

RESOLUTION NO. 2017- 377

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND CONDITIONS OF A FIRST AMENDMENT TO AIR RIGHTS EASEMENT IN CONNECTION WITH THE HOTEL LOCATED ON THE ST. JOHNS COUNTY CONVENTION CENTER PROPERTY AT THE WORLD GOLF VILLAGE AND AUTHORIZING THE CHAIR OF THE BOARD TO EXECUTE THE AMENDMENT ON BEHALF OF THE COUNTY.

RECITALS

WHEREAS, John Q. Hammons Hotels – Two L. P. (“JQHT”) conveyed that certain property to St. Johns County (“County”) by Warranty Deed (“Deed”) dated July 24, 1996 and recorded in Official Records Book 1185, page 1160, to allow for construction of the County Convention Center; and

WHEREAS, the Deed contains the reservation of an Air Rights Easement as retained by JQHT for the purpose of constructing a hotel within such air rights and on County property; and

WHEREAS, in Section 11 (a) of the Deed, the parties agreed that upon completion of the Hotel by JQHT within the Air Rights Easement, the parties would enter into an amendment to the Deed delineating, pursuant to as-built surveys, the specific location of the easements reserved; and

WHEREAS, the construction of the Hotel has been completed and the exact location of the Air Rights Easement had now been determined and described by a metes and bounds description; and

WHEREAS, (1) Atrium Finance IV, LP, a Delaware Limited Partnership, successor in title to the Air Rights Easement, and the County wish to enter into the First Amendment to Air Rights Easement (“Amendment”), attached hereto as Exhibit “A” incorporated by reference and made a part hereof, to replace and revise the location of the Air Rights Easement.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

Section 1. The above Recitals are incorporated into the body of this Resolution and such Recitals are adopted as findings of fact.

Section 2. The Board of County Commissioners hereby approves the terms and conditions of the First Amendment to Air Rights Easement and authorizes the Chair to execute the Amendment on behalf of the County.

Section 3. The Clerk is instructed to record the original First Amendment to Air Rights Easement in the public records of St. Johns County, Florida.

Section 4. To the extent that there are typographical and/or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners this 21 day of November, 2017.

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

By: Henry Dean
Henry Dean, Chairman

ATTEST: Hunter S. Conrad, Clerk

By: Pam Hatterman
Deputy Clerk

RENDITION DATE 11/22/17



Exhibit "A" to Resolution

THIS DOCUMENT PREPARED
BY AND RETURN TO:

Brian.Cameron
Atrium Finance IV, LP
1114 Avenue of the Americas, 39th Floor
New York, NY 10036

FIRST AMENDMENT TO AIR RIGHTS EASEMENT

This First Amendment to Air Rights Easement ("Amendment") is entered into by (1) Atrium Finance IV, LP, a Delaware Limited Partnership ("Atrium"), and (2) St. Johns County, a political subdivision of the State of Florida ("County") with respect to that certain Statutory Warranty Deed (the "Deed") containing the reservation of the Air Rights Easement (as defined in the Deed), dated July 24, 1996, from the County to John Q. Hammons Hotels - Two L.P. ("JQHT"), recorded in Official Records Book 1185, Page 1160.

WHEREAS, pursuant to the Deed, JQHT conveyed certain land to the County to allow the County to arrange for the construction of the St John's County Convention Center (the "Convention Center"), and simultaneously therewith reserved the Air Rights Easement for the purpose of constructing a hotel (the "Hotel") within such Air Rights Easement, all as further described in the Deed; and

WHEREAS, in Section II (a) of the Deed (a copy of which is appended hereto for ease of reference as Exhibit A), the parties agreed that upon completion of the Hotel by JQHT within the Air Rights Easement, the parties would enter into an amendment to the Deed "delineating, pursuant to as-built surveys, the specific locations of the easements reserved herein"; and

WHEREAS, the construction of the Hotel has been completed and the exact location of the Air Rights Easement has now been determined by an "as built" survey (the "Current Survey"), as approved by the County and Atrium (as successor in title to JQHT); and

WHEREAS, based on the Current Survey, a new metes and bounds description of the Air Rights Easement is required; and

NOW THEREFORE, for good consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree to amend the Air Rights Easement, as set forth in the Deed on the terms and subject to the conditions set forth herein.

1. DESCRIPTION OF AIR RIGHTS EASEMENT: The metes and bounds description of the Air Rights Easement as set forth on Schedule D to the Deed is hereby deleted in its entirety and replaced with the revised metes and bounds description as set forth on Exhibit B hereto.

2. CONSTRUCTION PURSUANT TO PURCHASE AGREEMENT: As further required pursuant to Section II (a) of the Deed, the parties hereby agree that the Hotel has been constructed in accordance with the Purchase Agreement (as defined in the Deed).

3. CONTINUANCE OF OTHER PROVISIONS: All other provisions of the Deed remain in full force and effect.

IN WITNESS WHEREOF, Atrium and County have caused this Amendment to be duly executed in their names, effective as of _____, 2017.

ATRIUM FINANCE IV, L.P.
a Delaware limited partnership

BY: TUCSON HOTELS SUB GP LLC
a Delaware limited liability company
ITS: General Partner

BY: _____
NAME: _____
TITLE: _____

WITNESSES:

BY: _____
NAME: _____

BY: _____
NAME: _____

ST. JOHNS COUNTY, FLORIDA

BY: ST. JOHNS COUNTY BOARD OF COMMISSIONERS

WITNESSES

BY: _____
NAME: _____
TITLE: _____

BY: _____
NAME: _____

BY: _____
NAME: _____

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2017,
by _____ and _____, the _____ and
_____, respectively, of _____, the General Partner of Atrium
Finance IV, Limited Partnership, duly authorized to do business in the State of Florida, on behalf of said
Partnership. Such persons did not take an oath and: (notary must check applicable box)

_____ is/are personally known to me.

_____ produced a current Florida driver's license as identification.

_____ produced _____ as identification

Signature of Notary

(Notary Seal Must Be Affixed)

Name of Notary

Commission Number

My Commission Expires

STATE OF FLORIDA

COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this ____ day of _____, 2017,
by _____ and _____, the Chair and the Clerk of the
Board of County Commissioners of St. John's County Commissioners of St. Johns County, Florida, on
behalf of the County. Such persons did not take an oath and: (notary must check applicable box)

_____ is/are personally known to me.

_____ produced a current Florida driver's license as identification.

_____ produced _____ as identification

Signature of Notary

(Notary Seal Must Be Affixed)

Name of Notary

Commission Number

My Commission Expires

EXHIBIT A

Excerpt from Section II (a) of Deed

O.R. 1185 PG 1162

ramps on, under and above the Reserved Portion of the Land as may be contemplated by the plans for the Hotel Facility pursuant to the Purchase Agreement. Grantor, and Grantee by acceptance of this instrument, agree that upon completion of the Hotel Facility in the manner provided in the Purchase Agreement, an amendment to the Air Rights Easement shall be entered into by the parties specifically (i) delineating, pursuant to as-built surveys, the specific locations of the easements reserved herein, the cost of such surveys being paid for by the Grantor and (ii) stating that the Hotel has been constructed according to the Purchase Agreement. Each of the parties to this instrument agrees not to unreasonably withhold or delay its consent or agreement to any amendments to the Air Rights Easement from time to time requested by the other party, or its mortgagees provided, however, that neither party shall be obligated to enter into any amendment which would have a material adverse affect upon the rights, interest and privileges under this Air Rights Easement or upon the rights, interests and privileges granted under the Purchase Agreement or this Statutory Warranty Deed;

(b) The reservation by Grantor for itself and its successors and assigns and for Grantor's Permittees of the sole right to design, construct, furnish and equip the convention center (the "Convention Center") to be constructed on the Property in the manner and for the purpose contemplated by the terms of the Purchase Agreement. On each Installment Date, as defined in the Purchase Agreement, upon receipt of the Installment Payment, as defined in the Purchase Agreement, required in the Purchase Agreement, Grantor shall release such portion of this reservation relating to all Convention Center improvements constructed on the Property pursuant to this reservation which are attributable to that particular Installment Payment by recording an effective release in the public records of St. Johns County, Florida. Upon the completion of such Convention Center or the earlier termination of the Purchase Agreement, Grantor shall release this reservation to Grantee by recording an effective release in the public records of St. Johns County and shall deliver to the Grantee an endorsement to the Grantee's title insurance policy deleting the foregoing reservation from Schedule B-1 of said title insurance policy;

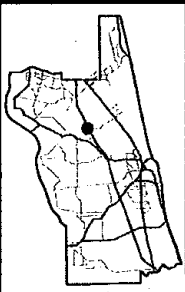
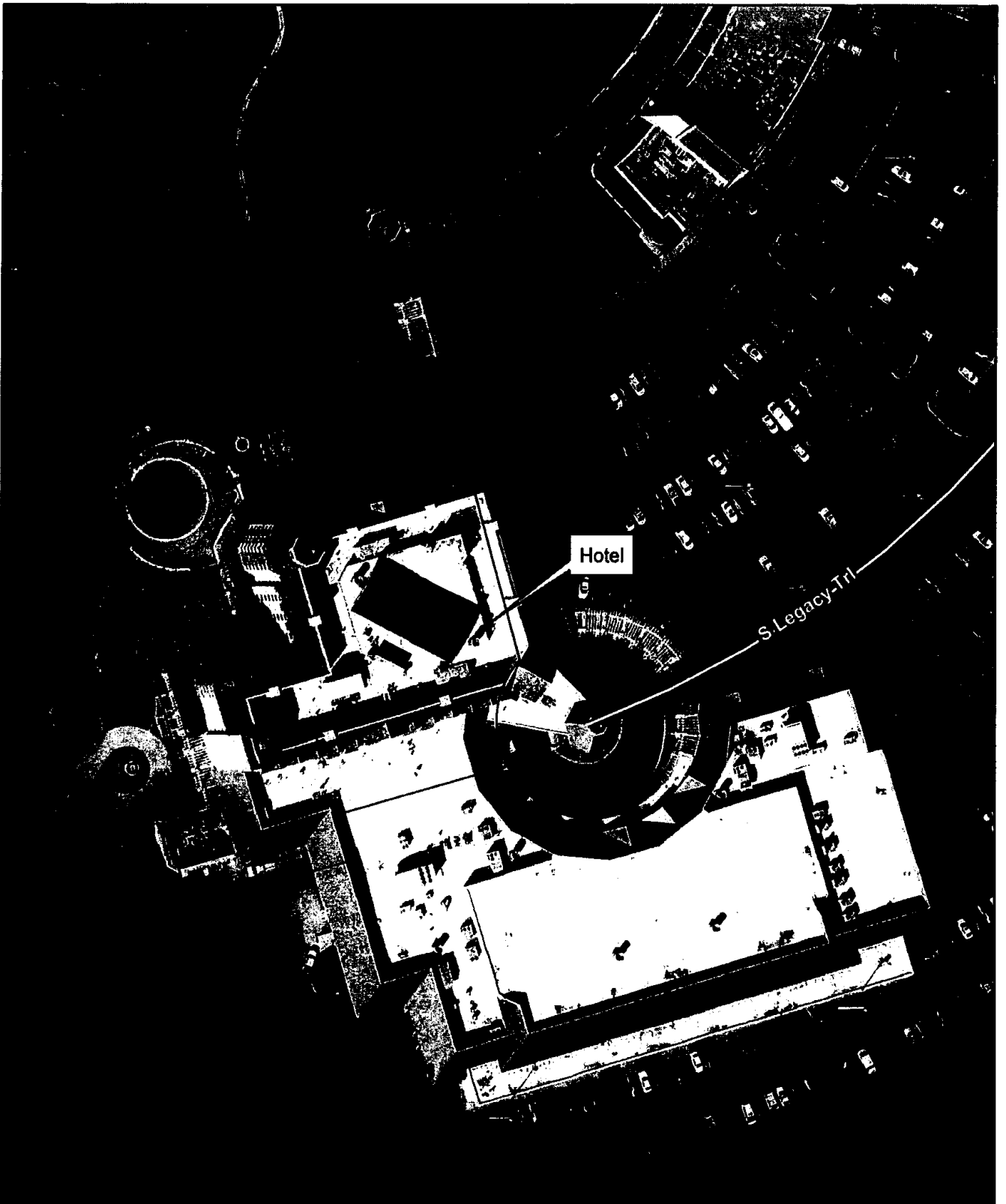
(c) The reservation by Grantor for itself and its successors and assigns and for Grantor's Permittees of the right to design, construct, furnish and equip an up to 100 room expansion to the Hotel Facility (the "Hotel Expansion") in accordance with all applicable governmental building codes and land use regulations within the Air Rights Easement (the "Expansion Site"). Prior to commencement of construction of the Hotel Expansion, Grantor shall provide to Grantee, at Grantor's sole cost, a survey showing the proposed location of the Expansion Site, which must be satisfactory to Grantee in every respect. The Hotel Expansion shall be deemed part of the Hotel Facility, included within and benefited by the easements contained in the Air Rights Easement and subject to property taxes and governmental assessments in the manner prescribed by law. The reservation contained in this paragraph also includes, without limitation, the reservation by Grantor for itself and its successors and assigns and for Grantor's Permittees of all rights of support necessary for construction of the Hotel

EXHIBIT B

As Built Air Rights Easement Metes and Bounds Description

Part of Section 10, Township 6 South, Range 28 East, St. Johns County, Florida, more particularly described as follows:

For a point of reference commence at the Southeast corner of said Section 10; thence South 89 degrees 32 minutes 10 seconds West along the South line of said Section 10 to its intersection with the Westerly right of way line of the ramp leading from Interstate 95 to International Golf Parkway, a distance of 300.10 feet; thence North 05 degrees 35 minutes 47 seconds East along said Westerly right of way line, a distance of 322.93 feet to the point of curve of a curve, said curve being concave Southwesterly having a radius of 1051.92 feet; thence Northwesterly along the arc of said curve and along the Westerly right of way line of said ramp, an arc distance of 553.47 feet, said arc being subtended by a chord bearing of North 09 degrees 28 minutes 36 seconds West and a chord distance of 547.10 feet to the point of tangency of said curve; thence North 24 degrees 32 minutes 59 seconds West continuing along the Southwesterly right of way line of said ramp, a distance of 355.50 feet; thence South 65 degrees 25 minutes 57 seconds West leaving said Southwesterly right of way line, a distance of 865.86 feet to the Point of Beginning; said point being on a curve, said curve being concave Easterly having a radius of 64.94 feet; thence Southerly along the arc of said curve, an arc distance of 80.57 feet, said arc being subtended by a chord bearing of South 07 degrees 38 minutes 07 seconds West and a chord distance of 75.50 feet; thence South 74 degrees 14 minutes 28 seconds West, a distance of 120.79 feet; thence South 15 degrees 45 minutes 32 seconds East, a distance of 33.77 feet; thence South 74 degrees 14 minutes 28 seconds West, a distance of 123.58 feet; thence North 15 degrees 45 minutes 32 seconds West, a distance of 49.00 feet; thence North 74 degrees 14 minutes 28 seconds East, a distance of 20.00 feet; thence North 15 degrees 45 minutes 32 seconds West, a distance of 107.94 feet; thence South 74 degrees 14 minutes 28 seconds West, a distance of 2.71 feet; thence North 15 degrees 45 minutes 32 seconds West, a distance of 121.24 feet; thence North 74 degrees 14 minutes 28 seconds East, a distance of 74.61 feet; thence South 15 degrees 45 minutes 32 seconds East, a distance of 16.64 feet; thence North 74 degrees 14 minutes 28 seconds East, a distance of 106.34 feet; thence North 14 degrees 45 minutes 32 seconds West, a distance of 108.73 feet; thence North 74 degrees 14 minutes 28 seconds East, a distance of 74.21 feet; thence South 15 degrees 45 minutes 32 seconds East, a distance of 267.19 feet to the Point of Beginning.




2016 Aerial Imagery
November 3, 2017

First Amendment to Air Rights Easement

Hotel at World Golf Village

Land Management
Systems
Real Estate
Division
(904) 209-0790

Disclaimer:
This map is for reference use only.
Data provided are derived from multiple
sources with varying levels of accuracy.
The St. Johns County Real Estate
Division disclaims all responsibility
for the accuracy or completeness
of the data shown hereon.

