



Legislation Text

File #: 150383., Version: 1

RETENTION OF AKERMAN LLP TO REPRESENT THE CITY d/b/a GRU IN ANY DISPUTE RESOLUTION PROCESS RELATED TO THE CONSTRUCTION COST ADJUSTER UNDER THE POWER PURCHASE AGREEMENT WITH GAINESVILLE RENEWABLE ENERGY CENTER, LLC (NB)

The Office of the City Auditor issued a final audit report titled "Audit of Gainesville Regional Utilities Invoice Processing - Biomass Energy" dated September 15, 2015 (the "Audit Report.") Observation A identified in the Audit Report is that the Construction Cost Adjuster used to adjust the Non-Fuel Energy Charge on each monthly invoice from GREC to the City d/b/a GRU has not been calculated in accordance with the definition of "Dollar/Euro Exchange Rate" contained in the Power Purchase Agreement (the "PPA.") To address Observation A, the Audit Report recommends that GRU Management consider courses of action to recoup previous overpayments and going forward to use the contract definition of "Dollar/Euro Exchange Rate" in calculating the Construction Cost Adjuster.

After reviewing Observation A and its recommendations with the City Auditor and the City Attorney, the General Manager for Utilities desires to retain outside counsel to represent the City d/b/a GRU in any dispute resolution process related to the Construction Cost Adjuster. The City Attorney's Office assisted the General Manager in selecting the law firm of Akerman LLP, as the firm has done prior work for the City related to the PPA and has the relevant qualifications and expertise to represent the City in dispute resolution pursuant to the PPA.

Akerman LLP will bill for services on an hourly basis based on actual services rendered. The total cost of services will depend on the complexity of the dispute resolution process; however, at this time the costs are not anticipated to exceed \$100,000. Funding for outside counsel will be paid either from GRU budgeted funds for legal expenses or from unanticipated cost savings that GRU realizes.

Authorize the Office of the City Attorney to retain the law firm of Akerman LLP as outside legal counsel for representation of the City in any dispute resolution process related to the Construction Cost Adjuster issue.