

RESOLUTION 24-21

RESOLUTION AUTHORIZING EXCHANGE OF LAND PURSUANT TO O.C.G.A. § 36-37-6 (c)

WHEREAS, the City of Dalton, Georgia, an incorporated municipality of the State of Georgia (the “City”), owns certain real property, which is more particularly described as follows (the “City Property”):

All that tract or parcel of land lying and being in Land Lot No. 219 in the 12th District and 3rd Section of Whitfield County, Georgia and being more particularly described as follows:

BEGINNING at a nail placed at the intersection of the east right of way line of Pentz Street and the south right of way line of King Street; thence north ninety degrees 00 minutes 00 seconds east, along the south right of way line of King Street, a distance of 53 feet; thence south 00 degrees 00 minutes 00 east 85 feet; thence north 90 degrees 00 minutes 00 seconds west 53 feet; thence north 00 degrees 00 minutes 00 seconds east, along the east right of way line of Pentz Street, 85 feet to the POINT of BEGINNING.; and

WHEREAS, the City has determined that the City Property is no longer needed for a public purpose; and

WHEREAS, Pentz Legacy, LLC (“Pentz”) owns certain real property adjacent to certain recreational facilities owned by the City which may be used for the expansion of or support of such recreational facilities, which said property owned by Pentz is more particularly described as follows (the “Pentz Property”):

Tract No. 1:

All that tract or parcel of land lying and being in Land Lot No. 279 in the 13th District and 3rd Section of Whitfield County, Georgia, and being more particularly described as Tract No. 1 containing 3.502 acres according to a plat of survey prepared for the City of Dalton by Christopher Lee Lewis, Georgia Registered Land Surveyor No. 3063, dated October 23, 2024, to be recorded in the Whitfield County, Georgia Land Records, reference to which 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. 278 and 279 in the 13th District and 3rd Section of Whitfield County, Georgia, and being more particularly described as Tract No. 1 containing 1.704 acres according to a plat of survey prepared for the City of Dalton by Christopher Lee Lewis, Georgia Registered Land Surveyor No. 3063, dated October 23, 2024, to be recorded in the Whitfield County, Georgia Land Records, reference to which plat is hereby made and incorporated herein by reference.

WHEREAS, the City has determined that it is in the best interest of the City to exchange the City Property and acquire the Pentz Property on such terms and conditions set forth in a certain exchange agreement (“Exchange Agreement”), which is attached hereto as Exhibit 1 and made a part hereof;

WHEREAS, O.C.G.A. §36-37-6(c) authorizes municipal corporations to trade or exchange “real property belonging to the municipal corporation for other real property where the property so acquired by the exchange shall be of equal or greater value than the property previously belonging to the municipal corporation; provided, however, that within six weeks preceding the

closing of any such proposed exchange of real property, a notice of the proposed exchange of real property shall be published in the official organ of the municipal corporation once a week for four weeks. The value of both the property belonging to the municipal corporation and that to be acquired through the exchange shall be determined by appraisals and the value so determined shall be approved by the proper authorities of said municipal corporation;” and

WHEREAS, the value of the City Property and the value of the Pentz Property as set forth in the Exchange Agreement have both been determined by a certified general appraiser licensed by the State of Georgia Real Estate Appraisers Board;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the City hereby approve of the value of the City Property and the value of the Pentz Property as set forth in the Exchange Agreement and as determined by said appraiser.

BE IT FURTHER RESOLVED that the City and the Mayor on behalf of the City of Dalton are hereby authorized to enter into the Exchange Agreement and perform the obligations set forth therein, subject to satisfaction of certain statutory formalities for effectuation of such transaction and advertisement as required by O.C.G.A. §36-37-6(c).

BE IT FURTHER RESOLVED, that the Mayor of the City of Dalton be, and hereby is, authorized and empowered to take other such actions and to execute for and on behalf of the City any other such documents in connection with said transaction including a Warranty Deed to transfer the City Property to Pentz, along with 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 _____ day of _____, 2024.

The City of Dalton, Georgia

By: _____
Mayor/Mayor Pro Tem

Attest: _____
City Clerk

(seal)

EXHIBIT “1”

EXCHANGE AGREEMENT

Settlement Agent
The Minor Firm

Date: December ____, 2024
Pentz: Pentz Legacy, LLC (“Pentz”)
City of Dalton: The City of Dalton, Georgia
Pentz Property Tract No. 1: 3.502 Acres on Hale Bowen Drive
Pentz Property Tract No. 2: 1.704 Acres on Hale Bowen Drive
City Property: 0.12 acres on North Pentz Street

1. The parties acknowledge the closing and delivery of documents executed in connection with this transaction shall occur on the sooner of February 15, 2025 or completion of title search of both properties and satisfaction of all title objections, completion of legal advertisement, and approval of the transaction contemplated herein by the City in an open meeting.

2. The parties acknowledge that the City of Dalton is exchanging certain real property and improvements owned by the City as described in Exhibit “A” (the “City Property”) with certain real property owned by Pentz as described in Exhibit “B” (collectively the “Pentz Property”) for an exchange value of \$340,000.00 (the “Exchange Consideration”). It is the intention of the parties that this transaction be a simultaneous exchange of real property pursuant to the terms of Section 1031 of the United States Internal Revenue Code (26 U.S.C. § 1031).

3. For the purpose of this exchange the parties have valued the Pentz Property at an aggregate value of \$479,549.12 and the City Property at a value of \$340,000.00. The City shall pay to Pentz as additional consideration the sum of \$139,525.08.

4. The parties acknowledge that Pentz shall be responsible for and pay the 2024 ad valorem taxes on Whitfield County Tax Parcel Nos. 12-179-02-035 and 12-179-11-000 including the temporary tax bills and any future final tax bills due for the 2024 tax year. The parties further acknowledge that the 2024 ad valorem taxes on Whitfield County Tax Parcel No. 12-219-11-005 are currently exempt.

5. The parties agree that the exchange of properties shall be subject to the following covenants and restrictions:

- a. No commercial buildings or other structures, which are not for the support of recreational uses of the Pentz Property, shall be erected on the Pentz Property; however, structures may be constructed consistent with the uses of said property for recreational purposes;
- b. The Pentz Property shall be used primarily for recreational purposes;
- c. The City shall erect a fence around the Pentz Property so that access to the Pentz Property shall only be by Hale Bowen Drive;
- d. The City shall grant Pentz and its successors and assigns a right of first refusal on the Pentz Property for 100 years;
- e. Pentz and the Anna Sue and Bob Shaw Foundation shall utilize the City Property primarily to carry out charitable and philanthropic work and activities associated therewith;
- f. Pentz and its successors and assigns shall not destroy, demolish, or otherwise render the building on the City Property unusable, or permit any acts that may be reasonably likely to lead to the destruction, demolition, or deterioration of the building, excluding ordinary wear and tear. In the event the building is destroyed or damaged due to fire, storm, earthquake, flood, or any other act of God, Pentz, or its successors and assigns, shall, at their own election, either gift the City Property to the City, or restore and rebuild the building to a condition substantially similar to its pre-destruction condition, in which event Pentz or its successors or assigns shall bear all costs and expenses of such restoration or rebuilding. The rebuilt structure shall maintain the same general

appearance, size, and design as the original building, subject to any necessary modifications to comply with applicable zoning laws, building codes, or regulations.

and

g. The City shall have a right of first refusal on the City Property for 100 years.

City of Dalton

Pentz Legacy, LLC

By: _____ (Seal)
Mayor

By: _____ (Seal)
Title:

EXHIBIT "A"

Tax Parcel 12-219-11-005

All that tract or parcel of land lying and being in Land Lot No. 219 in the 12th District and 3rd Section of Whitfield County, Georgia and being more particularly described as follows.

BEGINNING at a nail placed at the intersection of the east right of way line of Pentz Street and the south right of way line of King Street; thence north ninety degrees 00 minutes 00 seconds east, along the south right of way line of King Street, a distance of 53 feet; thence south 00 degrees 00 minutes 00 east 85 feet; thence north 90 degrees 00 minutes 00 seconds west 53 feet; thence north 00 degrees 00 minutes 00 seconds east, along the east right of way line of Pentz Street, 85 feet to the POINT of BEGINNING.

EXHIBIT “B”

Tax Parcel 12-179-02-035 and portions of Tax Parcels 12-179-02-036 and 12-179-11-000

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