

**CITY COUNCIL RESOLUTION NO. 2021-109**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE CITY, FLORIDA, AUTHORIZING THE REMOVAL OF THE CITY MANAGER PURSUANT TO SECTION 402 OF THE CITY CHARTER; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Lake City, Florida (hereinafter the “City”) caused the execution of an employment agreement with Joseph Helfenberger, to serve as the city manager (hereinafter the “Agreement”), a copy of which is attached hereto as “Exhibit A”; and

**WHEREAS**, the Agreement provides for the termination of the employment relationship between the City and the city manager and refers to the city charter in specific instances; and

**WHEREAS**, Section 402, City Charter, provides that the City Council may remove the city manager from office in accordance with the following procedures,

- (a) The council shall adopt by affirmative vote of a majority of all its members, a preliminary resolution which must state the reasons for removal and then may suspend the manager from duty for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered by the council to the manager within three (3) days.
- (b) Within five (5) days after a copy of the resolution has been delivered by the council to the city manager, he may file with the council a written request for a public hearing. This hearing shall be held by the city council not earlier than fifteen (15) days, nor later than thirty (30) days, after the request is filed. The city manager may file with the council a written reply not later than five (5) days before the hearing.
- (c) The council may adopt a final resolution of removal, which may be made effective immediately by affirmative vote of a majority of all its members, at any time after five (5) days from the date when a copy of the preliminary resolution was delivered to the manager, if he has not requested a public hearing, or at any time after the public hearing if he has requested one.
- (d) The manager shall continue to receive his salary until the effective date of a final resolution of removal.

**WHEREAS**, subsequent to an affirmative vote of a majority of all the members of the City Council a preliminary resolution was delivered to the city manager; and

**WHEREAS**, the city manager provided a written response to the preliminary resolution within the time limits provided for in Section 402, City Charter, and waived the right to a hearing in return for the City's adherence to the Agreement; and

**WHEREAS**, the City Council finds that the removal of the city manager in accordance with the terms and provisions of the city charter and the Agreement is in the best interests of the City.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAKE CITY, FLORIDA, AS FOLLOWS:**

**Section 1.** The above recitals are true and accurate and adopted and are hereby made a part of this resolution.

**Section 2.** The city manager is permanently removed from office effective immediately upon the passage of this final resolution and the city administration shall process the removal in accordance with the terms and conditions of both the city charter and the Agreement.

**Section 3.** Conflicts. All resolutions and official determinations or parts thereof previously adopted or entered by the City Council or any of its officials and in conflict with this resolution are hereby repealed to the extent inconsistent herewith.

**Section 4.** Effective Date. This resolution shall take effect immediately upon adoption.

**PASSED AND ADOPTED** at a meeting of the City Council on this \_\_\_\_ day of July 2021.

**CITY OF LAKE CITY, FLORIDA**

By: \_\_\_\_\_  
Stephen M. Witt, Mayor

ATTEST:

APPROVED AS TO FORM AND  
LEGALITY:

By: \_\_\_\_\_  
Audrey E. Sikes, City Clerk

By: \_\_\_\_\_  
Frederick L. Koberlein, Jr.,  
City Attorney

# **EMPLOYMENT AGREEMENT FOR MANAGEMENT SERVICES BETWEEN THE CITY OF LAKE CITY, FLORIDA AND JOSEPH HELFENBERGER**

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# **Introduction**

THIS EMPLOYMENT AGREEMENT (hereinafter "Agreement" or "agreement"), made and entered into this \_\_\_\_ of July, 2018, by and between the City of Lake City, Florida, a municipal corporation, (hereinafter called "City") and Joseph Helfenberger, (hereinafter called "Helfenberger") an individual who has the education, training and experience in local government management, both of whom agree as follows:

## **Section 1: Term**

This agreement shall remain in full force and effect from the effective date, provided in section 18, until terminated by the City or Helfenberger as provided in Sections 7 or 9 of this agreement. In the event that Helfenberger is terminated, as defined in Section 7 of this agreement, Helfenberger shall be entitled to all compensation including salary, accrued vacation and sick leave paid in lump sum or in a continuation of salary on the then existing pay period basis, at Helfenberger's option.

## **Section 2: Duties and Authority**

A. Helfenberger is the chief executive officer of the City and shall faithfully perform the duties as prescribed in the job description as set forth in the City's charter and ordinances and as may be lawfully assigned by the City and shall comply with all lawful City Council directives, state and federal law, City policies, rules and ordinances as they exist or may hereafter be amended.

B. Specifically, it shall be the duty of Helfenberger to employ on behalf of the City all other employees of the City, other than the City Clerk and City Attorney each of which serve at the pleasure of the City Council, consistent with the policies of the City Council and the ordinances and charter of the City.

C. It shall also be the duty of Helfenberger to direct, assign, reassign and evaluate all of the employees of the City consistent with policies, ordinances, charter, state and federal law.

D. It shall also be the duty of Helfenberger to organize, reorganize and arrange the staff of the City and to develop and establish internal regulations, rules and procedures which Helfenberger deems necessary for the efficient and effective operation of the City consistent with the lawful directives, policies, ordinances, state and federal law.

E. It shall also be the duty of Helfenberger to accept all resignations of employees of the City consistent with the policies, ordinances, state and federal law, except Helfenberger's resignation which must be accepted by the City Council.

F. Helfenberger shall perform the duties of city manager of the City with reasonable care, diligence, skill and expertise. Helfenberger shall perform the duties of city manager of the City with reasonable care, diligence, skill and expertise.

G. All duties assigned to Helfenberger by the City Council shall be appropriate to and consistent with the professional role and responsibility of Helfenberger.

H. Helfenberger or a designee shall attend, and shall be permitted to attend, all meetings of the City Council, both public and closed.

I. The City Council, individually and collectively, shall refer in a timely manner all substantive criticisms, complaints and suggestions called to their attention to Helfenberger for study and/or appropriate action.

### **Section 3: Compensation**

A. Base Salary: City agrees to pay Helfenberger an annual base salary of one hundred twenty thousand U.S. dollars and zero cents (\$120,000.00), payable in installments at the same time that the other management employees of the City are paid. The City agrees to one mandatory review of the annual base salary after Helfenberger's initial one hundred and eighty days (180) of employment, at which time the annual base salary shall be reviewed for an increase. All future and reviews shall take place pursuant to the terms of Section 10.

B. This agreement shall be amended by resolution to reflect any adjustments that are provided or required by the City's compensation policies to include, but not be limited to, salary adjustments, performance incentives, increases in benefits, or any combination of elements comprising compensation.

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## **Section 4: Employee Benefits**

The City agrees to provide general benefits to Helfenberger, at a minimum, equal to that which is provided to all other employees of the City.

## **Section 5: Additional Annual Leave**

Upon commencing employment, Helfenberger shall receive two (2) weeks of annual leave which shall be in addition to the accrual of annual leave he shall enjoy as a “full-time employee” as defined within the City Personnel Policies and Procedures Manual.

## **Section 6: General Business Expenses**

A. The City agrees to budget and pay for the professional dues of Helfenberger to the International City/County Management Association and any other dues of associations, within the state of Florida, Helfenberger brings to the employment with the City, necessary and desirable for Helfenberger’s continued professional participation, growth, and advancement, and for the good of the City.

B. City agrees to budget and pay for travel and subsistence expenses, pursuant to City ethics and purchasing policies, of Helfenberger for professional and official travel, meetings, and occasions to adequately continue the professional development of Helfenberger and to pursue necessary official functions for the City.

C. The City also agrees to budget and pay for travel and subsistence expenses of Helfenberger for short courses, institutes, and seminars that are necessary for Helfenberger’s professional development and for the good of the City.

D. The City recognizes that certain expenses of a non-personal but job related nature are incurred by Helfenberger, and agrees to reimburse or to pay said general expenses. Such expenses may include meals where the City business is being discussed or conducted and participation in social events of various organizations when representing the City. Such expenditures are subject to annual budget constraints as well as state and City ethics and purchasing policies. The finance director is authorized to disburse such moneys upon receipt of duly executed expense or petty cash vouchers, receipts, statements or personal affidavits.

E. Recognizing the importance of constant communication and maximum productivity, the City shall provide Helfenberger, for business use, a laptop computer, software, tablet computer, mobile phone, and use of a City owned vehicle. Upon termination of Helfenberger’s employment, the equipment described herein shall be returned to the City within twenty-four (24) hours from the time of termination of employment.

## **Section 7: Termination**

For the purpose of this agreement, termination shall exclude the applicable section of the City Personnel Policies and Procedures Manual and shall occur when one, or more, of the following occurs:

- A. The majority of the City Council votes to terminate Helfenberger in accordance with the Charter or City Code at a properly posted and duly authorized public meeting.
- B. If the City reduces the base salary, compensation or any other financial benefit of Helfenberger, unless it is applied in no greater percentage than the average reduction of all department heads, such action shall constitute a breach of this agreement and will be regarded as a termination.
- C. If Helfenberger resigns following an offer to accept resignation, whether formal or informal, by the City as representative of the majority of the City Council that Helfenberger resign, then Helfenberger may declare a termination as of the date of the suggestion.
- D. If a breach of contract is declared by either party with a thirty (30) day cure period for either Helfenberger or the City. Written notice of a breach of contract shall be provided in accordance with the provisions of Section 17.

## **Section 8: Severance**

Severance shall be paid to Helfenberger when employment is terminated as defined in Sections 7 and 8.

- A. If Helfenberger is terminated, the City shall provide a minimum severance payment equal to twelve (12) workweeks of salary at Helfenberger's then current rate of pay and twelve (12) workweeks of employee benefits. This severance shall be paid in a continuation of salary on the then existing pay period basis, at the City's option.
- B. Helfenberger shall also be compensated for accrued paid time off, of any variety, pursuant to the City Personnel Policies and Procedures Manual.
- C. If Helfenberger is terminated because of a felony conviction, or a plea of nolo contendere (no contest) or guilty to a felony charge, or for misconduct, as defined in section 443.036(29), F.S. (2018), then the City is not obligated to pay severance under this section.
- D. The termination and severance of Helfenberger shall be in accordance with the "Separation Agreement" agreed to by the City and Helfenberger.

Local and state laws and regulations shall control when any provisions within this section are found to be

in conflict with such laws or regulations.

## **Section 9: Resignation**

In the event that Helfenberger voluntarily resigns his position with the City, Helfenberger shall provide a minimum of thirty (30) days' notice unless the City and Helfenberger agree otherwise.

## **Section 10: Performance Evaluation**

A. The City and Helfenberger shall mutually agree upon a process, the criteria, and a form to be used for the annual evaluation of Helfenberger within ninety (90) days from the effective date of this agreement. The City shall then review the performance of Helfenberger annually during the month of August beginning August of 2019.

The annual evaluation process, at a minimum, shall include the opportunity for both parties to:

- (1) conduct a formulary session where the City Council and Helfenberger meet first to discuss goals and objectives of both the past twelve (12) month performance period as well as the upcoming twelve (12) month performance period; and
- (2) following that formulary discussion, prepare a written evaluation of goals and objectives for the past and upcoming year; and
- (3) next meet and discuss the written evaluation of these goals and objectives; and
- (4) present a written summary of the evaluation results to Helfenberger. The final written evaluation should be completed and delivered to Helfenberger within thirty (30) days of the initial formulary evaluation meeting.

B. In the event the City deems the evaluation instrument, format and/or procedure is to be modified by the City and such modifications would require new or different performance expectations, then Helfenberger shall be provided a reasonable period of time to demonstrate such expected performance before being evaluated.

C. In the event Helfenberger is an ICMA Credentialed Manager, a multi-rater evaluation tool identified by ICMA and chosen by a majority of the City Council will be utilized at a minimum of every five years.

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## **Section 11: Hours of Work**

It is recognized that Helfenberger must devote a great deal of time outside the normal office hours on business for the City, and to that end Helfenberger shall be allowed to establish an appropriate work schedule.

The schedule shall be appropriate to the needs of the City and shall allow Helfenberger to faithfully perform his assigned duties and responsibilities.

## **Section 12: Ethical Commitments**

Helfenberger will at all times uphold the tenets of the ICMA Code of Ethics, a copy of which is attached hereto and incorporated herein. Specifically, Helfenberger shall not endorse candidates, make financial contributions, sign or circulate petitions, or participate in fund-raising activities for individuals seeking or holding elected office, nor seek or accept any personal enrichment or profit derived from confidential information or misuse of public time.

The City shall support Helfenberger in keeping these commitments by refraining from any order, direction or request that would require Helfenberger to violate the ICMA Code of Ethics. Specifically, neither the City Council nor any individual member thereof shall request Helfenberger to endorse any candidate, make any financial contribution, sign or circulate any petition, or participate in any fund-raising activity for individuals seeking or holding elected office, nor to handle any matter of personnel on a basis other than fairness, impartiality and merit.

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## **Section 13: Outside Activities**

The employment provided for by this Agreement shall be Helfenberger's sole employment. Helfenberger acknowledges that his performance of city manager duties will often require his performance of said duties outside of normal business hours. In return for the compensation identified herein Helfenberger agrees to devote his full professional attention to the full and proper performance of the city manager duties.

## **Section 14: Indemnification**

Beyond that required under Federal, State or Local Law, the City shall defend, save harmless and indemnify Helfenberger against any obligation to pay money or perform or not perform an action, including without limitation, any and all losses, damages, judgments, interests, settlements, penalties, fines, court costs and other reasonable costs and expenses of legal proceedings including attorney's fees, and any other liabilities arising from, related to, or connected with any tort, professional liability claim or demand or any other threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitral or investigation, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Helfenberger's duties as City Manager or resulting from the exercise of judgment or discretion in connection with the performance of program duties or responsibilities, unless the act or omission involved willful or wanton conduct. Helfenberger may request and the City shall not unreasonably refuse to provide independent legal representation at the City's expense and the City may not unreasonably withhold approval. Legal representation, provided by the City for Helfenberger, shall extend until a final determination of the legal action including any appeals brought by either party. The City shall indemnify Helfenberger against any and all losses, damages, judgments, interest, settlements, penalties, fines, court costs and other reasonable costs and expenses of legal proceedings including attorney's fees, and any other liabilities incurred by, imposed upon, or suffered by such Helfenberger in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened, arising out of or in connection with the performance of his or her duties. Any settlement of any claim must be made with prior approval of the City in order for indemnification, as provided in this Section, to be available.

Helfenberger recognizes that the City shall have the right to compromise and unless Helfenberger is a party to the suit which Helfenberger shall have a veto authority over the settlement, settle any claim or suit; unless, said compromise or settlement is of a personal nature to Helfenberger. Further, the City agrees to pay all reasonable litigation expenses of Helfenberger throughout the pendency of any litigation to which Helfenberger is a party, witness or advisor to the City. Such expense payments shall continue beyond Helfenberger's service to the City as long as litigation is pending. Further, the City agrees to pay Helfenberger reasonable consulting fees and travel expenses when Helfenberger serves as a witness, advisor or consultant to the City regarding pending litigation.

## **Section 15: Bonding**

The City shall bear the full cost of any fidelity or other bonds required of Helfenberger under any law or ordinance.

## **Section 16: Other Terms and Conditions of Employment**

A. The City, only upon agreement with Helfenberger, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of Helfenberger, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City Charter, local ordinances or any other law.

B. Except as otherwise provided in this Agreement, Helfenberger shall be entitled, at a minimum, to earn and accrue the highest level of benefits that are enjoyed by or offered to other [appointed officials, appointed employees, department heads or general employees] of the City as provided in the Charter, Code, Personnel Rules and Regulations or by practice.

C. Helfenberger, as City Manager, shall reside within the incorporated area of the City.

D. The City agrees to and shall reimburse Helfenberger up to an amount of four thousand U.S. dollars and zero cents (\$4,000.00) for reimbursable expenses to relocate from his present residence to the City of Lake City.

## **Section 17: Notices**

Notice pursuant to this Agreement shall be provided by depositing such in the custody of the United States Postal Service, postage prepaid, and addressed as follows:

A. EMPLOYER: City of Lake City, c/o Mayor, 205 N. Marion Ave., Lake City, FL 32055

B. EMPLOYEE: Joseph Helfenberger, 205 N. Marion Ave., Lake City, FL 32055

Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service.

## **Section 18: General Provisions**

A. Integration. This Agreement sets forth and establishes the entire understanding between the City and Helfenberger relating to the employment of Helfenberger by the City. Any prior discussions or representations by or between the City and Helfenberger are merged into and rendered null and void by this Agreement. The City and Helfenberger by mutual written agreement may amend any provision of this agreement during the life of the agreement. Such amendments shall be incorporated and made a part of this agreement.

B. Binding Effect. This Agreement shall be binding on the City and Helfenberger as well as their heirs, assigns, executors, personal representatives and successors in interest.

C. Effective Date. This Agreement shall become effective on the 1st day of August, 2018.

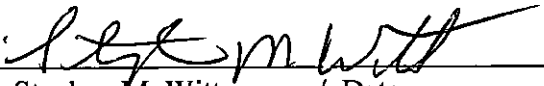
D. Severability. The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both the City and Helfenberger subsequent to the expungement or judicial modification of the invalid provision.

E. Precedence. In the event of any conflict between the terms, conditions and provisions of this Agreement and the provisions of Council's policies, or the City's ordinance or the City's rules and regulations, or any permissive state or federal law, then, unless otherwise prohibited by law, the terms of this Agreement shall take precedence over contrary provisions of Council's policies, or the City's ordinances, or the City's rules and regulations or any such permissive law during the term of this Agreement.

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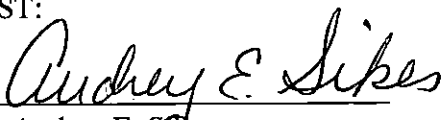
IN WITNESS WHEREOF, the parties have executed this Agreement as of the respective dates set forth below and each hereby acknowledges receipt of an executed copy of this Agreement.

**THE CITY OF LAKE CITY, FLORIDA**

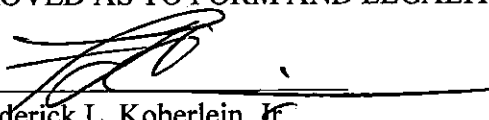
BY:   
Stephen M. Witt. / Date  
Mayor

(SEAL)


ATTEST:

BY:   
Audrey E. Sikes,  
City Clerk

APPROVED AS TO FORM AND LEGALITY:

BY:   
Frederick L. Koberlein, Jr.  
City Attorney

**JOSEPH HELFENBERGER**

BY:  7/9/18  
Joseph Helfenberger / Date

# APPENDIX 1

## SEPARATION OF EMPLOYMENT AND GENERAL RELEASE

This Separation of Employment and General Release Agreement ("Agreement") is made by and between the City of Lake City, Florida, a municipal corporation, (hereinafter the "City") and Joseph Helfenberger, (hereinafter called "Helfenberger") an individual.

**WHEREAS**, the City has employed Helfenberger as it's City Manager; however, the parties wish to enter into a voluntary agreement to terminate their employment relationship and to resolve any actual or potential claims that either party may have against the other by reason of Helfenberger's employment or termination thereof.

**WHEREAS**, the parties desire to set forth the terms and conditions governing Helfenberger's separation of employment and to provide for the settlement and release of any and all disputes or controversies that have arisen, or which may hereafter arise, between the City and Helfenberger, including without limitation, any and all claims arising out of or in any way related to Helfenberger's employment with or separation from the City.

**NOW THEREFORE**, in consideration of the mutual covenants herein contained and the mutual benefits to be derived therefrom, the sufficiency of which consideration is hereby acknowledged by the undersigned, City and Helfenberger agree and state:

1. **TERMINATION OF EMPLOYMENT.** Upon their mutual agreement, Helfenberger's employment shall terminate on the \_ day of \_\_\_\_\_, 20\_\_, which shall be Helfenberger's final date of employment.

2. **NO ADMISSION OF LIABILITY.** This Agreement is not an admission by Helfenberger or the City of any wrongful conduct whatsoever. Both parties deny and disclaim any liability to or wrongful conduct against the other or any third party.

3. **PAYMENT AND BENEFITS.** Helfenberger shall receive his regular paycheck for the pay period ending \_\_ \_\_\_\_, 20\_\_, on or before \_\_\_\_\_, 20\_\_. Helfenberger shall receive on or before \_\_\_\_\_, 20\_\_, an additional payment to compensate for his accumulated paid time off, subject to customary payroll deductions,

As consideration for this Agreement and the release contained within, and in full and complete satisfaction of all obligations due and owing Helfenberger, the City shall:

A. Pay Helfenberger an amount equal twelve (12) workweeks of his current salary, subject to customary payroll deductions to include Helfenberger's portion of health, dental and vision insurance premiums for an equal number of weeks.

4. **SURRENDER AND VACATION OF EMPLOYER'S PROPERTY.** Upon execution of this Agreement, Helfenberger shall deliver all the City's property in his possession and further, shall vacate

the City's property.

**5. RELEASE AND WAIVER OF CLAIMS.** In consideration of the benefits to be provided to Helfenberger pursuant to this Agreement, Helfenberger including his heirs and assigns hereby irrevocably and unconditionally releases, acquits and discharges the City and each of its past, present and future elected officials, department heads, officers, employees, agents, representatives and attorneys from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts and expenses (including attorneys' fees and costs actually incurred), of any nature whatsoever, whether known or unknown, arising out of any act, omission, or event from the beginning of time up to the execution of this Agreement. Helfenberger specifically acknowledges and agrees that he is releasing and giving up any right that he may now have under federal or state law or political subdivision thereof and any claims that he may now have or could have asserted against the City.

Helfenberger specifically agrees to release all claims that he may have against the City under many different laws, including but not limited to: *the Age Discrimination in Employment Act, the Older Workers Benefit Protection Act, and Executive Order 11141, which prohibit age discrimination in employment*; Title VII of the Civil Rights Act of 1964, Section 1981 of the Civil Rights Act of 1866, and Executive Order 11246, which prohibit discrimination based on race, color, national origin, religion, or sex; the Americans with Disabilities Act and Sections 503 and 504 of the Rehabilitation Act of 1973, which prohibit discrimination based on disability; any other federal, state, or local laws prohibiting employment or wage discrimination; the Fair Labor Standards Act of 1938 and state laws that regulate wage and hour matters; the Family and Medical Leave Act of 1993; Helfenberger Retirement Income Security Act of 1974; any federal, state, or local laws providing workers' compensation benefits, prohibiting retaliatory or wrongful discharge, otherwise restricting an employer's right to terminate employees, or otherwise regulating employment; claims for breach of contract, promissory estoppel, defamation, slander, or libel; claims for termination pay, severance, or other benefits; and any other federal, state, or local tort or contract claim. Helfenberger expressly waives all rights that he might have under any law that is intended to protect him from waiving unknown claims.

The City hereby irrevocably and unconditionally releases, acquits and discharges Helfenberger from any and all from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts and expenses (including attorneys' fees and costs actually incurred), of any nature whatsoever, whether known or unknown, arising out of any act, omission, or event from the beginning of time up to the execution of this Agreement.

**6. REFERENCES AND NON-DISPARAGEMENT.** If it is necessary for the City to provide a reference to a prospective employer, Helfenberger agrees that he will direct the prospective employer to contact the City Clerk. Additionally, Helfenberger and the elected officials agree that

they shall not disparage or make negative comments about each other; provided that this Section shall not apply to comments made to any other governmental entity or as required by law.

**7. REPRESENTATIONS AND WARRANTIES.** The undersigned parties hereby represent and warrant the following to the other:

A. Helfenberger represents and warrants that: he is legally and mentally competent to sign this Agreement; he is the sole owner of any claims against the City; he has the requisite capacity and authority to make this Agreement, and no portion of any existing or potential claims has been sold, assigned or pledged to any third party; and he presently possesses the exclusive right to receive all of the consideration paid in exchange for this Agreement.

B. Helfenberger represents and warrants that he has not and will not file any complaints, charges or lawsuits against the City or any of its past, present and future elected officials, department heads, officers, employees, agents, representatives or attorneys with any governmental agency or any court, including without limitation, any claim or matter of any nature whatsoever related to or arising out of his employment with or separation of his employment, except Helfenberger expressly reserves the right to file a claim for unemployment benefits. Helfenberger further agrees to indemnify and hold the City harmless from any and all loss, costs, damages or expenses, including reasonable attorney fees incurred by the City, arising out of any claim concerning the separation of employment that may hereafter be made by Helfenberger or any other party.

C. The City represents and warrants that it has not and will not file any complaints, charges or lawsuits against Helfenberger with any governmental agency or any court, including without limitation, any claim or matter of any nature whatsoever relating to or arising out of Helfenberger's employment with the City or the separation of his employment from the City. The City further agrees to indemnify and hold Helfenberger harmless from any and all loss, costs, damages or expenses, including reasonable attorney fees incurred by Helfenberger, arising out of any claim arising from the separation of his employment that may hereafter be made by the City or any other party.

D. Each party is fully aware of the contents of this Agreement and of its legal effect and understands that it should obtain legal advice regarding this Agreement as they deem appropriate. The parties hereto and each of them, have carefully read this Agreement and know the contents thereof, and they signed the same freely and voluntarily.

E. This Agreement sets forth the entire agreement between the parties and supersedes any and all prior agreements or understandings between the parties pertaining to the subject matter herein. No waiver of a breach of any provision of this Agreement shall be construed to be a waiver of any breach of any other provision of this Agreement or of any succeeding breach of the same provision. No delay in acting with regard to any breach of any provision of this Agreement shall be construed to be a waiver of such breach. If any provision in this Agreement is found to be unenforceable, all other provisions will remain fully enforceable.

F. No promise or inducement has been made or offered, except as herein expressly set forth, and



this Agreement is executed without reliance upon any statement or representation by any of the released parties or their representatives.

G. The language of all parts of this Agreement shall, in all cases, be construed as a whole, according to its fair meaning, and not strictly for or against either party.

H. This Agreement and any amendments hereto may be executed in multiple counterparts by the parties. Each counterpart shall be deemed an original, but all counterparts together shall constitute one and the same instrument.

8. **JURISDICTION.** This Agreement shall be governed by the laws of the State of Florida, and the Columbia County Circuit Court shall have exclusive jurisdiction of any disputes arising under this Agreement.

9. **BINDING EFFECT.** This Agreement shall be binding upon and shall accrue to the benefit of the parties hereto, their respective personal representatives, successors in interest and assigns.

**IN WITNESS WHEREOF,** the parties have executed this Agreement as of the respective dates set forth below and each hereby acknowledge receipt of an executed copy of this Agreement.

**THE CITY OF LAKE CITY, FLORIDA**

BY: \_\_\_\_\_ / \_\_\_\_\_  
Stephen M. Witt. / Date  
Mayor

(SEAL)

ATTEST:

APPROVED AS TO FORM AND LEGALITY:

BY: \_\_\_\_\_  
Audrey E. Sikes,  
City Clerk

BY: \_\_\_\_\_  
Frederick L. Koberlein, Jr.  
City Attorney

**JOSEPH HELFENBERGER**

BY: \_\_\_\_\_ / \_\_\_\_\_  
Joseph Helfenberger / Date



## ICMA Code of Ethics with Guidelines

The ICMA Code of Ethics was adopted by the ICMA membership in 1924, and most recently amended by the membership in June 2017. The Guidelines for the Code were adopted by the ICMA Executive Board in 1972, and most recently revised in June 2017.

The mission of ICMA is to create excellence in local governance by developing and fostering professional local government management worldwide. To further this mission, certain principles, as enforced by the Rules of Procedure, shall govern the conduct of every member of ICMA, who shall:

**Tenet 1.** Be dedicated to the concepts of effective and democratic local government by responsible elected officials and believe that professional general management is essential to the achievement of this objective.

**Tenet 2.** Affirm the dignity and worth of the services rendered by government and maintain a constructive, creative, and practical attitude toward local government affairs and a deep sense of social responsibility as a trusted public servant.

### GUIDELINE

Advice to Officials of Other Local Governments. When members advise and respond to inquiries from elected or appointed officials of other local governments, they should inform the administrators of those communities.

**Tenet 3.** Demonstrate by word and action the highest standards of ethical conduct and integrity in all public, professional, and personal relationships in order that the member may merit the trust and respect of the elected and appointed officials, employees, and the public.

### GUIDELINES

Public Confidence. Members should conduct themselves so as to maintain public confidence in their position and profession, the integrity of their local government, and in their responsibility to uphold the public trust.

Influence. Members should conduct their professional and personal affairs in a manner that demonstrates that they cannot be improperly influenced in the performance of their official duties.

Appointment Commitment. Members who accept an appointment to a position should report to that position. This does not preclude the possibility of a member considering several offers or seeking several positions at the same time. However, once a member has accepted a formal offer of employment, that commitment is considered binding unless the employer makes fundamental changes in the negotiated terms of employment.

Credentials. A member's resume for employment or application for ICMA's Voluntary Credentialing Program shall completely and accurately reflect the member's education, work experience, and personal history. Omissions and inaccuracies must be avoided.

Professional Respect. Members seeking a position should show professional respect for persons formerly holding the position, successors holding the position, or for others who might be applying for the same

position. Professional respect does not preclude honest differences of opinion; it does preclude attacking a person's motives or integrity.

Reporting Ethics Violations. When becoming aware of a possible violation of the ICMA Code of Ethics, members are encouraged to report possible violations to ICMA. In reporting the possible violation, members may choose to go on record as the complainant or report the matter on a confidential basis.

Confidentiality. Members shall not discuss or divulge information with anyone about pending or completed ethics cases, except as specifically authorized by the Rules of Procedure for Enforcement of the Code of Ethics.

Seeking Employment. Members should not seek employment for a position that has an incumbent who has not announced his or her separation or been officially informed by the appointive entity that his or her services are to be terminated. Members should not initiate contact with representatives of the appointive entity. Members contacted by representatives of the appointive entity body regarding prospective interest in the position should decline to have a conversation until the incumbent's separation from employment is publicly known.

Relationships in the Workplace. Members should not engage in an intimate or romantic relationship with any elected official or board appointee, employee they report to, one they appoint and/or supervise, either directly or indirectly, within the organization.

This guideline does not restrict personal friendships, professional mentoring, or social interactions with employees, elected officials and Board appointees.

**Tenet 4.** Recognize that the chief function of local government at all times is to serve the best interests of all of the people.

#### **GUIDELINE**

Length of Service. A minimum of two years generally is considered necessary in order to render a professional service to the local government. A short tenure should be the exception rather than a recurring experience. However, under special circumstances, it may be in the best interests of the local government and the member to separate in a shorter time. Examples of such circumstances would include refusal of the appointing authority to honor commitments concerning conditions of employment, a vote of no confidence in the member, or severe personal problems. It is the responsibility of an applicant for a position to ascertain conditions of employment. Inadequately determining terms of employment prior to arrival does not justify premature termination.

**Tenet 5.** Submit policy proposals to elected officials; provide them with facts and advice on matters of policy as a basis for making decisions and setting community goals; and uphold and implement local government policies adopted by elected officials.

#### **GUIDELINE**

Conflicting Roles. Members who serve multiple roles – working as both city attorney and city manager for the same community, for example – should avoid participating in matters that create the appearance of a conflict of interest. They should disclose the potential conflict to the governing body so that other opinions may be solicited.

**Tenet 6.** Recognize that elected representatives of the people are entitled to the credit for the establishment of local government policies; responsibility for policy execution rests with the members.

**Tenet 7.** Refrain from all political activities which undermine public confidence in professional administrators. Refrain from participation in the election of the members of the employing legislative body.

#### **GUIDELINES**

Elections of the Governing Body. Members should maintain a reputation for serving equally and impartially all members of the governing body of the local government they serve, regardless of party. To this end, they should not participate in an election campaign on behalf of or in opposition to candidates for the governing body.

Elections of Elected Executives. Members shall not participate in the election campaign of any candidate for mayor or elected county executive.

Running for Office. Members shall not run for elected office or become involved in political activities related to running for elected office, or accept appointment to an elected office. They shall not seek political endorsements, financial contributions or engage in other campaign activities.

Elections. Members share with their fellow citizens the right and responsibility to vote. However, in order not to impair their effectiveness on behalf of the local governments they serve, they shall not participate in political activities to support the candidacy of individuals running for any city, county, special district, school, state or federal offices. Specifically, they shall not endorse candidates, make financial contributions, sign or circulate petitions, or participate in fund-raising activities for individuals seeking or holding elected office.

Elections relating to the Form of Government. Members may assist in preparing and presenting materials that explain the form of government to the public prior to a form of government election. If assistance is required by another community, members may respond.

Presentation of Issues. Members may assist their governing body in the presentation of issues involved in referenda such as bond issues, annexations, and other matters that affect the government entity's operations and/or fiscal capacity.

Personal Advocacy of Issues. Members share with their fellow citizens the right and responsibility to voice their opinion on public issues. Members may advocate for issues of personal interest only when doing so does not conflict with the performance of their official duties.

**Tenet 8.** Make it a duty continually to improve the member's professional ability and to develop the competence of associates in the use of management techniques.

#### **GUIDELINES**

Self-Assessment. Each member should assess his or her professional skills and abilities on a periodic basis.

Professional Development. Each member should commit at least 40 hours per year to professional development activities that are based on the practices identified by the members of ICMA.

**Tenet 9.** Keep the community informed on local government affairs; encourage communication between the citizens and all local government officers; emphasize friendly and courteous service to the public; and seek to improve the quality and image of public service.

**Tenet 10.** Resist any encroachment on professional responsibilities, believing the member should be free to carry out official policies without interference, and handle each problem without discrimination on the basis of principle and justice.

#### **GUIDELINE**

Information Sharing. The member should openly share information with the governing body while diligently carrying out the member's responsibilities as set forth in the charter or enabling legislation.

**Tenet 11.** Handle all matters of personnel on the basis of merit so that fairness and impartiality govern a member's decisions, pertaining to appointments, pay adjustments, promotions, and discipline.

#### **GUIDELINE**

Equal Opportunity. All decisions pertaining to appointments, pay adjustments, promotions, and discipline should prohibit discrimination because of race, color, religion, sex, national origin, sexual orientation, political affiliation, disability, age, or marital status.

It should be the members' personal and professional responsibility to actively recruit and hire a diverse staff throughout their organizations.

**Tenet 12.** Public office is a public trust. A member shall not leverage his or her position for personal gain or benefit.

#### **GUIDELINES**

Gifts. Members shall not directly or indirectly solicit, accept or receive any gift if it could reasonably be perceived or inferred that the gift was intended to influence them in the performance of their official duties; or if the gift was intended to serve as a reward for any official action on their part.

The term "Gift" includes but is not limited to services, travel, meals, gift cards, tickets, or other entertainment or hospitality. Gifts of money or loans from persons other than the local government jurisdiction pursuant to normal employment practices are not acceptable.

Members should not accept any gift that could undermine public confidence. De minimus gifts may be accepted in circumstances that support the execution of the member's official duties or serve a legitimate public purpose. In those cases, the member should determine a modest maximum dollar value based on guidance from the governing body or any applicable state or local law.

The guideline is not intended to apply to normal social practices, not associated with the member's official duties, where gifts are exchanged among friends, associates and relatives.

Investments in Conflict with Official Duties. Members should refrain from any investment activity which would compromise the impartial and objective performance of their duties. Members should not invest or hold any investment, directly or indirectly, in any financial business, commercial, or other private transaction that creates a conflict of interest, in fact or appearance, with their official duties.

In the case of real estate, the use of confidential information and knowledge to further a member's personal interest is not permitted. Purchases and sales which might be interpreted as speculation for quick profit should be avoided (see the guideline on "Confidential Information"). Because personal investments may appear to influence official actions and decisions, or create the appearance of impropriety, members should disclose or dispose of such investments prior to accepting a position in a local government. Should the conflict of interest arise during employment, the member should make full

disclosure and/or recuse themselves prior to any official action by the governing body that may affect such investments.

This guideline is not intended to prohibit a member from having or acquiring an interest in, or deriving a benefit from any investment when the interest or benefit is due to ownership by the member or the member's family of a de minimus percentage of a corporation traded on a recognized stock exchange even though the corporation or its subsidiaries may do business with the local government.

Personal Relationships. In any instance where there is a conflict of interest, appearance of a conflict of interest, or personal financial gain of a member by virtue of a relationship with any individual, spouse/partner, group, agency, vendor or other entity, the member shall disclose the relationship to the organization. For example, if the member has a relative that works for a developer doing business with the local government, that fact should be disclosed.

Confidential Information. Members shall not disclose to others, or use to advance their personal interest, intellectual property, confidential information, or information that is not yet public knowledge, that has been acquired by them in the course of their official duties.

Information that may be in the public domain or accessible by means of an open records request, is not confidential.

Private Employment. Members should not engage in, solicit, negotiate for, or promise to accept private employment, nor should they render services for private interests or conduct a private business when such employment, service, or business creates a conflict with or impairs the proper discharge of their official duties.

Teaching, lecturing, writing, or consulting are typical activities that may not involve conflict of interest, or impair the proper discharge of their official duties. Prior notification of the appointing authority is appropriate in all cases of outside employment.

Representation. Members should not represent any outside interest before any agency, whether public or private, except with the authorization of or at the direction of the appointing authority they serve.

Endorsements. Members should not endorse commercial products or services by agreeing to use their photograph, endorsement, or quotation in paid or other commercial advertisements, marketing materials, social media, or other documents, whether the member is compensated or not for the member's support. Members may, however, provide verbal professional references as part of the due diligence phase of competitive process or in response to a direct inquiry.

Members may agree to endorse the following, provided they do not receive any compensation: (1) books or other publications; (2) professional development or educational services provided by nonprofit membership organizations or recognized educational institutions; (3) products and/or services in which the local government has a direct economic interest.

Members' observations, opinions, and analyses of commercial products used or tested by their local governments are appropriate and useful to the profession when included as part of professional articles and reports.