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**VIA EMAIL: fred@klolaw.com AND
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Frederick L. Koberlein, Jr.
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RE: My Client, Joseph Helfenberger

Dear Mr. Koberlein:

I am privileged to represent Joseph Helfenberger, who is employed as the City Manager for the City of Lake City. Mr. Helfenberger has provided me with a copy of a recent resolution addressing his continued employment with the City.

In general, it appears that members of the City Council have cited various personal justifications for terminating my client, and my client strongly suspects that a majority of the Council will vote to terminate his employment. It therefore does not appear to be a wise use of resources to challenge the termination, unless the City intends to take the position that the reasons cited for my client's termination would justify termination without an obligation to pay severance under the terms of my client's employment agreement. If the City should take such a position, please schedule a hearing, and notify me of the date and time of such hearing so that we can prepare and present evidence and challenge the justifications for the termination.

The resolution provided to my client stated that he was required to provide a written response to the allegations within five days, and to the extent that he may be required to respond to the allegations and request a hearing in order to maintain his right to severance, I am providing this letter on his behalf. I have attempted to address each of the justifications cited in the June 24, 2021 resolution, 2021-101.

- (a) The first assertion references that four administrators have been hired during Mr. Helfenberger's tenure, who are no longer with the City. Mr. Helfenberger would first point out that he has hired a number of other administrators, who continue to provide valuable service to the City. It is unclear as to whether this subparagraph asserts any

form of misconduct, but to the extent that it does, Mr. Helfenberger would deny that he acted improperly. Further, the specific circumstances relating to these individuals are addressed later in this document and can be addressed at a hearing.

- (b) The human resources director was terminated for specific reasons, and those specific reasons can be identified and addressed, if necessary, should a hearing be required. Mr. Helfenberger can provide written documentation as well as the testimony of witnesses to support his decision if a hearing is required.
- (c) This matter involves personnel issues about which Mr. Helfenberger can provide information and testimony should he be required to do so, but which he would rather refrain from discussing in a public document unless necessary. Mr. Helfenberger did not engage in any misconduct with regard to this individual.
- (d) The previous human resources director did resign from employment, and it does not appear that the allegation suggests that Mr. Helfenberger engaged in any type of improper behavior. Should the Council require a hearing, Mr. Helfenberger can further explain the circumstances, although he would prefer not to address personal matters in a public document unless necessary. The allegation further states that Mr. Helfenberger failed to provide a timely update, which allegedly caused “many people to conclude that she abandoned the City.” Mr. Helfenberger is not obligated to provide updates to anyone about personnel matters, and if the circumstances of the former human resources director’s resignation led to inaccurate conclusions, such was certainly not his intent. It is difficult to understand how Mr. Helfenberger could or should be responsible for unnamed individuals reaching inaccurate conclusions.
- (e) Councilmember Todd Sampson did request information regarding the resignation of a former information technologies director, but the form of the requested information was never specified. Mr. Helfenberger has spoken to Mr. Sampson privately about the situation. The city manager is required to handle personnel matters and attempts to do so in a nonpublic fashion if possible. There was no suggestion that the Council wished to hold a public hearing or that the Council had ordered a published report regarding the matter.

The Council should understand that there have been substantial concerns regarding information technology issues following the ransomware attack that the City experienced. Mr. Helfenberger has worked diligently to address IT issues during his term, and if it is ultimately necessary to do so, he can discuss the situation involved with the resignation of the former IT Director, although he would once again prefer to not have to discuss these issues publicly.

- (f) It is true that Mr. Helfenberger was asked to provide documentation and begin the process of permitting his annual evaluation to take place. No deadline was instituted for providing such information and it was Mr. Helfenberger’s understanding that the evaluation was to take place by August. He had planned to schedule time on the

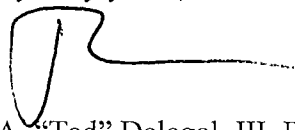
Council's agenda when the agenda was less crowded, and obviously there is ample time in which such a meeting could have taken place by August.

- (g) The meeting in question with Columbia County administrators involved Niagara Bottling Company. At the time of the scheduled meeting, the City had not yet determined how to proceed with the issues involving Niagara. Until a strategy and position had been determined, Mr. Helfenberger did not believe it appropriate to attend a meeting at which commitments to Niagara would have been required. Mr. Helfenberger had met with both Columbia County and Niagara representatives previously and had worked to address the situation, but simply did not believe that attending the scheduled meeting in question was appropriate because the City was not in the position to agree to Niagara's likely demands.
- (h) It is true that various city officials could not explain in November 2020 the reason why the water use permit had been reduced in approximately 2013. The City had requested a response from the Suwanee River Water Management District as to why the reduction had taken place, but no response had been received by that time. Substantial efforts have been made to address the reduction, including obtaining a five-year consumption use permit and pursuing new legislation. The matter is ongoing, but the City and its representatives have made substantial efforts to address the situation.
- (i) The allegation involves a potentially very expensive litigation case in which the cost of litigation and the chances of success had to be weighed. Mr. Helfenberger drafted a memo regarding this matter and would refer anyone interested to that memorandum. While the City was estimated to have a 60% chance of winning the litigation, the cost of the litigation would be great and recovering the cost of litigation was unlikely. It was estimated that the litigation could cost as much as \$700,000, based on previous experiences. Mr. Helfenberger made a recommendation based on his evaluation of the situation, and also based on his belief that the City's best interest were served by continuing a cooperative relationship with the business interest involved in the litigation, which has now greatly improved the historic area downtown. It is difficult to understand why a recommendation regarding litigation settlement would be alleged as misconduct. If others had or have different viewpoints or positions, they can and will certainly express them. Mr. Helfenberger did his job by providing an honest and fair evaluation.
- (j) Mr. Helfenberger is unaware of any surveys or evaluations of morale among the city workforce, or any comparison of such alleged morale with morale on previous dates. It is true that substantial divisions exist within the city and many of those same divisions are reflected in the recent efforts to terminate Mr. Helfenberger's employment. While Mr. Helfenberger certainly wishes to maintain and enhance the morale of city employees, he cannot possibly respond to such a vague and ill-defined allegation. Mr. Helfenberger believes that many City employees would say that he improved morale, and he has taken many steps to improve the City's relationship with employees.

- (k) Mr. Helfenberger is unaware of why this could possibly be an allegation against him. The fact that various department directors may have opposed the termination of a city official or requested reconsideration of the city manager's decision does not suggest that the decision was wrongful or improper or otherwise a basis for Mr. Helfenberger's termination.
- (l) The allegation addresses the authority that was provided to the City Clerk to access emails in order to respond to records requests. Such access was granted for at least 10 years, well before Mr. Helfenberger's tenure. The City Clerk's access was arranged to be secure, through a process which was calculated to prevent unnecessary or unwarranted disclosure. The information involved was subject to the Florida Public Records Act, and the City Clerk needed to have access to the records in order to timely respond to public records requests. Mr. Helfenberger understands that some individuals did not agree with the decision making, and further understands that some members of the City workforce were not pleased with the fact that the Clerk was granted a large raise recently and believes that dissatisfaction with the Clerk's access stems from the backlash over the Clerk's salary increase.
- (m) The allegation states that Mr. Helfenberger refused to check or use emails due to alleged fear of hacking but failed to request an IT investigation. It is an accepted practice to minimize the use of emails in an environment where such emails are public record. Mr. Helfenberger has always complied with the Florida Public Records Act, but it is a recognized good governance policy for municipal officials to reduce reliance on communications that will readily wind up being produced as public information. Mr. Helfenberger has regularly checked his emails and understands that doing so is part of the job. He has never been advised or directed to make greater use of emails and the allegation does not seem to suggest that he has failed to appropriately communicate. I am unsure as to why this allegation was raised when it does not appear that Mr. Helfenberger's communication has been alleged to be deficient or inadequate.

As I stated above, please let me know if you should need for us to appear at a hearing to address these matters. Once again, the situation simply seems to be the result of personal dissatisfaction with Mr. Helfenberger and the desire to move forward with other leadership. It is unfortunate that the situation could not have been addressed more constructively.

Very truly yours,



T.A. "Tad" Delegal, III, B.C.S.