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President of the Senate

## THE FLORIDA LEGISLATURE

### OFFICE OF ECONOMIC AND DEMOGRAPHIC RESEARCH



STEVE CRISAFULLI  
Speaker of the House of  
Representatives

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Eric H. Miller, Policy Chief  
Florida House of Representatives  
Local & Federal Affairs Committee  
Local Government Affairs Subcommittee  
317 House Office Building  
402 South Monroe Street  
Tallahassee, FL 32399-1300

Mr. Miller:

At the Subcommittee's request, the Office of Economic and Demographic Research (EDR) evaluated the *2015 Poinciana Incorporation Feasibility Study* with regard to the requirements and standards expressed in Chapter 165, F.S. EDR also considered whether the Study's methodologies, findings, projections, and recommendations accurately reflect the feasibility of municipal incorporation. This is the third consecutive year that EDR has reviewed the proposed incorporation.

Using the data and information submitted in the Feasibility Study dated October 15, 2015 (hereinafter, "the Study"), EDR suggests that the proposed municipality of Poinciana (hereinafter, "Poinciana") violates one of the six statutory standards of incorporation (i.e., area being considered for incorporation must be compact and contiguous). As it did last year, EDR reasons that the standard is not being met because Poinciana lacks compactness. Additionally, EDR identified other issues as outlined in this letter.

This response consists of two parts. Part One is EDR's evaluation with respect to the elements of a feasibility study expressed in Section 165.041(1)(b), F.S. Part Two is EDR's evaluation with respect to the standards for municipal incorporation expressed in Section 165.061(1), F.S.

#### **Part One: EDR's Evaluation of the Feasibility Study**

Pursuant to Section 165.041(1)(b), F.S., a feasibility study, which is prepared to inform the Florida Legislature on the feasibility of a proposed municipal incorporation, shall contain 11 elements. This section addresses each of these elements.

#### **Element #1**

**The location of territory subject to boundary change and a map of the area which identifies the proposed change. (Section 165.041(1)(b)1., F.S.)**

Staff Analysis: The Study (pp. 6-11) describes the location of the territory subject to boundary change and provides a general description of the proposed boundaries and maps of the area. Since the proposed area of incorporation lies within two separate counties (i.e., Osceola and Polk), the Study (p. 7) notes that the legal descriptions are defined in the platted databases of each county's respective Property Appraiser. The Study (pp. 80-114) includes a more detailed legal description of Poinciana's

boundaries (i.e., Metes and Bounds) in the proposed municipal charter. The Study (pp. 7, 9, 18, 79, 147-148) includes a number of maps. ***Although EDR did not review the platted databases, the general description of the proposed boundaries and maps of the area appear to be satisfactory.***

#### **Element #2**

**The major reasons for proposing the boundary change. (Section 165.041(1)(b)2., F.S.)**

Staff Analysis: The Study (pp. 12-15) provides a discussion of the major reasons for the proposed boundary change. ***The validity and reasonableness of the discussed reasons are more appropriately in the arena of policy making and depend on the reviewer's support or opposition to municipal incorporation.***

#### **Element #3**

**The following characteristics of the area: (a) a list of the current land use designations applied to the subject area in the county comprehensive plan; (b) a list of the current county zoning designations applied to the subject area; (c) a general statement of present land use designations of the area; and (d) a description of development being proposed for the territory, if any, and a statement of when actual development is expected to begin, if known. (Section 165.041(1)(b)3., F.S.)**

Staff Analysis: The Study (pp. 17-23) provides discussions of existing county land uses and current land use maps. ***Whether or not these discussions are sufficient is outside EDR's purview. The determination that this element has been properly satisfied is best suited to the professional planning staff of the Department of Economic Opportunity's Division of Community Development.***

#### **Element #4**

**A list of all public agencies, such as local governments, school districts, and special districts, whose current boundary falls within the boundary of the territory proposed for the change or reorganization. (Section 165.041(1)(b)4., F.S.)**

Staff Analysis: The Study (p. 24-26) provides a listing of public agencies, including the Osceola and Polk County Boards of County Commissioners (BOCCs) and various county departments that provide services within Poinciana; county constitutional officers; school districts; water management district; and water authority. Additionally, this section includes total and per capita figures, which are assumed to represent the estimated taxes, fees, and charges paid by Poinciana residents to these various public agencies and to private entities in some cases. ***The list of public agencies appears complete; however, EDR did not independently verify each public agency operating within Poinciana. This list also includes some private corporations, such as electric utility and cable TV providers. The inclusion of the fiscal data in this element is unnecessary as it is not required here. The fiscal data are also potentially confusing since they include aggregate payments made by residents to private corporations. Additionally, these fiscal data lack documentation as to the source or explanation as to how such totals were determined.***

#### **Element #5**

**A list of current services being provided within the proposed incorporation area, including, but not limited to, water, sewer, solid waste, transportation, public works, law enforcement, fire and rescue, zoning, street lighting, parks and recreation, and library and cultural facilities, and the estimated costs for each current service. (Section 165.041(1)(b)5., F.S.)**

Staff Analysis: The Study (pp. 27-34) lists current services being provided within the proposed area of incorporation and estimated total and per capita costs of current services. The Study states that many current services will continue unchanged by the present providers (i.e., Fire and Rescue, Law Enforcement, Library and Cultural Facilities, Solid Waste, Street Lighting, Transportation, and Water and Sewer). Furthermore, the Study states that Parks and Recreation will be supplemented by the proposed city; Public Works will remain unchanged initially, but be subject to future negotiation; and Zoning will be taken over by the proposed city.

***EDR has the following comments regarding this element.***

- 1. A listing of current services and estimated costs is provided; however, it lacks documentation by source or explanation as to how such totals were determined. Therefore, it is difficult to assess the validity of such estimated costs. Additionally, no estimated costs were provided for zoning, which is one of the identified services being assumed by the proposed municipality.***
- 2. The Study attempts to categorize the estimated expenses and revenues into a format used by local governments when submitting Annual Financial Reports (AFRs) to the State. This categorization is not required by this element – only the estimated expenses of current services are required. However, there are a few problems. First, expenses and revenues are aggregated into broad category totals without explanation as to what has been “rolled-up” into that category total. For some categories, the reader can figure out the summations, but for other expenditure categories such as General Government and Physical Environment the components could not be determined. Second, it appears that expenses and revenues were not correctly allocated to the proper categories. For example, General Government expenditures are too high while Physical Environment expenditures appear too low.***
- 3. In its review of last year’s 2014 Feasibility Study, EDR noted that although the report stated that the majority of current services would continue to be provided by the present providers, there was no documentation (i.e., letters of intent or memorandums of understanding) from the Osceola and Polk Boards of County Commissioners, Osceola and Polk County Sheriffs, and other service providers confirming that current services would continue to be provided to the residents of Poinciana following municipal incorporation. The Study (pp. 32-34) does partially address this shortcoming by including separate statements from the Polk County Board of County Commissioners and the Osceola and Polk County Sheriffs’ Offices, which suggest that current services would continue to be provided after incorporation. However, new services or expansion of existing services would be subject to future negotiation. Additionally, there is no comparable statement from Osceola County government, which is a concern since the Study indicates that Poinciana residents residing within Osceola County represent 61% of the Poinciana’s estimated 2015 population of 49,414.***

#### **Element #6**

**A list of proposed services to be provided within the proposed incorporation area, and the estimated cost of such proposed services. (Section 165.041(1)(b)6., F.S.)**

Staff Analysis: The Study (pp. 35-39) provides a list of proposed services to be provided within the proposed area of incorporation and estimated costs for those services. The list of proposed services is divided into four categories: 1) continued services provided by existing service providers, 2) continued services to be provided by counties, 3) continued services to be provided by APV HOA (i.e., Association of Poinciana Villages’ Home Owners Association), and 4) services to be provided by new city.

***EDR has the following comments regarding this element.***

- 1. The estimated costs associated with the various services lack documentation by source or explanation as to how such totals were determined. Therefore, it is difficult to assess the validity of such estimated costs. Additionally, a number of the per capita cost calculations are incorrect – assuming the calculations are based on the Study’s 2015 population estimate of 49,414.***
- 2. As in the previous element, the Study attempts to categorize the estimated expenses and revenues into a format used by local governments when submitting AFRs to the State. This categorization is not required by this element – only the estimated expenses of proposed services are required. However, there are a few problems. First, expenses and revenues are aggregated into broad category totals without explanation as to what has been “rolled-up” into that category total. Second, it appears that expenses and revenues were not correctly allocated to the proper categories. Third, the write-up may give the false impression that these figures reflect estimated expenses and revenues for Poinciana’s government when, in reality, several of these items reflect expenses paid directly by the residents to the service provider or revenues collected by the service provider from the residents directly.***

**Element #7**

**The names and addresses of three officers or persons submitting the proposal. (Section 165.041(1)(b)7., F.S.)**

Staff Analysis: The Study (p. 40) provides the names and addresses of eight individuals. ***EDR did not attempt to contact these individuals.***

**Element #8**

**Evidence of fiscal capacity and an organizational plan as it relates to the area seeking incorporation that, at a minimum, includes: (a) existing tax bases, including ad valorem taxable value, utility taxes, sales and use taxes, franchise taxes, license and permit fees, charges for services, fines and forfeitures, and other revenue sources, as appropriate; and (b) a 5-year operational plan that, at a minimum, includes proposed staffing, building acquisition and construction, debt issuance, and budgets. (Section 165.041(1)(b)8., F.S.)**

Staff Analysis: The Study (pp. 41-68) includes discussions of the proposed municipal incorporation timeline (pp. 41-42), discussion and estimation of municipal revenues (pp. 42-52) and expenses (pp. 53-62), and the five-year operational plan (pp. 62-68). Proponents are seeking legislative approval of an incorporation bill during the 2016 session, and the proposed municipal referendum is scheduled for November 2016. If incorporated, municipal elections and the first city commission meeting would be held in April 2017.

The Study discusses four revenue sources that will be initially utilized by Poinciana: two tax sources (i.e., Local Discretionary Sales Surtax and Utility Services Tax) and two intergovernmental revenues (i.e., Local Government Half-cent Sales Tax and Municipal Revenue Sharing). In the first full local fiscal year (i.e., 2017-18) of municipal operations, the Communication Services Tax is added as a revenue source. In the second full local fiscal year (i.e., 2018-19) of municipal operations, Grants and Local Option Fuel Tax revenues are added as revenue sources. Additionally, the five-year operational plan does not call for an Ad Valorem Tax levy; however, the Study (p. 42) states that this revenue source will remain an option for a future elected city government.

Also, the Study (pp. 53-46) discusses anticipated municipal expenditures totaling \$3.84 million in the first partial fiscal year (i.e., 2016-17) of operations, \$8.97 million in the first full fiscal year (i.e., 2017-18) of operations, and \$12.97 million in the second full fiscal year (i.e., 2018-19).

***EDR has the following comments regarding this element.***

- 1. The Study makes what appears to be conflicting statements about the use/non-use of the Ad Valorem Tax as a revenue source. The Study (p. 42) includes the following statement: "The 5 year financial projection for the city of Poinciana calls for no levy of property tax although that will remain an option for the elected city council government." Then, on the following page, the following statements are made. "Data provided by the Osceola and Polk County Property Appraisers shows the city of Poinciana's 2015 taxable value totals approximately \$1,025M. Based on a 3 mill levy ad valorem city property tax revenues would be \$3.1 million for the city's first year of operations." This discussion should be modified to make clear that Ad Valorem Tax revenues will not be a funding source – at least initially.***
- 2. The Study (pp. 43-44) discusses the use of the Utility Services Tax (UST) as a revenue source and mentions that EDR had previously suggested a methodology for calculating estimated revenues. Using the Study's estimated 2015 population of 49,414 and official 2015 Florida population estimates for unincorporated portions of Osceola and Polk counties, EDR is suggesting a lower utility services tax estimate of \$3.20 million rather than the Study's estimate of \$3.46 million (see calculations below). In fairness to the Study's author, the official 2015 Florida population estimates were released in mid-October 2015 and not available when the Study was being finalized. Additionally, it should be noted that EDR could not verify the source of the unincorporated area populations used in the Study's (p. 44) calculations.***

***Osceola portion: ( 30,098 / 200,419 ) \* \$11,755,953 = \$1,765,455***

***Polk portion: ( 19,316 / 391,371 ) \* \$29,008,631 = \$1,431,712***

***Combined total: \$1,765,455 + \$1,431,712 = \$3,197,167***

- 3. The Study (p. 44) outlines the expected municipal revenues originating from two state revenue sharing programs. In May 2015, the Florida Department of Revenue (DOR) provided the incorporation proponents with FY 2014-15 revenue estimates of \$3.03 million and \$1.85 million for the Local Government Half-cent Sales Tax Program and Municipal Revenue Sharing Program, respectively, based on population and taxable value figures provided to the Department. Since DOR administers these revenue sharing programs, EDR assumes these revenue estimates are reasonable.***
- 4. The Study (pp. 44-45) outlines the expected municipal revenues originating from a 1% Local Discretionary Sales Surtax (i.e., Local Government Infrastructure Surtax) currently imposed by Osceola County. In May 2015, the DOR provided the incorporation proponents with a FY 2014-15 revenue estimate of \$2.84 million for Poinciana's portion of the Local Government Infrastructure Surtax proceeds. Since DOR administers these revenue sharing programs, EDR assumes this revenue estimate is reasonable.***
- 5. The Study (pp. 45-46) discusses the use of the Communication Services Tax (CST) as a revenue source and mentions that EDR had concurred in the reasonableness of the methodology used to calculate estimated revenues in the prior year's study. However, using more recent FY 2015-16 CST estimates and official 2015 Florida population estimates for unincorporated portions of Osceola and Polk counties, EDR is suggesting a slightly lower CST revenue estimate of \$1.42 million rather than the Study's estimate of \$1.49 million (see calculations below). In fairness to the Study's author, the official 2015 Florida population estimates were released in mid-October 2015 and not***

**available when the Study was being finalized; however, FY 2015-16 CST estimates have been posted on the EDR's website since July 2015. Additionally, it should be noted that unincorporated area population figures used in the Study's (p. 46) CST calculations differ from those same figures used in the Study's (p. 44) UST calculations.**

**Osceola portion:**

**FY 2015-16 Osceola BOCC CST Estimate: \$6,099,604**

**2015 Unincorporated Population: 200,419**

**CST Revenue Per Capita: ( \$6,099,604 / 200,419 ) = \$30.43**

**Poinciana CST (Osceola portion): \$30.43 \* 30,098 = \$915,882**

**Polk portion:**

**FY 2015-16 Polk BOCC CST Estimate: \$10,273,142**

**2015 Unincorporated Population: 391,371**

**CST Revenue Per Capita: ( \$10,273,142 / 391,371 ) = \$26.25**

**Poinciana CST (Polk portion): \$26.25 \* 19,316 = \$507,045**

**Poinciana CST total: \$915,882 + \$507,045 = \$1,422,927**

- 6. The Study (pp. 46-47) outlines the expected municipal revenues originating from Grants. However, the calculation methodology does not match the explanation of Grants revenue that Poinciana expects to receive. The Study illustrates per capita Grants funding for three comparison cities (i.e., Haines City, Kissimmee, and Winter Haven) using data it attributes to city budget documents, although no documentation is provided. The Study multiplies the "low" per capita grants revenue figure of \$46 (i.e., Kissimmee's per capita figure) by Poinciana's estimated population of 49,414 to calculate the revenue estimate of \$2.27 million. However, the Study states: "The only grant monies that this study assumes Poinciana would qualify for are Community Development Block Grants from both Polk and Osceola Counties." Later in the same paragraph, the Study states: "To be on the conservative side the only grant revenues included in this study is assumed to be the Community Block Grant funding which Poinciana receives today." The Study provides no documentation of Community Development Block Grant monies received by Osceola or Polk counties or explanation of how those monies would be apportioned to Poinciana. Consequently, EDR believes the Grants estimates discussed here and in the five-year revenue projection (p. 65) are of little value and should be questioned.**
- 7. The Study (pp. 46-47) outlines the expected municipal revenues originating from local fuel taxes. The Study includes the following statement: "Florida municipal gas tax revenues are calculated based on the lane miles of local roads maintained by local municipalities." This reflects a serious misunderstanding of the intricacies of the process. The proceeds of the state-imposed, one-cent municipal fuel tax, which are allocated through the Municipal Revenue Sharing Program, are distributed through a distribution formula that does not factor in lane miles of local roads. Further, the proceeds of the Ninth-cent Fuel Tax, which is one of three statutorily-authorized, local option fuel taxes, are county revenues. A county government may, but is not required to, share the proceeds with respective municipalities within the county, and no particular distribution methodology is specified in law. Finally, the proceeds of the 1 to 6 Cents and 1 to 5 Cents Local Option Fuel Taxes are distributed according to distribution factors determined by a locally-determined, interlocal agreement or a default formula if no agreement has been established. In the default formula, the local government's distribution is based on the transportation expenditures of that government for the immediately preceding five fiscal years as a proportion of**

*the sum total of such expenditures for the respective county and all municipalities within the county. Consequently, EDR believes the local fuel tax estimates here and in the five-year revenue projection (p.65), which is based on applying the average cost per lane mile for the cities of Kissimmee and Winter Haven to Poinciana's estimate of total lane miles to be maintained, are of little value and should be questioned.*

- 8. The Study (pp. 48-49) aggregates estimates for the four initial revenue sources (i.e., Local Discretionary Sales Surtax, Utility Service Tax, Local Government Half-cent Sales Tax Program, and Municipal Revenue Sharing Program). Although not stated, the Study prorates the individual figures to reflect the estimated revenue for Poinciana's first nine months of operation (i.e., Jan. 1, 2017 through Sept. 30, 2017). However, the summary incorrectly categories the revenues by type since (1) Local Discretionary Sales Surtax and Utility Service Tax should be classified as Taxes; and (2) Local Government Half-cent Sales Tax and Municipal Revenue Sharing should be classified as Intergovernmental Revenues. This error is repeated in the "1<sup>st</sup> full year" and "2<sup>nd</sup> full year and beyond" revenue summaries (pp. 50-51). Additionally, in the "2<sup>nd</sup> full year and beyond" summary, Grants are incorrectly classified as a Miscellaneous Revenue rather than as an Intergovernmental Revenue.*
- 9. The Study (p. 52) provides a list of additional revenues available to Poinciana but not included for consideration in the five-year operational plan. Most notably, the Ad Valorem Tax is not included in this list although the Study (p. 42) states that this revenue source will remain an option for Poinciana's elected leaders.*
- 10. The Study (p. 53) makes the following statements: "Poinciana expense estimates have been generated by looking at specific expenses for neighboring cities such as Haines City, Kissimmee, and Winter Haven. These expenses have been estimated at the departmental level." However, there is no documentation citing the source of these neighboring cities' departmental expenses. Additionally, the Study does not state why the expenses of these three municipalities might be comparable to Poinciana. The 2015 estimated populations of Haines City, Kissimmee, and Winter Haven are 46%, 135%, and 77% of Poinciana's population, respectively. It may have been more appropriate to base expenditure estimates, in part, on a cohort group of similarly-populated municipalities such as the ten municipalities identified by EDR and summarized in the attached table.*
- 11. The Study (pp. 59-62) provides Poinciana's estimated expenditures for the first partial fiscal year (i.e., 2016-17) and the first and second full fiscal years (i.e., 2017-19) of operations. However, there is little explanation of how Poinciana's expenses were calculated, so it is difficult to assess the validity of the expenditure figures.*
- 12. Although expenditures by category can vary from one municipality to the next, the proportion of Poinciana's total expenditures allocated to General Government and Economic Environment is much higher than the statewide average. For example, in Poinciana's first full fiscal year of operations (i.e., 2017-18), General Government expenditures of \$3.53 million represent 39.3% of its total expenditures of \$8.97 million, which is higher than the statewide average of 26.1% in local FY 2012-13 (i.e., the most recent fiscal year data). Similarly, Poinciana's Economic Environment expenditures of \$2.08 million represent 23.2% of its total expenditures, which is nearly 11 times higher than the statewide average of 2.2%. No explanation for these extraordinary allocations is given.*
- 13. The Study (p. 64) makes the following statements regarding Poinciana's population. "The current Poinciana population is estimated at 49,414. The growth in population is projected to increase at an annual rate of 3% to 58,000 in FY starting October 2021. The Poinciana area is accepted to be among the fastest growing communities in Central Florida." Although population growth in the unincorporated areas of Osceola and Polk counties has been increasing in recent years according*

*to official estimates, average annual growth in the unincorporated areas of Osceola and Polk counties between 2010 and 2015 has been 3.1% and 0.8%, respectively. During the same period, average annual population growth in the combined unincorporated areas of both counties has been 1.5%. Additionally, according to the most recent county population projections published on the EDR's website, the combined countywide population of Osceola and Polk counties is expected to increase 2.4% annually between 2015 and 2020. Consequently, the Study's assumption of 3% annual population growth may be too optimistic.*

- 14. The Study (p. 64) makes the following statement regarding Poinciana's property tax base. "The property tax base is projected to increase an average of 5% per year from FY 2015 through FY 2022." There is no documentation to substantiate this claim. However, the annual percentage increase seems reasonable given that the July 2015 Florida Ad Valorem Estimating Conference forecasted average annual growth in county taxable values for Osceola and Polk counties between 2015 and 2020 to be 9.2% and 7.0%, respectively.**
- 15. The Study (p. 65) makes the following statement regarding Poinciana's expenditures and revenues. "Expenses and Revenues are assumed to increase on a 3% yearly basis, which is consistent with other Florida cities." There is no documentation to substantiate this claim. In reality, the annual rates of expenditure and revenue growth can vary significantly from one municipality to another due to a number of factors. Between local FY 2007-08 and FY 2012-13, statewide municipal government revenues increased annually, on average, 4.8% while expenditures decreased 0.3%. As previously mentioned, it may be instructive to base Poinciana's expected future expenditure and revenue growth, in part, on the identified cohort group of similarly-populated municipalities or the recent patterns experienced by Osceola and Polk counties.**
- 16. The five-year revenue and expense projections by source (pp. 65-66) should begin with FY 2016-17 (i.e., the partial first year of operations) rather than FY 2017-18 (i.e., the first full year of operations). Additionally, the year column labels are confusing: 2017 is used for 2017-18, 2018 is used for 2018-19, and so on. Although the Study states the assumption that annual revenues and expenditures will increase by 3%, there is no growth in the revenue and expense figures between the year 1 (i.e., 2017-18) and year 2 (i.e., 2018-19), and the 3% annual growth is not reflected until year 3 (i.e., 2019-20). The Study offers no explanation for this deviation. Additionally, it would be beneficial to include Poinciana's corresponding annual population projections as part of these tables.**
- 17. Given the prior comments regarding the calculation of select revenues as well as the lack of documentation and explanation of expense estimates, it is difficult to assess the validity of Poinciana's five-year projections of revenue and expenses and the projected surpluses (pp. 65-68).**

#### **Element #9**

**Data and analysis to support the conclusions that incorporation is necessary and financially feasible, including population projections and population density calculations, and an explanation concerning methodologies used for such analysis. (Section 165.041(1)(b)9., F.S.)**

Staff Analysis: The Study (pp. 69-72) describes the results of a SWOT (Strengths, Weaknesses, Opportunities, Threats) analysis prepared in 2015 by BJM Consulting. Additionally, the Study refers back to the data and analysis furnished in response to Section 165.041(1)(b)8., F.S., as evidence to support its conclusion that incorporation is necessary and financially feasible. **The Study (p. 71) makes the following statement: "Data and analysis supporting the conclusion that incorporation is financially feasible is shown in section 8 of this study and have been verified by the Florida Department of**



***Revenue and Office of Economic and Demographic Research.” This statement is not accurate as demonstrated by EDR’s comments in this letter and its reviews of Poinciana’s prior feasibility studies.***

**Element #10**

**Evaluation of the alternatives available to the area to address its policy concerns. (Section 165.041(1)(b)10., F.S.)**

Staff Analysis: The Study (pp. 73-74) identifies three alternatives to municipal incorporation. First, Poinciana could remain as an unincorporated community under the direction of the existing master homeowners association. Second, services to the existing unincorporated community could be supplemented by the establishment of special taxing districts by Osceola and Polk counties. Third, an independent special district for Poinciana could be created by the Florida Legislature. The proponents believe these alternatives do not provide the citizens of Poinciana with the ability to elect their own local leaders capable of exercising municipal home-rule powers. ***The validity and reasonableness of the discussed alternatives are more appropriately in the arena of policy making and depend on the reviewer’s support or opposition to municipal incorporation.***

**Element #11**

**Evidence that the proposed municipality meets the requirements for incorporation pursuant to s. 165.061. (Section 165.041(1)(b)11., F.S.)**

Staff Analysis: Section 165.061(1), F.S., enumerates six standards that must be met in the area proposed for incorporation. ***EDR’s analysis of whether or not Poinciana has satisfied each of these six standards is addressed in Part Two of this memorandum.***

**Part Two: EDR’s Evaluation of the Feasibility Study with Respect to the Standards of Incorporation**

Pursuant to Section 165.061(1), F.S., six standards must be met in the area proposed for incorporation. This section addresses each of these six standards.

**Standard #1**

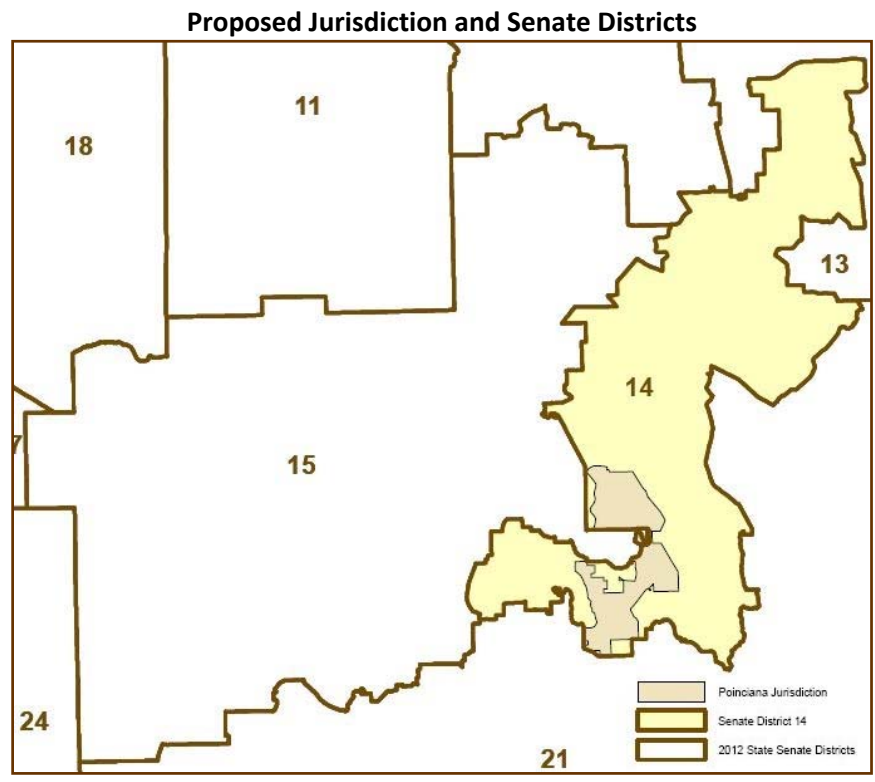
**It must be compact and contiguous and amenable to separate municipal government. (Section 165.061(1)(a), F.S.)**

Staff Analysis: This section of Florida law does not provide statutory definitions of compact or contiguous. However, the Merriam-Webster dictionary defines *compact*, in part, to mean *occupying a small volume by reason of efficient use of space*. Furthermore, *contiguous* is defined, in part, to mean *touching or connected throughout in an unbroken sequence*. In its January 31, 2014 and February 2, 2015 memorandums to the House Local & Federal Affairs Committee, EDR stated that Poinciana appeared to be contiguous but lacked compactness based on the maps that were included in the respective feasibility studies.

The Study (p. 7) includes a revised map that better approximates Poinciana’s boundaries. For the purpose of analysis, EDR created a map that approximates Poinciana based on the Study’s map and the Department of Revenue’s property tax records for both Osceola and Polk counties. EDR’s map representation of Poinciana reflects an area of 21,730 acres. This map was utilized in EDR’s analysis of this Standard as well as Standards #2-4 to follow.

The Study (pp. 8-10) provides a rebuttal to EDR’s prior objections by stating that Poinciana shares boundaries with parts of the 2010 Florida State Senate Districts 14 and 15 boundaries. The author reasons that because legislative districts are required by the state constitution to be compact, then the proposed municipal boundary is compact. [Note: Article III, Section 21(b) of the State Constitution states in part “...districts shall be as nearly equal in population as is practicable; districts shall be compact; and districts shall, where feasible, utilize existing political and geographical boundaries.”] The author also cites a portion of Section 171.031(12), F.S., which provides a definition of compactness as further justification for their argument that Poinciana is compact. However, this section falls within Part 1 of Chapter 171, F.S., dealing with municipal annexation or contraction, and the full definition reads “compactness means concentration of a piece of property in a single area and precludes any action which would create enclaves, pockets, or finger areas in serpentine patterns. Any annexation proceeding in any county in the state shall be designed in such a manner as to ensure that the area will be reasonably compact.”

The Study (p. 8) states: “If Poinciana’s district maps for Senate Districts 14 and 15 meet the compact requirements of the Florida Constitution for redistricting, we suggest it should meet the same compact requirements for incorporation since they use the same boundaries.” The map that follows shows the boundary relationships of Poinciana and neighboring Florida Senate Districts. As shown below, Poinciana appears to be wholly contained within Senate District 14. Even if Poinciana’s boundary mirrors in part the boundary between Senate Districts 14 and 15, the Senate Districts are much larger and contain more area than Poinciana. Thus, Poinciana’s entire boundary does not totally align to any particular Senate District, and the argument that was put forward in the Study is not appropriate since compactness is determined based on the entire area.



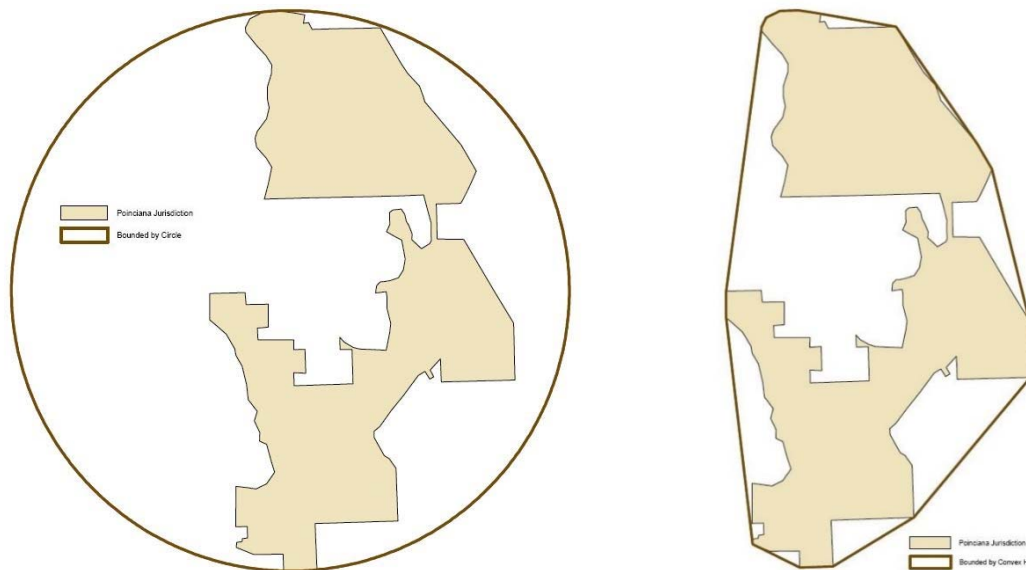
Regarding compactness and measures of the compactness, the following is excerpted from: Supreme Court of Florida, No. SC12-1, In Re: Senate Joint Resolution of Legislative Apportionment 1176, March 9, 2012.

“As a geographical inquiry, a review of compactness begins by looking at the “shape of a district”; the object of the compactness criterion is that a district should not yield “bizarre designs.” Hickel, 846 P. 2d at 45; see also Kilbury, 90 P.3d at 1077 (“[T]he phrase ‘as compact as possible’ does not mean ‘as small in size as possible,’ but rather ‘as regular in shape as possible.’”). Compact districts should not have an unusual shape, a bizarre design, or an unnecessary appendage unless it is necessary to comply with some other requirement.”

“In addition to a visual examination of a district’s geometric shape, quantitative geometric measures of compactness have been used to assist courts in assessing compactness. In fact, there is commonly used redistricting software that includes tools designed to measure compactness. The House actually used two such measurements. First, the House utilized the Reock method (circle-dispersion measurement), which measures the ratio between the area of the district and the area of the smallest circle that can fit around the district. This measure ranges from 0 to 1, with a score of 1 representing the highest level of compactness as to its scale. Second, the House used the Area/Convex Hull method in its analysis, which measures the ratio between the area of the district and the area of the minimum convex bounding polygon that can enclose the district. The measure ranges from 0 to 1, with a score of 1 representing the highest level of compactness. A circle, square, or any other shape with only convex angles has a score of 1. Both measures used by the House have gained relatively broad acceptance in redistricting.”

The following maps reflect the application of these two methods showing Poinciana: 1) within the smallest circle that can fit around the jurisdiction, in order to calculate the Reock score; and 2) within the minimum convex bounding polygon, in order to calculate the Area/Convex Hull score. For Poinciana’s proposed boundary, the Reock score is 0.30, while the Area/Convex Hull score is 0.58. As previously mentioned, the closer the score is to 1, the higher the level of compactness.

**Proposed Jurisdiction with Circle and Convex Hull**



***Although Section 171.031(13), F.S., provides a definition of compactness, this definition is found in Part One of Chapter 171, F.S., which addresses municipal annexation or contraction – not municipal incorporation. Even so, it may be useful to review the purposes of municipal formation when considering the issue of compactness. Section 165.021(1), F.S., states that municipal formation should “allow orderly patterns of urban growth and land use.” In the context of municipal incorporation, compactness increases the likelihood of the efficient delivery of municipal services. When reviewing compactness, the annexation criterion can be considered but should not be the sole basis for determining compactness of a new municipal incorporation.***

***Most importantly, in reviewing Poinciana’s boundary map included in the Study (p. 7), two larger land areas to the north and south are connected on the areas’ eastern sides by a narrow channel of land. Although Poinciana’s boundary appears to be contiguous, EDR remains of the opinion that the area is not compact.***

### **Standard #2**

**It must have a total population, as determined in the latest official state census, special census, or estimate of population, in the area proposed to be incorporated of at least 1,500 persons in counties with a population of 75,000 or less, and of at least 5,000 population in counties with a population of more than 75,000. (Section 165.061(1)(b), F.S.)**

Staff Analysis: The most recent official populations (i.e., April 1, 2015) for Osceola and Polk counties are 308,327 and 633,052, respectively. Consequently, any new incorporation within either county would be required to have a minimum population of 5,000. The Study (pp. 13, 17, 75) estimates the proposed municipal population at 49,414. EDR’s population estimate of 49,560, which is based on 2010 census data for the blocks contained within Poinciana’s geographical boundaries, confirms the reasonableness of the Study’s population estimate. ***Based on these data, Poinciana has a current population well above the minimum population of 5,000 in a county with a total population of more than 75,000. Therefore, the proposed municipality satisfies the minimum total population standard.***

### **Standard #3**

**It must have an average population density of at least 1.5 persons per acre or have extraordinary conditions requiring the establishment of a municipal corporation with less existing density. (Section 165.061(1)(c), F.S.)**

Staff Analysis: The Study (pp. 17-19) states: “According to the 2010 Census the Poinciana Census Designated Place (CDP) has an area of 71.88 square miles or 46,003 acres.” However, the Study notes that the proposed municipality will encompass an area less than the entire CDP, which results in an estimated land area of 26,817 acres with a population estimated at 49,414. The Study indicates that the population density of the proposed land area is 1.84 persons per acre (i.e., 49,414 / 26,817). EDR estimated the land area and population based on EDR’s map and the 2010 Census blocks that were fully contained within the area of the map. EDR’s analysis also resulted in a population density in excess of 1.5 persons per acre. ***Based on these two analyses, Poinciana has a current population density above the minimum requirement 1.5 persons per acre. Therefore, the proposed municipality satisfies the minimum population density standard.***

#### **Standard #4**

**It must have a minimum distance of any part of the area proposed for incorporation from the boundaries of an existing municipality within the county of at least 2 miles or have an extraordinary natural boundary which requires separate municipal government. (Section 165.061(1)(d), F.S.)**

Staff Analysis: The Study (p. 76) states that this standard is met. *EDR's review suggests that an extraordinary natural boundary, Lake Marion, separates Poinciana's boundary and the nearest municipality of Haines City in Polk County. Additionally, the straight-line distances between Poinciana and the next closest municipality of Davenport in Polk County is greater than two miles. Therefore, the proposed municipality satisfies the minimum distance standard.*

#### **Standard #5**

**It must have a proposed municipal charter which: (1) prescribes the form of government and clearly defines the responsibility for legislative and executive functions, and (2) does not prohibit the legislative body of the municipality from exercising its powers to levy any tax authorized by the Constitution or general law. (Section 165.061(1)(e), F.S.)**

Staff Analysis: The Study (pp. 78-149) includes a proposed municipal charter and Appendix of land use descriptions. *The review of the proposed municipal charter for legal sufficiency is outside EDR's purview. The determination that this standard has been satisfied is better suited to the legal staffs of the Department of Economic Opportunity, Department of Revenue, and the House Local & Federal Affairs Committee. However, EDR notes that the Study (pp. 81-83) lists the legal description of Neighborhood 2 Village 1 twice.*

#### **Standard #6**

**In accordance with s. 10, Art. I of the State Constitution, the plan for incorporation must honor existing solid-waste contracts in the affected geographic area subject to incorporation. However, the plan for incorporation may provide for existing contracts for solid-waste-collection services to be honored only for 5 years or the remainder of the contract term, whichever is less, and may require that a copy of the pertinent portion of the contract or other written evidence of the duration of the contract, excluding any automatic renewals or evergreen provisions, be provided to the municipality within a reasonable time after a written request to do so. (Section 165.061(1)(f), F.S.)**

Staff Analysis: The Study (p. 77) states that the plan for municipal incorporation honors existing solid waste contracts approved by Osceola and Polk counties. *Since the Study acknowledges the existing solid waste contracts and states that such contracts will be honored, it appears that this standard is satisfied.*

#### **Conclusion**

This Study is an improvement from prior years' submittals and addresses some of the shortcomings previously cited by the various agency reviewers. However, EDR has identified a number of issues with several of the required elements of the Study, particularly Element #8 relating to evidence of fiscal capacity. EDR still has concerns that positive budget outcomes are difficult to ascertain due to the lack of documentation as to how some revenues and all expenses were determined. EDR would have preferred to see more explanation of how the costs of services were calculated and what factors were considered in making assumptions about future expenditure and revenue and population growth rates.

EDR continues to suggest that Poinciana does not satisfy one of the six standards for municipal incorporation (i.e., area proposed for incorporation must be compact and contiguous and amenable to

separate municipal government) due to its lack of compactness. In the event that state agencies reviewing Poinciana's proposal disagree by some finding that all six standards for municipal incorporation have been satisfied, the Florida Legislature could exercise its option to waive the standard(s) in order for this incorporation proposal to proceed forward.

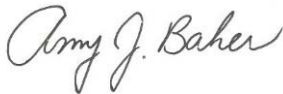
**Additional Supplementary Material**

In addition to its review of the Feasibility Study, EDR prepared a table which compares Poinciana's estimated FY 2017-18 revenues and expenditures (i.e., first full fiscal year of municipal operations) to those of ten similarly-populated Florida municipalities. The comparison cities' fiscal data are for the 2012-13 fiscal year and reflect the latest available data submitted by these municipalities via their AFRs to the Department of Financial Services.

Although the reported revenues and expenditures of these municipalities reflect different time periods, this comparison may be instructive in illustrating how Poinciana's first full fiscal year revenues and expenditures compare to more "mature" cities having similar populations. On a per capita basis, Poinciana's proposed revenues and expenditures are well below those of all other comparison cities as might be expected given its limited scope of operations initially. How long Poinciana's per capita revenues and expenditures remain that low will ultimately depend on the actions taken by future governing bodies.

Please let us know if you have any questions regarding this review.

Sincerely,



Amy J. Baker  
Coordinator

cc: Tom Yeatman, Staff Director, Senate Committee on Community Affairs

Attachment

## Poinciana Incorporation Feasibility Study

### Comparison of Poinciana's Reported Revenues and Expenditures to Those of Other Similarly-Populated Municipalities

Municipality	Other Similarly-Populated Municipalities (Sorted by Population: Low to High)										
	Cutler Bay	Titusville	Bonita Springs	Apopka	Coral Gables	Poinciana (Proposed)	Palm Beach Gardens	Pinellas Park	Bradenton	Sarasota	Pensacola
Home County or Counties	Miami-Dade	Brevard	Lee	Orange	Miami-Dade	Osceola & Polk	Palm Beach	Pinellas	Manatee	Sarasota	Escambia
2015 Population Estimate	44,109	45,325	46,568	46,571	49,397	49,414	50,521	51,790	52,534	52,905	53,058
2014 Population Estimate	42,944	44,077	45,819	45,669	48,780	47,978	50,067	50,352	51,148	52,584	52,758
2013 Population Estimate	42,035	43,709	45,229	44,129	48,524	47,976	49,434	49,939	50,475	52,689	52,188
2012 Population Estimate	41,441	43,529	45,072	42,805	47,885	-	49,108	49,653	50,389	52,517	52,022
Year of Incorporation	2005	1886	1999	1882	1925	2016	1959	1914	1903	1902	1824
<b>Total Revenues by Category</b>											
Taxes	\$ 8,881,356	\$ 17,662,245	\$ 7,503,647	\$ 14,340,998	\$ 81,179,909	\$ 7,793,243	\$ 49,261,380	\$ 26,320,408	\$ 24,289,899	\$ 44,940,850	\$ 31,625,104
Permits, Fees, and Special Assessments	\$ 4,513,255	\$ 4,097,459	\$ 8,568,012	\$ 9,926,944	\$ 15,113,559	\$ -	\$ 11,202,866	\$ 5,329,608	\$ 5,423,686	\$ 7,377,140	\$ 8,601,357
Intergovernmental Revenue	\$ 8,133,070	\$ 6,339,202	\$ 4,736,274	\$ 7,795,636	\$ 6,359,144	\$ 4,881,085	\$ 6,275,459	\$ 8,096,493	\$ 8,230,845	\$ 19,707,879	\$ 29,247,189
Charges for Services	\$ 1,299,635	\$ 40,900,903	\$ 576,784	\$ 21,962,846	\$ 66,453,985	\$ -	\$ 18,216,822	\$ 45,000,856	\$ 36,330,277	\$ 78,128,760	\$ 96,469,369
Judgments, Fines, and Forfeits	\$ 522,636	\$ 422,374	\$ 405,299	\$ 2,588,781	\$ 2,891,719	\$ -	\$ 308,095	\$ 246,656	\$ 336,227	\$ 1,813,351	\$ 469,026
Miscellaneous Revenues	\$ 637,931	\$ 22,497,930	\$ 154,189	\$ 19,606,594	\$ 75,389,363	\$ -	\$ 25,737,137	\$ 29,062,452	\$ 24,715,341	\$ 100,306,480	\$ 60,585,844
Other Sources	\$ 1,549,052	\$ 3,509,919	\$ 5,456,530	\$ 8,897,177	\$ 38,394,817	\$ -	\$ 6,185,568	\$ 4,458,159	\$ 3,445,375	\$ 27,731,549	\$ 35,287,979
<b>Total - All Revenue Accounts</b>	<b>\$ 25,536,935</b>	<b>\$ 95,430,032</b>	<b>\$ 27,400,735</b>	<b>\$ 85,118,976</b>	<b>\$ 285,782,496</b>	<b>\$ 12,674,328</b>	<b>\$ 117,187,327</b>	<b>\$ 118,514,632</b>	<b>\$ 102,771,650</b>	<b>\$ 280,006,009</b>	<b>\$ 262,285,868</b>
<b>Per Capita Revenues by Category</b>											
Taxes	\$ 211	\$ 404	\$ 166	\$ 325	\$ 1,673	\$ 144	\$ 997	\$ 527	\$ 481	\$ 853	\$ 606
Permits, Fees, and Special Assessments	\$ 107	\$ 94	\$ 189	\$ 225	\$ 311	\$ -	\$ 227	\$ 107	\$ 107	\$ 140	\$ 165
Intergovernmental Revenue	\$ 193	\$ 145	\$ 105	\$ 177	\$ 131	\$ 90	\$ 127	\$ 162	\$ 163	\$ 374	\$ 560
Charges for Services	\$ 31	\$ 936	\$ 13	\$ 498	\$ 1,370	\$ -	\$ 369	\$ 901	\$ 720	\$ 1,483	\$ 1,848
Judgments, Fines, and Forfeits	\$ 12	\$ 10	\$ 9	\$ 59	\$ 60	\$ -	\$ 6	\$ 5	\$ 7	\$ 34	\$ 9
Miscellaneous Revenues	\$ 15	\$ 515	\$ 3	\$ 444	\$ 1,554	\$ -	\$ 521	\$ 582	\$ 490	\$ 1,904	\$ 1,161
Other Sources	\$ 37	\$ 80	\$ 121	\$ 202	\$ 791	\$ -	\$ 125	\$ 89	\$ 68	\$ 526	\$ 676
<b>Total - All Revenue Accounts</b>	<b>\$ 608</b>	<b>\$ 2,183</b>	<b>\$ 606</b>	<b>\$ 1,929</b>	<b>\$ 5,890</b>	<b>\$ 235</b>	<b>\$ 2,371</b>	<b>\$ 2,373</b>	<b>\$ 2,036</b>	<b>\$ 5,314</b>	<b>\$ 5,026</b>

## Poinciana Incorporation Feasibility Study

### Comparison of Poinciana's Reported Revenues and Expenditures to Those of Other Similarly-Populated Municipalities

Municipality	Other Similarly-Populated Municipalities (Sorted by Population: Low to High)										
	Cutler Bay	Titusville	Bonita Springs	Apopka	Coral Gables	Poinciana (Proposed)	Palm Beach Gardens	Pinellas Park	Bradenton	Sarasota	Pensacola
Home County or Counties	Miami-Dade	Brevard	Lee	Orange	Miami-Dade	Osceola & Polk	Palm Beach	Pinellas	Manatee	Sarasota	Escambia
2015 Population Estimate	44,109	45,325	46,568	46,571	49,397	49,414	50,521	51,790	52,534	52,905	53,058
2014 Population Estimate	42,944	44,077	45,819	45,669	48,780	47,978	50,067	50,352	51,148	52,584	52,758
2013 Population Estimate	42,035	43,709	45,229	44,129	48,524	47,976	49,434	49,939	50,475	52,689	52,188
2012 Population Estimate	41,441	43,529	45,072	42,805	47,885	-	49,108	49,653	50,389	52,517	52,022
Year of Incorporation	2005	1886	1999	1882	1925	2016	1959	1914	1903	1902	1824
<b>Total Expenditures by Category</b>											
General Government Services	\$ 12,122,079	\$ 20,102,550	\$ 6,938,307	\$ 14,756,013	\$ 57,186,828	\$ 3,527,100	\$ 29,408,840	\$ 22,509,228	\$ 18,627,532	\$ 83,970,636	\$ 64,724,579
Public Safety	\$ 7,934,561	\$ 17,439,848	\$ 3,507,104	\$ 22,554,296	\$ 70,478,305	\$ 2,000,000	\$ 44,106,546	\$ 26,346,009	\$ 22,783,107	\$ 34,672,020	\$ 31,500,551
Physical Environment	\$ -	\$ 36,984,375	\$ 298,849	\$ 17,463,925	\$ 24,292,974	\$ -	\$ 8,630,414	\$ 26,827,244	\$ 22,297,184	\$ 42,598,755	\$ 40,651,759
Transportation	\$ -	\$ 1,434,844	\$ 4,005,351	\$ 3,815,193	\$ 11,684,185	\$ 1,364,200	\$ 1,369,570	\$ 4,443,459	\$ 2,643,671	\$ 9,596,613	\$ 32,487,848
Economic Environment	\$ -	\$ 1,954,877	\$ 46,741	\$ -	\$ 7,738,882	\$ 2,079,700	\$ 6,825	\$ 746,239	\$ 5,905,461	\$ 8,080,476	\$ 18,379,750
Human Services	\$ -	\$ -	\$ 179,609	\$ -	\$ -	\$ -	\$ -	\$ 77,077	\$ 6,533,553	\$ -	\$ 30,000
Culture / Recreation	\$ 1,658,390	\$ 1,190,743	\$ 2,451,947	\$ 3,247,421	\$ 26,197,083	\$ -	\$ 6,259,272	\$ 7,131,655	\$ 13,187,968	\$ 14,728,365	\$ 21,352,214
Other Uses and Non-Operating	\$ 1,549,052	\$ 2,091,666	\$ 3,906,530	\$ 8,423,110	\$ 46,749,932	\$ -	\$ 1,118,563	\$ 10,445,363	\$ 2,768,205	\$ 10,982,861	\$ 21,033,667
<b>Total - All Expenditure Accounts</b>	<b>\$ 23,264,082</b>	<b>\$ 81,198,903</b>	<b>\$ 21,334,438</b>	<b>\$ 70,259,958</b>	<b>\$ 244,328,189</b>	<b>\$ 8,971,000</b>	<b>\$ 90,900,030</b>	<b>\$ 98,526,274</b>	<b>\$ 94,746,681</b>	<b>\$ 204,629,726</b>	<b>\$ 230,160,368</b>
<b>Per Capita Expenditures by Category</b>											
General Government Services	\$ 288	\$ 460	\$ 153	\$ 334	\$ 1,179	\$ 65	\$ 595	\$ 451	\$ 369	\$ 1,594	\$ 1,240
Public Safety	\$ 189	\$ 399	\$ 78	\$ 511	\$ 1,452	\$ 37	\$ 892	\$ 528	\$ 451	\$ 658	\$ 604
Physical Environment	\$ -	\$ 846	\$ 7	\$ 396	\$ 501	\$ -	\$ 175	\$ 537	\$ 442	\$ 808	\$ 779
Transportation	\$ -	\$ 33	\$ 89	\$ 86	\$ 241	\$ 25	\$ 28	\$ 89	\$ 52	\$ 182	\$ 623
Economic Environment	\$ -	\$ 45	\$ 1	\$ -	\$ 159	\$ 39	\$ 0	\$ 15	\$ 117	\$ 153	\$ 352
Human Services	\$ -	\$ -	\$ 4	\$ -	\$ -	\$ -	\$ -	\$ 2	\$ 129	\$ -	\$ 1
Culture / Recreation	\$ 39	\$ 27	\$ 54	\$ 74	\$ 540	\$ -	\$ 127	\$ 143	\$ 261	\$ 280	\$ 409
Other Uses and Non-Operating	\$ 37	\$ 48	\$ 86	\$ 191	\$ 963	\$ -	\$ 23	\$ 209	\$ 55	\$ 208	\$ 403
<b>Total - All Expenditure Accounts</b>	<b>\$ 553</b>	<b>\$ 1,858</b>	<b>\$ 472</b>	<b>\$ 1,592</b>	<b>\$ 5,035</b>	<b>\$ 166</b>	<b>\$ 1,839</b>	<b>\$ 1,973</b>	<b>\$ 1,877</b>	<b>\$ 3,884</b>	<b>\$ 4,410</b>

## Notes:

- 1) The revenues and expenditures of the comparison municipalities are obtained from Annual Financial Reports (AFR) for the local fiscal year ended 2013 (most recent fiscal year data currently available) submitted to the Florida Department of Financial Services. The calculations of per capita revenues and expenditures are made using each respective municipality's 2013 population estimate since it corresponds to the AFR fiscal year data.
- 2) This analysis uses Poinciana's proposed first full fiscal year (i.e., LFY 2017-18) revenues and expenditures, which are summarized in the Feasibility Study (pp. 50, 60-61). The calculations of per capita revenues and expenditures are made using an estimated 2018 population of 53,996, which is the Study's 2015 population estimate of 49,414 increased by 3% annually. This 3% annual growth in Poinciana's population is the increase assumed in the Study (p. 64).
- 3) The Poinciana Taxes revenue amount is the sum total of the Local Communication Services Tax, \$1,493,117; Local Discretionary Sales Surtax, \$2,842,833; and Utility Services Tax, \$3,457,293. The Poinciana Intergovernmental Revenues amount is the sum total of the following state revenue sharing figures: Local Government Half-Cent Sales Tax Program, \$3,028,614; and Municipal Revenue Sharing, \$1,852,471. These figures are listed in the Study (p. 50).
- 4) The Poinciana expenditures are the sum total of the following category totals: General Government, \$3,527,100; Public Safety, \$2,000,000; Transportation, \$1,364,200; and Economic Environment, \$2,079,700. These figures are listed in the Study (pp. 60-61).