

**FIDDLER'S CREEK  
COMMUNITY DEVELOPMENT  
DISTRICT #1**

**REGULAR MEETING  
AGENDA**

**November 20, 2013**

# Fiddler's Creek Community Development District #1

6131 Lyons Road, Suite 100 • Coconut Creek, Florida 33073

Phone: (954) 426-2105 • Fax: (954) 426-2147 • Toll-free: (877) 276-0889

November 14, 2013

## ATTENDEES:

Please identify yourself each time you speak to facilitate accurate transcription of meeting minutes.

Boards of Supervisors  
Fiddler's Creek Community Development District #1

Dear Board Members:

The Board of Supervisors of the Fiddler's Creek Community Development District #1 will hold a Regular Meeting on **Wednesday, November 20, 2013 at 8:00 a.m.**, at the **Fiddler's Creek Club and Spa, 3470 Club Center Boulevard, Naples, Florida 34114**. The agenda is as follows:

1. Call to Order/Roll Call
2. Public Comments: Non-Agenda Items (*3 minutes per speaker*)
3. Special Counsel Update: Bankruptcy Proceedings
4. Consideration of **Resolution 2014-1**, Accepting the Audited Financial Report for Fiscal Year Ended September 30, 2012
5. Developer's Report/Update
6. Engineer's Report
7. Discussion: Lakes Turnover
8. Consideration of **Resolution 2014-2**, Establishing Minimum Procedures for Public Comment at Public Meetings
9. Approval of Minutes
  - A. **October 18, 2013** Special Meeting
  - B. **October 23, 2013** Regular Meeting
10. Other Business
11. Staff Reports
  - A. Attorney
  - B. Manager
    - i. Approval of Unaudited Financial Statements as of October 31, 2013
    - ii. **NEXT MEETING DATE: December 11, 2013 at 8:00 A.M.**

C. Operations Manager

12. Supervisors' Requests

13. Adjournment

Should you have any questions, please do not hesitate to contact me directly at 239-464-7114.

Sincerely,



Chesley E. Adams, Jr.  
District Manager

**FOR BOARD MEMBERS AND STAFF TO ATTEND BY TELEPHONE:**

**CALL IN NUMBER: 1-888-354-0094**

**CONFERENCE ID: 8593810**

**RESOLUTION 2014-1**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE FIDDLER'S CREEK COMMUNITY DEVELOPMENT DISTRICT #1 HEREBY ACCEPTING THE AUDITED FINANCIAL REPORT FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2012**

WHEREAS, the District's Auditor, Grau & Associates, has heretofore prepared and submitted to the Board, for accepting, the District's Audited Financial Report for Fiscal Year 2012;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE FIDDLER'S CREEK COMMUNITY DEVELOPMENT DISTRICT #1;**

1. The Audited Financial Report for Fiscal Year 2012, heretofore submitted to the Board, is hereby accepted for Fiscal Year 2012, for the period ending September 30, 2012; and

2. A verified copy of said Audited Financial Report for Fiscal Year 2012 shall be attached hereto as an exhibit to this Resolution, in the District's "Official Record of Proceedings".

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**FIDDLER'S CREEK COMMUNITY  
DEVELOPMENT DISTRICT #1**

\_\_\_\_\_  
Secretary/Assistant Secretary

\_\_\_\_\_  
Chair/Vice Chair

**FIDDLER'S CREEK  
COMMUNITY DEVELOPMENT DISTRICT 1  
COLLIER COUNTY, FLORIDA  
FINANCIAL REPORT  
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2012**

*DRAFT*

**FIDDLER’S CREEK COMMUNITY DEVELOPMENT DISTRICT 1  
COLLIER COUNTY, FLORIDA**

**TABLE OF CONTENTS**

	<u>Page</u>
INDEPENDENT AUDITOR’S REPORT	1
MANAGEMENT’S DISCUSSION AND ANALYSIS	2-5
BASIC FINANCIAL STATEMENTS	
Government-Wide Financial Statements:	
Statement of Net Assets	6
Statement of Activities	7
Fund Financial Statements:	
Balance Sheet – Governmental Funds	8
Reconciliation of the Balance Sheet – Governmental Funds to the Statement of Net Assets	9
Statement of Revenues, Expenditures and Changes in Fund Balances – Governmental Funds	10
Reconciliation of the Statement of Revenues, Expenditures and Changes in Fund Balances of Governmental Funds to the Statement of Activities	11
Notes to the Financial Statements	12-23
REQUIRED SUPPLEMENTARY INFORMATION	
Schedule of Revenues, Expenditures and Changes in Fund Balance – Budget and Actual – General Fund	24
Notes to Required Supplementary Information	25
REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH <i>GOVERNMENT AUDITING STANDARDS</i>	26-27
MANAGEMENT LETTER REQUIRED BY CHAPTER 10.550 OF THE RULES OF THE AUDITOR GENERAL OF THE STATE OF FLORIDA	28-30

***DRAFT***

## INDEPENDENT AUDITOR'S REPORT

To the Board of Supervisors  
Fiddler's Creek Community Development District 1  
Collier County, Florida

### Report on the Financial Statements

We have audited the accompanying financial statements of the governmental activities and each major fund of Fiddler's Creek Community Development District 1, Collier County, Florida (the "District") as of and for the fiscal year ended September 30, 2012, and the related notes to the financial statements, which collectively comprise the District's basic financial statements as listed in the table of contents.

### Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### Auditor's Responsibility

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

***DRAFT***

## **Opinions**

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities and each major fund information of the District as of September 30, 2012, and the respective changes in financial position thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

## **Other Matters**

### *Required Supplementary Information*

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis and budgetary comparison information be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

## **Other Reporting Required by *Government Auditing Standards***

In accordance with *Government Auditing Standards*, we have also issued our report dated XXXXX, 2013, on our consideration of the District's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the District's internal control over financial reporting and compliance.

Boca Raton, Florida  
xxxxxxxx, 2013

***DRAFT***

## MANAGEMENT'S DISCUSSION AND ANALYSIS

Our discussion and analysis of Fiddler's Creek Community Development District 1, Collier County, Florida ("District") provides a narrative overview of the District's financial activities for the fiscal year ended September 30, 2012. Please read it in conjunction with the District's Independent Auditor's Report, basic financial statements, accompanying notes and supplementary information to the basic financial statements.

### FINANCIAL HIGHLIGHTS

- The liabilities of the District exceeded its assets at the close of the most recent fiscal year resulting in a net asset deficit balance of (\$1,465,195).
- The change in the District's total net assets in comparison with the prior year was (\$1,438,736), a decrease. The key components of the District's net assets and change in net assets are reflected in the table in the government-wide financial analysis section.
- At September 30, 2012, the District's governmental funds reported combined ending fund balances of \$2,845,006, an increase of \$999,011 in comparison with the prior fiscal year. The majority of fund balance is restricted for debt service, non-spendable for prepaid items, and assigned to subsequent year's expenditures. The remainder is unassigned fund balance which is available for spending at the District's discretion.

### OVERVIEW OF FINANCIAL STATEMENTS

This discussion and analysis are intended to serve as the introduction to the District's basic financial statements. The District's basic financial statements are comprised of three components: 1) government-wide financial statements, 2) fund financial statements, and 3) notes to the financial statements. This report also contains other supplementary information in addition to the basic financial statements themselves.

#### Government-Wide Financial Statements

The government-wide financial statements are designed to provide readers with a broad overview of the District's finances, in a manner similar to a private-sector business.

The statement of net assets presents information on all the District's assets and liabilities, with the difference between the two reported as net assets. Over time, increases or decreases in net assets may serve as a useful indicator of whether the financial position of the District is improving or deteriorating.

The statement of activities presents information showing how the government's net assets changed during the most recent fiscal year. All changes in net assets are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows. Thus, revenues and expenses are reported in this statement for some items that will only result in cash flows in future fiscal periods.

The government-wide financial statements include all governmental activities that are principally supported by special assessments. The District does not have any business-type activities. The governmental activities of the District include the general government (management) and maintenance functions.

#### Fund Financial Statements

A fund is a grouping of related accounts that is used to maintain control over resources that have been segregated for specific activities or objectives. The District, like other state and local governments, uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements. The District has one fund category: governmental funds.

***DRAFT***

## OVERVIEW OF FINANCIAL STATEMENTS (Continued)

### Governmental Funds

Governmental funds are used to account for essentially the same functions reported as governmental activities in the government-wide financial statements. However, unlike the government-wide financial statements, governmental fund financial statements focus on near-term inflows and outflows of spendable resources, as well as on balances of spendable resources available at the end of the fiscal year. Such information may be useful in evaluating a District's near-term financing requirements.

Because the focus of governmental funds is narrower than that of the government-wide financial statements, it is useful to compare the information presented for governmental funds with similar information presented for governmental activities in the government-wide financial statements. By doing so, readers may better understand the long-term impact of the District's near-term financing decisions. Both the governmental fund balance sheet and the governmental fund statement of revenues, expenditures, and changes in fund balances provide a reconciliation to facilitate this comparison between governmental funds and governmental activities.

The District maintains six individual governmental funds for external reporting. Information is presented separately in the governmental fund balance sheet and the governmental fund statement of revenues, expenditures, and changes in fund balances for the general fund, debt service Series 1999, 2002, 2005 and 2006 funds and capital projects Series 2005 funds. All of the funds are considered to be major funds.

The District adopts an annual appropriated budget for its general fund. A budgetary comparison schedule has been provided for the general fund to demonstrate compliance with the budget.

### Notes to the Financial Statements

The notes provide additional information that is essential to a full understanding of the data provided in the government-wide and fund financial statements.

### GOVERNMENT-WIDE FINANCIAL ANALYSIS

As noted earlier, net assets may serve over time as a useful indicator of an entity's financial position. In the case of the District, liabilities exceeded assets at the close of the most recent fiscal year.

Key components of the District's net assets are reflected in the following table:

	NET ASSETS SEPTEMBER 30,	
	2012	2011 (Restated)
Assets, excluding capital assets	\$ 3,886,146	\$ 3,856,219
Capital assets, net of depreciation	36,290,625	37,159,638
Total assets	40,176,771	41,015,857
Liabilities, excluding long-term liabilities	450,176	512,285
Long-term liabilities	41,191,790	40,530,031
Total liabilities	41,641,966	41,042,316
Net assets		
Invested in capital assets, net of related debt	(4,154,279)	(2,502,981)
Restricted for debt service	1,600,784	1,268,145
Unrestricted	1,088,300	1,208,377
Total net assets	\$ (1,465,195)	\$ (26,459)

The District's net assets reflects its investment in capital assets (e.g. land, land improvements, and infrastructure); less any related debt used to acquire those assets that is still outstanding. These assets are used to provide services to residents; consequently, these assets are not available for future spending. Although the District's investment in capital assets is reported net of related debt, it should be noted that the resources needed to repay this debt must be provided from other sources, since the capital assets themselves cannot be used to liquidate these liabilities.

***DRAFT***

## GOVERNMENT-WIDE FINANCIAL ANALYSIS (Continued)

The restricted portion of the District's net assets represents resources that are subject to external restrictions on how they may be used.

The District's net assets decreased during the most recent fiscal year. The majority of the decrease represents the extent to which the cost of operations and depreciation expense exceeded ongoing program revenues.

Key elements of the change in net assets are reflected in the following table:

	CHANGES IN NET ASSETS FOR THE FISCAL YEAR ENDED SEPTEMBER 30,	
	2012	2011 (Restated)
Revenues:		
Program revenues		
Charges for services	\$ 4,194,345	\$ 3,830,617
Operating grants and contributions	202	237
Capital grants and contributions	-	528
General revenues		
Investment income	1,195	1,510
Intergovernmental	-	135,540
Other	-	969,794
Total revenues	<u>4,195,742</u>	<u>4,938,226</u>
Expenses:		
General government	467,735	1,617,787
Maintenance and operations	2,775,980	1,915,742
De-accelerations of assessments from bankruptcy proceedings	-	3,714,008
Delinquent debt from bankruptcy proceedings	1,711,694	3,097,438
Interest	679,069	38,724
Total expenses	<u>5,634,478</u>	<u>10,383,699</u>
Change in net assets	<u>(1,438,736)</u>	<u>(5,445,473)</u>
Net assets beginning (restated)	(26,459)	5,419,014
Net assets ending	<u>\$ (1,465,195)</u>	<u>\$ (26,459)</u>

As noted above and in the statement of activities, the cost of all governmental activities during the fiscal year ended September 30, 2012 was \$5,634,478. The majority of the costs of the District's activities were paid by program revenues. Program revenues are comprised primarily of assessments in the current year.

## GENERAL BUDGETING HIGHLIGHTS

An operating budget was adopted and maintained by the governing board for the District pursuant to the requirements of Florida Statutes. The budget is adopted using the same basis of accounting that is used in preparation of the fund financial statements. The legal level of budgetary control, the level at which expenditures may not exceed budget, is in the aggregate. Any budget amendments that increase the aggregate budgeted appropriations must be approved by the Board of Supervisors. Actual general fund expenditures did not exceed appropriations for the fiscal year ended September 30, 2012.

Actual general fund expenditures for the fiscal year ended September 30, 2012 were less than appropriations due primarily to anticipated costs which were not incurred in the current fiscal year. Assessments collected were more than budgeted amounts due to the receipt of prior year delinquent assessments per an escrow agreement approved by the Bankruptcy Court during the current fiscal year.

***DRAFT***

## CAPITAL ASSETS AND DEBT ADMINISTRATION

### Capital Assets

At September 30, 2012, the District had \$48,754,903 invested in land, land improvements, and infrastructure. In the government-wide financial statements depreciation of \$12,464,278 has been taken, which resulted in a net book value of \$36,290,625. More detailed information about the District's capital assets is presented in the notes of the financial statements.

### Capital Debt

At September 30, 2012, the District had \$41,265,894 in Bonds outstanding for its governmental activities. More detailed information about the District's capital debt is presented in the notes of the financial statements.

## ECONOMIC FACTORS AND NEXT YEAR'S BUDGETS AND OTHER EVENTS

For the subsequent fiscal year, the District anticipates that the cost of general operations will remain fairly constant. The District initiated a restructuring program for the Series 2002 and 2005 Bonds but the program was delayed due to a potential litigation between the current trustee and the District. However, the District successfully refunded the Series 1999 and 2006 Bonds subsequent to year end.

## CONTACTING THE DISTRICT'S FINANCIAL MANAGEMENT

This financial report is designed to provide our citizens, land owners, customers, investors and creditors with a general overview of the District's finances and to demonstrate the District's accountability for the financial resources it manages and the stewardship of the facilities it maintains. If you have questions about this report or need additional financial information, contact the Fiddler's Creek Community Development District 1's Finance Department at 6131 Lyons Road, Suite 100, Coconut Creek, Florida, 33073.

**FIDDLER'S CREEK COMMUNITY DEVELOPMENT DISTRICT 1  
COLLIER COUNTY, FLORIDA  
STATEMENT OF NET ASSETS  
SEPTEMBER 30, 2012**

	Governmental Activities
<b>ASSETS</b>	
Cash	\$ 690,545
Investments	249,539
Accounts receivable	26,914
Due from Developer	650
Deposits	5,125
Due from other government	14,321
Restricted assets:	
Investments	2,079,469
Deferred charges	819,583
Capital assets:	
Nondepreciable	25,865,833
Depreciable, net	10,424,792
Total assets	40,176,771
 <b>LIABILITIES</b>	
Accounts payable	207,860
Accrued interest payable	228,619
Contracts payable	13,697
Non-current liabilities:	
Due within one year	1,725,178
Due in more than one year	39,466,612
Total liabilities	41,641,966
 <b>NET ASSETS</b>	
Invested in capital assets, net of related debt	(4,154,279)
Restricted for debt service	1,600,784
Unrestricted	1,088,300
Total net assets	\$ (1,465,195)

See notes to the financial statements

***DRAFT***

**FIDDLER'S CREEK COMMUNITY DEVELOPMENT DISTRICT 1  
COLLIER COUNTY, FLORIDA  
STATEMENT OF ACTIVITIES  
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2012**

<u>Functions/Programs</u>	<u>Expenses</u>	<u>Program Revenues</u>		<u>Net (Expense) Revenue and Changes in Net Assets</u>
		<u>Charges for Services</u>	<u>Operating Grants and Contributions</u>	<u>Governmental Activities</u>
Primary government:				
Governmental activities:				
General government	\$ 467,735	\$ 467,735	\$ -	\$ -
Maintenance and operations	2,775,980	2,310,033	-	(465,947)
Delinquent debt from bankruptcy proceedings	1,711,694	-	-	(1,711,694)
Interest on long-term debt	679,069	1,416,577	202	737,710
Total governmental activities	<u>5,634,478</u>	<u>4,194,345</u>	<u>202</u>	<u>(1,439,931)</u>
General revenues:				
Unrestricted investment earnings				<u>1,195</u>
Total general revenues				<u>1,195</u>
Change in net assets				(1,438,736)
Net assets - beginning (restated - see Note 8)				<u>(26,459)</u>
Net assets - ending				<u><u>\$ (1,465,195)</u></u>

See notes to the financial statements

***DRAFT***

**FIDDLER'S CREEK COMMUNITY DEVELOPMENT DISTRICT 1  
COLLIER COUNTY, FLORIDA  
BALANCE SHEET  
GOVERNMENTAL FUNDS  
SEPTEMBER 30, 2012**

	Major Funds						Total Governmental Funds
	General	Debt Service Series 1999	Debt Service Series 2002	Debt Service Series 2005	Debt Service Series 2006	Capital Projects Series 2005	
<b>ASSETS</b>							
Cash	\$ 690,545	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 690,545
Investments	249,539	1,258,562	29,967	5,263	773,482	12,195	2,329,008
Due from other funds	322,343	32,727	-	-	21,962	-	377,032
Due from Developer	650	-	-	-	-	-	650
Accounts receivable	13,637	7,945	-	-	5,332	-	26,914
Deposits	5,125	-	-	-	-	-	5,125
Due from other governments	14,321	-	-	-	-	-	14,321
Total assets	<u>\$ 1,296,160</u>	<u>\$ 1,299,234</u>	<u>\$ 29,967</u>	<u>\$ 5,263</u>	<u>\$ 800,776</u>	<u>\$ 12,195</u>	<u>\$ 3,443,595</u>
<b>LIABILITIES AND FUND BALANCES</b>							
Liabilities:							
Accounts payable	\$ 207,860	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 207,860
Contracts payable	-	-	-	-	-	13,697	13,697
Due to other funds	-	-	7,500	298,337	-	71,195	377,032
Total liabilities	<u>207,860</u>	<u>-</u>	<u>7,500</u>	<u>298,337</u>	<u>-</u>	<u>84,892</u>	<u>598,589</u>
Fund balances:							
Nonspendable:							
Prepays and deposits	5,125	-	-	-	-	-	5,125
Restricted for:							
Debt service	-	1,299,234	22,467	-	800,776	-	2,122,477
Assigned to:							
Subsequent year's budget	28,094	-	-	-	-	-	28,094
Unassigned:							
General	1,055,081	-	-	-	-	-	1,055,081
Debt service	-	-	-	(293,074)	-	-	(293,074)
Capital projects	-	-	-	-	-	(72,697)	(72,697)
Total fund balances	<u>1,088,300</u>	<u>1,299,234</u>	<u>22,467</u>	<u>(293,074)</u>	<u>800,776</u>	<u>(72,697)</u>	<u>2,845,006</u>
Total liabilities and fund balances	<u>\$ 1,296,160</u>	<u>\$ 1,299,234</u>	<u>\$ 29,967</u>	<u>\$ 5,263</u>	<u>\$ 800,776</u>	<u>\$ 12,195</u>	<u>\$ 3,443,595</u>

See notes to the financial statements

**DRAFT**

**FIDDLER'S CREEK COMMUNITY DEVELOPMENT DISTRICT 1  
COLLIER COUNTY, FLORIDA  
RECONCILIATION OF THE BALANCE SHEET-GOVERNMENTAL FUNDS  
TO THE STATEMENT OF NET ASSETS  
SEPTEMBER 30, 2012**

Fund balance - governmental funds \$ 2,845,006

Amounts reported for governmental activities in the statement of net assets are different because:

Capital assets used in governmental activities are not financial resources and therefore, are not reported as assets in the governmental funds. The statement of net assets includes those capital assets, net of any accumulated depreciation, in the net assets of the government as a whole.

Cost of capital assets	48,754,903	
Accumulated depreciation	<u>(12,464,278)</u>	36,290,625

Bond issue costs are not financial resources and, therefore are not reported as assets in the governmental funds. The statements of net assets includes these costs, net of amortization.

Bond issue costs	1,841,764	
Accumulated amortization	<u>(1,022,181)</u>	819,583

Liabilities not due and payable from current available resources are not reported as liabilities in the governmental fund statements. All liabilities, both current and long-term, are reported in the government-wide financial statements.

Accrued interest payable	(228,619)	
Deferred amount on refunding	74,104	
Bonds payable	(41,265,894)	<u>(41,420,409)</u>
Net assets of governmental activities		<u><u>\$ (1,465,195)</u></u>

See notes to the financial statements

**FIDDLER'S CREEK COMMUNITY DEVELOPMENT DISTRICT 1  
COLLIER COUNTY, FLORIDA  
STATEMENT OF REVENUES, EXPENDITURES,  
AND CHANGES IN FUND BALANCES  
GOVERNMENTAL FUNDS  
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2012**

	Major Funds						Total Governmental Funds
	General	Debt Service Series 1999	Debt Service Series 2002	Debt Service Series 2005	Debt Service Series 2006	Capital Projects Series 2005	
<b>REVENUES</b>							
Assessments	\$ 2,761,931	\$ 1,396,207	\$ -	\$ -	\$ 868,821	\$ -	\$ 5,026,959
Interest	1,191	116	8	1	77	4	1,397
Miscellaneous income	15,837	-	-	-	-	-	15,837
Total revenues	<u>2,778,959</u>	<u>1,396,323</u>	<u>8</u>	<u>1</u>	<u>868,898</u>	<u>4</u>	<u>5,044,193</u>
<b>EXPENDITURES</b>							
Current:							
General government	419,983	28,590	-	-	19,162	-	467,735
Maintenance and operations	1,870,542	-	-	-	-	-	1,870,542
Debt service:							
Principal	3,462	560,000	-	-	505,000	-	1,068,462
Interest	52	434,978	-	-	166,988	-	602,018
Capital outlay	-	-	-	-	-	36,425	36,425
Total expenditures	<u>2,294,039</u>	<u>1,023,568</u>	<u>-</u>	<u>-</u>	<u>691,150</u>	<u>36,425</u>	<u>4,045,182</u>
Excess (deficiency) of revenues over (under) expenditures	484,920	372,755	8	1	177,748	(36,421)	999,011
<b>OTHER FINANCING SOURCES (USES)</b>							
Transfers in	64,979	-	-	-	-	-	64,979
Transfers out	-	-	(9,880)	(52,097)	-	(3,002)	(64,979)
Total other financing sources (uses)	<u>64,979</u>	<u>-</u>	<u>(9,880)</u>	<u>(52,097)</u>	<u>-</u>	<u>(3,002)</u>	<u>-</u>
Net change in fund balances	549,899	372,755	(9,872)	(52,096)	177,748	(39,423)	999,011
Fund balances - beginning	538,401	926,479	32,339	(240,978)	623,028	(33,274)	1,845,995
Fund balances - ending	<u>\$ 1,088,300</u>	<u>\$ 1,299,234</u>	<u>\$ 22,467</u>	<u>\$ (293,074)</u>	<u>\$ 800,776</u>	<u>\$ (72,697)</u>	<u>\$ 2,845,006</u>

See notes to the financial statements

**DRAFT**

**FIDDLER'S CREEK COMMUNITY DEVELOPMENT DISTRICT 1  
COLLIER COUNTY, FLORIDA  
RECONCILIATION OF THE STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN  
FUND BALANCES OF GOVERNMENTAL FUNDS TO THE STATEMENT OF ACTIVITIES  
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2012**

Net change in fund balances - total governmental funds	\$ 999,011
Amounts reported for governmental activities in the statement of activities are different because:	
Governmental funds report capital outlays as expenditures, however, the cost of capital assets is eliminated in the statement of activities and capitalized in the statement of net assets.	36,425
Depreciation on capital assets is not recognized in the governmental fund statement but is reported as an expense in the statement of activities.	(905,438)
Certain revenues were deferred for the fund financial statements in the prior year. In the current year, these revenues were recorded in the fund financial statements.	(848,451)
Prior delinquent debt service payments (principal and accrued interest) from Developer bankruptcy proceedings have been recapitalized and will be amortized over the remaining life of the bonds.	(1,711,694)
Repayment of long-term liabilities are reported as expenditures in the governmental fund statement but such repayments reduce liabilities in the statement of net assets and are eliminated in the statement of activities.	1,068,462
Governmental funds report the effect of issuance of costs, premiums, discounts and similar items when debt is first issued, whereas these amounts are deferred and amortized in the statement of activities.	
Amortization of bond issuance costs	(81,103)
Amortization of deferred amount on refunding	(18,527)
The change in accrued interest on long-term liabilities between the current and prior fiscal year is recorded in the statement of activities but not in the fund financial statements.	22,579
Change in net assets of governmental activities	\$ (1,438,736)

See notes to the financial statements

***DRAFT***

**FIDDLER’S CREEK COMMUNITY DEVELOPMENT DISTRICT 1  
COLLIER COUNTY, FLORIDA  
NOTES TO FINANCIAL STATEMENTS**

**NOTE 1 – NATURE OF ORGANIZATION AND REPORTING ENTITY**

**Reporting Entity**

Fiddler’s Creek Community Development District 1, (“District”) was created on August 13, 1996 under the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes, as amended (the “Act”) and Rule 42X 1.001-1.003 adopted by Florida Land and Water Adjudicatory Commission and amended on September 16, 2003, designated as Fiddler’s Creek Community Development District 1. The Act provides among other things, the power to manage basic services for community development, power to borrow money and issue bonds, and to levy and assess non-ad valorem assessments for the financing and delivery of capital infrastructure.

The District was established for the purposes of financing and managing the acquisition, construction, maintenance and operation of a portion of the infrastructure necessary for community development within the District.

The District is located in the metropolitan Naples area of Collier County, Florida, within the Fiddler’s Creek Development of Regional Impact (“DRI”), a master planned community that is comprised of the District and Fiddler’s Creek Community Development District 2. The District consists of approximately 1,390 acres within the Fiddler’s Creek DRI. In 2003, the boundaries of the District were modified but the acreage, 1,390 acres, remained the same.

The District is governed by the Board of Supervisors (“Board”), which is composed of five members. The Supervisors are elected by qualified electors living within the District. The Board of Supervisors of the District exercise all powers granted to the District pursuant to Chapter 190, Florida Statutes.

The Board has the responsibility for:

1. Assessing and levying assessments.
2. Approving budgets.
3. Exercising control over facilities and properties.
4. Controlling the use of funds generated by the District.
5. Approving the hiring and firing of key personnel.
6. Financing improvements.

The financial statements were prepared in accordance with Governmental Accounting Standards Board (“GASB”) Statement 14, and Statement 39, an amendment of GASB Statement 14. Under the provisions of those standards, the financial reporting entity consists of the primary government, organizations for which the District Board of Supervisors is considered to be financially accountable, and other organizations for which the nature and significance of their relationship with the District are such that, if excluded, the financial statements of the District would be considered incomplete or misleading. There are no entities considered to be component units of the District; therefore, the financial statements include only the operations of the District.

## NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

### Government-Wide and Fund Financial Statements

The basic financial statements include both government-wide and fund financial statements.

The government-wide financial statements (i.e., the statement of net assets and the statement of activities) report information on all of the non-fiduciary activities of the primary government. For the most part, the effect of interfund activity has been removed from these statements.

The statement of activities demonstrates the degree to which the direct expenses of a given function or segment is offset by program revenues. *Direct expenses* are those that are clearly identifiable with a specific function or segment. *Program revenues* include 1) charges to customers who purchase, use or directly benefit from goods, services or privileges provided by a given function or segment (Operating-type special assessments for maintenance and debt service are treated as charges for services.) and 2) grants and contributions that are restricted to meeting the operational or capital requirements of a particular function or segment. Other items not included among program revenues are reported instead as *general revenues*.

### Measurement Focus, Basis of Accounting and Financial Statement Presentation

The government-wide financial statements are reported using the *economic resources measurement focus* and the *accrual basis of accounting*. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows. Assessments are recognized as revenues in the year for which they are levied. Grants and similar items are to be recognized as revenue as soon as all eligibility requirements imposed by the provider have been met.

Governmental fund financial statements are reported using the *current financial resources measurement focus* and the *modified accrual basis of accounting*. Revenues are recognized as soon as they are both measurable and available. Revenues are considered to be *available* when they are collectible within the current period or soon enough thereafter to pay liabilities of the current period. For this purpose, the government considers revenues to be available if they are collected within 60 days of the end of the current fiscal period. Expenditures are recorded when a liability is incurred, as under accrual accounting. However, debt service expenditures are recorded only when payment is due.

### Assessments

Assessments are non-ad valorem assessments on all real property within the District. Assessments are levied each November 1 on property as of the previous January. The fiscal year for which annual assessments are levied begins on October 1 with discounts available for payments through February 28 and become delinquent on April 1. For debt service assessments, amounts collected as advance payments are used to prepay a portion of the Bonds outstanding. The District invoices the prime Developer for some of the debt service assessments. Otherwise, assessments are collected annually to provide funds for the debt service on the portion of the Bonds which are not paid with prepaid assessments.

Assessments and interest associated with the current fiscal period are considered to be susceptible to accrual and so have been recognized as revenues of the current fiscal period. The portion of assessments receivable due within the current fiscal period is considered to be susceptible to accrual as revenue of the current period.

The District reports the following major governmental funds:

### General Fund

The general fund is the general operating fund of the District. It is used to account for all financial resources except those required to be accounted for in another fund.

### Debt Service Funds

The debt service funds are used to account for the accumulation of resources for the annual payment of principal and interest on long-term debt for the Series 1999, 2002, 2005 and 2006.

**DRAFT**

## **NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

### **Measurement Focus, Basis of Accounting and Financial Statement Presentation (Continued)**

#### Capital Projects Funds

This fund accounts for the financial resources to be used for the acquisition or construction of major infrastructure within the District related to the Series 2005 capital project.

As a general rule, the effect of interfund activity has been eliminated from the government-wide financial statements.

When both restricted and unrestricted resources are available for use, it is the government's policy to use restricted resources first, then unrestricted resources as they are needed.

### **Assets, Liabilities and Net Assets or Equity**

#### Restricted Assets

These assets represent cash and investments set aside pursuant to Bond and debt covenants.

#### Deposits and Investments

The District's cash and cash equivalents are considered to be cash on hand and demand deposits.

The District has elected to proceed under the Alternative Investment Guidelines as set forth in Section 218.415 (17) Florida Statutes. The District may invest any surplus public funds in the following:

- a) The Local Government Surplus Trust Funds, or any intergovernmental investment pool authorized pursuant to the Florida Interlocal Cooperation Act;
- b) Securities and Exchange Commission registered money market funds with the highest credit quality rating from a nationally recognized rating agency;
- c) Interest bearing time deposits or savings accounts in qualified public depositories;
- d) Direct obligations of the U.S. Treasury.

Securities listed in paragraph c and d shall be invested to provide sufficient liquidity to pay obligations as they come due. In addition, surplus funds may be deposited into certificates of deposit which are insured and any unspent Bond proceeds are required to be held in investments as specified in the Bond Indenture.

The District records all interest revenue related to investment activities in the respective funds and reports investments at fair value.

#### Inventories and Prepaid Items

Inventories of governmental funds are recorded as expenditures when consumed rather than when purchased.

Certain payments to vendors reflect costs applicable to future accounting periods and are recorded as prepaid items in both government-wide and fund financial statements.

#### Capital Assets

Capital assets, which include property, plant and equipment, and infrastructure assets (e.g., roads, sidewalks and similar items) are reported in the government activities columns in the government-wide financial statements. Capital assets are defined by the government as assets with an initial, individual cost of more than \$5,000 (amount not rounded) and an estimated useful life in excess of one year. Such assets are recorded at historical cost or estimated historical cost if purchased or constructed. Donated capital assets are recorded at estimated fair market value at the date of donation.

The costs of normal maintenance and repairs that do not add to the value of the asset or materially extend assets lives are not capitalized. Major outlays for capital assets and improvements are capitalized as projects are constructed.

***DRAFT***

## NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

### Assets, Liabilities and Net Assets or Equity (Continued)

#### Capital Assets (Continued)

Property, plant and equipment of the District are depreciated using the straight-line method over the following estimated useful lives:

<u>Assets</u>	<u>Years</u>
Equipment	5 - 10
Infrastructure	20 - 40
Buildings and improvements	7 - 39

In the governmental fund financial statements, amounts incurred for the acquisition of capital assets are reported as fund expenditures. Depreciation expense is not reported in the governmental fund financial statements.

#### Deferred Charges

In prior years, in connection with the issuance of certain debt, the District incurred costs totaling \$1,841,764. In the government-wide financial statements that amount has been capitalized and amortized over the estimated life of the Bonds. At September 30, 2012, the District reported accumulated amortization of \$1,022,181.

#### Deferred Amount on Refunding

For current refundings and advance refundings, the difference between the reacquisition price and the net carrying amount of the old debt is deferred and amortized using the effective interest method over the remaining life of the old debt or the life of the new debt, whichever is shorter. The deferred amount is offset against the new liability.

In connection with the refunding, the deferred amount on the refunding was \$185,266 and is being amortized over the life of the Bonds. Accumulated amortization of the deferred amount is \$74,104 at September 30, 2012.

#### Deferred Revenue

Governmental funds report deferred revenue in connection with receivables for revenues that are not considered to be available to liquidate liabilities of the current period. Governmental funds also defer revenue recognition in connection with resources that have been received, but not yet earned.

#### Long-Term Obligations

In the government-wide financial statements long-term debt and other long-term obligations are reported as liabilities in the statement of net assets. Bond premiums and discounts, as well as issuance costs, are deferred and amortized over the life of the Bonds using the straight-line method, which does not result in a material difference from the effective interest method. Bonds payable are reported net of applicable premiums or discounts.

In the fund financial statements, governmental fund types recognize premiums and discounts, as well as issuance costs, during the current period. The face amount of debt issued is reported as other financing sources. Premiums received on debt issuances are reported as other financing sources while discounts on debt issuances are reported as other financing uses. Issuance costs, whether or not withheld from the actual debt proceeds received, are reported as debt service expenditures.

## **NOTE 2 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)**

### Fund Equity/Net Assets

In the fund financial statements, governmental funds report non spendable and restricted fund balance for amounts that are not available for appropriation or are legally restricted by outside parties for use for a specific purpose. Assignments of fund balance represent tentative management plans that are subject to change.

The District can establish limitations on the use of fund balance as follows:

Committed fund balance – Amounts that can be used only for the specific purposes determined by a formal action (resolution) of the Board of Supervisors. Commitments may be changed or lifted only by the Board of Supervisors taking the same formal action (resolution) that imposed the constraint originally. Resources accumulated pursuant to stabilization arrangements sometimes are reported in this category.

Assigned fund balance – Includes spendable fund balance amounts that are intended to be used for specific purposes that are neither considered restricted nor committed. The Board may also assign fund balance as it does when appropriating fund balance to cover differences in estimated revenue and appropriations in the subsequent year's appropriated budget. Assignments are generally temporary and normally the same formal action need not be taken to remove the assignment.

The District first uses committed fund balance, followed by assigned fund balance and then unassigned fund balance when expenditures are incurred for purposes for which amounts in any of the unrestricted fund balance classifications could be used.

Net assets in the government-wide financial statements are categorized as invested in capital assets, net of related debt, restricted or unrestricted. Invested in capital assets, net of related debt represents net assets related to infrastructure and property, plant and equipment, net of any related debt. Restricted net assets represent the assets restricted by the District's Bond covenants.

### Other Disclosures

#### Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenditures during the reporting period. Actual results could differ from those estimates.

## **NOTE 3 – BUDGETARY INFORMATION**

The District is required to establish a budgetary system and an approved Annual Budget. Annual Budgets are adopted on a basis consistent with generally accepted accounting principles for the general fund. All annual appropriations lapse at fiscal year end.

The District follows these procedures in establishing the budgetary data reflected in the financial statements.

- a) Each year the District Manager submits to the District Board a proposed operating budget for the fiscal year commencing the following October 1.
- b) Public hearings are conducted to obtain public comments.
- c) Prior to October 1, the budget is legally adopted by the District Board.
- d) All budget changes must be approved by the District Board.
- e) The budgets are adopted on a basis consistent with generally accepted accounting principles.
- f) Unused appropriation for annually budgeted funds lapse at the end of the year.

***DRAFT***

## NOTE 4 – DEPOSITS AND INVESTMENTS

### Deposits

The District's cash balances were entirely covered by federal depository insurance or by a collateral pool pledged to the State Treasurer. Florida Statutes Chapter 280, "Florida Security for Public Deposits Act", requires all qualified depositories to deposit with the Treasurer or another banking institution eligible collateral equal to various percentages of the average daily balance for each month of all public deposits in excess of any applicable deposit insurance held. The percentage of eligible collateral (generally, U.S. Governmental and agency securities, state or local government debt, or corporate bonds) to public deposits is dependent upon the depository's financial history and its compliance with Chapter 280. In the event of a failure of a qualified public depository, the remaining public depositories would be responsible for covering any resulting losses.

### Investments

The District's investments were held as follows at September 30, 2012:

	<u>Fair Value</u>	<u>Credit Risk</u>	<u>Maturities</u>
Money Market Mutual Funds - First American			Weighted average of the fund portfolio: 53 days
Government Obligations	\$ 2,079,469	S&P AAAM	
Treasury Obligations Fund SS	<u>249,539</u>	S&P AAAM	Weighted average of the fund portfolio: 48 days
Total Investments	<u>\$ 2,329,008</u>		

*Custodial credit risk* – For an investment, custodial credit risk is the risk that, in the event of the failure of the counterparty, the District will not be able to recover the value of the investments or collateral securities that are in the possession of an outside party. The District has no formal policy for custodial risk. The money market mutual funds are not evidenced by securities that exist in physical or book entry form.

*Credit risk* – For investments, credit risk is generally the risk that an issuer of an investment will not fulfill its obligation to the holder of the investment. This is measured by the assignment of a rating by a nationally recognized statistical rating organization. Investment ratings by investment type are included in the preceding summary of investments.

*Concentration risk* – The District places no limit on the amount the District may invest in any one issuer.

*Interest rate risk* – The District does not have a formal policy that limits investment maturities as a means of managing exposure to fair value losses arising from increasing interest rates.

However, the Bond Indenture limits the type of investments held using unspent proceeds.

## NOTE 5 – INTERFUND RECEIVABLES, PAYABLES AND TRANSFERS

Interfund receivables and payables at September 30, 2012 were as follows:

<u>Fund</u>	<u>Receivable</u>	<u>Payable</u>
General	\$ 322,343	\$ -
Debt service Series 1999	32,727	-
Debt service Series 2002	-	7,500
Debt service Series 2005	-	298,337
Debt service Series 2006	21,962	-
Capital projects Series 2005	-	71,195
Total	<u>\$ 377,032</u>	<u>\$ 377,032</u>

The outstanding balances between funds result primarily from the time lag between the dates that transactions are recorded in the accounting system and payments between funds are made.

**DRAFT**

**NOTE 5 – INTERFUND RECEIVABLES, PAYABLES AND TRANSFERS (Continued)**

Interfund transfers for the fiscal year ended September 30, 2012 were as follows:

Fund	Transfer In	Transfer out
General	\$ 64,979	\$ -
Debt service Series 2002	-	9,880
Debt service Series 2005	-	52,097
Capital projects Series 2005	-	3,002
Total	\$ 64,979	\$ 64,979

The transfers from the debt service and capital projects funds to the general fund are related to legal fees that were incurred within the respective funds but reported in the general fund.

**NOTE 6 – CAPITAL ASSETS**

Capital asset activity for the fiscal year ended September 30, 2012 was as follows:

	Beginning Balance	Additions	Reductions	Ending Balance
<u>Governmental activities</u>				
Capital assets, not being depreciated				
Land and improvements	\$ 23,293,924	\$ -	\$ -	\$ 23,293,924
Construction in progress	2,535,484	36,425	-	2,571,909
Total capital assets, not being depreciated	25,829,408	36,425	-	25,865,833
Capital assets, being depreciated				
Building and improvements	7,695,968	-	-	7,695,968
Infrastructure	15,109,489	-	-	15,109,489
Equipment	83,613	-	-	83,613
Total capital assets, being depreciated	22,889,070	-	-	22,889,070
Less accumulated depreciation for:				
Building and improvements	6,419,700	370,964	-	6,790,664
Infrastructure	5,088,068	525,433	-	5,613,501
Equipment	51,072	9,041	-	60,113
Total accumulated depreciation	11,558,840	905,438	-	12,464,278
Total capital assets, being depreciated, net	11,330,230	(905,438)	-	10,424,792
Governmental activities capital assets	\$ 37,159,638	\$ (869,013)	\$ -	\$ 36,290,625

The total projected cost of infrastructure to the District was estimated at approximately \$55,000,000. Four phases of major infrastructure construction were anticipated. Construction of Phases 1, 2, and 3 were substantially completed. In the prior year the District reduced the scope of the project and redeemed a portion of the outstanding Series 2005 Bonds.

Depreciation expense was charged to the maintenance and operation function.

**NOTE 7 – CONCENTRATION**

The District’s activity is dependent upon the continued involvement of the Developer, the loss of which could have a material adverse effect on the District’s operations.

## **NOTE 8 – LONG TERM LIABILITIES**

At September 30, 2012 the District has the following Bond issues outstanding.

### **Series 1999**

In May 1999, the District issued \$17,245,000 of Special Assessment Revenue Bonds, Series 1999 consisting of \$9,305,000 Term Bonds Series 1999A due on May 1, 2021 with a fixed interest rate of 5.875% and \$7,940,000 Term Bonds Series 1999B due on May 1, 2021 with a fixed interest rate of 5.80%. The Bonds were issued to finance the acquisition and construction of certain improvements for the benefit of the District. Interest is to be paid semiannually on each May 1 and November 1. Principal is to be paid on May 1, commencing May 1, 2002.

The Series 1999 Bonds are subject to redemption at the option of the District, in whole or in part at any time on or after May 1, 2009 at a redemption price as set forth in the Master Trust Indenture and associated Supplemental Trust Indentures ("Bond Indenture").

The Series 1999 Bonds are subject to extraordinary mandatory redemption prior to maturity in the manner determined by the Bond Registrar if certain events occurred as outlined in the Bond Indenture.

The Bond Indenture established a debt service reserve requirement as well as other restrictions and requirements relating principally to the use of proceeds to pay for the infrastructure improvements and the procedures to be followed by the District on assessments to property owners. The District agrees to levy special assessments in annual amounts adequate to provide payment of debt service and to meet the reserve requirements. The District is in compliance with those requirements of the Bond Indenture at September 30, 2012.

### **Series 2002**

In March 2002, the District issued \$15,450,000 of Special Assessment Revenue Bonds, Series 2002 consisting of \$10,120,000 Term Bonds Series 2002A due on May 1, 2033 with a fixed interest rate of 6.875% and \$5,330,000 Term Bonds Series 2002B due on May 1, 2033 with a fixed interest rate of 6.625%. The Bonds were issued to finance the acquisition and construction of certain improvements for the benefit of the District. Interest is to be paid semiannually on each May 1 and November 1. Principal is to be paid on May 1, commencing May 1, 2004.

The Series 2002 Bonds are subject to redemption at the option of the District, in whole or in part at any time on or after May 1, 2012 at a redemption price as set forth in the Bond Indenture.

The Series 2002 Bonds are subject to extraordinary mandatory redemption prior to maturity in the manner determined by the Bond Registrar if certain events occurred as outlined in the Bond Indenture.

The Bond Indenture established a debt service reserve requirement as well as other restrictions and requirements relating principally to the use of proceeds to pay for the infrastructure improvements and the procedures to be followed by the District on assessments to property owners. The District agrees to levy special assessments in annual amounts adequate to provide payment of debt service and to meet the reserve requirements. As of September 30, 2012, the reserve fund account balance was not sufficient to satisfy this requirement.

In accordance with the Developer's Plan of Reorganization approved by the Bankruptcy Court in the prior year, the Series 2002AB Bonds have a new par amount equal to the outstanding amounts plus unpaid and accrued interest with the same pre-petition coupon rate commencing on May 1, 2013 as the first payment date with the maturity date on May 1, 2033. The beginning balance of Series 2002AB for the current fiscal year was restated due to prior year overstated unpaid and accrued interests resulting in prior period adjustment (see Note 9 for details). The balance as of September 30, 2012 has increased by additional unpaid and accrued interests. Additional unpaid and accrued interests will be added subsequent to September 30, 2012.

***DRAFT***

## **NOTE 8 – LONG TERM LIABILITIES (Continued)**

### **Series 2005**

In December 2005, the District issued \$18,095,000 of Special Assessment Revenue Bonds, Series 2005 due May 1, 2038 with a fixed interest rate of 6.00%. The Bonds were issued to finance the acquisition and construction of certain improvements for the benefit of the District. Interest is to be paid semiannually on each May 1 and November 1. Principal is to be paid on May 1, commencing May 1, 2009.

The Series 2005 Bonds are subject to redemption at the option of the District, in whole or in part at any time on or after May 1, 2016 at a redemption price as set forth in the Bond Indenture.

The Series 2005 Bonds are subject to extraordinary mandatory redemption prior to maturity in the manner determined by the Bond Registrar if certain events occurred as outlined in the Bond Indenture.

The Bond Indenture established a debt service reserve requirement as well as other restrictions and requirements relating principally to the use of proceeds to pay for the infrastructure improvements and the procedures to be followed by the District on assessments to property owners. The District agrees to levy special assessments in annual amounts adequate to provide payment of debt service and to meet the reserve requirements. As of September 30, 2012, the reserve fund account balance was not sufficient to satisfy this requirement.

In accordance with the Developer's Plan of Reorganization approved by the Bankruptcy Court in the prior year, the Series 2005 Bonds have a new par amount equal to the outstanding amounts plus unpaid and accrued interest with the same pre-petition coupon rate commencing on May 1, 2013 as the first payment date with the maturity date on May 1, 2038. The beginning balance of Series 2005 for the current fiscal year was restated due to prior year overstated unpaid and accrued interests resulting in prior period adjustment (see Note 9 for details). The balance as of September 30, 2012 has increased by additional unpaid and accrued interests. Additional unpaid and accrued interests will be added subsequent to September 30, 2012.

### **Series 2006**

In November 2006, the District issued \$6,570,000 of Special Assessment Revenue Refunding Bonds, Series 2006 due May 1, 2018 with a fixed interest rate of 4.20%. Bonds were issued to refund \$6,790,000 of the Capital Improvement Revenue Bonds, Series 1996. Interest is to be paid semiannually on each May 1 and November 1, commencing May 1, 2007. Principal is to be paid on May 1, commencing May 1, 2008.

The Series 2006 Bonds are subject to redemption at the option of the District, in whole or in part at any time at a redemption price as set forth in the Bond Indenture.

The Series 2006 Bonds are subject to extraordinary mandatory redemption prior to maturity in the manner determined by the Bond Registrar if certain events occurred as outlined in the Bond Indenture. This occurred during the fiscal year ended September 30, 2012 as the District collected assessments and prepaid \$5,000 of the Series 2006 Bonds.

The Bond Indenture established a debt service reserve requirement as well as other restrictions and requirements relating principally to the use of proceeds to pay for the infrastructure improvements and the procedures to be followed by the District on assessments to property owners. The District agrees to levy special assessments in annual amounts adequate to provide payment of debt service and to meet the reserve requirements. The District is in compliance with those requirements of the Bond Indenture at September 30, 2012.

***DRAFT***

**NOTE 8 – LONG TERM LIABILITIES (Continued)**

Long-term debt transactions

Changes in long-term liability activity for the fiscal year ended September 30, 2012 were as follows:

	Beginning Balance (Restated)	Additions	Reductions	Ending Balance	Due Within One Year
<u>Governmental activities</u>					
Bonds payable:					
Series 1999A	\$ 5,770,000	\$ -	\$ (435,000)	\$ 5,335,000	\$ 465,000
Series 1999B	1,655,000	-	(125,000)	1,530,000	135,000
Series 2002A (beginning balance restated)	10,247,019	643,844	-	10,890,863	239,397
Series 2002B (beginning balance restated)	5,459,331	325,950	-	5,785,281	131,177
Series 2005 (beginning balance restated)	13,522,850	741,900	-	14,264,750	234,604
Series 2006	3,965,000	-	(505,000)	3,460,000	520,000
Capital leases	3,462	-	(3,462)	-	-
Less: deferred amount on refunding	(92,631)	-	18,527	(74,104)	-
Total	<u>\$ 40,530,031</u>	<u>\$ 1,711,694</u>	<u>\$ (1,049,935)</u>	<u>\$ 41,191,790</u>	<u>\$ 1,725,178</u>

At September 30, 2012, the scheduled debt service requirements on the long - term debt were as follows:

Year ending September 30:	Governmental Activities		
	Principal	Interest	Total
2013	\$ 1,725,178	\$ 1,541,341	\$ 3,266,519
2014	1,820,723	2,439,394	4,260,117
2015	1,923,994	2,337,733	4,261,727
2016	2,040,176	2,230,215	4,270,391
2017	2,149,466	2,115,626	4,265,092
2018-2022	8,910,974	8,790,466	17,701,440
2023-2027	6,623,545	6,459,094	13,082,639
2028-2032	9,170,163	3,995,595	13,165,758
2033-2037	5,849,781	1,238,674	7,088,455
2038	1,051,894	63,114	1,115,008
Total	<u>\$ 41,265,894</u>	<u>\$ 31,211,251</u>	<u>\$ 72,477,145</u>

**NOTE 9 – PRIOR PERIOD ADJUSTMENT**

The District has restated its beginning net assets to re-characterize the amounts collected by the District and previously recorded as payments for the Trustee’s legal fees and expenses to a reduction of the principal outstanding on the Series 2002AB Bonds although the Trustee did not transmit such amount to the Bondholders.

In addition, the par amount outstanding for the Series 2002AB and Series 2005 Bonds should include unpaid and accrued interests pursuant to the Developer Plans of Reorganization approved by the Bankruptcy Court. In the prior fiscal year, the District overstated its unpaid and accrued interests by \$4,423,139.

As such, the District has restated the beginning net assets in the government-wide statements accordingly. There is no restatement required in the fund financial statements. The following table summarizes the change:

**NOTE 9 – PRIOR PERIOD ADJUSTMENT (Continued)**

<u>Government-wide statements</u>	<u>Net Assets</u>
Balance October 1, 2011 as previously reported	\$ (4,967,835)
Adjustment of unpaid and accrued interest to the par amount outstanding for the Series 2002AB and 2005 Bonds	4,423,139
Re-characterization of legal expenses to Series 2002AB Bonds principal payments	518,237
Balance October 1, 2011 as restated	<u>\$ (26,459)</u>

**NOTE 10 – DEVELOPER REORGANIZATION**

In prior years, the Developer was unable to provide the District with sufficient assessments levied and imposed on its property to satisfy debt obligation. On February 23, 2010, the Developer filed for Chapter 11 bankruptcy protection. In fiscal year 2011, the Bankruptcy Court approved the Developer's Plan of Reorganization.

As a result, the Series 2002AB Bond claims with respect to off roll property owned by the Developer shall have a new par amount equal to the outstanding amounts plus unpaid and accrued interest. During the periods ended September 2012, unpaid and accrued interests totaling \$969,794 have been added to the outstanding bond principal balances. The Series 2002AB Bonds continue with the same pre-petition coupon rate commencing on May 1, 2013 as the first payment date with the maturity date of May 1, 2033. Regarding the Series 2005 Bond claims with respect to off roll property owned by the Developer, it shall have a new par amount equal to the outstanding amounts plus unpaid and accrued interest. As a result, unpaid and accrued interest totaling \$741,900 has been added to the outstanding bond principal balances during the periods ended September 30, 2012. The Series 2005 Bond continues with a coupon rate of 6%, commencing on April 15, 2013 as the first payment date with the maturity date of May 1, 2038.

During the current fiscal year, the Developer, another delinquent land owner and the District entered into an escrow agreement, approved by the Bankruptcy Court, in which the Developer and another delinquent land owner agreed to pay assessments due to the District in the amount of approximately \$786,000 and will deposit it into an escrow account. On February 14, 2012, the said monies were released from escrow and remitted to the District.

**NOTE 11 – DEVELOPER TRANSACTIONS**

The Developer owns significant portions of land within the District; therefore, assessment revenues in the general and debt service funds include the assessments levied on those lots owned by the Developer.

For the fiscal year ended September 30, 2012, the Developer paid \$648,477 in assessments which have been recorded as revenue in the general fund.

**NOTE 12 – RELATED ENTITY TRANSACTIONS**

The District shares the same Developer as Fiddler's Creek Community Development District 2. The District has a receivable in the amount of \$14,321 from Fiddler's Creek Community Development District 2 for shared costs as of September 30, 2012.

**NOTE 13 – DEFICIT FUND EQUITY**

The District has government-wide net assets (deficit) of (\$1,465,195) as of September 30, 2012. The District also has deficit fund balances of (\$293,074) in the Series 2005 debt service fund and (\$72,697) in the capital project fund.

***DRAFT***

#### **NOTE 14 – MANAGEMENT COMPANY**

The District has contracted with Wrathell, Hunt and Associates to perform management advisory services, which include financial and accounting advisory services. Certain employees of the management company also serve as officers of the District. Under the agreement, the District compensates the management company for management, accounting, financial reporting, computer and other administrative costs.

#### **NOTE 15 – RISK MANAGEMENT**

The District is exposed to various risks of loss related to torts; theft of, damage to, and destruction of assets; errors and omissions; and natural disasters. The District has obtained commercial insurance from independent third parties to mitigate the costs of these risks; coverage may not extend to all situations. Settled claims from these risks have not exceeded commercial insurance coverage over the past three years.

#### **NOTE 16 – LITIGATION AND CLAIMS**

During the current fiscal year, the District has notified U.S. Bank (the “Trustee”) under the District’s 2005 Series Bonds that it seeks recourse as to replenishing the Series 2005 Bonds construction account and protection from overdraft charges. As of the report date, the outcome cannot be determined and, therefore, no amounts related to this matter have been reflected in the financial statements.

Subsequent to the fiscal year end, the District and the Bondholder have sought the appointment of a new trustee to replace the current Trustee. However, due to a claim that the District still owes approximately \$462,000 of unpaid trustee fees and expenses to the Trustee with regard to the Series 2002AB and 2005 Bonds, the appointment has been delayed. The District intends to vigorously defend the action. As of the report date, the outcome cannot be determined and, therefore, no amounts related to this matter have been reflected in the financial statements.

#### **NOTE 17 – SUBSEQUENT EVENTS**

##### **Bond Refinancing**

Subsequent to fiscal year end, the District issued \$5,905,000 of Special Assessment Revenue Refunding Bonds, Series 2013 to refund the Series 1999 Bonds. The Series 2013 Bonds is due on May 1, 2021 with a fixed interest rate of 4.00%. Interest is paid semiannually on each May 1 and November 1, commencing November 1, 2013. Principal on the Series 2013 Bonds is paid serially and commences on May 1, 2014.

The District also issued \$2,425,000 of Special Assessment Revenue Refunding Bonds, Series 2013A to refund the Series 2006 Bonds. The Series 2013A Bonds is due on May 1, 2018 with a fixed interest rate of 3.625%. Interest is paid semiannually on each May 1 and November 1, commencing November 1, 2013. Principal on the Series 2013 Bonds is paid serially and commences on May 1, 2014.

In addition, the first payments due on May 1, 2013 for Series 2002AB and 2005 Bonds are deferred due to an agreement between the District and the Bondholder. In addition, the District initiated a restructuring program for the Series 2002 and 2005 Bonds but the program was delayed due to issues between the Trustee and the District, whereby the Trustee claims that the District owes them approximately \$462,000 and will not transfer trustee estates to the new trustee until the issue is resolved. See Note 16 for claims.

**FIDDLER'S CREEK COMMUNITY DEVELOPMENT DISTRICT 1  
COLLIER COUNTY, FLORIDA  
SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN  
FUND BALANCE - BUDGET AND ACTUAL – GENERAL FUND  
FOR THE FISCAL YEAR ENDED SEPTEMBER 30, 2012**

	Budgeted Amounts Original & Final	Actual Amounts	Variance with Final Budget - Positive (Negative)
<b>REVENUES</b>			
Assessments	\$ 2,409,459	\$ 2,761,931	\$ 352,472
Interest	2,000	1,191	(809)
Miscellaneous income	7,000	15,837	8,837
Total revenues	<u>2,418,459</u>	<u>2,778,959</u>	<u>360,500</u>
<b>EXPENDITURES</b>			
Current:			
General government	400,142	419,983	(19,841)
Maintenance and operations	2,014,803	1,870,542	144,261
Debt service:			
Principal and interest	3,514	3,514	-
Total expenditures	<u>2,418,459</u>	<u>2,294,039</u>	<u>124,420</u>
Excess (deficiency) of revenues over (under) expenditures	-	484,920	484,920
<b>OTHER FINANCING SOURCES</b>			
Transfers in	-	64,979	64,979
Net change in fund balance	<u>\$ -</u>	<u>549,899</u>	<u>\$ 549,899</u>
Fund balance - beginning		<u>538,401</u>	
Fund balance - ending		<u>\$ 1,088,300</u>	

See notes to required supplementary information

***DRAFT***

**FIDDLER'S CREEK COMMUNITY DEVELOPMENT DISTRICT 1  
COLLIER COUNTY, FLORIDA  
NOTES TO REQUIRED SUPPLEMENTARY INFORMATION**

The District is required to establish a budgetary system and an approved Annual Budget for the general fund. The District's budgeting process is based on estimates of cash receipts and cash expenditures which are approved by the Board. The budget approximates a basis consistent with accounting principles generally accepted in the United States of America (generally accepted accounting principles).

The legal level of budgetary control, the level at which expenditures may not exceed budget, is in the aggregate. Any budget amendments that increase the aggregate budgeted appropriations must be approved by the Board of Supervisors. Actual general fund expenditures did not exceed appropriations for the fiscal year ended September 30, 2012.

Actual general fund expenditures for the fiscal year ended September 30, 2012 were less than appropriations due primarily to anticipated costs which were not incurred in the current fiscal year. Assessments collected were more than budgeted amounts due to the receipt of prior year delinquent assessments per an escrow agreement approved by the Bankruptcy Court during the current fiscal year.

**REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING  
AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT  
OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH  
GOVERNMENT AUDITING STANDARDS**

To the Board of Supervisors  
Fiddler's Creek Community Development District 1  
Collier County, Florida

We have audited the financial statements of the governmental activities and each major fund of Fiddler's Creek Community Development District 1, Collier County, Florida ("District") as of and for the fiscal year ended September 30, 2012, which collectively comprise the District's basic financial statements and have issued our report thereon dated xxxxxxxx, 2013. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

Management of the District is responsible for establishing and maintaining effective internal control over financial reporting. In planning and performing our audit, we considered the District's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the District's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the District's internal control over financial reporting.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies, or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the District's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We noted certain matters that we reported to management of the District in a separate letter dated xxxxxxxx, 2013.

***DRAFT***

The District's response to the finding identified in our audit is described in the accompanying Management Letter. We did not audit the District's response and, accordingly, we express no opinion on it.

This report is intended for the information and use of the management, Board of Supervisors of Fiddler's Creek Community Development District 1, Collier County, Florida and the Auditor General of the State of Florida and is not intended to be and should not be used by anyone other than these specified parties.

xxxxxxx, 2013

**MANAGEMENT LETTER PURSUANT TO THE RULES OF  
THE AUDITOR GENERAL FOR THE STATE OF FLORIDA**

To the Board of Supervisors  
Fiddler's Creek Community Development District 1  
Collier County, Florida

We have audited the accompanying basic financial statements of Fiddler's Creek Community Development District 1 ("District") as of and for the fiscal year ended September 30, 2012, and have issued our report thereon dated xxxxxxxx, 2013.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America; *Government Auditing Standards*, issued by the Comptroller General of the United State; and Chapter 10.550, Rules of the Florida Auditor General. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

In addition, we have issued our Report on Internal Control over Financial Reporting and Compliance and Other Matters based on an audit of the financial statements performed in accordance with *Government Auditing Standards* dated xxxxxxxx, 2013. Disclosures in that report should be considered in conjunction with this management letter.

The purpose of this letter is to comment on those matters required by Chapter 10.550 of the Rules of the Auditor General for the State of Florida. Accordingly, in connection with our audit of the financial statements of the District, as described in the first paragraph, we report the following:

- I. Current year findings and recommendations.**
- II. Status of prior year findings and recommendations.**
- III. Compliance with the Provisions of the Auditor General of the State of Florida.**

Pursuant to Chapter 119, Florida Statutes, this management letter is a public record and its distribution is not limited. This letter is intended for the information and use of the management, Board of Supervisors of Fiddler's Creek Community Development District 1, Collier County, Florida and the Auditor General of the State of Florida and is not intended to be and should not be used by anyone other than these specified parties.

We wish to thank Fiddler's Creek Community Development District 1, Collier County, Florida and the personnel associated with it, for the opportunity to be of service to them in this endeavor as well as future engagements, and the courtesies extended to us.

xxxxxxx, 2013

***DRAFT***

## REPORT TO MANAGEMENT

### I. CURRENT YEAR FINDINGS AND RECOMMENDATIONS

#### Compliance Finding:

##### 2012-01 Reserve Requirement

Observation: The Series 2002A and B and the Series 2005 debt service reserve requirements were not met as of September 30, 2012.

Recommendation: We recommend that the District should continue its efforts to make the necessary arrangements to ensure funds are available to make debt service payments.

Management Response: **(TO BE PROVIDED BY CLIENT).**

#### Other Matter:

##### 2012-02 Filing Deficiency

Observation: The District did not file the audit within nine months after the end of its fiscal year per Florida Statute.

Recommendation: We recommend that the District file the audit in accordance with Florida Statutes.

Management Response: **(TO BE PROVIDED BY CLIENT).**

### II. PRIOR YEAR FINDINGS AND RECOMMENDATIONS

2011-01 No Supporting Documentation Provided for Certain Expenditures – matter resolved.

2011-03 Bondholder Consent – matter resolved.

2010-01 Financial Condition Assessment – matter resolved

2009-01 Debt Service Reserve – matter continued in 2010, 2011 and is repeated in the current year as finding 2012-01.

### III. COMPLIANCE WITH THE PROVISIONS OF THE AUDITOR GENERAL OF THE STATE OF FLORIDA

Unless otherwise required to be reported in the auditor's report on compliance and internal controls, the management letter shall include, but not be limited to the following:

1. A statement as to whether or not corrective actions have been taken to address findings and recommendations made in the preceding annual financial audit report.

There were no significant findings and recommendations made in the preceding annual financial audit report for the fiscal year ended September 30, 2011, except as noted above.

2. A statement as to whether or not the local governmental entity complied with Section 218.415, Florida Statutes, regarding the investment of public funds.

The District complied with Section 218.415, Florida Statutes, regarding the investment of public funds.

**DRAFT**

## REPORT TO MANAGEMENT

3. Any recommendations to improve the local governmental entity's financial management.

There were no such matters discovered by, or that came to the attention of, the auditor, to be reported for the fiscal year ended September 30, 2012, except as noted above.

4. Violations of provisions of contracts or grant agreements, or abuse, that have occurred, or are likely to have occurred, that have an effect on the financial statements that is less than material but more than inconsequential.

There were no such matters discovered by, or that came to the attention of, the auditor, to be reported, for the fiscal year ended September 30, 2012, except as noted above.

5. For matters that have an inconsequential effect on the financial statements, considering both quantitative and qualitative factors, the following may be reported based on professional judgment:

- a. Violations of provisions of contracts or grant agreements, fraud, illegal acts, or abuse.

- b. Deficiencies in internal control that are not significant deficiencies.

There were no such matters discovered by, or that came to the attention of, the auditor, that, in our judgment, are required to be reported, for the fiscal year ended September 30, 2012, except as noted above.

6. The name or official title and legal authority of the District are disclosed in the notes to the financial statements.
7. The financial report filed with the Florida Department of Financial Services pursuant to Section 218.32(1)(a), Florida Statutes agrees with the September 30, 2012 financial audit report.
8. The District has not met one or more of the financial emergency conditions described in Section 218.503(1), Florida Statutes.
9. We applied financial condition assessment procedures pursuant to Rule 10.556(7) and no deteriorating financial conditions were noted. It is management's responsibility to monitor financial condition, and our financial condition assessment was based in part on representations made by management and the review of financial information provided by same.

RESOLUTION NO. 2014- 2

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF FIDDLER'S CREEK COMMUNITY DEVELOPMENT DISTRICT 1 TO ESTABLISH MINIMUM PROCEDURES FOR PUBLIC COMMENT AT PUBLIC MEETINGS OF THE BOARD OF SUPERVISORS**

WHEREAS, the Legislature recently enacted Senate Bill 50 amending Section 286.0114, Florida Statutes, to require that "Members of the public shall be given a reasonable opportunity to be heard on a proposition before a board or commission;" and

WHEREAS, to accomplish this, the Board desires to establish the following minimum procedures for the Board with regard to public comment at public Board meetings.

**NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF FIDDLER'S CREEK COMMUNITY DEVELOPMENT DISTRICT 1** that the following procedures relating to public comment shall apply to all public meetings of the Board.

1. A public comment period ~~shall be provided at the end of each Board meeting,~~ and may be provided at the beginning of each Board meeting and shall be indicated as such on every Board agenda.

2. For each item to be heard by the Board, the Board shall allow three (3) minutes to each member of the public who: a. wishes to speak to that item prior to taking official action; and, b. who has previously filled out and handed in a Speaker's Form to the District Manager as to that agenda item.

3. The chairperson of the Board shall be responsible for insuring that members of the public shall be given a reasonable opportunity to be heard on every proposition before it, excepting those matters which are quasi-judicial. For quasi-judicial matters, only those speakers with testimony pertinent to the issue at hand need be heard.

4. Should there be large groups or factions at the meeting, i.e. more than five (5), the chairperson may allow a representative of each group or faction to address the Board on a proposition before the Board, rather than all members of such group or faction, but shall give such representative a minimum of 10 minutes to address the Board.

5. The District Manager will provide Speaker Forms to be filled out by any member of the public who wishes to speak at a Board meeting.

6. These procedures do not apply to the following:

- A. An official act that must be taken to deal with an emergency situation affecting the public health, welfare, or safety, if compliance with the requirements would cause an unreasonable delay in the ability of the Board to act;
- B. An official act involving no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamations;
- C. A meeting that is exempt from §286.011; or
- D. Except as noted above, a meeting during which the Board is acting in a quasi-judicial capacity. This paragraph does not affect the right of a person to be heard as otherwise provided by law.

**THIS RESOLUTION ADOPTED** after motion, second, and majority vote favoring same this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

ATTEST:

BOARD OF SUPERVISORS, FIDDLER'S CREEK  
COMMUNITY DEVELOPMENT DISTRICT 1

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

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

**FIDDLER'S CREEK COMMUNITY DEVELOPMENT DISTRICT NO. 1  
PROTOCOL AND MEETING PROCEDURES**

**Adopted March 2005**

**Revised ~~October 22~~ November 2019, 2013**

A. General:

1. Quorum and Voting. At all regular or special meetings of the Board of Supervisors of the District [the "Board"], a majority of the membership of the Board physically present shall constitute a quorum. Voting shall be by voice unless a member of the Board requests a roll call. The roll shall be in alphabetical order with the first name called rotating with each motion upon which the vote is called. The Chairman shall always vote last. A record of the roll call shall be kept as part of the minutes.
2. Notice and Publication. The District Manager shall give notice and keep record of such notice of the Board's meetings and the meeting of any subcommittees including the date, time, and location of each regular and special meeting. Notice of meetings of the Board shall be provided as required by Florida law. All regularly scheduled monthly Board meetings shall be held unless the Board determines at a public meeting that there is not sufficient business to be conducted to warrant the holding of a meeting.
3. Meeting Agenda. There shall be an agenda for each meeting of the Board which shall determine the order of business conducted. The Board shall not take action on any matter, proposal, report or item of business not listed upon the official agenda unless a majority of the Board present consents to consideration of such additional matter(s). Any Board member, in the case of the Board or a subcommittee member in the case of a subcommittee, may place an item on the agenda by submitting it to the District Manager in writing, with the appropriate backup documentation or material associated with the subject, prior to the deadline for publishing the notice of such meeting, and such item shall be included in the agenda.
4. Order of Business. The order of business at regular meetings shall be:

~~(a)~~ ~~\_\_\_\_\_~~ ~~(a)~~ ~~\_\_\_\_\_~~ Roll Call

~~\_\_\_\_\_~~ Public Comment on Agenda Items.

~~(b)~~ Public Comment on Non-Agenda Items.

~~(bdc)~~ Approval of Minutes from Prior Meeting(s)

~~(eed)~~ New Business

~~(efe)~~ Other Business

~~(efl)~~ Staff Reports

~~(fhg)~~ Supervisor's Requests ~~and Audience Public Comments~~

**Formatted:** Numbered + Level: 1 +  
Numbering Style: a, b, c, ... + Start at: 1 +  
Alignment: Left + Aligned at: 1" + Indent at:  
1.5"

(ei) Adjournment

The Board reserves the right to modify or amend the order of business.

B. Agenda Items Requiring ActionPublic Comment :

1. General. All members of the public who desire to address the Board shall complete and submit a Speaker Form to the District Manager prior to the agenda item being called up by the Chairman. utilize a speaker's podium [if available] to allow their comments to be recorded, and shall identify themselves by name and ~~local~~ address ~~es, if applicable.~~ The District Manager will provide Speaker Forms to be filled out by any member of the public who wishes to speak at a Board meeting. For each item to be heard by the Board, the Board shall allow ~~five (5)~~three (3) minutes to each member of the public that wishes to speak to that item prior to taking official action. Should there be large groups or factions at the meeting, i.e. more than five (5), the chairperson may allow a representative of each group or faction to address the Board on a proposition before the Board, rather than all members of such group or faction, but shall give such representative a minimum of 10 minutes to address the Board. Further, any speaker speaking on behalf of an organization or group of individuals (exceeding five) shall indicate such and shall cite the source of such authority whether by request, petition, vote, or otherwise.

~~All persons may speak for a maximum of five (5) minutes each, or for such longer period of time at the pleasure and discretion of the Chair.~~

2. Restrictions on Comments Deemed Not Germane to the Item. Notwithstanding any provisions herein, any Board member may interrupt and/or stop any presentation that discusses matters that need not be considered in deciding the matter then before the Board for consideration. At any Board proceeding, the Chairman, unless overruled by majority of the Board members present, may restrict or terminate presentations which in the Chairman's judgment are frivolous, redundant, impertinent, unduly repetitive or out of order.

C. Order and Subject of Appearance: To the extent possible, the following shall be the order of the proceeding:

1. Preliminary Statement. The Chairman shall read the title of the agenda item.
2. Presentation of Agenda Item. The appropriate District staff person or consultant, or the Petitioner or Proposer of the Agenda item shall make the presentation to the Board regarding the particular Agenda item under consideration. After completion of the presentation, the Board may make appropriate inquiries of staff.

3. Speakers. After Board inquiry, speakers shall be allowed to speak based on the time limitation guidelines outlined in the preceding subsection B above. During and after a speaker's presentation, the Board shall have an opportunity to comment or ask questions of or seek clarification from such speaker. The Board may also allow staff to comment, ask questions of or seek clarification from speakers.

D. Rules of Debate and consideration of Motions: The following rules of debate and consideration of Motions shall be observed by the Board.

1. Motion under consideration. When a motion is presented and seconded, it is under consideration and no other motion shall be received thereafter, except to adjourn, to lay on the table, to postpone, or to amend until the question is decided. These countermotions shall have preference in the order in which they are mentioned, and the first two shall be decided without debate. Final action upon a pending motion may be deferred until the next meeting by majority of the members present.
2. Chairman participation. The presiding Chairman may move, second and debate from the chair, and shall not be deprived of any of the rights and privileges of a Board member by reason of being the presiding Chairman.
3. Form of address. Each member shall address only the presiding officer for recognition, shall confine himself to the question under debate, and shall avoid personalities and indecorous language.
4. Interruption. A member, once recognized, shall not be interrupted except by the Chairman if the Chairman determines that the member's participation is irrelevant, frivolous or out of order. Any member may appeal the decision of the Chairman to the Board for decision by majority vote.
5. The question. Upon the closing of debate, any member may require a roll call vote. Any member may give a brief statement or file a written explanation of his vote.

E. Public Comment on General Topics: Any member of the public may speak on general topics under the ~~Audience—Public~~ Comment portion of the agenda, subject to the provisions of Section B above.

1 **MINUTES OF MEETING**  
2 **FIDDLER’S CREEK COMMUNITY DEVELOPMENT DISTRICT #1**

3  
4 A Special Meeting of the Board of Supervisors of the Fiddler’s Creek Community  
5 Development District #1 was held on **Friday, October 18, 2013, at 9:00 a.m.**, at the **Fiddler’s**  
6 **Creek Club and Spa, 3470 Club Center Boulevard, Naples, Florida 34114.**

7  
8 **Present at the meeting were:**

9  
10 Phil Brougham Chair  
11 Gerald Bergmoser Vice Chair  
12 Richard Peterson Assistant Secretary  
13 Robert Slater (*via telephone*) Assistant Secretary

14  
15 **Also present were:**

16  
17 Chuck Adams District Manager  
18 Cleo Crismond Assistant Regional Manager  
19 Tony Pires District Counsel  
20 Rick Reyes Tobin & Reyes, P.A., Litigation Counsel  
21 Tony DiNardo Developer  
22 Elliot Miller CDD #2 Board Member  
23 Charles \_\_\_\_\_ Resident

24  
25  
26 **FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

27  
28 Mr. Adams called the meeting to order at 9:00 a.m., and noted, for the record, that  
29 Supervisors Brougham, Bergmoser and Peterson were present, in person. Supervisor Slater was  
30 attending via telephone. Supervisor Curland was not present.

31  
32 **On MOTION by Mr. Bergmoser and seconded by Mr.**  
33 **Brougham, with all in favor, authorizing attendance, via**  
34 **telephone, by Supervisor Slater, due to extraordinary**  
35 **circumstances, was approved.**

36  
37  
38 **SECOND ORDER OF BUSINESS**

**Public Comments**

39  
40 Mr. Brougham asked for public comments.  
41 There being no public comments, the next item followed.

42 **THIRD ORDER OF BUSINESS****Discussion: Participation in Global  
Settlement Meeting with the Trustee and  
Trustee's Counsel**

43  
44  
45  
46 Mr. Brougham introduced Mr. Rick Reyes, of Tobin & Reyes, P.A., Fiddler's Creek  
47 CDD #2's Litigation Counsel. He indicated that Mr. Reyes will speak regarding a potential  
48 global settlement with U.S. Bank, trustee for the District's bonds.

49 Mr. Brougham asked Mr. Pires to provide guidelines for the discussion.

50 Mr. Pires indicated that he and Mr. Reyes will inform the Board if the discussion is  
51 treading near a subject that they do not wish to discuss in a public meeting. He noted that the  
52 statute requires "pending litigation" in order to hold a closed door session; at the present time, it  
53 would be difficult to assert that the District has pending litigation with U.S. Bank. Mr. Pires  
54 advised that the Board might need to give the Chair and Mr. Reyes great latitude to participate in  
55 the settlement discussions.

56 Mr. Brougham stated that the global settlement meeting is scheduled for October 22,  
57 2013. He indicated that he had discussions with Mr. Elliot Miller, of CDD #2, regarding the  
58 potential for CDD #1 to join CDD #2, in the global settlement. He explained that CDD #1 had  
59 significant difficulties with U.S. Bank, including blocking the District from removing U.S. Bank  
60 as the trustee, effectively an blocking exchange bond transaction, which could have cleared the  
61 District of its financial situation. Furthermore, over the years, U.S. Bank has withdrawn  
62 significant funds from the District's bond accounts, some of which were used for early  
63 redemption but some of which U.S. Bank used to pay their own legal fees. Mr. Brougham noted  
64 that the District incurred significant expense from its general fund for legal fees related to the  
65 U.S. Bank matters.

66 Mr. Reyes indicated that his firm represents Fiddler's Creek CDD #2 in their claims  
67 against U.S. Bank. He believes that CDD #1 has similar claims. Mr. Reyes stated that CDD #2  
68 brought an action against the trustee, U.S. Bank, along with certain entities that were or are  
69 majority owners of certain bond series, for converting funds from the construction accounts,  
70 under CDD #2, and using those funds to pay legal fees incurred on behalf of U.S. Bank and the  
71 bondholders to oppose the developer's reorganization. He noted that the same appears to have  
72 happened with CDD #1's construction account funds; a total of \$652,000 was removed from  
73 construction accounts to pay associated legal fees between June, 2010, and July, 2012.

74 Mr. Reyes pointed out that \$1.3 million in unauthorized expenses were removed by the  
75 trustee, presumably for their legal expenses, of which, \$652,000 is from the 2005 Series bond  
76 construction account. The remainder was taken from the 2002 remedial, reserve and revenue  
77 accounts. He believes that CDD #1 could pursue the same type of claim, as it appears that the  
78 court concurs that the funds should only have been used for construction. The CDD #2 case also  
79 involved construction draws that U.S. Bank refused to fund, which the court ordered them to  
80 fund. CDD #2 will be going to court soon for a ruling that the misuse of funds is a breach of the  
81 trust indenture. Mr. Reyes reiterated his belief that CDD #1 can make the same claims.

82 Mr. Reyes indicated that the trustee is arguing that it should also have a lien over CDD  
83 #1's trust estate for any liability that it might incur with respect to CDD #2; U.S. Bank is  
84 attempting to collateralize its potential liability to CDD #2 with CDD #1's trust estate. He  
85 pointed out that U.S. Bank is also refusing to cooperate in the District's transfer to Wilmington  
86 Trust, unless CDD #1 agrees to allow its trust estate to be encumbered in that fashion.

87 Mr. Reyes referred to the memorandum prepared by Mr. Pires detailing the District's  
88 goals, if it proceeds with litigation. Mr. Reyes noted that the District advanced \$397,000 of its  
89 own funds to pay for construction related expenses that could not be funded from the  
90 construction account. Mr. Adams clarified that the construction related amount is approximately  
91 \$100,000; the \$397,000 is related to legal expenses for Weiss, Serota. Mr. Reyes believes that  
92 the District can sue for the \$652,000 that was removed from the construction accounts, as those  
93 funds are only to be used for construction.

94 Mr. Brougham recalled that CDD #1 has observed CDD #2's lawsuits and their progress.  
95 CDD #1 previously took the position that the District would remain passive and reconsider  
96 whether to join in if it appears that CDD #2 will be successful. Mr. Brougham asked if CDD #1  
97 can participate in the upcoming settlement hearing.

98 Mr. Reyes advised that, when the trustee asked for the meeting and asked the lawyer for  
99 the majority bondholders, it was understood that both CDDs #2 and #1 would be invited; they  
100 anticipate that Mr. Pires and a CDD #1 Board Member will be present.

101 Mr. Pires indicated that the Board is asked to consider retaining Tobin & Reyes, P.A., as  
102 Special Litigation Counsel, to represent the District in this settlement conference, as well as to  
103 prepare any and all necessary pleadings for litigation against U.S. Bank, in the event that the  
104 matter is not resolved. The Board must also authorize Mr. Pires, Mr. Reyes, Mr. Adams and the  
105 Chair to participate in those discussions.

106 Mr. Brougham stated that he discussed, with Mr. Reyes, the potential of this and entering  
107 into a settlement meeting; the District needs some clout regarding what it will do if they do not  
108 reach a settlement. He indicated that this is why Mr. Pires recommends that the Board authorize  
109 the formulation of a complaint, if it does not settle.

110 Mr. Brougham asked Mr. Reyes to estimate his fees to represent the District at the  
111 settlement meeting. Mr. Reyes felt that the fees should not exceed \$5,000, between now and the  
112 settlement meeting on Tuesday. Mr. Reyes pointed out that the legal fees would be significantly  
113 more if a lawsuit is necessary.

114 Mr. Slater asked why the District would not prepare the documents necessary to sue now,  
115 so they are available at the settlement meeting, as opposed to waiting until after the meeting to  
116 prepare them. Mr. Reyes stated that the District has the benefit of knowing him and what he has  
117 done, on behalf of CDD #2; it is not a bad idea to have the documents prepared but it is probably  
118 not necessary because the trustee's lawyers already know what the claims will be, based on the  
119 lawsuits brought by CDD #2.

120 Mr. Brougham asked if Mr. Reyes has sufficient time. Mr. Reyes stated that he would  
121 like to have an executive session to discuss his ideas regarding how the District should present its  
122 claims; however, an executive session is not possible at the present time.

123 Mr. Reyes explained that there are two (2) pending matters; CDD #2 sued the trustee and,  
124 when they terminated the trustee, instead of leaving, the trustee sued CDD #2 to remain as  
125 trustee. He stated that there are counterclaims in the case brought by the majority bondholders,  
126 against the trustee.

127 In response to Mr. Peterson's question, Mr. Pires reiterated his opinion that the District  
128 cannot hold an executive session until litigation is pending. Mr. Peterson asked what event must  
129 occur in order for the District to hold an executive session. Mr. Pires indicated that the easiest  
130 action would be filing a lawsuit; currently, there is no "threat" of a lawsuit against the District.  
131 Mr. Peterson felt that there is a large information gap.

132 Mr. Brougham stated that the settlement meeting was scheduled and U.S. Bank invited  
133 both CDDs #1 and #2 to participate in the meeting. He indicated that, if CDD #1 engages Mr.  
134 Reyes, he can and will accompany the District at the meeting, with an initial list of the District's  
135 settlement demands. Mr. Brougham explained that, with their history with Mr. Reyes, U.S. Bank  
136 should know that there will likely be litigation, from CDD #1, if a settlement is not reached. He

137 would like to be comfortable in the Board authorizing the filing of a lawsuit and holding an  
138 executive session, prior to the settlement meeting; however, the timing does not facilitate that.

139 Mr. Peterson asked Mr. Reyes if he believes that CDD #1's interests will be appropriately  
140 represented at the settlement meeting or whether a follow-up meeting will be necessary. Mr.  
141 Reyes believes that CDD #1's interests will be appropriately represented; however, there could  
142 be follow-up meetings, as it is not uncommon for a complicated matter to take more than one (1)  
143 day to resolve. Mr. Reyes reiterated that U.S. Bank knows CDD #2's issues and that CDD #1  
144 has similar issues. Mr. Peterson asked if the amount of money in question is similar for both  
145 CDDs. Mr. Reyes indicated that approximately \$1.3 million was taken from CDD #1; however,  
146 about \$3.2 million was taken from CDD #2.

147 Mr. Brougham suggested that, subject to the Board's approval, the District should attend  
148 the settlement meeting, on October 22, 2013, with the implied threat that, if U.S. Bank does not  
149 negotiate fairly, CDD #1 will most likely file a lawsuit. He noted that the Board should know  
150 the potential outcome when it meets on October 23, 2013, at which the Board can take further  
151 action, if necessary.

152 Mr. Peterson referred to Mr. Pires' email letter, from October 15, 2013, which identifies  
153 several issues, and asked if the District will be represented with respect to all of those issues.  
154 Mr. Brougham replied affirmatively. Mr. Reyes voiced his understanding that the items in Mr.  
155 Pires' memo are things that the District wants to ask for; the concept of U.S. Bank interfering  
156 with the transfer to Wilmington Trust is an issue on which the District would sue U.S. Bank.

157 Mr. Bergmoser asked Mr. Reyes to comment on the probability of success at the  
158 settlement meeting. Mr. Reyes could not comment, as he does not know U.S. Bank's intent;  
159 U.S. Bank called the meeting after the appellate court ruled in CDD #2's favor. In response to a  
160 question, Mr. Reyes confirmed that the settlement meeting is before a mediator.

161 Mr. Reyes indicated that the bondholders request for a receiver is in the future, meaning  
162 that the court would appoint a receiver to control the accounts so that the depletion of funds  
163 ceases. He noted that this is an issue for U.S. Bank because, until now, they had an unlimited  
164 supply of money to pay their litigation costs; U.S. Bank has not used any of their own funds to  
165 pay their litigation expenses. If a receiver is appointed, U.S. Bank would be forced to apply to  
166 the court for fees; they would have to use their own funds or their attorneys would have to wait  
167 to be paid.

168 Mr. Bergmoser asked if filing an injunction against U.S. Bank to prevent them from  
169 taking more money would be sufficient to trigger an executive session. Mr. Pires reiterated that  
170 the trigger is "pending litigation"; in his opinion, any litigation that is filed would qualify. Mr.  
171 Pires clarified that filing a lawsuit requesting an injunction would qualify. Mr. Reyes indicated  
172 that intervening in the pending litigation may qualify.

173 In response to Mr. Slater's question, Mr. Reyes clarified that the bondholders asked for a  
174 receiver and CDD #2 joined them in the request because neither is in favor of the trust money  
175 being used for this purpose.

176 Mr. Miller indicated that he cannot comment regarding whether the CDD #2 Board  
177 would approve of an intervention; prior to CDD #1 considering that, as an alternative to bringing  
178 its own lawsuit, Mr. Miller advised that he must think about the impact it would have on CDD  
179 #2's lawsuit. Mr. Miller stated that CDD #2 also has a pending Motion for Summary Judgment.

180 Regarding what U.S. Bank might expect, Mr. Miller indicated that CDD #2 already had  
181 one (1) settlement conference with them. He stated that they walked away from the settlement  
182 conference with a Memorandum of Understanding. The settlement conference was truly global,  
183 as it also included ITG and Oppenheimer. Mr. Miller feels that the upcoming settlement  
184 conference is not global, as ITG and Oppenheimer are not included. He recalled that the result  
185 of the last settlement conference was that ITG's counsel indicated that ITG would not approve  
186 the settlement unless CDD #2 prevailed on the developer to drop its independent Naples Lending  
187 litigation against ITG. He pointed out that CDD #2 had no ability or interest in that case. Mr.  
188 Miller summarized that ITG was trying to hold the settlement hostage, to settle the other case  
189 with the developer, for which CDD #2 was not involved in. Mr. Miller advised that, due to that  
190 and other reasons, the settlement evaporated. He confirmed that U.S. bank knew and still knows  
191 exactly what CDD #2 wants. Mr. Miller noted that, since that settlement conference, CDD #2's  
192 demands have changed because they must get indemnified for any costs that it bears in  
193 indemnifying Wilmington Trust. He feels that U.S. Bank knows what is coming and nothing  
194 should be a surprise to them; ITG is not a part of the meeting.

195 Mr. Charles \_\_\_\_\_, a resident, asked what happens to the \$461,000 fee that U.S. Bank  
196 put upon CDD #1 and questioned if it is a bona fide bill that must be addressed. Mr. Brougham  
197 indicated that it is part of what the District is disputing; the District believes it is a bogus claim.  
198 In response to a question, Mr. Adams confirmed that the money taken by U.S. Bank was used to  
199 pay their legal expenses. Mr. Adams clarified that U.S. Bank claims that they drew down to the

200 point where there were no additional funds to draw upon and incurred an additional \$461,000  
201 above what they took from the trust estate. Mr. Adams indicated that U.S. Bank took money  
202 from CDD #1's 2002 and 2005 Series reserves, revenue and construction accounts; they also  
203 drew upon remedial accounts on two (2) of the trust estates.

204 Mr. DiNardo advised that, when added, U.S. Bank took \$5 million in fees fighting a  
205 bankruptcy; while all other attorneys involved in the case had to get their fees approved by the  
206 bankruptcy court; U.S. Bank's attorneys withdrew their fees, from the District's accounts,  
207 without going before the bankruptcy court for approval. He explained that U.S. Bank's legal  
208 fees were used to sue CDDs #1 and #2. Mr. DiNardo stated that U.S. Bank is now holding up  
209 the bond exchange.

210 Mr. \_\_\_\_\_ asked if the District has a plan or contingency in the event the District's  
211 attempt to recover the funds fails. He questioned the potential liability on property owners.

212 Mr. Reyes does not know all of the additional work to be completed. Mr. Brougham  
213 indicated that CDD #1 already funded legal expenses from its operating and maintenance  
214 (O&M) fund for legal fees associated with the bankruptcy and corresponding lawsuits; CDD #1  
215 is seeking to recover those spent funds.

216 Mr. \_\_\_\_\_ stressed that, for him and the community, understanding what the Board is up  
217 against helps them be more comfortable that the Board is doing its best, as the community's  
218 representative. Mr. Brougham voiced his understanding and advised that the Board will keep the  
219 community informed, to the extent that it can, in a public meeting; what cannot be addressed  
220 publicly will be discussed in an executive session and the public will be privy to decisions made  
221 subsequent to the executive session.

222

223

224

225

226

227

228

229

230

231

232

233

234

**On MOTION by Mr. Peterson and seconded by Mr. Bergmoser, with all in favor, authorizing the retention of Tobin & Reyes, P.A., as Special Litigation Counsel, and authorizing preparation of a complaint/lawsuit against U.S. Bank, authorizing the Chairman, Special Litigation Counsel, District Counsel and the District Manager, as appropriate and necessary, to participate in settlement discussions with U.S. Bank and negotiate with U.S. Bank as to the above, with the goal to present a favorable negotiated settlement agreement to District #1, was approved.**

235 In response to Mr. DiNardo’s question, Mr. Reyes confirmed that, once Mr. Adams signs  
236 off on the fee agreement, he will notify U.S. Bank that he represents CDD #1.

237 Mr. Brougham indicated that the outcome of the settlement meeting will be an agenda  
238 item on the October 23, 2013 agenda. Mr. Reyes explained that he will report what he can;  
239 under mediation rules, the settlement conference discussions are confidential. Mr. Reyes stated  
240 that he cannot disseminate the various positions from the mediation, except in a subsequent  
241 executive session. Mr. Peterson pointed out that the Board cannot hold an executive session  
242 unless the District files suit and asked how the Board can find out the information. Mr. Pires  
243 voiced his understanding. Mr. Reyes clarified that he can report the outcome to the Board. Mr.  
244 Peterson indicated that he wants more knowledge so he can properly represent. Mr. Pires  
245 advised that Mr. Reyes could converse with Mr. Peterson individually but cautioned against  
246 “daisy chaining” the information.

247

248 **FOURTH ORDER OF BUSINESS**

**NEXT MEETING: October 23, 2013 at  
8:00 A.M.**

249

250

251 The next meeting is scheduled for October 23, 2013 at 8:00 a.m.

252

253 **FIFTH ORDER OF BUSINESS**

**Supervisors’ Requests**

254

255 There being no Supervisors’ requests, the next item followed.

256

257 **SIXTH ORDER OF BUSINESS**

**Adjournment**

258

259 There being nothing further to discuss, the meeting adjourned.

260

261

**On MOTION by Mr. Slater and seconded by Mr. Brougham,  
with all in favor, the meeting adjourned at approximately 9:40  
a.m.**

262

263

264

265

266

267

268

269

270

271 \_\_\_\_\_  
Secretary/Assistant Secretary

\_\_\_\_\_ Chair/Vice Chair

1 **MINUTES OF MEETING**  
2 **FIDDLER’S CREEK COMMUNITY DEVELOPMENT DISTRICT #1**

3  
4 A Regular Meeting of the Board of Supervisors of the Fiddler’s Creek Community  
5 Development District #1 was held on **Wednesday, October 23, 2013, at 8:00 a.m.**, at the  
6 **Fiddler’s Creek Club and Spa, 3470 Club Center Boulevard, Naples, Florida 34114.**

7  
8 **Present at the meeting were:**

9  
10 Phil Brougham Chair  
11 Gerald Bergmoser Vice Chair  
12 James Curland Assistant Secretary  
13 Richard Peterson Assistant Secretary  
14 Robert Slater Assistant Secretary

15  
16 **Also present were:**

17  
18 Chuck Adams District Manager  
19 Cleo Crismond Assistant Regional Manager  
20 Terry Cole District Engineer  
21 Tony Pires District Counsel  
22 Tony DiNardo Developer  
23 Ron Albeit The Foundation  
24 Joe Vacaro Resident  
25 Jim Schutt Resident  
26 Dave Yates Resident

27  
28  
29 **FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

30  
31 Mr. Adams called the meeting to order at 8:00 a.m., and noted, for the record, that all  
32 Supervisors were present, in person.

33  
34 **SECOND ORDER OF BUSINESS**

**Public Comments: Agenda Items (5  
minutes per speaker)**

35  
36  
37 Mr. Brougham asked for public comments on agenda items.

38 There being no public comments on agenda items, the next item followed.

39  
40 **THIRD ORDER OF BUSINESS**

**Public Comments: Non-Agenda Items (5  
minutes per speaker)**

42 Mr. Brougham asked for public comments on non-agenda items.

43 Mr. Pires recommended reminding the public, at the beginning of each meeting, that, if  
44 they wish to speak on an agenda or non-agenda item, they should complete a “Speaker  
45 Information Sheet” and give it to the District Manager.

46 There being no public comments on non-agenda items, the next item followed.

47

48 **FOURTH ORDER OF BUSINESS** **Special Counsel Update: Bankruptcy**  
49 **Proceedings**

50

51 There being no report, the next item followed.

52

53 **FIFTH ORDER OF BUSINESS** **Developer’s Report/Update**

54

55 Mr. DiNardo reported that a party is interested in Marsh Cove.

56 Mr. Peterson voiced his concern about the condition of Fiddler’s Creek Parkway and the  
57 use of the road by heavy trucks and asked if Fiddler’s Creek Parkway is the responsibility of  
58 both Districts. Mr. Adams replied affirmatively. Mr. Peterson asked if the Districts have reserve  
59 funds for road repairs. Mr. Adams replied no. Mr. Peterson asked if there is other access to the  
60 Runaway Bay property. Mr. DiNardo replied no and reminded Mr. Peterson that these are public  
61 roads and the District cannot stop the trucks from using them. Mr. Peterson voiced his  
62 understanding; he is simply wondering if there is another access point for construction vehicles.  
63 Mr. DiNardo stated no.

64

65 **SIXTH ORDER OF BUSINESS** **Engineer’s Report**

66

67 Mr. Brougham reported to Mr. Cole that oil was spilled recently, during road restriping.  
68 Mr. Cole advised that he will investigate it.

69 Mr. Cole indicated that herbicide material was discovered near Fiddler’s Creek, in the  
70 Marsh Cove area. He investigated the situation and a contractor was engaged to clean up the  
71 dumped chemicals. The herbicide material and contaminate soil were placed in five (5) drums  
72 and are awaiting pickup by a waste disposal facility; a chain of custody, documenting proper  
73 disposal of the materials, will be provided. In response to Mr. Brougham’s question, Mr. Cole

74 confirmed that the levels were within levels that do not require “self reporting”. Mr. Cole  
75 clarified that there is no way to know who left the material.

76 Mr. Pires will send a letter to each contractor, working on site, advising of the situation  
77 and reminding them to follow proper procedures.

78 Regarding the traffic signal, Mr. Cole reported that the surveying was completed and  
79 forwarded to David Plummer and Associates. He expects the plans to be completed within the  
80 next six (6) to eight (8) weeks.

81 Mr. Joe Vacaro, a resident, asked if a final cost estimate was received. Based on similar  
82 intersections and recent signal construction, Mr. Cole estimated \$350,000. Mr. Brougham  
83 pointed out that the true cost will not be known until it goes out to bid. Mr. Vacaro asked if the  
84 budget contains a line item with a not-to-exceed amount. Mr. Brougham replied no.

85

86 **SEVENTH ORDER OF BUSINESS** **Continued Discussion/Update: Global**  
87 **Settlement**  
88

89 Mr. Pires indicated that he, Mr. Brougham and Mr. Reyes participated in a settlement  
90 conference yesterday, with bondholders, U.S. Bank and Mr. Miller, of CDD #2. He reported that  
91 there was no resolution of the matter and Mr. Reyes was authorized to proceed, accordingly, to  
92 represent the interests of the District.

93 Recalling his comments from Friday’s meeting, Mr. Pires reiterated that he and Mr.  
94 Reyes prefer to discuss legal strategy in an executive session, which can only occur when or if  
95 there is pending litigation.

96 In response to a question, Mr. Pires indicated that a request for an executive session must  
97 be made during a public meeting. He noted that, should it be necessary, the District could call a  
98 special meeting solely for the purpose of requesting the executive session.

99 Mr. Brougham reminded the Board that Board Members can contact Mr. Reyes,  
100 individually, to discuss the matter.

101 In response to a question, Mr. Pires reiterated what constitutes pending litigation and  
102 when an executive session can be requested. Mr. Brougham indicated that, once he can, he will  
103 contact Mr. Adams to schedule a special meeting, at which Mr. Reyes can call for an executive  
104 session.

105 Mr. Bergmoser asked if another settlement meeting is anticipated. Mr. Pires voiced his  
106 understanding that no follow-up meetings have been scheduled, to date.

107

108 **EIGHTH ORDER OF BUSINESS**

**Discussion: Lakes Turnover**

109

110 Mr. Pires noted that received documents from Mr. Cole. He is reviewing them and will  
111 have them for the next meeting.

112 Mr. Brougham voiced his frustration, stating that the Board has been hearing that for  
113 nearly a year; he wants it completed.

114 Mr. Pires indicated that some lakes have issues; it can be completed in stages but they  
115 wanted to complete everything at once. Mr. Brougham said “No, let’s get it done”. Mr. Cole  
116 stated that they have everything for all of the lakes, except Hawks Nest. Mr. Brougham  
117 indicated, if only one (1) or two (2) lakes are holding things up, the District should turn over the  
118 ones that can be done now and finish the others later. Mr. Pires confirmed that, at the next  
119 meeting, he will have a resolution and packet of materials to accept the conveyances for the  
120 tracts that the District is comfortable with turning over.

121 Mr. Cole recalled that the geotube repairs were delayed, due to high water; water is now  
122 dropping and he is coordinating with the golf course to complete the lakes over a four (4)-day  
123 period. He anticipates completing the work within the next few weeks.

124 Mr. Brougham asked about the other lakes, such as the other half of Mallards. Mr. Cole  
125 indicated that those will be completed shortly; however, the water is still high. In response to  
126 Mr. Brougham’s question, Mr. Cole confirmed that all of the geotube was installed, as  
127 scheduled, for this phase.

128

129 **NINTH ORDER OF BUSINESS**

**Consideration of Resolution 2014-1,  
Establishing Minimum Procedures for  
Public Comment at Public Meetings**

130

131

132

133 Mr. Pires presented resolution 2014-1 for the Board’s consideration.

134 Noting the five (5) minutes per speaker provision, Mr. Slater asked where it came from  
135 and if it is required by statute. Mr. Pires replied no. Mr. Slater felt that the time could be cut to  
136 one (1) minute or a more realistic amount, as five (5) minutes could cause meetings to last a very  
137 long time. Mr. Pires stated that a one (1) minute time limit could be construed as unreasonable.

138 Mr. Slater stressed his belief that one (1) minute is enough; he does not like a lot of the  
139 things in the procedures and asked where it came from. Mr. Pires began to explain the  
140 legislative changes. Mr. Slater stated that he read the legislative information and did not find  
141 anything like what is in the proposed procedures. Mr. Pires indicated that parts of it are from the  
142 legislation but the time frames are similar to those of other similar governmental bodies. Mr.  
143 Pires reiterated his opinion that one (1) minute would not be construed to be reasonable  
144 opportunity to provide an opinion. Mr. Slater asked if two (2) minutes is enough. Mr. Pires  
145 advised that three (3) minutes is the standard.

146 Mr. Slater asked why "Public Comments" appears twice at the beginning of the agenda;  
147 once for "agenda" items and again for "non-agenda" items. Mr. Pires indicated that it is to  
148 provide "general" public comment time, giving people the opportunity to speak. Mr. Slater  
149 questioned why there is not a single agenda item where they can speak on both. Mr. Pires voiced  
150 his belief that the District should provide the general public comment opportunity to items not on  
151 the agenda. Mr. Slater asked why speakers cannot speak to agenda and/or non-agenda items at  
152 the same time. Mr. Slater questioned what is on the speaker sheet that speakers must sign. Mr.  
153 Adams indicated that it requests the speaker's name, address, email, telephone number. Mr.  
154 Slater contended that the proposed procedure does not specify the information that will be asked,  
155 so it must be added to the procedures. Mr. Slater stated that he is from New Hampshire where  
156 the motto is "Live Free, or Die"; he feels that this is a "bunch of crap". Mr. Pires suggested  
157 attaching a form of the speaker sheet and addressing this item at the next meeting. Mr. Adams  
158 noted that three (3) minutes is the standard speaking time and suggested adding a statement  
159 regarding no redundant comments. Mr. Pires believed that the ability is already within the  
160 meeting protocol procedures; the Chair can control it.

161 Mr. Brougham summarized that the resolution will be revised to indicate three (3)-minute  
162 speaker time limits, the speaker sheet will be attached, along with a provision regarding no  
163 redundant comments.

164 In response to a question, Mr. Adams indicated that a speaker would have one (1)  
165 opportunity to speak on each item that they sign up for.

166 Mr. Slater recommended that the speaker sheet be revised to include a designation  
167 regarding whether it relates to an agenda or non-agenda item. In response to a question, Mr.  
168 Adams confirmed that the speaker sheet should be completed prior to speaking.

169 Mr. Brougham stated that, as long as he is Chair, he will give anyone every opportunity  
 170 to speak, regardless of the provisions in the resolution, until such time as he feels discussion is  
 171 out of order or redundant. Mr. Adams indicated that Mr. Brougham’s process is fairly typical.

172 In response to Mr. DiNardo’s question, Mr. Adams clarified that, while an agenda item is  
 173 being discussed, the Chair will ask for public comments and the speaker sheets for that item. Mr.  
 174 Brougham pointed out that, if this is the procedure, the agenda must be revised so that Item 2,  
 175 “Public Comments: Agenda Items” does not appear, as it contradicts what Mr. Adams just said.  
 176 Mr. Brougham asked if the Board is obligated to follow the form of agenda presented today. Mr.  
 177 Adams replied no, the Board must only make sure that they give the public an opportunity to  
 178 speak. Mr. Pires indicated that the agenda protocol could be that speakers must submit the  
 179 speaker sheet to the District Manager prior to an agenda item coming up. Mr. Brougham  
 180 reiterated that, although that is the official procedure, he will still allow anyone to speak on an  
 181 agenda item, regardless of whether they completed a speaker sheet. Mr. Slater questioned why  
 182 the speaker sheet is needed, if Mr. Brougham will allow those without it to speak. Mr. Pires  
 183 advised that statute requires the District to have speaker sheets.

184

185 **TENTH ORDER OF BUSINESS**

**Consideration of Proposal from TEM  
 Systems Inc., to Improve Ingress/Egress  
 at Championship Gate**

188

189 Mr. Brougham presented the proposal from TEM Systems Inc. (TEM), to improve  
 190 ingress and egress at Championship Gate and indicated that the proposal is to install a sensor that  
 191 will sense when a vehicle is stuck. Mr. Adams explained that the sensor will send a signal to the  
 192 gatehouse so that the guards can call and assist the vehicle. Mr. Slater asked what is gained by  
 193 this system. Mr. Adams indicated that it should shorten the lines that were discussed at the  
 194 August meeting. Mr. Slater questioned why the District needs to control egress. Mr. Adams  
 195 noted that the system was designed to reconcile who entered and exited the property, each day.  
 196 Mr. Slater voiced his opinion that each exit should have a single gate that opens automatically.  
 197 Mr. Brougham advised that the CDDs invested in the software to track ingress and egress and it  
 198 is being used by The Foundation.

199 Mr. Jim Schutt, a resident, stated that the system only works if someone runs the reports  
 200 every day, which he does not believe is being done. He noted that he asked the guard about it

201 several months ago and he professed ignorance of it, which seems to indicate that it is not being  
202 checked.

203 Mr. Brougham concurred that the guard likely does not know about the report; he  
204 believes that the report is generated by the security office. Mr. Albeit indicated that he checks  
205 the report on a weekly basis. In response to Mr. Brougham's question, Mr. Albeit confirmed that  
206 the report is checked nightly.

207 Mr. Slater questioned why the District needs backup control over egress, when it has a  
208 roving patrol that can see who is still on site. He noted that this is a construction issue and the  
209 best way to check is through a physical check. Mr. Slater pointed out that a gate on  
210 Championship was lost last week because two (2) roofing trucks tried to exit at the same time;  
211 one (1) made it through and the other broke the gate. He stressed that the District does not have  
212 a secure community, *per se*, it has roving patrol who can check construction sites. Mr. Slater  
213 questioned again why the District needs to control egress.

214 Mr. Brougham stated that it is necessary because both CDDs voted and agreed to have  
215 this type of system and software; he feels that the District should use the system that it invested  
216 in.

217 Mr. Dave Yates, a resident, noted that people enter the community to walk their dogs and  
218 when he questioned Mr. Brougham about installing a gate, Mr. Brougham indicated that the  
219 District cannot install a gate because of public access. Mr. Brougham stated that the District can  
220 control access but cannot restrict it. Mr. Yates voiced his agreement with not controlling egress.

221 Mr. Slater motioned to not restrict egress from the community by virtue of having the  
222 egress gates, at all three (3) egress points, be automatic opening, by sensing traffic. Mr.  
223 Brougham stated that the motion dies due to lack of a second.

224 Regarding the TEM proposal, a question was raised about the 50% deposit requirement.  
225 Mr. Adams clarified that a deposit is not required; TEM will be paid upon completion. Mr.  
226 Brougham clarified that, if approved by both CDDs, CDD #1 will be responsible for its prorata  
227 portion. Mr. Pires pointed out that the proposal was valid for 30 days, which expired. Mr.  
228 Adams indicated that TEM will honor the proposal.

229 Mr. Bergmoser voiced his opinion that this only addresses part of the problem, as  
230 impatient drivers exit though the ingress lane when another vehicle is taking too long. Mr.  
231 Adams suggested that the new system might alleviate some of the issue. Mr. Bergmoser

232 recommended addressing all of the problems at once, rather than a piecemeal solution, such as  
233 installing sensors for both ingress and egress. Mr. Brougham suggested installing the sensor for  
234 egress and, if it works, the Board can consider installing ingress sensors.

235

**On MOTION by Mr. Brougham and seconded by Mr. Slater, with Mr. Brougham, Mr. Slater, Mr. Peterson and Mr. Curland in favor and Mr. Bergmoser dissenting, the TEM Systems Inc., proposal to improve ingress/egress at Championship Gate, was approved.**

236

237

238

239

240

241

242

**ELEVENTH ORDER OF BUSINESS**

**Status Update: Public Hearing Regarding Adoption of the Assessment Roll and Imposition of Special Assessments to Finance and Secure Certain Public Improvements**

243

244

245

246

247

248

249

Mr. Pires indicated that this item is regarding the status of the exchange bond and, given the current situation, it can be removed from the agenda.

251

**TWELFTH ORDER OF BUSINESS**

**Approval of August 28, 2013 Public Hearings and Regular Meeting Minutes**

252

253

254

255

Mr. Brougham presented the August 28, 2013 Public Hearings and Regular Meeting Minutes and asked for any additions, deletions or corrections. The following changes were made:

256

257

Line 97: Change “\_\_\_\_\_” to “initial”

258

259

Regarding the blanks, on Line 206, Mr. Pires indicated that he cannot recall his comments; he requested the audio but has not listened to it yet.

260

261

Line 348: Change “\_\_\_\_\_” to “will advise”

262

263

Line 434: Mr. Pires was unsure he would make the statement listed and asked to strike the entire line of the verbatim transcription.

264

265

Line 494: As Mr. Vacaro could not recall his entire comment, Mr. Brougham directed that the entire line be struck from the verbatim transcription.

266

Line 508: Change “\_\_\_\_\_” to “DiNardo”

266

267

Line 857: Change “civilized” to “signalized”

268 Line 935: Change “hearing” to “oral argument”

269

270 **On MOTION by Mr. Bergmoser and seconded by Mr. Slater,**  
 271 **with all in favor, the August 28, 2013 Public Hearings and**  
 272 **Regular Meeting Minutes, as amended, were approved.**

273

274

275 **THIRTEENTH ORDER OF BUSINESS**                      **Other Business**

276

277 Mr. Pires asked the status of finalizing the punch list items with Waste Management  
 278 (WM) on the road resurfacing work. Mr. Cole indicated that he will drive the community to  
 279 investigate and email Mr. Brougham, Mr. Adams and others, regarding the status.

280

281 **FOURTEENTH ORDER OF BUSINESS**                      **Staff Reports**

282

283 **A. Attorney**

284 Mr. Pires had nothing additional to report.

285 **B. Manager**

286 **i. Approval of Unaudited Financial Statements as of September 30, 2013**

287 Mr. Brougham presented the Unaudited Financial Statements as of September 30, 2013.

288 Mr. Adams indicated that revenues exceeded budget, expenditures were under budget and  
 289 there were no additional unauthorized hits to the trust accounts.

290 Mr. Brougham referred to the \$397,000, under “ASSETS”, “Due from other funds”, and  
 291 asked if it should continue to be shown as a receivable. Mr. Adams indicated that it is the  
 292 Board’s decision. Mr. Brougham stated that it represents the legal fees that the District paid  
 293 from its “general fund”. Mr. Pires suggested obtaining an opinion from Mr. Reyes, regarding  
 294 this.

295 Mr. Bergmoser recalled the question about whether the District has reserve funds for  
 296 repaving and asked if it is unusual or improper for a CDD to have reserves for capital  
 297 improvements. Mr. Pires indicated that Boards have different philosophies. Mr. Adams advised  
 298 that, typically, large scale projects, such as repaving roads, are generally dealt with at the time of  
 299 need, through financing. Mr. Adams explained that the thought is that, by the time those projects  
 300 are needed, prior debt service will be rolling off or terming out and the District can then finance  
 301 infrastructure rejuvenation, essentially passing along the costs to the residents who will benefit

302 from it, rather than the current residents paying for the future work. Mr. Pires further explained  
303 this approach. Mr. Adams noted that certain smaller projects are built into the budget.

304 Mr. Peterson voiced his opinion that the term financing at the "time of need" does not  
305 strike true to him because the roads are deteriorating now. He noted that "time of need" is  
306 funding for the future and asked if the District should consider it.

307 Mr. Adams explained that part of the debt service amount that residents currently pay  
308 covers the initial installation of the road; if residents pay debt service and are also required to pay  
309 into a reserve, they will be paying for the initial installation, along with replacement, which  
310 might occur long after the resident no longer lives in the community. Mr. Adams questioned  
311 why the District would want to do it that way when it has the opportunity to address the  
312 replacement, at the time of need, based upon real costs, and with the residents of the time, who  
313 are benefitting from the replacement or refurbishment, to pay for it.

314 Mr. Peterson asked that debate of this matter be included as a future agenda item.

315 Mr. DiNardo pointed out that a future Board could choose to use a reserve, created by  
316 this Board, for whatever it wants.

317 Mr. Peterson reiterated that he wants this as a discussion item at a future meeting. Mr.  
318 Adams asked if Mr. Peterson wishes to raise it at a future meeting and ask for it to be on the  
319 following agenda. Mr. Peterson confirmed that he will raise the matter. Mr. Brougham  
320 indicated that, at the time the matter is discussed, the Board expects Mr. Adams to give a  
321 presentation of the alternatives, using "real life" examples, the demographics of the District,  
322 estimated costs to repave the road, in its entirety, etc. Mr. Adams was unsure if he could put real  
323 estimates to the cost of the future work. Mr. Brougham indicated that Mr. Cole will assist Mr.  
324 Adams in developing "good" estimates. In response to a question, Mr. Adams pointed out that it  
325 will cost millions to repave all of the roads. Mr. Adams asked Mr. Peterson to at least give him a  
326 meeting's notice prior to the meeting at which he wants to discuss the further.

327 Mr. Brougham indicated that the District's fund balance contains \$600,000 to \$700,000  
328 of spendable money.

329 **ii. NEXT MEETING DATE: November 20, 2013 at 8:00 A.M.**

330 The next meeting is scheduled for November 20, 2013 at 8:00 a.m.

331 Mr. Brougham recalled discussions, at previous meetings, regarding a continuous service  
332 contract for security services. He stated that he worked with Mr. Albeit and Mr. DiNardo to

333 draft a contract; however, it became apparent that a continuous service contract would not  
334 alleviate the Board debating and approving the rate and contract, on a yearly basis. Mr.  
335 Brougham advised that, for this reason, he dropped pursuit of a continuous service contract as, in  
336 his opinion, there did not appear to be an advantage over the current process.

337 **C. Operations Manager**

338 Ms. Crismond recalled that, about one (1) year ago, defective work notices were sent to  
339 TruGreen, regarding white fly. She reported that TruGreen has fallen down in addressing the  
340 problem, as there was another outbreak. In Ms. Crismond's opinion, another outbreak should  
341 have never occurred. Ms. Crismond stated that, according to TruGreen, the chemicals could not  
342 soak in due to the amount of rain. She believes that TruGreen is using a "Band-aid" approach to  
343 the problem; they are spraying monthly but not pursuing a more intensive, long-term solution,  
344 such as systemic injections. Ms. Crismond stated that "they" caused damage to the ficus trees  
345 and hedges and she is "over it". She recommended hiring the contractor that previously  
346 reviewed the community and gave written opinion. The new contractor would treat all ficus  
347 trees and hedges, provide a one (1)-year warranty and visit twice per month; the cost for this  
348 service would be deducted from TruGreen's contract. Ms. Crismond advised that, currently, two  
349 (2) to three (3) months is being held from TruGreen.

350 Mr. Curland asked if the new contractor's treatment is different from what TruGreen is  
351 already doing. Ms. Crismond stated that it uses different ingredients. Mr. Curland asked if Ms.  
352 Crismond has verified the application of the new contractor's treatments at other sites. Ms.  
353 Crismond indicated that she has not verified it. Mr. Curland asked if the District is being asked  
354 to make this decision based on the new contractor's recommendation. Ms. Crismond stated that  
355 it is not just on the contractor's recommendations; she researched it on websites and various  
356 sources of information. Ms. Crismond reiterated her opinion that TruGreen is only using a  
357 "Band-aid" approach; TruGreen has not done something that would last long-term and, if they  
358 did, it was not effective.

359 A Board Member asked if the new contractor's guarantee means that, if it does not work,  
360 they will replace all of the ficus trees and hedges. Ms. Crismond indicated that they are  
361 guaranteeing it.

362 Mr. Brougham stressed that he wants clarity on the guarantee. He noted that, on the  
363 surface, it seems like something the District should do because it is the recommended process

364 and TruGreen's topical process was ineffective. Mr. Brougham questioned what time period the  
365 District will allow the new contractor to prove that their treatment approach works and, if it does  
366 not work and the trees need to be replaced, who pays for replacement; the new contractor,  
367 TruGreen or the District. He asked if the District must pay the entire \$45,000 up front or if the  
368 contract calls for progress payments, based upon effectiveness. Mr. Brougham was concerned  
369 about spending \$45,000 and still having a bad result.

370 Mr. Slater indicated that several villages utilized the systemic injection method and he  
371 believes that it is working. Mr. Vacaro advised that the method seems to have worked in other  
372 villages. Discussion ensued regarding the types of chemicals that TruGreen used. Ms. Crismond  
373 noted that whitefly eventually becomes immune to the chemicals; the chemicals must constantly  
374 be changed and it is the contractor's responsibility to change and use different formulas.

375 Mr. Brougham agreed that the District has questions but waiting another month to decide  
376 means delaying treatment.

377 Mr. Curland voiced his feeling that the "guarantee" is very loose. Mr. Adams believes  
378 that the guarantee is related to whitefly; if a tree dies for another reason, they might not pay. Mr.  
379 Curland questioned who determines what caused the tree to die. Mr. Adams indicated that tissue  
380 samples would be tested.

381 Mr. Brougham stressed that he does not want to pay the full \$45,000 up front; he prefers  
382 to pay half and pay the other half, once there is validation that the treatment worked. Mr. Adams  
383 suggested paying 50% after the treatment and the other 50% following a 90-day review. Mr.  
384 Curland asked for a definitive explanation of the guarantee. Mr. Adams voiced his opinion that  
385 the warranty will be for the eradication or control of whitefly; they will not be held to  
386 replacement, unless it can be proven that the tree died due to whitefly and their poor treatment.  
387 Mr. Curland recalled that the trees do not die from white fly infestation, during the first year;  
388 they die during the second year of infestation. Ms. Crismond could not verify; she must research  
389 it. Ms. Crismond confirmed that the District already has some weak ficus trees; they are not  
390 dead but they are very weak from the whitefly infestations. Mr. Brougham asked Ms. Crismond  
391 what the estimate was to remove mature ficus trees. Mr. Adams recalled an estimate of \$2,000  
392 to \$3,000 to remove a tree and grind the stump.

393 Mr. Brougham directed Ms. Crismond to proceed but to provide more details, at the next  
394 meeting, regarding the new contractor's "guarantee". Mr. Curland asked if the work will

395 commence now. Mr. Brougham replied affirmatively; Ms. Crismond is to proceed with the new  
 396 contractor, paying 50% after the treatment and the remaining 50% after 90 days.

397 Ms. Crismond reported that the landscape renovation project was completed.

398 Ms. Crismond indicated that the District received a letter from the Architectural Design  
 399 Review Committee (ADRC) expressing concerns about the ficus tree trimming and white fly.  
 400 Management contacted JRL Design (JRL) regarding the ficus tree pruning methods. She  
 401 explained that pruning is completed in phases, on a three (3)-year cycle. Ms. Crismond stated  
 402 that the ficus tree trimming was completed and The Foundation notified the District of their  
 403 belief that the ficus trees are not being trimmed properly or as intended, based on JRL’s  
 404 specifications. JRL was asked to review the ficus trees. Ms. Crismond presented the report from  
 405 JRL clarifying that the current trimming approach is consistent with the specifications, which  
 406 they created and all parties approved. Mr. Albeit indicated he was not aware of what the three  
 407 (3)-year cycle schedule was and asked Ms. Crismond to provide.

408

409 **\*\*\*AUDIO ENDED AT APPROXIMATELY 9:23 A.M., THE FOLLOWING PORTION**  
 410 **WAS TRANSCRIBED FROM THE MEETING NOTES\*\*\***

411

412

413 **FIFTEENTH ORDER OF BUSINESS** **Supervisors’ Requests and Public**  
 414 **Comments (5 minutes per speaker)**

415

416 There being no Supervisors’ requests or public comments, the next item followed.

417

418 **SIXTEENTH ORDER OF BUSINESS** **Adjournment**

419

420 There being nothing further to discuss, the meeting adjourned.

421 Standing motion to adjourn at approximately 9:25.

422

423

424

425

426

427

428

429 \_\_\_\_\_  
Secretary/Assistant Secretary

\_\_\_\_\_  
Chair/Vice Chair

**FIDDLER'S CREEK  
COMMUNITY DEVELOPMENT DISTRICT #1  
FINANCIAL STATEMENTS  
UNAUDITED  
OCTOBER 31, 2013**

**FIDDLER'S CREEK  
COMMUNITY DEVELOPMENT DISTRICT #1  
BALANCE SHEET  
GOVERNMENTAL FUNDS  
OCTOBER 31, 2013**

	General 001	Debt Service Series 2002	Debt Service Series 2005	Debt Service Series 2013 Refunded 1999	Debt Service Series 2013 Refunded 2006	Capital Projects Series 2005	Total Governmental Funds
<b>ASSETS</b>							
Operating accounts							
SunTrust	\$ 244,105	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 244,105
Broward Bank of Commerce - MMA	75,060	-	-	-	-	-	75,060
Finemark - MMA	250,039	-	-	-	-	-	250,039
Finemark - ICS	316,641	-	-	-	-	-	316,641
BB& T - Savings	673	-	-	-	-	-	673
Investments							
Revenue	-	-	-	40,329	14,690	-	55,019
Reserve - series A	-	1,885	70	433,450	25,000	-	460,405
Reserve - series B	-	9,409	-	-	-	-	9,409
Prepayment - series A	-	-	-	8,131	4,725	-	12,856
Prepayment - series B	-	39	-	-	-	-	39
Debt service	-	13	-	-	-	-	13
Remedial expenditure	-	10,679	500	-	-	-	11,179
Interest	-	-	-	105,634	-	-	105,634
Construction	-	-	-	-	25,395	4,040	29,435
Due from other funds	397,002	-	-	-	-	-	397,002
Due from Developer	-	-	2,066,816	-	-	-	2,066,816
Due from Fiddler's Creek CDD #2	2,981	-	-	-	-	-	2,981
Due from general fund	-	-	-	1,516	1,007	-	2,523
Assessments receivable	14,147	-	-	8,035	5,336	-	27,518
Unsold certificates receivable	6,899	-	-	-	-	-	6,899
Deposits	5,125	-	-	-	-	-	5,125
Total Assets	<u>\$ 1,312,672</u>	<u>\$ 22,025</u>	<u>\$ 2,067,386</u>	<u>\$ 597,095</u>	<u>\$ 76,153</u>	<u>\$ 4,040</u>	<u>\$ 4,079,371</u>
<b>LIABILITIES &amp; FUND BALANCES</b>							
<b>Liabilities:</b>							
Accounts payable	\$ 114,316	\$ -	\$ -	\$ -	\$ -	\$ 11,918	\$ 126,234
Due to other funds							
General fund 001	-	7,500	298,337	-	-	91,165	397,002
Debt service 2013 - refunded 2006	1,007	-	-	-	-	-	1,007
Debt service 2013 - refunded 1999	1,516	-	-	-	-	-	1,516
Anchor marine retainage	6,374	-	-	-	-	-	6,374
Deferred revenue	6,899	-	2,066,816	-	-	-	2,073,715
Total liabilities	<u>130,112</u>	<u>7,500</u>	<u>2,365,153</u>	<u>-</u>	<u>-</u>	<u>103,083</u>	<u>2,605,848</u>
<b>Fund balances:</b>							
Reserved for:							
Debt service	-	14,525	(297,767)	597,095	76,153	-	390,006
Capital projects	-	-	-	-	-	(99,043)	(99,043)
Unreserved, undesignated	1,182,560	-	-	-	-	-	1,182,560
Total fund balances	<u>1,182,560</u>	<u>14,525</u>	<u>(297,767)</u>	<u>597,095</u>	<u>76,153</u>	<u>(99,043)</u>	<u>1,473,523</u>
Total liabilities and fund balance	<u>\$ 1,312,672</u>	<u>\$ 22,025</u>	<u>\$ 2,067,386</u>	<u>\$ 597,095</u>	<u>\$ 76,153</u>	<u>\$ 4,040</u>	<u>\$ 4,079,371</u>

**FIDDLER'S CREEK  
COMMUNITY DEVELOPMENT DISTRICT #1  
STATEMENT OF REVENUES, EXPENDITURES,  
AND CHANGES IN FUND BALANCES  
GENERAL FUND 001  
FOR THE PERIOD ENDED OCTOBER 31, 2013**

	Current Month	Year To Date	Budget	% of Budget
<b>REVENUES</b>				
Assessment levy	\$ -	\$ -	\$ 1,831,081	0%
Developer assessment	48,377	48,377	580,527	8%
Interest	231	231	3,500	7%
Miscellaneous	126	126	13,000	1%
Total revenues	<u>48,734</u>	<u>48,734</u>	<u>2,428,108</u>	2%
<b>EXPENDITURES</b>				
<b>Administrative</b>				
Supervisors	1,077	1,077	12,918	8%
Management	4,847	4,847	58,175	8%
Assessment roll preparation	-	-	24,500	0%
Accounting services	1,583	1,583	18,997	8%
Audit	-	-	15,100	0%
Legal	-	-	25,000	0%
Engineering	-	-	15,000	0%
Telephone	51	51	615	8%
Postage	73	73	2,000	4%
Insurance	17,184	17,184	16,500	104%
Printing and binding	51	51	615	8%
Legal advertising	405	405	1,000	41%
Office supplies	-	-	750	0%
Annual district filing fee	175	175	175	100%
Trustee	-	-	15,500	0%
Arbitrage rebate calculation	-	-	4,000	0%
Contingencies	97	97	2,000	5%
Dissemination agent	910	910	10,928	8%
Total administrative	<u>26,453</u>	<u>26,453</u>	<u>223,773</u>	12%
<b>Field management</b>				
Field management services	2,102	2,102	25,218	8%
Total field management	<u>2,102</u>	<u>2,102</u>	<u>25,218</u>	8%
<b>Water management maintenance</b>				
Other contractual	-	-	399,738	0%
Fountains	2,604	2,604	47,500	5%
Total water management maintenance	<u>2,604</u>	<u>2,604</u>	<u>447,238</u>	1%
<b>Street lighting</b>				
Contractual services	-	-	10,000	0%
Electricity	-	-	33,000	0%
Holiday lighting program	-	-	12,000	0%
Miscellaneous	-	-	1,500	0%
Total street lighting	<u>-</u>	<u>-</u>	<u>56,500</u>	0%

**FIDDLER'S CREEK  
COMMUNITY DEVELOPMENT DISTRICT #1  
STATEMENT OF REVENUES, EXPENDITURES,  
AND CHANGES IN FUND BALANCES  
GENERAL FUND 001  
FOR THE PERIOD ENDED OCTOBER 31, 2013**

	Current Month	Year To Date	Budget	% of Budget
<b>Landscaping</b>				
Other contractual - landscape maintenance	-	-	845,000	0%
Improvements and renovations	-	-	145,000	0%
Contingencies	-	-	35,600	0%
Total landscaping	-	-	1,025,600	0%
<b>Access control</b>				
Contractual services	10,722	10,722	314,756	3%
Rentals and leases	-	-	16,413	0%
Fuel	-	-	10,611	0%
Repairs and maintenance - parts	137	137	4,974	3%
Repairs and maintenance - gatehouse	-	-	16,579	0%
Insurance	6,241	6,241	7,194	87%
Operating supplies	753	753	29,843	3%
Total access control	17,853	17,853	400,370	4%
<b>Roadway</b>				
Contractual services	399	399	5,000	8%
Roadway maintenance	-	-	50,000	0%
Total roadway	399	399	55,000	1%
<b>Irrigation supply</b>				
Electricity	-	-	750	0%
Repairs and maintenance	-	-	1,500	0%
Supply system	4,565	4,565	125,400	4%
Total irrigation supply	4,565	4,565	127,650	4%
<b>Other fees &amp; charges</b>				
Property appraiser	-	-	28,611	0%
Tax collector	-	-	38,148	0%
Total other fees & charges	-	-	66,759	0%
Total expenditures	53,976	53,976	2,428,108	2%
Excess/(deficiency) of revenues over/(under) expenditures	(5,242)	(5,242)	-	
Net change in fund balances	(5,242)	(5,242)	-	
Fund balances - beginning	1,187,802	1,187,802	1,086,258	
Fund balances - ending	<u>\$ 1,182,560</u>	<u>\$ 1,182,560</u>	<u>\$ 1,086,258</u>	

**FIDDLER'S CREEK  
COMMUNITY DEVELOPMENT DISTRICT #1  
STATEMENT OF REVENUES, EXPENDITURES,  
AND CHANGES IN FUND BALANCES  
DEBT SERVICE FUND SERIES 2002  
FOR THE PERIOD ENDED OCTOBER 31, 2013**

	<u>Current Month</u>	<u>Year To Date</u>	<u>Budget</u>	<u>% of Budget</u>
<b>REVENUES</b>				
Special assessment: off-roll	\$ -	\$ -	\$ 2,706,639	0%
Total revenues	<u>-</u>	<u>-</u>	<u>2,706,639</u>	0%
<b>EXPENDITURES</b>				
<b>Debt service</b>				
Principal A	-	-	549,690	0%
Principal B	-	-	292,375	0%
Interest A	-	-	1,245,096	0%
Interest B	-	-	619,478	0%
Total debt service	<u>-</u>	<u>-</u>	<u>2,706,639</u>	0%
Excess/(deficiency) of revenues over/(under) expenditures	-	-	-	
Net change in fund balances	-	-	-	
Fund balances - beginning	14,525	14,525	22,473	
Fund balances - ending	<u>\$ 14,525</u>	<u>\$ 14,525</u>	<u>\$ 22,473</u>	

**FIDDLER'S CREEK  
COMMUNITY DEVELOPMENT DISTRICT #1  
STATEMENT OF REVENUES, EXPENDITURES,  
AND CHANGES IN FUND BALANCES  
DEBT SERVICE FUND SERIES 2005  
FOR THE PERIOD ENDED OCTOBER 31, 2013**

	<u>Current Month</u>	<u>Year To Date</u>	<u>Budget</u>	<u>% of Budget</u>
<b>REVENUES</b>				
Special assessment: off-roll	\$ -	\$ -	\$ 1,966,404	0%
Interest	-	-	-	N/A
Total revenues	<u>-</u>	<u>-</u>	<u>1,966,404</u>	0%
<b>EXPENDITURES</b>				
<b>Debt service</b>				
Principal	-	-	538,140	0%
Interest	-	-	1,428,264	0%
Total debt service	<u>-</u>	<u>-</u>	<u>1,966,404</u>	0%
Excess/(deficiency) of revenues over/(under) expenditures	-	-	-	
Net change in fund balances	-	-	-	
Fund balances - beginning	<u>(297,767)</u>	<u>(297,767)</u>	<u>(293,073)</u>	
Fund balances - ending	<u>\$ (297,767)</u>	<u>\$ (297,767)</u>	<u>\$ (293,073)</u>	

**FIDDLER'S CREEK  
COMMUNITY DEVELOPMENT DISTRICT #1  
STATEMENT OF REVENUES, EXPENDITURES,  
AND CHANGES IN FUND BALANCES  
DEBT SERVICE FUND SERIES 2013 (REFUNDED SERIES 1999)  
FOR THE PERIOD ENDED OCTOBER 31, 2013**

	Current Month	Year To Date	Budget	% of Budget
<b>REVENUES</b>				
Assessment levy	\$ -	\$ -	\$ 915,996	N/A
Interest	2	2	-	N/A
Total revenues	<u>2</u>	<u>2</u>	<u>915,996</u>	N/A
<b>EXPENDITURES</b>				
<b>Debt service</b>				
Principal	-	-	640,000	0%
Interest	-	-	223,734	0%
Total debt service	<u>-</u>	<u>-</u>	<u>863,734</u>	0%
<b>Other fees &amp; charges</b>				
Property appraiser			14,312	
Tax collector			19,083	N/A
Total other fees & charges	<u>-</u>	<u>-</u>	<u>33,395</u>	N/A
Total expenditures	<u>-</u>	<u>-</u>	<u>897,129</u>	N/A
Excess/(deficiency) of revenues over/(under) expenditures	2	2	18,867	
Net change in fund balances	2	2	18,867	
Fund balances - beginning	597,093	597,093	554,317	
Fund balances - ending	<u>\$ 597,095</u>	<u>\$ 597,095</u>	<u>\$ 573,184</u>	

**FIDDLER'S CREEK  
COMMUNITY DEVELOPMENT DISTRICT #1  
STATEMENT OF REVENUES, EXPENDITURES,  
AND CHANGES IN FUND BALANCES  
DEBT SERVICE FUND SERIES 2013 (REFUNDED SERIES 2006)  
FOR THE PERIOD ENDED OCTOBER 31, 2013**

	Current Month	Year To Date	Budget	% of Budget
<b>REVENUES</b>				
Assessment levy	\$ -	\$ -	\$ 562,087	N/A
Total revenues	<u>-</u>	<u>-</u>	<u>562,087</u>	N/A
<b>EXPENDITURES</b>				
<b>Debt service</b>				
Principal	-	-	450,000	N/A
Interest	-	-	69,348	N/A
Total debt service	<u>-</u>	<u>-</u>	<u>519,348</u>	0%
<b>Other fees &amp; charges</b>				
Property appraiser	-	-	8,783	
Tax collector	-	-	11,710	N/A
Total other fees & charges	<u>-</u>	<u>-</u>	<u>20,493</u>	N/A
Total expenditures	<u>-</u>	<u>-</u>	<u>539,841</u>	N/A
Excess/(deficiency) of revenues over/(under) expenditures	-	-	22,246	
Net change in fund balances	-	-	22,246	
Fund balances - beginning	76,153	76,153	53,029	
Fund balances - ending	<u>\$ 76,153</u>	<u>\$ 76,153</u>	<u>\$ 75,275</u>	

**FIDDLER'S CREEK  
COMMUNITY DEVELOPMENT DISTRICT #1  
STATEMENT OF REVENUES, EXPENDITURES,  
AND CHANGES IN FUND BALANCES  
CAPITAL PROJECTS FUND SERIES 2005  
FOR THE PERIOD ENDED OCTOBER 31, 2013**

	Current Month	Year To Date
<b>REVENUES</b>		
Interest	\$ -	\$ -
Total revenues	-	-
<b>EXPENDITURES</b>		
Total expenditures	-	-
Excess/(deficiency) of revenues over/(under) expenditures	-	-
Net change in fund balances	-	-
Fund balances - beginning	(99,043)	(99,043)
Fund balances - ending	\$ (99,043)	\$ (99,043)