

BILL NO. 12- 506

ORDINANCE NO. 12- 506

**AN ORDINANCE AUTHORIZING THE CHAIRMAN OF ITS BOARD OF TRUSTEES TO EXECUTE AN AGREEMENT WITH THE UNITED STATES DEPARTMENT OF LABOR**

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WHEREAS, the Board of Trustees of the Village of Uplands Park, State of Missouri (“Village”) finds and declares that it is in the best interests of its taxpayers and residents to enter into a tolling agreement with the Secretary of Labor of the United States Department of Labor.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES AS FOLLOWS:**

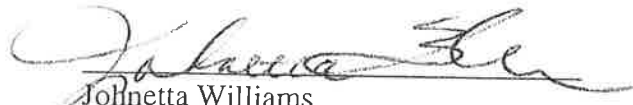
Section 1. Attached hereto as Exhibit A is a copy of a form of an agreement whereby the Village and the U.S. Department of Labor, through its Secretary, would stipulate to the tolling of statutes of limitations applicable to possible claims against the Village by that federal agency and individuals who were, or are, employees of the Village. A copy of that form of agreement is attached hereto as Exhibit A.

Section 2. The Chairman of the Village’s Board of Trustees, and the Village Attorney, are hereby authorized to execute that form of agreement attached hereto as Exhibit A and to cause the Village to be bond by that agreement.

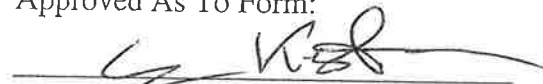
Section 3. This Ordinance shall take effect and be in full force immediately following its passage and being signed as provided by law.

Section 4. Any and all Village ordinances inconsistent with this ordinance are hereby repealed. This ordinance shall not be published in the Village’s Code of Ordinances.

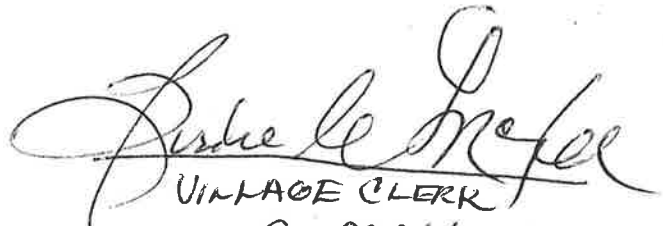
PASSED and APPROVED this 10<sup>th</sup> day of December, 2012.

  
Johnetta Williams  
Chairman, Village of Uplands Park

Approved As To Form:

  
Elkin L. Kistner, Village Attorney

PASSED AND APPROVED BY THE BOARD OF ALDERMEN OF THE VILLAGE OF UPLANDS PARK, MISSOURI, THIS 10<sup>th</sup> DAY OF DECEMBER, 2012.

  
VILLAGE CLERK  
BIRDIE C. MCKEE

## STATUTE OF LIMITATIONS TOLLING AGREEMENT

The Secretary of Labor, U.S. Department of Labor, (“the Secretary”) has conducted an investigation of Village of Uplands Park, Uplands Police Department, a municipality, and Johnetta Williams, Chairman of Board of Trustees, an individual (hereafter collectively “Employer(s)”) pursuant to the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 201, et seq. (“FLSA” or “the Act”), beginning on November 14, 2010. The Secretary and the Employer(s) want the opportunity to discuss this matter further, to attempt to reach a settlement, to attempt to resolve outstanding disputes, and to further investigate where appropriate. Accordingly, the Secretary and the Employer(s), in consideration of the promises and statements made herein, understand and agree as follows:

1. The Secretary and/or affected employees of the Employer(s) may ultimately bring legal proceedings under the Act as a result of the Secretary’s findings from this investigation; however, the statute of limitations set forth at Section 6 of the Portal-to-Portal Act, 29 U.S.C. 255, and/or other applicable statutes of limitations, may bar the assertion of certain rights under the Act in legal proceedings brought by the Secretary or by affected employees of the Employer(s).

2. In exchange for the Secretary’s agreement to withhold immediate filing of legal proceedings under the Act and to allow time for the Secretary and the Employer(s) to discuss and to attempt to resolve this matter, the Employer(s) agrees to toll the running of the statute of limitations as follows.

3. The Secretary and the Employer(s) agree that the time period beginning on November 13, 2012 until and including January 31, 2013, a total of 80 days (“the Tolling Period”), will not be included in computing the running of any statute of limitations, or in connection with any other defense raised by the Employer(s) (including but not limited to laches) that otherwise might be available to the Employer(s) concerning the timeliness of any legal or equitable proceedings that may be brought against the Employer(s). Any legal proceedings brought by the Secretary or affected employees during the Tolling Period shall be deemed to have been filed on November 13, 2012. Any such legal proceeding brought by the Secretary or affected employees following January 31, 2013 shall be deemed to have been filed 80 days prior to the actual filing date.

4. In exchange for the Employer(s)’ agreement to toll the running of the applicable statutes of limitations as set forth above, the Secretary agrees not to institute any legal proceedings for back wages and/or liquidated damages against the Employer(s) during the tolling period, as a result of findings made in this investigation, without first giving the Employer(s) 30 days written notice of the Secretary’s intent to institute such proceedings.

5. The Employer(s) agrees that this Tolling Agreement (“Agreement”) (or any copy thereof) may be introduced into evidence as proof of the waiver and tolling agreed to herein, in all legal proceedings that may be brought pursuant to Sections 15, 16(b), 16(c), 16(e) and/or 17 of the Act.

6. The undersigned representatives of the Secretary and of the Employer(s) certify that they are authorized to enter into the terms and conditions of this Agreement, and to bind the party whom they represent in this Agreement.

8. This Agreement does not constitute any admission of liability on the part of the Employer(s), nor does it constitute any waiver of other defenses that may be available to the Employer(s), other than statute of limitations defenses specifically addressed in this Agreement.

9. Nothing in this Agreement shall preclude the Secretary from asserting any claim or filing any documents in any bankruptcy case relating to the Employer, or from taking such legal action relating to the Employer or any other party as she deems appropriate, except to the extent that she agrees to refrain from instituting legal proceedings for back wages and/or liquidated damages against the Employer as a result of findings made in this investigation, in accordance with paragraph 5 above.

10. This document contains the entire agreement between the Secretary and the Employer(s), and this Agreement may not be modified, altered, or extended except in writing signed by the parties.


11. This Agreement shall be effective when it has been signed by both parties.

Dated:

Dated:

For the Employer(s):


For The Secretary:

  
Name

\_\_\_\_\_  
Name

Johnetta Williams  
Chairman of Board of Trustees  
Village of Uplands Park

Sonia Granados  
Investigator



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Elkin L. Kistner  
Village Attorney  
Village of Uplands Park