

Resolution No. 2008-_____

A RESOLUTION AUTHORIZING THE MAYOR AND THE CITY CLERK TO CERTIFY AND FILE THE MAP OF SUNRISE DRIVE SOUTH BETWEEN 39TH AND 46TH AVENUE SOUTH, IN ST. PETERSBURG, ATTACHED HERETO AS EXHIBIT "A", IN THE OFFICE OF THE CLERK OF THE CIRCUIT COURT OF PINELLAS COUNTY IN ACCORDANCE WITH SECTION 95.361, FLORIDA STATUTES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, that paved portion of Sunrise Drive South between 39th and 46th Avenues South (hereinafter referred to as "Sunrise Drive South Road") as described in the Map which is attached hereto and incorporated herein as Exhibit "A" and legally described as:

25 to 55 foot wide roadway known as Sunrise Drive South as shown on the Boundary Survey prepared by George F. Young, Inc. for Job Number 08130558700 dated November 13, 2008,

is a road located in the City of St. Petersburg on which the City has performed documented regular maintenance and repairs for more than the immediate past seven (7) years as described in affidavits sworn to by City staff, which affidavits are attached hereto and incorporated herein as Exhibit "B"; and

WHEREAS, Section 95.361, Florida Statutes, details the procedure for a local government to claim a vested interest in a road; and

WHEREAS, Section 95.361(2), Florida Statutes, provides that when "...a road has been constructed by a non-governmental entity, or where the road was not constructed by the entity currently maintaining or repairing it, or where it cannot be determined who constructed the road and when such road has been regularly maintained or repaired for the immediate past 7 years by a ...municipality...which road shall be deemed to be dedicated to the public to the extent of the width that actually has been maintained or repaired for the prescribed period, whether or not the road has been formally established as a public highway..."; and

WHEREAS, Sunrise Drive South Road has been regularly maintained and repaired by the City for a period of at least the immediate seven (7) years prior to the date of this resolution; and

WHEREAS, under the criteria set forth in Section 95.361, Florida Statutes, said Sunrise Drive South Road is deemed dedicated to the City to the extent of the width of the Sunrise Drive South Road which has been regularly maintained or repaired for the proscribed period by the City which Sunrise Drive South Road varies from a range of 25 to 55 feet in width; and

WHEREAS, Section 95.361(3) provides that "...the filing of a map in the office of the clerk of the circuit court of the county where the road is located showing the lands and reciting

on it that the road has vested in ...a municipality in accordance with subsection ...(2), duly certified by ...(c) the mayor and clerk of the municipality...shall be prima facie evidence of ownership of the land by the ...municipality.”; and

WHEREAS, the dedication of Sunrise Drive South Road shall vest all rights, title, easement and appurtenances in and to said Sunrise Drive South Road in the City; and

WHEREAS, it is in the best interest of the City and its residents that the City asserts its ownership of Sunrise Drive South Road pursuant to Section 95.361, Florida Statutes, and such acquisition will benefit the citizens of the City of St. Petersburg.

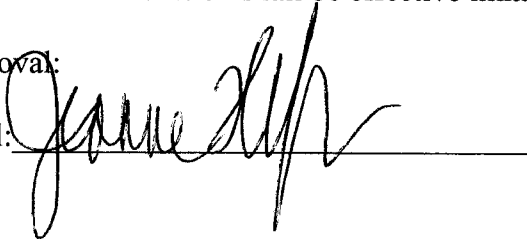
NOW THEREFORE BE IT RESOLVED by the City Council of the City of St. Petersburg, Florida that the above recitals, incorporated by reference into the body of the Resolution, are hereby adopted as findings of fact.

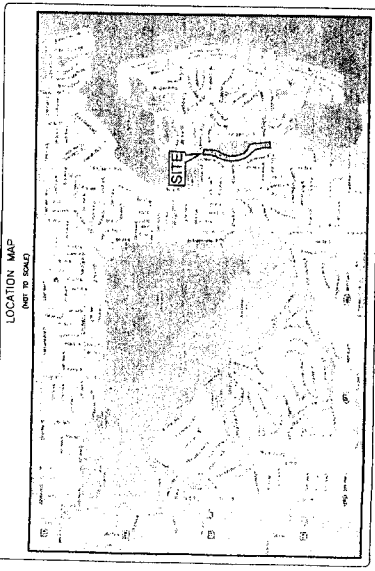
NOW THEREFORE BE IT RESOLVED by the City Council of the City of St. Petersburg, Florida that the Mayor and the City Clerk are authorized to certify and file the Map of Sunrise Drive South Road attached hereto as Exhibit “A” in the office of the Clerk of the Circuit Court of Pinellas County in accordance with Section 95.361, Florida Statutes.

This Resolution shall be effective immediately upon its adoption.

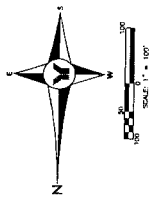
Approval:

Legal:

A handwritten signature in black ink is written over a horizontal line. The signature is cursive and appears to be "James R. [unclear]".



It is hereby certified on _____ that:
 the road herein identified on the map as Sunrise Drive South
 between 39th Avenue South and 46th Avenue South
 is vested in the City of St. Petersburg, Florida, a municipal
 corporation, pursuant to section 95-361, Florida Statutes.



Mayor, City of St. Petersburg

 City Clerk, City of St. Petersburg

A BOUNDARY SURVEY OF

PARCEL "A"
 That 60-foot wide strip of land being Sunrise Drive South (Sunrise Avenue - plat), as shown on BAYOU BONITA SECTION 6, as recorded in Part Book 5, Pages 4 and 5, Public Records of Pinellas County, Florida, and also on BAYOU BONITA SECTION 6, as recorded in Part Book 5, Page 40, Public Records of Pinellas County, Florida, together with that additional portion of Sunrise Drive South (Sunrise Avenue - plat) being a portion of a 60-foot wide strip, being located entirely in 42nd Avenue South (Parker Boulevard - plat) as shown on aforesaid plat of BAYOU BONITA. Lanes and easements 154,457 square feet, or 3.77 acres, more or less.

PARCEL "B"
 That 60-foot wide strip of land being Sunrise Drive South (Sunrise Avenue - plat), as shown on BAYOU BONITA SECTION 6, as recorded in Part Book 5, Pages 4 and 5, Public Records of Pinellas County, Florida, and also on BAYOU BONITA SECTION 6, as recorded in Part Book 5, Page 40, Public Records of Pinellas County, Florida, together with that additional portion of Sunrise Drive South (Sunrise Avenue - plat) being a portion of a 60-foot wide strip, being located entirely in 42nd Avenue South (Parker Boulevard - plat) as shown on aforesaid plat of BAYOU BONITA. Lanes and easements 154,457 square feet, or 3.77 acres, more or less.

- NOTES**
1. Basis of bearings: N87°52'00"E, along the South right-of-way line of 39th Avenue South (Park Blvd. - plat) as per plat of BAYOU BONITA, as recorded in Part Book 4, Pages 4 and 5, Public Records of Pinellas County, Florida.
 2. George F. Young, Inc. and the undersigned make no representations or guarantees pertaining to easements, rights of way, set back lines, reservations, agreements and/or other matters pertaining to survey.
 3. As per the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) Number 12103C0280C, Revised 02/83, South G. Community Number 125148, Effective Date 5/1/80, the above described property appears to be in Zone AE (Base Flood elevations determined) with a base flood elevation of 8 feet (North Arrow) located South of 42nd Avenue South.
 4. The boundary of Sunrise Drive South as shown herein is based on the field locations of the adjoining lots and blocks.
 5. A mean high water survey has not been conducted as part of this boundary survey. Area calculations based on the approximate mean high water line.
 6. The eastern boundary of that portion of Sunrise Drive South being located in the 42nd Avenue South (Parker Boulevard - plat) as shown on BAYOU BONITA SECTION 6, as recorded in Part Book 5, Pages 4 and 5, Public Records of Pinellas County, Florida is not dimensioned and located in the approximate mean high water line. The location of the mean high water line cannot be determined.
 7. This survey was prepared without the benefit of Commission for Title Insurance.
 8. The location of fenders, foundations and structures beneath the ground surface has not been determined.
 9. This map is intended to be displayed at a scale of 1" = 100' or smaller (sheet 1) and at 1" = 20' or smaller (sheets 2 through 6).
 10. This survey is made for the exclusive use of the current owners of the property, and also for those who manage or guarantee the title thereto with one (1) year from the date hereof.
 11. This survey is a graphic depiction of the current boundary and related visible improvements in accordance with the legal description shown herein and may not reflect ownership, guarantee or warranty, expressed or implied.
 12. Certification is understood to be an expression of professional opinion by the surveyor and mapper based on the surveyor and mapper's knowledge and information, and that it is not a guarantee or warranty.
 13. Additions or deletions to survey notes or records by other than the signing party or parties are prohibited without written consent of the signing party or parties.
 14. The Survey is not valid without the signatures and the original record need of a Florida licensed surveyor and mapper.

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IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION
Case No. 07-010052CI-11
UCN: 522007CA010052XXCICI

BAYOU BONITA LAND TRUST NO. 1
dated February 7, 2007, by and through its Trustees,
TERRY CLARKE, IRA RHODES AND BARTOL
BARBALICH

Plaintiff,

vs.

CITY OF ST. PETERSBURG, a Florida municipal
corporation, NGUYET LAUBENGEYER,
a single woman, et al.

Defendants.

AFFIDAVIT OF JOHN RIERA

STATE OF FLORIDA
COUNTY OF PINELLAS


BEFORE ME, personally appeared JOHN RIERA, who after being duly sworn deposes
and states as follows:

1. I am the Water Maintenance Manager for the Water Resources Department for the City of St. Petersburg and have worked in this department for over 40 years and are familiar with all matters set forth herein.
2. The Water Resources Department is responsible for water, wastewater and reclaimed water.
3. As it relates to the subject location, as depicted in Exhibit "A", this department has installed a new wastewater force main, repaired leaks and serviced fire hydrants and valves.

— Exhibit "B" —

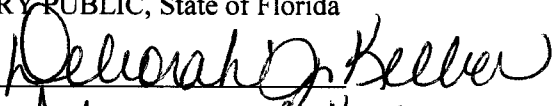
4. To the best of my information and belief, the Water Resource Department has regularly maintained and repaired and been responsible for service and installations at the subject location for over 40 years.

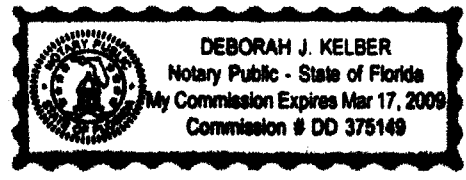
AND FURTHER AFFIANT SAYETH NAUGHT.



JOHN RIERA

The foregoing was subscribed and sworn to before me the 5 day of December 2008, by JOHN RIERA, who is personally known to me or who presented DRIVER LICENSE as identification, and who appeared before me at the time of notarization.

NOTARY PUBLIC, State of Florida
SIGN: 
PRINT: Deborah J. Kelber



IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION
Case No. 07-010052CI-11
UCN: 522007CA010052XXCICI

BAYOU BONITA LAND TRUST NO. 1
dated February 7, 2007, by and through its Trustees,
TERRY CLARKE, IRA RHODES AND BARTOL
BARBALICH

Plaintiff,

vs.

CITY OF ST. PETERSBURG, a Florida municipal
corporation, NGUYET LAUBENGEYER,
a single woman, et al.

Defendants.

AFFIDAVIT OF CARL BLAHUT

STATE OF FLORIDA
COUNTY OF PINELLAS

BEFORE ME, personally appeared CARL BLAHUT, who after being duly sworn
deposes and states as follows:

1. I am the Director of Stormwater, Pavement and Traffic Operations Department for the City of St. Petersburg and have worked in this department for over 33 years and am familiar with all matters set forth herein.
2. To the best of my information and belief, this department has regularly maintained the subject location, which is depicted on Exhibit "A", by street sweeping for over 19 years.

AND FURTHER AFFIANT SAYETH NAUGHT.

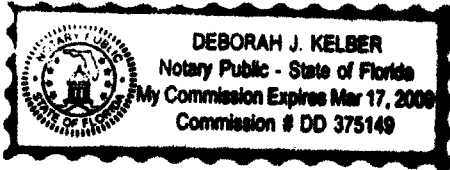
Carl Blahut
CARL BLAHUT

The foregoing was subscribed and sworn to before me the 4 day of December
2008, by CARL BLAHUT, who is personally known to me or who presented
Driver license as identification, and who appeared before me at the time of
notarization.

NOTARY PUBLIC, State of Florida

SIGN: Deborah J. Kelber

PRINT: Deborah J. Kelber



IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION

Case No. 07-010052CI-11
UCN: 522007CA010052XXCICI

BAYOU BONITA LAND TRUST NO. 1
dated February 7, 2007, by and through its Trustees,
TERRY CLARKE, IRA RHODES AND BARTOL
BARBALICH

Plaintiff,

vs.

CITY OF ST. PETERSBURG, a Florida municipal
corporation, NGUYET LAUBENGEYER,
a single woman, et al.

Defendants.

AFFIDAVIT OF LANE LONGLEY

STATE OF FLORIDA
COUNTY OF PINELLAS

BEFORE ME, personally appeared LANE LONGLEY, who after being duly sworn
deposes and states as follows:

1. I am the Manager of the Wastewater Collection System, Maintenance Division, of the Water Resources Department for the City of St. Petersburg and have worked in this department for over 10 years and am familiar with all matters set forth herein.
2. This department maintains the wastewater collection system which consists primarily of pipes and manholes throughout the City of St. Petersburg.
3. As it relates to the subject location, which is depicted in Exhibit "A" this department has regularly maintained and repaired pipes and manholes as needed, and specifically paid to install Cured-In-Place Pipe on Sunrise Drive South. Additionally, the City coated each

manhole in the subject location with cementitious material to rehabilitate and extend its useful life.

4. To the best of my information and belief, the Water Resource Department has been responsible for service, repairs and installations at the subject location at least since 1962.

AND FURTHER AFFIANT SAYETH NAUGHT.

Lane Longley
LANE LONGLEY

The foregoing was subscribed and sworn to before me the 4 day of December 2008, by LANE LONGLEY, who is personally known to me or who presented Driver license as identification, and who appeared before me at the time of notarization.

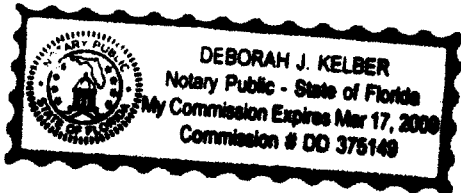
NOTARY PUBLIC, State of Florida

SIGN:

Deborah J. Kelber

PRINT:

Deborah J. Kelber



IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION
Case No. 07-010052CI-11
UCN: 522007CA010052XXCICI

BAYOU BONITA LAND TRUST NO. 1
dated February 7, 2007, by and through its Trustees,
TERRY CLARKE, IRA RHODES AND BARTOL
BARBALICH

Plaintiff,

vs.

CITY OF ST. PETERSBURG, a Florida municipal
corporation, NGUYET LAUBENGEYER,
a single woman, et al.

Defendants.

AFFIDAVIT THOMAS GIBSON

STATE OF FLORIDA
COUNTY OF PINELLAS

BEFORE ME, personally appeared THOMAS GIBSON, who after being duly sworn
deposes and states as follows:

1. I am Engineering Director of the Engineering and Capital Improvements
Department for the City of St. Petersburg and am familiar with all matters set forth herein.

2. In 2002, the City of St. Petersburg resurfaced Sunrise Drive South from 39th
Avenue South to 46th Avenue South. Said area encompasses the subject location which is
depicted on Exhibit "A".

AND FURTHER AFFIANT SAYETH NAUGHT.



THOMAS GIBSON

IN THE CIRCUIT COURT FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION

Case No. 07-010052CI-11
UCN: 522007CA010052XXCICI

BAYOU BONITA LAND TRUST NO. 1
dated February 7, 2007, by and through its Trustees,
TERRY CLARKE, IRA RHODES AND BARTOL
BARBALICH

Plaintiff,

vs.

CITY OF ST. PETERSBURG, a Florida municipal
corporation, NGUYET LAUBENGEYER,
a single woman, et al.

Defendants.

AFFIDAVIT OF JERRY FORTNEY

STATE OF FLORIDA
COUNTY OF PINELLAS

BEFORE ME, personally appeared JERRY FORTNEY, who after being duly sworn
deposes and states as follows:

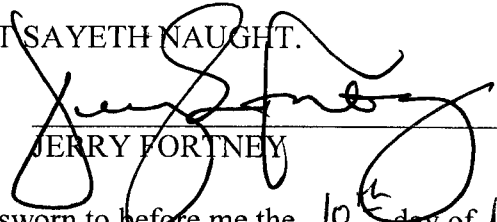
1. I am over the age of 18 years old and have personal knowledge of all matters set forth herein.
2. From 1989 through 1994 I was the Stormwater Construction Foreman for the General Maintenance Department for the City of St. Petersburg.
3. During that period of time, I oversaw the regular repair and maintenance of the subject location's, (as depicted in Exhibit "A") right-of-way between the parkland and the seawall.

4. I am currently the Pavement, Signage and Striping Supervisor for the Stormwater, Pavement and Traffic Operations Department for the City of St. Petersburg.

5. My department's responsibilities include the maintenance of signage, repair and maintenance of sidewalks, curbing, asphalt and striping.

6. To the best of my information and belief, the City of St. Petersburg has regularly repaired and maintained the subject location that is depicted in Exhibit "A", for approximately 20 years.

AND FURTHER AFFIANT SAYETH NAUGHT.

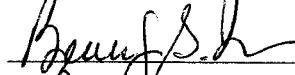


JERRY FORTNEY

The foregoing was subscribed and sworn to before me the 10th day of December, 2008, by JERRY FORTNEY, who is personally known to me or who presented _____ as identification, and who appeared before me at the time of notarization.



NOTARY PUBLIC, State of Florida

SIGN: 

PRINT: Beverly G. Isaacs