

## RESOLUTION 24-01

### RESOLUTION AUTHORIZING MUNICIPAL UTILITY PROPERTY DISPOSITION

**WHEREAS**, the City of Dalton, Georgia, an incorporated municipality of the State of Georgia (the “City”), acting by and through the Board of Water, Light and Sinking Fund Commissioners of the City of Dalton, Georgia, d/b/a Dalton Utilities (“Dalton Utilities”) owns certain real property located in Land Lot Nos. 17 and 18 of the 24<sup>th</sup> District and 2<sup>nd</sup> Section of Gilmer County, Georgia, which is more particularly described as follows (the “Dalton Utilities Property”):

All that tract or parcel of land lying and being in Land Lot Nos. 17 and 18 in the 24<sup>th</sup> District and 2<sup>nd</sup> Section of Gilmer County, Georgia and Land Lot No. 307 of the 25<sup>th</sup> District and 2<sup>nd</sup> Section of Gilmer County, Georgia and being described according to a plat of survey prepared for Georgia Power Company dated May 21, 1965, and being more particularly described as follows: BEGINNING at a point 942.5 feet south 0 degrees 30 minutes west of the dividing line between the 24<sup>th</sup> and 25<sup>th</sup> land Districts, said point being located on the dividing line between the land now or formerly owned by S.O. Penland, Jr. and G. G. Watkins and lands now or formerly owned by Georgia Kraft Company; thence from said POINT OF BEGINNING, south 0 degrees 30 minutes west along said dividing line between lands of S.O. Penland, Jr. and G. G. Watkins and lands of Georgia Kraft Company 127 feet to a point, thence north 80 degrees 26 minutes east 5973.7 feet to a point located on the dividing line between lands now or formerly owned by Mrs. Jewel Burnett and land now or formerly owned by Georgia Kraft Company, thence easterly along said dividing line between lands of Mrs. Jewel Burnett and lands of Georgia Kraft Company 289.5 feet to a point located on a corner common to lands now or formerly owned by Mrs. Jewel Burnett and lands now or formerly owned by N. H. Kelly and lands now or formerly owned by Georgia Kraft Company, thence north 35 degrees west along the dividing line between lands of N.H. Kelly and lands of Georgia Kraft Company 85.2 feet to a point, thence south 80 degrees 26 minutes west 5630.2 feet to the POINT OF BEGINNING, said strip containing 16.61 acres, more or less; and

**WHEREAS**, Pinnacle Dev, LLC (“Pinnacle”) owns real property adjoining the Dalton Utilities Property and desires to purchase the Dalton Utilities Property, Dalton Utilities desires to sell the Dalton Utilities Property to Pinnacle in accordance with O.C.G.A. § 36-37-7 *et seq.*; and

**WHEREAS**, in exchange for the sale of the Dalton Utilities Property to Pinnacle, Pinnacle has agreed to pay to Dalton Utilities \$24,000 in cash at closing (the “Purchase Price”); and

**WHEREAS**, Dalton Utilities and Pinnacle agree that the fair market value of the Dalton Utilities Property, subject to the Easement (as hereinafter defined) is \$24,000; and

**WHEREAS**, in addition to the payment of the Purchase Price by Pinnacle to Dalton Utilities at closing, Pinnacle has agreed to grant an easement to Dalton Utilities for the purpose of ingress and egress upon, over, and across Pinnacle’s property and to install, maintain, operate, repair and remove utilities lines over a portion of the Dalton Utilities Property in substantially the form of the Easement attached hereto as Exhibit “A” and incorporated herein by reference (the “Easement”); and

**WHEREAS**, Pinnacle has also agreed to enter into a waiver and indemnity agreement indemnifying Dalton Utilities for all damages arising from, related to, or incurred in connection with Pinnacle or any third party entering into the Easement area in substantially the form as the waiver and indemnity agreement attached hereto as Exhibit “B” and incorporated herein by reference (the “Indemnity Agreement”); and

**WHEREAS**, the Board of Water, Light and Sinking Fund Commissioners of the City of Dalton, Georgia has determined that it is consistent with the best interests of Dalton Utilities that Dalton Utilities enter into the above described sale and accordingly has approved such transactions and recommended approval of such transactions to the Mayor and Council of the City of Dalton, a copy of such resolution of the Board of Water, Light and Sinking Fund Commissioners of the City of Dalton, Georgia is attached hereto as Exhibit “C” and incorporated herein by reference;

**NOW, THEREFORE, BE IT RESOLVED**, that Dalton Utilities or the City, as the case may be, is hereby authorized to enter into and perform the obligations required of it pursuant to the proposed disposition of the Dalton Utilities Property, the acquisition of the Easement, the receipt of the Purchase Price, and the execution of the Indemnity Agreement, subject to satisfaction of certain statutory formalities for effectuation of such transaction.

**BE IT FURTHER RESOLVED**, that the Mayor of the City of Dalton be, and hereby is, authorized and empowered to take such action and to execute for and on behalf of the City a Quit Claim Deed in substantially the form attached hereto as Exhibit “D” and incorporated herein by reference (the “Quit Claim Deed”) to transfer the Dalton Utilities Property to Pinnacle, the Indemnity Agreement, and such other documents, instruments, certificates, assignments, and papers which, in the judgment of the Mayor, may be necessary and desirable to effect the proposed transaction. Such agreements, instruments, certificates, assignments, papers and/or documents shall be in such form and contain such terms and conditions as may be approved by the Mayor on behalf of the City in accordance with this Resolution, and the execution of such agreements, instruments, certificates, assignments, papers, and documents by the Mayor on behalf of the City is herein authorized and shall be conclusive evidence of any such approval.

**BE IT FURTHER RESOLVED**, that all acts and doings of the Mayor in connection with the proposed transaction which are in conformity with the purposes and intents of these Resolutions and in furtherance of the transaction contemplated hereby and thereby shall be, and the same hereby are, in all respects approved and confirmed.

**BE IT FURTHER RESOLVED**, that the signature of the Mayor to any of the consents, agreements, instruments, certificates, assignments, papers, and documents executed and delivered in connection therewith shall be conclusive evidence of the authority of the Mayor to execute and deliver such consents, agreements, instruments, certificates, assignments, papers, and other documents on behalf of the City.

**BE IT FURTHER RESOLVED**, that the Clerk or any Assistant Clerk of the City of Dalton be, and each hereby is, authorized to attest the signature of any officer of the City of Dalton and impress or attest the City of Dalton’s seal appearing on any agreement, instrument, certificate, financing statement, assignment, paper or document executed in connection with any of the foregoing Resolutions, but shall not be obligated to do so, and the absence of the signature of the Clerk or any Assistant Clerk of the City or the City’s seal on any such document shall not affect its validity or the obligation of the Mayor and Council thereunder.

**BE IT FURTHER RESOLVED**, that all resolutions or parts thereof of the City of Dalton in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

**BE IT FURTHER RESOLVED**, that these Resolutions shall take effect immediately upon their adoption.

**SO RESOLVED**, this 8<sup>th</sup> day of January, 2024.

**CITY OF DALTON, GEORGIA**

\_\_\_\_\_  
Annalee Sams  
Mayor

ATTESTED TO:

\_\_\_\_\_  
City Clerk

**EXHIBIT "A"**

**Easement**

See attached.

**EXHIBIT "B"**

**Indemnity Agreement**

See attached.

## EXHIBIT "C"

### RESOLUTIONS OF THE BOARD OF WATER, LIGHT AND SINKING FUND COMMISSIONERS, MUNICIPAL UTILITY PROPERTY DISPOSITION

**WHEREAS**, the City of Dalton, Georgia, an incorporated municipality of the State of Georgia (the "City"), acting by and through the Board of Water, Light and Sinking Fund Commissioners of the City of Dalton, Georgia, d/b/a Dalton Utilities ("Dalton Utilities") owns certain real property located in Land Lot Nos. 17 and 18 of the 24<sup>th</sup> District and 2<sup>nd</sup> Section of Gilmer County, Georgia, which is more particularly described as follows (the "Dalton Utilities Property"):

All that tract or parcel of land lying and being in Land Lot Nos. 17 and 18 in the 24th District and 2nd Section of Gilmer County, Georgia and Land Lot No. 307 of the 25th District and 2nd Section of Gilmer County, Georgia and being described according to a plat of survey prepared for Georgia Power Company dated May 21, 1965, and being more particularly described as follows: BEGINNING at a point 942.5 feet south 0 degrees 30 minutes west of the dividing line between the 24th and 25th land Districts, said point being located on the dividing line between the land now or formerly owned by S.O. Penland, Jr. and G. G. Watkins and lands now or formerly owned by Georgia Kraft Company; thence from said POINT OF BEGINNING, south 0 degrees 30 minutes west along said dividing line between lands of S.O. Penland, Jr. and G. G. Watkins and lands of Georgia Kraft Company 127 feet to a point, thence north 80 degrees 26 minutes east 5973.7 feet to a point located on the dividing line between lands now or formerly owned by Mrs. Jewel Burnett and land now or formerly owned by Georgia Kraft Company, thence easterly along said dividing line between lands of Mrs. Jewel Burnett and lands of Georgia Kraft Company 289.5 feet to a point located on a corner common to lands now or formerly owned by Mrs. Jewel Burnett and lands now or formerly owned by N. H. Kelly and lands now or formerly owned by Georgia Kraft Company, thence north 35 degrees west along the dividing line between lands of N.H. Kelly and lands of Georgia Kraft Company 85.2 feet to a point, thence south 80 degrees 26 minutes west 5630.2 feet to the POINT OF BEGINNING, said strip containing 16.61 acres, more or less; and

**WHEREAS**, Pinnacle Dev, LLC ("Pinnacle") owns real property adjoining the Dalton Utilities Property and desires to purchase the Dalton Utilities Property, Dalton Utilities desires to sell the Dalton Utilities Property to Pinnacle in accordance with O.C.G.A. § 36-37-7 *et seq.*; and

**WHEREAS**, in exchange for the sale of the Dalton Utilities Property to Pinnacle, Pinnacle has agreed to pay to Dalton Utilities \$24,000 in cash at closing (the "Purchase Price"); and

**WHEREAS**, Dalton Utilities and Pinnacle agree that the fair market value of the purchase of the Dalton Utilities Property, subject to the Easement (as hereinafter defined) is \$24,000; and

**WHEREAS**, in addition to the payment of the Purchase Price by Pinnacle to Dalton Utilities at closing, Pinnacle has agreed to grant an easement to Dalton Utilities for the purpose of ingress and egress upon, over, and across Pinnacle's property and to install, maintain, operate, repair and remove utilities lines over a portion of the Dalton Utilities Property in substantially the form of the Easement attached hereto as Exhibit "1" and incorporated herein by reference (the "Easement"); and

**WHEREAS**, Pinnacle has also agreed to enter into a waiver and indemnity agreement indemnifying Dalton Utilities for all damages arising from, related to, or incurred in connection with Pinnacle or any third party entering into the Easement area in substantially the form as the waiver and indemnity agreement attached hereto as Exhibit "2" and incorporated herein by reference (the "Indemnity Agreement"); and

**WHEREAS**, the Board of Water, Light and Sinking Fund Commissioners of the City of Dalton, Georgia has determined that it is consistent with the best interests of Dalton Utilities that Dalton Utilities enter into the above-described sale under the authority of O.C.G.A. § 36-37-7 *et seq.*, subject to the parties' satisfaction of statutory formalities governing the effectuation of conveyance of the Dalton Utilities Property, the acquisition of the Easement, and the execution of the Indemnity Agreement;

**NOW, THEREFORE, BE IT RESOLVED**, that the proposed disposition of the Dalton Utilities Property, acquisition of the Easement, receipt of the Purchase Price, and the execution of the Indemnity Agreement is hereby approved and Dalton Utilities is hereby authorized to enter into and perform the obligations required of it pursuant to the proposed agreement to dispose of the Dalton Utilities Property and to acquire the Easement, subject to satisfaction of certain statutory formalities for effectuation of such transaction.

**BE IT FURTHER RESOLVED**, that the Board of Commissioners of Dalton Utilities recommends to the Mayor and Council of the City of Dalton that they approve the proposed transfer and disposition of the Dalton Utilities Property, the acquisition of the Easement, and the execution of Indemnity Agreement and authorize the appropriate officials of the City of Dalton to enter into and perform the obligations required of it to consummate this transaction, subject to fulfillment of all legal conditions precedent.

**BE IT FURTHER RESOLVED**, that that subject to fulfillment of all legal conditions precedent, the Chairman, Vice Chairman, and/or President of Dalton Utilities (the "Authorized Officers") be, and each hereby is, authorized and empowered to take such action and to execute for and on behalf of Dalton Utilities the Quit Claim Deed attached hereto as Exhibit "3" to transfer the Dalton Utilities Property to Pinnacle, the Indemnity Agreement, and such other documents, instruments, certificates, assignments, and papers which, in the judgment of any of the Authorized Officers, may be necessary and desirable to effect the proposed transaction. Such agreements, instruments, certificates, assignments, papers and/or documents shall be in such form and contain such terms and conditions as may be approved by any of the Authorized Officers on behalf of Dalton Utilities, and the execution of such agreements, instruments, certificates, assignments, papers, and documents by any of the Authorized Officers on behalf of Dalton Utilities is herein authorized and shall be conclusive evidence of any such approval.

**BE IT FURTHER RESOLVED**, that all acts and doings of the Authorized Officers in connection with the proposed transaction which are in conformity with the purposes and intents of these Resolutions and in furtherance of the transaction contemplated hereby and thereby shall be, and the same hereby are, in all respects approved and confirmed.

**BE IT FURTHER RESOLVED**, that the signature of any Authorized Officer to any of the consents, agreements, instruments, certificates, assignments, papers, and documents executed and delivered in connection therewith shall be conclusive evidence of the authority of such Authorized Officer to execute and deliver such consents, agreements, instruments, certificates, assignments, papers, and other documents on behalf of Dalton Utilities.

**BE IT FURTHER RESOLVED**, that any and all actions heretofore taken by any of the Authorized Officers of Dalton Utilities relating to or in connection with the proposed transaction

be, and the same hereby are, approved, ratified, and confirmed as the duly authorized actions of Dalton Utilities.

**BE IT FURTHER RESOLVED**, that the Secretary or any Assistant Secretary of Dalton Utilities be, and each hereby is, authorized to attest the signature of any officer of Dalton Utilities and impress or attest Dalton Utilities' seal appearing on any agreement, instrument, certificate, financing statement, assignment, paper or document executed in connection with any of the foregoing Resolutions, but shall not be obligated to do so, and the absence of the signature of the Secretary or any Assistant Secretary of Dalton Utilities or Dalton Utilities' seal on any such agreement, instrument, certificate, financing statement, assignment, paper or other documents shall not affect its validity or the obligation of Dalton Utilities thereunder.

**BE IT FURTHER RESOLVED**, that all Resolutions or parts thereof of Dalton Utilities in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

**BE IT FURTHER RESOLVED**, that these Resolutions shall take effect immediately upon their adoption.

SO ADOPTED, this 18<sup>th</sup> day of December, 2023.

BOARD OF WATER, LIGHT AND SINKING  
FUND COMMISSIONERS

By:   
Chairman

Attest:   
Secretary

(SEAL)





**EXHIBIT "1"**

**Easement**

See attached.

[Space above this line for recording data.]

Please Record and Return To:

Christiane C. Bard  
The Minor Firm  
P.O. Box 2586  
Dalton, GA 30722-2586

## EASEMENT

Georgia, \_\_\_\_\_ County

**THIS INDENTURE** made this \_\_\_\_ day of \_\_\_\_\_, 2023, between **Pinnacle Dev LLC**, a Georgia limited liability company, Grantor, and the **City of Dalton, Georgia**, a municipal corporation of the State of Georgia, Grantee.

The words "Grantee" and "Grantor" whenever used herein shall include all individuals, corporations and any other persons or entities, and all the respective heirs, executors, administrators, legal representatives, successors and assigns of the parties hereto, and all those holding under either of them, and the pronouns used herein shall include, when appropriate, either gender and both singular and plural, and the grammatical construction of sentences shall conform thereto. If more than one party shall execute this deed each Grantor shall always be jointly and severally liable for the performance of every promise and agreement made herein.

### WITNESSETH:

**WHEREAS**, Grantor is the owner of that certain parcel of real property situated in Land Lot No. 1 of the 12<sup>th</sup> District and 2<sup>nd</sup> Section of Gilmer County, Georgia, Land Lots Nos. 17 and 18 of the 24<sup>th</sup> District and 2<sup>nd</sup> Section of Gilmer County, Georgia, and Land Lot No. 307 of the 25<sup>th</sup> District and 2<sup>nd</sup> Section of Gilmer County, Georgia, which land is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference (the "Land"); and

**WHEREAS**, Grantor desires to grant to Grantee an easement for the purposes set forth hereinbelow over and across the Land;

**NOW THEREFORE**, the Grantor, for and in consideration of the sum of TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATIONS, in hand paid at and before the sealing and delivering of these presents, the receipt of which is hereby acknowledged, has bargained and sold, and by

these presents does grant, bargain, sell and convey unto the said Grantee, a perpetual easement through, over or under that tract of Land owned by the Grantor in over and across those areas more particularly described on Exhibit "B" attached hereto and made a part hereof (the "Easement Area") for the following purposes, to wit: (a) to enter the Easement Area and any adjoining lands owned by the Grantor at any time and from time to time, and to construct, install, erect, maintain, repair, rebuild, operate, and patrol electric distribution / transmission and telecommunications lines and distribution / transmission line structures with wires and cables for electric power circuits and communication circuits and all necessary appurtenances; (b) to attach communication facilities to said poles, to stretch communication or other lines on said poles, or under the Easement Area and to attach related apparatus, fixtures, and appliances the right to permit the attachment of the cables, lines, wires, cross arms, guys, anchors, apparatus, fixtures, and appliances of Grantee any other company, or person, to said poles or other facilities for other purposes upon or under the Easement Area with all necessary appliances; (c) to clear said right of way in the Easement Area and keep it clear of all trees, brush, buildings, signboards, billboards, stored personal property, and fire hazards; (d) to prevent the drilling or sinking of wells within the Easement Area. The Grantor and Grantee agree that the provisions of this paragraph shall be a real covenant which shall attach to and run with the land affected by the Easement Area and shall be binding upon everyone who may hereafter come into ownership of said Easement Area, whether by purchase, devise, descent, or succession.

**IT IS EXPRESSLY PROVIDED** that Grantee shall have a perpetual right of ingress and egress upon, over, and across the adjoining lands owned by Grantor for access to said easement for the purposes of installation, maintenance, operation, repair, and removal of said utility lines. Grantee shall have the right to assign this Easement in whole or in part.

**GRANTOR HEREBY RESERVES** for itself and its successors, heirs, and assigns, all of its right, title, and interest in and to the Land incident to the fee simple estate thereof, and to use the Easement Area for any and all purposes that do not unreasonably interfere with Grantee's use of the Easement Area as expressly permitted herein.

**TO HAVE AND TO HOLD** the said tract of land, with all and singular the rights, members, and appurtenances thereof, to the same being, belonging, or in any wise appertaining, to the only proper use, benefit and behoof of the said Grantee forever. The said Grantor will warrant and forever defend the right and title to the above-described property unto the said Grantee against the lawful claims of all persons.

**IN WITNESS WHEREOF**, this easement has been duly executed and sealed by Grantor the day and year first above written.

Signed, sealed and delivered  
In the presence of:

**Pinnacle Dev, LLC**

\_\_\_\_\_  
Unofficial Witness

\_\_\_\_\_  
Notary Public

My commission expires:

By: \_\_\_\_\_ (Seal)  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[Notarial Seal]

## EXHIBIT "A"

### TRACT NO. 1:

All that tract or parcel of land lying and being in Land Lot Nos. 1, 2, 3, 34 and 36 of the 12<sup>th</sup> District and 2<sup>nd</sup> Section of Gilmer County Georgia; Land Lot Nos. 15, 16, 17, 18, 19, 20, 21, 52, 53, and 54 of the 24<sup>th</sup> District and 2<sup>nd</sup> Section of Gilmer County, Georgia; and Land Lot No. 307 of the 25<sup>th</sup> District and 2<sup>nd</sup> Section of Gilmer County, Georgia, and being more particularly described as Tract A, 63.05 acres, more or less, and Tract B, 1,269.09 acres, more or less, as shown on the plat of survey dated November 4, 2022 prepared for Pinnacle Dev LLC by Mark E. Chastain, Georgia Registered Land Surveyor No. 2718, and recorded in Plat Book 70 Pages 89-100, Gilmer County, Georgia Land Records, reference to said plat is hereby made and incorporated herein by reference.

### TRACT NO. 2:

All that tract or parcel of land lying and being in Land Lot Nos. 17 and 18 in the 24<sup>th</sup> District and 2<sup>nd</sup> Section of Gilmer County, Georgia and Land Lot No. 307 of the 25<sup>th</sup> District and 2<sup>nd</sup> Section of Gilmer County, Georgia and being described according to a plat of survey prepared for Georgia Power Company dated May 21, 1965, and being more particularly described as follows:

BEGINNING at a point 942.5 feet south 0 degrees 30 minutes west of the dividing line between the 24<sup>th</sup> and 25<sup>th</sup> land Districts, said point being located on the dividing line between the land now or formerly owned by S.O. Penland, Jr. and G. G. Watkins and lands now or formerly owned by Georgia Kraft Company; thence from said POINT OF BEGINNING, south 0 degrees 30 minutes west along said dividing line between lands of S.O. Penland, Jr. and G. G. Watkins and lands of Georgia Kraft Company 127 feet to a point, thence north 80 degrees 26 minutes east 5973.7 feet to a point located on the dividing line between lands now or formerly owned by Mrs. Jewel Burnett and land now or formerly owned by Georgia Kraft Company, thence easterly along said dividing line between lands of Mrs. Jewel Burnett and lands of Georgia Kraft Company 289.5 feet to a point located on a corner common to lands now or formerly owned by Mrs. Jewel Burnett and lands now or formerly owned by N. H. Kelly and lands now or formerly owned by Georgia Kraft Company, thence north 35 degrees west along the dividing line between lands of N.H. Kelly and lands of Georgia Kraft Company 85.2 feet to a point, thence south 80 degrees 26 minutes west 5630.2 feet to the POINT OF BEGINNING, said strip containing 16.61 acres, more or less.

## **EXHIBIT "B"**

All that tract or parcel of land lying and being in Land Lot No. 1 in the 12th District and 2<sup>nd</sup> Section of Gilmer County, Georgia, Land Lot Nos. 17 and 18 in the 24<sup>th</sup> District and 2<sup>nd</sup> Section of Gilmer County, Georgia, and Land Lot No. 307 of the 25<sup>th</sup> District and 2<sup>nd</sup> Section of Gilmer County, Georgia and being more particularly described according to plat of survey prepared for Pinnacle Dev LLC by Mark Chastain, Georgia Registered Land Surveyor No. 2718, dated November 8, 2022, and recorded in Plat Book 70 Page 103, Gilmer County, Georgia Land Records, reference to which plat is hereby made and incorporated herein by reference.

## **EXHIBIT "2"**

### **Indemnity Agreement**

See attached.

**WAIVER AND INDEMNITY AGREEMENT**

**THIS WAIVER AND INDEMNITY AGREEMENT** (this “Agreement”) dated as of the \_\_\_\_ day of \_\_\_\_\_, 2023 by and among **Pinnacle Dev, LLC**, a Georgia limited liability company (the “Indemnitor”) and **The Board of Water, Light, and Sinking Fund Commissioners of the City of Dalton, Georgia d/b/a Dalton Utilities**, a Georgia municipal corporation (the “Indemnitee”). Indemnitor and Indemnitee are hereinafter referred to individually as a “Party” and collectively as the “Parties.”

**WITNESSETH:**

**WHEREAS**, Indemnitor owns that certain parcel of real property situated in Land Lot No. 1 of the 12th District and 2nd Section of Gilmer County, Georgia, Land Lots Nos. 17 and 18 of the 24th District and 2nd Section of Gilmer County, Georgia, and Land Lot No. 307 of the 25th District and 2nd Section of Gilmer County, Georgia, which land is more particularly described in Exhibit “A” attached hereto and incorporated herein by reference (the “Land”); and

**WHEREAS**, simultaneously with the execution hereof, Indemnitor is purchasing additional property located in Land Lots Nos. 17 and 18 of the 24th District and 2nd Section of Gilmer County, Georgia, and Land Lot No. 307 of the 25th District and 2nd Section of Gilmer County, Georgia from Indemnitee, which land is more particularly described in Exhibit “B” attached hereto and incorporated herein by reference (the “Additional Land”); and

**WHEREAS**, as part of the consideration for Indemnitee transferring and conveying its interest in the Additional Land, Indemnitor agrees to grant Indemnitee an easement over a portion of the Land and Additional Land as more particularly described in Exhibit “C” attached hereto and incorporated herein by reference (the “Easement”); and

**WHEREAS**, as condition to Indemnitee agreeing to sell and transfer the Additional Land to Indemnitor, Indemnitor is required to execute and deliver a waiver and indemnity to Indemnitee, indemnifying and holding Indemnitee harmless from and against any and all damages arising from or related to Indemnitor’s acts or the acts of anyone else entering the Easement;

**NOW, THEREFORE**, for and in consideration of the foregoing, and intending to be legally bound hereby, Indemnitor and Indemnitee agree as follows:

1. **Indemnification**. Indemnitor agrees to protect, indemnify, defend and hold harmless Indemnitee from and against all losses, liabilities, obligations, claims, damages, penalties, fines, causes of action, costs and expenses (including, without limitation, reasonable attorneys’ fees and expenses) (collectively, “Damages”) that Indemnitee may incur in connection with, related to, or arising from Indemnitor’s (or Indemnitor’s authorized agents, consultants, employees, or representatives) acts or the acts of anyone else entering the Easement, including but not limited to, liability for injury to persons and/or damage to personal property resulting from or in any manner occasioned by such access or entry. Nothing contained herein shall require Indemnitor to indemnify Indemnitee for any Damages resulting from Indemnitee’s gross negligence or its willful

misconduct.

2. **Waiver of Claims.** Indemnitor hereby RELEASES, WAIVES, DISCHARGES, AND COVENANTS NOT TO SUE INDEMNITEE, its officers, commissioners, agents, and employees from any and all liability, claims, demands, actions and causes of action whatsoever arising from or related to Indemnitor's (or Indemnitor's authorized agents, consultants, employees, or representatives) entry or the entry of anyone else onto the Easement, including but not limited to, liability for injury to persons and/or damage to personal property resulting from or in any manner occasioned by such access or entry.

3. **Parties Bound.** Indemnitor's and Indemnitee's rights and obligations hereunder shall inure to the benefit of and be binding upon their respective heirs, personal representatives, successors, and assigns.

4. **Attorneys' Fees.** In addition to the other payments required of Indemnitor hereunder, Indemnitor shall pay to Indemnitee reasonable attorneys' fees incurred by Indemnitee in the enforcement of Indemnitor's obligations hereunder.

5. **Non-Waiver.** No delay of Indemnitee in exercising any power or right shall operate as a waiver thereof; nor shall any single or partial exercise of any power or right preclude other or further exercise thereof or the exercise of any other power or right. No waiver by Indemnitee of any right hereunder or of any default by Indemnitor shall be binding upon Indemnitee unless in writing, and no failure by Indemnitee to exercise any power or right hereunder or waiver of any default by Indemnitor shall operate as a waiver of any other or further exercise of such right or power or of any further default.

6. **Modifications.** No provisions hereof shall be modified or limited except by a written agreement expressly referring hereto and to the provisions so modified or limited and signed by the Indemnitor and Indemnitee.

7. **Severability.** The unenforceability of any provision of this Agreement shall not affect the enforceability or validity of any other provision.

8. **Entire Agreement.** This Agreement contains the entire understanding of the parties hereto with respect to the subject matter hereof.

9. **Applicable Law.** This Agreement shall be construed in accordance with the laws of the State of Georgia without regard to its conflict of laws provisions.

10. **No Third-Party Beneficiary.** Nothing expressed or implied in this Agreement is intended, or shall be construed, to confer upon or give any person or entity other than the parties hereto any rights or remedies under or by reason of this Agreement.

11. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument when each of the parties has signed and delivered to the other parties one or



more counterparts (including, without limitation, delivery by facsimile).

**12. Notices.** All notices, service of process and other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given when delivered in person or when sent by certified mail, to the applicable address below or one business day after having been dispatched by a nationally recognized overnight courier service to the appropriate party at the address or specified below the signatures of the Parties hereto. Any party hereto may change its address for the purposes of this Agreement by giving notice as provided herein.

IN WITNESS WHEREOF, the parties have hereto set their hands and seals the date first above written.

**Indemnitee:**

**The Board of Water, Light, and Sinking  
Fund Commissioners of the City of Dalton,  
Georgia d/b/a Dalton Utilities**

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

Address: 1200 VD Parrott Jr. Pkwy  
Dalton, GA 30721  
Attn: \_\_\_\_\_  
Email: \_\_\_\_\_

**Indemnitor:**

**Pinnacle Dev, LLC:**

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

Address: \_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_  
Email: \_\_\_\_\_

## **EXHIBIT "A"**

### **Land**

All that tract or parcel of land lying and being in Land Lot Nos. 1, 2, 3, 34 and 36 of the 12th District and 2nd Section of Gilmer County Georgia; Land Lot Nos. 15, 16, 17, 18, 19, 20, 21, 52, 53, and 54 of the 24th District and 2nd Section of Gilmer County, Georgia; and Land Lot No. 307 of the 25th District and 2nd Section of Gilmer County, Georgia, and being more particularly described as Tract A, 63.05 acres, more or less, and Tract B, 1,269.09 acres, more or less, as shown on the plat of survey dated November 4, 2022 prepared for Pinnacle Dev LLC by Mark E. Chastain, Georgia Registered Land Surveyor No. 2718, and recorded in Plat Book 70 Pages 89-100, Gilmer County, Georgia Land Records, reference to said plat is hereby made and incorporated herein by reference.

## **EXHIBIT "B"**

### **Additional Land**

All that tract or parcel of land lying and being in Land Lot Nos. 17 and 18 in the 24th District and 2nd Section of Gilmer County, Georgia and Land Lot No. 307 of the 25th District and 2nd Section of Gilmer County, Georgia and being described according to a plat of survey prepared for Georgia Power Company dated May 21, 1965, and being more particularly described as follows:

BEGINNING at a point 942.5 feet south 0 degrees 30 minutes west of the dividing line between the 24th and 25th land Districts, said point being located on the dividing line between the land now or formerly owned by S.O. Penland, Jr. and G. G. Watkins and lands now or formerly owned by Georgia Kraft Company; thence from said POINT OF BEGINNING, south 0 degrees 30 minutes west along said dividing line between lands of S.O. Penland, Jr. and G. G. Watkins and lands of Georgia Kraft Company 127 feet to a point, thence north 80 degrees 26 minutes east 5973.7 feet to a point located on the dividing line between lands now or formerly owned by Mrs. Jewel Burnett and land now or formerly owned by Georgia Kraft Company, thence easterly along said dividing line between lands of Mrs. Jewel Burnett and lands of Georgia Kraft Company 289.5 feet to a point located on a corner common to lands now or formerly owned by Mrs. Jewel Burnett and lands now or formerly owned by N. H. Kelly and lands now or formerly owned by Georgia Kraft Company, thence north 35 degrees west along the dividing line between lands of N.H. Kelly and lands of Georgia Kraft Company 85.2 feet to a point, thence south 80 degrees 26 minutes west 5630.2 feet to the POINT OF BEGINNING, said strip containing 16.61 acres, more or less.

## **EXHIBIT "C"**

### **Easement**

All that tract or parcel of land lying and being in Land Lot No. 1 in the 12th District and 2nd Section of Gilmer County, Georgia, Land Lot Nos. 17 and 18 in the 24th District and 2nd Section of Gilmer County, Georgia, and Land Lot No. 307 of the 25th District and 2nd Section of Gilmer County, Georgia and being more particularly described according to plat of survey prepared for Pinnacle Dev LLC by Mark Chastain, Georgia Registered Land Surveyor No. 2718, dated November 8, 2022, and recorded in Plat Book 70 Page 103, Gilmer County, Georgia Land Records, reference to which plat is hereby made and incorporated herein by reference.

**EXHIBIT "3"**

**Quit Claim Deed**

See attached.

[Space above this line for recording data.]

Please Record and Return To:

Christiane C. Bard  
The Minor Firm  
P.O. Box 2586  
Dalton, GA 30722-2586

## QUIT CLAIM DEED

Georgia, Whitfield County

**THIS INDENTURE** made this \_\_\_\_ day of \_\_\_\_\_, 2023, between the **City of Dalton, Georgia**, a municipal corporation of the State of Georgia, Grantor, and **Pinnacle Dev, LLC**, a Georgia limited liability company, Grantee.

The words "Grantor" and "Grantee" whenever used herein shall include all individuals, corporations and any other persons or entities, and all the respective heirs, executors, administrators, legal representatives, successors and assigns of the parties hereto, and all those holding under either of them, and the pronouns used herein shall include, when appropriate, either gender and both singular and plural, and the grammatical construction of sentences shall conform thereto. If more than one party shall execute this deed each Grantor shall always be jointly and severally liable for the performance of every promise and agreement made herein.

**THE GRANTOR**, for and in consideration of the sum of one dollar and other valuable considerations, in hand paid at and before the sealing and delivery of these presents, the receipt of which is hereby acknowledged, has bargained and sold, and by these presents does grant, bargain, sell, convey, remise, release and forever quit claim unto the said Grantee, all the right, title, interest, claim or demand which the Grantor may have in and to the land as more particularly described in Exhibit "A" attached hereto, reference to which is hereby made and incorporated herein by reference.

**GRANTOR AND GRANTEE** acknowledge that this deed was prepared from information furnished by them. No title examination has been made, and The Minor Firm shall have no liability for the status of title to the property or for the accuracy of such information.

**TO HAVE AND TO HOLD** the said tract of land, with all and singular the rights, members, and appurtenances thereof, to the same being, belonging, or in any wise appertaining, to the only proper use,

benefit and behoof of the said Grantee so that neither Grantor nor any other person claiming under him shall at any time, claim or demand any right, title or interest to the said tract of land, or its appurtenances.

**IN WITNESS WHEREOF**, this deed has been duly executed and sealed by Grantor the day and year first above written.

Signed, sealed and delivered  
in the presence of:

**City of Dalton, Georgia**

\_\_\_\_\_  
Unofficial Witness

By: \_\_\_\_\_  
**Mayor**

\_\_\_\_\_  
Notary Public

Attest: \_\_\_\_\_  
**Clerk**

My commission expires:

[Notarial Seal]

[Seal]

## EXHIBIT "A"

All that tract or parcel of land lying and being in Land Lot Nos. 17 and 18 in the 24th District and 2nd Section of Gilmer County, Georgia and Land Lot No. 307 of the 25th District and 2nd Section of Gilmer County, Georgia and being described according to a plat of survey prepared for Georgia Power Company dated May 21, 1965, and being more particularly described as follows:

BEGINNING at a point 942.5 feet south 0 degrees 30 minutes west of the dividing line between the 24<sup>th</sup> and 25<sup>th</sup> land Districts, said point being located on the dividing line between the land now or formerly owned by S.O. Penland, Jr. and G. G. Watkins and lands now or formerly owned by Georgia Kraft Company; thence from said POINT OF BEGINNING, south 0 degrees 30 minutes west along said dividing line between lands of S.O. Penland, Jr. and G. G. Watkins and lands of Georgia Kraft Company 127 feet to a point, thence north 80 degrees 26 minutes east 5973.7 feet to a point located on the dividing line between lands now or formerly owned by Mrs. Jewel Burnett and land now or formerly owned by Georgia Kraft Company, thence westerly (having previously been erroneously referred to as easterly) along said dividing line between lands of Mrs. Jewel Burnett and lands of Georgia Kraft Company 289.5 feet to a point located on a corner common to lands now or formerly owned by Mrs. Jewel Burnett and lands now or formerly owned by N. H. Kelly and lands now or formerly owned by Georgia Kraft Company, thence north 35 degrees west along the dividing line between lands of N.H. Kelly and lands of Georgia Kraft Company 85.2 feet to a point, thence south 80 degrees 26 minutes west 5630.2 feet to the POINT OF BEGINNING, said strip containing 16.61 acres, more or less.

For prior title see Deed Book 527 Page 26, Gilmer County, Georgia Land Records.