

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



158C

FROM: Human Resources Department

SUBMITTAL DATE:
September 11, 2012

SUBJECT: Approval of the 2011 - 2012 Memorandum of Understanding with United Domestic Workers of America

RECOMMENDED MOTION: That the Board of Supervisors approve the attached 2011 - 2012 Memorandum of Understanding (Attachment A) with United Domestic Workers (UDW) and the Riverside County Public Authority for In-Home Support Services (IHSS).

BACKGROUND: The County met with UDW (who represents the County's in-home support service providers) on five occasions wherein a tentative agreement was reached on November 14, 2011 for an 18-month successor Memorandum of Understanding (MOU) covering July 1, 2011 - December 30, 2012. The agreement does not add any new financial obligation to the County.

Departmental Concurrence

Barbara A. Olivier
Asst. County Executive Officer/Human Resources Director

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2012/13

SOURCE OF FUNDS:	Positions To Be Deleted Per A-30	☐
	Requires 4/5 Vote	☐

C.E.O. RECOMMENDATION:

APPROVE

BY:
Ivan M. Chand 9/12/2012

County Executive Office Signature

Dep't Recomm.: ☐ Consent ☒ Policy
Per Exec. Ofc.: ☐ Consent ☒ Policy

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Tavaglione, seconded by Supervisor Stone and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: September 25, 2012
xc: H.R., IHSS

Kecia Harper-Ihem
Clerk of the Board

By:
Deputy

(Comp. Item 7.1)

Prev. Agn. Ref.: 09/18/07 3.35; 7.2

District: ALL

Agenda Number:

\\HRFS\00\GROUPS\LAB-REL\COLLECTIVE BARGAINING\IHSS\2011\Attachments\UDW\2011 Bargaining\Finalizing the MOU\Form 11 Draft to Approve UDW MOU Sept 2012.doc

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

3.27

BACKGROUND (continued)

The Tentative Agreement(s) which has been reached by the parties, subject to Board approval contains the following key points:

- Term: 18-month contract; end date of December 30, 2012.
- No reopener on wages or healthcare.
- No changes to wage contingency language.
- County agrees to meet and consult (via the Public Authority/UDW Labor-Management Committee) related to improvements and changes to the Exclusive Care Plan.
- Add the following non-religious, non-labor charitable funds to Article 15 Section 3: Alzheimer's Association, Community Action Partnership and The Center for Community Action and Environmental Justice.
- All non-substantive cleanup items are deferred to the next bargaining cycle with the exception of the following:
 - Delete all reference to the National Union of Hospital and Health Care Employees (NUHHCE) from the contract as UDW is no longer affiliated.
 - Change all references from United Domestic Workers of America to United Domestic Workers, to reflect legal name.
 - Add American Federation of State, County and Municipal Employees (AFSCME) Local 3930 to the contract to specify UDW's local number in the sections where AFSCME is referenced.
 - Correct reference to IHSS Provider(s), from Home Care Worker, Home Care Workers, IHSS Workers, or Worker to only reflect IHSS Provider or IHSS Providers.
 - Delete Section 4 Article 10 titled Printing of Memorandum of Understanding.
 - Revise Article 18 Section 2 to state the Labor Management Committee meeting chair will alternate between the parties and the chair is responsible for preparing the mutually agreed upon agenda.

Memorandum of Understanding

between

**Riverside County IHSS Public
Authority**

and

**United Domestic Workers Union
UDW, AFSCME Local 3930, AFL-CIO**

for the term of

July 1, 2011 – December 30, 2012

TABLE OF CONTENTS

ARTICLE I PREAMBLE	2
ARTICLE II RECOGNITION	2
ARTICLE III NON-DISCRIMINATION	3
ARTICLE IV PUBLIC AUTHORITY RIGHTS	3
ARTICLE V TERM	4
ARTICLE VI PAYROLL	4
ARTICLE VII HEALTH INSURANCE	5
ARTICLE VIII CONSUMER RIGHTS AND CONFIDENTIALITY	7
ARTICLE IX TRAINING	7
ARTICLE X UNION RIGHTS	8
ARTICLE XI GRIEVANCE PROCEDURE	9
ARTICLE XII REGISTRY	13
ARTICLE XIII ANTI-STRIKE CLAUSE	14
ARTICLE XIV WAGES	14
ARTICLE XV AGENCY SHOP	15
ARTICLE XVI FULL UNDERSTANDING, MODIFICATION AND WAIVER	17
ARTICLE XVII SEPARABILITY	18
ARTICLE XVIII LABOR-MANAGEMENT COMMITTEE	18
SIGNATURE PAGE	20

ARTICLE I

PREAMBLE

This Memorandum of Understanding is entered into by the Riverside County Public Authority for In-Home Supportive Services (hereinafter referred to as the Public Authority) and the United Domestic Workers, AFSCME Local 3930, AFL-CIO (hereinafter referred to as the Union) as a mutual recommendation to the governing body of wages, hours, and other terms and conditions of employment. The parties hereto acknowledge that the relationship between the Public Authority and the Independent Providers (hereinafter referred to as IHSS Provider(s)) in the bargaining unit is unique in that the IHSS recipients (hereinafter referred to as Recipient(s)) remain the employer for the purposes of hiring, terminating, training, and supervising the work of any IHSS Providers providing services to them.

Unique Nature of Services:

The Public Authority and the Union also recognize and appreciate the unique nature of the services rendered by the IHSS Providers, who provide valued services to IHSS Consumers. The special relationship between the IHSS Providers and Consumers is deserving of the parties' sincere respect and appreciation.

ARTICLE II

RECOGNITION

Pursuant to the provisions of the Employer-Employee Relations Resolution of the Riverside County IHSS Public Authority and applicable State law, the United Domestic Workers was certified on December 4, 2002, as a result of a secret ballot election, as the recognized representative of Riverside County In-Home Supportive Services (IHSS) Independent Providers, as defined in the Public Authority Employer-Employee Relations Resolution. The Public Authority hereby recognizes the United Domestic Workers, AFSCME Local 3930, AFL-CIO as the exclusive representative of the In-Home Supportive Services IHSS Providers covered under the provisions of this Memorandum of Understanding.

ARTICLE III

NON-DISCRIMINATION

In receiving the rights afforded by this Agreement, and in accordance with applicable law, no person shall in any way be favored or discriminated against because of race, religion, age, gender, sexual preference, national origin, marital status or disability.

Neither the Public Authority nor the Union shall interfere with, intimidate, restrain, coerce or discriminate against any IHSS Provider in his/her choice to participate in or join, or refuse to participate in or join, the Union.

ARTICLE IV

PUBLIC AUTHORITY RIGHTS

Unless otherwise specified in this Memorandum of Understanding, the rights of the Public Authority include, but are not limited to, the exclusive right 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; to determine its mission and that of constituent subsections, committees, and other related work groups, to add or delete the names of IHSS Providers to and from the registry subject to the appeal process; and to take all necessary actions to carry out its mission in emergencies.

Section 1. Liability of Public Authority:

The Public Authority is an independent legal entity, separate and apart from the County of Riverside. The Public Authority has no power to bind the County to any contractual or legal obligations. Nor may the obliges of the Public Authority seek recourse against the County of Riverside for any financial or legal obligations of the Public Authority.

Section 2. Past Practice:

Continuance of working conditions and practices not specifically incorporated into the provisions of this Agreement or authorized by resolution of the Public Authority is not guaranteed by this Memorandum of Understanding.

Section 3. Emergency:

Nothing herein shall limit the authority of the Public Authority to make necessary changes to carry out its operations during an emergency. The Public Authority shall notify the Union of the nature of the emergency and of any necessary changes as soon as possible. "Emergency" is defined as an unforeseen event caused by forces beyond the control of the Public Authority involving a reasonable likelihood that harm would be experienced unless immediate action is taken. Emergency action under this Article shall not extend beyond the period of the emergency. The Union shall be notified as

soon as the emergency has been resolved. In the event an emergency action taken by the Authority alters a specific term and/or condition of this Agreement, the Authority agrees to meet with the Union over the effects of such change once the conditions/circumstances which led to the emergency and created the need for the change have been resolved.

ARTICLE V

TERM

Term: 18 months. The term of this Agreement shall be July 1, 2011 through December 30, 2012. In the event the membership ratification and/or approval by the State occurs after July 1, 2007, the Agreement shall become effective on the first day of the month following ratification and State approval.

Section 1. Successor Agreement.

In the event either party desires to negotiate a successor Memorandum of Understanding, it shall serve on the other, during the period of 150 to 120 days prior to the expiration of this current Memorandum of Understanding, its full and complete proposals together with a request to commence negotiations for such successor Memorandum of Understanding. Negotiations shall begin no later than ninety (90) days prior to the expiration of the current MOU unless otherwise agreed to by the parties. Sections of this Memorandum not addressed by either party in their proposals shall remain in full force and effect upon the implementation of a signed successor Agreement.

ARTICLE VI

PAYROLL

The parties hereto agree that the issue of payroll problems, including but not limited to late, lost, or inaccurate paychecks, shall be referred to the Labor-Management Committee provided under the provisions of this Memorandum of Understanding for review and recommendation. The parties hereto agree that payroll is not a function of the Public Authority. Therefore, the Public Authority cannot directly resolve payroll related issues.

ARTICLE VII **HEALTH INSURANCE**

Section 1. Health Insurance:

The Public Authority shall contribute \$.60/hr. for all compensated hours not to exceed the pro-rated equivalent (as specified below) to a Public Authority developed plan.

Effective July 1, 2007, \$1.6 million annual aggregate net County cost for the fiscal year 2007/2008.

Effective July 1, 2008, \$1.7 million annual aggregate net County cost for the fiscal year 2008/2009.

Effective July 1, 2009, \$1.8 million annual aggregate net County cost for the fiscal year 2009/2010.

Effective July 1, 2010, \$1.9 million annual aggregate net County cost for the fiscal year 2010/2011.

Minimum benefits include, but are not limited to, coverage for regular medical visits, annual physical examinations, emergency care, full hospitalization, prescriptions, mental health care, and no limitation on pre-existing conditions. Effective the next open enrollment for 2008, benefit services will include basic dental insurance and vision discount program.

The Public Authority shall conduct a monthly determination of newly eligible IHSS Providers and provide them with an opportunity to enroll in this Public Authority developed plan. Eligibility is based on working in Riverside County for a minimum of eighty (80) paid hours for three (3) consecutive months and continue to meet the eighty (80) hours each month.

Eligibility shall be on a first come, first served basis. Once the pro-rated equivalent of the annual aggregate County cost (cap) in effect for those enrolled has been reached, any IHSS Provider that has requested, and would otherwise qualify for health care benefits, shall be placed on a waiting list until funds become available for coverage or until space is made available due to the attrition of previously enrolled members.

In January of each year, the Public Authority shall send a notice to all eligible IHSS Providers to remind them of their eligibility. This will constitute an Open Enrollment with coverage to be effective March 1 of that year.

IHSS IHSS Providers who have involuntarily terminated from health benefits are eligible to re-enroll in subsequent months if they re-establish eligibility by meeting the required eligibility standard.

IHSS IHSS Providers who have voluntarily terminated health insurance benefits can re-enroll only during Open Enrollment period in January and only if eligibility is re-established.

The Public Authority contribution for health benefits shall continue only to the extent that State funding equals or exceeds that currently authorized in the Welfare and Institutions code. In the event the State government reduces their participation in benefits, benefits shall be reduced to the level that the State will participate in benefits for Riverside County. The Public Authority shall not be obligated to provide health benefit contributions should the State contribution be eliminated.

Based upon premium costs, IHSS Providers may be required to pay no more than ten percent (10%) of the monthly plan premium.

In recognition of the importance of health care to IHSS Providers and to the Public Authority, and the direct relationship between the health of the IHSS Providers and their ability to provide quality, reliable care and protect the health and welfare of the Consumers they serve, both parties agree to work together to ensure the most comprehensive medical, dental and vision insurance coverage possible, considering the available funds.

Section 2. Health Benefit Newsletters and Non-confidential Correspondence

In order to ensure that employees receive accurate health benefit information, the Public Authority and the Union mutually understand and agree that any newsletters and non-confidential correspondence to be sent to IHSS Providers regarding their health benefits will be reviewed and approved by both parties in advance of distribution. The parties mutually agree to provide each other with an electronic copy of said correspondence at least three (3) business days in advance of distribution, and the parties agree to review said correspondence within two business days.

The Union and the Public Authority understand and agree that a notice of correction will be mailed by the responsible party if incorrect benefit information is distributed. The Union also agrees to post a link to health plan information provided by Exclusive Care on the UDWA website.

Section 3. Remittance of Health Benefit Payments

The Union will remit health benefit payments collected from eligible IHSS Providers through payroll deduction to the Public Authority within thirty (30) days of their receipt of payment from the State Controller's Office. If circumstances arise that are beyond the control of the Union, the Union will immediately notify the Public Authority of any delay beyond the aforementioned thirty (30) days. In this event the Union will make every attempt to remit funds as soon as possible.

ARTICLE VIII

CONSUMER RIGHTS AND CONFIDENTIALITY

Section 1. Consumer Rights:

Consumers have the sole and undisputed right to hire and supervise the work of any IHSS Provider and to terminate any IHSS Provider without cause and without notice. Consumers shall retain their right to train and direct services rendered by the IHSS Provider as set forth in the Welfare and Institutions Code. Consumers shall have the right to determine in advance and under all circumstances who may or may not enter their home.

Section 2. Information Regarding Consumers:

The Union shall neither seek nor receive information from the Public Authority regarding the name, address, telephone number, or any other personal information regarding Consumers. Union representatives and IHSS Providers shall maintain strict standards of confidentiality regarding Consumers and shall not disclose personal information pertaining to Consumers obtained from any source unless the disclosure is compelled by the legal process or otherwise required by law. In the event Consumer information is disclosed pursuant to this section, the Consumer and the Public Authority shall be immediately notified of such release of disclosure.

The Consumer may voluntarily consent to the limited disclosure of information described herein and such consent may be withdrawn at any time and for any reason.

Section 3. Visits by Union Representatives:

Union representatives shall not conduct union business, including business related to the enforcement of this Agreement, at the homes of Consumers unless the home of the Consumer is also the home of the IHSS Provider. If the home of the Consumer is also the home of the IHSS Provider, no Union business, including business related to the enforcement of this Agreement, shall take place during hours allocated for the provision of authorized services.

ARTICLE IX

TRAINING

All new IHSS Providers may be required to attend a pre-hire briefing which will cover IHSS Providers' obligations under the program.

Prior to acceptance onto the Public Authority Registry, IHSS Providers who have successfully completed the registry application process are required to attend a pre-hire briefing which will cover the registry functions and IHSS Providers' obligations.

Consistent with California Welfare and Institutions Code Section 12301.6, the Public Authority shall provide for training for IHSS Providers and Consumers of IHSS services. The Public Authority will develop and implement a training plan with input from the Union in the Labor-Management Committee. The plan and any curriculum shall also be presented to the IHSS Advisory Committee for their input. The plan may include the procurement of Cardio-Pulmonary Resuscitation Certification (CPR) Training.

ARTICLE X **UNION RIGHTS**

Section 1. Work Access

The Public Authority agrees to admit to its administrative office, the authorized Union representative(s) for purposes of adjusting grievances and conducting other legitimate, appropriate Union business related to enforcing and monitoring the Agreement, provided that the Union representative has first contacted an official of the Public Authority and secured his/her approval to enter the office. The Union shall notify the Public Authority of the names of its authorized representatives and access shall be limited to these persons. The Public Authority shall not unreasonably withhold access.

Section 2. Dues Deductions

The Union has the exclusive privilege of dues deduction for all IHSS Providers in the bargaining unit covered by this Agreement. The Union will advise the State Controller, as the payroll agent for the IHSS Providers, to deduct all authorized dues, fees and/or assessments as voluntarily requested by bargaining unit members. The Public Authority will assist and cooperate with the Union and the State Controller to ensure the timely deduction of said dues, fees and/or assessments and the timely and accurate reporting to the Union of all such payments made pursuant to this Agreement.

Union dues shall be deducted, as authorized by each IHSS Provider, from bargaining unit wages and other earned compensation, including "lump sum" and/or retroactive pay.

The Public Authority shall provide, or assure the Union receives, on a regular monthly basis, the following information in order to perform dues deduction processing for its members: IHSS Provider name, Social Security number, 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, by a means mutually agreeable to both parties. As a condition of this Agreement, the Union agrees to indemnify, defend, and hold harmless the Public Authority with respect to the release of Home Care Provider personal identifiable information (PII).

Section 3. New Provider Orientations

The Union shall be entitled to attend and make presentations at new provider orientations. The Public Authority shall provide reasonable notice to the Union of scheduled new provider orientations. The Public Authority shall provide an opportunity for Union representatives to make presentations at such gatherings. All material presented shall be in good taste and shall not malign the Public Authority or its representatives.

ARTICLE XI

GRIEVANCE PROCEDURE

Section 1. Pay Status During the Grievance Process:

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 IHSS Consumer's allocated service hours or as paid time.

Section 2. Discussion of Request or Complaint:

It is the intent of this procedure that grievances be settled at the lowest possible administrative level. Any IHSS Provider who believes that he/she has a justifiable request or complaint shall discuss the request or complaint with the Administrative Services Manager within fourteen (14) calendar days of the date on which the circumstances giving rise to the grievance occurred.

Section 3. Grievance Definition:

A "grievance" is the subject of a written request or complaint, which has not been settled as a result of the discussion required by Section 2 initiated by a IHSS Provider, a group of IHSS Providers, or the Union on behalf of a specifically named IHSS Provider or a specifically named group of IHSS Providers, arising out of a dispute concerning the application or interpretation of the specific terms and conditions set forth in this Memorandum of Understanding, Ordinance, rule, regulation, or policy concerning wages, hours, and other terms and conditions of employment. All other matters are excluded from the grievance procedure including, but not limited to:

- A. Matters over which the Public Authority has final jurisdiction.
- B. Matters covered by the Public Authority Employer-Employee Relations Resolution.
- C. Requests or complaints, the solution of which would require the exercise of legislative power, such as the adoption or amendment or an ordinance, rule, regulation, or policy established by the Authority's Board of Directors.
- D. Matters concerning patients' rights.

E. Matters covered under the provisions of Article XI "B" of this Memorandum of Understanding.

F. Matters concerning any other subjects, unless the subject is covered by the expressed terms of this Agreement that relate specifically to wages, hours, and other terms and conditions of employment.

Section 4. Freedom from Reprisal.

No IHSS Provider shall be subject to coercion for discussing a request or complaint with Public Authority Management or for the good faith filing of a grievance petition.

Section 5. Representation Rights.

IHSS Providers covered by the provisions of this Agreement are entitled to representation in the preparation and presentation of a grievance at any step of this grievance procedure.

Section 6. Timeliness.

A grievance shall be deemed untimely and otherwise null and void if it is not filed within fourteen (14) calendar days of the date on which the informal discussion described in Section 2 above occurred.

Section 7. Grievance Procedure Steps.

All grievances shall be processed in the following manner:

All grievances must be set forth in writing on a mutually agreed-upon grievance form supplied by the Public Authority citing the alleged violation of the Agreement, and identifying both the specific article and section of the Agreement that the Public Authority is alleged to have violated and the specific remedy requested. No grievance petition shall be accepted for processing until the form is complete. Such grievance shall set forth the specific section(s) of the Memorandum of Understanding violated as provided under Section 3 of this Article.

Extension of Time. The time limits set forth below within which action must be taken or a decision made as specified in this procedure may be extended by mutual written consent of the grievant (or the union representative) and the person before whom disposition of the petition is pending.

Step 1: Executive Director:

If the grievance is not settled informally between the provider/grievant and the Administrative Services Manager, the grievant may submit the grievance within ten (10)

calendar days of receipt of the decision of the Administrative Services Manager to the Executive Director of the Public Authority.

If the grievant requests a meeting with the Executive Director, such meeting with the Executive Director or his/her designee shall take place within ten (10) calendar days after receipt of the Step 2 written response by the Public Authority, or at a time mutually agreed to by the parties.

The Executive Director or his/her designee shall respond to the grievance within ten (10) calendar days of the receipt of the written grievance or from the date of the meeting with the grievant, whichever is later.

Step 2: Mediation.

If the grievance is not settled at Step 1, the parties may voluntarily agree to use mediation to resolve the issue in dispute. The parties shall request an impartial mediator from the State Mediation and Conciliation Service to meet with the parties to attempt to resolve the grievance within twenty (20) calendar days after the completion of Step 1 or at a time mutually agreed to by the parties. The costs of mediation, if any, shall be shared equally by the parties. It is intended that the Mediator shall only serve as a facilitator to assist the parties in resolving the issue(s) in dispute and that he/she does not have the authority to order a remedy.

Step 3: Advisory Arbitration.

In the event the parties are unable to resolve the issues in dispute during mediation, the grievance may be submitted to advisory arbitration and decision by the Board of Directors.

The Board of the Public Authority shall either accept or reject the arbitrator's decision, or accept part of the decision and reject the rest, without further testimony from either party. If the Board rejects all or part of the Arbitrator's decision, the Board shall state the reasons for its rejection. The decision of the Board of the Public Authority shall be final. Unless otherwise mutually agreed, proceedings conducted at any step of the grievance procedure shall be private except the proceedings before the Board of Public Authority.

No grievance may proceed to advisory arbitration unless and until it has been submitted to Step 1 of this grievance procedure. The request to proceed to arbitration must be filed in writing within fifteen (15) calendar days from the completion of the previous step of this grievance procedure.

- A. After submission of a request for review, the Union and the Public Authority's Employee Relations Manager or a designee shall attempt to agree on an arbitrator.

- B. The parties shall maintain a jointly negotiated list of up to eleven (11) arbitrators who shall be selected by the striking method. The only remaining name after the striking process shall serve as the arbitrator. If unable to agree on who should strike first, the first name shall be struck by the party winning the toss of a coin. The list shall include no fewer than seven or more than eleven names. If the arbitrator chosen is unable to serve within a time frame acceptable to both parties, the last name struck will serve as the arbitrator.
- C. If either party wishes to have a transcript of the arbitration proceedings, the requesting party will be solely responsible for all costs associated with the transcript. If both parties request a transcript, the cost shall be shared equally. The expenses of the arbitrator, if any, shall be shared equally by the parties.
- D. Each party shall make arrangements for and pay expenses of witnesses that are called by such party. Such arrangements shall be made through the Public Authority's Employee Relations Manager, or a designee, at least two (2) working days in advance of the hearing date. When the grievant is self-represented or represented by other than the Exclusive Employee Organization, the employee shall deposit one-half (1/2) of the estimated hearing costs (including transcripts) with the Employee Relations Manager who shall determine the estimate and process grievant's deposit.
- E. Prior to the arbitration hearing, the grievant and the Employee Relations Manager, or a designee, shall meet and attempt to prepare a joint statement of the issues which describes the existing controversy to be heard by the arbitrator. If the parties are unable to agree on a joint statement, each shall prepare a separate statement of issues.
- F. The arbitrator shall render a decision only on those issues within the statement of the issues submitted by the parties. Issues which have not been raised and considered at an earlier step of the grievance procedure shall not be considered by the arbitrator.
- G. If the arbitrator sustains the grievance, a remedy shall be fashioned that does not conflict with the provisions contained in this Memorandum.
- H. Arbitration proceedings shall be conducted pursuant to the Voluntary Labor Arbitration Rules of the American Arbitration Association, unless the parties agree that the proceedings may be conducted pursuant to the Expedited Labor Arbitration Rules of the American Arbitration Association.
- I. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions. In addition, communications between Public Authority Representatives and Public Authority Management involved in an arbitration, and communications between the union representative

and the IHSS Provider who is the subject of an action shall be confidential and not subject to disclosure in a grievance hearing.

- J. Any arbitration expense incurred as the result of a postponement or cancellation of a hearing shall be borne by the postponing or canceling party.

Effect of Failure of Timely Action:

Failure of the grievant to file an appeal within the required time period at any step shall constitute an abandonment of the grievance. Failure of the Public Authority to respond within the time limit at any step shall result in an automatic advancement of the grievance to the next step.

ARTICLE XII **REGISTRY**

It is recognized that one of the primary missions of the Public Authority is assuring a registry to facilitate the referral of IHSS Providers for Consumers. Subject to the appeal process described in below, the Public Authority retains the exclusive right to list, refer, suspend, or remove with or without comment an individual IHSS Provider from the Registry.

Appeal Process:

The IHSS Provider will receive written notice from the Public Authority upon a decision to suspend or remove him/her from the registry. A copy of the written notice will be sent to the Union. The Union or the IHSS Provider may file a written appeal for such suspension or removal from the registry to the Administrative Services Manager of the Public Authority within ten (10) calendar days after receipt of the notice of the Administrative Services Manager's decision.

The appeal process is only applicable to IHSS Providers on the IHSS Registry. Those Individuals who are not on the registry are not eligible to utilize the appeal process provided herein:

Step 1. The Administrative Services Manager, if he/she deems its necessary, may schedule a meeting with the IHSS Provider within ten (10) calendar days after receipt of the written appeal. If requested by the IHSS Provider, a Union representative may be present during such meeting.

Step 2. If the Administrative Services Manager's decision is not satisfactory to the IHSS Provider, he/she may appeal it to the Executive Director of the Public Authority. Such appeal must be in writing and must be received by the Executive Director within ten (10) calendar days after the Administrative Services Manager's Step (1) decision and response.

The Executive Director shall issue his/her written decision to the IHSS Provider and a copy to the Union within fifteen (15) calendar days from receipt of the appeal. Such decision by the Executive Director shall be final and binding and neither the IHSS Provider nor the Union shall have the right to seek further resolution of the matter through administrative or judicial means including, but not limited to, any grievance procedure or arbitration proceeding.

ARTICLE XIII **ANTI-STRIKE CLAUSE**

It is hereby agreed that neither the Union nor the IHSS Providers covered under the provision of this Agreement shall take part in, call for, sanction, foster, or support any strike, work stoppage, slow-down, sick-in or refusal to perform customary duties.

Should a strike, sick-in, picketing, boycott or any other interruption of work occur, the Public Authority shall notify the Union of the existence of such activity and the Union will take all reasonable steps to terminate such activity and induce the IHSS Provider to return to work.

This provision shall continue in full force and effect for the term of this Agreement and for a minimum of one (1) year beyond the term of this Agreement.

ARTICLE XIV **WAGES**

Section 1.

Effective July 1, 2007, wages for all IHSS Providers covered by this Agreement shall be increased by \$0.75 to \$9.75 per hour effective on the first of the month following approval by the Board of Supervisors as Governing body of the Public Authority, and State approval of the Public authority rate and completion of required State programming of Case Management Information and Payroll System (CMIPS) to reflect such wage increase.

Effective July 1, 2008, wages for all IHSS Providers covered by this Agreement shall be increased by \$0.50 to \$10.25 per hour.

Effective July 1, 2009, wages for all IHSS Providers covered by this Agreement shall be increased by \$0.50 to \$10.75 per hour.

Effective July 1, 2010, wages for all IHSS Providers covered by this Agreement shall be increased by \$.75 to \$11.50 per hour.

These wages are subject to the conditions outlined in Section 3 of this Article.

Section 2.

The term of this Agreement shall be July 1, 2011 through December 30, 2012.

Section 3. Wage Contingency

If, during the term of this Agreement, either State or Federal participation levels are reduced, State caps their funding participation in a Provider Wage lower than wages paid under this Agreement, or either the State or federal sharing formula is modified in any manner that would result in an increased cost to the County to maintain the wage and/or benefit level described in this Agreement, then the County's overall contribution will not increase, rather the IHSS provider wages will be adjusted to reflect the reduced State and/or Federal contribution.

The Public Authority shall make every effort to provide to the Union a written description of any adjustments to be made pursuant to this section at least fourteen calendar (14) days prior to the effective date of such adjustments. Upon receipt of a written request from the Union to do so, the Public Authority will meet and confer regarding the impact of the above-described loss of funding or funding participation wage cap. In no case will the County, be required to increase its contribution level toward the affected benefit and/or wages, as applicable.

ARTICLE XV **AGENCY SHOP**

Section 1. IHSS Provider Obligation

IHSS Providers must either become and remain members of the Union and pay Union dues, or pay an agency fee to the Union in an amount that does not exceed that which may be lawfully collected. Such dues or fees shall be deducted from the IHSS Provider's paycheck on a monthly basis starting the first day of the month following completion of sixty (60) days (thirty (30) days if feasible) of employment, subject to the limitations and practices of the State Controller's payroll system. This provision shall become effective the first day of the month following sixty (60) days (thirty (30) days if feasible) after certification.

Section 2. Employee's Right of Conscientious Objection:

A IHSS Provider who is a member of a bona fide religion, body, or sect that has historically held conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support any public employee organization as a condition of employment. The IHSS Provider must present a written declaration to the Union and the Public Authority that he/she qualifies for this exemption. The IHSS Provider shall be required, in lieu of periodic dues, initiation fees,

or agency shop fees, to pay sums equal to the dues, initiation fees, or agency shop fees to a non-religious, non-labor charitable fund exempt from taxation under Section 501 c. 3. of the Internal Revenue Code, chosen by the employee from a list of funds designated in this MOU.

Section 3. Designation of Nonreligious, Non-labor Charitable Funds:

IHSS Providers covered in in Section 2 above, may designate a non-religious, non-labor charitable fund to which his/her applicable payments will be paid from one of the following charities:

1. Alzheimer's Association
2. Community Action Partnership
3. The Center for Community Action and Environmental Justice

Section 4. Sufficiency of Employee's Earnings:

The IHSS Provider's earnings must be sufficient after required Federal and State deductions are made to cover the amount of dues or agency shop fees subject to the following limitations:

- a) When an IHSS Provider is in a non-pay status for a full period, no dues payment or agency shop fee will be withheld or due for that pay period.
- b) All required Federal and State deductions or other legal deductions shall have priority over Union dues and agency shop fees.

Section 5.

The Public Authority shall not deduct monies specifically earmarked for a Political Action Committee or other political activities unless such deduction is affirmatively, separately and specifically authorized in writing by the unit member.

Section 6. Union Indemnification:

UDW will indemnify, defend, and hold harmless the Riverside County Public Authority from any loss, liability, or cause of action arising out of the operation of this Article.

The Public Authority, immediately upon receipt of notice of legal action, shall inform UDW of such action, provide UDW with all information, documents, and assistance necessary for UDW's defense or settlement of such action, and fully cooperate with UDW in providing all necessary witnesses, experts and assistance for said defense.

UDW upon its compromise or settlement of such action, shall immediately pay the parties for such action all sums due under such settlement or compromise. UDW, upon final order and judgment of a Court of competent jurisdiction awarding damages to any

IHSS Provider covered under the provisions of this Agreement, shall immediately pay to such IHSS Provider all sums owed under such order and judgment.

ARTICLE XVI

FULL UNDERSTANDING, MODIFICATION AND WAIVER

Section 1.

This Memorandum of Understanding sets forth the full and entire understanding of the parties regarding the matters set forth herein and any other prior or existing understandings or agreements by the parties, whether formal or informal, regarding any such matters are hereby superseded or terminated in their entirety.

Except as modified herein or as otherwise required by law, existing wages, hours and other terms and conditions of employment set forth in applicable Public Authority Ordinances and related resolutions and regulations shall continue in effect.

Section 2.

It is the intent of the parties that this Memorandum of Understanding be administered in its entirety in good faith during the full term. It is recognized that during such term, it may be necessary to make changes in rules or procedures affecting the employees in the Unit. Where Management finds it necessary to make such changes, it shall notify the Union of the proposed change prior to its implementation.

Where such changes would significantly affect the working conditions in the unit, where the subject matter of the change is subject to negotiations pursuant to the Meyers-Milius-Brown Act, and where the Union requests to negotiate with Management, the parties shall expeditiously undertake negotiations regarding the effect the change would have on the IHSS Providers represented by the Union.

Nothing herein shall limit the authority of Management to make necessary changes required during emergencies. However, Management shall notify the Union of such changes as soon as practicable. Emergency is defined as an unforeseen circumstance affecting life or property requiring immediate implementation of the change.

Where Management makes any changes in working conditions because of the requirements of Federal or State law, the Authority shall not be required to renegotiate the matter or manner of compliance with such law where manner of compliance is specified by such law.

Section 3.

Except as specifically provided herein, it is agreed and understood that each party voluntarily and unqualifiedly waives its right, and agrees that the other shall not be

required, to negotiate with respect to any subject or matter covered herein or with respect to any other matters within the scope of negotiations during the term of the Memorandum of Understanding.

Section 4.

Any agreement, alteration, understanding, variation, waiver or modification of any of the terms or provisions contained herein shall not be binding upon the parties hereto unless made and executed in writing by all the parties hereto and, if required, approved and implemented by the Public Authority's Board of Directors.

ARTICLE XVII **SEPARABILITY**

It is understood and agreed that this Memorandum of Understanding is subject to all present and future applicable Federal and State laws, regulations, and the provisions of the Public Authority's Employer-Employee Relations Resolution and that the provisions hereof shall be effective and implemented only to the extent permitted by such laws and regulations. If any part of this Memorandum of Understanding is in conflict or inconsistent with such applicable provisions of Federal or State laws or regulations, such part or provision shall be suspended and superseded by such applicable laws and regulations and the remainder of this Memorandum of Understanding shall not be affected thereby and shall remain in full force and effect.

ARTICLE XVIII **LABOR-MANAGEMENT COMMITTEE**

Section 1.

The Public Authority and the Union recognize the importance of maintaining an effective working relationship in order to fulfill the mission of the IHSS program and provide quality, reliable care to all Consumers. Both parties recognize their responsibility to address any program matter that might affect this goal.

Section 2.

The Public Authority and the Union shall establish a Labor-Management Relations Committee. The purpose of the Committee shall be to consider and recommend action on matters affecting the relations between the parties, and to recommend measures to improve Consumer care, IHSS Provider training, and the IHSS program. The parties shall neither engage in negotiations nor agree to any changes that increase Public Authority expenditures or affect wages, hours, and other terms and conditions of employment. The committee also shall not consider matters properly the subject of a grievance.

- (a) Each party shall select their own participants for the Committee. However, either party may request the removal of a participant from the other's group if that participant becomes too disruptive to the work of the committee.
- (b) The Committee shall consist of four (4) Union representatives and up to four (4) alternates and four (4) Public Authority representatives and up to four (4) alternates. Alternates may serve only as observers. Recommendations of the committee shall be decided by a showing of consensus and not by a majority vote.
- (c) The Committee chair will be alternate between the two parties. The Chair is responsible for preparing the mutually agreed upon agenda.
- (d) The Committee may meet as frequently as agreed to by the parties, but shall convene no less than quarterly.
- (e) Minutes will be prepared by the Public Authority and the Union, with alternating responsibility, within thirty (30) days of each meeting.
- (f) The Public Authority and the Union will address each recommended item within a reasonable amount of time or as agreed to by the parties.
- (g) Union Committee members serve on a voluntary basis and will not receive any remuneration from the Public Authority for their participation on the Committee.

The parties hereto agree that, as a condition of agreement, designated committee members from both the Public Authority and the Union shall attend joint training sessions provided by the Federal Mediation and Conciliation Service (FMCS) regarding joint labor-management committee rules/procedures prior to the initial meeting.