

**Legislative #**

**150524**



**ORDINANCE NO. \_\_\_\_\_**

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**An ordinance of the City of Gainesville, Florida; proposing an amendment to the Charter Laws of the City of Gainesville to create and empower a Board of directors of Gainesville Regional Utility; providing for submission of the charter amendment to the voters for approval or disapproval at the \_\_\_\_\_ municipal election; approving the question to be placed on the ballot; providing that this charter amendment shall become effective if approved by the voters; providing directions to the codifier; providing directions to the clerk of the commission; providing a severability clause; providing a repealing clause; and providing an immediate effective date.**

**WHEREAS**, the City Commission has duly considered the charter amendment and by passage of this ordinance indicates its desire to approve the charter amendment as set forth herein, subject to approval of the electorate at a municipal election; and

**WHEREAS**, the City Commission desires to amend the Charter Laws of the City of Gainesville, Florida, pursuant to the procedures provided by law; and

**WHEREAS**, notice was given as required by law that the text of the Code of Ordinances of the City of Gainesville, Florida, be amended; and

**WHEREAS**, at least ten (10) days' notice has been given once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of public hearings in the City Hall Auditorium located on the first floor of City Hall in the City of Gainesville; and

**WHEREAS**, public hearings were held pursuant to the notice described above at which hearings the parties in interest and all others had an opportunity to be and were, in fact, heard.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:**

1 **Section 1.** The following proposed amendment to Chapter 90-394, Laws of Florida, 1990, as  
 2 amended, otherwise known as the Charter Laws of the City of Gainesville, Florida, is approved for  
 3 submission to the electors of the City of Gainesville, Florida, for approval or disapproval at the  
 4 municipal election set for \_\_\_\_\_ :

5 **PROPOSED AMENDMENT**

6 **Section 2.** Section 1.03 of the Charter Laws is amended as set forth below. Except as  
 7 amended herein, the remainder of Section 1.03 remains in full force and effect.

8 **1.03. – Construction.**

9 (1) The powers of the city shall be construed liberally in favor of the city, limited only by the State  
 10 Constitution, general law, and specific limitations contained in this aet charter.

11 (2) If any provision of this aet charter or the application thereof to any person or circumstance is  
 12 held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or  
 13 applications of the aet charter which can be given effect without the invalid provision or  
 14 application, and to this end the provisions of this aet charter are declared severable.

15 (3) All powers and authority granted by this aet charter are supplemental and additional to all other  
 16 statutory and constitutional authority.

17 (4) For purposes of this aet charter, the term:

18 (a) “City” means the City of Gainesville.

19 (b) “Commission” means the city commission as established in Article II.

20 (c) “State” means the State of Florida.

21 (d) “Board of Directors” means the Board of Directors of Gainesville Regional Utilities as  
 22 established in Article IV.

23

24 **Section 3.** Section 3.06 of the Charter Laws is deleted in its entirety.

25 ~~**3.06. – General manager for utilities.**~~

1 ~~(1) Appointment; administrative head of municipal utilities; qualifications; terms. The~~  
 2 ~~commission shall appoint a general manager for utilities ("general manager") who shall be~~  
 3 ~~responsible to the commission. The general manager shall be responsible for the efficient~~  
 4 ~~administration of the Utility System. The general manager for utilities shall serve at the will~~  
 5 ~~of the commission.~~

6 ~~(2) Powers and duties generally. The general manager:~~

7 ~~(a) Shall be responsible for and have exclusive management jurisdiction and control over~~  
 8 ~~operating and financial affairs of the Utility System including, but not limited to, the~~  
 9 ~~planning, development, production, purchase, sale, exchange, interchange, transmission~~  
 10 ~~and distribution of all electricity; the planning, development, purchase, sale, exchange,~~  
 11 ~~interchange, transmission and distribution of all natural gas; the planning, development,~~  
 12 ~~supply, treatment, transmission, distribution and sale of all potable water; and the~~  
 13 ~~planning, development, collection, treatment, disposal and billing of all wastewater now~~  
 14 ~~or hereafter provided by the city;~~

15 ~~(b) Shall submit to the commission for its consideration a yearly budget for the operation of~~  
 16 ~~the Utility System;~~

17 ~~(c) Shall be the purchasing agent for all equipment, materials, supplies and services~~  
 18 ~~necessary for operating and maintaining the Utility System subject to policies~~  
 19 ~~promulgated by the commission;~~

20 ~~(d) Shall propose ordinances to designate the job titles of subordinates that are to be~~  
 21 ~~considered directors of department;~~

22 ~~(e) Shall appoint and, except as otherwise provided in this charter, remove all directors of~~  
 23 ~~departments at will;~~

24 ~~(f) Shall recommend to the commission all measures necessary and expedient for the~~  
 25 ~~proper governance and management of the Utility System;~~

26 ~~(g) Shall keep the commission fully advised as to the management, governance and needs~~  
 27 ~~of the Utility System;~~

28 ~~(h) Shall perform all other duties prescribed by law, this charter, ordinance, or direction of~~  
 29 ~~the commission.~~

30  
 31 **Section 4.** A new Section 4.04 is hereby created and added to the Charter Laws.

32 **4.04. – Board of Directors of Gainesville Regional Utilities.**

33 (1) Creation. The Board of Directors of Gainesville Regional Utility is hereby created and  
 34 made a part of the government of the City of Gainesville, Florida. The Board of Directors  
 35 of Gainesville Regional Utility shall be responsible for and have exclusive jurisdiction over  
 36 the governance of GRU, subject to the requirements of this charter. The board shall operate  
 37 as a separate unit of city government, and except as otherwise provided in this charter, the  
 38 board shall be free from the jurisdiction, direction, and control of the city commission.

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(2) Definitions.

- (a) Customer means the natural person or legal entity that has a utility services account in his/her/its name and is responsible for payment for utility services at that specific location.
- (b) Gainesville Regional Utilities or GRU means the city-owned utility system providing electric, gas, telecommunications, water, and wastewater services to customers.
- (c) General manager of utilities means the chief executive officer of the utility responsible for utility management as more particularly described in this article.
- (d) Transition period means the time between the appointment of the board members and the time the board has an opportunity to evaluate and act on items under its authority.
- (e) Board of Directors or board means the Board of Directors of the Gainesville Regional Utilities created by this article.
- (f) Utility governance means the making and administering of the utility’s course of action. Governance decisions are those decisions designed to influence and guide management’s decisions, actions and other matters of the utility. The board shall make those governance decisions pursuant to the requirements of this article.
- (g) Utility management means the directing, supervising or carrying on of utility business affairs in a manner as directed by the board. The responsibility for utility management is more specifically described in this article.

(3) Membership, terms, officers, suspension and removal.

- (a) Membership. The board shall have seven members appointed by majority vote of the city commission.
  - 1. All board members shall reside within the GRU electric service territory and receive GRU electric utility service.
  - 2. The membership shall be comprised of individuals with subject matter expertise and qualifications that the commission deems relevant and beneficial to GRU as more specifically identified by ordinance adopted by the city commission.
  - 3. At all times, a minimum of one board member must be a resident of the unincorporated area of Alachua County or another municipality in Alachua County. The board will annually review the ratio of GRU electric meters installed outside of the city limits to the total number of GRU electric meters installed in GRU’s service territory and report that ratio to the city commission. In the event the ratio exceeds 40

CODE: Words ~~stricken~~ are deletions; words underlined are additions.

1 percent, at the next board member vacancy or term expiration, the city commission  
 2 will appoint a second board member who is a resident of the unincorporated area of  
 3 Alachua County or another municipality in Alachua County.

4  
 5 4. No person who holds any other public office or who is an employee of the city or  
 6 who has a current business relationship with GRU other than as a consumer ~~shall~~ may  
 7 be appointed as a board member.

8  
 9 5. Until January 1, 2020, no current or previously elected officer or official of the city or  
 10 county having held office after January 1, 2000, may be appointed as a board  
 11 member.

12  
 13 (b) *Term.*

14  
 15 1. Each board member shall be appointed to a four-year term, provided however that for  
 16 the first seven appointees, three will serve an initial term of two years and four will  
 17 serve an initial term of four years. The city commission will designate which of its  
 18 initial appointees will serve the two year terms.

19  
 20 2. Board members may be reappointed for consecutive terms and may hold office after  
 21 expiration of their term until a successor has been appointed and qualified. Board  
 22 members may serve no more than three consecutive terms.

23  
 24 3. When a position becomes vacant before the end of the term, the city commission shall  
 25 appoint a substitute board member to fill the vacancy for the duration of the vacated  
 26 term.

27  
 28 (c) *Officers.* The members of the board shall annually elect a chair and vice-chair from  
 29 among their membership.

30  
 31 (d) *Removal from board.* Any board member may be removed or suspended from office by  
 32 the city commission for malfeasance, misfeasance or nonfeasance in office, or upon  
 33 conviction of a felony or if the board member no longer holds the minimum  
 34 qualifications for the position. The city commission shall adopt by ordinance, rules of  
 35 procedure for removal or suspension of a board member.

36  
 37 (4) *Power and duties of the board.* The Board of Directors of Gainesville Regional Utilities  
 38 shall have the legislative power and exclusive jurisdiction over the governance of GRU, except  
 39 as limited by this Charter. The board in the operation of the utility services, both inside and  
 40 outside the city limits, shall have the following powers and duties:

41 (a) Provide safe, reliable utility services to customers within the service territory at fair, just  
 42 and reasonable rates, including a return on the city's investment, all as more particularly  
 43 described in this article.

1 (b) Comply with all applicable federal, state and local statutes, ordinances, and codes.  
2

3 (c) Acquire, purchase, hire, construct, extend, maintain, own, operate, or lease local public  
4 utilities, including: electric, gas, telecommunications, water, and wastewater collection  
5 services; wastewater facilities, works for supplying water, wastewater, gas, electric, and  
6 telecommunications services; water, electric, telecommunication and gas production,  
7 transmission, and distribution systems; sanitary sewage facilities; and wastewater  
8 transmission and disposal facilities. In the event the board determines it is necessary or  
9 appropriate for it to provide, operate or maintain any other utility system or function  
10 other than electric, water, wastewater, gas, or telecommunications, the board shall by  
11 resolution identify such additional utility system or systems or function or functions and  
12 indicate its desire to provide such utility service or services or function or functions to the  
13 city commission. Upon the adoption and approval of this resolution by the board and the  
14 city commission, voting as separate entities, the board with respect to the specified  
15 system or systems, shall be vested with all powers set forth in this article or general law  
16 that would apply to such specified utility system or systems.  
17

18 (d) Subject to Section 4(j), supply water, electricity, gas, and wastewater service for domestic  
19 and other purposes to individuals, businesses, or corporations inside and outside of the  
20 city, and to charge and collect reasonable rates, prices and compensation therefor,  
21 including the costs for any part thereof for extension of said services as determined by the  
22 board, and upon such terms as may be imposed by the board, and the board may charge a  
23 different rate but not a lesser rate for customers outside the city limits than to customers  
24 within the corporate limits of the city.  
25

26 (e) To transfer, sell, finance, lease or otherwise provide services or products, or by-products,  
27 developed or used by GRU incident to the exercise of the powers conferred by this  
28 section, including but not limited to, energy performance contracting, water, wastewater,  
29 telecommunications, and natural gas (and any other utility service hereafter provided by  
30 GRU) contracting, power marketing services, the testing and maintenance of customer-  
31 owned facilities such as transformers, capacitors, lighting, HVAC systems, water cooling  
32 and heating systems, energy management systems, etc.; the temporary leasing of GRU  
33 facilities such as oil storage tanks; the supply of steam or other thermal energy; the  
34 provision of specially conditioned power on the premises of customers and the provision  
35 of services or products to build, transfer, lease, finance, operate or sell cogeneration  
36 facilities, small power production facilities, specially conditioned power, energy  
37 conservation, energy efficiency and dispersed generation to other electric utilities both  
38 within and without the state or to any wholesale or retail customers of GRU, upon such  
39 terms and conditions as the board shall, by resolution, fix and determine; and to transfer,  
40 sell, finance, lease or otherwise provide services, products or by-products developed or  
41 used by GRU incident to the exercise of the powers conferred by this section, in the  
42 delivery of water, wastewater, and natural gas services, including but not limited to the  
43 financing, testing, maintenance and operation of customer owned facilities used in water,  
44 wastewater and natural gas functions; provided, however, that GRU will not enter into  
45 any activity pursuant to this section in addition to those activities listed herein without



first without first obtaining approval of such activities by the city commission no less than 30 days before the commencement of such activity. Nothing in this article shall authorize or be construed to authorize GRU or the board to transfer any function or operation to the utilities system by sale, lease or otherwise to any other utility, public or private without approval by referendum of the voters.

(f) Enter into agreements with other municipalities either within or outside Alachua County, or with governmental units or private utility companies, for selling or buying utility services; sell any surplus of water, electricity, gas to persons, firms, and corporations, public or private, on such terms and conditions as the board considers prudent.

(g) Except as set forth in paragraph (c) above, exercise all powers and authority of the city to acquire by purchase, gift, lease-purchase, or otherwise, real or personal property for use in providing utility services.

(h) Enter upon any land or water for the purpose of making surveys and may exercise the right of eminent domain on behalf of the city for utility services whenever public necessity or convenience requires, and may exercise that power inside and outside the city limits in the manner provided by law.

(i) Acquire, build, construct, erect, extend, enlarge, improve, furnish, equip, and operate as a separate bulk power supply utility or system, electric generating plants, transmission lines, interconnections, and substations for generating, transmitting, distributing, and exchanging electric power and energy both within and outside the limits of the city.

(j) To fix, pledge to establish or establish, levy, regulate, impose and collect rates, assessments, fees and charges for the use or benefit of the utilities system and to alter and amend same from time to time, which rates, assessments, fees and charges shall result in GRU receiving or possessing an amount which, together with accumulated balances from prior years available therefore is not less than is required to operate and maintain a self-liquidating or self-sustaining utility system. When establishing or altering rates, assessments, fees or charges for retail service (proposed changes), the board shall first give notice of and hold a public hearing in the city. The notice shall be published not less than one (1) week in advance in at least one (1) newspaper of general circulation in the city. Said notice shall be at least one-fourth page in size, inviting the public to be present and heard.

The city commission may adopt an ordinance allowing the city commission to veto rates upon a super-majority vote. If the commission adopts such an ordinance, the ordinance must establish a rolled back rate that is no less than the prior year's rates.

The city and other public bodies shall be required to pay for any utility services provided by GRU upon the same basis as other users, unless the city or other public body has entered into a wholesale purchase agreement.

1 (k) Adopt such rules and regulations regarding the management and operation of, or the sale  
 2 or use of any utility service provided by GRU from the utility system.  
 3

4 (l) Impose sanctions to enforce compliance with any rule or regulation which the board may  
 5 adopt in the management and operation of, or the sale or use of any utility service  
 6 provided by GRU from the utilities system including, without limitation, electricity,  
 7 water, wastewater, gas, and telecommunications services.  
 8

9 (m) Use the ground, over, under or along any road, railroad, highway, street, sidewalk,  
 10 thoroughfare, alley, waterway, or other public way, in the operations of the utilities but  
 11 shall, in all cases and subject to the applicable general regulations of the city, cause the  
 12 surface of the public way to be restored to its usual condition.  
 13

14 (n) Upon approval of both the city commission and the board, the city commission will issue  
 15 and sell revenue bonds or certificates in such amounts as shall be deemed necessary to  
 16 finance all or part of the costs of acquisition, construction, repairs, replacements,  
 17 improvements, additions and extensions of the utilities and equipment required therefor.  
 18 All of such revenue bonds or certificates issued by the city commission shall be  
 19 obligations of the City of Gainesville. The board shall have no power to pledge the full  
 20 faith and credit of the city and nothing set forth herein shall be so construed. No  
 21 referendum or freeholders' election shall be required as a condition precedent to the  
 22 issuance of such revenue bonds or certificates.  
 23

24 (o) Borrow money for periods not to exceed two (2) years and may issue negotiable notes,  
 25 payable from the revenues of the utilities or a division thereof, as evidence of the loans.  
 26 The action of the board may be by resolutions which may be adopted at the same  
 27 meetings at which introduced and shall take effect immediately upon adoption and public  
 28 sale shall not be required.  
 29

30 *Alternate language suggested by GRU's Chief Financial Officer:*  
 31

32 (n) Upon approval of both the city commission and the board, the city commission may  
 33 borrow money, issue negotiable notes, payable from the revenues of the utilities or a  
 34 division thereof as evidence of the loans, issue and sell revenue bonds or certificates in  
 35 such amounts as shall be deemed necessary to finance all or part of the costs of  
 36 acquisition, construction, repairs, replacements, improvements, additions and extensions  
 37 of the utilities and equipment required therefor. All of such revenue bonds or certificates  
 38 issued by the city commission shall be obligations of the City of Gainesville. The board  
 39 shall have no power to pledge the full faith and credit of the city and nothing set forth  
 40 herein shall be so construed. No referendum or freeholders' election shall be required as  
 41 a condition precedent to the issuance of such revenue bonds or certificates.  
 42

43 (o) Enter into short term lease agreements for vehicles or small equipment, not to exceed a  
 44 cumulative total of \$3,000,000.00.  
 45

1 (p) Authorize reasonable expenditures to promote the use of the utility services and to  
2 acquaint and educate the public with the operations, programs, and planned expansions of  
3 the utilities.

4  
5 (q) Invest idle funds in banks or savings institutions when qualified as city depositories,  
6 provided such investments are secured by direct obligations of the United States  
7 Treasury, or may invest idle funds in direct obligations of the United States Treasury.  
8 The board may also invest such idle funds in investments secured by indirect obligations  
9 of the United States of America.

10  
11 *Alternate language suggested by GRU's Chief Financial Officer:*

12  
13 *(q) Invest funds in accordance with the bond indentures and current investment policy.*

14  
15 (r) Make annual payment to the city commission in accordance with the provisions of this  
16 article.

17  
18 (s) to adopt and use a corporate seal, to apply for, hold and own patents and copyrights, to  
19 sell or license patents, copyrights, patented or copyrighted materials to other public or  
20 private entities to sue and be sued, implead and be impleaded, complain and defend in all  
21 courts, Prices or fees for such sales or licensing may be based upon market  
22 considerations. GRU may designate how proceeds from such sales or licensing shall be  
23 used. Prices or fees for such sales of copyrighted data processing software, as defined in  
24 section 119.083, Florida Statutes, shall be established pursuant to said statute.

25  
26 (t) To enter into all contracts, leases, and agreements in the name of the city in furtherance  
27 of this article.

28  
29 (u) To allocate costs between the electric, water, wastewater, gas, telecommunications and  
30 any other utility system operated now or in the future by GRU on ~~a cost accounted basis~~  
31 an accrual basis.

32  
33 (v) Upon approval of both the city commission and the board, the city commission shall  
34 employ and fix the compensation of the general manager for utilities, who  
35 shall manage the affairs of the utilities as set forth in this article under the supervision of  
36 the board.

37  
38 (w) To do all acts and deeds necessary, convenient or desirable, incidental to the exercise and  
39 performance of the powers and duties granted to the board in this charter.

40  
41  
42  
43 (5) *Fiscal and budgetary functions.*

44  
45 (a) The board shall, in addition to the reports and accounting it may otherwise be required by

1 law to make, promptly after the close of the fiscal year, furnish the city commission its  
 2 annual report which shall include the following statements as of the end of the preceding  
 3 fiscal year: A balance sheet showing the financial condition of the utilities and each  
 4 separate division, prepared as nearly as practical according to generally accepted public  
 5 utility accounting principles; a statement of operations for each division of the utilities;  
 6 and any additional supporting statements or schedules deemed necessary and desirable by  
 7 the city commission to make a clear and informative presentation of the financial position  
 8 of the utilities. The reports shall be kept on file in the city clerk's office and shall be  
 9 open to public inspection. The funds and accounts of the utilities shall be audited  
 10 annually by a certified public accountant appointed by the city commission.

11  
 12 (b) The board shall ~~prepare-review, approve~~ and adopt a budget for the ensuing fiscal year  
 13 and furnish a copy to the city commission on or before July 1 of each year. The budget  
 14 shall set forth GRU's estimated gross revenues and other available funds, and estimated  
 15 requirements for operations and maintenance expenses, capital outlay, debt service, and  
 16 depreciation and reserve account. The board shall hold budget hearings and approve the  
 17 budget in the manner provided by law.

18  
 19 (c) The board shall, except as specifically provided in this article, have the exclusive power  
 20 and authority to manage and conduct its financial affairs in accordance with generally  
 21 accepted accounting principles applied to municipal utilities systems and the provisions  
 22 of resolutions authorizing its revenue bonds and other obligations.

23  
 24 (d) All revenues derived from the utilities after paying the necessary costs and expenses shall  
 25 be applied to the payment of interest on and principal of bonds, revenue certificates,  
 26 loans, and other obligations from monies borrowed, both senior and subordinate lien and  
 27 to the sinking fund for the redemption thereof as required by law and ordinances under  
 28 which said bonds were issued.

29  
 30 (e) ~~The board shall pay to the city commission each year a sum equal to nine (9) percent of~~  
 31 ~~the gross revenues as hereafter defined, derived from the operation of the utilities for the~~  
 32 ~~preceding fiscal year, unless the city commission, by majority vote, agrees to accept a~~  
 33 ~~lesser percentage. This sum shall be paid on or before sixty days after approval and~~  
 34 ~~acceptance of the audit for such fiscal year by the city commission.~~

35  
 36 As a return on the City's investment in the utility system, GRU will annually compensate  
 37 Gainesville's general revenue fund a base amount (referred to as the general fund transfer  
 38 or (GFT) less the actual amount of ad valorem revenue received that for the GREC  
 39 Biomass facility. The base amount shall be increased ~~annually 1.5%~~ 1.5%. For Fiscal  
 40 Year 2016, the GFT shall be \$36,670,154.00 less \$1,437,721.00 for the biomass ad  
 41 valorem taxes received for a total amount of \$35,232,433.00.

42  
 43 The GFT assessment established above will be in effect until September 30, 2019, at  
 44 which time the city commission may reconsider the formula, and change the formula by  
 45 ordinance. The city commission may reconsider the assessment calculations every fifth

1 year thereafter. Should the commission not reconsider the assessment calculations, the  
 2 assessments shall be calculated using the formula set forth above.

3  
 4 If either federal or state laws are enacted or regulatory actions are taken that adversely  
 5 impact GRU's financial position for the utility systems, the commission shall promptly  
 6 consider enacting such changes to this section as may be negotiated by the board and the  
 7 commission to mitigate such adverse impact.

8  
 9 The GFT shall be paid from any system or combination of systems (electric, ~~gas~~gas,  
 10 water, wastewater or telecommunications) from which the board feels is in the best  
 11 interest of GRU.

12  
 13  
 14 ~~This sum~~ The GFT shall be paid on or before sixty days after approval and acceptance of  
 15 the audit for such fiscal year by the city commission.

16  
 17 *Alternate language suggested by GRU's chief Financial Officer:*

18  
 19 (e) As a return on the City's investment in the utility system, GRU will annually compensate  
 20 Gainesville's general revenue fund based on and in accordance with the bond indentures.

21  
 22 (6) City commission authority. The city commission retains the following authority:

23  
 24 (a) To appoint, suspend, and remove members of the board of directors as specified in  
 25 Section 3.

26  
 27 (b) To adopt by ordinance, the qualifications required of board members; the payment for  
 28 training expenses and for reimbursement of travel and out-of-pocket expenses for training  
 29 and professional meetings associated with board duties the attendance requirements of  
 30 board members; and the procedures for suspension and removal of board members, as  
 31 specified in Section 3.

32  
 33 (c) To ~~borrow money and~~ issue bonds for GRU as specified in Section 4(n).

34  
 35 (d) To approve, upon request of board, the provision, operation, or maintenance of other  
 36 utility systems or functions as specified in Section 4(c).

37  
 38 (e) To authorize additional income producing activities not provided for in Section 4(e).

39  
 40 (f) To receive annual payments from GRU as specified in Sections 4(r) and 5(e).

41  
 42 (g) To review the annual reports of the board as specified in Section 5(a).

43  
 44 (h) To annually audit the utilities' funds and accounts as specified by Section 5(a).  
 45

1 (i) To annually review the utility budget as specified by Section 5(b).

2  
3 (j) To establish personnel policies and benefits and Equal Opportunity policies as specified  
4 in Section 8; and in Article V of the Charter.

5  
6 (k) To adopt an ordinance authorizing the city commission to disapprove proposed changes  
7 to fees, charges, and rates, by five sevenths (5/7) vote of the commission, as set forth in  
8 Section 4(j).

9  
10 ~~(l) To employ, set compensation for, and terminate the general manager of utilities, as set~~  
11 ~~forth in in Section 4(v).~~

12 (l) To cause the internal auditor to audit GRU accounts.

13  
14 (7) General manager for utilities.

15  
16 (a) The board shall appoint a general manager for utilities ("general manager") who, as a  
17 charter officer, shall be the chief executive officer of GRU. The general manager shall be  
18 responsible for the efficient administration of Gainesville Regional Utilities. The general  
19 manager shall be responsible to the board. ~~The general manager for utilities shall serve at~~  
20 the will of the board. The general manager for utilities shall serve at the will of the board.

21 (b) Powers and duties generally. The general manager:

22 1. Shall be responsible for and have exclusive management control over operating and  
23 financial affairs of GRU including, but not limited to, the planning, development,  
24 production, purchase, sale, exchange, interchange, transmission and distribution of  
25 all electricity; the planning, development, purchase, sale, exchange, interchange,  
26 transmission and distribution of all natural gas; the planning, development, supply,  
27 treatment, transmission, distribution and sale of all potable water; and the planning,  
28 development, collection, treatment, disposal and billing of all wastewater now or  
29 hereafter provided by the city;

30 2. Shall submit to the board for its consideration a yearly budget for the operation of  
31 GRU;

32 3. Shall be the purchasing agent for all equipment, materials, supplies and services  
33 necessary for operating and maintaining GRU subject to policies promulgated by  
34 the board;

35 4. Shall propose to the board the job titles of subordinates that are to be considered  
36 directors of department;

37 5. Shall appoint and, except as otherwise provided in this charter, remove all directors  
38 of departments at will;

1 6. Shall recommend to the board all measures necessary and expedient for the proper  
 2 governance and management of GRU;

3 7. Shall keep the board fully advised as to the management and needs of GRU;

4 8. Shall perform all other duties prescribed by law, this charter, or direction of the  
 5 board, and

6 9. Is vested with authority to administer the assigned duties of his offices including the  
 7 employment and removal of all subordinate employees of his offices. The general  
 8 manager must make all appointments based on merit and fitness alone and, except  
 9 as otherwise provided in this section, may remove nonprobationary personnel only  
 10 for cause, obsolescence of position, budgetary restriction, or for other legitimate  
 11 reasons. The general manager may purchase and contract for supplies, materials,  
 12 equipment, and services required to perform his assigned duties under procedures  
 13 and limitations prescribed by the board.

14 (c) Interference with general manager.

15  
 16 Neither the board, city commission, board member, city commissioner, mayor nor board  
 17 chair, may dictate the appointment of any person to office or employment by the general  
 18 manager nor in any manner interfere with the independence of the general manager in the  
 19 performance of his duties. Except for the purpose of an inquiry, the commission, board  
 20 and each of the members thereof, including the mayor or board chairman, must deal with  
 21 employees of GRU solely through the general manger, and neither the commission,  
 22 board, nor any member thereof, may give orders to any subordinates of the general  
 23 manager either publicly or privately. Any commissioner or board member who violates  
 24 this section is guilty of a misdemeanor of the second degree, punishable as provided in  
 25 Florida Statutes.

26  
 27 (8) Employees, legal services, auditing services.

28 (a) To maximize efficiencies, reduce costs, and provide consistency among city employees,  
 29 GRU may/-shall utilize the city's human resources, risk management, city attorney,  
 30 internal auditor, and Equal Opportunity Officer. By mutual agreement of the board and  
 31 the city additional services may be provided from one party to the other but only on a  
 32 cost-accounted basis.

33  
 34 (b) All current and future employees of GRU shall be employees of the city, whose pay and  
 35 benefits shall be an operating expense of GRU. All employees of GRU shall continue  
 36 without loss of right or benefits as city employees. As city employees, all rights and  
 37 benefits shall be informed by the city's human resources and equal opportunity policies.

38  
 39 (c) The board and GRU may/shall use the legal services of the city on a cost-accounted basis  
 40 except in those cases when the city attorney or general manager determines that the city  
 41 legal staff cannot or should not provide legal services in the required legal area. The

board shall appropriate the funds necessary to meet the obligations for outside legal services as determined by the city attorney. The city attorney shall consult with the board before he or she selects outside counsel.

In the event the city attorney or general manager determines that it is no longer feasible to provide services from the city’s legal staff, the city attorney shall notify the commission and the board. Upon receiving notice, the board shall be authorized to retain its own legal counsel and shall appropriate the funds necessary to meet the obligations for legal counsel.

(d) The board and GRU may/shall use the internal auditing services of the city on a cost-accounted basis except in those cases when the city auditor determines that the internal auditing staff cannot or should not provide auditing services. The board shall appropriate the funds necessary to meet the obligations for outside auditors.

(e) The board and GRU may/shall use the services and follow the policies established by the city’s Equal Opportunity Officer.

(9) *Pre-existing obligations.* The board shall have the same rights, obligations and remedies under pre-existing contracts and obligations as the city commission does. The board may sue and be sued on behalf of the City pursuant to those pre-existing obligations.

(10) *Transitional period.* All ordinances currently in effect regarding utility services shall be repealed by the city commission and re-adopted by the board by resolution. The resolution shall remain in effect until the board takes action to modify or repeal the resolution, or other actions.

**Section 5.** Section 5.04 of the Charter is hereby amended as follows.

**5.04. Disposal of utilities.**

The commission or board of directors, may not in any manner, dispose of or agree to dispose of the city’s electrical or water production or distribution facilities or any part thereof so as to materially reduce the capacity of the city to produce or distribute electrical energy or water, unless the commission does so by ordinance with the prior approval of a majority vote of the qualified electors of the city voting at an election for the purpose of approving the ordinance.

**Section 6.** The following ballot title and question is approved for submission to the electors of the City of Gainesville, Florida, for approval or rejection at the municipal election set for \_\_\_\_\_:



CITY OF GAINESVILLE CHARTER AMENDMENT

1

2 ~~Should~~ Shall the City’s Charter be amended to remove governing authority over

3 Gainesville Regional Utilities from the elected City Commission and place such

4 authority in a board of directors appointed by the City Commission all as more

5 specifically described in Ordinance No. \_\_\_\_\_ ?

Forma

6

7

8

9 **Section 7.** The amendment to the Charter Laws set out in Section 2 through Section 6 of

10 this ordinance is approved for submission to the electors of the City of Gainesville, Florida, for

11 approval or rejection at the municipal election to be held on \_\_\_\_\_.

12 **Section 8.** In the event that the charter amendment proposed by Section 2 through Section

13 6 of this ordinance is approved by affirmative vote of a majority of votes cast by the electors of the

14 City of Gainesville, Florida at the \_\_\_\_\_ municipal election, then: 1) the codifier is

15 directed to incorporate the amendments stated in Section 2 through Section 6 of this ordinance in

16 the Charter Laws of the City of Gainesville; and 2) the Clerk of the Commission is directed to file

17 a true copy of this ordinance with the Florida Department of State and 3) City Commission is

18 directed to take all action necessary to effectuate the Charter Amendments within 120 days.

19 **Section 9.** If any word, phrase, clause, paragraph, section or provision of this ordinance

20 or the application hereof to any person or circumstance is held invalid or unconstitutional, such

21 finding shall not affect the other provisions or applications of this ordinance that can be given

22 effect without the invalid or unconstitutional provision or application, and to this end the

23 provisions of this ordinance are declared severable.

1           **Section 10.** All ordinances or parts of ordinances in conflict herewith are to the extent of  
2 such conflict hereby repealed.

3           **Section 11.** This ordinance shall become effective immediately upon adoption.  
4 However, the charter amendment shall become effective \_\_\_\_\_.

5

6           **PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2015.

7

8

9

\_\_\_\_\_  
EDWARD B. BRADDY  
MAYOR

10

11

12

13

14

Attest:

Approved as to form and legality:

15

16

17

\_\_\_\_\_  
KURT M. LANNON  
CLERK OF THE COMMISSION

\_\_\_\_\_  
NICOLLE M. SHALLEY  
CITY ATTORNEY

18

19

20

21 This ordinance passed on first reading this \_\_\_\_ day of \_\_\_\_\_, 2016.

22

23 This ordinance passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2016.