

Resolution No. 2024-636

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Utilities Authority in the City Charter, is requesting that Ordinance No. 2024-448 and Ordinance No. 2024-352 are each rescinded and revoked in full; requesting that all appropriate parties take all actions necessary to alert the Supervisor of Elections that such Ordinances are invalidated and that no ballot measure shall appear on any ballot in accordance therewith; 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, amended the City of Gainesville Charter to create Article VII entitled "Gainesville Regional Utilities Authority"; and

**WHEREAS**, with the establishment of the GRUA via Chapter 2023-348, its mission is to maintain independence from the City Commission. The proposed ordinances and referendum are in direct conflict; 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 – created the Gainesville Regional Utilities Authority (hereinafter "GRUA"), operating as a unit of city government for the "express purpose of managing, operating, controlling, and otherwise having broad authority with respect to the utilities owned by the City of Gainesville; and

**WHEREAS**, 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 – vests GRUA, operating as a unit of city government with the power 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 Commission to the GRUA; 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 City ordinances, when necessary, to request all actions necessary of such body to effectuate GRUA's request for 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

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**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**, The City Commission of the City of Gainesville adopted but not yet codified Ordinance No. 2024-352 (May 23, 2024), purporting to submit to the voters of the City of Gainesville an amendment to the Charter of the City of Gainesville deleting Article VII – establishing GRUA – of the Charter in its entirety; and

**WHEREAS**, it was found that Ordinance No. 2024-352 did not comply with the requirements of Section 166.041 Florida Statutes (2024); and

**WHEREAS**, The City Commission of the City of Gainesville adopted but not yet codified Ordinance No. 2024-352 (May 23, 2024), purporting to submit to the voters of the City of Gainesville an amendment to the Charter of the City of Gainesville not reinstating Section 3.06 (General manager for utilities) of Article III of section 1 of Chapter 90-394, Laws of Florida and changing management of the Utility from a CEO to the City Manager; and

**WHEREAS**, The City Commission of the City of Gainesville adopted but not yet codified Ordinance No. 2024-352, purporting to submit to the voters does not comply with Florida Statutes Section 101.161 for clear and unambiguous language and for Florida Statutes Section 166.041 for the subject not being clearly stated and unambiguous in the title and does not clearly explain the proposed impacts of the Ordinance 2024-352; and

**WHEREAS**, The City Commission of the City of Gainesville adopted but not yet codified Ordinance No. 2024-352, purporting to submit to the voters does not comply with the requirements of Section 166.041 Florida Statutes (2024) for the lack of adequately describing the financial impact to businesses. See GRU’s external financial advisors’ memo on May 29, 2024, estimating the change in governance to the City Commission from GRUA would cause a rating agency downgrade with an impact of ~\$28.3 million. This downgrade would be passed on to businesses and other rate payers; and

**WHEREAS**, The City Commission of the City of Gainesville adopted but not yet codified Ordinance No. 2024-448 (June 18, 2024), purporting to take the same action as outlined in Ordinance No. 2024-352 because a business impact statement was not provided (i.e. submit to the voters of the City of Gainesville an amendment to the Charter of the City of Gainesville deleting Article VII – establishing GRUA – of the Charter in its entirety); and

**WHEREAS**, The City Commission of the City of Gainesville adopted but not codified Ordinance No. 2024-448, purporting to submit to the voters of the City of Gainesville an amendment to the Charter of the City of Gainesville not reinstating Section 3.06 (General manager for utilities) of Article III of section 1 of Chapter 90-394, Laws of Florida; and

**WHEREAS**, The City Commission of the City of Gainesville adopted but not yet codified Ordinance No. 2024-448, purporting to submit to the voters does not comply with Florida Statutes Section 101.161 for clear and unambiguous language and for Florida Statutes Section 166.041 for the subject being clearly stated and unambiguous in the title and does not clearly explain the proposed impacts of the Ordinance 2024-448; and

**WHEREAS**, The City Commission of the City of Gainesville adopted but not yet codified Ordinance No. 2024-448, purporting to submit to the voters does not comply with the requirements of Section 166.041 Florida Statutes (2024) for the lack of adequately describing the financial impact to businesses. See GRU’s external financial advisors’ memo on May 29, 2024 estimating the change in governance to the City

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Commission from GRUA would cause a rating agency downgrade with an impact of ~\$28.3 million. This downgrade would be passed on to businesses and other rate payers; and

**WHEREAS**, it is apparent that Ordinance No. 2024-448 relates to the rules, regulations, and policies of the utility which is a domain over which GRUA has been granted authority, to the exclusion of the City Commission, in keeping with the provisions of Article VII, 7.03(1)(b) of the Charter of the City of Gainesville; and

**WHEREAS**, it is apparent that Ordinance No. 2024-448 is an ordinance which relates to the operation of the utility and is thereby modifiable by request from GRUA pursuant to the powers vested in GRUA under Article VII, 7.10(2) of the Charter of the City of Gainesville; and

**WHEREAS**, it is apparent that Ordinance No. 2024-448 is an exercise of action by the City Commission which is directly opposite of the requirements of Article VII, 7.10(1) of the Charter of the City of Gainesville demanding that the City perform all acts necessary and proper to effectuate an orderly transition of the governance, operation, and management of GRU to GRUA; and

**WHEREAS**, in accordance with the powers vested in GRUA under Article VII of the Charter of the City of Gainesville, as referenced above, GRUA elects to exercise its power to request modification of Ordinance No. 2024-448 and 2024-352 by requesting a rescinding of such Ordinances in order to obtain compliance with the Charter of the City of Gainesville; 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.** City of Gainesville, Florida Ordinances No. 2024-448 and No. 2024-352 are hereby requested to be rescinded in full and the City Clerk and all other appropriate parties are hereby requested to take all actions necessary to alert the Supervisor of Elections that such Ordinance No. 2024-448 is invalidated and no ballot measure shall appear on any ballot in accordance therewith.

~~"SHALL THE CITY OF GAINESVILLE CHARTER BE AMENDED TO DELETE ARTICLE VII, ELIMINATING THE GOVERNOR-APPOINTED GAINESVILLE REGIONAL UTILITIES AUTHORITY AND ITS APPOINTED ADMINISTRATOR THAT MANAGE, OPERATE AND CONTROL THE CITY OF GAINESVILLE'S LOCAL PUBLIC UTILITIES, AND PLACING THAT RESPONSIBILITY WITH THE ELECTED CITY COMMISSION AND CHARTER OFFICER; AND ELIMINATING LIMITATIONS ON THE GOVERNMENT SERVICES CONTRIBUTION AND UTILITY DIRECTIVES, AS PROPOSED BY ORDINANCE NO. 2024-448?"~~

**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.

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**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.

  
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C. ERIC LAWSON  
GRU AUTHORITY CHAIRPERSON

Attest:

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KRISTEN J. BRYANT  
CITY CLERK

Approved as to form and legality by the Authority Attorney:

  
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S. SCOTT WALKER, ESQ.  
AUTHORITY ATTORNEY