

**TOLLING AGREEMENT
BETWEEN
THE COUNTY OF HUMBOLDT AND
THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL
EMPLOYEES, AFLCIO, LOCAL 1684**

This Tolling Agreement is entered into on the ____ day of _____ between the County of Humboldt ("Employer"), and the American Federation of State, County and Municipal Employees, AFL-CIO, Local 1684 ("Organization"), a recognized employee organization under the Meyers-Miliias-Brown Act (the Employer and Organization are hereinafter collectively referred to as "the Parties"). The Parties mutually recognize the individual employees represented by the Organization are intended beneficiaries of this Tolling Agreement.

RECITALS

WHEREAS, the Employer has employed individual employees represented by the Organization as non-exempt employees covered under the terms of the Fair Labor Standards Act ("FLSA"), as well as an enforceable Memorandum of Understanding between the Employer and the Organization ("MOU");

WHEREAS, the Organization is the duly recognized bargaining unit employee organization (as defined by the Meyers-Miliias-Brown Act, Government Code section 3500 *et seq.*) representing classifications identified in Appendix A of the MOU;

WHEREAS, the Organization has contested various payroll practices by the Employer pertaining to the calculation of overtime compensation paid to individual employees represented by the Organization;

WHEREAS, the Employer and the Organization are currently involved in discussions that the parties anticipate will result in a mutually agreeable resolution for all parties involved, including the individual employees;

WHEREAS, the Organization, on behalf of itself and the individual employees it represents, asserts payroll violations under both the MOU and the FLSA and Employer alleges to the contrary; and

WHEREAS, the Parties desire to toll any applicable statutes of limitations, grievance timelines, or similar defenses as of July 25, 2016, for the retention of any legal or equitable actions or defenses that the Parties may have had as that date, and to provide that no legal or equitable action may be initiated by or on behalf of the Parties against one another during the Term of this Agreement

with regard to Organization's claims or the individual claims of employees for allegedly unpaid overtime compensation.

NOW THEREFORE, in consideration of the mutual promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Term of Agreement. The Term of this Agreement shall be from the date of execution of this Agreement until terminated or modified as provided herein.

2. Tolling of Statute of Limitations. The Parties agree that the running of any and all applicable statutes of limitations, repose, or other defenses or limitations on actions, including but not limited to, claims for negligence or indemnity, laches, waiver and estoppel that may apply to Organisation's claims or the claims of individual employees for allegedly unpaid overtime compensation ("Overtime Claims"), shall be tolled as of July 25, 2016, and shall continue to be tolled for 30 days following the expiration of the Term of this Agreement. The Term of this Agreement, or the time between execution and any early termination thereof, shall not be included in computing any statute of limitations for claims relating to the subject matter set forth in this Agreement, nor will that-time period be considered on a defense of laches or any other time-based doctrine or defense, rule, law or statute otherwise limiting any Party's right to preserve and prosecute any claim. Nothing in this Agreement shall have the effect of reviving any claims that are otherwise barred by any statute of limitations, repose or similar rule of law or equity prior to July 25, 2016.

3. Remedies and Defenses upon Expiration of the Term of this Agreement. Subject to the condition provided in Paragraph 2, above, upon the expiration of the Term of this Agreement, the Parties shall retain any and all legal or equitable claims, remedies and defenses they may have or may believe they have arising from, or related to Overtime Claims.

4. No Legal Action during the Term of this Agreement. During the Term of this Agreement, the Parties shall not initiate any administrative (i.e, grievance), legal, or equitable action, which in any way relates to, or arises from Overtime Claims. The Parties further agree that the initiation of any administrative, legal, or equitable action by any Party, including by any individual member of the Organization, during the Term of this Agreement is a material breach of

this Agreement and will cause this Agreement to terminate immediately, nullifying its terms as applied to any initiated action.

5. No Admissions. Nothing in this Agreement is intended as, shall constitute, nor be used as evidence of an admission by any Party of any wrongdoing, liability, fault, waiver of any right or defense, estoppel, or admission as to any matter of law or fact, either as among the Parties or with respect to any person or entity not a Party to this Agreement. The Parties agree further that this Agreement will not be admissible for any purpose other than to rebut a defense based on the passage of time or delay, or to defend against any claim, action, or other proceeding that may be brought, instituted or taken by one of the Parties against another in breach of this Agreement.

6. Entire Agreement. This Agreement contains the entire agreement between the Parties with respect to its subject matter and no statement, promise, or inducement made by any of the Parties or agent of the Parties that is not contained in this Agreement shall be valid or binding, and this Agreement shall not be enlarged, modified, or altered except in writing signed by the Parties.

7. Termination. Either Party may terminate this Agreement by giving thirty (30) days advance written notice of its intent to terminate to the other Party. Until the thirty-first (31st) day after such notice of termination is given, this Agreement shall remain in full force and effect.

8. Notices. Any and all notice(s) required to be given pursuant to the terms of this Agreement shall be in writing, and either served personally or by email, and by certified mail, return receipt requested, to the respective addresses set forth below. Notice shall be effective upon service pursuant to the foregoing.

EMPLOYER: Richard C. Bolanos
Lisa S. Charbonneau
Liebert Cassidy Whitmore
135 Main Street, Floor 7
San Francisco, CA 94105
rbolanos@lcwlegal.com
lcharbonneau@lcwlegal.com

ORGANIZATION: AFSCME Local 1684
Drew Redden, AFSCME
Representative
840 E Street
Eureka, CA 95501
drew.redden@ca.afscme57.org

9. Execution. This Agreement may be executed in counterparts and via facsimile or e-mail, all of which shall have full force and effect.

10. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties, their predecessors, successors, and assigns, if any.

11. Choice of Law and Venue. This Agreement shall be construed in accordance with and be governed by the laws of the State of California. Venue shall be in Humboldt County, California.

12. Severability. In the event that any provision of this Agreement should be declared or found to be illegal, unenforceable, ineffective or void by any court of law, each Party shall be relieved of any obligations arising in such provision; the balance of this Agreement, if capable of performance, shall remain in full force and effect.

13. Interpretation. This Agreement shall be deemed to have been prepared equally by both of the Parties hereto, and this Agreement as well as its individual provisions shall not be construed or interpreted more favorably for one Party on the basis that the other Party prepared it.

14. Independent Construction. The titles of the sections, subsections, and paragraphs set forth in this Agreement are inserted for convenience of reference only, and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

15. Authority to Execute. Each person executing this Agreement represents and warrants that he or she is duly authorized and has legal authority to execute and deliver this Agreement. Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations hereunder have been duly authorized.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates hereinafter indicated.

FOR THE EMPLOYER

Signature: _____ Dated: 6/12/20

Interim County Counsel
County of Humboldt
Signature authorized pursuant to Resolution 19-30

Approved as to Form:

Signature: _____

Richard Bolanos, Counsel for County of Humboldt

Dated: _____

FOR THE ORGANIZATION

Signature: _____

Dated: _____

Signature: _____

Dates: _____