

MEMORANDUM OF UNDERSTANDING

BETWEEN

SEIU Local 2015

AND

Fresno County IHSS Public Authority

**Upon approval by the Public Authority Board of
Governors through December 31, 2022**

If any items are inadvertently inconsistent with previous TA's, then the previously TA'd language prevails when the final document goes to print.

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ARTICLE 1: INTRODUCTION

This Agreement formalizes the relationship between the In-Home Supportive Services (IHSS) Public Authority ("Public Authority") and SEIU Local 2015 ("Union").

The Public Authority and the Union agree to work together in good faith to implement the terms and conditions of this agreement.

ARTICLE 2: UNION RECOGNITION

The Public Authority recognizes the SEIU Local 2015 as the certified labor representative of the Fresno County Public Authority IHSS Independent Providers ("Providers").

ARTICLE 3: MUTUAL RESPECT

The Public Authority and the Union agree that all Providers, Recipients and Administrators, and County employees involved in the IHSS program, regardless of position, profession or rank, should be treated with courtesy, dignity and respect, and shall so treat one another.

All parties will respect the confidentiality of personal information of Providers and Recipients, including, but not limited to, any Recipient personal or health information.

ARTICLE 4: MANAGEMENT RIGHTS

Management of the Public Authority retains all management rights not altered by law or express terms of this Memorandum of Understanding.

ARTICLE 5: LABOR DEDUCTIONS

1. The Union acknowledges that members of their labor organization have been granted access to the CMIPS II Labor Organizations Interface by the California Department of Social Services in order to process deductions for Provider Union Dues.

2. The information included in the labor organization file includes the following:

- . Provider Identification Number
- . Provider last name
- . Provider first name
- . Provider middle name
- . Home Address
- . City
- . State
- . Zip code + 4
- . All existing phone numbers with area code

- . Date of Birth
- . Gender
- . Provider Job Status
- . Hours worked
- . Email (if possible)

3. The Union acknowledges that their labor organization and/or any of their agents involved in the Union Dues deduction process are responsible for any suspected breach resulting in missing data or an actual loss. The Union will notify the Public Authority within twenty- four (24) hours of any suspected breach or actual loss. Full responsibility of the use and security of the data is the responsibility of the Union.

4. The Union shall defend, indemnify, and hold harmless the County of Fresno and the Public Authority and its respective boards, directors, officers, and employees from any and all claims, demands, suits and any other action alleging that the Union has misused or inappropriately disclosed Provider data obtained from the California State Department of Social Services.

ARTICLE 6: HEALTH BENEFIT MANAGEMENT

1. The Union acknowledges that members of their labor organization have been granted access to the CMIPS II Health Benefit Manager Interface by the County of Fresno in order to process deductions for Provider Health Benefits.

2. The information included in the labor organization file included the following:

- Provider Identification Number
- Provider last name
- Provider first name
- Provider middle name
- Home address
- City
- State
- Zip code + 4
- All existing phone numbers with area code
- Date of Birth
- Gender
- Provider Job Status
- Hours worked
- Email (if possible)

3. The Union acknowledges that their labor organization and/or any of their agents involved in the health care deduction process are responsible for any suspected breach resulting in missing data or an actual loss. The Union will notify the Public Authority within twenty- four (24) hours of any suspected breach or actual loss. Full responsibility of the use and security of the data is the responsibility of the Union.

4. The Union shall defend, indemnify, and hold harmless the County of Fresno and the Public Authority and its respective boards, directors, officers, and employees from any and all claims,

demands, suits and any other action alleging that the Union has misused or inappropriately disclosed Provider data obtained from the Public Authority.

ARTICLE 7: COMMUNICATIONS

Reasonable space for Union material will be provided on a Public Authority bulletin board, which up through on or about September 30, 2020 will be located at 2025 E. Dakota Fresno CA 93726, and thereafter beginning on or about October 1, 2020 will be changed to be located at 3500 Never Forget Lane, Clovis CA 93612.

ARTICLE 8: MEETING SPACE

The Public Authority, at the Union's request, will make available conference rooms for the purpose of holding Union meetings. The Union will provide timely notice (48 hours) of such meetings and will comply with Public Authority regulations for use of such facilities.

ARTICLE 9: OFFICIAL REPRESENTATIVES, STEWARDS

Each January the Union shall provide a current Official Representative list of Stewards to the Public Authority. This list may include up to 50 names and shall include the name, title, telephone number, mailing address and e-mail address of the Union's official representatives including stewards. The Union shall, in a timely manner, notify the Public Authority of any changes to the list. The official representatives and stewards shall not be recognized by the Public Authority until such list or changes are provided to the Public Authority.

ARTICLE 10: PROVIDER ORIENTATIONS

Prospective Providers will be instructed to complete a mandatory onsite group orientation following completion of their individual online enrollment process through the Public Authority Registration, Enrollment and Video Application (REVA).

The Public Authority shall provide 10 days' notice to the Union of new Applicant and Provider orientations or changes to orientation schedules, indicating the primary language of the meeting. The Public Authority shall schedule 30 minutes for the Union to make presentations at the beginning of the orientation. The Union presentation times will be 9:00 am to 9:30 am for the morning orientation and 1:30 pm to 2:00 pm for the afternoon orientation.

Upon request and with proper notice, the Union will be allowed to utilize available audio visual equipment. The Public Authority will provide the Union with a copy of the attendance list after each New Provider Orientation.

In the event that the Union is unable to attend a group orientation, *the Union agrees to provide timely notice to the Public Authority.* The Public Authority shall provide information concerning the Union, including the Union Membership Authorization forms. The Union shall provide all such

materials to the Public Authority. The Public Authority will instruct prospective Providers to call the Union if they have any questions.

ARTICLE 11: UNION MEMBERSHIP AND DUES CHECKOFF

1. Notice

Any Provider hired subject to this Memorandum of Understanding shall be provided an authorization form and written notice that the Public Authority has a Memorandum of Understanding with the Union regarding wages, benefits and other terms and conditions of employment. The blank form and written notice shall be provided by the Union to the Public Authority and shall be distributed to each new Provider at the IHSS orientation. The form, signed by the Provider, shall be returned to the Union by the Provider.

2. Payroll Deductions

The parties acknowledge that neither the Public Authority nor the County of Fresno shall be responsible for actually administering the dues withholdings, which is administered by the California State Controller's office and the Union.

The Union shall instruct the State to commence and continue a monthly payroll deduction of Union dues and other authorized deductions from the regular pay warrants of Providers who have authorized such deduction. The Union shall instruct the State of the dollar amount to deduct for Union dues or other authorized Union deductions, specifying the purpose(s) of the deduction. The State shall continue to make such deductions as instructed for so long as the Union provides such instruction.

- a) When an individual Provider's earnings for a calendar month, after required federal and state deductions are made, are insufficient to cover the amount of dues, no dues payment will be withheld for that calendar month. Further, no withholding will be made to recover that calendar month from future earnings.
- b) When an individual Provider is in non-paid status for an entire calendar month, no dues payment will be withheld for that calendar month. Further, no withholding will be made to cover that calendar month from future earnings.
- c) All required federal and state deductions shall have priority over Union dues.

3. Indemnification

The Union shall indemnify, defend and hold the Public Authority and the County, its officers, agents and employees harmless from and against any and all claims, demands, losses, defense costs, or liability of any kind or nature which may be imposed upon them relating to the Public Authority's and/or the County's compliance with this article, including claims relating to the Unions use of the monies collected under these provisions.

ARTICLE 12: GRIEVANCE PROCEDURE AND ARBITRATION

Section 1: Purpose

The purpose of this procedure is to provide for an orderly process for reviewing and resolving Provider grievances at the lowest possible level.

Section 2: Definitions

Grievance: An alleged violation, or misapplication of a specific provision of this Agreement which adversely affects the grievant, except as explicitly limited by the provisions of this Agreement.

Grievant: A Provider in the unit who is filing a grievance as defined above.

Group Grievance: An alleged violation, or misapplication of a specific provision of this Agreement which adversely affects more than one Provider in a substantially similar manner and is represented by a single person or the Union.

Section 3: General Provisions

This procedure shall be the exclusive procedure for adjusting grievances of Providers within the bargaining unit.

No reprisal of any nature shall be taken against any Provider for utilizing the grievance procedure.

The grievant may be represented by a representative of his/her choosing at any level of this procedure. The Union may represent the Grievant at any step in the grievance procedure.

If the Grievant fails to carry his/her grievances forward to the next level within the prescribed time period, the grievance shall be considered settled based upon the decision rendered at the most recent step utilized and any right to pursue the grievance further shall be deemed waived and abandoned.

If the Public Authority fails to respond within the prescribed time period, the grievant may elevate his/her grievance to the next level/step.

Unless stated otherwise, all days are calendar days.

Any timeframe specified in this procedure may be extended or waived by mutual consent of the Public Authority and the Grievant or his/her representative.

Section 4: Procedure

Step 1 - Discussion

Any Provider who believes that a specific provision of this Agreement has been violated, or misapplied to his/her detriment shall, within thirty (30) days of the incident or occurrence about which the grievant claims to have a grievance, discuss the grievance with the Public Authority representative.

The Public Authority representative, or his/her designee shall consider the grievance and respond to the grievant within fifteen (15) days of the discussion.

Step 2 – Written

If the Grievant is not satisfied with the response at Step 1, the Grievant may submit the grievance in writing within fifteen (15) days to the Public Authority representative, or his/her designee.

To be considered at Step 2 a grievance must state in writing:

1. The name(s) of the affected Provider(s).
2. The specific provision of the Agreement that is alleged to have been violated.
3. The circumstances giving rise to the grievance.
4. The proposed remedy.
5. The signature of the Provider or of the Union representative.

The Public Authority representative or his/her designee shall consider the grievance and respond to the Grievant within fifteen (15) days of the receipt of the grievance.

Any Provider filing a grievance at Step 2 shall provide a copy to the Union. The Public Authority shall provide the Union with materials relating to all grievances to which a response has been made at Step 2 of the grievance procedure.

Step 3 – Mediation (optional)

If there is no resolution at Step 2 then both parties may agree to submit the grievance to mediation. Unless otherwise mutually agreed to the parties shall request that the State Mediation Conciliation Service assign a mediator. The fees and expenses of the mediator, if any, shall be shared equally by the Union and the Public Authority. The mediator shall have no authority to impose a settlement of the grievance. The mediator's comments, suggestions and recommendations, if any, shall be kept confidential. If mutually agreed by the parties, the mediator may be requested to prepare a written report of the mediation

Step 4 - Arbitration

If the Grievant is not satisfied with the response at Step 2 or 3, the Union shall have the right to refer the matter to binding arbitration within thirty (30) days of the decision at Step 2 or 3.

Within twenty (20) 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 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.

Section 5: Scope of Arbitration Decisions

Decisions of arbitrators on matters properly before them shall be final and binding on the parties hereto, to the extent permitted by law.

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.

Proposals to add or change this Agreement or to change written agreements supplementary hereto (side letters adopted by parties) shall not be arbitrable and no proposal to modify, amend, or terminate this Agreement 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 Agreement or written agreements supplementary hereto (side letters adopted by parties) or to establish any new terms or conditions of employment.

ARTICLE 13: WAGES

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

2. 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 the Welfare and Institutions Code section 12306.16(d)(7).

3. Wage Contingency:

If the State or Federal participation levels are reduced, or the State or Federal participation 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 increased cost to the Public Authority or County 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, wage supplements, and/or health benefits, or takes any other actions that increase the Public Authority's or the County's share of funding and/or costs for Provider compensation, including but not limited to in any ways unforeseen at the time this Agreement is reached, 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, wage supplements, and/or benefits, and/or 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.

ARTICLE 14: HEALTH INSURANCE

The Public Authority shall provide monthly health insurance premium payments to the Health Care Employees/Employers Medical and Dental Trust for the purchase of health insurance and dental for Providers.

The monthly premium contribution will be equivalent to the preceding three month average of paid hours worked by Providers multiplied by eighty-five cents (\$0.85).

ARTICLE 15: UNFORESEEN ADMINISTRATIVE DELAYS IMPACTING WAGES OR BENEFITS:

In the event of unforeseen administrative procedures or delays impacting compensation or benefits, the parties shall meet and confer, within seven (7) days of a delay becoming known, to mutually agree on the manner by which the Providers will be made whole.

ARTICLE 16: REOPENER REGARDING SICK LEAVE

The parties agree to discuss the revisions to California Labor Code Section 246 no sooner than December 1, 2017. Any agreement reached will become part of this Agreement.

ARTICLE 17: REGISTRY SERVICES

1. It is recognized that one of the Public Authority's primary missions is assuring registry services to facilitate the referral of Providers for Recipients to consider for hiring. The operation of the Registry will be conducted in such a way as to respect the rights and needs of both Recipients and Providers.

2. Registry services will include an on-call emergency list and an ability to provide, within 48 business hours, short-term temporary replacement Providers.

3. Providers must confirm their desire to continue on the Registry no less than one (1) time per month. Confirmation may take place through the Nexus system by e-mail or text message or by contacting the Provider and Recipient Call Center by telephone. If after sixty (60) calendar days the Public Authority has not been contacted by the Provider to confirm their desire to continue on the Registry, the Provider will be sent a letter via U.S. Mail asking the Provider if they are still interested in being a Provider. The letter will also advise them that if they do not contact the Public Authority within thirty (30) calendar days from the date on the letter that their status in the Registry will be changed to "pending" and they will not be referred out to any Recipients for possible employment. If at some future date the individual desires to once again become active on the Registry, then they must contact the Public Authority to update their status.

If a Provider has twelve (12) consecutive months of no payroll activity, they will be contacted by the Public Authority, via U.S. Mail on the thirteenth (13th) month to inquire if they still want to be a Provider. If the Provider fails to respond to the Public Authority within thirty (30) calendar days from the date on the letter, then the Provider's status in the statewide computer system (Caseload Management Information & Payroll System – CMIPS-II) will be changed to "Ineligible" and the Provider will be removed from the Public Authority Registry. In this situation, the Provider would then be required to complete the Provider Enrollment process, including completion of the LiveScan background check process and all other requirements, before re-establishing their eligibility as a Provider.

The provisions of this section (Article 17, Section 3) are only grievable with regard to whether the policies above have been followed.

4. The closure of the Registry to new Providers will be announced on the Public Authority website and will be publicly posted in the Office of the Public Authority.

ARTICLE 18: REGISTRY REMOVAL AND APPEAL PROCESS

When a Recipient makes a request to the Public Authority for the removal of a Provider from the Registry, the following shall apply:

1. The Public Authority retains the right to determine if the Provider is to be removed from the Registry for just cause.
2. Depending upon the complaint received, the Public Authority may place a Provider on "pending status" while the complaint is investigated. A Provider will not remain on "pending status" longer than 25 working days.
3. Once a determination has been made by the Public Authority that a Provider will be removed from the Registry, the Public Authority shall notify the Provider in writing, within ten (10) working days, that they have been removed from the Registry. The notification will include the reason(s) why the Provider was removed, an explanation of the appeal process, and the Provider's right to union representation.
4. If the Provider chooses to appeal the removal of their name from the Registry, such appeal must be made in writing to the Public Authority within fifteen (15) working days from the date indicated on the notification letter.
5. Within twenty (20) working days of receipt of the Provider's appeal, an Appeals Board shall be convened to hear the appeal. The Appeals Board shall be made up of a Provider selected by the union, a Recipient mutually agreed upon by the Union and the Public Authority, and a Public Authority representative.
6. The hearing shall be conducted in an informal manner, allowing the Provider to present information in support of his/her appeal. The Provider may have a representative of his/her choice to assist in the appeal.
7. At the conclusion of the hearing, the Appeals Board shall issue a decision either confirming the removal of the Provider from the Registry or reinstating the Provider to the Registry.
8. The Registry Removal Appeal Process is exempt from MOU Grievance Procedure. Any dispute regarding the administration of this article shall be heard, and decided upon, by the Appeals Board.

ARTICLE 19: LABOR-MANAGEMENT COMMITTEE

1. In order to encourage open communication, promote harmonious relations and resolve matters of concern, the parties agree to create a Labor-Management Committee.
2. The committee will be composed of up to three (3) representatives of the Public Authority and three (3) representatives appointed by the Union. Should the Union appoint Providers as its representatives on this Committee, attendance will be on a voluntary basis. A reasonable number of observers and guests may be invited by either party, with mutual consent of both parties.
3. The committee will meet at least quarterly. The issues discussed may include, but are not limited to, payroll, training, education, health and safety and registry services. The parties must submit an official agenda covering items within the scope of control of the Public Authority within

ten calendar days in advance of the scheduled meeting. Items outside the control of the Public Authority may be placed on the agenda with mutual consent of both parties.

ARTICLE 20: NO STRIKE/NO LOCKOUT


During the term of this Agreement, 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 Agreement.

ARTICLE 21: SEPARABILITY OF PROVISION/SAVINGS CLAUSE

Should any section, clause or provision of this Agreement be declared illegal, unlawful or unenforceable by final judgment of a court of competent jurisdiction, such invalidation of such section, clause or provision shall not invalidate the remaining portions hereof, and such remaining portions shall remain in full force and effect for the duration of this Agreement.

ARTICLE 22: TERM OF MOU AND RENEGOTIATION

This MOU shall be in effect upon approval by the Public Authority Board of Governors through December 31, 2022. Negotiations over a successor MOU shall begin on or about September 30, 2022.



For County of Fresno IHSS Public Authority

1/16/2020

Date

BY: _____

Ernest Buddy Mendes
Chairman of the Board of Supervisors
of the County of Fresno

For SEIU Local 2015

1/15/2020

Date




David Werlin, Bargaining Director



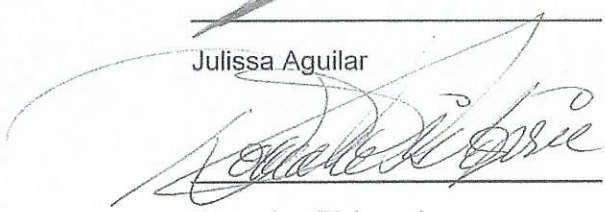
María Xiquín, Regional Director



Ua Her Lugo, Lead Organizer



Julissa Aguilar



Donnalee Bishorpric



Michelle Borges



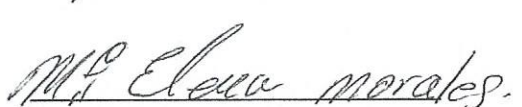
Sergio Garcia



Gloria Hands



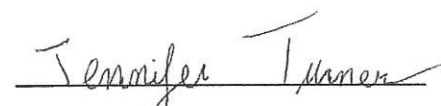
Lacey Lowery



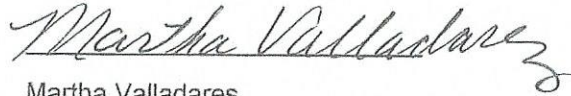
Maria Elena Morales



Alva Rodriguez



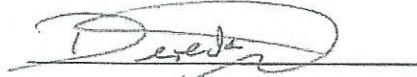
Jennifer Turner



Martha Valladares



Gudelia Vargas



Dereck Smith

Executive Vice President