

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA, AUTHORIZING AND DIRECTING THE MAYOR AND CITY CLERK TO EXECUTE A BILL OF SALE AND TERMINATION OF AREA LIGHTING AGREEMENT BETWEEN THE CITY OF LEESBURG AND WALLING ENTERPRISES, INC. FOR THE PURPOSE OF TERMINATING AN EXISTING AREA LIGHTING AGREEMENT FOR PALM PLAZA SHOPPING CENTER AND TRANSFERRING THE LIGHTING FIXTURES TO THE CUSTOMER, AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA:

THAT the Mayor and City Clerk are hereby authorized and directed to execute a Bill of Sale and Termination of Area Lighting Agreement between the City of Leesburg and Walling Enterprises, Inc., for the purpose of terminating an existing area lighting agreement for Palm Plaza Shopping Center and transferring the lighting fixtures to the customer.

THIS RESOLUTION shall take effect 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 _____, 2011.

THE CITY OF LEESBURG, FLORIDA

BY: _____
MAYOR

Attest: _____
CITY CLERK

**BILL OF SALE AND TERMINATION
OF AREA LIGHTING AGREEMENT**

THIS AGREEMENT is made and entered into between **THE CITY OF LEESBURG, FLORIDA** (hereafter referred to as "City"), and **WALLING ENTERPRISES, INC.** (hereafter referred to as "Walling"),

WITNESSETH:

THAT on July 23, 2001, City and Walling entered into an Agreement for Rental Lighting Services (referred to hereafter as the "Area Lighting Agreement"). The Area Lighting Agreement was amended on or about July 9, 2007, by Amendment No. 1. The parties now desire to terminate the Area Lighting Agreement, transfer to Walling the equipment formerly leased to Walling under the Area Lighting Agreement, and provide for terms of service for electrical power to the equipment following the termination, and have entered into this instrument (hereafter referred to as the "Termination") for those purposes.

NOW THEREFORE, for and in consideration of the termination of the Area Lighting Agreement, the transfer to Walling of the equipment formerly leased to Walling under the Area Lighting Agreement, the mutual covenants and promises contained in this Termination, the sum of \$10.00 and other good and valuable considerations, all in hand paid and given by each party to the other, the receipt and sufficiency of which are hereby acknowledged, City and Walling agree as set forth below:

1. City and Walling do hereby terminate and annul the Area Lighting Agreement and Amendment No. 1, which as of the date the last party signs this Termination shall have no further force or effect, and neither party shall after that date have any further obligation to the other under the Area Lighting Agreement or Amendment No. 1.

2. City hereby bargains, sells and conveys to Walling the lights, poles, connections and related equipment listed on Exhibit "A" hereto, the location of which is shown on Exhibit "B" hereto (hereafter referred to as the "Equipment"), to have and to hold unto Walling, its lawful successors and assigns forever. City covenants that Equipment is free and clear of any liens or encumbrances, and that there are no adverse claims to ownership of the Equipment, however as to its physical condition, the Equipment is conveyed in its as - is, where - is condition, with all faults.

3. Walling hereby accepts the conveyance of the Equipment in its current physical condition, and acknowledges that City is not warranting the physical condition of the Equipment or its continued performance for its intended purposes. Walling assumes all obligations for maintenance, repair, and replacement of the Equipment from and after the date of this Termination.

4. City shall continue to provide metered electrical power to the Equipment. Commencing with installation of a new meter as provided in §5 of this Termination, Walling shall pay for all electrical power used to feed the Equipment, as measured by the meter, at the same rates the City charges its other customers in the same billing category.

5. Certain modifications are required for the City to serve the Equipment with electrical power and bill Walling for power utilized. Walling shall, at its expense, install a new electrical disconnect panel (new or used), any timers used to control the lights, and all lines necessary to feed the lights from a new transformer. City shall, at its expense, install two conduits from the new electrical panel to an agreed upon location near the existing feed to the lights, to install the new transformer, and to connect the new meter to its supply lines on the City side of the meter, and to the lines serving the lights on the Walling side of the meter. All other connections shall be the

responsibility of Walling. The parties shall act in good faith to schedule the work needed to implement the changeover of the Equipment in that the work will require coordination by both parties.

6. All work done by City and Walling under this Termination shall be performed in accordance with the National Electrical Code, Florida electrical codes and all other applicable codes and regulations, by persons licensed to do such work, and shall be required to pass inspection by the City.

7. This Termination shall be effective upon its approval by the Leesburg City Commission at a public meeting where a quorum is present and this Termination has been placed on the agenda for consideration by the City Commission.

8. This Termination sets forth the entire understanding of the parties with regard to its subject matter. It supersedes and takes precedence over any and all prior negotiations, representations and agreements regarding the Equipment, oral or written, all of which are deemed to have merged into this Termination and to have been extinguished except to the extent specifically set forth herein. This Termination may not be amended orally, by implication, by course of conduct, or in any other manner whatsoever than by way of a written instrument signed by both parties hereto or their lawful successors. This Termination shall be construed in accordance with the laws of Florida, without regard to which party drafted it. Venue for any action or proceeding arising out of this Termination shall be in Lake County, Florida. This Termination shall be binding on the parties hereto, as well as on their lawful successors and assigns. Each party represents for the benefit of the other that it has not entered into this Termination in reliance on, or on the basis of, any promise, negotiation, representation, undertaking or agreement of the other party, oral or written, which is not specifically set forth within this Termination.

9. In the event of litigation arising out of this Termination, the prevailing party shall be entitled to recover its taxable costs and reasonable attorneys' fees, in addition to any other relief obtained, whether at trial, on appeal, in any proceedings in bankruptcy or insolvency, and in any proceedings to collect or enforce a judgment.

IN WITNESS WHEREOF, the parties have executed this Termination on the dates shown below.

WITNESSES:

WALLING ENTERPRISES, INC.



FRED A. MORRISON
(Type or print name of witness)

BY: 

ROBERT R. WALLING, President



Priscilla Duttonhaver
(Type or print name of witness)

THE CITY OF LEESBURG, FLORIDA

BY: _____
Mayor

ATTEST: _____
BETTY RICHARDSON, City Clerk

APPROVED AS TO FORM AND CONTENT:

CITY ATTORNEY

EXHIBIT "A"
LIST OF LIGHTS

Walling Light list

Pole #	Pole qty	Qty of lights
206249	1	3
206233	1	3
206210	1	3
206232	1	3
206171	1	3
206157	1	3
206161	1	3
206238	1	3
206244	1	3
206243	1	3
206242	1	3
206250	1	3
206209	1	2
206165	1	3
206169	1	3
206163	1	3
206222	1	1
206212	1	3
206221	1	3
206240	1	3
206213	1	3
206219	1	3
206248	1	1
206245	1	1
206211	1	3
206168	1	3
206170	1	3
	27	74

