

Resolution No. 2024-633
Passed September 4, 2024

A resolution of the Gainesville Regional Utilities Authority, operating as a unit of city government and as the governing board of Gainesville Regional Utilities, pursuant to the authority granted to the Gainesville Regional Utilities Authority in the City Charter, the CEO/GM is herein authorized to employ, retain, and otherwise utilize the necessary legal counsel serving as legal advisors to and attorneys for Gainesville Regional Utilities; providing a severability clause; providing a repealing clause; and providing an effective date.

WHEREAS, Chapter 2023-348, Florida Statutes, formerly known as Florida House Bill 1645, effective July 1, 2023, by Special Act amended the City of Gainesville Charter to create Article VII entitled "Gainesville Regional Utilities Authority"; and

WHEREAS, Article VII, 7.01 of the Charter of the City of Gainesville – as instituted by Chapter 2023-348, Florida Statutes, 2024, a special act of the Florida legislature – established the Gainesville Regional Utilities Authority (hereinafter "GRUA") with the intent that "the Authority shall operate as a unit of city government and, except as otherwise provided in this article, **shall be free from direction and control of the Gainesville City Commission**. The Authority is created for the express purpose of managing, operating, controlling, and **otherwise having broad authority with respect to the utilities** owned by the City of Gainesville (emphasis added)"; and

WHEREAS, the Gainesville City Attorney has represented the utilities department in the past, the Gainesville City Commission appoints the Gainesville City Attorney and that individual serves at the will of the commission. By Charter, the City Attorney is subject to the "procedures and limitations prescribed by the [City] [C]ommission." Therefore, the City Attorney and its office is an instrumentality of the City Commission and not an independent officer; and

WHEREAS, to ensure compliance with the Special Act mandated in Article VII, 7.03(1)(a) of the Charter of the City of Gainesville – as instituted by Chapter 2023-348, Florida Statutes, 2024, a special act of the Florida legislature – "to manage, operate, and control the utilities, and to do all things necessary to effectuate an orderly transition of the management, operation, and control of the utilities from the city to the Authority..." it is the GRUA's position that it must have the ability to obtain counsel that is independent of the City and its City Commission; and

WHEREAS, Article VII, 7.03(1)(b) of the Charter of the City of Gainesville – as instituted by Chapter 2023-348, Florida Statutes, 2024, a special act of the Florida legislature – vests GRUA, operating as a unit of city government, with the power "to establish and amend the rates, fees, assessments, charges, **rules, regulations, and policies** governing the sale and use of services provided through the [City of Gainesville's municipal] utilities" (emphasis added); and

WHEREAS, Article VII, 7.10(2) of the Charter of the City of Gainesville – as instituted by Chapter 2023-348, Florida Statutes, 2024, a special act of the Florida legislature – provides that all City of Gainesville ordinances, policies, rates, fees, assessments, charges, rules, regulations, and budgets related to operation of the utilities shall remain in effect until such time as the GRUA, pursuant to the powers granted in Article VII of the Charter, modifies any such item; and

WHEREAS, pursuant to the powers granted in Article VII, 7.10(2) of the Charter of the City of Gainesville – as instituted by Chapter 2023-348, Florida Statutes, 2024, a special act of the Florida legislature – GRUA has the authority to request modification of any ordinance, policy, rate, fee, assessment, charge, rule, regulation, and/or budget; and

WHEREAS, pursuant to the hierarchy established in Article VII, 7.10(2) of the Charter of the City of Gainesville – as instituted by Chapter 2023-348, Florida Statutes, 2024, a special act of the Florida legislature –, "[i]n the event that **any City charter provision, ordinance, resolution, decree, or any part**

thereof conflicts with the provisions of this article, the provisions of **this article shall govern** [...]" (emphasis added); and

WHEREAS, Article VII, 7.10(1) of the Charter of the City of Gainesville – as instituted by Chapter 2023-348, Florida Statutes, 2024, a special act of the Florida legislature – provides that "**The City** and the Authority **shall perform all acts necessary and proper to effectuate an orderly transition** of the governance, operation, management, and control of all utility systems, properties, and assets held in the possession of GRU as of January 1, 2023, to the Authority [...]" (emphasis added); and

WHEREAS, by posting on GRU's main website at <https://www.gru.com>, public notice was given regarding this proposed resolution and of a public hearing in the GRU Multipurpose Room located on the first floor of the GRU Administration building in the City of Gainesville; and

WHEREAS, the public hearing was held pursuant to the published notice described above, at which all interested parties had an opportunity to be and were, in fact, heard.

NOW, THEREFORE, BE IT RESOLVED BY THE GAINESVILLE REGIONAL UTILITIES AUTHORITY, OPERATING AS A UNIT OF CITY GOVERNMENT AS FOLLOWS:

SECTION 1. The CEO/GM is herein authorized to employ, retain, and otherwise utilize the necessary legal counsel serving as legal advisors to and attorneys for Gainesville Regional Utilities.

SECTION 2. It is the intent of the GRUA that the provisions of Section 1 of this resolution shall govern in relation to the operations of Gainesville Regional Utilities, notwithstanding any conflicting provisions in the City of Gainesville Code of Ordinances. To the extent this resolution conflicts with any provisions of the City of Gainesville Code of Ordinances, the provisions of this resolution shall govern in relation to the operations of Gainesville Regional Utilities in accordance with Article VII, 7.10(2) of the Charter of the City of Gainesville. In addition, to the extent this resolution conflicts with any provisions of the City of Gainesville Code of Ordinances, the City Commission of the City of Gainesville is hereby noticed to amend the Code of Ordinances accordingly.

SECTION 3. If any word, phrase, clause, paragraph, section, or provision of this resolution or the application hereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the resolution which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this resolution are declared severable.

SECTION 4. All resolutions, or parts of resolutions, in conflict herewith are to the extent of such conflict hereby repealed on the effective date of this resolution. Further, pursuant to the hierarchy established in Article VII, 7.10(2) of the Charter of the City of Gainesville – as instituted by Chapter 2023-348, Florida Statutes, 2024, a special act of the Florida legislature –, "[i]n the event that **any City charter provision, ordinance, resolution, decree, or any part thereof** conflicts with the provisions of this article, the provisions of **this article shall govern** [...]" (emphasis added).

SECTION 5. This resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 4 day of September, 2024.


C. ERIC LAWSON
GRU AUTHORITY CHAIRPERSON

CODE: Words ~~stricken~~ are deleted; words underlined are added.

Attest:

KRISTEN J. BRYANT
CITY CLERK

Approved as to form and legality by the Authority Attorney:



SCOTT WALKER, ESQ.
AUTHORITY ATTORNEY