

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**MARIPOSA COUNTY IN-HOME SUPPORTIVE  
SERVICES PUBLIC AUTHORITY**

**AND**

**UNITED DOMESTIC WORKERS OF AMERICA (U.D.W)  
AFSCME Local 3930, AFL-CIO**

**TABLE OF CONTENTS**

**PREAMBLE**..... 4

**SECTION 1-UNION RECOGNITION**..... 5

**SECTION 2-NON-DISCRIMINATION**..... 6

**SECTION 3-CONSUMER RIGHTS AND CONFIDENTIALITY** ..... 7

**SECTION 4-PUBLIC AUTHORITY RIGHTS**..... 8

**SECTION 5-UNION RIGHTS** ..... 9

Section 5.1 Lists and Information ..... 9

Section 5.2 Communications ..... 9

Section 5.3 Official Representatives, Stewards ..... 9

Section 5.4 New Provider Orientations ..... 10

Section 5.4 Union Rights..... 10

Section 5.6 Provider Rights ..... 10

Section 5.7 Workers’ Compensation ..... 11

**SECTION 6-GRIEVANCE PROCEDURE AND ARBITRATION** ..... 12

Section 6.1 Definition and Procedural Steps ..... 12

Section 6.2 Scope of Arbitration Decisions ..... 13

Section 6.3 Time Limits ..... 14

**SECTION 7-COMPENSATION** ..... 15

Section 7.1 Wages ..... 15

Section 7.2 Payroll..... 16

**SECTION 8-LABOR-MANAGEMENT COMMITTEE**..... 17

Section 8.1 General ..... 17

Section 8.2 Appointment ..... 17

Section 8.3 Meetings..... 17

Section 8.4 Chair ..... 17

Section 8.5 Attendance..... 17

Section 8.6 Topics..... 17

Section 8.7 Authority ..... 17

**SECTION 9-TRAINING**..... 18

Section 9.1 General ..... 18

Section 9.2 Union Training Programs ..... 18

Section 9.3 Training..... 18

**SECTION 10-SUPPLIES** ..... 19

**SECTION 11-NO STRIKE/NO LOCKOUT** ..... 20

**SECTION 12-MODIFICATION AND WAIVER ..... 21**  
**Section 12.1 Modification ..... 21**  
**Section 12.2 Waiver ..... 21**

**SECTION 13-SEPARABILITY OF PROVISIONS/SAVINGS CLAUSE..... 22**

**SECTION 14-TERM ..... 23**

## **PREAMBLE**

This MEMORANDUM OF UNDERSTANDING (MOU) is entered into by the Mariposa County IHSS Public Authority (hereinafter referred to as “Public Authority”) and the United Domestic Workers of America (U.D.W.) AFSCME Local 3930 AFL-CIO (hereinafter referred to as “Union”). The Union and the Public Authority acknowledge that the relationship between the Public Authority and the employees in this unit, who are individual providers, is governed by State law, specifically Welfare and Institutions Code Section 12301.6, that this relationship is unique, and that the Public Authority does not employ or manage the IHSS Independent Provider workforce in the role of a traditional employer. The parties also acknowledge that the IHSS recipients (Consumers) remain the employers for the purposes of hiring, firing, and supervising the work of any independent provider providing services to them.

The Public Authority and the Union recognize that, due to the nature of the relationship between them and the role of that relationship in the IHSS program, the implementation of various provisions of this MOU will require the assistance and cooperation of agencies that are not party to this MOU. The Public Authority and the Union agree to work together in good faith in order to secure the assistance of the appropriate entities when required by the provisions of this MOU. Similarly, the Union commits itself in this MOU to some goals that not only benefit this workforce but are also intended to benefit consumers of IHSS services.

The Public Authority and the Union agree that all workers and administrators involved in the IHSS program, regardless of position, profession, or rank, will treat each other with courtesy, dignity and respect.

The Public Authority is an independent legal entity, separate, and apart from the County of Mariposa (hereinafter referred to as “County”). The Public Authority has no power to bind the County to any contractual or legal obligations. Nor may the obligees of the Public Authority seek recourse against the County for any financial or legal obligation to the Public Authority.

**SECTION 1**  
**UNION RECOGNITION**

The Public Authority recognizes the Union as the exclusive representative of IHSS Independent Providers (Providers) in the County of Mariposa and this MOU applies only to those IHSS independent providers.

**SECTION 2**  
**NON-DISCRIMINATION**

The parties affirm their respective policies of non-discrimination in the treatment of any Provider because of race, color, national origin, gender, age, religion, marital status, sexual orientation, disability, or union activity.

**SECTION 3**  
**CONSUMER RIGHTS AND CONFIDENTIALITY**

The parties reaffirm that under the State statute and County ordinance establishing the Public Authority, IHSS consumers have the sole and undisputed right to:

1. Hire Providers of their choice;
2. Terminate Providers from their service at will;
3. Determine in advance and under all circumstances who can and cannot enter their home; and
4. Supervise and direct the work of Providers providing services to them within the scope of authorized services.

The Union will neither seek nor receive information regarding the name, address, phone number or any other personal information regarding consumers. Union representatives and Providers shall maintain strict standards of confidentiality regarding consumers and shall not disclose personal information obtained, from whatever source, pertaining to consumers, unless disclosure is compelled by legal process or otherwise authorized by law.

**SECTION 4**  
**PUBLIC AUTHORITY RIGHTS**

Except as otherwise specifically provided in this agreement, the Public Authority has and retains the sole and exclusive rights and functions of management including, but not limited to the following:

- a) To determine the merits, necessity, or organization of any service or activity and to determine the methods, means, and personnel by which its operations are to be conducted.
- b) To determine its mission and that of any constituent subsections, committees, and other related work groups except for those created by statute or this MOU.
- c) To add or delete names of IHSS individual providers to and from the registry consistent with existing statute or terms of this MOU.
- d) To take all necessary actions to carry out its mission in emergencies.



## **SECTION 5 UNION RIGHTS**

### **Section 5.1 Lists and Information**

The Public Authority shall provide the Union a list of the current Providers. Such list shall include the names, addresses, telephone numbers, social security numbers, hours authorized, and hours paid in the previous month. The list shall be provided on a monthly basis and in an agreed upon computer format.

The Union shall defend, indemnify, save, protect and hold harmless the Public Authority, its Board, directors, officers and providers from any and all claims, costs and liabilities for any damages and/or injury arising from disclosure to the Union of Provider personal information. The Public Authority's right to be defended, indemnified, saved, protected and held harmless hereunder shall be unaffected by the concurrent negligence of the Public Authority or any other person, and this right shall survive the expiration date of this MOU.

### **Section 5.2 Communications**

The Public Authority will furnish for the use of the Union, a bulletin board at the appropriate Health and Human Services Agency office.

All materials shall clearly state that it is prepared and authorized by the Union. The Union agrees that notices posted on the bulletin board shall not contain anything which may reasonably be construed as maligning the Public Authority, its staff, representatives, or Board.

### **Section 5.3 Official Representatives, Stewards**

a. The Union shall provide a current Official Representatives List to the Public Authority Director. The Union shall notify the Public Authority Director of any changes to the List.

b. The Public Authority will recognize and cooperate with Union stewards in the course of their duties. The rights of stewards include but are not limited to: 1) having a role in orientations to inform applicants about the Union; 2) representing Providers who have grievances or problems; and 3) posting information on the Public Authority bulletin board provided for the Union.

#### **Section 5.4 New Provider Orientations**

a. Whenever the Public Authority conducts or sponsors orientation services for Providers, the Public Authority shall provide the Union with at least one (1) week's notice of the date, time, and location of the orientation. Upon the Union's request, the Public Authority shall provide the Union during the orientation with at least thirty (30) minutes to make a presentation and distribute written information to the Providers. If the Union is unable to attend, the Public Authority shall distribute to the Providers written information provided by the Union.

b. Nothing in this section is intended to abrogate the Public Authority's right to provide orientations on a drop-in basis. The Public Authority agrees to distribute a sealed packet of Union information to each provider attending a drop-in orientation. The Union will provide information packets for this purpose. The Union likewise agrees to make materials provided by the Public Authority available at Union events.

#### **Section 5.5 Union Rights**

The Union has the exclusive privilege of dues deductions for IHSS Providers in the bargaining unit covered by this MOU. The Union will advise the California Department of Social Services (CDSS) or the designated payroll agent for Providers in the bargaining unit covered by this MOU, to deduct all authorized dues and voluntary deductions of bargaining unit members. All such dues deductions shall be made in compliance with all applicable laws.

Union dues and voluntary deductions will be deducted from a Provider's pay only when the Provider's pay is sufficient to cover the amount of the dues and after all Federal, State, and other legal deductions are made. Such Federal, State, and any other legal deductions shall have priority over Union dues.

Voluntary, authorized, or requested Union deductions will not be made if the deduction would cause the Provider's net pay to be \$15.00 or less.

The Union shall indemnify, defend, and hold harmless the County, the Public Authority Board, and the Public Authority against any and all claims, demands, suits, orders, or judgments, or any other forms of liability that arise out of this section and/or arise out of Union dues or other voluntary deductions.

### **Section 5.6 Provider Rights**

Providers have the right to decline or terminate employment at anytime and for any reason.

### **Section 5.7 Workers' Compensation**

The Public Authority will give all current Providers information in writing citing the State law relative to their rights to Workers' Compensation. Thereafter, each new Provider, upon their enrollment in the IHSS program, will be provided with this information. The Public Authority will also present this information in the course of all orientation sessions it may provide.

## SECTION 6 GRIEVANCE PROCEDURE AND ARBITRATION

### **Section 6.1 Definition and Procedural Steps**

A grievance is any dispute, which involves the interpretation or application of any provision of this MOU excluding, however, the Public Authority Rights section and those provisions of this MOU which specifically provide that the decision of any Public Authority official or consumer shall be final, the interpretation or application of those provisions not being subject to the grievance procedure. The Union may represent the grievant at any stage of the process.

Grievances must be filed within thirty (30) days of the incident or occurrence about which the grievant claims to have a grievance and shall be processed in the following manner:

**Step 1.** Any Provider, or the Union on the grievant's behalf, who believes that a provision of this MOU has been misinterpreted or misapplied to his or her detriment shall discuss the complaint with a staff member of the Public Authority.

**Step 2.** If a grievance is not satisfactorily resolved in Step 1 above, the grievant, or the Union on the grievant's behalf, may submit the grievance in writing within twenty (20) days of the action taken in step 1 above to the designated hearing officer of Public Authority. The grievance shall state which provision of the MOU has been misinterpreted or misapplied, how misapplication or misinterpretation has affected the grievant to the grievant's detriment, and the resolution he or she seeks. The hearing officer of the Public Authority shall have twenty (20) days from receipt of the written grievance in which to respond to the grievance in writing.

**Step 3.** No grievance may be processed under this section which has not first been submitted and investigated in accordance with Step 2, except by mutual agreement of both parties. If the parties are unable to reach a mutually satisfactory accord on any grievance which arises and is presented during the term of this MOU under step 2, either the grievant, or the Union on the grievant's behalf, may submit the grievance to the Health and Human Services Agency Director (Agency Director). The Agency Director or his/her designee shall have twenty-one (21) days from receipt of the written grievance in which to investigate the issue(s), meet with the grievant, attempt to reach a satisfactory resolution of the problem, and respond to the grievance in writing.

**Step 4.** No grievance may be processed under this section, which has not first been submitted and investigated in accordance with Step 3. If the parties are unable to reach a mutually satisfactory accord on any grievance which arises and is presented during the term of this MOU, either the grievant, or the Union on the grievant's behalf, or the Public Authority may require that the grievance be referred to an impartial arbitrator who shall be designated by mutual agreement between the grievant and the Agency Director. The failure to appeal a grievance to arbitration in accordance with this section within ten (10) working days after receipt of the written answer of the Agency Director or his/her designee at Step 3 of the grievance procedure shall constitute a waiver of the Union's right to appeal to arbitration, and the written answer of the Agency Director or his/her designee at Step 3 of the grievance procedure shall be final and binding on the aggrieved Provider, the Public Authority, and the Union.

Within ten (10) days of the request for arbitration, the parties shall mutually select an arbitrator who shall render a decision within thirty (30) days from the date of final submission of the grievance including receipt of the Court Reporter's transcript and post hearing briefs if any. The fees and expenses of the arbitrator and of the Court Reporter shall be shared equally by the grievant or the Union on the grievant's behalf, and the Public Authority. Each party, however, shall bear the costs of its own presentation, including preparation and post-hearing briefs, if any. A grievant shall not proceed to Step 4 without approval by the Union in writing.

### **Section 6.2 Scope of Arbitration Decisions**

- a. Decisions of arbitrators on matters properly before them shall be final and binding on the parties hereto.
- b. No arbitrator shall entertain, hear, decide or make recommendations on any dispute unless such dispute involves a position in a unit represented by the Union which has been certified as the recognized employee organization for such unit and under such dispute falls within the definition of a grievance as set forth above.
- c. Proposals to add to or change this MOU or to change written agreements supplementary hereto shall not be arbitrable and no proposal to modify, amend, or terminate this MOU, nor any matter or subject arising out of or in connection with such proposals, may be referred to arbitration under this Section. No arbitrator shall have the power to amend or modify this MOU

or written agreements supplementary hereto or to establish any new terms or conditions of employment.

d. No change in this MOU or interpretations thereof (except interpretations resulting from arbitration proceedings hereunder) will be recognized unless agreed to by the Public Authority and the Union.

### **Section Time 6.3 Time Limits**

The time limits specified above may be waived in writing by mutual agreement of the parties to the grievance. If a grievant fails to meet the time limits specified above, the grievance will be deemed to have been settled and withdrawn. For purposes of this section, the term "day" shall mean a calendar day. Unless the Public Authority and the Union have mutually agreed in writing to the contrary, the filing and processing of a grievance shall not delay or interfere with any Public Authority action.

**SECTION 7**  
**COMPENSATION**

**Section 7.1 Wages**

a. Base Wage:

The "Base Wage" for Providers shall be the State or Federal minimum wage, whichever is highest.

b. Wage Supplement:

Effective as soon as practicable following approval of this Agreement by the Public Authority Governing Board, the Public Authority will supplement the Base Wage by sixty cents (\$.60) per hour as a wage supplement in accordance with the Welfare and Institutions Code section 12306.16(d)(6)-(7) and will submit the appropriate request to the State to implement the new rate within five (5) working days of approval of this Agreement by the Public Authority Governing Board and subsequently with sufficient advance notice of each subsequent change to the Base Wage. The cost of the Wage Supplement to the Base Wage will be added to the County's Maintenance of Effort (MOE) on a one-time basis as provided in Welfare and Institutions Code section 12306.16(d)(7).

c. Wage Contingency:

If the State or Federal participation/allocation levels are reduced, or the State or Federal participation/allocation levels change resulting in an increase to the Public Authority's /County's MOE, or the State or Federal sharing formula is modified in any way that would result in an increased cost to the County and/or Public Authority to maintain the wage level and/or wage supplement described in this MOU, or the State and/or Federal government limits, caps or reduces its participation in wages or wage supplements or takes any other actions that increase the County's and/or the Public Authority's share of funding and/or costs for the program, then the County/Public Authority shall have the right to reopen this MOU, and upon written notice, the Parties will promptly (within 30 days) meet and confer to discuss changes to this MOU related to reducing wages and/or wage supplements, so that the Public Authority's/County's MOE remains the same as it would have been had the State and/or Federal participation levels not changed.

## **Section 7.2 Payroll**

The Public Authority and the Union shall work together to identify causes and solutions to problems resulting in late, lost or inaccurate paychecks and similar issues. When the causes of problems are outside the Public Authority's direct control, the Public Authority and the Union shall work cooperatively to share information, bring the problems to the attention of the responsible agencies and create solutions.



## **SECTION 8**

### **LABOR-MANAGEMENT COMMITTEE**

#### **Section 8.1 General**

In order to encourage open communication, promote harmonious relations and resolve matters of mutual concern, the parties shall establish a Labor-Management Committee.

#### **Section 8.2 Appointment**

The Public Authority and the Union shall each appoint no more than three (3) members to the Committee and the members shall serve at the pleasure of their respective appointing organizations.

#### **Section 8.3 Meetings**

The Committee shall meet on an as needed basis following reasonable notice to both parties.

#### **Section 8.4 Chair**

The person serving as Chair of the Committee shall rotate from meeting to meeting between the Public Authority and the Union.

#### **Section 8.5 Attendance**

The Committee meetings shall be limited in attendance to the members and one or two guests/advisors of either party, unless the parties agree to additional attendees.

#### **Section 8.6 Topics**

The topics for Committee meetings shall include, without limitation, mutual respect, training and education, payroll problems, and registry processes.

#### **Section 8.7 Authority**

The Committee shall not have the authority to modify the terms of this Agreement. Any changes recommended by the Committee that would have the effect of modifying provisions of this Agreement shall be addressed during the next negotiation period between the parties unless the parties mutually agree to reopen this Agreement to address a specific issue.

## **SECTION 9 TRAINING**

### **Section 9.1 General**

The Public Authority and the Union recognize that the future of IHSS largely depends upon the availability of skilled Providers. The Public Authority and the Union also recognize that providing access to training for Providers is an important goal and a significant component of the IHSS program. Accordingly, the Public Authority makes available voluntary training for providers on approximately a monthly basis.

### **Section 9.2 Union Training Programs**

The Public Authority shall make available through the Department's website to Registry participants, written material submitted by the Union enabling Provider participation in any training programs sponsored by the Union. The Public Authority will additionally provide such written materials submitted by the Union to those participants engaged in County trainings or orientations.

### **Section 9.3 Training**

Only for the term of this MOU (this provision sunsets December 31, 2022), the Public Authority will budget a maximum of \$1,000 per fiscal year for additional trainings directly relevant to Providers' responsibilities as IHSS Providers, i.e., First Aid/CPR. Any written requests by the Union to provide training pursuant to this provision must be submitted to the County for a preapproval determination.

**SECTION 10**  
**SUPPLIES**

Only for the term of this MOU (this provision sunsets December 31, 2022), the Public Authority will budget a maximum of \$1,000 per fiscal year and purchase the following supplies for IHSS Providers: gloves, masks and anti-bacterial gel and/or wipes. These supplies will be available for IHSS Providers at the local Public Authority Office.

**SECTION 11**  
**NO STRIKE/NO LOCKOUT**

During the term of this MOU, the Union, its members and representatives, agree not to engage in, authorize, sanction or support any strike, slowdown, stoppage of work, curtailment of production, or refusal to perform customary duties. The Public Authority agrees not to lockout members during the term of this MOU.

**SECTION 12**  
**MODIFICATION AND WAIVER**

**Section 12.1 Modification**

Neither party shall, during the term of this MOU, demand any change to the provisions of this MOU, provided, however, that nothing herein shall prohibit the parties from changing the terms of this MOU by mutual agreement. Any such agreement, alteration, understanding, variation waiver, or modification of any of the provisions contained herein shall not be binding upon the parties hereto unless it is made and executed in writing by all parties hereto and approved by the governing body of the Public Authority.

**Section 12.2 Waiver**

The waiver of any breach, term or condition of this MOU by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

**SECTION 13**  
**SEPARABILITY OF PROVISIONS/SAVINGS CLAUSE**

If any section, subsection, sentence, clause, or phrase of this MOU is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portions of this agreement.

## **SECTION 14**

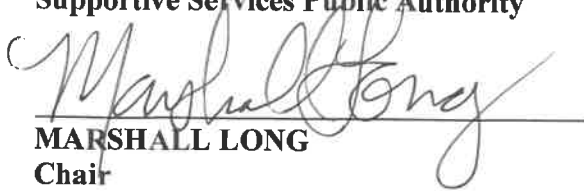
### **TERM**

The term of this Agreement shall commence upon its approval by the governing board of the Public Authority and shall remain in full force and effect from December 17, 2019, through and including December 31, 2022, and shall be automatically renewed from year-to-year thereafter, unless either party serves upon the other forty-five (45) days prior to its expiration, written notice of desire to modify this MOU.

In the event that the State takes control of collective bargaining responsibility prior to the expiration of this MOU, the Public Authority and UDW agree to transition this MOU in accordance with Senate Bill 1036.

Approved this 19<sup>th</sup> day of December, 2019 by the Mariposa County In-Home Supportive Services Public Authority.

**Mariposa County In-Home Supportive Services Public Authority**

  
MARSHALL LONG  
Chair

Date: 12-19-19


**United Domestic Workers of America  
AFSCME Local 3930 AFL-CIO**

  
KADOU XIONG  
Chief Negotiator

Date: 12/6/2019

  
SHELLINE BENNETT  
County Negotiator

  
RONALD SCHMIDT  
Negotiation Team Member

  
DOUG MOORE  
Executive Director, UDWA

  
EDITHA ADAMS  
President, UDWA

Approved as to Form:

  
STEVEN W. DAHLEM, County Counsel