



City Council Meeting - Final

March 25, 2024

7:00 PM

-
- G. ATH2024-060** Approve Agreements for the Sale and Purchase of Real Estate between First Baptist Church of Smyrna, Georgia Inc., the Downtown Smyrna Development Authority and the City of Smyrna, Georgia, and authorize the mayor to sign and execute all related documents.



City of Smyrna

Issue Sheet

A Max Bacon
City Hall
2800 King Street
Smyrna, GA 30080

File Number: ATH2024-060

Agenda Date: 3/25/2024

In Control: City Council

File Type: Authorization

Agenda Section:

Agenda Number: G.

Formal Business

Department: Administration

Agenda Title:

Approve Agreements for the Sale and Purchase of Real Estate between First Baptist Church of Smyrna, Georgia Inc., the Downtown Smyrna Development Authority and the City of Smyrna, Georgia, and authorize the mayor to sign and execute all related documents.

Citywide

ISSUE AND BACKGROUND:

The City and Smyrna First Baptist Church have reached an agreement where the City, through its Downtown Development Authority will purchase the existing church campus located on Church Street and the church will purchase property owned by the Development Authority located at 3030, 3040 and 3050 Atlanta Road and relocate there. This allows the City to expand its downtown and allows the church to remain in the city. Although the transaction is between the Downtown Smyrna Development Authority and First Baptist Church of Smyrna, Georgia Inc., the City has certain obligations under the contracts including the obligation to demolish the existing structures on the Atlanta Road sites and install an electrified traffic signal to serve the new church facility on the Atlanta Rd site.

RECOMMENDATION / REQUESTED ACTION:

Staff recommends approval of the agreements for the Sale and Purchase of Real Estate between First Baptist Church of Smyrna, Georgia Inc., the Downtown Smyrna Development Authority and the City of Smyrna, Georgia, and authorize the mayor to sign and execute all related documents.

**AGREEMENT FOR THE SALE
AND PURCHASE OF REAL ESTATE**

(3030, 3040, 3050 Atlanta Road, Smyrna, GA)

THIS AGREEMENT, entered into this _____ day of _____, 2024, by and among **DOWNTOWN SMYRNA DEVELOPMENT AUTHORITY** (hereinafter referred to as “Seller”); **FIRST BAPTIST CHURCH OF SMYRNA, GEORGIA, INC., a Georgia nonprofit corporation** (hereinafter referred to as “Purchaser”), and **CITY OF SMYRNA, GEORGIA, a political subdivision of the State of Georgia** (hereinafter referred to as the “City”).

WHEREAS, Seller owns all that tract or parcel of land containing approximately 5.5 acres located in Cobb County, Georgia, and being more particularly shown on that survey attached hereto as Exhibit “A” and by this reference made a part hereof (hereinafter referred to as the “Property”); and

WHEREAS, Purchaser owns all that tract or parcel of land containing approximately 8.9 acres located in Cobb County, Georgia, and being commonly known as tax parcels 17052200060 and 17052200200 (hereinafter referred to as the “Church Street Property”); and

WHEREAS, Seller and Purchaser desire to purchase and sell the Property and the Church Street Property in simultaneous closings on the terms and conditions more particularly set out in this Agreement and a separate agreement for the purchase and sale of the Church Street Property executed simultaneously herewith (the “Church Street Property Contract”); and

WHEREAS, the City has agreed to initiate rezoning of the Property and to install a traffic signal and required lane improvements on Atlanta Road and procure related approvals, as more particularly described herein.

NOW THEREFORE, FOR AND IN CONSIDERATION of the sum of TEN AND NO/100 DOLLARS (\$10.00), the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

1. **PURCHASE AND SALE**. Upon the terms and conditions hereinafter set forth, Seller agrees to sell and Purchaser agrees to purchase the Property.

2. **EARNEST MONEY**

2.1 Purchaser shall pay to 1499, Inc., a title insurance agency affiliated with the law firm of Moore Ingram Johnson & Steele, LLP, acting as escrow agent hereunder (hereinafter sometimes referred to as “Escrow Agent”), an earnest money deposit of Twenty-Five Thousand Dollars (\$25,000.00) within three (3) business days of the Effective Date, as

defined in Paragraph 22.9. Said sum shall be held by Escrow Agent and applied or disbursed in accordance with the terms of this Agreement. Escrow Agent shall deposit the Earnest Money in its IOLTA escrow account with all interest earned thereon going to the State Bar of Georgia's IOLTA program. All such sums deposited from time to time with Escrow Agent as earnest money are hereinafter referred to as "Earnest Money."

2.2 It is specifically understood by all parties hereto that (a) said Earnest Money shall be deemed nonrefundable, and the property of Seller, except as provided herein, and provided that Seller is not in default hereunder, and (b) that said Earnest Money will be credited to the Purchase Price. At the Closing, Escrow Agent shall deliver the Earnest Money to Seller.

3. PURCHASE PRICE

3.1 The Purchase Price for the Property to be paid by Purchaser to Seller at the Closing and consummation of the purchase and sale of the Property as contemplated herein (hereinafter referred to as the "Closing" and the date of such Closing hereinafter referred to as the "Closing Date") shall be the sum of Three Million Three Hundred Thousand Dollars (\$3,300,000.00).

3.2 The Purchase Price shall be payable by wire transfer.

4. SURVEY

Purchaser may cause to be prepared, at Purchaser's expense, an accurate survey of the Property by a surveyor registered under the laws of the State of Georgia reasonably acceptable to Seller (hereinafter referred to as the "Survey"). If a Survey is prepared, Purchaser shall deliver one (1) print of the Survey, together with a legally sufficient description of the metes and bounds of the Property based on the Survey, to Seller no later than five (5) days after Purchaser's receipt of same. Seller shall have ten (10) days to review the Survey. If Seller does not object to the Survey within said ten (10) day period, or upon Seller's written approval of the Survey, which approval shall not be unreasonably withheld, conditioned, or delayed, said description shall become a part of this Agreement without the necessity of any further action by any of the parties hereto, and said description shall replace and supersede the description of the property attached hereto as Exhibit "A." Notwithstanding the foregoing, however, to the extent that the revised legal description differs from the Seller's vesting legal description, Seller shall only be required to deliver a Limited Warranty Deed containing the vesting legal description, and Seller shall deliver a Quitclaim Deed containing the revised legal description.

5. CLOSING

The Closing shall be held simultaneously with the closing for the Church Street Property on or before thirty (30) days after the satisfaction of all Contingencies set out in Paragraph 15; provided, however, in no event shall the Closing occur later than one (1) year after the Effective Date (the "Outside Closing Date"). The exact time, the place of Closing and the

Closing Date shall be mutually agreed by Purchaser and Seller not less than five (5) days prior to the Closing Date. If no such selection is timely made, the Closing shall be held at 10:00 A.M. on the last possible business date for closing under this Agreement at the offices of Moore Ingram Johnson & Steele, LLP, 326 Roswell Street, Marietta, Georgia 30060, or at such other place as Purchaser and Seller may agree upon in writing.

6. CONVEYANCE OF TITLE

6.1 At the Closing, Seller shall convey to Purchaser “good and marketable fee simple title” to the Property by Limited Warranty Deed. “Good and marketable, fee simple title” shall be such title as is acceptable to a reasonable purchaser using Georgia Bar Association “Title Standards,” as currently published, as the criteria to marketability of the title required hereby, and is insurable by a title insurance company acceptable to Purchaser (the “Title Company”) at standard rates and without exception other than the Permitted Exceptions as defined herein.

6.2 Title to the Property shall be conveyed by Seller to Purchaser free of all liens, leases and encumbrances with the following exceptions (which exceptions are hereinafter referred to as the “Permitted Exceptions”):

(i) current city, state and county ad valorem property and sanitary sewer taxes not yet due and payable;

(ii) general utility, sewerage and drainage easements affecting the Property which do not materially interfere with Purchaser’s intended use of the Property.

6.3 At the Closing, Seller shall execute and deliver to Purchaser a certificate with respect to Seller’s non-foreign status sufficient to comply with the requirements of Section 1445 of the Internal Revenue Code, commonly known as the Foreign Investment in Real Property Tax Act of 1980, and all regulations applicable thereto (collectively referred to as “FIRPTA”) and a Georgia residency affidavit.

6.4 At the Closing, Seller shall execute and deliver such other documents as Purchaser may reasonably require to effect or complete the transaction contemplated by this Agreement and to obtain an owner’s policy of title insurance insuring Purchaser’s title through the date of recording of Purchaser’s deed.

7. TITLE EXAMINATION

Purchaser shall have forty-five (45) days after the Effective Date in which to search title to the Property and in which to furnish Seller with a written statement of any title objections affecting the marketability of said title other than the Permitted Exceptions. Seller shall have until Closing to satisfy all valid title objections, and if Seller fails to satisfy such valid objections, then, at the option of Purchaser, evidenced by written notice to Seller, Purchaser (i) may choose to terminate this Agreement and receive the return of all Earnest Money, or (ii) may

elect to close and shall receive the deed required herein from Seller irrespective of such title objections without reduction of the Purchase Price, except that judgments of record, existing mortgages and outstanding taxes may be paid by Purchaser at Closing out of the Purchase Price. Purchaser shall also have the right to examine title to the Property at any time up to Closing and object to any title matters affecting the Property and arising or first discovered after the date of the examination set forth above.

8. PRORATIONS

At the Closing, all ad valorem property taxes, water and sewer charges and assessments of any kind on the Property for the year of the Closing shall be prorated between Purchaser and Seller as of midnight of the day prior to the Closing. Such proration shall be based upon the latest ad valorem property tax, water, sewer charge and assessment bills available; and if such bills cover other property than the Property, then such proration shall also be based on the fraction obtained when the number of acres of the Property is divided by the number of acres of property so covered by such bills. If, upon receipt of the actual ad valorem property tax, water, sewer and assessment bills for the Property, such proration is incorrect, then either Purchaser or Seller shall be entitled, upon demand, to receive such amounts from the other as may be necessary to correct such malapportionment. This obligation so to correct such malapportionment shall survive the Closing and not be merged into any documents delivered pursuant to the Closing. Notwithstanding the foregoing, any special fees, assessments, or penalties associated with, or assessed against the Property; including but not limited to, penalties arising out of a breach of a conservation use covenant, all such special fees, assessments or penalties are the sole obligation and responsibility of the Seller and shall be paid in full by Seller at or prior to Closing.

9. INSPECTION

9.1 Upon reasonable advance written notice (during regular business hours during the week, not on a weekend) and with the consent of Seller, Purchaser shall have the privilege during the term of this Agreement to go upon the Property with Purchaser's agents, representatives or designees to inspect, examine and survey the Property; provided, however, that no grading shall be done and no trees or bushes shall be cut except as may be necessary to clear the view for survey purposes. Purchaser is responsible to Seller for loss or damage that Seller may incur and any and all liens that may arise as a result of Purchaser's activities or the activities of Purchaser's agents, representatives or designees on the Property and for all claims for death or injury to persons or properties arising out of or connected with Purchaser's (or its agents, representatives or designees) going upon the Property pursuant to the provisions of this Paragraph 9 or otherwise, and against all costs, expenses and liability occurring in or in connection with any such claim or proceeding brought thereon, including, without limitation, court costs and reasonable attorney's fees. This provision shall survive the Closing or any termination of this Agreement.

9.2 Purchaser may, at Purchaser's expense, within the Inspection Period, have

a Phase One Environmental Study performed on the Property, using an Environmental Engineer licensed in the State of Georgia. In the event said study indicates the necessity to perform further studies, including a Phase Two Environmental Study, or if Purchaser or Purchaser's Lender requires additional studies, then Purchaser shall notify Seller, and the Inspection Period shall be extended by thirty (30) days. In the event such environmental studies relating to the Property are unacceptable to Purchaser, Purchaser shall have the option of terminating this Agreement and receiving a refund of the Earnest Money or Closing on the sale and purchase of the Property.

9.3 Seller agrees to provide Purchaser, within ten (10) days from the date of this Agreement, legible copies of any and all surveys, plans, engineering reports, title reports, title insurance policies and other similar documents which Seller may have concerning the Property.

10. NOTICES

All notices, demands, deliveries of surveys, and any and all other communications that may be or are required to be given to or made by either party to the other in connection with this Agreement shall be in writing and shall be deemed to have been properly given if delivered in person, sent by overnight by United Parcel Service or Federal Express, sent by electronic mail to the email address set out below, or sent by registered or certified mail, return receipt requested, to the addresses set out below or at such other addresses as specified by written notice and delivered in accordance herewith:

To Seller: Downtown Smyrna Development Authority
Attn: Chairman Derek Norton
2800 King Street
Smyrna, GA 30080
Email address: _____

With a copy to: Cochran & Edwards
Attn: Scott Cochran
2950 Atlanta Road
Smyrna, GA 30080
Email address: Scott@cochranedwardslaw.com

To Purchaser: First Baptist Church of Smyrna, Georgia, Inc.
Attn: Jeff Pennington
1275 Church Street
Smyrna, GA 30080
Email address: jpennington@smyrnafirst.org

With a copy to: Moore Ingram Johnson & Steele, LLP
Attn: G. Phillip Beggs
326 Roswell Street, Suite 100

Marietta, GA 30060
Email address: gpb@mijs.com

To the City: City of Smyrna, Georgia
Attn: Mayor Derek Norton
2800 King Street
Smyrna, GA 30080
Email address: _____

With a copy to: Cochran & Edwards
Attn: Scott Cochran
2950 Atlanta Road
Smyrna, GA 30080
Email address: Scott@cochranedwardslaw.com

For purposes of this Agreement, the time of actual delivery, if made in person, the date of delivery to United Parcel Service or Federal Express for overnight delivery or three (3) days after the date of postmark, if by mail, shall be deemed the date of any notice, demand or delivery. Additionally, notices by email sent to the email addresses set forth above shall be sufficient notice, and such notices shall be deemed given when sent provided that notice is also sent by one of the other methods set forth above.

11. CONDEMNATION

If prior to the Closing of the sale contemplated herein any major portion of the Property is subject to a bona fide threat of condemnation by a body having the power of eminent domain or condemnation, or sale in lieu thereof, Purchaser may elect to terminate this Agreement by giving the Seller notice to such effect within ten (10) days after receipt of notice of such occurrence, with the Closing Date to be postponed, if necessary, to give both parties the benefit of the full ten (10) day period, and both parties shall be relieved and released of and from any and all further liability hereunder (other than any liability that by the express terms hereof survives any termination of this Agreement), and Escrow Agent shall forthwith return to Purchaser all amounts paid by Purchaser as Earnest Money, whereupon this Agreement shall be terminated. If Purchaser elects not to terminate, this Agreement shall remain in full force and effect and the purchase contemplated herein, less any property taken by eminent domain or condemnation or under threat of being so taken, shall be effected without reduction in the Purchase Price, and Seller shall, at the Closing, assign, transfer and set over unto Purchaser all of Seller's right, title and interest in and to any insurance proceeds or any awards paid or payable for such taking. For the purposes of this Paragraph, a "major" portion of the Property is a portion of the property that materially and adversely affects the Purchaser's intended use. The parties specifically and expressly agree there shall be no contingency for the destruction of the improvements on the Property.

12. NO BROKER

Seller and Purchaser each warrant to the other that no real estate broker or agent is entitled to a commission as a result of the transaction contemplated herein. Each party hereby indemnifies and agrees to hold harmless the other from any claim by any real estate agent or broker for any commission as a result of this transaction, which claim is caused or produced by such party.

13. ASSIGNMENT

Purchaser shall have no right to assign this Agreement without the written consent of Seller, which consent shall not be unreasonably withheld or delayed; provided, however, that Purchaser shall have the right to assign this Agreement to any person(s), partnership or corporation, controlling, controlled by or under common control with Purchaser without the consent of Seller, and the transaction contemplated by this Agreement shall be consummated in the name of such assignee. In the event of such assignment, the assignee shall assume the obligations of Purchaser under this Agreement, and Purchaser shall have no further obligation or liability under this Agreement.

14. DEFAULT

In the event the transaction contemplated hereby is not closed because of Purchaser's default, the Earnest Money shall be paid to Seller as full liquidated damages for such failure to close pursuant to O.C.G.A. Sec. 13-6-7, the parties acknowledging the difficulty of ascertaining Seller's damages in such circumstances, and that the amount specified as Earnest Money represents a reasonable good faith estimate by the parties of the amount of damages that Seller would incur in such event, whereupon neither party hereto shall have any further rights, claims or liabilities under this Agreement except for the provisions which are made to survive the termination or cancellation of this Agreement. Said liquidated damages shall be Seller's sole and exclusive remedy, and Seller shall expressly not have the right to seek specific performance. In the event the transaction contemplated hereby is not closed because of Seller's default, then the Earnest Money shall be refunded promptly to Purchaser and Purchaser may, at Purchaser's option (i) pursue an action for specific performance, or (ii) receive reimbursement from Seller for Purchaser's documented out-of-pocket costs in reliance on this Agreement.

15. PURCHASER'S CONTINGENCIES

15.1 Purchaser shall have until ninety (90) days from the Effective Date (hereinafter referred to as the "Inspection Period") to use good faith efforts to determine whether the Property is suitable for Purchaser's intended use. Purchaser may, at Purchaser's option, extend the Inspection Period by thirty (30) days upon written notice to Seller, which notice shall be given prior to the expiration of the Inspection Period. In the event Purchaser determines, in its sole discretion, that the Property is not suitable for the intended use, or for no reason, then Purchaser may terminate this Agreement by giving written notice to Seller on or before the last

day of the Inspection Period, in which event all Earnest Money paid hereunder shall be promptly refunded to Purchaser and the parties to this Agreement shall be relieved of all rights and obligations hereunder.

15.2 This Agreement and Purchaser's obligations hereunder are specifically and expressly conditioned upon a simultaneous closing with the Church Street Property. In the event the closing for the Property and the Church Street Property cannot occur simultaneously, either party may, at its option, terminate this Agreement by written notice to the other party, in which event the Purchaser shall receive an immediate return of the Earnest Money, and the parties hereto shall have no further rights, duties, or obligations hereunder.

15.3 This Agreement and Purchaser's obligations hereunder are specifically and expressly conditioned upon Purchaser being issued a letter from Smyrna Community Development stating that the plans have been reviewed and that the applicant is entitled to a land disturbance permit and such permit is ready to be issued by the City of Smyrna for the development of the Property for a minimum 60,000 square foot church facility with the greater of (a) 275 parking spaces, or (b) the minimum number of parking spaces required by local ordinances for a structure of this size, consistent with Purchaser's intended use and with no conditions unacceptable to Purchaser (hereinafter the "LDP Letter") prior to the Outside Closing Date. In the event an LDP Letter has not been issued on or before the Outside Closing Date, Purchaser shall have the option of the following: (i) terminating this Agreement by written notice to Seller and receiving an immediate return of the Earnest Money, with the parties hereto having no further rights, duties, or obligations hereunder, or; (ii) waiving this condition and proceeding to close the transaction hereunder.

15.4 Prior to Closing, Seller and the City shall demolish all improvements on the Property, including, without limitation, removal of all structures, hazardous waste and materials, debris, utilities, and concrete, leaving the Property in a clean and neat condition (the "Demolition and Utility Work"). In the event the Demolition and Utility Work has not been completed on or before the Outside Closing Date, Purchaser shall have the option of the following: (i) terminating this Agreement by written notice to Seller and receiving an immediate return of the Earnest Money, with the parties hereto having no further rights, duties, or obligations hereunder, or; (ii) waiving this condition and proceeding to close the transaction hereunder.

15.5 Purchaser and Seller shall negotiate the terms of a leaseback for the Church Street Property during the Inspection Period (the "Lease"). In the event the parties cannot agree on the form for the Lease prior to the expiration of the Inspection Period, either party may terminate this Agreement, in which event the Earnest Money shall be refunded to Purchaser and the parties shall have no further rights, obligations, or liabilities hereunder except those which expressly survive the termination of this Agreement.

15.6 In addition to any other contingencies that may be contained in this Contract, Purchaser's obligations hereunder shall be contingent and conditioned upon the

occurrence of each of the following:

a. Seller shall have fully and completely performed, satisfied, observed and complied in all material respects with all terms, conditions, covenants, obligations and provisions of this Contract to be performed, satisfied, observed or complied with by Seller before, on or as of the Closing Date.

b. All of Seller's representations, warranties and covenants in paragraph 17 shall be true and correct as of the Closing Date.

c. No material and adverse change shall have occurred, from and after the expiration of the Inspection Period, in the physical condition of any portion of the Property.

d. The Title Company shall issue or shall have agreed to issue as of the Closing a 2006 ALTA Extended Coverage Owner's Policy of Title Insurance (or current equivalent) in favor of the Purchaser in the amount of the Purchase Price.

e. There shall exist no actions, suits, arbitrations, claims, attachments, proceedings, pending or threatened against the Property or the Seller that would materially and adversely affect the Seller's ability to perform its obligations under this Agreement.

The contingencies in this paragraph 15 are solely for Purchaser's benefit. Purchaser shall have the right at any time to waive any of the contingencies in this paragraph 15. If the contingencies in this paragraph 15 are not fully and completely satisfied at any time prior to the Closing Date, unless Purchaser in writing elects to waive any unsatisfied contingency, in addition to all other rights and remedies afforded to Purchaser under this Agreement, Purchaser shall have the right to terminate this Agreement and receive a refund of the Earnest Money from the Escrow Agent.

16. REZONING OF THE PROPERTY

16.1 The City shall initiate and pursue in a timely and diligent manner the rezoning of the Property from the present zoning classification or classifications to the zoning classification permitting the development of the Property as a church in accordance with the plans submitted by Purchaser under the City of Smyrna zoning ordinance. Seller agrees to cooperate with the City and Purchaser in such endeavor and will execute such applications, letters of intent and other documents and information as the City and Purchaser reasonably deem appropriate in seeking such rezoning.

16.2 The Property shall be deemed "Finally Rezoned" for purposes of this Paragraph 16 at such time as the following conditions are first satisfied: (i) the Property has been duly rezoned to the zoning classifications described in subparagraph 16.1 hereof pursuant to the City's application for rezoning with no conditions unacceptable to Purchaser; (ii) all periods, if any, provided or permitted by law for the administration of judicial appeal of such rezoning

have expired; and (iii) all suits or appeals, if any, challenging such rezoning have been dismissed finally and conclusively in favor of such rezoning. At such time as all of the aforesaid conditions have been satisfied, the “Final Rezoning” of the Property shall be deemed to have occurred and such date shall be the “Date of Final Rezoning.”

16.3 In the event the Property is not finally rezoned as set forth above on or before the Outside Closing Date, Purchaser shall have the option of terminating this Agreement and receiving a refund of the Earnest Money or Closing on the sale and purchase of the Property.

16.4 Purchaser acknowledges and agrees that the City’s agreement to initiate the rezoning of the Property does not bind the City Council to any particular vote on the rezoning.

17. SELLER’S AGREEMENTS AND CITY’S AGREEMENTS

17.1. From and after the date of this Agreement to the date and time of Closing, Seller shall not, without the prior written consent of Purchaser, convey any portion of the Property or any rights therein, nor enter into any conveyance, lease, security document, easement or other agreement or amendment to agreement granting to any person or entity any rights with respect to the Property or any part thereof, or any interest whatsoever therein, or any option thereto, and any such conveyance or other agreement entered into in violation of this shall be null and void and of no force or effect.

17.2 Seller warrants, represents and agrees that:

(i) Seller is the owner of the Property as of the date of this Agreement.

(ii) To Seller’s knowledge, no condemnation proceeding is pending or threatened with respect to any part of the Property.

(iii) To Seller’s knowledge, the Property is not now used, and has never been used, as a garbage or refuse dump site, a landfill, a waste disposal facility, a transfer station, or any other type of facility for the storage, processing, treatment or temporary or permanent disposal of waste materials, including, without limitation, solid, industrial, toxic, hazardous, radioactive, nuclear or putrescible waste, or sewage; and there are no underground storage tanks of any kind or nature located on the Property as defined in the Comprehensive Environmental Response Compensation and Liability Act, as amended (42 U.S.C. § 9601, et seq.).

Seller shall affirm these warranties, representations and agreements at (and as of the date of) Closing, and they shall survive the Closing thereof.

17.3 During the Inspection Period, Purchaser and Seller shall work together to draft an agreement under which Seller and/or the City shall provide, at no cost to Purchaser, the

use of fields and courts sufficient to accommodate outdoor recreational programming and ministry of Purchaser.

18. TRAFFIC SIGNAL

Prior to Purchaser's completion of construction of its new church facility on the Atlanta Road property, the City shall, at its sole cost and expense, install an electrified traffic signal with a turn signal and any County- or City-required lane improvements on Atlanta Road (including, without limitation, acquiring any required right-of-way or easements from third parties) toward the southern end of the Property (the "New Traffic Signal"). The City shall also procure all approvals required for the installation of the New Traffic Signal, including but not limited to State or County DOT approvals. The programming of the New Traffic Signal shall take into account Seller's operational demands, including without limitation, Sundays, Wednesday evenings, and school hours. This paragraph shall survive the Closing.

19. SURVIVAL AND TERMINATION

19.1 The provisions of this Agreement concerning disbursement of the Earnest Money, Purchaser's entering upon the Property and any others expressly so indicated shall survive Termination.

19.2 The terms "terminate" or "termination" shall mean the termination of this Agreement pursuant to a right to do so provided herein. Upon termination, the Earnest Money shall be disbursed as provided herein, and the parties shall have no further rights or duties under this Agreement except as expressly provided herein. In any case in which the Earnest Money is provided herein to be returned to Purchaser, then nevertheless Ten Dollars (\$10.00) thereof shall be paid to or retained by Seller and deducted from the amount due Purchaser. The Seller's amount shall belong to Seller in any and all events and shall in effect constitute option money, making this Agreement binding even if any conditions or provisions herein are entirely with the discretion or control of Purchaser for certain time periods.

20. POSSESSION

Seller shall deliver actual possession of the Property to Purchaser at Closing free of occupancy by any person and free of any claims of possession or rights of occupancy by any person.

21. ESCROW AGENT

In performing any of its duties hereunder, the Escrow Agent shall not incur any liability to anyone for any damages, losses, or expense, except for willful default or breach of trust, and it shall accordingly not incur any such liability with respect (i) to any action taken or omitted in good faith upon advice of its counsel, or (ii) to any action taken or omitted in reliance upon any instrument, including any written notice of instruction provided for in this Agreement,

not only as to its due execution and the validity and effectiveness of its provisions but also as to the truth and accuracy of any information contained therein, which the Escrow Agent shall in good faith believe to be genuine, to have been signed or presented by a proper person or persons and to conform with the provisions of this Agreement. The Escrow Agent is hereby specifically authorized to refuse to act except upon the written consent of Seller and Purchaser. Seller and Purchaser hereby agree to indemnify and hold harmless the Escrow Agent against any and all losses, claims, damages, liabilities and counsel fees and disbursements, which may be imposed upon the Escrow Agent or incurred by the Escrow Agent in connection with its acceptance or the performance of its duties hereunder, including any litigation arising from this Agreement or involving the subject matter hereof. In the event of a dispute between Seller and Purchaser sufficient in the discretion of the Escrow Agent to justify its doing so, the Escrow Agent shall be entitled to tender into the registry or custody of any court of competent jurisdiction all money or property in its hands under this Agreement, together with such legal pleading as it deems appropriate, and thereupon be discharged from all further duties and liabilities under this Agreement. Any such legal action may be brought in such court as the Escrow Agent shall determine to have jurisdiction thereof. Seller and Purchaser shall bear all costs and expenses of such legal proceedings.

22. MISCELLANEOUS

22.1 This Agreement shall be construed and interpreted under the Laws of the State of Georgia.

22.2 Purchaser shall pay all closing costs incident to the transaction contemplated herein; provided, however, that Seller shall pay the State of Georgia transfer tax on the warranty deed and Seller's attorneys' fees.

22.3 To the extent any rights, powers or privileges are expressly stipulated herein, such rights, powers and privileges shall be restrictive of those given by law.

22.4 No failure of Purchaser or Seller to exercise any power given either party hereunder or to insist upon strict compliance by either party or its obligations hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of either party's right to demand exact compliance with the terms hereof. Any condition or right of termination or rescission granted by this Agreement to either Purchaser or Seller may be waived in writing by the party for whose benefit such condition or right was granted.

22.5 Time is of the essence in complying with the terms, conditions and agreements of this Agreement. However, if any date for which a party is required to take any action or notify the other party falls on a Saturday, Sunday, holiday on which a majority of banks in the State of Georgia are closed, the Thursday and Friday of Thanksgiving and Christmas Day and the day before and after Christmas Day, then the party shall have until the next business day in which to take such action or provide such notice.

22.6 This Agreement contains the entire agreement of the parties hereto with respect to the subject matter hereof and no representations, inducements, promises or agreements, oral or otherwise, between the parties and not expressly stated herein, shall be of any force or effect.

22.7 This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their respective heirs, legal representatives, successors and permitted assigns.

22.8 Except as expressly provided in Section 4 hereof, any amendment to this Agreement shall not be binding upon Purchaser and Seller unless such amendment is in writing duly executed by both Purchaser and Seller. Escrow Agent need not be a party to amendments to this Agreement, provided such amendments do not materially affect or impair its rights or duties hereunder.

22.9 This Agreement may be executed in separate counterparts. It shall be fully executed when each party whose signature is required has signed at least one counterpart even though no one counterpart contains the signatures of all the parties. The date on which the last of Purchaser or Seller executes this Agreement shall be the "Date of this Agreement" or "Effective Date" as used herein. The date on which both this Agreement and the Church Street Property Contract are fully executed shall be referred to herein as the "Effective Date." Furthermore, this Agreement may be executed and delivered by electronic transmission. The parties intend that electronic (e.g. pdf. format) signatures constitute original signatures and that an electronic copy or counterparts of this Agreement containing signatures (original or electronic) of a party is binding upon that party.

(Signatures on following page)

IN WITNESS WHEREOF, Seller, Purchaser, and the City and have caused this instrument to be executed under seal as of the day and year first above written.

**SELLER:
DOWNTOWN SMYRNA
DEVELOPMENT AUTHORITY**

By: _____
Title: _____
Date Executed: _____

**PURCHASER:
FIRST BAPTIST CHURCH OF
SMYRNA, GEORGIA, INC., a Georgia
nonprofit corporation**

By: _____
Title: _____
Date Executed: _____

**THE CITY:
CITY OF SMYRNA, GEORGIA, a
political subdivision of the State of
Georgia**

By: _____
Title: _____
Date Executed: _____

EXHIBIT "A"

SURVEY OF THE PROPERTY

[see attached]

ACKNOWLEDGEMENT AND AGREEMENT OF ESCROW AGENT

The undersigned Escrow Agent hereby acknowledges receipt of a fully executed copy of the above and foregoing Agreement, together with the Earnest Money provided for herein, and agrees to hold and make payment of such Earnest Money in accordance with the provisions of the above and foregoing Agreement.

ESCROW AGENT:

G. Phillip Beggs
Vice President

**AGREEMENT FOR THE SALE
AND PURCHASE OF REAL ESTATE**

(1275 Church Street, Smyrna, GA)

THIS AGREEMENT, entered into this _____ day of _____, 2024, by and among **DOWNTOWN SMYRNA DEVELOPMENT AUTHORITY** (hereinafter referred to as “Purchaser”); **FIRST BAPTIST CHURCH OF SMYRNA, GEORGIA, INC., a Georgia nonprofit corporation** (hereinafter referred to as “Seller”), and **CITY OF SMYRNA, GEORGIA, a political subdivision of the State of Georgia** (hereinafter referred to as the “City”).

WHEREAS, Seller owns all that tract or parcel of land containing approximately 8.9 acres located in Cobb County, Georgia, and being commonly known as tax parcels 17052200060 and 17052200200 (hereinafter referred to as the “Property”); and

WHEREAS, Purchaser owns all that tract or parcel of land containing approximately 5.5 acres located in Cobb County, Georgia, and being more particularly shown on that survey attached hereto as Exhibit “A” and by this reference made a part hereof (hereinafter referred to as the “Atlanta Road Property”); and

WHEREAS, Seller and Purchaser desire to purchase and sell the Property and the Atlanta Road Property in simultaneous closings on the terms and conditions more particularly set out in this Agreement and a separate agreement for the purchase and sale of the Atlanta Road Property executed simultaneously herewith (the “Atlanta Road Property Contract”); and

WHEREAS, the City has agreed to install a traffic signal and required lane improvements on Atlanta Road and procure related approvals, as more particularly described herein.

NOW THEREFORE, FOR AND IN CONSIDERATION of the sum of TEN AND NO/100 DOLLARS (\$10.00), the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

1. **PURCHASE AND SALE**. Upon the terms and conditions hereinafter set forth, Seller agrees to sell and Purchaser agrees to purchase the Property.

2. **EARNEST MONEY**

2.1 Purchaser shall pay to 1499, Inc., a title insurance agency affiliated with the law firm of Moore Ingram Johnson & Steele, LLP, acting as escrow agent hereunder (hereinafter sometimes referred to as “Escrow Agent”), an earnest money deposit of Twenty-Five Thousand Dollars (\$25,000.00) within three (3) business days of the Effective Date, as

defined in Paragraph 22.9. Said sum shall be held by Escrow Agent and applied or disbursed in accordance with the terms of this Agreement. Escrow Agent shall deposit the Earnest Money in its IOLTA escrow account with all interest earned thereon going to the State Bar of Georgia's IOLTA program. All such sums deposited from time to time with Escrow Agent as earnest money are hereinafter referred to as "Earnest Money."

2.2 It is specifically understood by all parties hereto that (a) said Earnest Money shall be deemed nonrefundable, and the property of Seller, except as provided herein, and provided that Seller is not in default hereunder, and (b) that said Earnest Money will be credited to the Purchase Price. At the Closing, Escrow Agent shall deliver the Earnest Money to Seller.

3. PURCHASE PRICE

3.1 Prior to receiving the credits specified herein, the gross Purchase Price for the Property to be paid by Purchaser to Seller at the Closing and consummation of the purchase and sale of the Property as contemplated herein (hereinafter referred to as the "Closing" and the date of such Closing hereinafter referred to as the "Closing Date") shall be the sum of Fifteen Million Eight Hundred Thousand Dollars (\$15,800,000.00).

3.2 At Closing, the following costs shall be credited against the Purchase Price as follows: (i) One Hundred Thousand Dollars (\$100,000.00) for the Demolition and Utility Work, as hereinafter defined, and all tree recompense payments required to be paid by Seller under the Code of Ordinances for the City of Smyrna, including but not limited to the requirements under Article II of Chapter 106 thereof, arising from Seller's construction of a new church facility on the Atlanta Road Property, and (ii) Three Hundred Thousand Dollars (\$300,000.00) as Rent for the term of the Lease, as hereinafter defined, resulting in a net Purchase Price of Fifteen Million Four Hundred Thousand Dollars (\$15,400,000.00). The provisions of this Paragraph 3.2 shall survive Closing.

3.3 The balance of the Purchase Price shall be payable by wire transfer.

4. SURVEY

Purchaser may cause to be prepared, at Purchaser's expense, an accurate survey of the Property by a surveyor registered under the laws of the State of Georgia reasonably acceptable to Seller (hereinafter referred to as the "Survey"). If a Survey is prepared, Purchaser shall deliver one (1) print of the Survey, together with a legally sufficient description of the metes and bounds of the Property based on the Survey, to Seller no later than five (5) days after Purchaser's receipt of same. Seller shall have ten (10) days to review the Survey. If Seller does not object to the Survey within said ten (10) day period, or upon Seller's written approval of the Survey, which approval shall not be unreasonably withheld, conditioned, or delayed, said description shall become a part of this Agreement without the necessity of any further action by any of the parties hereto, and said description shall replace and supersede the description of the property attached hereto as Exhibit "A." Notwithstanding the foregoing, however, to the extent

that the revised legal description differs from the Seller's vesting legal description, Seller shall only be required to deliver a Limited Warranty Deed containing the vesting legal description, and Seller shall deliver a Quitclaim Deed containing the revised legal description.

5. CLOSING

The Closing shall be held simultaneously with the closing for the Atlanta Road Property on or before thirty (30) days after the satisfaction of all Contingencies set out in Paragraph 15; provided, however, in no event shall the Closing occur later than one (1) year after the Effective Date (the "Outside Closing Date"). The exact time, the place of Closing and the Closing Date shall be mutually agreed by Purchaser and Seller not less than five (5) days prior to the Closing Date. If no such selection is timely made, the Closing shall be held at 10:00 A.M. on the last possible business date for closing under this Agreement at the offices of Moore Ingram Johnson & Steele, LLP, 326 Roswell Street, Marietta, Georgia 30060, or at such other place as Purchaser and Seller may agree upon in writing.

6. CONVEYANCE OF TITLE

6.1 At the Closing, Seller shall convey to Purchaser "good and marketable fee simple title" to the Property by Limited Warranty Deed. "Good and marketable, fee simple title" shall be such title as is acceptable to a reasonable purchaser using Georgia Bar Association "Title Standards," as currently published, as the criteria to marketability of the title required hereby, and is insurable by a title insurance company acceptable to Purchaser (the "Title Company") at standard rates and without exception other than the Permitted Exceptions as defined herein.

6.2 Title to the Property shall be conveyed by Seller to Purchaser free of all liens, leases and encumbrances with the following exceptions (which exceptions are hereinafter referred to as the "Permitted Exceptions"):

(i) current city, state and county ad valorem property and sanitary sewer taxes not yet due and payable;

(ii) general utility, sewerage and drainage easements affecting the Property which do not materially interfere with Purchaser's intended use of the Property.

6.3 At the Closing, Seller shall execute and deliver to Purchaser a certificate with respect to Seller's non-foreign status sufficient to comply with the requirements of Section 1445 of the Internal Revenue Code, commonly known as the Foreign Investment in Real Property Tax Act of 1980, and all regulations applicable thereto (collectively referred to as "FIRPTA") and a Georgia residency affidavit.

6.4 At Closing, Purchaser shall execute a restrictive covenant declaring that the currently existing original church chapel (the "Chapel") shall be preserved and maintained by the Purchaser in a manner that is generally consistent with its current condition, at the

Purchaser's sole cost and expense. This covenant shall not limit the use of the Chapel.

6.5 At the Closing, Seller shall execute and deliver such other documents as Purchaser may reasonably require to effect or complete the transaction contemplated by this Agreement and to obtain an owner's policy of title insurance insuring Purchaser's title through the date of recording of Purchaser's deed.

7. TITLE EXAMINATION

Purchaser shall have forty-five (45) days after the Effective Date in which to search title to the Property and in which to furnish Seller with a written statement of any title objections affecting the marketability of said title other than the Permitted Exceptions. Seller shall have until Closing to satisfy all valid title objections, and if Seller fails to satisfy such valid objections, then, at the option of Purchaser, evidenced by written notice to Seller, Purchaser (i) may choose to terminate this Agreement and receive the return of all Earnest Money, or (ii) may elect to close and shall receive the deed required herein from Seller irrespective of such title objections without reduction of the Purchase Price, except that judgments of record, existing mortgages and outstanding taxes may be paid by Purchaser at Closing out of the Purchase Price. Purchaser shall also have the right to examine title to the Property at any time up to Closing and object to any title matters affecting the Property and arising or first discovered after the date of the examination set forth above.

8. PRORATIONS

At the Closing, all ad valorem property taxes, water and sewer charges and assessments of any kind on the Property for the year of the Closing shall be prorated between Purchaser and Seller as of midnight of the day prior to the Closing. Such proration shall be based upon the latest ad valorem property tax, water, sewer charge and assessment bills available; and if such bills cover other property than the Property, then such proration shall also be based on the fraction obtained when the number of acres of the Property is divided by the number of acres of property so covered by such bills. If, upon receipt of the actual ad valorem property tax, water, sewer and assessment bills for the Property, such proration is incorrect, then either Purchaser or Seller shall be entitled, upon demand, to receive such amounts from the other as may be necessary to correct such malapportionment. This obligation so to correct such malapportionment shall survive the Closing and not be merged into any documents delivered pursuant to the Closing. Notwithstanding the foregoing, any special fees, assessments, or penalties associated with, or assessed against the Property; including but not limited to, penalties arising out of a breach of a conservation use covenant, all such special fees, assessments or penalties are the sole obligation and responsibility of the Seller and shall be paid in full by Seller at or prior to Closing.

9. INSPECTION

9.1 Upon reasonable notice and with the consent of Seller, Purchaser shall

have the privilege during the term of this Agreement to go upon the Property with Purchaser's agents, representatives or designees to inspect, examine and survey the Property; provided, however, that no grading shall be done and no trees or bushes shall be cut except as may be necessary to clear the view for survey purposes. Purchaser is responsible to Seller for loss or damage that Seller may incur and any and all liens that may arise as a result of Purchaser's activities or the activities of Purchaser's agents, representatives or designees on the Property and for all claims for death or injury to persons or properties arising out of or connected with Purchaser's (or its agents, representatives or designees) going upon the Property pursuant to the provisions of this Paragraph 9 or otherwise, and against all costs, expenses and liability occurring in or in connection with any such claim or proceeding brought thereon, including, without limitation, court costs and reasonable attorney's fees. This provision shall survive the Closing or any termination of this Agreement.

9.2 Purchaser may, at Purchaser's expense, within the Inspection Period, have a Phase One Environmental Study performed on the Property, using an Environmental Engineer licensed in the State of Georgia. In the event said study indicates the necessity to perform further studies, including a Phase Two Environmental Study, or if Purchaser or Purchaser's Lender requires additional studies, then Purchaser shall notify Seller, and the Inspection Period shall be extended by thirty (30) days. In the event such environmental studies relating to the Property are unacceptable to Purchaser, Purchaser shall have the option of terminating this Agreement and receiving a refund of the Earnest Money or Closing on the sale and purchase of the Property.

9.3 Seller agrees to provide Purchaser, within ten (10) days from the date of this Agreement, legible copies of any and all surveys, plans, engineering reports, title reports, title insurance policies and other similar documents which Seller may have concerning the Property.

10. NOTICES

All notices, demands, deliveries of surveys, and any and all other communications that may be or are required to be given to or made by either party to the other in connection with this Agreement shall be in writing and shall be deemed to have been properly given if delivered in person, sent by overnight by United Parcel Service or Federal Express, sent by electronic mail to the email address set out below, or sent by registered or certified mail, return receipt requested, to the addresses set out below or at such other addresses as specified by written notice and delivered in accordance herewith:

To Purchaser: Downtown Smyrna Development Authority
Attn: Chairman Derek Norton
2800 King Street
Smyrna, GA 30080
Email address: _____

With a copy to: Cochran & Edwards

Attn: Scott Cochran
2950 Atlanta Road
Smyrna, GA 30080
Email address: Scott@cochranedwardslaw.com

To Seller: First Baptist Church of Smyrna, Georgia, Inc.
Attn: Jeff Pennington
1275 Church Street
Smyrna, GA 30080
Email address: jpennington@smyrnafirst.org

With a copy to: Moore Ingram Johnson & Steele, LLP
Attn: G. Phillip Beggs
326 Roswell Street, Suite 100
Marietta, GA 30060
Email address: gpb@mijs.com

To the City: City of Smyrna, Georgia
Attn: Mayor Derek Norton
2800 King Street
Smyrna, GA 30080
Email address: _____

With a copy to: Cochran & Edwards
Attn: Scott Cochran
2950 Atlanta Road
Smyrna, GA 30080
Email address: Scott@cochranedwardslaw.com

For purposes of this Agreement, the time of actual delivery, if made in person, the date of delivery to United Parcel Service or Federal Express for overnight delivery or three (3) days after the date of postmark, if by mail, shall be deemed the date of any notice, demand or delivery. Additionally, notices by email sent to the email addresses set forth above shall be sufficient notice, and such notices shall be deemed given when sent provided that notice is also sent by one of the other methods set forth above.

11. CONDEMNATION

If prior to the Closing of the sale contemplated herein any major portion of the Property is subject to a bona fide threat of condemnation by a body having the power of eminent domain or condemnation, or sale in lieu thereof, Purchaser may elect to terminate this Agreement by giving the Seller notice to such effect within ten (10) days after receipt of notice of such occurrence, with the Closing Date to be postponed, if necessary, to give both parties the benefit of the full ten (10) day period, and both parties shall be relieved and released of and from any

and all further liability hereunder (other than any liability that by the express terms hereof survives any termination of this Agreement), and Escrow Agent shall forthwith return to Purchaser all amounts paid by Purchaser as Earnest Money, whereupon this Agreement shall be terminated. If Purchaser elects not to terminate, this Agreement shall remain in full force and effect and the purchase contemplated herein, less any property taken by eminent domain or condemnation or under threat of being so taken, shall be effected without reduction in the Purchase Price, and Seller shall, at the Closing, assign, transfer and set over unto Purchaser all of Seller's right, title and interest in and to any insurance proceeds or any awards paid or payable for such taking. For the purposes of this Paragraph, a "major" portion of the Property is a portion of the property that materially and adversely affects the Purchaser's intended use. The parties specifically and expressly agree there shall be no contingency for the destruction of the improvements on the Property.

12. NO BROKER

Seller and Purchaser each warrant to the other that no real estate broker or agent is entitled to a commission as a result of the transaction contemplated herein. Each party hereby indemnifies and agrees to hold harmless the other from any claim by any real estate agent or broker for any commission as a result of this transaction, which claim is caused or produced by such party.

13. ASSIGNMENT

Purchaser shall have no right to assign this Agreement without the written consent of Seller; provided, however, that Purchaser shall have the right to assign this Agreement to another government entity without the consent of Seller, and the transaction contemplated by this Agreement shall be consummated in the name of such assignee. In the event of such assignment, the assignee shall assume the obligations of Purchaser under this Agreement, but Purchaser shall not be released from liability under this Agreement.

14. DEFAULT

In the event the transaction contemplated hereby is not closed because of Purchaser's default, the Earnest Money shall be paid to Seller as full liquidated damages for such failure to close pursuant to O.C.G.A. Sec. 13-6-7, the parties acknowledging the difficulty of ascertaining Seller's damages in such circumstances, and that the amount specified as Earnest Money represents a reasonable good faith estimate by the parties of the amount of damages that Seller would incur in such event, whereupon neither party hereto shall have any further rights, claims or liabilities under this Agreement except for the provisions which are made to survive the termination or cancellation of this Agreement. Said liquidated damages shall be Seller's sole and exclusive remedy, and Seller shall expressly not have the right to seek specific performance. In the event the transaction contemplated hereby is not closed because of Seller's default, then the Earnest Money shall be refunded promptly to Purchaser and Purchaser may, at Purchaser's option (i) pursue an action for specific performance, or (ii) receive reimbursement from Seller

for Purchaser's documented out-of-pocket costs in reliance on this Agreement.

15. PURCHASER'S CONTINGENCIES

15.1 Purchaser shall have until ninety (90) days from the Effective Date (hereinafter referred to as the "Inspection Period") to use good faith efforts to determine whether the Property is suitable for Purchaser's intended use. Purchaser may, at Purchaser's option, extend the Inspection Period by thirty (30) days upon written notice to Seller, which notice shall be given prior to the expiration of the Inspection Period. In the event Purchaser determines, in its sole discretion, that the Property is not suitable for the intended use, or for no reason, then Purchaser may terminate this Agreement by giving written notice to Seller on or before the last day of the Inspection Period, in which event all Earnest Money paid hereunder shall be promptly refunded to Purchaser and the parties to this Agreement shall be relieved of all rights and obligations hereunder.

15.2 This Agreement and Purchaser's obligations hereunder are specifically and expressly conditioned upon a simultaneous closing with the Atlanta Road Property. In the event the closing for the Property and the Atlanta Road Property cannot occur simultaneously, either party may, at its option, terminate this Agreement by written notice to the other party, in which event the Purchaser shall receive an immediate return of the Earnest Money, and the parties hereto shall have no further rights, duties, or obligations hereunder.

15.3 This Agreement and Purchaser's obligations hereunder are specifically and expressly conditioned upon Purchaser closing on municipal bond financing sufficient to permit the Purchaser to pay the Purchase Price, as adjusted by the credits in Paragraph 3.2. In the event such municipal bond financing has not been closed on or before the Outside Closing Date, Purchaser shall have the option of the following: (i) terminating this Agreement by written notice to Seller and receiving an immediate return of the Earnest Money, with the parties hereto having no further rights, duties, or obligations hereunder, or; (ii) waiving this condition and proceeding to close the transaction hereunder.

15.4 Purchaser and Seller shall negotiate the terms of a leaseback for the Property during the Inspection Period (the "Lease"). In the event the parties cannot agree on the form for the Lease prior to the expiration of the Inspection Period, either party may terminate this Agreement, in which event the Earnest Money shall be refunded to Purchaser and the parties shall have no further rights, obligations, or liabilities hereunder except those which expressly survive the termination of this Agreement.

15.5 In addition to any other contingencies that may be contained in this Contract, Purchaser's obligations hereunder shall be contingent and conditioned upon the occurrence of each of the following:

a. Seller shall have fully and completely performed, satisfied, observed and complied in all material respects with all terms, conditions, covenants, obligations

and provisions of this Contract to be performed, satisfied, observed or complied with by Seller before, on or as of the Closing Date.

b. All of Seller's representations, warranties and covenants in paragraph 17 shall be true and correct as of the Closing Date.

c. No material and adverse change shall have occurred, from and after the expiration of the Inspection Period, in the physical condition of any portion of the Property.

d. The Title Company shall issue or shall have agreed to issue as of the Closing a 2006 ALTA Extended Coverage Owner's Policy of Title Insurance (or current equivalent) in favor of the Purchaser in the amount of the Purchase Price.

e. There shall exist no actions, suits, arbitrations, claims, attachments, proceedings, pending or threatened against the Property or the Seller that would materially and adversely affect the Seller's ability to perform its obligations under this Agreement.

The contingencies in this paragraph 15 are solely for Purchaser's benefit. Purchaser shall have the right at any time to waive any of the contingencies in this paragraph 15. If the contingencies in this paragraph 15 are not fully and completely satisfied at any time prior to the Closing Date, unless Purchaser in writing elects to waive any unsatisfied contingency, in addition to all other rights and remedies afforded to Purchaser under this Agreement, Purchaser shall have the right to terminate this Agreement and receive a refund of the Earnest Money from the Escrow Agent.

16. SELLER CONTINGENCY AND POST-CLOSING OBLIGATIONS OF PURCHASER AND THE CITY

16.1 Prior to Closing, Purchaser and the City shall demolish all improvements on the Atlanta Road Property, including, without limitation, removal of all structures, hazardous waste and materials, debris, utilities, and concrete, leaving the Atlanta Road Property in a clean and neat condition (the "Demolition and Utility Work"). In the event the Demolition and Utility Work has not been completed on or before the Outside Closing Date, Seller shall have the option of the following: (i) terminating this Agreement by written notice to Purchaser and receiving an immediate return of the Earnest Money, with the parties hereto having no further rights, duties, or obligations hereunder, or; (ii) waiving this condition and proceeding to close the transaction hereunder.

16.2 During the Inspection Period, Purchaser and Seller shall work together to draft an agreement under which Purchaser and/or the City shall provide, at no cost to Seller, the use of fields and courts sufficient to accommodate outdoor recreational programming and ministry of Seller.

17. SELLER'S AGREEMENTS

17.1. From and after the date of this Agreement to the date and time of Closing, Seller shall not, without the prior written consent of Purchaser, convey any portion of the Property or any rights therein, nor enter into any conveyance, lease, security document, easement or other agreement or amendment to agreement granting to any person or entity any rights with respect to the Property or any part thereof, or any interest whatsoever therein, or any option thereto, and any such conveyance or other agreement entered into in violation of this shall be null and void and of no force or effect.

17.2 Seller warrants, represents and agrees that:

(i) Seller is the owner of the Property as of the date of this Agreement.

(ii) To Seller's knowledge, no condemnation proceeding is pending or threatened with respect to any part of the Property.

(iii) To Seller's knowledge, the Property is not now used, and has never been used, as a garbage or refuse dump site, a landfill, a waste disposal facility, a transfer station, or any other type of facility for the storage, processing, treatment or temporary or permanent disposal of waste materials, including, without limitation, solid, industrial, toxic, hazardous, radioactive, nuclear or putrescible waste, or sewage; and there are no underground storage tanks of any kind or nature located on the Property as defined in the Comprehensive Environmental Response Compensation and Liability Act, as amended (42 U.S.C. § 9601, et seq.).

Seller shall affirm these warranties, representations and agreements at (and as of the date of) Closing, and they shall survive the Closing thereof.

18. TRAFFIC SIGNAL

Prior to Seller's completion of construction of its new church facility on the Atlanta Road Property, the City shall, at its sole cost and expense, install an electrified traffic signal with a turn signal and any County- or City-required lane improvements on Atlanta Road (including, without limitation, acquiring any required right-of-way or easements from third parties) toward the southern end of the Atlanta Road Property (the "New Traffic Signal"). The City shall also procure all approvals required for the installation of the New Traffic Signal, including but not limited to State or County DOT approvals. The programming of the New Traffic Signal shall take into account Seller's operational demands, including without limitation, Sundays, Wednesday evenings, and school hours. This paragraph shall survive the Closing.

19. SURVIVAL AND TERMINATION

19.1 The provisions of this Agreement concerning disbursement of the Earnest Money, Purchaser's entering upon the Property and any others expressly so indicated shall

survive Termination.

19.2 The terms “terminate” or “termination” shall mean the termination of this Agreement pursuant to a right to do so provided herein. Upon termination, the Earnest Money shall be disbursed as provided herein, and the parties shall have no further rights or duties under this Agreement except as expressly provided herein. In any case in which the Earnest Money is provided herein to be returned to Purchaser, then nevertheless Ten Dollars (\$10.00) thereof shall be paid to or retained by Seller and deducted from the amount due Purchaser. The Seller’s amount shall belong to Seller in any and all events and shall in effect constitute option money, making this Agreement binding even if any conditions or provisions herein are entirely with the discretion or control of Purchaser for certain time periods.

20. POSSESSION

Subject to the Lease, Seller shall deliver actual possession of the Property to Purchaser at Closing free of occupancy by any person and free of any claims of possession or rights of occupancy by any person.

21. ESCROW AGENT

In performing any of its duties hereunder, the Escrow Agent shall not incur any liability to anyone for any damages, losses, or expense, except for willful default or breach of trust, and it shall accordingly not incur any such liability with respect (i) to any action taken or omitted in good faith upon advice of its counsel, or (ii) to any action taken or omitted in reliance upon any instrument, including any written notice of instruction provided for in this Agreement, not only as to its due execution and the validity and effectiveness of its provisions but also as to the truth and accuracy of any information contained therein, which the Escrow Agent shall in good faith believe to be genuine, to have been signed or presented by a proper person or persons and to conform with the provisions of this Agreement. The Escrow Agent is hereby specifically authorized to refuse to act except upon the written consent of Seller and Purchaser. Seller and Purchaser hereby agree to indemnify and hold harmless the Escrow Agent against any and all losses, claims, damages, liabilities and counsel fees and disbursements, which may be imposed upon the Escrow Agent or incurred by the Escrow Agent in connection with its acceptance or the performance of its duties hereunder, including any litigation arising from this Agreement or involving the subject matter hereof. In the event of a dispute between Seller and Purchaser sufficient in the discretion of the Escrow Agent to justify its doing so, the Escrow Agent shall be entitled to tender into the registry or custody of any court of competent jurisdiction all money or property in its hands under this Agreement, together with such legal pleading as it deems appropriate, and thereupon be discharged from all further duties and liabilities under this Agreement. Any such legal action may be brought in such court as the Escrow Agent shall determine to have jurisdiction thereof. Seller and Purchaser shall bear all costs and expenses of such legal proceedings.

22. MISCELLANEOUS

22.1 This Agreement shall be construed and interpreted under the Laws of the State of Georgia.

22.2 Purchaser shall pay all closing costs incident to the transaction contemplated herein; provided, however, that Seller shall pay the State of Georgia transfer tax on the warranty deed and Seller's attorneys' fees.

22.3 To the extent any rights, powers or privileges are expressly stipulated herein, such rights, powers and privileges shall be restrictive of those given by law.

22.4 No failure of Purchaser or Seller to exercise any power given either party hereunder or to insist upon strict compliance by either party or its obligations hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of either party's right to demand exact compliance with the terms hereof. Any condition or right of termination or rescission granted by this Agreement to either Purchaser or Seller may be waived in writing by the party for whose benefit such condition or right was granted.

22.5 Time is of the essence in complying with the terms, conditions and agreements of this Agreement. However, if any date for which a party is required to take any action or notify the other party falls on a Saturday, Sunday, holiday on which a majority of banks in the State of Georgia are closed, the Thursday and Friday of Thanksgiving and Christmas Day and the day before and after Christmas Day, then the party shall have until the next business day in which to take such action or provide such notice.

22.6 This Agreement contains the entire agreement of the parties hereto with respect to the subject matter hereof and no representations, inducements, promises or agreements, oral or otherwise, between the parties and not expressly stated herein, shall be of any force or effect.

22.7 This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their respective heirs, legal representatives, successors and permitted assigns.

22.8 Except as expressly provided in Section 4 hereof, any amendment to this Agreement shall not be binding upon Purchaser and Seller unless such amendment is in writing duly executed by both Purchaser and Seller. Escrow Agent need not be a party to amendments to this Agreement, provided such amendments do not materially affect or impair its rights or duties hereunder.

22.9 This Agreement may be executed in separate counterparts. It shall be fully executed when each party whose signature is required has signed at least one counterpart even though no one counterpart contains the signatures of all the parties. The date on which the last of Purchaser or Seller executes this Agreement shall be the "Date of this Agreement" or

"Effective Date" as used herein. The date on which both this Agreement and the Atlanta Road Property Contract are fully executed shall be referred to herein as the "Effective Date." Furthermore, this Agreement may be executed and delivered by electronic transmission. The parties intend that electronic (e.g. pdf. format) signatures constitute originals signatures and that an electronic copy or counterparts of this Agreement containing signatures (original or electronic) of a party is binding upon that party.

(Signatures on following page)

IN WITNESS WHEREOF, Seller, Purchaser, and the City and have caused this instrument to be executed under seal as of the day and year first above written.

**PURCHASER:
DOWNTOWN SMYRNA
DEVELOPMENT AUTHORITY**

By: _____
Title: _____
Date Executed: _____

**SELLER:
FIRST BAPTIST CHURCH OF
SMYRNA, GEORGIA, INC., a Georgia
nonprofit corporation**

By: _____
Title: _____
Date Executed: _____

**THE CITY:
CITY OF SMYRNA, GEORGIA, a
political subdivision of the State of
Georgia**

By: _____
Title: _____
Date Executed: _____

EXHIBIT "A"

ATLANTA ROAD PROPERTY

[see attached]

ACKNOWLEDGEMENT AND AGREEMENT OF ESCROW AGENT

The undersigned Escrow Agent hereby acknowledges receipt of a fully executed copy of the above and foregoing Agreement, together with the Earnest Money provided for herein, and agrees to hold and make payment of such Earnest Money in accordance with the provisions of the above and foregoing Agreement.

ESCROW AGENT:

G. Phillip Beggs
Vice President