

NORTH CAROLINA
CARTERET COUNTY

CONTRACT FOR PURCHASE OF REAL ESTATE

THIS CONTRACT is made and entered into as of the 21st day of November, 2003, by and between **FMB, INC.**, hereinafter called "Buyer"; and the **TOWN OF ATLANTIC BEACH**, a North Carolina municipality, hereinafter called "Seller";

THAT FOR AND IN CONSIDERATION of the mutual covenants and conditions hereinafter recited, and other good and valuable consideration, the receipt of which is hereby acknowledged, Buyer does hereby agree to purchase from Seller, and Seller hereby agrees to sell to Buyer the real estate hereinafter described upon the terms and conditions set forth hereinafter.

1. **Real Estate to be sold.** Subject to the terms and conditions set forth herein, Seller agrees to sell and convey to Buyer and Buyer agrees to purchase from Seller the land located in Carteret County, North Carolina, described in the attached **Exhibit A**, together with all buildings, fixtures and other improvements located thereon described in Exhibit A (hereinafter referred to as "the Property") and an option for purchase of certain property described in Exhibit C ("Highway 58 Property").

2. **Buyer's intended use.** The Buyer intends to use the Property as part of a comprehensive redevelopment project, along with other property now owned and hereafter to be acquired by Buyer in and around the area at Atlantic Beach, North Carolina, commonly known as "The Circle", to potentially include new streetscapes, the construction of hotels, residential units, office and commercial properties, community civic space, and the construction and development of suitable infrastructure for the servicing of said redevelopment project. Seller has adopted,

pursuant to NCGS 160A-457(4), and Buyer agrees to abide by, a development plan for the Property which is entitled "Atlantic Beach Circle Development Plan". The parties acknowledge their intent to cooperate fully with one another and with regulatory agencies in an effort to successfully consummate said redevelopment project, including an intended private sewer system. A general summary of the redevelopment project presently proposed by Buyer and a copy of Seller's adopted "Atlantic Beach Circle Development Plan" is set forth in **Exhibit B** attached hereto, but it is understood and agreed that said plans and proposals may change from time to time, at Buyer's discretion. Buyer may not substantially deviate from the general scheme of commercial, residential, and community civic space contained within the plans and Buyer agrees that the amount of civic space, public accesses to the beaches, and parking availability as depicted in the plans will not be reduced though they may be relocated and reconfigured at locations to be approved by the Planning Board and/or Town Council as the circumstances may warrant, the Town's preference being to have public parking in or in close proximity to the "Atlantic Beach Circle Development Project Area" as defined by a map entitled in the same manner and located at Seller's office.

3. **Purchase Price.**

A. Buyer agrees to pay Seller the sum of ONE MILLION EIGHT HUNDRED AND TEN THOUSAND DOLLARS (\$1,810,000.00), as the purchase price of the Property described on Exhibit A (the "Purchase Price").

B. Within 10 days after all parties have executed this Contract, or as evidenced by the last date of acknowledgments of the execution of this Contract, Buyer will deliver to Seller a deposit of two per cent (2%) of the Purchase Price. On each annual

anniversary date of this Contract, until the date of closing, Buyer will pay to Seller an additional deposit of 2% of the Purchase Price. If Buyer terminates the Contract, fifty percent (50%) of said deposit(s) shall be refunded to Buyer within ten (10) days of said termination. If Buyer takes title to the Property, these deposits will be credited against the purchase price. If Seller terminates this contract, one hundred per cent (100%) of said deposit(s) shall be refunded to Buyer. All interest earned by such deposits shall belong to Seller.

C. The balance of the Purchase Price shall be paid at closing in certified funds.

4. **Option.** As of the time of execution of this Contract, the Town of Atlantic Beach has no municipal sewer treatment facilities. As part of its development plan for the Property, it is expected that Buyer will be required to construct a sewer treatment facility to handle the wastewater of the development. In order to obtain permits for the construction of such a sewer treatment facility, Buyer will be required to have land available for a "repair area" which may be used in the event the main sewer treatment facility must be reconstructed, repaired or otherwise improved. The Seller shares the Buyer's vision for the development of the Property and, in order to provide for the Buyer's requirement of a tract of land to serve as a "repair area", Seller hereby grants to Buyer an option to purchase certain property (the "Option") located adjacent to the Seller's municipal water tower on North Carolina Highway 58 (Fort Macon Road) as described in Exhibit C attached hereto and incorporated hereby ("Highway 58 Property"). Buyer may exercise its option to purchase this Highway 58 Property only for the purpose of providing for a repair area and any deed conveying the Highway 58 Property shall have covenants and/or restrictions assuring that Buyer shall use this property for no other purpose. As payment for the

Option, Buyer agrees to pay Seller the non-refundable sum of TEN THOUSAND DOLLARS (\$10,000.00) ("Option Price"), payable in certified funds on the date of closing. The terms of the Option purchased by Buyer are:

A. Buyer shall have the right to exercise its Option at any time after closing by providing written notice to Seller in the manner described herein of Buyer's intent to exercise the Option and by providing evidence of a need to purchase the property for use as a "repair area". Upon Buyer's exercise of its Option, Buyer agrees to purchase and Seller agrees to sell the Highway 58 Property at a price equal to the property's then appraised value, the appraised value being based upon the property's highest and best use at that time. Buyer agrees to pay the Highway 58 Property's appraised highest and best use value even though the property will be limited in use for purposes of providing a repair area as described in this Agreement. Within 30 days after receipt of Buyer's Notice, Seller shall designate its appraiser and shall notify Buyer of the name and address of said appraiser in the manner provided herein for giving notices. Seller's appraisal shall be completed within 120 days of giving said notice, and a copy shall be delivered to Buyer in the manner provided for giving notices herein. Buyer shall have 30 days from receipt of said appraisal to accept or reject said appraisal by giving written notice thereof to Seller in the manner provided herein for giving notices. If rejected, Buyer shall thereupon designate its Appraiser within 30 days after the giving of said notice of any objections as provided above and shall complete its appraisal and provide a copy thereof to Seller within 120 days after the notice of rejection. The two appraisers shall thereupon confer with each other within 30 days after Buyer furnishes a copy of its appraisal to determine if they can agree upon an appraised value for the Highway 58 Property. In the event they are unable to agree, the two appraisers so designated shall designate a third appraiser and a majority of the three Appraisers shall determine the

appraised value of the Highway 58 Property within 120 days thereafter. The closing of the purchase of the Highway 58 Property shall be completed within 30 days after the final determination of the appraised value. Except as may otherwise be described within this Contract, at the Closing, Seller shall deliver fee simple title to Buyer, free of encumbrances against the Highway 58 Property created or caused by Seller or anyone claiming by or through Seller. Seller shall reserve any and all of its rights in the Highway 58 Property which are required to protect access to and use of Seller's water tower and other facilities that may be located upon or adjacent to the Highway 58 Property. Such rights will include, but not limited to, an easement for ingress, ingress, egress and utilities to be located on the Highway 58 Property. Seller shall be responsible for payment of the cost of preparing the deed, a pro rata share of the real property taxes for the year in which the closing occurs for taxes due for the time that Seller has owned the Highway 58 Property during the calendar year (if any), the cost of documentation stamps (if any), and the cost of its appraisal and one-half (1/2) of the fees and expenses of a third appraiser, if one is so designated. Buyer shall pay all other customary costs and expenses in connection with the purchase of the Highway 58 Property.

B. Seller may terminate and cancel Buyer's Option, without refund of Buyer's Option purchase price, if Seller shall determine to construct a municipal sewer treatment facility and offer sufficient sewer services as needed for the "Atlantic Beach Circle Development Project Area", as such area is designated on the map located at Seller's town hall and labeled in like manner, thereby making Buyer's need for a "repair area" unnecessary. Seller will not exercise this right to terminate the Option until the latest possible time reasonably necessary to proceed with the construction of the sewer facilities.

C. At any time after closing, Seller may require Buyer to exercise its Option to purchase the Highway 58 Property if Seller shall determine that such property is not needed by Seller. Seller shall provide Buyer with 60 days written notice of its intent to require Buyer to exercise its Option pursuant to this paragraph, and the purchase price of the property shall be determined by appraisal in the same manner as described in paragraph A above. Buyer may terminate its Option at any time, and by so doing, end the Seller's right to require Buyer to purchase the property.

D. Except as provided above, Buyer's Option shall expire on the twentieth annual anniversary of the Effective Date, however, Seller may extend the Option expiration date to assure that Buyer has availability of a "repair area" if needed.

E. In the event that Buyer shall exercise its option and accept conveyance of the Highway 58 Property, and then decide to sell the same, Seller shall have the right to repurchase the property from Buyer at the same price and under the same terms of any bona fide, valid and verifiable offer to purchase that Buyer may receive from a third party or at the price that Seller originally sold the Highway 58 Property to Buyer plus interest at the Prime rate charged by Seller's bank, whichever is less. Within thirty (30) days of Buyer's receipt of such an offer, Buyer shall give written notification to Seller of the terms of such offer, and Seller shall have 30 days from such notification to determine whether or not the Seller wishes to purchase the same property. If Seller notifies Buyer of its intent to exercise its right to repurchase the property, closing shall occur within ninety (90) days after the Seller's notification to Buyer. In the event Buyer receives no notice of Seller's intent to exercise its right to repurchase within 30 days of Seller's receipt of Buyer's notice, Seller's right to repurchase shall be deemed waived and Buyer may accept the offer of the third party. However, if the sale is not consummated on

the terms and for the price communicated to Seller and the one making the offer to Buyer, upon receipt of any other or different offer, the provisions in this paragraph E shall again be applicable. If Seller purchases the Highway 58 Property back from Buyer, all covenants and restrictions related to the use of the property only for "repair area" purposes shall be extinguished and become null and void.

F. In the event that Buyer shall exercise its option and accept conveyance of the Highway 58 Property, and then determine that it no longer needs the property as a "repair area," Buyer will offer Seller an opportunity to repurchase the Highway 58 Property from Buyer at the same price that Seller originally sold the property to Buyer, plus interest at the Prime rate charged by Seller's bank. Buyer shall give written notification to Seller of Seller's opportunity to repurchase the property and Seller shall have 30 days from such notification to determine whether or not the Seller wishes to purchase it. If Seller notifies Buyer of its intent to repurchase the property, closing shall occur within ninety (90) days after the Seller's notification to Buyer. If Buyer receives no notice of Seller's intent to repurchase the property within 30 days of Seller's receipt of Buyer's notice, or if within the same time period Seller shall provide Buyer with written notification that Seller has elected not to repurchase the property, then Buyer shall be free to sell the property to any party without restrictions and covenants limiting the property's use as a "repair area" only. If Seller repurchases the Highway 58 Property from Buyer, all covenants and restrictions related to the use of the property as a "repair area" only shall be extinguished and become null and void.

G. The terms of this paragraph 4.E. and 4.F. above shall survive closing, Buyer's exercise of its Option, and conveyance of the Highway 58 Property to Buyer.

5. **Seller's Duty to Convey.** Upon payment of the Purchase Price in full at the closing, Seller agrees to deliver to Buyer or its assigns a good and sufficient Limited Warranty Deed conveying fee simple title to the Property, subject to any restrictions and easements acceptable to Buyer, but free from all encumbrances created or caused by Seller or those claiming under, by or through Seller except as set forth herein. Carteret County Tax Parcel # 6375.16.92.4371000 ("Pavilion Property") is subject to a 1,506 square foot encroachment easement for the purpose of installing and maintaining nitrification and drainage lines attached to a septic tank serving an adjacent property owner, said easement being recorded in Book 784, page 619, Carteret County Registry. Seller's conveyance of this lot will be subject to this encumbrance. Seller reserves the right to plant trees, pave streets, grade streets, and in any other way improve the streets, roads, alleyways, easements, and rights of way in front of, or surrounding the Property or Highway 58 Property.

6. **Furnishing Evidence of Title.** Within thirty (30) days after the Effective Date, Seller shall deliver to Buyer copies of any and all deeds, title reports, attorney's opinions, title insurance policies, maps, and other records and documents relating to the title to the Property and Highway 58 Property held by or available to Seller. Seller shall be notified in writing, within sixty (60) days prior to Closing, of any particular title defects claimed, and Seller shall have sixty (60) days after giving of said notice to remedy the title defects.

7. **Due Diligence Period.** It is anticipated by the parties that there will be a substantial period of time required to investigate and test the suitability of the Property and Highway 58 Property for development and for construction of a sewer treatment facility.

Likewise, it is expected that the required permits for such development will take a substantial period of time to obtain. For this reason, beginning on the Effective Date and continuing through eighteen months after the Effective Date (the "Due Diligence Period"), Buyer and its representatives shall have the right to investigate the title and condition of the Property and Highway 58 Property and the feasibility of developing the Property and Highway 58 Property. Seller agrees to provide Buyer, at Buyer's expense, with such information as may be reasonably requested by Buyer to enable Buyer to conduct its due diligence review. During the Due Diligence Period, Buyer, its agents, employees and contractors, shall have the right to enter onto the Property or Highway 58 Property for the purpose of inspecting the Property and Highway 58 Property and improvements thereon, if any, and performing such tests as may be desired by Buyer. Any such activity done by or for the Buyer will be accomplished with the least amount of damage to the Property and Highway 58 Property as is reasonably possible in making such determinations. Buyer shall be responsible for all costs with respect to any and all contractors, agents, permitting fees, and any other charges incurred with respect to the testing and surveying performed by or for Buyer as permitted herein. No contractor shall be permitted to place any materialman's, mechanic's, or other lien against the Property and Highway 58 Property as a result of Buyer's actions and if any such liens may be filed, Buyer shall cause such liens to be removed within 30 days. If Buyer fails to do so, Seller shall be authorized to take any action necessary to do so on its own or on Buyer's behalf, for which purposes Buyer appoints Seller as its attorney in fact. All costs and expenses, including reasonable attorney fees, shall be payable by Buyer to Seller within 30 days of notice thereof and will bear interest at a rate equal to the prime rate of interest charged by Seller's bank from the date of such notice until paid. Buyer will provide Seller, at no cost to Seller, with copies of all documents prepared for the Buyer pursuant

to surveying, delineations, and testing of the Property and Highway 58 Property, but Seller may not depend or rely upon such information for any purpose, and Buyer will not warrant, and specifically denies any liability for the use of the information by Seller or any other party. Buyer will indemnify and hold Seller harmless from any and all liability or expense, including reasonable attorney fees, that Seller may incur due to or arising from or connected with the Buyer, the Buyer's agents, contractors, servants or employees entering upon the Property and Highway 58 Property and/or conducting any tests or performing any surveys thereon, including, but not limited to, any and all claims for death or injury to persons or damage to property. Buyer also shall have the right to review and to evaluate the costs and feasibility of developing the Property and Highway 58 Property. If Buyer is not satisfied with all aspects of its inspection and feasibility studies, it shall have the right, upon written notice to Seller provided within the Due Diligence Period, to terminate this Contract, in which event both Seller and Buyer shall thereafter be relieved of any and all liability under this Contract except as provided in paragraph 3B above. If Buyer does not terminate this Contract within the Due Diligence Period, all obligations under this Contract shall become binding upon each of the parties hereto. Buyer agrees to present a report of the progress and status of Buyer's Due Diligence Process and Buyer's progress toward completing the development plan once every two months to the Town Council of Atlantic Beach at its regularly scheduled, or any specially called, Town meeting.

8. **Representations and Warranties of Seller.** As a material inducement to Buyer to enter into this Contract and to consummate the transactions contemplated by this Contract, Seller represents and warrants to Buyer as follows:

A. Authority. Seller has full power and authority to enter into this Contract and to consummate the transactions contemplated herein in accordance with the terms of this Contract. This Contract has been duly executed and delivered by Seller and is a valid and binding obligation of Seller, enforceable in accordance with its terms. No provision of this Contract shall be construed or interpreted as creating a pledge of the town's faith and credit within the meaning of any constitutional debt limitation. No provision of this Contract shall be construed or interpreted as a delegation of governmental powers or as an improper donation or a lending of the town's credit within the meaning of the State Constitution.

B. No Breach. Neither the execution of this Contract nor the consummation of the transactions contemplated herein will constitute or cause a breach, default or violation of any statute or administrative regulation, any order, writ, injunction, judgment or decree of any court or any governmental authority or of any arbitration award, or other covenants or obligations binding upon Seller, or affecting any of the Property or Highway 58 Property, or cause a lien or other encumbrance to attach to any of the Property or Highway 58 Property. At the Closing, there will be no restrictions upon vesting in Buyer good, valid and complete fee simple title to the Property and Highway 58 Property, free and clear of any and all claims of anyone claiming by, through, or under Seller except as herein provided and such title shall then vest in Buyer.

C. Consents. Except as set forth herein, no consents or approvals of any other public body or authority and no consents or waivers from other parties to leases, licenses, franchises, permits, indentures, agreements or other instruments are (a) required for the lawful consummation of the transactions contemplated hereby or (b) necessary in order that the Property and Highway 58 Property can be used by Buyer, except for zoning regulations, relevant

regulations of governmental agencies, and/or permitting requirements which may affect Buyer's use of the Property.

D. Title to Property and Highway 58 Property. Except as set forth in this paragraph or as otherwise described in this Contract, Seller has not made or caused any encumbrance to be placed on the Property or Highway 58 Property and the right, power and authority to sell the Property and Highway 58 Property free and clear of any claims of all persons claiming by, through or under Seller. No unreleased or unsatisfied mortgage, deed of trust, chattel mortgage, lease, security agreement, financing statement or other instrument encumbering any of the Property and Highway 58 Property shall be of record at closing, except for that lease between Doug Langston and Seller with a commencement date of December 21, 1998, for certain property on East Drive and as described in said lease and that 1,506 square foot encroachment nitrification and drainage line easement recorded in Book 784, page 619, Carteret County Registry. Seller makes no warranty as to Seller's right, title, and/or interest in any streets, easements, or alleyways that may abut any portion of the Property or Highway 58 Property.

E. No Litigation. There is no litigation or proceeding, in law or in equity, and there are no proceedings or governmental investigations before any commission or other administrative authority, pending, or to the best knowledge of Seller after due inquiry, threatened against or affecting Seller with respect to the consummation of the transactions contemplated hereby, or the use of the Property.

F. Absence of Decrees, Orders, Etc. Seller is not a party to, bound by or affected by, any decree, order or arbitration award (or agreement entered into in any administrative, judicial or arbitration proceeding with any governmental authority) with respect to the Property and Highway 58 Property.

G. Compliance with Environmental Laws. To the best of Seller's knowledge:

There is no condition with respect to the Property and Highway 58 Property, which would subject Buyer or Seller or any owner or prior owner or occupant to any environmental claims or damages. Neither Seller, nor to the best knowledge of Seller, any current or prior owner or occupant of the Property or Highway 58 Property have received notice or other communication concerning any alleged violation of environmental laws or regulations whether or not corrected to the satisfaction of the appropriate authority, or notice or other communication concerning alleged liability for environmental claims or damages, in connection with the Property or Highway 58 Property and to the best of Seller's knowledge, there exists no writ, injunction, decree, order or judgment outstanding, or any lawsuit, claim, proceeding, citation, directive, summons or investigation, pending or threatened, relating to the ownership, use, maintenance or operation of the Property or Highway 58 Property by any person, or due to the alleged violation of any environmental laws or regulations or the suspected presence of any hazardous, toxic, dangerous, or prohibited waste substance on, in, at or under the Property or Highway 58 Property, nor does the Seller know of any basis for such lawsuit, claim, proceeding, citation, directive, summons or investigation being instituted or filed.

Seller has no knowledge of and has made no investigation into the existence or probable existence of any hazardous material on, in, at or under the Property or Highway 58 Property or any storage tank, whether above or under ground.

H. Survival of Representations and Warranties. All representations and warranties of Seller shall be true, correct and complete as of the Closing and shall survive the Closing.

9. **Representations and warranties of Buyer.** Buyer represents and warrants to Seller as follows:

A. **Organization.** Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of North Carolina.

B. **Authority.** Buyer has full corporate power to enter into this Contract and to consummate the transactions contemplated herein, and neither the execution of this Contract nor the consummation of the transactions contemplated herein will constitute or cause a breach or violation of the articles of incorporation or bylaws of Buyer or of any covenants or obligations binding upon it or affecting any of its properties.

C. **Survival of Representations and Warranties.** All representations and warranties of Buyer shall be true, correct and complete as of the Closing and shall survive the Closing.

D. **Consummation of Contract.** Buyer shall use its good faith efforts to perform and fulfill all conditions and obligations on its part to be performed and fulfilled under this Contract, to the end that the transactions contemplated by this Contract shall be fully carried out.

E. **Corporate Authority.** The execution and delivery of this Contract and the consummation and performance of the transactions contemplated hereby have been duly authorized by all requisite corporate action. Buyer has the right, power, and authority to execute, deliver, and perform this Contract, and this Contract constitutes a valid and binding agreement of Buyer, enforceable against it in accordance with its terms, except as such enforceability shall be affected by (i) bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, or other similar laws relating to the enforcement of creditors' rights generally; or (ii) general

principles of equity, whether applied by a court of law or equity, including, but not limited to, the exercise of judicial discretion in allowing or formulating equitable or legal remedies.

F. Litigation. There are no legal actions, suits, proceedings, claims, or investigations pending, or to the best of Buyer's knowledge, threatened by governmental agencies or others against Buyer which may or could prevent the consummation of the transactions contemplated hereby, and Buyer is not a party to or subject to any judgment, order, writ, injunction, or decree affecting Buyer or its properties, or which may or could prevent the consummation of the transactions contemplated hereby, entered in any action, proceeding, or investigation brought or commenced by any governmental agency or any other party against Buyer.

10. **Conditions to Seller's Obligations.** The obligations of Seller to consummate the transactions contemplated hereby are subject to the fulfillment of all of the following conditions on or prior to the Closing Date:

A. Representations and Warranties. Unless waived by Seller, each and every representation and warranty made by Buyer shall have been true and correct when made and shall be true and correct in all material respects as if originally made on and as of the Closing Date. Seller shall have received a certificate executed by Buyer in such detail as Seller may request to the foregoing effect, dated as of the Closing Date.

B. Performance of Obligations. All obligations of Buyer to be performed hereunder through, and including on, the Closing Date (including, without limitation, all obligations which Buyer would be required to perform at the Closing if the transaction contemplated hereby was consummated) shall have been performed. Seller shall have received a

certificate executed by Buyer in such detail as Seller may request to the foregoing effect, dated as of the Closing Date.

C. Easement. Seller currently holds an easement for ingress and egress to the beach and the present Boardwalk which splits property currently or previously occupied by Ziggy's By The Sea. At closing, Seller shall release said easement in exchange for a comparable easement from Buyer for ingress and egress to the beach and the present Boardwalk from Atlantic Boulevard, said easement to be located adjacent to, and parallel with, the eastern property line of the present location of Crab's Claw Restaurant. This new easement shall be the same width and in the same or better condition as the easement being released by the Seller and shall be handicapped accessible.

D. Seller must receive from Buyer evidence of funding for the completion of the development of the Property consistent with the general summary of the redevelopment project presently proposed by Buyer and Seller's "Atlantic Beach Redevelopment Plan" as set forth in Exhibit B attached hereto, or as may be modified from time to time.

11. **Conditions to Buyer's Obligations**. The obligation of Buyer to consummate the transactions contemplated hereby is subject to the fulfillment of all of the following conditions on or prior to the Closing Date:

A. Representations and Warranties. Unless waived by Buyer, each and every representation and warranty made by Seller shall have been true and correct when made and shall be true and correct in all material respects as if originally made on and as of the Closing Date. Buyer shall have received a certificate executed by Seller in such detail as Buyer may request to the foregoing effect, dated as of the Closing Date.

B. Performance of Obligations. Unless waived by Buyer, all obligations of Seller to be performed hereunder through, and including, the Closing Date (including, without limitation, all obligations which Seller would be required to perform at the Closing if the transaction contemplated hereby is consummated) shall have been performed. Buyer shall have received a certificate executed by Seller in such detail as Buyer may request to the foregoing effect, dated as of the Closing Date.

C. Due Diligence Review. Buyer shall be satisfied with the results of its due diligence investigation. Among other things, Buyer shall have determined to its satisfaction:

- (1) Receipt of satisfactory environmental audits, reports, and surveys;
- (2) The availability and access to a sewage system that will treat and dispose of the wastewater that will be generated by Buyer's development of the Atlantic Beach Circle Development Project Area Property according to North Carolina Department of Natural Resources standards and as shall be restricted by the size of the "repair area" which may be located on the Highway 58 Property;
- (3) Availability and access to a sufficient water capacity for Buyer's redevelopment project;
- (4) Approval of Buyer's development plans after review by the Atlantic Beach Planning Board and consideration by the Town Council and any other necessary government agencies.
- (5) The closing of Central Drive;
- (6) The reconfiguring, if requested, of East Drive, West Drive and Atlantic Boulevard at Buyer's expense.

- (7) The acquisition by the Buyer of the abandoned motels located upon Carteret County Tax Parcel Numbers 637516933245 (John's Motel location) and 637516928842 (Summers End Motel location).
- (8) Adequate insurability of Buyer's redevelopment project;
- (9) Adequate financing as deemed necessary by Buyer;
- (10) All permits and approvals for Buyer to build, own, and use an adequate sewer treatment facility for Buyer's redevelopment project.

D. Alteration of Streets. At any time during the Due Diligence Period, and if this Contract is not terminated prior to the expiration of the Due Diligence Period, until the Closing Date, Buyer or Buyer's agent, designee, or representative may petition Seller to close Central Drive, and to alter and/or relocate East Drive, West Drive, and/or Atlantic Boulevard. All proceedings with regards to the closing and/or alteration and/or relocation of East Drive, West Drive, and/or Atlantic Boulevard shall be consistent with then existing laws and procedures. If proceedings on said petitions for said streets have not been completed to the point of adoption by the Town Council of Atlantic Beach by a resolution or ordinance to close, alter, or relocate said streets by the Closing Date, Buyer may terminate this Contract, or Buyer may obtain reasonable extensions to complete said proceedings, however, such extensions shall not to exceed 180 days from the Closing Date. In the event that action by the Town Council regarding closing Central Drive and/or the alteration and/or relocation of East Drive, West Drive, and/or Atlantic Boulevard are completed according to law, Buyer agrees that said streets shall remain open until construction for the redevelopment project is initiated, and Buyer further agrees to cooperate with Seller to complete said street closings, alterations, and relocations without

unreasonable interference with public and private access to properties and businesses presently adjoining or serviced by said streets.

12. **Closing of Sale and Purchase.** Subject to the terms and conditions of this Contract, and unless otherwise agreed to in writing, the Closing shall take place at a place designated by Buyer in Carteret County, North Carolina on or before twenty-four (24) months after the Effective Date, subject to extension as set forth below (the "Closing Date"). Buyer may extend the Closing Date to a date not more than 180 days later by giving Seller written notice of its election to do so no later than five (5) business days before said original Closing Date. Buyer and Seller agree to work in good faith toward a goal of closing the transactions contemplated by this Contract as soon as reasonably possible.

13. **Deliveries by Seller.** At the Closing, Seller shall deliver to Buyer the following:

- A. Limited Warranty deeds conveying to Buyer all of the Property;
- B. Option Contract for Highway 58 Property
- C. Affidavits satisfactory to Buyer and Buyer's title insurer that there are no unpaid bills or claims for labor or materials for work done on or to the Property within 120 days prior to closing;
- D. Agreements canceling leases for the Property, if any, except for that lease between Doug Langston and Seller with a commencement date of December 21, 1998;
- E. Such documents as may be necessary, in the opinion of Buyer's counsel, to evidence compliance with all laws and regulations necessary to permit conveyance of fee simple title to the Property to Buyer by Seller;

F. Funds for the payment of (1) all revenue stamps, (2) all documents required to be recorded to remove any title defects, (3) proration of taxes as provided in this Contract (if any), and (4) any costs or expenses of Seller remaining unpaid which relate to the Closing. Said funds may, at Seller's election, be deducted and paid from the Purchase Price;

G. Release of easement over "the John Mettrey Property"; and

H. All certificates and deliveries required herein and such other documents or items as Buyer may reasonably request.

14. **Deliveries by Buyer.** At the Closing, Buyer shall deliver to Seller the following:

A. The balance of the Purchase Price and any prorations;

B. A report that Buyer is in good standing as of a recent date prior to the Closing Date issued by the Secretary of State of the State of North Carolina, provided that an internet report or a certificate of existence or other reasonably equivalent certificates shall satisfy the requirements of this Section.

C. An easement as provided in paragraph 10.C. of this Contract to replace the easement of Seller released to Buyer.

D. Such other documents as Seller may reasonably request.

15. **Conditions Subsequent to Closing.**

A. Buyer agrees to develop the Property in accordance with the general summary of the redevelopment project presently proposed by Buyer and Seller's "Atlantic Beach Circle Development Plan" set forth in Exhibit B attached hereto, and as said project may be modified from time to time. Buyer agrees to present a report of the progress and status of the

development plan once every two months to the Town Council of Atlantic Beach at its regularly scheduled, or any specially called, Town meeting.

B. In the event Buyer does not initiate construction on the redevelopment project described herein within three years from the Closing Date, or if Buyer transfers control of the redevelopment project to a third party or violates the assignment provisions of paragraph 20.D., then in any of those events, Seller shall have the right to repurchase any or all of the Property conveyed pursuant to this Contract from Buyer at a price equal to the Purchase Price plus interest at the Prime rate charged by Seller's bank and Buyer's cost of any improvements made to the Property. At closing of the repurchase of the Property, Buyer will assign or otherwise transfer any assignable or transferable permits, permissions, study findings, engineering and other such information or materials which may have resulted from the Buyer's due diligence process or otherwise in the development of the project. Such study findings, engineering and other investigative information are not warranted by Buyer but may be used by Seller. Notice of the exercise of said right of repurchase shall be given in writing by Seller to Buyer as such notices are specified herein to be given. The closing of the repurchase of the Property shall be completed within 180 days after Seller's notification to Buyer of its intent to exercise its right to repurchase. At the closing, Buyer shall deliver fee simple title to Seller, subject only to those encumbrances against the property existing when the property was conveyed to Buyer. Buyer shall be responsible for payment of the cost and expenses of preparing the deed and a pro rata share of the real property taxes for the year in which the closing occurs and documentary stamps and to remove any encumbrances not allowed herein. Seller shall pay all other costs and expenses in connection with the repurchase of the Property. In the event Buyer initiates any construction on the redevelopment project within three years from the Closing

Date and refrains from transfer of control of the redevelopment and from violating the assignment provisions of paragraph 20.D. throughout the time required to complete the development project, the provisions of this paragraph shall automatically terminate. Seller agrees to execute an acknowledgement of release of its rights under this paragraph, except as to matters relating to transfer of control of the redevelopment project or the assignment provisions of paragraph 20.D., upon request of Buyer after Buyer initiates any construction on the redevelopment project described herein.

C. **Reconveyance.** All conveyances by Buyer of developed or undeveloped portions of the Property shall contain covenants, restrictions, or other limiting language to assure that such properties sold shall be used only in conformity with the redevelopment project presently proposed by Buyer and Seller's "Atlantic Beach Circle Development Plan" set forth in Exhibit B attached hereto, and as said project may be modified from time to time.

D. **Conditions Subsequent Survive Closing.** All of the conditions subsequent within in this Section 15 shall survive Closing.

16. **Survival of Representations and Warranties.**

A. Notwithstanding any investigations or inquiries made by Buyer or the waiver of any conditions by Buyer, the representations and warranties of Seller shall survive the Closing and, notwithstanding the closing of the transfer of title to the Property provided for in this Contract, will continue in full force and effect for: (i) the period of the applicable statute of limitations for representations and warranties relating to matters which may give rise to claims against Seller after the Closing Date for the representations and warranties relating to

environmental matters, and (ii) three (3) years for all other representations and warranties of Seller.

B. Notwithstanding any investigations or inquiries made by Seller or the waiver of any conditions by Seller, the representations and warranties of Buyer shall survive the Closing and, notwithstanding the closing of the transfer of title to the Property provided for in this Contract, will continue in full force and effect for: (i) the period of the applicable statute of limitations for representations and warranties relating to matters which may give rise to claims by governmental authorities against Buyers after the Closing Date for the representations and warranties, and (ii) three (3) years for all other representations and warranties of Buyer.

C. The rights of Buyer to the options described in paragraph 4 shall survive the closing.

17. **Termination**. This Contract may be terminated at any time before the Closing under any one or more of the following circumstances:

A. By the mutual written consent of Seller and Buyer;

B. By Buyer, by written notice of termination delivered to Seller, if any of the conditions set forth in Paragraph 11 have not been fulfilled by the Closing Date and cannot be cured within a reasonable time thereafter; or

C. By Buyer, by written notice of termination delivered to Seller prior to the end of the Due Diligence Period, if it determines, through its due diligence review prior to the Closing Date to terminate this Contract.

D. By Seller, by written notice of termination delivered to Buyer, if any of the conditions set forth in Paragraph 10 have not been fulfilled by the Closing Date and cannot be cured within a reasonable time thereafter.

18. **Effect of Termination.** In the event this Contract is terminated as provided in Paragraph 17, this Contract shall forthwith become wholly void and have no effect, and the parties shall be released from all future obligations hereunder except for the Seller's obligation to return all or some portion of the deposits to Buyer as provided herein.

19. **Indemnification.**

A. **Indemnification by Seller.** Seller shall indemnify, defend and hold harmless Buyer and its shareholders, officers, directors, employees, agents and representatives from damage, loss, or expense including without limitation expenses of investigation and reasonable attorneys fees and expenses arising out of (i) a material breach of a covenant, representation, or warranty of Seller made in this Contract; (ii) a valid, enforceable third party claim relating to performance and enforcement of this Contract; (iii) the ownership or use of the Property prior to the Closing; or (iv) any and all liabilities and obligations of Seller;

B. **Indemnification by Buyer.** Buyer shall indemnify and hold harmless Seller and its individual Board or Council members and its officers, agents, servants and employees from all damage, loss or expense including, without limitation, reasonable expenses of investigation and reasonable attorneys' fees and expenses arising out of a material breach of a covenant, representation or warranty of Buyer made in this Contract.

20. **General**

A. **Governing Law.** This Contract shall be construed, interpreted and the rights of the parties determined in accordance with the laws of the State of North Carolina.

B. **Survival.** The representations, warranties and other agreements herein contained shall survive the Closing and shall continue in full force and effect after the Closing notwithstanding any investigation by a party hereto or such party's actual knowledge regarding any such representation or warranty.

C. **Entire Agreement.** This Contract (which term, as used in this Contract, includes the schedules and exhibits referred to herein) constitutes the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the parties and there are no warranties, representations or other agreements between the parties in connection with the subject matter hereof except as set forth specifically herein or in any certificate, instrument of transfer or other document or agreement executed in connection with this Contract or otherwise made or given pursuant to the provisions of this Contract. No amendment, supplement, modification, waiver or termination of this Contract shall be implied or be binding (including, without limitation, any alleged waiver based on a party's knowledge of breach or inaccuracy in any representation or warranty contained herein) unless in writing and signed by the party against which such amendment, supplement, modification, waiver or termination is asserted. No waiver of a provision of this Contract shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly therein provided.

D. Binding Effect. All of the terms and provisions of this Contract by or for the benefit of the parties shall be binding upon and inure to the benefit of their successors and assigns. The rights and obligations provided by this Contract shall not be assignable; provided, however, that Buyer shall have the right to assign all or any portion of its rights and obligations hereunder to a subsidiary or affiliate which is owned or controlled by Buyer or its current shareholders, in which case such assignee shall be bound by the terms of this Contract to the same extent as Buyer. Seller is conveying the Property to Buyer based upon the parties shared vision for its development as described in Exhibit B, therefore, in the event of the death of Fred Bunn, or in the case of business failure of Buyer, including without limitation the insolvency or bankruptcy of the Buyer, this Contract shall bind and inure to the benefit of Buyer's heirs, successors, and/or assigns as allowed herein. Except as expressly provided herein, nothing herein is intended to confer upon any person other than the parties and their successors, any rights or remedies by reason of this Contract.

E. Duplicate Originals. This Contract shall be executed simultaneously in duplicate originals, each of which shall be deemed an original.

F. Notices. Any notice or communication required or permitted in connection with this Contract shall be in writing and transmitted by any of the following methods: (i) by United States Registered or Certified Mail, postage prepaid, return receipt requested, addressed to the respective party at the address provided herein, (ii) by personal delivery (including a national company's overnight courier service), addressed to the respective party at the address specified herein, or (iii) by telecopier addressed to the respective party at the telecopier number specified herein. Notices or communications sent by United States Registered or Certified Mail, postage prepaid, return receipt requested, shall be deemed received seventy-two (72) hours after

they have been posted in the United States Mail in the manner set forth above. Notices or communications sent by personal service, including notices sent by a national overnight courier service, shall be deemed received upon receipt or refusal of receipt. Notices or communications sent by telecopier shall be deemed received twenty-four (24) hours after their transmission from a telecopier machine with the capability to specify whether the communication was received by the receiving telecopy machine and to print a report stating its receipt. To be effective, all notices shall be addressed as follows (or to such other address as may be designated by written notice given pursuant hereto):

(a) If to Buyer to: FMB, INC.,
2207-D West Nash Street
Wilson, NC 27896
Telephone: (252) 291-1092
Fax: (252) 291-7899

with a copy to: Stephen L. Beaman, P.A.
P.O. Box 1907
Wilson, NC 27894
Telephone: (252) 237-9020
Fax: (252) 243-5174

(b) If to Seller: Town of Atlantic Beach
Att: Pete Allen, Town Manager
125 West Fort Macon Road.
P. O. Box 10
Atlantic Beach, 28512
Telephone: (252) 726-2121
Fax: (252) 726-5115

with a copy to: Mr. Derek Taylor
Taylor & Taylor
610 Arendell Street
P O Drawer 3627
Morehead City, NC 28577
Telephone: (252) 726-0001
Fax: (252) 726-2438

G. Expenses. All fees and expenses, including without limitation attorneys', accountants', and other professional fees and expenses charged in connection with, relating to or arising out of the execution, delivery and performance of this Contract and the consummation of the transactions contemplated herein shall be paid by the party incurring said fees or expenses.

H. Brokers. Neither Seller nor Buyer has dealt with any person or entity who is or may be entitled to a broker's commission, finder's fee, investment banker's fee or similar payment for arranging the transaction contemplated hereby or introducing the parties to each other.

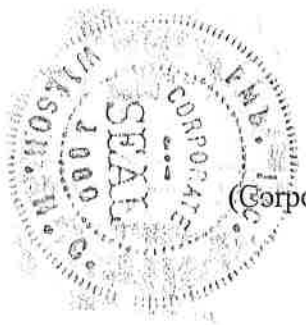
I. Further Action. The parties hereto, at any time and from time to time after the Effective Date hereof, upon request of any other party hereto, shall execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, all such further acts, assignments, transfers, agreements, assurances and powers of attorney as may be reasonably required to carry out the transactions herein contemplated.

J. Construction. This Contract shall not be construed in favor of or against either of the parties by virtue of either party having drafted it.

K. Headings. The headings to Sections of this Contract are for convenience of reference only and shall not be used in interpreting this Contract.

L. Effective Date. The "Effective Date" shall be the date the last party executes this Contract evidenced by the date of acknowledgments.

IN TESTIMONY WHEREOF, the parties have executed this Contract as of the date set forth above.



(Corporate Seal)



(Town Seal)

FMB, INC.

BY: Fred M. Burr

Title: President

TOWN OF ATLANTIC BEACH

BY: Joe Stroud
Joe Stroud - Mayor

ATTEST:

Leslie H. Eldredge
Leslie Eldredge - Clerk

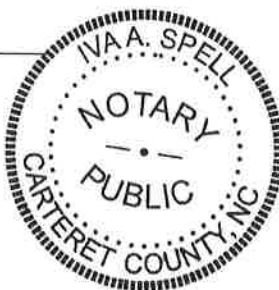
NORTH CAROLINA
CARTERET COUNTY

I, Iva Lou Spell, Notary Public, certify that Fred M. Bunn personally came before me this day and acknowledged that he is the President of FMB, INC., a North Carolina corporation, and that he, as its President, being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official seal, this 21st day of November, 2003.

Iva A. Spell
Notary Public

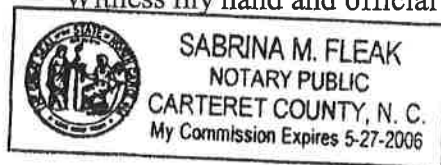
My Commission Expires: July 27, 2007



NORTH CAROLINA
CARTERET COUNTY

I, Sabrina M. Fleak, Notary Public certify that Joe Stroud personally came before me this day and acknowledged that he is the Mayor of TOWN OF ATLANTIC BEACH, a North Carolina municipality and that he, as Mayor, being authorized to do so, executed the foregoing on behalf of said North Carolina municipality, and Leslie Eldredge, acting as Secretary/Clerk of the governing body of said municipality attested the same before me.

Witness my hand and official seal, this 24 day of November, 2003.



Sabrina M. Fleak
Notary Public

My Commission Expires: May 27, 2006

EXHIBIT A

To Contract for Purchase of Real Estate

Between FMB, Inc., and the Town of Atlantic Beach

Description of Property

Those five (5) parcels generally shown on the attached drawing and labeled "Town", being further identified in the records of the Carteret County Tax Supervisor's Office as bearing PIN #'s 637516934347, 637516933481, 637516921938, 637516924731, 637516928948, and being further described in those deeds recorded in Book 695, page 127; Book 695, page 138; Book 695, page 128; and Book 695, page 130, Carteret County Registry.

Individual Parcel Pricing

Seller, pursuant to NCGS 160A-457, is conveying all of the property it owns in the Atlantic Beach Circle Development Project Area, bundling all of the above described parcels into a single sale. The following detail listing of the appraised value, which is the same as the selling price for each parcel, is provided only for the purpose of those portions of this Contract that may need such detailing, such as, but not limited to, the Seller's right to repurchase undeveloped lots pursuant to paragraph 15B. All Book and page numbers represent deeds recorded in the Carteret County Register of Deeds office.

PIN # 637516934347	Book 695, page 127	"Underground Property"	\$265,000.00
PIN # 637516933481	Book 695, page 127	"Underground Property"	\$ Incl Above
PIN # 637516921938	Book 695, page 138	West Atlantic/West Dr.	\$230,000.00
PIN # 637516924731	Book 695, page 128	"Pavillion Property"	\$965,000.00
PIN # 637516928948	Book 695, page 130	"Maze Location"	\$350,000.00
Total			\$1,810,000.00

EXHIBIT B

To Contract for Purchase of Real Estate

Between FMB, Inc., and the Town of Atlantic Beach

(The Redevelopment Project – Buyer's Proposed Plan)

Buyer proposes to redevelop the area of Atlantic Beach, North Carolina, generally known as "the Circle." The resulting redeveloped area will consist of a diverse and multi-use project, with emphasis on family-oriented uses. The redeveloped area will provide a variety of residential, business, hotel, and retail opportunities. Buyer anticipates developing a variety of housing styles and price ranges, designed for both owners and renters. In addition, it is intended to appeal to tourists, permanent residents, and owners of second homes. The redeveloped area is expected to increase property values in the area of the Circle, as well as the surrounding areas, but it should be a catalyst for additional investment in the Atlantic Beach area. Buyer's reputation for careful attention to detail should result in improvements the entire area will claim as a community asset.

Generally, Buyer anticipates developing the central beachfront area of the property for retail, restaurant, and public uses. Buyer anticipates one residential building constructed on the ocean side of Atlantic Boulevard, with other residential uses on the interior side of Atlantic Boulevard in the Circle area. The redevelopment project will include the closing of Central Drive and some alterations and/or relocations of East Drive, West Drive, and Atlantic Boulevard at Buyer's expense. The project will also include the permitting and construction of a private sewage disposal system for the redevelopment project, to be used on an interim basis until municipal sewer is available.

Proposed Timetable

The current proposed timetable for development could change due to market timing, general economic conditions, permit approvals, and for other unforeseen reasons.

Complete contract to purchase Town property	Summer, 2003
Soil study; develop plans	Fall, 2003
Submit plans to Planning Board and Town Council	Fall, 2003
Submit plans to DEHNR and other regulatory agencies	Winter, 2003
Approvals from DEHNR and other regulatory agencies	Winter, 2004
Begin site preparation, demolition, & infrastructure improvements	Winter, 2004
Begin first phase of construction of retail, restaurant, civic, and residential	Spring, 2005
Begin construction-second phase	Summer, 2006
Begin construction-third and final phase	Fall, 2007

The foregoing is based on Buyer's best estimate of its development time frame. Plans, designs, timing and proposals may change from time to time, at Buyer's discretion. This schedule is a summary only, and does not create any rights or remedies for either party to this agreement.

EXHIBIT B (continued)

To Contract for Purchase of Real Estate

Between FMB, Inc., and the Town of Atlantic Beach

(Seller's Adopted Plan)

**ATLANTIC BEACH CIRCLE
COMMUNITY DEVELOPMENT PLAN**

Objective: *To adopt a development plan for the Atlantic Beach Circle which will preserve public access and use of the Town's beaches while leading to more appropriate land uses, stimulating economic growth and creation of jobs, improving recreational and community facilities, enhancing the Circle's esthetic character, increasing tax revenues, reducing public safety risks and costs, and fostering family tourism.*

- 1) **Community Development Project Area** - The area to be developed under this plan is defined by marking on that aerial photograph map labeled "Atlantic Beach Development Plan" as adopted by the Town Council.
- 2) **Redeveloper** – Pursuant to North Carolina General Statute Section 160A-457(4), the Town will select a redeveloper of the Community Development Project Area based upon experience, expertise, current investment in the project area (including land ownership), proven financial stability, and vision for the development.
- 3) **Sale of Town Property** – The Town of Atlantic Beach intends to convey to the selected redeveloper, by private sale authorized by North Carolina General Statute Section 160A-457(4), five parcels of property it owns within the project area. The purpose of this conveyance will be to provide the redeveloper with sufficient property ownership to assure the development plan will have the maximum impact upon the entire project area.
- 4) **Land Use Plan** - This plan anticipates mixed uses within the project area, with a focus on family-oriented uses, which will potentially include hotels, residential units, community civic space, recreational facilities, and office and commercial properties including restaurants and retail shops. Housing will be designed and priced for both renters and permanent residents. The land uses proposed by the FMB, Inc., to the extent that they are consistent with current and/or future Town ordinances and regulations of other relevant regulatory bodies, are adopted by this plan.
- 5) **Density** – This plan does not immediately anticipate any changes in the current Zoning ordinances, which are relevant to the project area. The Town Council does anticipate that it will receive future proposals from the selected redeveloper and/or

other property owners in the development project area, which will present issues of population density, land coverage, infrastructure improvements, and building intensity. The Town Council will evaluate those proposals to assure that any suggested changes to current Zoning or other relevant ordinances will be in the public interest and in keeping with the objectives of this plan and the Town's overall land use plan. All changes to the Town's Zoning ordinances, if any, shall be made during public meetings of the Town Council and only after public comment as required by law.

- 6) **Preliminary Site Plan** – The Town intends to adopt the plan of the selected redeveloper as its own preliminary site plan. To date the only such plan submitted to the Town is that which was created by FMB, Inc., entitled “Reflections on the Circle, Atlantic Beach, NC” and it is anticipated that the FMB plan will be adopted as the preliminary site plan for this Community Development Plan. A copy of the FMB plat plan is attached and, if adopted, shall be incorporated by reference.

- 7) **Street Layouts** – Street layouts as depicted in the Preliminary Site Plan will be for general, conceptual planning purposes only. A final determination as to changes, if any, which shall be made in the street configurations currently in place within the Community Development Project Area will be reserved until such time as traffic patterns and volumes, public parking, access to relevant properties, and other issues may be evaluated by the Town Council, and only after a public hearing on such matters.

- 8) **Infrastructure** – Though the Town is currently evaluating means to provide municipal-wide sewer services that would also serve this project area, such facilities may not be available in a timeframe that will be beneficial to this development plan. For this reason, any selected redeveloper shall be required to provide a private plan for the treatment and safe disposal of sewer waste. The Town will provide water and solid waste services as per its standard polices in effect at that time. The Town shall provide its standard fire and public safety services as well.

- 9) **Timetable** – the following timetable is preliminary and summary in nature. It is subject to change based upon market conditions, economic climate, financing, permit approvals and unforeseen delays:

a. Sale of Town property to Developer:	Fall 2003
b. Review refined development plans by Planning Board & Council	Winter 2003
c. Plans submitted to DEHNR, CAMA, DWQ, etc.	Winter 2003
d. Plans approved by regulatory agencies	Winter 2004
e. Demolition & site prep, infrastructure improvements	Winter 2004
f. Begin 1 st phase of construction	Spring 2005
g. Begin 2 nd phase of construction	Summer 2006
h. Begin 3 rd phase of construction	Fall 2007
i. Project complete	Summer 2008

EXHIBIT C

To Contract for Purchase of Real Estate

Between FMB, Inc., and the Town of Atlantic Beach

(Description of Option Property – “Highway 58 Property”)

NORTH CAROLINA

CARTERET COUNTY

MOREHEAD TOWNSHIP

A certain parcel and piece of land located in the Town of Atlantic Beach, Morehead Township, Carteret County, North Carolina, being more particularly described as BEGINNING at a concrete monument in the northern right-of-way margin of Salter Path Road (NC Highway 58), said concrete monument being N 53° 15' 08" E, 1,021.54 feet from NCGS Ocean 1992, and from this point and place of beginning for a first call of N 09° 36' 10" W, 467.81 feet to a point, thence N 78° 31' 02" E, 400.94 feet to a point, thence N 50° 18' 56" E, 333.78 feet to a point, thence S 11° 39' 04" E, 268.18 feet to a point, thence S 78° 20' 56" W, 110.29 feet to a point, thence S 11° 39' 04" E, 172.09 feet to a point, thence S 50° 51' 11" E, 79.11 feet to a point, thence S 11° 39' 04" E, 121.63 feet to a point in the northern right-of-way margin of Salter Path Road (NC Highway 58); thence with the northern right-of-way of Salter Path Road, S 78° 20' 56" W, 651.99 feet to the point and place of beginning, being 7.348 acres, more or less.