

RESOLUTION 2022-05

A RESOLUTION APPROVING A STANDARD LAND SALE AGREEMENT AND AUTHORIZING THE CONVEYANCE OF CERTAIN PROPERTY

WHEREAS, the Downtown Development Authority (DDA) exists for the public purpose of redeveloping and promoting redevelopment within the city and is specifically authorized to encourage and promote economic improvement, development and rehabilitation within the City; and

WHEREAS, in 1990, the City of Smyrna conveyed property situated in the downtown area to the DDA. This conveyance includes the property that is shown within the survey attached as Exhibit “A” as well as several other parcels. However, the 1990 conveyance omitted the areas where former roadways existed as well as remnants and potential gaps and gores resulting from public projects occurring over the years; and

WHEREAS, the City desires to transfer all of the property described in Exhibit “A” to the DDA so that the property may be assembled with the property already owned by the DDA and a portion thereof sold to Market Village Realty, LLC, or another entity controlled by the principals of the entity and developed into a brewery so that the DDA may achieve its public purpose of promoting economic improvement and redevelopment within the City; and

WHEREAS, the City desires to approve the Standard Land Sale Agreement between the Smyrna Downtown Development Authority as Seller and Market Village Realty, LLC, or another entity controlled by the principals of that entity, as Purchaser, in substantially the form shown in Exhibit “B” attached hereto so that the DDA may achieve its public purpose of promoting economic improvement and redevelopment within the City.

THEREFORE, IT IS RESOLVED, as follows:

The City finds that approving the Standard Land Sale Agreement between the Smyrna Downtown Development Authority and Market Village Realty, LLC, or another entity controlled by the principals of that entity, in substantially the form shown in Exhibit “B” attached hereto assists the DDA in achieving its public purpose of promoting economic improvement and redevelopment within the City and approves that Agreement.

The City finds that transferring the property described in Exhibit “A” to the DDA, so that it may be assembled with property already owned by the DDA and sold for development, furthers the public purpose of the DDA in promoting economic improvement and redevelopment within downtown Smyrna. The city further finds that a redevelopment in substantial compliance with the terms of the Standard Land Sale Agreement between the Smyrna Downtown Development Authority as Seller and Market Village Realty, LLC, as identified herein, furthers the public purpose of promoting economic improvement and redevelopment within the downtown area and authorizes and approves the conveyance of whatever interest it has in the property described as Tract A and Tract B in Exhibit “A” and authorizes the Mayor to execute a deed conveying such interest.

This Resolution was adopted by the Governing Authority of the City of Smyrna, Georgia on the 18th day of January 2022.

Derek Norton, Mayor

ATTEST:

Heather Peacon-Corn, City Clerk

Approved as to form:

Scott Cochran, City Attorney

CITY SEAL





SURVEYOR'S NOTES

1. THIS PROPERTY MAY BE SUBJECT TO EASEMENTS, CLAIMS, PRESCRIPTIONS, SUBSURFACE CONDITIONS, OR OTHER MATTERS OF RECORD WHICH ARE NOT VISIBLE, NOT RECORDED, OR NOT DISCLOSED.
2. THE UTILITIES SHOWN ARE FOR THE CLIENT'S CONVENIENCE ONLY - THERE MAY BE OTHER UNDERGROUND UTILITIES NOT SHOWN HEREON. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR THE UNDERGROUND UTILITIES SHOWN OR NOT SHOWN. ALL DAMAGES MADE TO EXISTING UTILITIES BY THE OWNER OR THE OWNER'S AGENT, SHALL BE THE SOLE RESPONSIBILITY OF THE OWNER, OR THE OWNER'S AGENT, I.E. UNDERGROUND TANKS, GAS LINES, WATER LINES, SEWER LINES, ETC.
3. THIS PLAT IS FOR THE EXCLUSIVE USE OF THE PARTIES STATED ON THE FACE OF THE SURVEY. ANY USE BY THIRD PARTIES IS AT THEIR OWN RISK.
4. FIELD WORK FOR THIS PROJECT WAS COMPLETED ON 10/19/2021. THIS PLAT IS PREPARED FROM A FIELD SURVEY USING A JAVAD BASE AND ROVER, POST PROCESSED THROUGH JAVAD'S PROPRIETARY DPDS SYSTEM, WITH BOTH GNSS AND DDD SATELLITES BEING IMPLEMENTED IN THE RTK AND POST PROCESS SOLUTIONS. THE POSITIONAL TOLERANCE MEETS OR EXCEEDS 0.04 FT + 50 PPM AT THE 95 PERCENT CONFIDENCE LEVEL. IMPROVEMENTS LOCATED WITH A TRIMBLE 56 TOTAL STATION WERE BASED ON THE SAME DATUM AS THE JAVAD BASE AND ROVER. THIS MAP OR PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 125,738 FEET; THE CLOSURE PRECISION PLACED ON THE SURVEY SHALL BE BASED ON THE ACTUAL MAP CLOSURE THAT HAS BEEN INDEPENDENTLY CALCULATED BY THE SURVEYOR BY USING BEARINGS AND DISTANCES FROM THE FACE OF THE MAP AND IS NOT A GENERALIZATION.
5. THE BEARINGS SHOWN ON THIS PLAT WERE BASED ON A GRID NORTH - GEORGIA STATE PLANE COORDINATE SYSTEM - WEST ZONE NAD83 (U.S. FOOT) AS ESTABLISHED BY CROY-ENGINEERS LLC. DISTANCES AND AREAS SHOWN REFLECT HORIZONTAL GROUND - SURFACE MEASUREMENTS.
6. THE PURPOSE OF THIS SURVEY IS TO REDEFINE THE PROPERTY LINES ACCORDING TO CONCEPTUAL DESIGN PLANS BY CROY FOR THE CITY OF SMYRNA DOWNTOWN DEVELOPMENT PLAN.
7. ACCORDING TO THE F.E.M.A. FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NUMBER 13067CD119H, EFFECTIVE DATE 03/04/2013, FOR COBB COUNTY, GEORGIA, THIS PROPERTY DOES NOT LIE WITHIN A 100 YEAR FLOOD PLAIN AS DEFINED BY F.E.M.A.
8. THE EASTERN MARGINS OF TRACT A AND TRACT B WERE DERIVED FROM ATLANTA ROAD RIGHT-OF-WAY PLANS. THE LINES HAVE BEEN SHIFTED WEST BY APPROXIMATELY 2' IN ORDER TO CLEAR THE EXISTING CONCRETE SIDEWALK.

CERTIFICATE OF FINAL PLAT APPROVAL

THIS PLAT HAVING BEEN SUBMITTED TO THE CITY OF SMYRNA AND HAVING BEEN FOUND TO COMPLY WITH THE CITY OF SMYRNA SUBDIVISION REGULATIONS AND THE CITY OF SMYRNA ZONING REGULATIONS IS APPROVED SUBJECT TO THE INSTALLATION AND DEDICATION OF ALL STREETS, UTILITIES, EASEMENTS AND OTHER IMPROVEMENTS IN ACCORDANCE WITH THE STANDARD DESIGN SPECIFICATIONS.

Mayor, City of Smyrna _____ Date _____

City Engineer _____ Date _____

Community Development Director _____ Date _____

Public Works Director _____ Date _____

Planning and Zoning Commissioner _____ Date _____

PRELIMINARY

APWA UNIFORM COLOR CODE

- UNDERGROUND ELECTRIC POWER LINES, CABLES CONDUIT AND LIGHTING CABLES
- UNDERGROUND POWER LINE
- GAS, OIL, STEAM PETROLEUM OR GASEOUS MATERIAL
- GAS/PETROLEUM LINE
- COMMUNICATION, ALARM OR SIGNAL LINES, CABLES OR CONDUIT
- COMMUNICATIONS LINE
- POTABLE WATER
- WATERLINE
- SEWERS AND SANITARY DRAIN LINES
- SANITARY SEWER LINE

REFERENCES

1. MICROFICHE PREPARED FOR THE CITY OF SMYRNA BY PLANNERS AND ENGINEERS COLLABORATIVE, DATED 04/10/1990.
2. WIDENING OF ATLANTA ROAD RIGHT-OF-WAY AS-BUILT PLANS P.L. No. 250960, DATED 10/03/1989.
3. VALMAP BY CSX/STATE WITH .DWG FILE, DATED NOVEMBER

PROPERTY INFO

PID: 17052101220
CITY OF SMYRNA
0 ATLANTA HWY
SMYRNA, GA 30080
ZONED CBD - CENTRAL BUSINESS DISTRICT



SURVEYOR'S CERTIFICATE

(I) As required by subsection (d) of O.C.G.A. Section 15-6-67, this plat has been prepared by a land surveyor and approved by all applicable local jurisdictions for recording as evidenced by approval certificates, signatures, stamps, or statements hereon. Such approvals of affirmations should be confirmed with the appropriate governmental bodies by any purchaser or user of this plat as to intended use of any parcel. Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. Sections 15-6-67

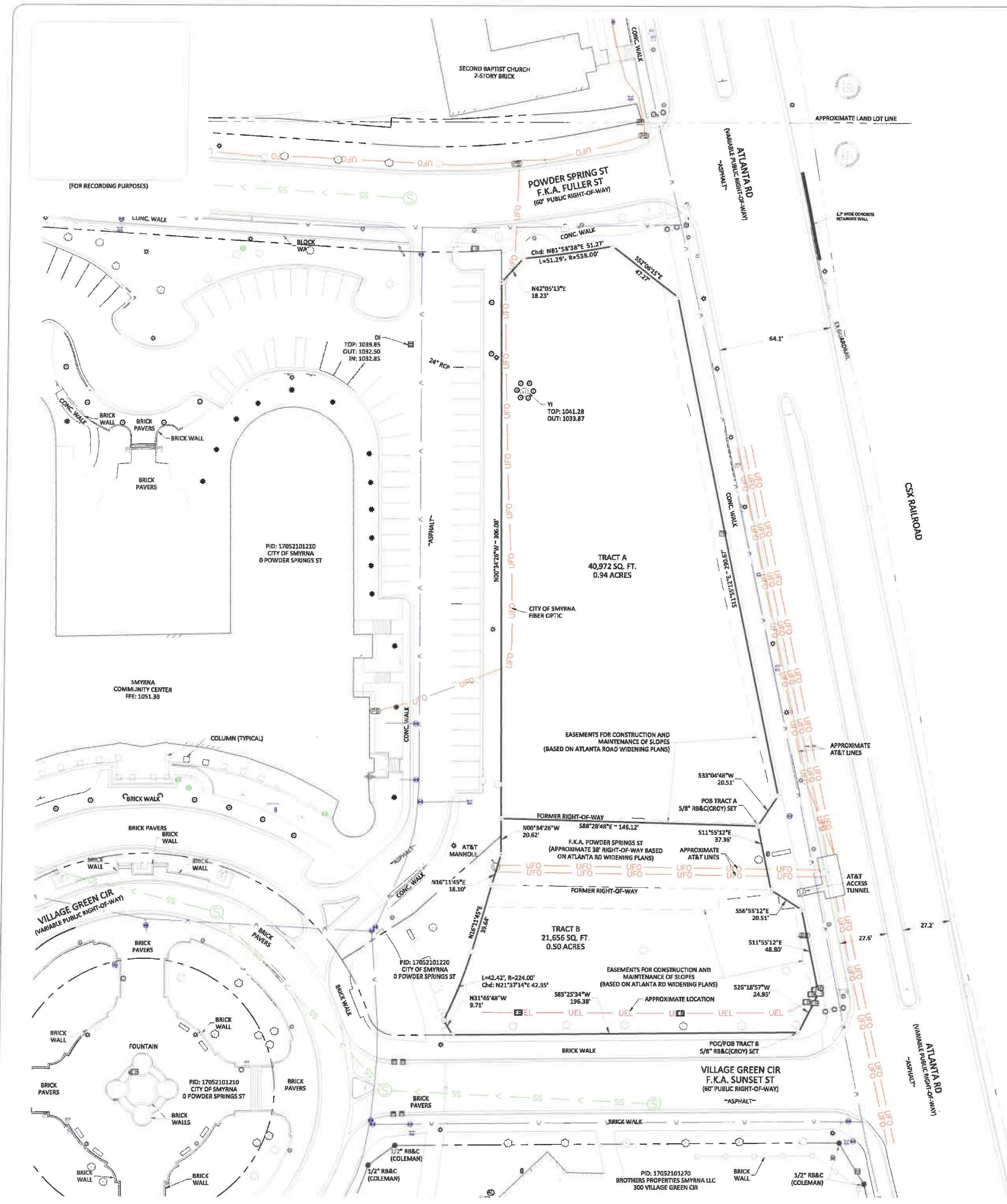
PRELIMINARY

S. CLARK TOMPKINS
GEORGIA RLS. NO. 3357
CERTIFICATE OF AUTHORIZATION NO. 15F000878

DATE _____

LEGEND

- BOUNDARY
- ADJ. BOUNDARY
- BUILDING
- WALL
- WOODS LINE
- FENCE
- LAND LOT LINE
- STORM SEWER LINE
- JUNCTION BOX
- SINGLE WING C.B.
- DOUBLE WING C.B.
- DROP INLET
- STORM SEWER MANHOLE
- SAN. SEWER MANHOLE
- CLEAN OUT
- FIRE HYDRANT
- WATER METER
- IRRIG. CONTROL VALVE
- WATER VALVE
- FIRE DEPT. CONNECTION
- SPRINKLER HEAD
- GAS VALVE
- GAS VALVE
- TELE. PEDESTAL
- ELECTRIC BOX
- ELECTRIC METER
- PULL BOX
- LIGHT POLE
- GROUND LIGHT
- POWER POLE
- AIR CONDITIONING UNIT
- H/C PARKING
- BOLLARD
- MAIL BOX
- SIGN
- TREE
- RIGHT OF WAY MONUMENT FOUND
- PROPERTY MONUMENT FOUND
- 5/8" REBAR & CAP(CROY) SET
- CALCULATED POINT
- POINT OF COMMENCEMENT
- POINT OF BEGINNING
- DISTURBED MONUMENT



A DIVISIONAL SURVEY FOR:
THE CITY OF SMYRNA
 LAND LOT 521 OF THE 17TH DISTRICT, 2ND SECTION
 CITY OF SMYRNA, COBB COUNTY, GEORGIA



Project No.	2396.001
Field Surveyed:	10/19/2021
Drawn By:	TMS
Checked By:	SKT
Date of Plat:	09/12/2022
Scale:	1" = 30'

SHEET NO.	1	OF	1
REVISION			

Exhibit "B"

STATE OF GEORGIA

COUNTY OF COBB

STANDARD LAND SALE AGREEMENT

THIS SALE AGREEMENT (hereinafter the "Agreement"), made and entered into this _____ day of _____, 2021, by and between Smyrna Downtown Development Authority, (hereinafter "Seller"), and Market Village Realty, LLC (hereinafter "Purchaser"),

WITNESSETH:

WHEREAS, Seller desires to sell to Purchaser and Purchaser desires to purchase from Seller certain real property in accordance with the terms and conditions hereinafter provided;

NOW, THEREFORE, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00), paid herewith, and other valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser do hereby covenant and agree as follows:

1. PURCHASE AND SALE.

Seller agrees to sell and convey to Purchaser, and Purchaser agrees to buy from Seller all that tract of land consisting of 40, 972 SF (.94 acres), more or less, as more particularly described in Tract A on Exhibit "A" attached hereto and by this reference made a part hereof, together with all improvements now located thereon, subject to all restrictions thereon (collectively the "Property").

2. PURCHASE PRICE.

The purchase price ("Purchase Price") for the Property shall be Six Hundred Thousand Dollars (\$600,000.00). The Purchase Price shall be paid as follows: all cash or cash equivalent in full at closing.

3. EARNEST MONEY.

Purchaser shall pay to Escrow Agent the sum of Six thousand dollars (\$6,000) as earnest money in connection with the transaction. The Earnest Money shall be applied as a partial payment of the purchase price of said property. Purchaser shall be entitled to refund of the entire amount of earnest money if the contract is terminated in accordance with any of the contingencies specified herein.

4. TITLE

Seller represents and warrants that Seller presently has good and marketable fee simple title to the Property, and at the time the sale is consummated ("Closing"), Seller agrees to convey marketable and insurable fee simple title to the Property to Purchaser by a limited warranty deed. Good and marketable fee simple title is hereby defined as title which a title insurance company

licensed to do business in the State of Georgia (the "Title Company") will insure at its standard rates on an ALTA Owner Policy, without exception other than the following "Permitted Title Exceptions": (1) zoning ordinances affecting the Property; (2) general utility, sewer and drainage easements of record upon which the improvements do not encroach; (3) subdivision easements of record; (4) Deed restrictions and (4) easements, restrictions and encumbrances shown on the public record. It is understood and agreed that said marketability shall be determined in accordance with Georgia law as supplemented by the Title Standards of the State Bar of Georgia. Purchaser shall have a reasonable time following the end of the Inspection Period (as hereinafter defined) in which to examine title and to furnish Seller with a written statement of objections affecting the marketability of said title, other than the Permitted Title Exceptions ("Title Objections"). Seller shall then have until the Closing Date (as hereinafter defined) to exercise Seller's best efforts to satisfy all such objections (except those objections of a monetary nature, which shall be satisfied by Seller by the payment of money at or prior to Closing) and, if Seller fails to satisfy such objections, then, at the option of Purchaser evidenced by written notice to Seller: (A) the Closing Date shall be extended by the additional time, not to exceed thirty (30) days, required for Seller to satisfy such objections; (B) Purchaser may accept title subject to such objections; or, (C) Purchaser may terminate this Agreement.

5. CLOSING.

The closing date ("Closing Date") shall be not later than _____. The Closing shall be at a specific place and time on a date designated by Purchaser to Seller with at least three (3) days' notice prior to the Closing Date. If the parties fail to designate said place, time, and date, the Closing shall be held on ____ at 1:00 p.m. in the office of Cochran & Edwards at the address shown below. Purchaser shall take possession of the Property on the Closing Date. Real estate taxes (based upon the most recent assessment for the Property) shall be prorated as of the Closing Date for the calendar year in which the Closing occurs.

6. SURVEY.

The Parties acknowledge that the Seller has provided a survey conducted by Croy Engineering, S Clark Tompkins, Ga RLS No 3257. This survey is marked as Exhibit A and attached hereto. The legal description of the Property, contained in the limited warranty deed from Seller, shall be based upon and conform to this Survey.

7. DAMAGE TO PROPERTY.

Seller warrants that at the Closing the Property will be in the same condition as it is on the Acceptance Date, normal wear and tear excepted, and that Seller neither will do nor will permit to be done anything which will affect the use of the Property, except as otherwise provided in this Agreement. However, should the Property be destroyed or substantially damaged either physically or through condemnation (or threat thereof) before the Closing, then at the election of Purchaser: Purchaser may terminate this Agreement; or, Purchaser may consummate this Agreement, in which event Purchaser shall have the right to receive such insurance proceeds or condemnation awards (if any) which have been paid, or, if not yet paid, to receive an assignment of such insurance proceeds or condemnation awards.

8. ASSIGNMENT.

This Agreement, and the rights and obligations hereunder, may be assigned by Purchaser to any legal entity created by Purchaser to hold Property. Notwithstanding anything contained herein to the contrary, however, any such assignee shall assume in writing all the obligations and liabilities of Purchaser hereunder; and a copy of such assignment shall be provided to Seller in writing within two (2) days after it is signed by Purchaser and assignee.

9. SELLER'S WARRANTIES.

Seller agrees, represents, and warrants that, to Seller's best knowledge and belief: (A) Seller has the full right and authority to enter into this Agreement and to consummate the sale of the Property as set forth herein; (B) Seller has not received any notice and has no knowledge that the Property is or will be affected by any special assessments, condemnation, eminent domain, change in grade of public streets, or similar proceedings; (C) Seller has entered into no unperformed agreement, oral or written, not referred to herein, with reference to the Property, and neither the Seller nor the Property is subject to any judgement or decree of a court of competent jurisdiction, or to any lawsuit or administrative proceeding which would in any way adversely affect the Property or which would in any way be binding upon Purchaser or its successors or assigns, or which would limit or restrict in any way Seller's rights and ability to enter into this Agreement and consummate the transactions contemplated hereby; (D) the Property has never been utilized for the use, discharge, or storage of any hazardous material or any landfill for garbage or refuse, dump, stump pit, or other similar purposes; and (E) the Property is free of any underground storage tanks, petroleum product contamination, hazardous substance, asbestos, radon, contaminants, oil, radioactive, or other materials, the removal of which is required, or the maintenance of which is required, or the maintenance of which is prohibited, penalized, or regulated by any local, state, or federal agency, authority, or government unit. Seller covenants and agrees that in the event Seller receives any written or verbal notice regarding the matters described in this paragraph, Seller will promptly give notice to Purchaser of the pertinent facts regarding same.

10. NOTICES.

Any notices or deliveries which may be permitted or required hereunder shall be in writing, shall include a copy to all parties hereto, and shall be deemed to have been duly given as of the date and time that same are hand delivered, delivered by courier, or deposited with the United States Postal Service, Certified Mail, return receipt requested, postage prepaid, and addressed to the parties hereto at the addresses contained herein, or such other addresses as the parties hereto shall from time to time designate to the others by notice in writing as herein provided. In the event that any notice or obligation shall be required to be given or performed on a weekend or legal holiday, then such date shall automatically be extended to the close of business of the next regular business day. Any such notices or deliveries required or permitted hereunder may be delivered to the fax number set forth herein by facsimile thereof (with delivery of an original by acceptable means, as set forth above, promptly to follow), and such facsimile shall constitute an acceptable notice or delivery. Until such time as any party shall change its address for notices, notices shall be forwarded as follows:

If to Seller: Smyrna Downtown Development Authority
 2800 King St
 Smyrna, Ga. 30080

Attn: Chairman Derek Norton

With copy to:
Scott Cochran
Cochran & Edwards
2950 Atlanta Rd
Smyrna, Ga 30080

If to Purchaser: Market Village Realty, LLC

11. GENERAL.

A. Entire Agreement. This Agreement constitutes the sole and entire Agreement between the parties hereto with respect to the subject matter hereof, and no modification of this Agreement shall be binding unless signed by all parties to this Agreement. No representation, promise, or inducement not included in this Agreement shall be binding upon any party hereto.

B. Captions. The headings at the beginning of each paragraph are for clarification purposes only and are not intended to alter the context of this Agreement.

C. Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, legal representatives, successors, and assigns.

D. Time of the Essence. Time is of the essence of this Agreement.

E. Governing Law. This Agreement shall be interpreted in all respects in accordance with the laws of the State of Georgia.

F. No Waiver. No failure of any party to exercise any power given hereunder or to insist upon strict compliance with any obligation specified herein, and no custom or practice at variance with the terms hereof, shall constitute a waiver of either party's right to demand exact compliance with the terms hereof.

G. Counterparts. This Agreement may be executed in several counterparts, each of which shall constitute an executed original hereof.

H. Conditions Precedent. Conditions precedent to the obligation of either party to close hereunder, if any, are for the benefit of such party only, and any and all of said conditions may be waived in the discretion of the party benefitted thereby.

I. Responsibility to Cooperate. Seller and Purchaser agree that such documentation as is reasonably necessary to carry out the terms of this Agreement shall be produced, executed and/or delivered by such parties within the time required to fulfill the terms and conditions of this Agreement.

12. SPECIAL STIPULATIONS.

The following Special Stipulations shall, if conflicting with the foregoing, control:

A. Closing costs. Seller shall pay any real estate transfer tax due and its attorney's fees. Purchaser shall pay its attorney's fees, costs of title and title insurance recording costs and any cost assessed by or associated with the lender.

B. Seller's Deliveries. At Closing, Seller shall deliver:

1. limited warranty deed, conveying the Property free and clear of liens, encumbrances and any leasehold rights, except the deed restrictions referenced below and Permitted Exceptions.
2. Affidavits required by the title company.
3. Certificate of Non-Foreign Status and Residency Affidavit.
4. Corporate Resolutions, Incumbency Certificate and organizational documents required by the Title Company.

C. Right to Repurchase. At closing, the parties shall execute a Right to Repurchase in recordable form which shall be recorded in the Superior Court deed records and provide that if the Purchaser does not initiate construction on the brewery building within 5 years from the date of closing, the Seller may repurchase the property at the original \$600,000 purchase price.

D. Right of First Refusal. At Closing, the parties shall execute a right of first refusal in recordable form which shall be recorded in the Superior Court deed records and provide as follows:

(1) Purchaser shall not subsequently sell or convey or agree to sell or convey all or any portion of the Premises to an independent third party without first having complied with the requirements of this section ("Right of First Refusal to Repurchase aka RFR").

(2) **Bona fide Third-Party Offer.** If Purchaser receives a bona fide offer to purchase all or any part of the Premises that the Company desires to accept (the "Offer"), Company shall provide a written copy of such Offer to the DDA ("Pending Deal Notice"). The Pending Deal Notice shall disclose all material aspects of the offer including, but not limited to a copy of the Offer, the identity of offering party, purchase price, offer terms, and other such related information. At its sole discretion, the DDA shall have 35 calendar days after receipt of such Offer to elect to purchase all or such portion of the Premises on the terms and conditions of the Offer. If DDA elects to so purchase such Property, DDA shall give the Company written notice of acceptance ("Acceptance Notice"). DDA's failure to deliver written Acceptance Notice of the Offer within 35 days shall be deemed to be an election not to exercise the right to repurchase. In such case, the Company shall have the right to sell the Premises to the offering third party buyer subject to the provisions and limitations herein.

(3) **Acceptance Notice.** If DDA delivers an Acceptance Notice as provided herein, then DDA and Company shall, within thirty (30) calendar days after such delivery, enter into a mutually acceptable purchase and sale agreement pertaining to such Property (or interests) (the "Purchase and Sale Agreement"), reflecting the exact terms of the bona fide Offer. The parties

agree to act reasonably and cooperatively in negotiating, executing and delivering the Purchase and Sale Agreement. In the event the DDA shall elect not to so purchase such Property, the Company may thereafter sell such Property to the person or entity making such Offer. Notwithstanding anything to the contrary herein, the provisions of this Section shall not apply to any sale or conveyance of the Property in foreclosure sale (or similar proceeding) of a bona-fide mortgage or deed of trust or to any conveyance in lieu of foreclosure of such a mortgage or deed of trust.

(4) Restoration of RFR. Notwithstanding anything to the contrary contained herein, DDA's repurchase option shall be restored if (1) Company fails to sell the Premises to said third party within 12 months after Landlord's delivery of the Pending Deal Notice to DDA ("Free Period"), or (2) at any time within such Free Period, Company intends to accept a purchase price for the Premises which is less than 95% of the purchase price set forth in the original Pending Deal Notice ("Reduced Purchase Price") at which time the DDA shall be notified and provided 35 calendar days to reconsider the acceptance of the revised Reduced Purchase Price Offer as outlined above. DDA's failure to deliver a Pending Deal Acceptance in connection with such revised Pending Deal Notice within such 35 day period shall be deemed to be an election by the DDA not to repurchase the Premises and in which case, DDA shall be deemed to have waived its right to repurchase the Premises unless Company, once again, does not sell the Premises during the remaining portion of the Free Period or in the event that the Reduced Purchase Price is further reduced as provided for in clause (2) above during such Free Period in which case DDA's rights shall be restored.

E. Use and Restrictions

1. Use. Purchaser shall develop and utilize the property as a brewery substantially as depicted in the conceptual site plan by ai3 dated May 13, 2021, except that the brewery shall be a smaller building reduced to two levels and may include a permanent kitchen. The city will develop an adjoining park substantially as depicted in the plan. Purchaser shall begin the permitting process for construction of the brewery no later than 60 days after the date that the City begins construction for the park, Construction for the park and brewery shall be staged so that the contractors do not interfere with each other during the construction process on each site..

2. Restrictions. The Limited Warranty Deed shall include the following:

GRANTORS CONVEYS SUBJECT TO THE RESTRICTIONS SET FORTH IN EXHIBIT B WHICH SHALL RUN WITH THE TITLE TO THE REAL PROPERTY AND BIND ALL SUCCESSORS AND ASSIGNS.

Exhibit B to the Limited Warranty Deed shall be as follows:

EXHIBIT B RESTRICTIONS

Prohibited Uses. The prohibited uses designated herein are in addition to all applicable zoning, regulatory and use restrictions. Regardless of the zoning restrictions, the following uses are prohibited and no part of the land, conveyed by this deed, may be used for any of the following:

1. Motor Vehicle sales, leasing, rental, service, wash, or broker businesses.
2. Service stations.

3. Hotels, motels.
4. Bus passenger stations.
5. Animal hospitals and veterinary clinics.
6. Automobile parts or tire stores.
7. Billiard and pool halls. (Shall not preclude a brewery/restaurant/brew pub from having billiard tables provided that the billiard tables shall not exceed 35% of the gross floor area of the establishment)
8. Boarding and breeding kennels.
9. Carnivals and/or circuses.
10. Drive-in theater.
11. Landing areas for rotary wing aircraft.
12. Mobile home or travel trailer sales and rental establishments.
13. Radio and television broadcasting stations.
14. Stations and terminals for bus or rail passenger service.
15. Taxi stands and dispatching agencies.
16. Archery or gun range
17. Adult Novelty Shops
18. Adult Entertainment Establishments including but not limited to, Adult bookstore, Adult dancing establishment, Adult mini motion picture theater, Adult motion picture arcade, Adult motion picture theater, Adult video store, Erotic dance establishment and Escort bureau, as defined by the City of Smyrna's Code of Ordinances.
19. Gun Shops
20. Pawnshops and Check Cashing Establishments
21. Tattoo and Body Piercing Parlors
22. Massage Parlors
23. No Billboard or Cellular tower shall be placed upon the property.
24. Fast Food Restaurants with drive through windows.

F. Purchasers Inspection. Purchaser shall have until Sixty (60) days after acceptance by both parties of this Contract (the "Inspection Term") to (i) make a complete inspection of the Property, including but not limited to the soil conditions and presence or absence of hazardous materials on or about the Property, and appraisal, and (ii) determine whether the physical, financial and general condition of the Property is, in Purchaser's estimation, satisfactory for ownership or development by Purchaser in the manner and on the basis contemplated by Purchaser. If Purchaser, in its sole discretion, determines that the physical condition of the Property is not satisfactory, or that the Property cannot be owned or developed in a manner which is entirely satisfactory to Purchaser, then Purchaser shall notify Seller and Escrow Agent prior to expiration of the Inspection Term that the Property is not satisfactory and terminate this

Contract. Upon such notice, Purchaser's entire deposit shall be returned, and Purchaser and Seller shall have no further obligations hereunder.

Purchaser and Seller acknowledge that they have read and understand the terms of this Agreement and have each received a copy of same.

The "Acceptance Date" of this Agreement is the date on which the last party signs the following:

IN WITNESS WHEREOF, Purchaser and Seller have hereunto set their hands and seals as of the date indicated below.

PURCHASER:

SELLER:

MARKET VILLAGE
REALTY, LLC

SMYRNA DOWNTOWN
DEVELOPMENT AUTHORITY

By: _____

By: _____

Date executed by Purchaser: _____

Date executed by Sellers: _____

ESCROW AGENT:
