTS:** No prior or present agreements or representations shall be binding upon any of the parties hereto unless incorporated in this Contract. No modification or change in this Contract shall be valid or binding upon the parties unless in writing and executed by the parties to be bound thereby.

THE BALANCE OF THIS PAGE INTENTIONALLY BLANK

IN WITNESS WHEREOF, the parties hereto have made and executed this Option Contract for Sale and Purchase on the date written below.

SELLER: Day International, Inc.

WITNESSES:

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name:  
Title:

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Dated this \_\_\_ day of \_\_\_\_\_,  
2003.

(Corporate Seal)

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA

\_\_\_\_\_  
MARYANNE MORSE  
Clerk to the Board of County  
Commissioners of Seminole County,  
Florida

By: \_\_\_\_\_  
Daryl G. McLain, Chairman

Date: \_\_\_\_\_

For the use and reliance of Seminole  
County only.  
Approved as to form  
and legal sufficiency.

As authorized for execution  
by the Board of County  
Commissioners at their  
\_\_\_\_\_  
2003, regular meeting.

\_\_\_\_\_  
County Attorney

SPL

Exhibits:

- Legal Description (A)
- Environmental Affidavit (B)
- Affidavit of Interest in Real Property (C)

09/26/03

P:\Users\Cas101\Agreements\Day International Purchase Agreement2.doc

EXHIBIT " A "  
LEGAL DESCRIPTION OF THE PROPERTY

The following land is located in Seminole County, Florida:

All of that part of Lot 5, Shuman's Addition to Eureka Hammock according to the Plat thereof as recorded in Plat Book 2, Page 53, of the Public Records of Seminole County, Florida, lying East of the Seaboard Coast Line Railroad Company Right of Way, together with the Easterly 65 feet of the said Seaboard Coast Line Railroad Company Right of Way lying within said Lot 5, which was conveyed to Overstreet Investment Company by deed dated July 10, 1979 from Seaboard Coast Line Railroad Company, and recorded in O.R. Book 1247, Page 1922, of the Public Records of Seminole County, Florida.

Lot 6, SHUMAN'S ADDITION TO EUREKA HAMMOCK, according to the Plat thereof as recorded in Plat Book 2, Page 53, of the Public Records of Seminole County, Florida. (Less road 419)

ALSO INCLUDING THE FOLLOWING DESCRIBED PROPERTY:

The South 65 feet of Lot 3, the South 65 feet of the West 1/2 of Lot 4 and the West 30 feet of the South 65 feet of the East 1/2 of Lot 4, SHUMAN'S ADDITION TO EUREKA HAMMOCK, according to the plat thereof recorded in Plat Book 2, Page 53, Public Records of Seminole County, Florida.

Parcel ID Numbers	27-20-30-501-0000-003A
	27-20-30-501-0000-0050
	27-20-30-501-0000-0060

STATE OF NORTH CAROLINA )  
COUNTY OF BUNCOMBE )  
\_\_\_\_\_ )

**ENVIRONMENTAL CONDITIONS  
AFFIDAVIT**

**COMES NOW,** DAY INTERNATIONAL, INC., as Owner of that certain property described in Exhibit 1 to this Affidavit, hereinafter referred to as Property, swears and affirms that the following facts are true. Owner's knowledge of the facts, as stated herein, is based solely on the knowledge of Owner management, and the knowledge of non-management employees shall not be imputed to Owner:

(1) Except as disclosed in Exhibit 2 to this Affidavit, there are no Environmental Conditions known to Owner materially affecting the value of the Property.

(2) Owner represents and warrants that to the best of Owner's knowledge, the Property is not now being used and has not been used in the past as a landfill for Hazardous Materials.

(3) Except as disclosed in Exhibit 2 to this Affidavit, Owner represents and warrants that the Property has not been and is not now in violation of any Federal, State or local law, rule, ordinance or regulation relating to Hazardous Materials since Owner took title.

(4) Except as disclosed in Exhibit 2 to this Affidavit, Owner has obtained any and all necessary permits, registrations, approvals and licenses necessary to generate, manufacture, transport, treat, store, handle, dispose or process any of the Hazardous Materials at the Property.

(5) Owner warrants that no Federal, State, or local government agency has filed any lien with regard to the Property.

(6) Except as disclosed in Exhibit 2 to this Affidavit, there are no underground storage tanks of any type or of any sort or similar lines or facilities located in anyway on the Property.

(7) The Property is not identified on the current or proposed (a) National Priorities List under 40 C.F.R. Part 300, Appendix B; or (b) Comprehensive Environmental Response Compensation, and Liability Inventory System ("CERCLIS").

(8) There are no impending changes or events contemplated by Owner or to which Owner is aware that will substantially affect the Property's compliance with environmental legal requirements or the ability to obtain and maintain in effect the non-violation status of the Property.

(9) For purposes of this Affidavit, the following terms shall have the following meanings:

"Environmental Condition" means the presence of any Hazardous Materials on, beneath, in, above, from or at the Property as of the date of this Contract, and the physical condition thereof as the result of any such Hazardous Materials.

EXHIBIT "B"

“Hazardous Materials” means and includes any chemicals, industrial, hazardous, toxic or dangerous waste, substance or material, whether solid, liquid or gaseous, including without limitation petroleum products, flammable explosives, radioactive materials, asbestos, any materials containing asbestos or polychlorinated biphenyls, and, in addition to the above materials, each and every element, compound, chemical mixture, contaminate, pollutant or other substance defined as “hazardous substance”, “hazardous waste” or “solid waste” or otherwise classified as hazardous or toxic under any Environmental Health and Safety Requirements, including, without limitation, the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. §§6901-6991, the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. §§9601-9675, and any regulations promulgated under RCRA or CERCLA or as an “extremely hazardous substance” under Section 302 of the Emergency Planning and Community Right-to-Know Act of 1986, as amended, and any regulations promulgated thereunder. However, this term shall not apply to pesticide application consistent with normal agricultural purposes as defined by CERCLA §107(i), 42 U.S.C. §9607(i).

“Environmental, Health, and Safety Requirements” shall mean all federal, state, and local statutes, laws, rules, regulations, requirements and ordinances, concerning public health and safety, worker health and safety, and pollution and/or protection of the environment, as such laws are enacted and in effect on or prior to the date of this Agreement.

“Incidental Leak or Spill” shall mean a leak or spill occurring in the ordinary course of business and not greater than five (5) gallons in volume.

**FURTHER AFFIANT(S) SAYETH NAUGHT.**

DAY INTERNATIONAL, INC., A CORPORATION

By: Edward Paul Dzierzynski  
Print Name: Edward Paul Dzierzynski  
Title: Vice President of Operations



**Exhibit 1 to Environmental Conditions Affidavit**

The following land is located in Seminole County, Florida:

All of that part of Lot 5, Shuman's Addition to Eureka Hammock according to the Plat thereof as recorded in Plat Book 2, Page 53, of the Public Records of Seminole County, Florida, lying East of the Seaboard Coast Line Railroad Company Right of Way, together with the Easterly 65 feet of the said Seaboard Coast Line Railroad Company Right of Way lying within said Lot 5, which was conveyed to Overstreet Investment Company by deed dated July 10, 1979 from Seaboard Coast Line Railroad Company, and recorded in O.R. Book 1247, Page 1922, of the Public Records of Seminole County, Florida.

Lot 6 SHUMAN'S ADDITION TO EUREKA HAMMOCK, according to the Plat thereof as recorded in Plat Book 2, Page 53, of the Public Records of Seminole County, Florida. (Less road 419)

**ALSO INCLUDING THE FOLLOWING DESCRIBED PROPERTY:**

The South 65 feet of Lot 3, the South 65 feet of the West ½ of Lot 4 and the West 30 feet of the South 65 feet of the East ½ of Lot 4, SHUMAN'S ADDITION TO EUREKA HAMMOCK, according to the plat thereof recorded in Plat Book 2, Page 53, Public Records of Seminole County, Florida.

Parcel ID Numbers    27-20-30-501-0000-003A  
                                 27-20-30-501-0000-0050  
                                 27-20-30-501-0000-0060



## **Exhibit 2 to Environmental Conditions Affidavit**

1. The following documents represent Owner's complete knowledge of Environmental Conditions at the Property existing at the time Owner acquired the Property. Owner makes no warranty or representation as to the information contained in these documents.
  - a. Phase I Environmental Site Assessment, David M. Company, 201 Valentine Way, Longwood, Florida, prepared for Kirkland & Ellis on behalf of Day International, Inc., by Strata Environmental, December 1996;
  - b. Phase II Environmental Site Investigation, David M. Company, Longwood, Florida, prepared for David M. Company by Strata Environmental, April 1997; and
  - c. Environmental Regulatory Compliance Review, David M. Company, 201 Valentine Way, Longwood, Florida, prepared for Day International, Inc. by Strata Environmental, August 1998.
2. In October 2001, the Longwood, Florida facility voluntarily disclosed to Florida Department of Environmental Protection (DEP) potential noncompliance with Title V Air Permit requirements. The facility surrendered the Title V Air Permit to DEP shortly after closing the facility in December 2001.
3. DEP issued a Notice of Violation alleging recordkeeping violations related to the facility's air permit. The Owner paid a small fine to resolve the matter.
4. Incidental Leaks and Spills of Hazardous Materials occurred at the Property after Owner acquired the Property. These Incidental Leaks and Spills were cleaned up upon occurrence.

EXHIBIT " C "

AFFIDAVIT OF INTEREST IN REAL PROPERTY- F.S. 286.23(2)

THIS AFFIDAVIT OF INTEREST IN REAL PROPERTY is made and entered into this \_\_\_ day of \_\_\_\_\_, 2003, for the sole purpose of compliance with Section 286.23(2) of the Florida Statutes.

The undersigned hereby swears and affirms that the following is true:

The name(s) and address(es) of the Grantor(s) of the before named real property is/are:

DAY INTERNATIONAL, INC., A CORPORATION

The names(s) and address(es) of every person having a beneficial interest in the above named real property that is the subject to negotiations for purchase by Seminole County, a political subdivision of the State of Florida is/are:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_

7. Additional Names and Addresses attached as Exhibit "1" (if any).

FURTHER AFFIANT SAYETH NAUGHT

Signed, sealed and delivered  
in our presences:

DAY INTERNATIONAL, INC.,  
A CORPORATION

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name:  
Title:

\_\_\_\_\_  
Print Name: \_\_\_\_\_

( STATE OF            )  
( COUNTY OF         )

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2003, by \_\_\_\_\_, the \_\_\_\_\_, of DAY INTERNATIONAL, INC., A CORPORATION who is personally known to me or has produced \_\_\_\_\_ as identification and who did take an oath.

Notary Signature: \_\_\_\_\_

Print Notary Name: \_\_\_\_\_

Notary Public in and for the County  
and State Aforementioned

My Commission Expires:

Notary Seal: