

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LEESBURG, FLORIDA, ACCEPTING A UTILITY EASEMENT FROM WALLING ENTERPRISES, INC., AS GRANTOR, TO THE CITY OF LEESBURG, AS GRANTEE, PERTAINING TO LAND LOCATED IN SECTION 23, TOWNSHIP 19 SOUTH, RANGE 24 EAST, LAKE COUNTY, FLORIDA; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE CITY OF LEESBURG, FLORIDA, that:

Section 1.

The City of Leesburg, Florida, does hereby accept from Walling Enterprises, Inc., a Utility Easement dated August 25, 2010, and recorded in Official Records Book 3942, Pages 189–192, Public Records of Lake County, Florida, conveying certain real property located in Section 23, Township 19 South, Range 24 East, Lake County, Florida, and more particularly described in said Utility Easement, to the City of Leesburg.

Section 2.

If any portion of this ordinance is declared invalid or unenforceable, then to the extent it is possible to do so without destroying the overall intent and effect of this ordinance, the portion deemed invalid or unenforceable shall be severed herefrom and the remainder of this ordinance shall continue in full force and effect as if it were enacted without including the portion found to be invalid or unenforceable.

Section 3.

This ordinance shall become effective upon its passage and adoption according to law.

PASSED AND ADOPTED at the regular meeting of the City Commission of the City of Leesburg, Florida, held on the _____ day of _____, 2010.

THE CITY OF LEESBURG

By: _____
Mayor

ATTEST:

City Clerk



THIS INSTRUMENT PREPARED BY & RETURN TO:
 Fred A. Morrison
 McLin & Burnsed, P.A.
 Post Office Box 491357
 Leesburg, Florida 34749-1357

CFN 2010085976
 Bk 03942 Pgs 0189 - 1927 (4pgs)
 DATE: 08/25/2010 03:33:22 PM
 NEIL KELLY, CLERK OF COURT
 LAKE COUNTY
 RECORDING FEES 35.50
 DEED DOC 0.70

Utility Easement

RESERVED FOR RECORDING

THIS EASEMENT given the 25 day of August, 2010, by WALLING ENTERPRISES, INC., whose address is P.O. Box 490329, Leesburg, Florida 34749 - 0329, hereafter referred to as Grantor, to THE CITY OF LEESBURG, FLORIDA, whose address is P.O. Box 490630, Leesburg, FL 34749-0630, hereafter referred to as Grantee,

WITNESSETH:

That for and in consideration of the sum of \$1.00 and other good and valuable considerations, in hand paid and tendered unto Grantor, receipt whereof is hereby acknowledged, Grantor does hereby grant, bargain, sell, convey and confirm unto Grantee, its successors and assigns forever, a perpetual easement over and across the following described real property:

AS DESCRIBED ON EXHIBIT "A" ATTACHED

for the purpose of construction, installation, repair, maintenance, replacement and improvement of underground or above ground utilities, including but not limited to water, sewer, reuse water, natural gas, electricity, cable television, fiber optics, and telecommunications. If Grantee damages any surface improvements in its use of this easement, it shall repair any such damage at its expense, and restore the improvements to substantially the same condition they were in prior to the damage. Grantee is also given an irrevocable license, for so long as this Easement remains in effect, to cross the adjoining real property owned by Grantor, for the purpose of conducting any activities permitted by this Easement provided that such right of passage shall not interfere substantially with Grantor's use of its adjoining property.

Grantor hereby retains the right to use the Easement Area, for reasons including but not limited to pedestrian and vehicular access over the Easement Area, so long as such rights do not unreasonably interfere with Grantee's rights hereunder. Grantee shall ensure that all activities by Grantee shall cause the least interference with Grantor's use of the Easement Area as is reasonably practicable, and Grantee shall not unreasonably interfere with Grantor's ingress to and egress to, from and over the Easement Area.

~~Up to but not exceeding the limits specified on the waiver of sovereign immunity in §768.28, Fla. Stat. and without waiving its sovereign immunity beyond such limits~~ Grantee holds the Grantor harmless for any damages which arise out of or in connection with the use of the Easement Area by the Grantee or its agents. Each party further hereby agrees that in any action, proceeding or claim which may be brought from any matter arising out of this Easement, the prevailing party shall be entitled to reimbursement of reasonable attorney fees, including court costs, from the opposing party.

To HAVE AND TO HOLD unto Grantee, its successors and assigns forever. Grantor does hereby warrant the title to the interests conveyed to Grantee hereunder and will defend the same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, Grantor has set his or her hand and seal the day and year first above written. As used herein, the term "Grantor" shall refer to that person, or those persons, so named above, and shall be interpreted as being singular or plural, and shall be considered to have the person, number and gender appropriate to the context of the named individuals or entities.

WITNESSES (two required)

GRANTOR: WALLING ENTERPRISES, INC.

Michelle Girard Smith
Michelle Girard Smith
(Type or print name of Witness)

BY: Robert R. Walling
ROBERT R. WALLING, President

Priscilla Duttenhaver
Priscilla Duttenhaver
(Type or print name of witness)

STATE OF FLORIDA
COUNTY OF LAKE

BEFORE ME, the undersigned Notary Public, personally appeared Robert R. Walling, as President of Walling Enterprises, Inc., who acknowledged before me that he executed this instrument on the 25th day of August, 2010, and who was either personally known to me, or who produced _____ as identification.

Priscilla Duttenhaver
NOTARY PUBLIC
Priscilla Duttenhaver
Type or print name of Notary

Commission Number

Commission expiration date



PRISCILLA DUTTENHAVER
MY COMMISSION # DD 570214
EXPIRES: November 3, 2010
Bonded Thru Budget Notary Services

EXHIBIT "A"

PARENT PARCEL:

PARCEL ID # 23-19-24-000300005500, ALTERNATE KEY # 1205204.

THE WEST 210 FEET OF SOUTH HALF OF GOVERNMENT LOT 4 LYING NORTH OF RAILROAD -- LESS. (AS DESCRIBED IN OFFICIAL RECORDS BOOK 1486, PAGE 1812.)
FROM THE NORTHWEST CORNER OF S.W. 1/4 OF S.W. 1/4 OF SECTION 23, TOWNSHIP 19 SOUTH, RANGE 24 EAST, IN LAKE COUNTY, FLORIDA, RUN S. 00°25'10" W. ALONG THE WEST LINE OF SAID S.W. 1/4 OF THE S.W. 1/4 A DISTANCE OF 249.95 FEET; THENCE S. 89°52'35" E. PARALLEL TO THE NORTH LINE OF SAID S.W. 1/4 OF THE S.W. A DISTANCE OF 40.65 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF NORTH 14th STREET IN THE CITY OF LEESBURG, FLORIDA, SAID POINT ALSO BEING THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY No. 27 AND THE POINT OF BEGINNING, OF THIS DESCRIPTION; FROM SAID POINT OF BEGINNING, RUN N. 00°25'10" E. ALONG SAID EASTERLY RIGHT-OF-WAY LINE A DISTANCE OF 142.88 FEET; THENCE S. 89°20'31" E., 169.74 FEET; THENCE RUN S. 00°25'10" W., 326.58 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF THE EXISTING RAILROAD; THENCE N. 68°45'23" W. ALONG SAID NORTHERLY RIGHT-OF-WAY LINE A DISTANCE OF 181.76 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY No. 27; THENCE N. 00°25'10" E. ALONG SAID EASTERLY RIGHT-OF-WAY LINE A DISTANCE OF 120.00 FEET TO THE POINT OF BEGINNING.

DESCRIPTION : 5' UTILITY EASEMENT

A 5.00 FEET, PERPENDICULAR MEASURE, PARCEL OF LAND LYING NORTHERLY OF AND CONTIGUOUS WITH THE NORTHERLY PROPERTY LINE OF LAND SOLD TO THE 'LEESBURG PROPERTIES LAND TRUST' AS DESCRIBED IN OFFICIAL RECORDS BOOK 1486, PAGE 1812. COMMENCING AT THE EASTERLY RIGHT-OF-WAY LINE OF NORTH 14th STREET IN THE CITY OF LEESBURG, FLORIDA, SAID POINT ALSO BEING THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY No. 27 AND RUNNING EASTERLY A DISTANCE OF 120.00 FEET.

ALSO DESCRIBED AS:

FROM THE NORTHWEST CORNER OF S.W. 1/4 OF S.W. 1/4 OF SECTION 23, TOWNSHIP 19 SOUTH, RANGE 24 EAST, IN LAKE COUNTY, FLORIDA, RUN S. 00°25'10" W. ALONG THE WEST LINE OF SAID S.W. 1/4 OF THE S.W. 1/4 A DISTANCE OF 249.95 FEET; THENCE S. 89°52'35" E. PARALLEL TO THE NORTH LINE OF SAID S.W. 1/4 OF THE S.W. A DISTANCE OF 40.65 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF NORTH 14th STREET IN THE CITY OF LEESBURG, FLORIDA, SAID POINT ALSO BEING THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY No. 27; THENCE RUN N. 00°25'10" E. ALONG SAID EASTERLY RIGHT-OF-WAY LINE A DISTANCE OF 142.88 FEET, TO THE NORTHWEST CORNER OF THE PROPERTY AS DESCRIBED IN OFFICIAL RECORDS BOOK 1486, PAGE 1812, AND THE POINT OF BEGINNING (P.O.B.), OF THIS DESCRIPTION; FROM SAID POINT OF BEGINNING; THENCE CONTINUE N. 00°25'10" E. ALONG SAID EASTERLY RIGHT-OF-WAY LINE A DISTANCE OF 5.00 FEET; THENCE S. 89°20'31" E., 120.00 FEET; THENCE RUN S. 00°25'10" W., 5.00 FEET TO A POINT ON NORTHERLY PROPERTY LINE; THENCE N. 89°20'31" W. ALONG SAID NORTHERLY PROPERTY LINE A DISTANCE OF 120.00 FEET TO THE POINT OF BEGINNING.

AND CONTAINS AN AREA OF 600.000 SQUARE FEET OR 0.014 ACRE, MORE OR LESS.

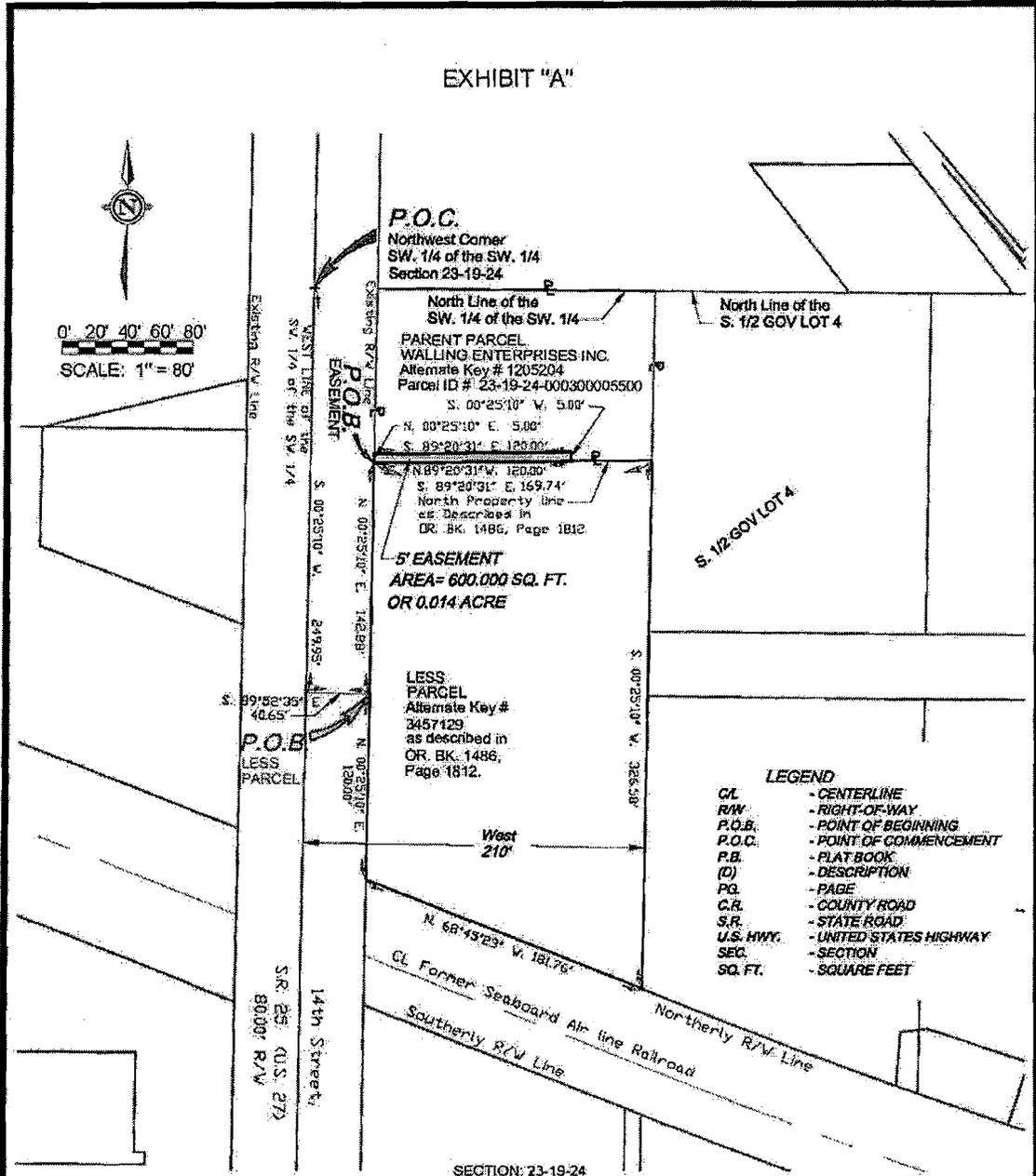
GENERAL NOTES

- 1: This is **NOT A BOUNDARY SURVEY**.
- 2: This sketch is to show existing site information and improvements for the sole purpose of conceptual design.
- 3: This sketch was prepared for the City of Leesburg and its assign's as their interests may appear. Use of this sketch by any other parties is strictly forbidden.
- 4: Use of this sketch shown on sheet 2 for any other purpose than that stated in note (2) is the sole responsibility of the user. The City of Leesburg assumes no liability for the misuse of this information.
- 5: All information outside the labeled limits of this site is for general reference purposes only. Assumption of correctness outside of said site boundary is the liability of the user.
- 6: The bearings shown herein, are relative to assumed datum and are based on the Legal Descriptions as described in O R Book 1486, page 1812; in section 23, Township 19 South, Range 24 East, Lake County, Florida.
- 7: This sketch was prepared by the City of Leesburg, Public Works Department, Survey Division, under the direction of Steven C. Davis, Electric Service Planner, for the City of Leesburg.
- 8: This sketch contains 2 sheets in which NONE are valid without all remaining sheets.

SECTION: 23-19-24

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|  <p>CITY OF LEESBURG PUBLIC WORKS DEPT. ENGINEERING DIVISION 550 S. 14th ST. - P.O. BOX 490630 LEESBURG, FLORIDA 34749 PHONE (352) 728-9755 FAX (352) 728-9878</p> | SKETCH OF DESCRIPTION | DATE: 03/10/2010 | SHEET NUMBER |
| | 5' UTILITY EASEMENT | DRAWN: DDF | 1 |
| | WALLING ENTERPRISES INC. | CHECKED: DDF | OF |
| | to the CITY OF LEESBURG | APPROVED: AP | 2 |
| | | SCALE: NTS | |
| | FILE NO.: EA10008 | | |

EXHIBIT "A"



| | | | | |
|--|------------------------------|--|------------------|--------------------|
|  <p>CITY OF LEEBSBURG PUBLIC WORKS DEPT. ENGINEERING DIVISION 560 S. 14th ST. - P.O. BOX 480630 LEEBSBURG, FLORIDA 34749 PHONE (352) 728-9755 FAX (352) 728-9978</p> | SKETCH OF DESCRIPTION | | DATE: 03/10/2010 | SHEET NUMBER |
| | 5' UTILITY EASEMENT | | DRAWN: DDF | 2 |
| | WALLING ENTERPRISES INC. | | CHECKED: DDF | OF |
| | to the CITY OF LEEBSBURG | | APPROVED: AP | 2 |
| | | | SCALE: 1" = 80' | FILE NO.: EA10008a |