

*Memorandum of
Understanding
2022 - 2024*



*Between
The United Domestic Workers of America (U.D.W.)
AFSCME Local 3930, AFL-CIO
and the
County of Tuolumne*

MEMORANDUM OF UNDERSTANDING

BETWEEN
The United Domestic Workers of America (U.D.W.), AFSCME Local 3903
AND
THE COUNTY OF TUOLUMNE

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PREAMBLE

This agreement is made and entered into, between the County of Tuolumne ("the County") and the United Domestic Workers of America (U.D.W.) AFSCME Local 3930, AFL-CIO ("UDW").

Both the County and the Union recognize the important role of in-home supportive services ("IHSS") providers ("Providers") in Tuolumne County and the vital link they form to IHSS recipients ("Consumers".) The parties agree that it is in the best interest of Consumers, Providers, and the health of the community to provide services to Consumers while maintaining the independent provider mode of service delivery, which includes the exclusive right of Consumers to hire, fire, and supervise Providers.

Article 1. Recognition

The County, as the Employer of Record, recognizes UDW as the exclusive representative of the Providers.

Article 2. Provider Rights

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

Article 3. Consumer Rights

Consumers have the exclusive right to supervise Providers and to hire and fire Providers at any time and for any reason. Consumers shall retain their right to direct services rendered by Providers as set forth in the Welfare and Institutions Code (WIC). Pursuant to WIC 12301.24 all prospective providers must complete a New Provider Orientation which includes fingerprinting and background check.

Article 4. Management Rights

All Management rights and functions shall remain vested exclusively with the County except those which are clearly and expressly limited in this Agreement or by State regulation.

Article 5. Wage and Wage Contingency

Section 1. Wages: The County agrees to the following hourly wages for Providers:

- 1) The base wage for Providers is the State of California established minimum wage.

- 2) In the 2016-2020 Memorandum of Understanding, the County Board of Supervisors approved a wage supplement of \$0.50 above the State minimum wage which would become effective upon State approval. The State approved this wage supplement and it became effective July 1, 2018 and will be paid on an on-going basis. The County agrees to a wage supplement of \$0.50 in addition to the aforementioned \$0.50, for a total wage supplement of \$1.00 above the State minimum wage, which would become effective following County Board of Supervisors' and State approval. The cost of the supplement will be added to the County's Maintenance of Effort (MOE) on a permanent basis and will not be compounded for subsequent increases not locally negotiated.
- 3) The County will submit the request for rate change within ten (10) days of approval by the County Board of Supervisors.
- 4) Should the State of California pause a scheduled increase in the scheduled minimum wage adjustments as described in SB3, Provider wages will be frozen at the current rate until the State of California announces the next scheduled minimum wage increase will be implemented.

Section 2. One-Time Payment.

- 1) For settlement purposes only, as an incentive to reach agreement and in recognition of a multi-year agreement, ratification vote on or before July 31, 2022, and care provided during the COVID 19 pandemic, the County will provide a one-time, non-precedent, advanced payment of \$250 to each current, active Provider at the time the County Board of Supervisors approves the new MOU. The County will provide this payment in the form of a lump sum payment in the total aggregate amount of \$100,000 (\$95,000 lump sum payment plus one-time, non-precedent \$5,000 administrative cost) payable to UDW for UDW to distribute accordingly to qualified Providers.
- 2) No later than three months following County Board of Supervisor approval, UDW shall provide the County with any and all Federal, State, and/or County-required supporting documentation necessary to show proof of payment and distribution, including but not limited to a detailed itemized check payment register showing names of Providers and date(s) \$250 was distributed to all Providers; and if any balance of the \$95,000 remains following such distribution, it shall be returned to the County no later than four months following County Board of Supervisor approval of the MOU.

- 3) Providers agree to pay all taxes which are required by law to be paid with respect to this one-time payment; and Providers further agree to indemnify and hold the County harmless from any claims related to the same. If not ratified by the membership on or before July 31, 2022, this incentive, one-time payment offer expires.

Article 6. Payroll

Section 1. County's Responsibilities: When the causes of problems are within the control of the County, the County shall act expeditiously to solve the problems and work to prevent such problems from occurring in the future. The County shall also work cooperatively with Providers to provide timely answers to payroll questions and assist them in resolving payroll issues.

Section 2. Joint Responsibilities: When the causes of problems are outside the direct control of the County, the County and the Union shall work cooperatively to create solutions by bringing the problems to the attention of the responsible agencies and working with those agencies to seek and implement appropriate solutions.

Section 3. Use of Labor-Management Committee: To promote a timely and accurate payroll system, the County and the Union shall utilize the Labor-Management Committee to identify causes and solutions to on-going problems resulting in late, lost, or inaccurate paychecks and related payroll issues.

Article 7. Lists and Information

The County shall provide, or assure that the Union receives, on a regular monthly basis, the following information in order to perform dues deduction reconciliation for its members: Employee name, unique identifier recognized by the State of California IHSS Payroll System, full address with zip code, phone number, work period/pay period, hours worked and paid per month and gross amount of pay received. This information shall be provided electronically, or by a means mutually agreeable to both parties.

Article 8. Training

Section 1. General: The County and the Union recognize that consumer services depend upon the availability of skilled Providers. The County and the Union also recognize that providing access to training for Providers is an important goal and a significant component of the IHSS program.

Section 2. Union Training Programs: Tuolumne County shall make available one-time payments to the CAIPTC (California Independent Provider Training Center) in the amount of \$2,000 per fiscal year. The CAIPTC is a 501.c3 non-

profit which provides caregivers trainings throughout California. All funds will be used to provide low to no cost trainings for IHSS providers in Tuolumne County.

Article 9. Orientations

The County shall conduct an orientation for prospective Providers that conforms to the requirements in Section 12301.24 of the Welfare and Institutions Code. To the extent required by that section, the County shall permit the recognized employee organization to make a presentation of up to thirty (30) minutes at the beginning of each Provider Orientation. The County shall provide the Union with a list of perspective Providers ten (10) days prior to their orientation date. The list should be in a CVS file and include but are not limited to: CMIPS ID (when available), Last Name, First Name, Email, Primary Language Spoken (default to English when not known), Home Phone, Cell Phone, Address Line 1, City, and State.

Prior to scheduling a Provider orientation, the County shall provide the recognized employee organization in the County with not less than 10 days advance notice of the planned date, time, and location of the orientation. If, within 3 business days of receiving that notice, the recognized employee organization notifies the County of its unavailability for the planned orientation, the County shall make reasonable efforts to schedule the orientation so the recognized employee organization can attend, so long as rescheduling the orientation does not delay Provider enrollment by more than 10 business days. The requirement to make reasonable efforts to reschedule may be waived, as necessary, due to and during the pendency of a natural disaster or other declared state of emergency, or by mutual agreement between the County and the recognized employee organization.

Article 10. Supplies

The County will purchase protective supplies, which may include but are not limited to, exam gloves, disinfectant wipes, masks, and hand sanitizer in the amount of \$5,000 per fiscal year.

The County will provide a locked location where these supplies will be stored and utilized only for Tuolumne County Providers. The Union and/or the County will be responsible for distributing these supplies, and if distributed by the Union, the Union will provide an itemized chart monthly to the County which details the name of the Tuolumne County Provider and the type and quantity of supplies given to the Provider.

Article 11. Bulletin Board

The County shall provide a secured bulletin board for the Union in an area convenient for Providers.

Article 12. Provider List (Registry) and Referral

Section 1. General: The County and the Union recognize the importance of providing appropriate services to Consumers and Providers.

Section 2. Referrals.

- a. The Provider List (List) shall determine the qualifications for each Provider on the List. In determining the qualifications, the List shall consider training, experience, ability to work the hours requested and language.
- b. Referrals to consumers will be made in random order based on matching. Matching criteria shall include but is not limited to accessibility, geographical location of consumer and client residences, ability to provide client assessed services, smoking/non-smoking, gender, language, or other considerations.
- c. The consumer may require a mixed mode of service i.e. Personal Care Assistant Provider (PCAP) or Independent Provider (IP).
- d. The consumer has the right to decline or terminate employment at any time for any reason.

Article 13. Labor-Management Committee

In order to encourage open communication, promote harmonious relations, and resolve matters of mutual concern, the parties agree to create a Labor-Management Committee. The Committee will be governed by the following:

1. The Committee will meet semi-annually, or as frequently as agreed to by the parties.
2. The topics for such meetings may include relationship between parties, health and safety issues, and training and education.
3. The agenda for each meeting will be decided at the end of each meeting, unless otherwise mutually agreed to by the parties. Either Co-Chair may add items to the Agenda up to one week prior to the next meeting.
4. The Committee will be chaired by a County representative and a Union representative, alternating the responsibility each meeting.
5. Provider committee members will serve on a voluntary basis and will receive no remuneration from the County for their participation.
6. The Committee shall not take up matters subject to the negotiations, meet & confer, or grievance process.

The Committee will be composed of two (2) representatives appointed by the County and two (2) representatives appointed by the Union for a one-year term. In addition, either party may invite guests when their presence will be helpful in the resolution of specific issues. Advance notice of such invitations shall be provided at least two weeks in advance of the meeting to members of the Committee.

Article 14. Grievance Procedure

Section 1. Definition: A grievance is a claim that the County has violated this Agreement. Grievances may be filed by Provider(s) or by the Union on behalf of Provider(s), or by the Union on its own behalf.

Section 2. Grievance Meeting Time: Provider participation in the grievance procedure in any capacity shall be solely on the Provider's own time and shall not be treated as within any Consumer's allocated service hours or as paid time.

Section 3. Procedure: Grievances shall be subject to the following process:

- A. Step One – Initial Conference:** The Provider and/or the Union representative shall confer with the County's designated representative within thirty (30) calendar days of the occurrence or knowledge of the occurrence giving rise to the grievance, whichever is later. Such conference must occur prior to filing a written grievance at Step Two.
- B. Step Two – Written Grievance and Conference:** If the parties are unable to resolve the grievance at Step One, the grievance shall be reduced to writing and shall be submitted to the County within thirty (30) calendar days of the initial conference under Step One. The County representative shall meet with the Union representative and the Provider, if any, within ten (10) working days of the Step Two filing and shall reply in writing within five (5) working days thereafter.
- C. Step Three – Mediation:**
 - 1. If the matter remains unresolved at Step Two, the decision may be appealed to non-binding advisory mediation within ten (10) working days. The parties will contact the California State Mediation and Conciliation Service to obtain the services of a mediator. The mediator will be asked to review the dispute and issue a proposed written recommendation.
 - 2. The County will consider the mediator's recommendations in reaching a final decision. The grievant and the Union will be

notified of the final decision of the County within ten (10) working days of obtaining the mediator's proposed decision. The cost of the mediator's services if any will be shared equally by the parties.

D. Step Four – Arbitration:

1. If the matter remains unresolved at Step Two and the Union wishes to pursue the matter further, it shall, within ten (10) working days after the receipt of the Step Two reply, request in writing that the grievance be submitted to binding arbitration before an arbitrator mutually selected by the County and the Union. If they cannot agree, the arbitrator shall be selected by an alternate striking process from a list of arbitrators provided by the California Department of Industrial Relations. The first strike shall be chosen by lot. The cost of arbitration shall be shared equally by both parties.
2. The arbitrator shall have no power to change, add to, or delete from any of the express terms of this Agreement. The arbitrator's award shall be binding upon the parties.

E. Time Limits: Any time limits may be shortened, extended, or waived, but only by written agreement between the County and the Union.

Article 15. Non-Discrimination

The parties affirm their respective policies of non-discrimination in the treatment of any Provider because of race, color, religion, gender, gender identity or expression, ancestry, national origin, age, genetic, information, marital status, sexual orientation, medical condition or disability, amnesty, status as a covered veteran, usage of family medical care leave or pregnancy leave in accordance with applicable federal, state and local laws, or union activity.

Article 16. Union Deduction

The Union has the exclusive privilege of dues deductions for all Providers in the bargaining unit covered under this Agreement. The Union shall have the sole responsibility of notifying the State Controller's Office for any Provider that has elected to have Union Dues or other deductions deducted from his/her check.

Article 17. Work Disruptions

The Union agrees and acknowledges that work disruptions are detrimental to the responsibility of its members in providing high quality services to the Consumers.

Consequently, neither the Union nor any of its officers, agents or employees, nor Providers shall sanction, support, condone or engage in any work disruption. Work disruptions include, but are not limited to: strike, mass absenteeism, slowdown, or any curtailment of work, disruption or interference with the operations of the County, or any sympathy strike.

The County agrees not to engage in any lockout of the Providers.

Article 18. Modification and Waiver

Section 1. Modification: No term or condition in this Agreement may be changed without the written agreement of the County and the Union.

Section 2. Waiver: The waiver or breach of any term or condition of this Agreement by the County or the Union shall not constitute a precedent in the future enforcement of any term or condition of this Agreement.

Article 19. Provisions of Law and Separability

The parties agree that this Agreement is subject to all applicable Federal and State laws and regulations, and County ordinances and regulations. In the event that any part or provision of this Agreement is in conflict or inconsistent with such laws or regulations, or is otherwise held to be invalid or unenforceable by any court of competent jurisdiction, such part or provision shall be suspended and superseded by the applicable law or regulation and the remainder of this Agreement shall remain in full force and effect. The parties shall promptly negotiate a replacement for such part or provision.

Article 20. Term

The Term of this MOU between the County and UDW is effective upon and will expire two years following approval of the Board of Supervisors.

Dated Approved by Board of Supervisors: July 19, 2022

COUNTY OF TUOLUMNE

Tracie Riggs 7/19/22
HR/Risk Manager Date

Tracie Riggs 7/19/22
Tracie Riggs
County Administrator

Accepted this:

Anaiah Kirk 07/19/2022
Chair, Board of Supervisors

APPROVED AS TO LEGAL FORM:

Sarah Carrillo
Sarah Carrillo
County Counsel

UNITED DOMESTIC WORKERS
OF AMERICA
AFSCME LOCAL 3930

DocuSigned by:
Doug Moore 7/15/2022
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Doug Moore Date
UDW Executive Director

DocuSigned by:
Editha Adams 7/15/2022
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Editha Adams
UDW President

Kadou Xiong
Kadou Xiong
Chief Negotiator

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J.B. Afoh-Manin 7/15/2022
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J.B. Afoh-Manin
UDW Field Coordinator

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Sandra Nelson 7/15/2022
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Sandra Nelson
UDW Bargaining Team Member

I hereby certify that according to the provisions
of Government Code Section 25103, delivery of
this document has been made.

HEATHER D. RYAN
Board Clerk

By: Heather Ryan

ATTEST:

Heather Ryan
HEATHER RYAN
BOARD CLERK OF THE BOARD OF SUPERVISORS