

**Lee County Board of County Commissioners
Agenda Item Summary**

DATE CRITICAL
Blue Sheet No. 20040377

1. REQUESTED MOTION:

ACTION REQUESTED: Adopt a non-emergency ordinance to terminate the Cascades Estero Community Development District (Cascades Estero CDD).

WHY ACTION IS NECESSARY: The Board of Supervisors of the Cascades Estero CDD has petitioned the Board to adopt a Plan of Transfer (Termination) for the CDD.

WHAT ACTION ACCOMPLISHES: Allows the Cascades Estero CDD to terminate its existence.

2. DEPARTMENTAL CATEGORY:

COMMISSION DISTRICT # 5

5:00 #8

3. MEETING DATE:

04-13-2004

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:**
10 Minutes

5. REQUIREMENT/PURPOSE:

(Specify)

- STATUTE Ch. 190, F.S.
- ORDINANCE
- ADMIN. CODE
- OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER**
- B. DEPARTMENT** County Attorney
- C. DIVISION**
- BY: John J. Fredyma
John J. Fredyma
Assistant County Attorney

7. BACKGROUND:

The Lee County Board of County Commissioners enacted Lee County Ordinance No. 02-35 on December 10, 2002, establishing the Cascades Estero Community Development District as a Uniform Community Development District (UCDD) under Chapter 190, Florida Statutes. The Board of Supervisors of the CDD has petitioned the Board of County Commissioners to adopt a Plan of Transfer (termination). If approved, this will allow the CDD Board of Supervisors to move to terminate the Cascades Estero CDD.

A primary issue for consideration by the Board of County Commissioners is whether or not the termination, if approved, will transfer any unpaid debt or liabilities to the County. The District's Manager has provided a statement/certification indicating there to be no liabilities incurred as of October 23, 2003. This statement/certification will be updated at the public hearing to confirm the status of the CDD in this regard.

The request to terminate the CDD was reviewed and approved by the Executive Regulatory Oversight Committee on October 28, 2003. The Division of Planning has also reviewed the request and recommends approval of the termination. (A copy of this recommendation is attached.) A Financial & Administrative Impact Statement (F.A.I.S.) was prepared by County Administration - Budget Services. (A copy of the F.A.I.S. is attached.)

Attachments: Draft Ordinance; CDD Resolution 2004-1 (including Petition & Plan of Transfer); Div. of Planning Report & F.A.I.S.

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
N/A	N/A	N/A	N/A	<i>Lucretia</i>	OA	OM	RISK	GC	<i>04-1-04</i>
					<i>RK 4/30</i>	<i>4/1/04</i>	<i>5/30/04</i>	<i>4/30/04</i>	

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

CO. ATTY.
FORWARDED
TO CO. ADMIN.
3/30/04 10AM

RECEIVED BY
COUNTY ADMIN: *RK*
03/30/04
10:46AM SET
COUNTY ADMIN
FORWARDED TO: *RK*
4-1-04
JFM

LEE COUNTY ORDINANCE NO. 04- _____

**AN ORDINANCE ADOPTING A PLAN OF
TRANSFER (TERMINATION) RELATING TO
CASCADES ESTERO COMMUNITY
DEVELOPMENT DISTRICT; PROVIDING FOR
CONFLICT AND SEVERABILITY; AND
PROVIDING AN EFFECTIVE DATE.**

WHEREAS, pursuant to the Uniform Community Development Act of 1980, Chapter 190, Florida Statutes (the "Act"), the Lee County Board of County Commissioners enacted Ordinance No. 02-35 on December 10, 2002 establishing the Cascades Estero Community Development District (the "District") as a uniform community development district pursuant to the Act; and

WHEREAS, the District has submitted a petition to the County (the "Petition") (i) stating that the District desires for its existence to be terminated pursuant to Florida Statute §190.046(2)(b) of the Act; (ii) stating that the District has not commenced providing any community development services to the lands within the boundaries of the District and has not incurred any debt and has no outstanding obligations; (iii) stating that the District has adopted a plan of termination (the "Plan of Termination") and will file such Plan of Termination with the Clerk of the Circuit Court in and for Lee County, Florida as required by §190.046(6) of the Act; and (iv) requesting that the County grant the Petition and enact a non-emergency ordinance pursuant to §§190.046(2)(b) and 190.046(4) of the Act and other applicable law approving a plan of transfer which provides that, based on the representations of the District in the Petition, there are no community development services to be transferred from the District to the County nor any debt of the District to be assumed and guaranteed by the County and which recognizes that the District will be terminated in accordance with the Plan of Termination following the adoption by the County of such plan of transfer; and.

WHEREAS, the Lee County Executive Regulatory Oversight Committee has reviewed and approved the Petition and Plan of Transfer (termination).

WHEREAS, the County now desires to adopt the plan of transfer attached hereto as Exhibit "A" (the "Plan of Transfer").

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

SECTION ONE: ADOPTION OF PLAN OF TRANSFER

The Plan of Transfer attached hereto as Exhibit "A" is hereby adopted and approved.

SECTION TWO: CONFLICT AND SEVERABILITY

In the event this Ordinance conflicts with any other Lee County ordinance or other applicable law, this Ordinance will apply. If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion will be deemed a separate, distinct and independent provision and such holding will not affect the validity of the remaining portion.

SECTION THREE: EFFECTIVE DATE

This Ordinance will become effective immediately.

THE FOREGOING ORDINANCE was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and, being put to a vote, the vote was as follows:

ROBERT P. JANES _____
DOUGLAS R. ST. CERNY _____
RAY JUDAH _____
ANDREW W. COY _____
JOHN E. ALBION _____

DULY PASSED AND ADOPTED THIS _____ DAY OF _____, 2004.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Office of County Attorney

EXHIBIT "A"

LEE COUNTY, FLORIDA

**PLAN OF TRANSFER FOR
CASCADES ESTERO COMMUNITY DEVELOPMENT DISTRICT**

1. Purpose.

1.1 To provide (a) a plan for the transfer (the "Plan of Transfer"), as required by §190.046(4) of the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes (the "Act"), of any specific community development services of Cascades Estero Community Development District (the "District"), a community development district established by ordinance of Lee County, Florida (the "County") pursuant to the Act, all as more fully provided for herein and (b) for the assumption and guarantee by the County of any debt of the District related to community development services provided by the District, all as more fully provided for herein.

1.2 To provide for the termination of the District pursuant to §§190.046(2)(b), 190.046(4) and 190.046(6) of the Act and the District's Plan of Termination (hereinafter defined) upon the County's adoption of this Plan of Transfer by a non-emergency ordinance, as more fully provided for herein.

2. Authority

2.1 The Board of Supervisors of the District (the "Petitioner") has submitted a petition to the County (the "Petition") indicating that Petitioner desires for the existence of the District to be terminated pursuant to §190.046(2)(b) of the Act and other applicable law and requesting that the County adopt this Plan of Transfer. The Petitioner has represented in the Petition that the District has adopted a plan of termination as required by §190.046(b) of the Act (the "Plan of Termination") and will file such Plan of Termination with the Clerk of the Circuit Court in and for the County.

2.2 The County is authorized to adopt this Plan of Transfer by a non-emergency ordinance pursuant to §190.046(4) of the Act and other applicable law.

3. Plan of Transfer

3.1 The Petitioner has represented in the Petition that the District has not commenced providing community development services to the land located within the boundaries of the Petitioner and has not incurred any debt. Accordingly, there are no community development services of the District to be transferred to the County, nor any debt of the District relating to such services to be assumed and guaranteed by the County.

RESOLUTION NO. 2004-1

A RESOLUTION OF THE CASCADES ESTERO COMMUNITY DEVELOPMENT DISTRICT AUTHORIZING THE TERMINATION OF THE DISTRICT'S EXISTENCE; APPROVING THE FORM OF AND AUTHORIZING EXECUTION OF A PETITION TO BE SUBMITTED TO THE BOARD OF COUNTY COMMISSIONERS IN CONNECTION THEREWITH; APPROVING A PLAN OF TERMINATION IN CONNECTION THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE CASCADES ESTERO COMMUNITY DEVELOPMENT DISTRICT:

SECTION 1. AUTHORITY FOR THIS RESOLUTION; DEFINITIONS. The Board of Supervisors (the "Board") of the Cascades Estero Community Development District (the "Issuer") is authorized to adopt this Resolution under the authority granted by the provisions of Chapter 190, Florida Statutes (the "Act") and other applicable law.

SECTION 2. FINDINGS.

A. The District was established by ordinance of Lee County, Florida (the "County") enacted on December 10, 2002.

B. The developer of the lands within the boundaries of the District (the "District Lands") has indicated to the Board that it does not desire for the District to provide any community development services to the District Lands.

C. The District has not undertaken any actions other than certain organizational and preliminary matters and is not currently providing any community development services to the District Lands and has not incurred any debt. There are no outstanding obligations of the District.

D. The District hereby determines that it is in the best interests of the District and the current and future landowners and residents of the District that the District's existence be terminated. Section 190.046(2) of the Act provides that a community development district remains in existence unless certain events listed in Sections 190.046(2)(a), (b) or (c) occur. The District does not currently meet the criteria for termination of its existence set forth in Sections 190.046(2)(a) or 190.046(2)(c) of the Act. Accordingly, in order for the existence of the Petitioner to be terminated at this time, the requirements of Section 190.046(2)(b) of the Act must be met.

E. In furtherance of the foregoing, the County must enact a non-emergency ordinance pursuant to Sections 190.046(2)(b) and 190.046(4) of the Act which approves a plan of transfer (the "Plan of Transfer") of any of the District's community services to the County and the assumption of any debt of the District. Accordingly, the District desires to approve the petition attached hereto as Exhibit A (the "Petition") requesting that the County enact an ordinance approving a Plan of Transfer which provides that there are no community development services to be transferred from the District to the County nor any debt of the District to be assumed and guaranteed by the County.

F. Pursuant to Section 190.046(6) of the Act, upon the adoption of the Plan of Transfer by the County, the District will be terminated in accordance with a plan of termination adopted by the District and filed with the Clerk of the Circuit Court in and for the County. Accordingly, the District now desires to approve the plan of termination attached hereto as Exhibit B (the "Plan of Termination") and authorize the filing thereof with the Clerk.

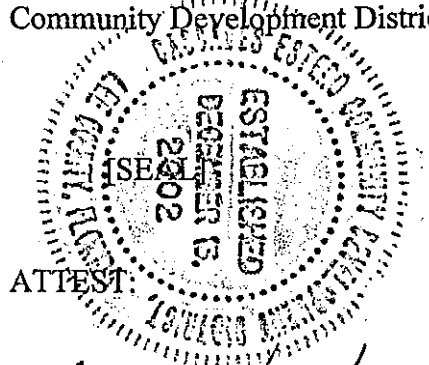
SECTION 3. AUTHORIZATION OF TERMINATION; PLAN OF TERMINATION AND PETITION. The Board hereby authorizes the termination of the existence of the District in accordance with Sections 190.046(2)(b), 190.046(4) and 190.046(6) of the Act. The Plan of Termination attached hereto as Exhibit B is hereby approved and adopted. The Petition to Lee County attached hereto as Exhibit A is hereby approved and the Chairman or Vice-Chairman of the Board is hereby authorized to execute the Petition. The District Manager is hereby authorized to submit the Petition to the County and, upon adoption of a non-emergency ordinance by the County approving same, to file the Plan of Termination with the Clerk of the Circuit Court of the County.

SECTION 4. MISCELLANEOUS. The Chairman, Vice-Chairman and Secretary of the Board, the District's General Counsel, Bond Counsel, District Manager, Consulting Engineers, Accountant, and other authorized officers are authorized and directed to execute and deliver all documents, contracts, instruments and certificates and to take all actions and steps on behalf of the District that are necessary or desirable in connection with the termination of the existence of the District authorized herein.

SECTION 5. SEVERABILITY. Should any sentence, section, clause, part or provision of this Resolution be declared by a court of competent jurisdiction to be invalid, the same shall not effect the validity of this Resolution as a whole, or any part thereof, other than the part declared invalid.

SECTION 6. EFFECTIVE DATE. This Resolution shall be effective immediately upon its adoption.

PASSED AND ADOPTED at a meeting of the Board of Supervisors of the Cascades Estero Community Development District this 29th day of October, 2003.



ATTEST:

James P. Wilson
District Secretary

CASCADES ESTERO COMMUNITY DEVELOPMENT DISTRICT

[Signature]
Chairman

EXHIBIT A

COUNTY COMMISSION

LEE COUNTY, FLORIDA

**IN RE: PETITION FOR TERMINATION OF
CASCADES ESTERO COMMUNITY DEVELOPMENT
DISTRICT**

**PETITION FOR TERMINATION OF CASCADES ESTERO
COMMUNITY DEVELOPMENT DISTRICT**

The Board of Supervisors of the Cascades Estero Community Development District (the "Petitioner"), a community development district established pursuant to the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes (the "Act") by ordinance of Lee County, Florida (the "County"), hereby petitions the **BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA** (the "Commission") to adopt a non-emergency ordinance adopting a plan of transfer within the meaning of Section 190.046(4) of the Act that will enable the existence of the Cascades Estero Community Development District (the "District") to be terminated in accordance with Sections 190.046(2)(b) and 190.046(6) of the Act and, in support thereof, hereby attests as follows:

1. On December 10, 2003, the Commission enacted Ordinance No. 02-35 pursuant to the Act establishing the Petitioner as a community development district within the meaning of the Act. The boundaries of the Petitioner are located wholly within the unincorporated boundaries of Lee County, Florida (the County").

2. The Petitioner has not commenced providing community development services to the land located within the boundaries of the Petitioner, has not incurred any debt and has no outstanding obligations.

3. The Petitioner has heretofore determined that it is in the best interests of the Petitioner and the current and future landowners and residents of the lands within its boundaries that the Petitioner's existence be terminated. Section 190.046(2) of the Act provides that a community development district remains in existence unless certain events listed in Sections 190.046(2)(a), (b) or (c) occur. The District does not currently meet the criteria for termination of its existence set forth in Sections 190.046(2)(a) or 190.046(2)(c) of the Act. Accordingly, in order for the existence of the Petitioner to be terminated, the requirements of Section 190.046(2)(b) of the Act must be met.

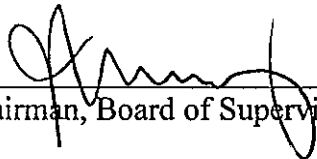
4. In furtherance of the foregoing, as required by Section 190.046(6) of the Act, the Petitioner has heretofore adopted a plan of termination in the form attached hereto as Exhibit B (the "Plan of Termination") and has filed the Plan of Termination with the Clerk of the Circuit Court in and for the County.

5. All statements contained within this Petition are true and correct.

WHEREFORE, Petitioner, Cascades Estero Community Development District, hereby respectfully requests that the Commission grant this petition and enact a non-emergency ordinance pursuant to Sections 190.046(2)(b) and 190.046(4) of the Act and other applicable law approving a plan of transfer which provides that, based on the representations of the Petitioner herein, there are no community development services to be transferred from the Petitioner to the County nor any debt of the Petitioner to be assumed and guaranteed by the County and which recognizes that the District will be terminated in accordance with the Plan of Termination following the adoption by the County of such plan of transfer.


RESPECTFULLY SUBMITTED this 29th day of October, 2003.

**CASCADES ESTERO COMMUNITY
DEVELOPMENT DISTRICT**

By: 
Chairman, Board of Supervisors

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

The foregoing instrument was acknowledged before me this 30th day of October, 2003, by Jeffrey Hoyos, the Chairman of the Board of Supervisors of the Cascades Estero Community Development District, who is personally known to me or produced _____ as identification.

 James P. Ward
MY COMMISSION # CC864934 EXPIRES
December 19, 2003
BONDED THRU TROY FAIN INSURANCE, INC

Notary Public
Printed Name: 

EXHIBIT B

PLAN OF TERMINATION
CASCADES ESTERO COMMUNITY DEVELOPMENT DISTRICT

Section 1. Authority.

The Board of Supervisors (the "Board") of Cascades Estero Community Development District (the "District") is authorized to adopt this Plan of Termination pursuant to Section 190.046(6) of the Uniform Community Development Act of 1980, Chapter 190, Florida Statutes (the "Act") and other applicable law.

Section 2. Findings.

A. The District was established by ordinance of Lee County, Florida (the "County") enacted on December 10, 2002.

B. The developer of the lands within the boundaries of the District (the "District Lands") has indicated to the Board that it does not desire for the District to provide any community development services to the District Lands.

C. The District has not undertaken any actions other than certain organizational and preliminary matters and is not currently providing any community development services to the District Lands and has not incurred any debt.

D. The District hereby determines that it is in the best interests of the District and the current and future landowners and residents of the District that the District's existence be terminated. Section 190.046(2) of the Act provides that a community development district remains in existence unless certain events listed in Sections 190.046(2)(a), (b) or (c) occur. The District does not currently meet the criteria for termination of its existence set forth in Sections 190.046(2)(a) or 190.046(2)(c) of the Act. Accordingly, in order for the existence of the Petitioner to be terminated at this time, the requirements of Section 190.046(2)(b) of the Act must be met.

E. In furtherance of the foregoing, the Board has submitted to the County a petition requesting that the County enact a non-emergency ordinance pursuant to Sections 190.046(2)(b) and 190.046(4) of the Act which approves a plan of transfer (the "Plan of Transfer") providing that there are no community development services to be transferred from the District to the County nor any debt of the District to be assumed and guaranteed by the County and recognizing that the District will be terminated in accordance with this Plan of Termination upon the adoption by the County of such Plan of Transfer. The County granted the Board's petition by adoption of Ordinance No. _____ on the _____ day of _____, 2003.

F. In connection with the termination of the District pursuant to Sections 190.046(2)(b) and 190.046(4) of the Act, the District is required by Section 190.046(6) of the Act to adopt this Plan of Termination and file the same with the Clerk of the Circuit Court in and for the County.

Section 3. Plan of Termination.

As of the date of adoption hereof, the District has wound up its affairs. Accordingly, the District is terminated as of the date of filing this Plan of Termination.

Cascades Estero Community Development District Certificate of Financial Disposition

The undersigned, acting on behalf of the Cascades Estero Community Development District (the "District"), as District Manager, in connection with the financial status of the Cascades Estero Community Development District (Lee County, Florida), hereby certifies as follows:

1. The Cascades Estero Community Development District in Lee County, Florida, has incurred no liabilities subsequent to its establishment effective the 13th day of December, 2002 through the date of this certification, the 23rd day of October, 2003.

IN WITNESS WHEREOF, I HAVE SIGNED the Certificate on behalf of the District, this 23rd day of October, 2003.

Cascades Estero CDD

BY: James P. Ward

James P. Ward
District Manager

FILE

PLANNING DIVISION

M E M O R A N D U M



LEE COUNTY
SOUTHWEST FLORIDA

to: John Fredyma, Assistant County Attorney
from: Paul O'Connor, AICP, Director of Planning
subject: Cascades Estero UCDD - Termination
date: Tuesday, December 30, 2003

2003 DEC 30 PM 4:37
RECEIVED BY
LEE CO. ATTORNEY

Planning staff has completed its review of the petition seeking termination of the Cascades Estero Uniform Community Development District (UCDD). The information provided by the Petitioner states that the developer of the lands within the boundaries of the District has indicated to the Board that it does not desire for the district to provide community development services to the District Lands and that the District has not taken any action and is not currently providing any community development services to the District Lands. The information also states that the District has not incurred any debt and that there are no outstanding obligations of the District.

The District has determined that it is in the best interests of the District and the current and future land owners and residents of the District that the District's existence be terminated. The Petitioner is requesting that the County enact a non-emergency ordinance pursuant to Sections 190.046(2)(b) and 190.046(4) approving a plan of transfer of the District's community services to the County and the assumption of any debt of the district. Based on the representations of the Petitioner, there are no community development services to be transferred from the Petitioner to the County nor any debt of the Petitioner to be assumed and guaranteed by the County. Included as part of the petition is a Plan of Termination, as required by Section 190.046(2)(b).

Staff recommends approval of the termination. Staff finds that termination of the UCDD does not conflict with Objective 3.1 of the Lee Plan, under Goal 3 Privately Funded Infrastructure which describes areas that are encouraged to establish community development districts to provide infrastructure. The subject UCDD is not located within a Privately Funded Infrastructure Overlay.

Staff also notes that at the time the UCDD was created, its boundaries were located within the Gulf Environmental Services, Inc. water and sewer service areas. As of July 1, 2003 Lee County Utilities has taken over the service area of Gulf Environmental Services for water and sewer service. As part of the initial petition to create the UCDD, the petitioner provided that it is the intent of the District to construct and then turn over ownership to Gulf Environmental Services, Inc. for operating and maintenance. Staff recommends that Lee County Utilities continue to have full access for operation and maintenance of the water and sewer system through existing easements.

Planning staff is requesting that notice of any scheduled hearings or meetings concerning this petition be forwarded to us.

**LEE COUNTY, FLORIDA
FINANCIAL & ADMINISTRATIVE IMPACT STATEMENT
PROPOSED COUNTY ORDINANCE**

**NAME OF ORDINANCE: TERMINATION OF THE CASCADES ESTERO
 COMMUNITY DEVELOPMENT DISTRICT**

I. DESCRIPTION OF ORDINANCE

A. Statement of Purpose

The sole property owner within the Cascades Estero Community Development District has requested the Supervisors of the District to seek a termination of the District.

B. Narrative Summary of Ordinance (Several Sentence Summary)

The District has submitted a petition to the County (i) stating that the District desires for its existence to be terminated pursuant to Section 190.046(2)(b) of the Act; (ii) stating that the District has not commenced providing any community development services to the lands within the boundaries of the District and has not incurred any debt and has no outstanding obligations; (iii) stating that the District has adopted a plan of termination (the "Plan of Termination") and will file such Plan of Termination with the Clerk of the Circuit Court in and for Lee County, Florida as required by Section 190.046(6) of the Act; and (iv) requesting that the County grant the Petition and enact a non-emergency ordinance pursuant to Sections 190.046(2)(b) and 190.046(4) of the Act and other applicable law approving a plan of transfer which provides that, based on the representations of the District in the Petition, there are no community development services to be transferred from the District to the County nor any debt of the District to be assumed and guaranteed by the County and which recognizes that the District will be terminated in accordance with the Plan of Termination following the adoption by the County of such plan of transfer.

C. Principal Division(s) or Department(s) Affected (List)

None

**LEE COUNTY, FLORIDA
FINANCIAL & ADMINISTRATIVE IMPACT STATEMENT
PROPOSED COUNTY ORDINANCE**

Cascades Estero Community Development District

**II. Fiscal Impact on County Agencies/County Funds
(This section to be completed by Division of Budget Services)**

A. What is estimated Demand? (Develop Indicators) N/A

B. What is estimated Workload? (Develop Indicators) N/A

C. What are estimated costs?

	1st Year \$'s		2nd Year \$'s	
	<u>Existing</u>	<u>New</u>	<u>Existing</u>	<u>New</u>
Personnel	N/A		N/A	
Fringe	N/A		N/A	
Operating	N/A		N/A	
Capital Outlay	N/A		N/A	
Total	N/A		N/A	

D. List the anticipated revenues to cover costs identified in II.C. above. If a fee is to be charged, answer the following:

1. What is the basis (rationale) for the fee? N/A

2. Do the anticipated fees cover the full cost of operation? If not, what percentage of the costs are covered? N/A

E. Give a brief narrative analysis of the information contained in II.A. through D. above.

No impact. No services or debt to be transferred from the District to the County upon abolishment of this District (at the request of the sole owner).