

Rubottom, Don

From: Gene Adams <gene@penningtonlaw.com>
Sent: Friday, February 03, 2017 5:40 PM
To: Lobbyist Disclosure
Subject: Pennington P.A., Howard E. Adams--Florida Governmental Utility Authority
Attachments: FGUA Agreement.pdf

Please find attached the general counsel agreement and subsequent amendments between Pennington P.A. and the Florida Governmental Utility Authority. Of the funds derived from the contract, \$15,000 per year is allocated to monitoring and general lobbying. Additional contracts may be executed for additional lobbying of special issues such as involvement in the water and springs legislation of the last several years. Please let me know if you require additional information or if you have questions. Gene Adams.

Howard E. (Gene) Adams

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**FIRST AMENDED
AGREEMENT FOR**

GENERAL COUNSEL SERVICES

- by and between

THE FLORIDA GOVERNMENTAL UTILITY AUTHORITY

and

PENNINGTON, MOORE, WILKINSON, BELL & DUNBAR, P.A.

**FIRST AMENDED
AGREEMENT FOR GENERAL COUNSEL SERVICES**

THIS AGREEMENT is made and entered into this 15 day of, April, 2004 by and between the Florida Governmental Utility Authority a legal entity and public body organized and existing under the laws of the State of Florida (hereinafter referred to as the "GUA") and the Pennington, Moore, Wilkinson, Bell & Dunbar, P.A. whose business address is 215 South Monroe Street - Second Floor, Tallahassee, Florida 32302 (hereinafter referred to as the "General Counsel").

W I T N E S S E T H:

WHEREAS, the GUA desires to obtain the professional services of the General Counsel to provide general legal services to aid in conducting the business of the GUA;

WHEREAS, the General Counsel represents that it has expertise in the type of professional services that will be required the GUA

NOW, THEREFORE, in consideration of the following mutual premises, covenants, provisions, representations, agreements and provisions, the parties hereto agree as follows:

**ARTICLE I
GENERAL COUNSEL SERVICES**

SECTION 1.01. DEFINITIONS. As used in this Agreement, the following terms shall have the following meanings unless the context hereof otherwise requires:

"Additional Services" means the legal services described in Sections 2.01 and 2.02 hereof

"Agreement" means this Agreement for General Counsel Services, including any amendments and supplements hereto executed and delivered in accordance with the terms hereof.

"Avatar Systems" collectively means the following systems acquired from Avatar Holdings, Inc. or its subsidiaries whose assets are currently owned by the GUA: (1) the Sarasota County Utility System, (2) the Poinciana Utility System, (3) the Golden Gate Utility System, and (4) the Carrollwood Utility System.

"Basic Services" means the legal services described in Sections .02 and .03 hereof.

"Billing Contractor" means the firm contracting with the GUA to provide customer service and utility billing for the Utility Systems.

"Board" shall mean the Board of Directors of the GUA.

"Financing Documents" shall mean the resolution or resolutions duly adopted by the Board, as well as any indenture of trust, trust agreement or other instrument relating to the issuance of bonds or other certificate of indebtedness by the GUA.

"Fiscal Year" means the period commencing on October of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year for the County.

"GUA" means the Florida Governmental Utility Authority, a legal entity and public body created by interlocal agreement pursuant to section 163.01(7), Florida Statutes.

"Interlocal Agreement" means the interlocal agreement entered into by participating counties pursuant to section 163.01(7), Florida Statutes, creating the GUA and establishing its charter.

"Manager" means Government Services Group, Inc., a Florida corporation or its successor under contract with the GUA.

"Operations Contractor" means the firm contracting with the GUA to operate and maintain the Utility Systems.

"Utility Systems" means the water and wastewater utility systems owned or operated by the GUA, including (A) the Avatar Systems and (B) any other utility system acquired or operated by the GUA during the term of this Agreement. As the term is used herein it shall also mean any separate water and/or wastewater system, separately accounted for and designated as such by the Board.

SECTION 1.02. BOARD MEETINGS. General Counsel shall provide to the GUA the following general counsel services and legal advice to support the Board at its meetings:

(A) review all agenda materials in advance and where necessary provide comment and advise as to form and legality;

(B) attend all Board meetings upon reasonable notice;

(C) be available to provide advice, conduct legal research and render opinions on legal issues raised by the Board; and

(D) provide independent review and advice to the Board of the performance of the contractual duties and responsibilities of the Manager, the Billing Contractor, the Operations Contractor and other entities and firms under contract with the GUA.

SECTION 1.03. GENERAL COUNSEL. The General Counsel will provide to the GUA and its Manager the following general counsel services:

(A) provide general advice and legal research on *the powers and authority of the GUA under its charter established by the Interlocal Agreement and Florida law;

(B) draft and review resolutions, agreements or other documentation required by the GUA or the Board in the performance of its duties under the Interlocal Agreement and Florida law;

(C) advice and research on the feasibility and legal sufficiency of actual or potential real property transactions;

(D) be available to provide Additional Services as directed by the Board or the Manager.

SECTION 1.04. COMPENSATION FOR GENERAL COUNSEL SERVICES.

(A) In consideration of the first twelve (12) hours of General Counsel services to be provided pursuant to Sections 1.02 and 1.03 during each monthly period, the GUA agrees

to pay the General Counsel a fee of \$1,800.00 payable at the end of each monthly period.

Attorney time incurred in excess of twelve (12) hours during each monthly period shall be compensated at the hourly rates specified in Appendix A.

(B) Compensation shall be paid at one-half ($\frac{1}{2}$) the hourly rate specified in Appendix A for the hours incurred in travel from the host office of the attorney performing legal services to the location where FGUA board meetings are conducted and to such other locations where services are required to be provided.

ARTICLE II ADDITIONAL SERVICES

SECTION 2.01. FUTURE GUA ACQUISITIONS. The parties acknowledge that the GUA may acquire additional Utility Systems or divest itself of acquired Utility Systems during the term of this Agreement. The General Counsel may be asked to evaluate information developed by the GUA's rate consultants, consulting engineers, and other professionals, for each proposed acquisition or divestiture and make recommendations to the Board. Additionally, in connection with the issuance of any bonds or certificates of indebtedness to acquire or improve a Utility System, the General Counsel shall provide an opinion as to the power and authority of the GUA and the regularity of its proceedings as reasonably requested by its bond counsel or the underwriter.

SECTION 2.02. OTHER ADDITIONAL SERVICES.

The Board or the Manager may request the General Counsel to perform other legal services, and to research or prepare legal opinions beyond the scope of the services called for in Sections 1.02 and 1.03 of this Agreement. Such services shall be deemed Additional Services.

SECTION 2.03. COMPENSATION AND AUTHORIZATION.

(A) At the request of the Manager or the Board, prior to commencement, submit an estimate of the anticipated cost of any proposed Additional Services for approval.

(B) Compensation for the general counsel services contemplated in Sections 2.01 and 2.02 shall be provided on an hourly basis at the hourly rate specified in Appendix A

unless such services are approved by the Manager or the Board to be provided on a lump sum basis. All such legal services shall be authorized by the Manager, the GUA Board or the Utility Counsel. To the maximum extent possible, the General Counsel shall, in consultation with the Manager, allocate the legal services fees provided in its billing statement to the Utility System for which the legal services are rendered.

SECTION 2.04. REIMBURSEMENT OF COSTS. In addition to the legal fees or other compensation provided in this Agreement, General Counsel shall be reimbursed for costs incurred on long distance telephone charges, travel expenses, overnight delivery charges and photocopies. Any travel expenses shall be reimbursed in accordance with section 112.061, Florida Statutes.

**ARTICLE III
GENERAL PROVISIONS**

SECTION 3.01. TERM OF AGREEMENT. This Agreement shall be for a term commencing on June 1, 2004 and ending on September 30, 2006. However, the term hereof may be extended by mutual agreement of the parties for successive 24 month periods.

SECTION 3.02. QUALIFIED PROFESSIONALS REQUIRED. The General Counsel services to be provided hereunder relate to legal services which require that all professionals assigned to assist the GUA be members of the Florida Bar in good standing

SECTION 3.03. INSURANCE.

(A) During the term of this Agreement, the General Counsel shall provide, pay for, and maintain, with a company satisfactory to the GUA, the Professional Liability insurance described herein. Such insurance shall be from a responsible company duly authorized to do business in the State of Florida or responsible risk retention group insurance companies registered with the State of Florida. The insurance coverage and limit required must be evidenced by a properly executed certificate of insurance on a form which is acceptable to the GUA. The certificate must be personally, manually signed by the authorized representatives of the insurance company shown on the certificate with proof that the representative is an authorized representative. In addition, certified, true and exact copies of the insurance policy required shall be provided to the GUA, on a timely basis, if required by the GUA. The certificate and policy shall contain a provision that thirty days

written notice by registered or certified mail shall be given the GUA of any cancellation, intent not to renew, or reduction in the policy's coverage, except in the application of the aggregate limits provisions. In the event of a reduction in the aggregate limit of the policy, the General Counsel shall immediately take steps to have the aggregate limit reinstated to the full extent permitted under such policy. The acceptance by the GUA of any certificate of insurance evidencing the insurance coverage and limits required in this Agreement does not constitute approval or agreement by the GUA that the insurance requirements have been met or that the insurance policy shown on the certificate of insurance is in compliance with the requirements of this Agreement.

(B) Professional Liability insurance shall be maintained with limits not less than \$2,000,000. If coverage is provided on a claims made basis then coverage must be continued for the duration of this Agreement and for not less than one year thereafter, or in lieu of continuation, provide an "extended reporting clause" for one year.

(C) If any insurance provided pursuant to this Agreement expires during the term hereof, a renewal certificate of insurance and, if requested by GUA, a certified, true copy of the renewal policy shall be furnished by Utility Counsel thirty days prior to the date of expiration.

SECTION 3.04. SUBCONTRACTORS. The services to be performed hereunder shall be performed by General Counsel, unless otherwise authorized in writing by the GUA, which shall not be unreasonably withheld. The employment of, contract with, or use of the services of any other person or firm by General Counsel, as independent contractor or otherwise, shall be subject to the prior written approval of the GUA. No provision of this

Agreement shall, however, be construed as constituting an agreement between the GUA and any such other person or firm. Nor shall anything contained herein be deemed to give any such party or any third party any claim or right of action against the GUA beyond such as may otherwise exist without regard to this Agreement.

SECTION 3.05. DEFAULT AND TERMINATION. The General Counsel serves at the pleasure of the Board. The General Counsel shall have the right to terminate this Agreement upon 60 calendar days written notice to the GUA. The General Counsel shall be entitled to payment for professional fees earned and reimbursable costs incurred prior to the date of such termination.

SECTION 3.06. DISCLOSURE. General Counsel represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder.

SECTION 3.07. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof, and supercedes all prior other and contemporaneous agreements, understandings, negotiations and discussions of the parties, whether oral or written, and there are no warranties, representations or other agreements between the parties in connection with the subject matter hereof, except as specifically set forth herein.

SECTION 3.08. AMENDMENTS AND WAIVERS. No amendment, supplement, modification or waiver of this Agreement shall be binding unless executed in writing by all parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or

shall constitute a waiver of any other provision of this Agreement, whether or not similar, unless otherwise expressly provided.

SECTION 3.09. NOTICES. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered or mailed by registered or certified mail, postage prepaid, to the parties at the following address:

GUA: Florida Governmental Utility Authority
c/o Government Services Group, Inc.
315 South Calhoun Street
Suite 860
Tallahassee, Florida 32301
Attention: Robert E. Sheets

General Counsel: Pennington, Moore, Wilkinson, Bell & Dunbar, P.A.
215 South Monroe Street
Second Floor
Tallahassee, Florida 32301

Either of the parties may, by notice in writing given to the other party, designate any further or different addresses which subsequent notices, certificates or other communications shall be sent. Any notice shall be deemed given on the date such notice is delivered by hand or facsimile transmission or three days after the date mailed.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement for General Counsel Services on the day year first written above.

**FLORIDA GOVERNMENTAL
UTILITY AUTHORITY**

By: Reagan Thomas
Chairman

(SEAL)

Keith Royle
ATTEST

[Signature]
Secretary-Treasurer

Pennington Moore, Wilkinson, Bell + Dunbar
GENERAL COUNSEL

By: John C. Bell
Authorized Signature

APPENDIX A

Whenever work is performed on an hourly basis, the following rates apply:

Partners/Shareholders:	\$200.00/hour
Associates	\$175.00/hour
Paralegals	\$ 65.00/hour

AMENDMENT NO. 3
to
FIRST AMENDED AGREEMENT FOR GENERAL COUNSEL SERVICES
by and between
THE FLORIDA GOVERNMENTAL UTILITY AUTHORITY
and
PENNINGTON, P.A.

THIS AMENDMENT is made this 28th day of August, 2014 by and between the Florida Governmental Utility Authority, a legal entity and public body organized and existing under the laws of the State of Florida (hereinafter referred to as the "FGUA") and Pennington, P.A., a Florida professional association whose business address is 215 North Monroe Street, Suite 200, Tallahassee, FL 32301 (hereinafter referred to as the "General Counsel").

WITNESSETH

WHEREAS, the FGUA desires to extend the professional services of the General Counsel to provide general legal services to aid in conducting the business of the FGUA; and

WHEREAS, the General Counsel represents that it has expertise in the type of professional services that will be required by the FGUA.

NOW, THEREFORE, in consideration of the mutual promises, covenants, provisions, representations, agreements and premises, the parties do hereby agree as follows:

1. Section 3.01. TERM OF AGREEMENT is amended to read as follows:

SECTION 3.01. TERM OF AGREEMENT. This agreement shall continue in effect until terminated by either party in accordance with Section 3.05 of the First Amended Agreement for General Counsel Services.

- 2 All terms and provisions of the First Amended Agreement for General Counsel Services by and between the Florida Governmental Utility Authority and Pennington, P.A., not inconsistent herewith, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this amendment on the day in here first above written.

FLORIDA GOVERNMENTAL UTILITY
AUTHORITY

By: *Lea Ann Thomas*
Lea Ann Thomas

Its: Chairman

ATTEST:
By: *[Signature]*

Its: Secretary/Clerk

PENNINGTON, P.A.

By: *John C. Pelham*
John Pelham

Its: Shareholder/Partner

