

# Memorandum



**Date:** June 30, 2009

Agenda Item No. 8(M)(1)(B)

**To:** Honorable Chairman Dennis C. Moss  
and Members, Board of County Commissioners

**From:** George M. Burgess  
County Manager

**Subject:** Acceptance of Special Warranty Deed from Fontainebleau Lakes Community Development District, for Conveyance of Approximately 75 Acres of Land for Establishment of Fontainebleau Lakes West Park

## RECOMMENDATION

It is recommended that the Board accept the attached Special Warranty Deed from Fontainebleau Lakes Community Development District, for the conveyance of approximately 75 acres of land located northwest of NW 97<sup>th</sup> Avenue and Fontainebleau Boulevard, in partial exchange for an impact fee credit not to exceed \$1,493,879, for the establishment of Fontainebleau Lakes West Park (Map 1). Acceptance and recordation of the Deed is subject to the Board of County Commissioners approval of a Public Works Department resolution activating the already established Special Taxing District.

## SCOPE

**PROPERTY OWNER:** West Course - Fontainebleau Lakes Community Development District

**TAX FOLIO NUMBER:** 30-3055-015-0010 West Course Tract A and M  
30-3055-015-0020 West Course Tract P and Q

**SIZE:** 74.63 acres

**COMMISSION DISTRICT:** 10

**COMMISSION DISTRICT(S) IMPACTED:** 6, 10 and 12

**LOCATION:** The Northeast corner of NW 97<sup>th</sup> Avenue and Fontainebleau Boulevard, Unincorporated Miami-Dade County

**ZONING:** The parcels are designated as GU interim zoning for open space. The Park and Recreation Department will later seek, prior to development, a zoning modification of the covenant to permit active park use of the passive open space areas and the approval to erect, construct, and operate the property as a public park through a Chapter 33-303 Governmental Facilities Hearing.

**APPRAISED VALUE:** The 74.63 acres were appraised at \$10,794,330 (Summer 2007). A more current appraisal may show that the value of the property has decreased since 2007.

**IMPACT FEE CREDIT:** The owners will be provided an Open Space Impact Fee credit not to exceed \$1,493,879 for the dedication of 9.07 acres of land

with the balance of the land considered a donation, all pursuant to Park Impact Fee Ordinance, Chapter 33-H to the Miami-Dade County Code.

**BACKGROUND:**

In April 2005, an application by Shoma Homes was approved to amend the Comprehensive Development Master Plan by changing the designation of certain lands on the East Course from Park and Recreation to Medium Density Residential to permit the conceptual plan for residential development of the former Fontainebleau East and West golf courses. Conditions required that the development retain approximately two-thirds of course lands as open space.

In April 2006, an application by Shoma Homes was approved to rezone portions of the 277-acre course lands from GU (General) to RU-4M (Residential), thereby raising the density of the site, and provide certain modifications to existing uses and conditions of the property. As part of the approved application, Shoma Homes was required to preserve and minimally improve the remaining two-thirds of the former Fontainebleau Golf Courses and provide for its maintenance through a Homeowners Association or Community Development District.

In June 2007, the Board of County Commissioners approved the creation of Fontainebleau East and Fontainebleau West Multipurpose Maintenance Special Taxing Districts. The districts were to remain dormant until such a time as any Homeowners' Association or Community Development District failed to provide the required maintenance services and the County adopts the assessment role.

**JUSTIFICATION:**

At present, the Fontainebleau and surrounding residential areas are served by only Ruben Dario and Women's Parks. These two park properties provide insufficient land and facilities for this densely populated residential area. The acquisition of the remaining open space within the West properties, and later within East properties, will resolve an existing severe deficiency of local park land and recreational facilities and insure that these lands remain open to the use of Fontainebleau area residents.

Area residents, Keep the Bleau-Green Committee (a citizen group representing certain area residents), and Fontainebleau Lakes LLC. (owners of the West side properties) have all determined that it is not in the best interest of residents to continue private maintenance of open space recreational areas and consented to support activation of the Fontainebleau East and Fontainebleau West Multipurpose Maintenance Special Taxing Districts in order for the County to provide maintenance to these lands.

Development on the former West course has been completed and it can be conveyed to the County. Development on the former East course has not been completed and conveyance of these lands will not commence until at least 2011.

Shoma Homes has completed environmental assessments of the property that confirms that open space lands are free of hazardous conditions and provided these to the County.

**DEVELOPMENT:**

The development plan for the property is governed by deed restrictions already agreed to and recorded within a private Settlement Agreement between Keep the Bleau-Green and Shoma Homes. Active areas are limited to specific locations and include lighted fields, visitor support buildings and parking. The balance of land is retained as largely passive open space with only minimal improvements. All areas will be fully accessible because Shoma Homes has provided a lighted walking path to permit existing and future residents unrestricted access throughout the two-mile route.

**FISCAL IMPACT/  
FUNDING SOURCES:**

The property is being voluntarily conveyed to the County in part to offset the cost of Open Space impact fees associated with residential development. An Open Space Park Impact Fee Credit Agreement of not to exceed \$1,493,879 will be provided to the owners to offset the value of a 9.07 acre dedication, with the balance of the lands being accepted by the County as a donation. Future funding for the construction of improvements will be provided by existing and proposed Impact Fee collections.

The approximately \$300,000 annual maintenance costs for the Fontainbleau Lakes West property will be 100% funded by Special Taxing District revenues. Acceptance and recordation of the Deed is subject to the Board of County Commissioner's approval of a Public Works Department resolution activating the already established Special Taxing District.

**MONITOR:**

Park and Recreation Department Property Management staff will manage the conveyance and monitor the execution of the deed.

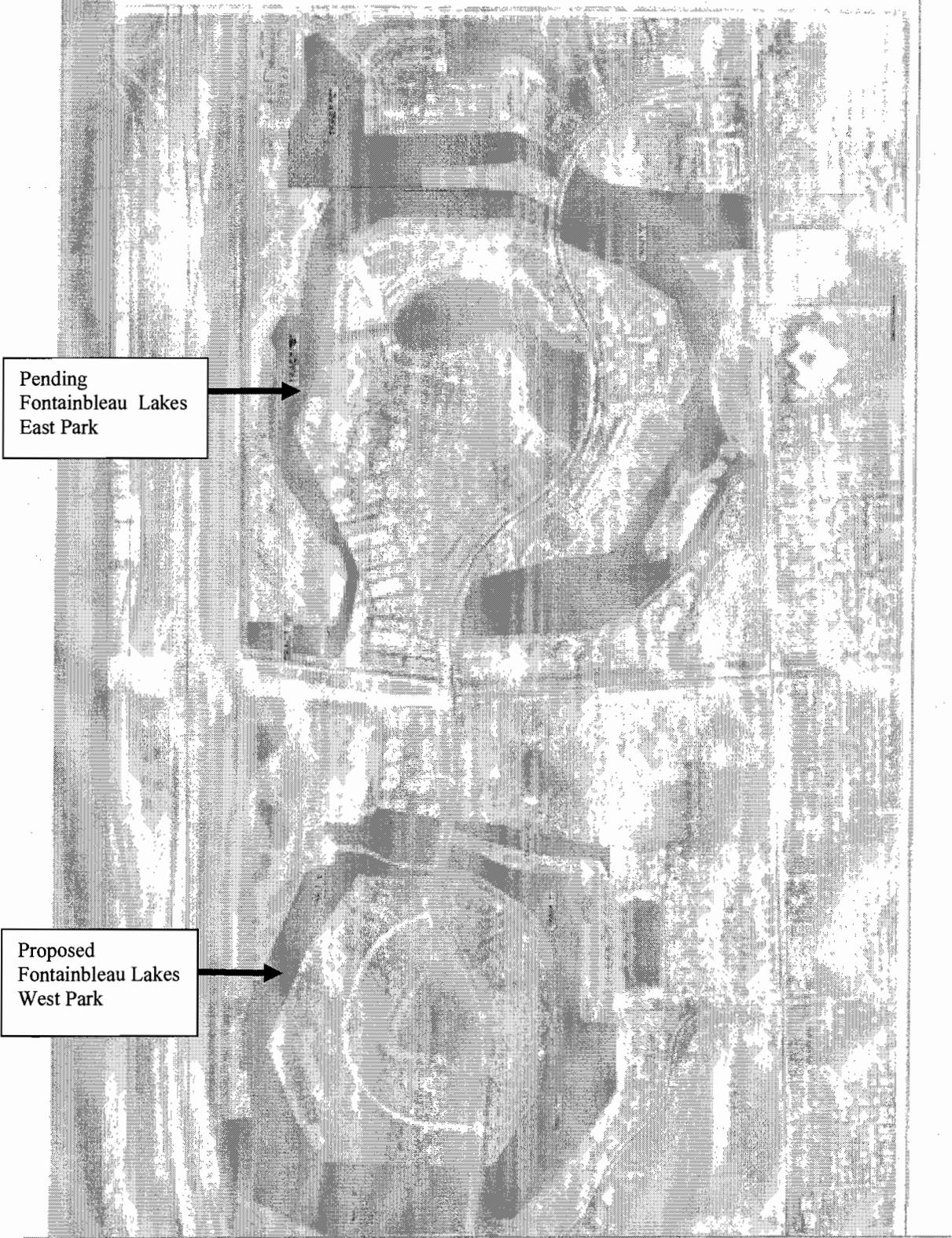
Attachments



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Alex Muñoz  
Assistant County Manager

Map 1  
Fontainebleau Lakes West Park (Proposed)  
Fontainebleau Lakes East Park (Pending)





# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Dennis C. Moss  
and Members, Board of County Commissioners

**DATE:** June 30, 2009

**FROM:**   
R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Agenda Item No. 8(M)(1)(B)

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Bid waiver requiring County Mayor's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved \_\_\_\_\_ Mayor

Veto \_\_\_\_\_

Override \_\_\_\_\_

Agenda Item No. 8(M)(1)(B)

6-30-09

RESOLUTION NO. \_\_\_\_\_

RESOLUTION AUTHORIZING THE ACCEPTANCE OF A SPECIAL WARRANTY DEED FROM FONTAINBLEAU LAKES COMMUNITY DEVELOPMENT DISTRICT, FOR THE CONVEYANCE OF APPROXIMATELY 75 ACRES OF LAND LOCATED NORTHWEST OF NW 97<sup>TH</sup> AVENUE AND FONTAINBLEAU BOULEVARD, IN PARTIAL EXCHANGE FOR AN IMPACT FEE CREDIT NOT TO EXCEED \$1,493,879 FOR THE ESTABLISHMENT OF FONTAINBLEAU LAKES WEST PARK

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby approves the acceptance of a Special Warranty Deed from Fontainbleau Lakes Community Development District, substantially in the form attached hereto and made a part hereof, for the conveyance of approximately 75 acres of land located northwest of NW 97<sup>th</sup> Avenue and Fontainbleau Boulevard, in Miami-Dade County for the establishment of Fontainbleau Lakes West Park, all in partial exchange for an impact fee credit that is not to exceed \$1,493,879.

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The foregoing resolution was offered by Commissioner  
who moved its adoption. The motion was seconded by Commissioner  
and upon being put to a vote, the vote was as follows:

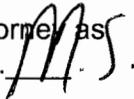
Dennis C. Moss, Chairman	
Jose "Pepe" Diaz, Vice-Chairman	
Bruno A. Barreiro	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Barbara J. Jordan	Joe A. Martinez
Dorrian D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this  
30<sup>th</sup> day of June, 2009. This resolution shall become effective ten (10) days after the  
date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective  
only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by the County Attorney as  
to form and legal sufficiency. 

Martin W. Sybblis

Prepared by:  
Richard L. Schanerman, Esq.  
Akerman Senterfitt  
One S.E. 3<sup>rd</sup> Avenue, 25th Floor  
Miami, Florida 33131-1704

Exhibit F  
West Deed

Return to:  
Miami-Dade County  
General Services Administration  
Real Estate Development Section  
c/o Laureen A. Varga  
111 NW 1<sup>st</sup> Street, Suite 2460  
Miami, Florida 33128

A Portion of Folio No: 30-3055-015-0010 and  
A Portion of Folio No: 30-3055-015-0020

User Department: Park and Recreation

### **SPECIAL WARRANTY DEED**

THIS SPECIAL WARRANTY DEED made and executed this \_\_\_ day of \_\_\_\_\_, 200\_ by FONTAINBLEAU LAKES COMMUNITY DEVELOPMENT DISTRICT, an independent special district established pursuant to Chapter 190, Florida Statutes, by Ordinance No. 06-135 of Miami-Dade County, Florida, adopted on October 6, 2006, as amended whose post office address is 2501A Burns Road, Palm Beach Gardens, Florida 33410, hereinafter called the Grantor, to MIAMI-DADE COUNTY, a political subdivision of the State of Florida, whose post office address is 111 N.W. First Street, Miami, Florida, 33128-1970, c/o Park and Recreation Department, 275 NW 2<sup>nd</sup> Avenue, Suite, 430 hereinafter called the Grantee.

WITNESSETH: That the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee, free and clear of all liens, and subject to easements of record, all that certain land situate in Miami-Dade County, Florida (the "Property"), viz:

**TRACTS A, M, P, AND Q OF FONTAINEBLEAU WEST, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 166, AT PAGE(S) 45, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA;**

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the same in fee simple forever; SUBJECT, HOWEVER to the following:

Real estate taxes for the year 2009 and subsequent years; and Easements, covenants, restrictions, conditions, limitations and reservations of record; existing zoning ordinances and other restrictions as may be imposed by applicable governmental authority, none of which are hereby reimposed;

Easements now or hereafter created into, over, along, within, and across the Property in favor of FONTAINBLEAU LAKES COMMUNITY DEVELOPMENT DISTRICT, a Florida limited liability company, its successors and/or assigns, and in favor of the "Association" established under that certain Master Declaration of Easements, Covenants and Restrictions for Fontainebleau Lakes recorded in Official Records Book 25850 at Page 3884 of the Public Records of Miami-Dade County, Florida (the "Declaration"), and Association's successors and assigns, and any governmental or quasi-governmental entity or agency, including any special taxing district or surface water management agency and any utility company, for the use, maintenance, repair, replacement and the construction of utilities serving the residential development adjacent to the Property whereby Fontainebleau Lakes, its successors and/or assigns is the developer or builder, including but not limited to the construction and installation of public and private utilities, storm water drainage (but subject to the condition that any pipe needed in connection with a storm drainage easement shall be installed below the surface of the Property) and recreational use, together with any rights of ingress and egress necessary to effectuate the foregoing; and

That certain easement in favor of FONTAINBLEAU LAKES COMMUNITY DEVELOPMENT DISTRICT, its successors and/or assigns, all residents, occupants, and owners of dwelling homes in the subdivision known as FONTAINEBLEAU WEST, and all residents of the subdivision known as FONTAINBLEAU PARK, their family members, guests and tenants, the Neighborhood Associations (as defined in the Declaration ) and anyone else entitled to use the Property in a manner substantially consistent with the Site Plan (as hereinafter described), such easement being given for the purpose of affording the foregoing persons and entities the use of the Property for park purposes and ingress and egress to the Property in order to use the Property for park purposes in a manner consistent with the Site Plan (as hereinafter described); and

SUBJECT, further, to the following restriction (hereinafter collectively referred to as the "Site Plan Restrictions"):

1. KEEP THE BLEAU GREEN COMMITTEE, INC., a Florida not-for-profit corporation ("Bleau Green"), shall have the right to enforce compliance with the Site Plan Restrictions; and

2. Development and use of, on, and in the Property shall be restricted to that set forth in the Site Plan attached hereto as Exhibit "A" and made a part hereof (the "Site Plan"); and

3. The Site Plan Restrictions shall not be amended to increase the size of active areas or amount of permitted active areas without the consent of Bleau Green, with the exception of the potential addition of active areas as depicted on the South side of Fontainebleau Boulevard on Page 2 of Exhibit "A", which may be permitted without the express consent of Bleau Green provided that the following conditions are met: (i) the total active area(s), including the approximately nine (9) acres of active area(s) depicted on Page 1 of the Site Plan attached as Exhibit "A", does not exceed approximately twelve (12) acres in the aggregate; (ii) a period of five (5) years has passed from the date of recordation of this Deed; (iii) there is documented public demand for the additional active area by the County; (iv) publicly noticed meetings are conducted where public input regarding the exact form of the requested third additional active area is considered; (v) a public hearing before the Board of County Commissioners is conducted; (vi) no concrete bleachers shall be proposed; (vii) any new buildings or parking shall be ancillary to and in support of active areas; and

4. None of the property shall be sold, conveyed or otherwise acquired, by the Miami-Dade County School Board; and

5. All areas other than the active areas described in Paragraph 2 and Paragraph 3 above shall be passive areas, which may include passive enhancements, site furniture, irrigation and landscaping without the express consent of Bleau Green. No new construction shall occur within 200 feet of single family homes, and the existing pathways shall be maintained;

6. The Grantee shall not grant to any third party any drainage rights, or retention rights as to the Property without the express written consent of Fontainebleau Lakes Community Development District its successors and assigns.

AND the Grantor hereby covenants with said Grantee that it is lawfully seized of said Property in fee simple; that it has good right and lawful authority to sell and convey said Property; and hereby warrants the title to said Property and will defend the same against the lawful claims of all persons claiming by, through or under the said Grantor, but against none other.

Wherever used herein the terms "Grantor" and "Grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations.

IN WITNESS WHEREOF the Grantor has signed and sealed these presents to be effective the day and year first written above.

**Signed, Sealed and Delivered  
In the Presence of:**

**FONTAINBLEAU LAKES COMMUNITY  
DEVELOPMENT DISTRICT, an independent  
special district established pursuant to  
Chapter 190, Florida Statutes, by Ordinance  
No. 06-135 of Miami-Dade County, Florida,  
adopted on October 6, 2006**

\_\_\_\_\_  
SIGNATURE OF WITNESS

\_\_\_\_\_  
PRINT NAME OF WITNESS

\_\_\_\_\_  
SIGNATURE OF WITNESS

\_\_\_\_\_  
PRINT NAME OF WITNESS

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**[Corporate Seal]**

STATE OF FLORIDA        )  
                                  )ss:  
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this \_ day of \_\_\_\_\_, 200\_ by \_\_\_\_\_, as \_\_\_\_\_ of Fontainbleau Lakes Community Development District, on behalf of the district and he is personally known to me.

NOTARY PUBLIC  
My Commission Expires:

The foregoing was approved by the Board of County Commissioners, pursuant to Resolution No: R- -09, dated \_\_\_\_\_s, 2009.

Exhibit A

MIAMI- DADE COUNTY  
PARK AND RECREATION DEPARTMENT  
FOUNTAINBLEAU GOLF COURSE ACTIVE AREA - 4TH ALTERNATIVE

