

RESOLUTION NO. 99- 179

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, ACCEPTING AN EASEMENT FOR UTILITIES FOR ACCESS, INSTALLATION AND MAINTENANCE OF WATER AND SEWER LINES AT TURNBERRY AT ST. JOHNS- UNIT TWO.**

**WHEREAS**, the County has agreed to provide water and sewer service within the Saint Johns Project pursuant to the terms of the Easement for Utilities; and

**WHEREAS**, Turnberry Developers, LTD, has executed and presented to the County an easement for Utilities, attached hereto as Exhibit "A" incorporated herein by reference and made a part hereof, for water and sewer service; and

**WHEREAS**, A Bill of Sale conveying all the personal property associated with the service to be provided has also been executed and is attached hereto as Exhibit "B"; and

**WHEREAS**, St. Johns County Utility department has approved this acquisition for the purposes mentioned herein, as stated in memo, attached hereto as "Exhibit "C", incorporated by reference and made a part hereof, and

**WHEREAS**, the acceptance of these easements better serves the health, safety and welfare of the citizens.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AS FOLLOWS;**

1. The acceptance of the above described Easement for Utilities for access, installation and maintenance of water and sewer lines and the equipment thereon is hereby approved.
2. The Clerk is instructed to record the Easement for Utilities and Bill of Sale in the Official Records of St. Johns County, Florida.

**PASSED AND ADOPTED** this 30<sup>th</sup> day of November, 1999.

**BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA**

BY: James E. Bryant  
Chairman

**ATTEST:** Cheryl Strickland, Clerk

By: Patricia DeStanda  
Deputy Clerk

EXHIBIT "A" TO RESOLUTION

Prepared by & Return to:  
James N. McGarvey, Jr.  
2453 So. Third Street  
Jacksonville Beach, FL 32250

EASEMENT FOR UTILITIES

THIS EASEMENT executed and given this 21 day of September, 1999, by Turnberry Developers, LTD, with an address of 2453 South Third Street, Jacksonville Beach, Florida 32250, hereinafter called "Grantor," to ST. JOHNS COUNTY, FLORIDA, a political subdivision of the State of Florida, whose address is c/o Clerk of Courts, P.O. Drawer 349, St. Augustine, Florida 32085, hereinafter called "Grantee."

WITNESSETH:

That for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby agree as follows:

1. Grantor does hereby grant, bargain, sell, alien, remise, release, convey and confirm unto Grantee a non-exclusive permanent easement and right-of-way to install, construct, operate, maintain, repair, replace and remove pipes and mains constituting the underground water distribution system and sewer collection system, (including lift stations if applicable) and all other equipment and appurtenances as may be necessary or convenient for the operation of the underground water and sewer utility services (hereinafter referred to as "Utility Lines and Associated Equipment") over and upon the real property described on Exhibit A attached hereto (the "Easement Area"); together with rights of ingress and egress on and over the Easement Area as necessary for the use and enjoyment of the easement herein granted. This easement is for water and sewer utility services only and does not convey and right to install other utilities such as cable television service lines.

The easement herein granted is subject to covenants, restrictions, easements, liens and encumbrances, including but not limited to, those set forth on Exhibit "B" attached hereto;

(a) Grantor reserves the right and privilege to use and occupy and to grant to others the right to use and occupy (i) the surface and air space over the Easement Area for any purpose which is consistent with the rights herein granted to Grantee; and (ii) subsurface of the

Easement Area for other utility services or other purposes which do not interfere with the rights herein granted to Grantee, including, without limitation, the right to install, construct, operate, maintain, repair, replace and remove telecommunications, telephone, telegraph, electric, gas and drainage facilities and foundations, footing and/or anchors for surface improvements.

(b) All Utility Lines and Associated Equipment will be installed, operated and maintained at all times beneath the surface of the Easement Area provided that the same may be temporarily exposed or removed to the surface when necessary or desirable for the purpose of repairing and/or replacing the same. Provided, however, that Associated Equipment that is customarily installed above ground may be installed above ground subject to the right to Grantor, consistent with good engineering practices to approve the location of such above ground installation in its reasonable discretion.

(c) The easement granted by this instrument may be relocated to a location acceptable to the Grantee at any time upon Grantor's request provided that Grantor bears the cost of relocating the underground water and sewer utility lines and facilities located within the Easement area. At Grantor's request, and upon relation of such lines at Grantor's expense, Grantee and Grantor shall execute an instrument in recordable form relocating the easement hereby granted to the new Easement Area designated by and in the title of the Grantor.

(d) Grantee shall exercise the easement rights conveyed herein in a manner which will not unreasonably interfere with use and occupancy of residential or commercial improvements constructed upon the adjacent property owned by Grantor.

2. Grantee, by acceptance of this Easement, hereby agrees to maintain sewer force mains and gravity sewer lines located within the Easement Area. The Grantee's maintenance of gravity sewer lines shall extend "manhole to manhole", but shall not include a responsibility for maintenance of sewer service laterals. The Grantor or Grantor's successors and assigns shall be responsible for the maintenance of such sewer service laterals. Grantor hereby specifically indemnifies and holds Grantee harmless from and against costs and expenses associated with installation, maintenance, repair or replacement of sewer service laterals. The Grantee shall maintain all water mains and other elements of the water distribution system up to and including the water meter or meters. Grantor or Grantor's successors and assigns shall be responsible for maintaining any water lines between the water meter and the improvements served by the utility system.

3. After any installation, construction, repair, replacement or removal of any utility lines or equipment as to which easement rights are granted, Grantee shall refill any holes or trenches in a proper and workmanlike manner to the condition existing prior to such installation, construction, repair, replacement or removal, but Grantee shall not be responsible for restoration of sod, landscaping, planting, pavement or other similar surface improvements. Grantor or Grantor's successors and assigns shall be solely responsible for replacement of any such sod, landscaping, planting, pavement or other surface improvements which are required to be removed in connection with installation, construction, repair, replacement or removal of utility lines or equipment. Nothing in this section shall, however, relieve Grantee of liability for damage caused

to improvements by Grantee's negligence.

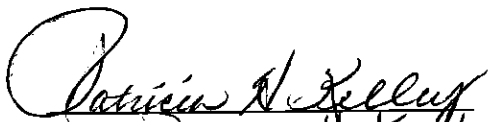
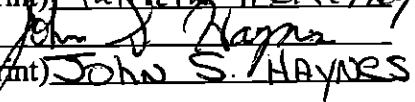
4. This Grant of Easement shall inure to the benefit of and be binding upon Grantee and its successors and assigns.

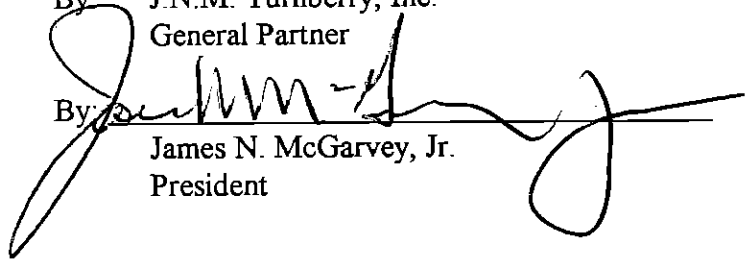
5. For the purposes of the terms and conditions of this Grant of Easement, "Grantor" means the owner from time to time of the Easement Area or any part thereof.

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed by its duly authorized officer and its corporate seals to be hereunto affixed as of the day and year first above written.

Signed, Sealed and  
Delivered in the  
presence of:


TURNBERRY DEVELOPERS, LTD.; a Florida  
limited partnership

  
(Print) Patricia H. Kelley  
  
(Print) JOHN S. HAYNES

By: J.N.M. Turnberry, Inc.  
General Partner  
By:   
James N. McGarvey, Jr.  
President

STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 21 day of September 1999, by James N. McGarvey, Jr., as President of J.N.M. Turnberry, Inc., a Florida corporation, the general partner of Turnberry Developers, LTD, a Florida limited partnership, on behalf of the corporation and the partnership.

  
(Print) Patricia H. Kelley  
NOTARY PUBLIC  
State of Florida at Large  
Commission #CC722880  
My Commission Expires: 5/21/02  
Personally known   
or Produced I.D.



Patricia H. Kelley  
MY COMMISSION # CC722880 EXPIRES  
May 21, 2002  
BONDED THRU TROY FAIN INSURANCE, INC

## EXHIBIT A

### EASEMENT AREA

The Easement Area granted by this document shall include all project roads and drives, all areas designated "utility easement areas", all within the plat of Turnberry at Saint Johns – Unit Two, recorded in Map Book 36, pages 18 through 25, of St. Johns County, Florida. The Easement Area shall not include the driveways to individual homes except for the part of such driveways within the areas designated "utility easement areas".

## EXHIBIT B

Right of First Refusal Agreement between SJH Partnership, Ltd. and John Q. Hammons Hotels Two, L.P., recorded in Official Records Book 1185, page 2058, public records of St. Johns County, Florida.

Undisturbed natural buffer affecting Lots 84 through 89 and 194 through 196, as shown on Final Development Plan for Harpers Run at Saint Johns (Bessent Hammack & Ruckman Project No. 96219.02), December 16, 1996, as approved by St. Johns County, Florida.

Consent and Subordination Agreement by Barnett Bank, N.A., dated May 13, 1997 and recorded May 21, 1997 in Official Records book 1240, page 1666 of the public records of St. Johns County, Florida.

Easement contained in instrument recorded in Official Records Book 1174, page 11 of the public records of St. Johns County, Florida.

Notice of Commencement recorded in Official Records Book 1243, page 115 of the public records of St. Johns County, Florida.

October 16, 1997 Easement from SJH Partnership, Ltd. to Florida Power and Light Company as recorded in Official Records Book 1271, page 1510 which is an off-site power easement benefiting the Property.

October 20, 1997 Easement for Storm Water Drainage from SJH Partnership, Ltd. to Developer as recorded in Official Records Book 1271, page 1514 which is an off-site storm water drainage easement benefiting the Property.

October 20, 1997 Grant of Easement Temporary Road Cul-de-Sac Easement from SJH Partnership, Ltd. to Developer as recorded in Official Records Book 1271, page 1489 which is an off-site temporary road cul-de-sac easement benefiting the Property.

October 20, 1997 Grant of Easement Temporary Road Cul-de-Sac Easement from SJH Partnership, Ltd. to Developer as recorded in Official Records Book 1271, page 1499 which is an off-site temporary road cul-de-sac easement benefiting the Property.

November 25, 1997 Easement from Turnberry Developers, Ltd. in favor of Bellsouth Telecommunications, Inc. as recorded in Official Records Book 1283, page 315 which is a utility easement for communications.

November 11, 1997 Declaration of Covenants and Restrictions for Turnberry at St. Johns recorded in Official Records Book 1277, page 607 which are covenants and restrictions for the subdivision.

May 13, 1998 Special Warranty Deed from SJH Partnership, Ltd. in favor of Turnberry Developers, Ltd. as recorded in Official Records Book 1319, page 1149 which reserves maintenance, drainage, utility and other easements and establishes certain other reservations over the property.

May 13, 1998 Access Easement from SJH Partnership, Ltd. in favor of Turnberry Developers, Ltd. as recorded in Official Records Book 1319, page 1204 which is an access easement benefiting the property.

May 13, 1989 Assignment of Development Rights from SJH Partnership, Ltd. in favor of Turnberry Developers, Ltd. which is an assignment of development rights benefiting the Property.

October 16, 1977 Easement for Utilities from Turnberry Developers, Ltd. in favor of St. John's County Florida as recorded in Official Records Book 1278, page 1733 which is a utility easement.

May 8, 1996 Easement for Utilities from SJH Partnership Ltd. in favor of St. John's County Florida as recorded in Official Records Book 1174, page 11 which is a utility easement.

November 23, 1998 Grant of Easement from Turnberry Developers, Ltd. to St. John's-Northwest Residential Association, Inc. as recorded in Official Records Book 1367, page 1778 which is a side walk easement over a small portion of property.

BILL OF SALE

THAT TURNBERRY DEVELOPERS, LTD., a Florida corporation conveying its separate non-homestead property, party of the first part, for and in consideration of the sum of Ten Dollars (\$10.00) in lawful money and other good and valuable considerations to it paid by ST. JOHNS COUNTY, FLORIDA, a political subdivision of the State of Florida, whose address is c/o Clerk of the Courts, Post Office Drawer 349, St. Augustine, Florida 32085, party of the second part, the receipt of which is hereby acknowledged by it, has granted, bargained, sold, transferred, set over and delivered and by these presents does grant bargain, sell, transfer, set over and deliver unto the party of the second part, the extension to the Utility System (constructed by the party of the first part) and the complete water and/or wastewater system located on the real property described in Exhibit "A" attached hereto (being hereinafter collectively referred to as the Extension").

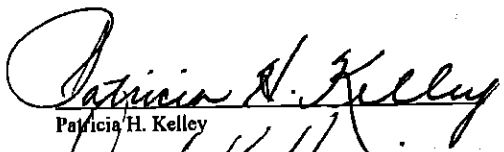
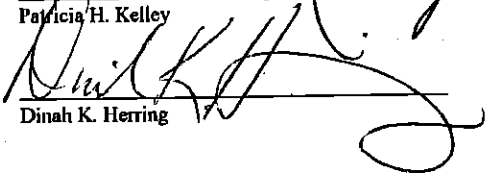
Party of the first part hereby warrants and represents that it has all the requisite right and authority to make this conveyance, and that the Extension is free from all liens and other encumbrances, and that contractors, subcontractors and materialmen furnishing labor or materials relative to the construction of the Extension have been paid in full, but except for the foregoing warranties or other expressed warranties given in writing, party of the first part makes no representation or warranties whatsoever, express or implied, and this conveyance as is.

TO HAVE AND TO HOLD the same unto the party of the second party, its successors and assigns.


IN WITNESS WHEREOF, the party of the first part has caused this instrument to be executed in his name the day and year first above written.

WITNESSES:

TURNBERRY DEVELOPERS, LTD.  
a Florida Limited Partnership

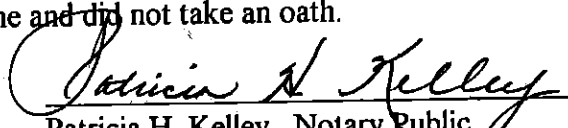
  
Patricia H. Kelley  
  
Dinah K. Herring

By: J.N.M. Turnberry, Inc.  
General Partner

Sign:   
James N. McGarvey, Jr. President

STATE OF FLORIDA  
COUNTY OF DUVAL

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of August, 1999, by JAMES N. MCGARVEY, JR., President of J.N.M. TURNBERRY, INC., a Florida corporation. He is personally known to me and did not take an oath.

  
Patricia H. Kelley, Notary Public  
Commission No. CC722880