
MEMORANDUM
OF
UNDERSTANDING

BETWEEN

EL DORADO COUNTY IN-HOME SUPPORTIVE SERVICES

PUBLIC AUTHORITY

AND

UNITED DOMESTIC WORKERS OF AMERICA,

AFSCME, Local 3930, AFL-CIO

FOR THE TERM OF

July 1, 2010 – June 30, 2013

MEMORANDUM OF UNDERSTANDING

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INTRODUCTION

This Memorandum of Understanding, hereinafter referred to as “Memorandum” or “MOU”, is made by and between the El Dorado County In-Home Supportive Services Public Authority hereinafter referred to as the “IHSS Public Authority” or “Public Authority” and the United Domestic Workers of America, AFSCME, Local 3930, AFL-CIO hereinafter referred to as “UDWA” or “Union”, representing those Independent IHSS Providers hereinafter referred to as “IHSS Providers” or “Providers” who are members of the In-Home Supportive Services Bargaining Unit.

This Memorandum constitutes the result of meeting and conferring in good faith pursuant to the appropriate provisions of the California Government Code (Section 3500 et. seq.), the California Welfare and Institutions Code (Section 12300 et. seq.), El Dorado County Ordinance No. 4612 (Title 8, Chapter 8.76 of The Code of the County of El Dorado) and the IHSS Public Authority Employer-Employee Relations Resolution.

This Memorandum formalizes the unique relationship defined in law between the IHSS Public Authority and the Union. It is recognized by the parties that the IHSS Public Authority does not employ or manage the IHSS Provider workforce in the role of a traditional employer. IHSS Consumers retain the exclusive right to hire, terminate, train, and supervise the work of any IHSS Provider who delivers services to them. The Union and the IHSS Public Authority commit themselves in this MOU to goals that benefit both this workforce and consumers of IHSS services.

The IHSS 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 Memorandum will require the assistance and cooperation of agencies that are not party to this Memorandum. The IHSS 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 Memorandum.

It is recognized and acknowledged by the parties to this Memorandum that the IHSS Public Authority is an independent legal entity, separate and apart from the County of El Dorado and the IHSS Public Authority has no power to bind the County to any contractual or legal obligations. Obligees of the Authority may not seek recourse against the County of El Dorado for any financial or legal obligation of the Authority. Nothing in this Memorandum is intended nor shall it be interpreted or applied to conflict with Section 8.76.080 of El Dorado County Ordinance 4612 as such existed on the effective date of this MOU.

SECTION 1. RECOGNITION

1.1 Recognition

The Public Authority recognizes the Union as the exclusive representative of IHSS Providers in the County of El Dorado. This Agreement does not apply to others affiliated with, contracted by or employed by the Public Authority, including without limitation, administrative and operational staff.

SECTION 2. NONDISCRIMINATION

2.1 Nondiscrimination

There shall be no discrimination in the interpretation, application, or enforcement of the express terms of this MOU because of sex, race, creed, color, national origin, sexual orientation, age, disability or participation or non-participation in Union activities against any Provider by the IHSS Public Authority or by the Union. Neither the Public Authority nor the Union shall discriminate against any Provider because of the exercise of his or her rights pursuant to the terms of this Memorandum.

SECTION 3. CONSUMER RIGHTS

3.1 Consumer Rights

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

- A. Hire Providers of their choice;
- B. Terminate Providers from their service, at will;
- C. Determine who may and may not enter their home and,
- D. Supervise and direct the work of the Providers who are providing services to them within the scope of authorized services.

3.2 Consumer Confidentiality

The Union shall not seek information regarding the name, address, phone number or any other personal information regarding IHSS Consumers. Union representatives and IHSS 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.

3.3 Right to Privacy

The Union shall not intentionally contact either the Consumer or the Provider at the Consumer's home without the express permission of the Consumer or, the express permission of the Consumer's legal guardian or legal conservator. It is recognized that the Union may, from time to time, inadvertently contact a Provider at the Consumer's home because Providers sometimes use Consumers' home addresses and/or phone numbers for contact purposes without informing the Union of this fact. However, once the Union becomes aware that a contact address or phone number belongs to a Consumer; the Union shall immediately comply with the provisions of this section. This section does not apply to contact with the Provider when the Provider and the Consumer share the same residence.

SECTION 4. MANAGEMENT RIGHTS

4.1 Management Rights

Nothing herein shall be construed to restrict the right of the Public Authority with respect to matters of general legislative or managerial policy. Except as otherwise specifically provided, nothing in this Memorandum shall be construed to limit the Public Authority's right to determine its mission; to maintain the efficiency of the Public Authority's operations; to set standards of service; to determine the methods, means, and personnel by which the Public Authority's delivery of In-Home Supportive Services are to be carried out; to take all necessary action to carry out its mission in emergencies; and to exercise complete control over its organization and the technology of performing work.

Except as otherwise specifically provided, nothing herein shall be construed to authorize the Public Authority to direct Independent Providers, to take disciplinary action as to IHSS Providers, or to relieve IHSS Providers from duty.

SECTION 5. UNION RIGHTS

5.1 Lists and Information

The Public Authority will provide the Union with information lists regarding represented IHSS Providers subject to the following:

- A. To the extent State and Public Authority data-processing systems permit, the IHSS Public Authority shall, on a monthly basis, provide to the Union a list of all current Providers, including name, Social Security Number or other personal identification number required by the State Controller's Office, address, telephone number, languages and hours worked, if available. The list shall be provided on diskette or via electronic mail in a mutually agreed upon format.

- B. The Union shall defend, indemnify, and hold harmless, release and save the Public Authority and its respective boards, directors, officers and employees from any and all claims, demands, suits, orders, judgments or other forms of liability that shall arise out of or by reason of, action taken or not taken by the Public Authority or any other action alleging that the Union has misused or inappropriately disclosed Provider Social Security Numbers obtained from the Public Authority. The Union shall reimburse the Public Authority for all reasonable costs, including but not limited to, Attorney's fees, costs, and the staff time associated with any matter that falls within the scope of this clause.

5.2 Bulletin Board Space

The Public Authority will provide bulletin board space for use by the Union, on a bulletin board located at the Public Authority Office, provided the communications displayed concerns one or more of the following subjects:

- A. Information concerning Union elections or the results thereof.
- B. Reports of official business of the Union, including reports of committees of the Union's Board of Directors.
- C. Union recreational, social and related news bulletins, scheduled meetings.

All material shall clearly state that it is prepared and authorized by the Union. All material posted shall be in good taste and shall not malign the Public Authority or its representatives. Such use shall not interfere with the legitimate needs of the Public Authority. The IHSS Public Authority reserves the right to remove any material posted in violation of this Section. If the Public Authority does remove material posted by the Union, it will notify the Union by telephone in a timely manner.

5.3 Official Representatives, Stewards

The Union shall provide a current Official Representatives List to the Public Authority Manager. The list shall include the name, title, telephone number, mailing address and e-mail address (when available) of the Union's official representatives, including stewards. The Union shall notify the Public Authority of any changes to the List. Official Representatives of the Union and/or stewards shall not be recognized by the IHSS Public Authority until such list or changes are provided in writing to the Public Authority, or designee of the Public Authority.

5.4 New Provider Orientations

The Union may attend and make presentations at new provider group orientations subject to the following:

- A. The Public Authority shall provide reasonable notice to the Union of scheduled new provider group orientations. The Public Authority shall provide an opportunity for Union

representatives to make presentations at such gatherings. All material presented by the Union shall be in good taste and shall not malign the Public Authority or its representatives.

- 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.

5.5 Union Membership and Fair Share Fee/Agency Shop Fee Agreement

The Union agrees that it has a duty to provide fair and non-discriminatory representation to all Providers in the unit regardless of whether they are members of the Union.

- A. Providers shall, as a condition of employment, either:
 - 1. Become and remain a member of the Union; or
 - 2. Pay to the Union an Agency Shop Fee in an amount that does not exceed an amount that may be lawfully collected under applicable laws. It shall be the sole responsibility of the Union to determine an agency shop fee which meets the above criteria; or
 - 3. Do both of the following:
 - (a) Execute a written declaration to the Union with a copy to the Public Authority Manager or designee indicating that the IHSS Provider is a member of a bona fide religion, body or sect which has historically held a conscientious objection to joining or financially supporting any public employee organization as a condition of employment; and
 - (b) Pay a sum equal to the Agency Shop Fee described above to a non-religious, non-labor, charitable fund chosen by the Provider from among the following charities:
 - (1) El Dorado County Senior Nutrition Program.
 - (2) El Dorado County Senior Day Care.
 - (3) National Family Caregivers Support Program, El Dorado County.
 - 4. The Union shall provide the Public Authority Manager or designee a copy of the Union's Agency Shop Fee procedure and each revision thereof and shall provide notice of said procedure to bargaining unit members as required by all applicable laws. Failure by a Provider to invoke the said procedure within one month after actual notice shall be

a waiver by the Provider of his/her right to contest the amount of the Agency Shop Fee, unless otherwise required by law.

5. Annually, the Union shall provide the Public Authority Manager with copies of the financial report required pursuant to the Labor-Management Disclosure Act of 1959. Such report shall be available to Providers in the unit within sixty (60) days after the end of the fiscal year and shall include an itemization of the expenditures of the Union in detail necessary for a Provider to be able to reasonably determine what portion of regular membership dues would be allocated to the cost of meeting and conferring and the administration of the MOU.

B. No Fair Share Fee service fee shall be collected from any Provider who is not paying dues or a Fair Share Fee until the Provider has received written notice from the Union, which includes legally adequate information concerning the breakdown of “chargeable” and “non-chargeable” expenses. A prompt, legally sufficient opportunity, as provided below, shall be established by the Union for challenge of the amount of the fee. The Union shall set up an escrow account for the amounts in dispute while such challenges are pending. Specifically, such notice shall, at a minimum, include a Fair Share Fee Explanation and Notice of Right to Challenge as follows:

1. An itemization of the expenditures of the Union reviewed and signed by an auditor from a certified public accounting firm in detail necessary for a Provider to be able to reasonably determine what portion of regular membership dues would be allocated to the cost of negotiation and contract administration as referenced above.
2. The amount of the Fair Share Fee shall not exceed the proportion of dues calculated as referenced above. The Provider who makes a request for a breakdown of “chargeable” and “non-chargeable” expenses shall be provided this information by the Union.
3. The procedure on how non-members may file a challenge with the Union to the amount of the Fair Share Fee. Such procedure shall be legally sufficient and shall include an escrow account for the monies reasonably in dispute. The Union shall provide the Public Authority with copies of all challenges and decisions. The Public Authority shall not be made a party to any administrative or court proceedings to determine the Fair Share fee.

C. Such dues or fees shall, as a condition of continued employment, be deducted from the Provider’s paycheck on a monthly basis starting the first day of the month following the completion of thirty (30) days of employment, subject to the limitations and practices of the State’s payroll system. This provision shall become effective the first day of the month following thirty (30) days after certification.

- D. The Provider's earnings must be sufficient after required deductions are made to cover the amount of the dues or Agency Shop Fees.
- E. The IHSS Public Authority and the Union will cooperate in the implementation and subsequent administration of this section.
- F. An IHSS Provider may withdraw his/her Union membership by notifying the Union in writing of his/her desire to do so. An IHSS Provider who does withdraw his/her Union membership shall be subject to the provisions of either Section 5.5 A. 2. or Section 5.5 A. 3. whichever is appropriate.
- G. The Union shall defend, indemnify and hold harmless, release and save the IHSS Public Authority, its officers, agents and employees, against any and all claims, demands, suits, orders, judgments or other forms of liability, or any other action, from any parties other than the Union, that shall arise out of, or by reason of the Fair Share Agreement and/or other Union-related deductions from Providers' paychecks. This includes but is not limited to the collection and procedures for collection of fair share fees or membership dues. The Union shall reimburse the Public Authority for all reasonable costs; including, but not limited to Attorney's fees, costs, and the staff time associated with any matter that falls within the scope of this clause.
- H. The provisions of Government Code Section 3502.5 involving rescission of this agency shop provision shall apply.

SECTION 6. WAGES

6.1 Wages

For the term of this MOU, the wages for all represented IHSS Providers shall be \$9.00 per hour, subject to the contingency in Section 6.2 and the reopening of negotiations as set forth in Section 6.3.

6.2 Wage and Benefits Contingency

- A. If either State or Federal participation levels are reduced or, either the State or Federal sharing formula is modified in any manner that would result in an increased cost to the Public Authority to maintain the wage and/or benefit levels described in this MOU, wages and/or benefits paid by the Public Authority will be reduced proportionately to ensure Public Authority expenses do not exceed State and Federal required match. Any reductions in wages and/or benefits will remain in accordance with applicable State and Federal laws and regulations.

- B. The Public Authority shall provide to the Union a detailed written description of any adjustments to wages and/or benefits to be made pursuant to this section at least thirty (30) days prior to the effective date of such adjustments.

6.3 Wage Reopener

The Union and the Public Authority shall open negotiations twice during the term of this MOU regarding wages only. No other matters within the MOU will be open for discussion during these reopener negotiations. Negotiations shall commence no sooner than April 1, 2011 and April 1, 2012.

During the term of this MOU, if either State or Federal participation levels are increased, or either the State or Federal sharing formula is modified in any manner that would result in a reduced cost to the El Dorado County Public Authority to maintain the wage and benefit levels described in this MOU or would provide additional funds at no additional cost to the County that could be used for program or benefits enhancements, the parties shall reopen negotiations regarding the issue of wages and benefits only.

SECTION 7. BENEFITS

7.1 Union Health Care Trust Fund

- A. The Public Authority agrees to the establishment of a Union Health Care Trust Fund (“Trust”) for the sole purpose of providing health care benefit programs to eligible individual Providers covered under the MOU. The Union shall operate the Trust and health care benefit programs in accordance with all applicable Federal and State laws. Funds in the Trust shall be used exclusively to provide health care benefit programs to eligible Providers of the El Dorado County IHSS Public Authority and shall not be co-mingled with any Union funds or funds of other entities, including other Public Authorities that may also participate in the Trust.

The Public Authority shall have no responsibility for administering health care benefits. The Union shall be solely responsible for the provision of health care benefits and the administration of the health care benefit programs for Providers.

- B. Funding Mechanism:

The Public Authority shall fund the Trust with payments of no more than \$0.60 per hour for every Provider hour actually worked in a month, per the Provider Actual Paid Hours Report, up to a maximum payment of \$42,500 per month or \$510,000 per year. As of the first month the Trust becomes effective, the Public Authority shall fund the Trust in an amount equal to \$0.60 per hour, up to \$42,500, based on the actual hours worked in the previous month. Subsequent monthly payments will be based on actual hours worked in the previous

month and shall be adjusted as necessary to reconcile the advance payment to actual hours worked.

The Public Authority's funding for the Trust for health care benefit programs shall continue only to the extent that State funding equals or exceeds the amounts currently authorized in the Welfare and Institutions code. If State funding is reduced or eliminated, the Public Authority's obligation to fund the Trust shall be reduced or eliminated in accordance with the same terms and conditions set forth in Section 6. Wages and the monthly payment shall be adjusted accordingly.

The sole obligation of the Public Authority is to provide funding for Provider health care benefits and to make payments to the Trust as set forth in this Section 7.1. The Public Authority in no way warrants the financial stability of the Trust or guarantees the amounts that will be paid in benefits.

The Public Authority is not a party to the Trust and has no independent obligation to provide any funding to the Trust. The Public Authority has no obligation to provide any other funding for health care benefits.

7.2 Trust Fund Reports

Quarterly or more frequently upon written request, the Union will provide to the Public Authority a copy of the Trust Fund Financial Report. The report shall include actual costs of the health benefit plan premiums, member contributions towards medical insurance, eligible Provider participation level, rate increases by insurance carriers, a summary of remaining fund expenditures, and the beginning and ending cash balance of the fund. Additionally, at the end of each year of this MOU, the Public Authority will be allowed to perform a full financial audit of the Union Health Care Trust Fund at no cost to the Union.

7.3 Indemnification

The Union shall defend, indemnify and hold harmless, release and save the Public Authority and its respective boards, directors, officers and employees from any and all claims, demands, suits, orders, judgments or other forms of liability that shall arise out of or by reason of, action taken or not taken by the Public Authority or any claims or legal actions brought under this agreement. The Union shall reimburse the Public Authority for all reasonable costs; including, but not limited to Attorney's fees, costs, and the staff time associated with any matter that falls within the scope of this clause.

7.4 Termination of Payments

In the event the Trust created to provide health care benefit programs terminates, or otherwise fails to provide the health care benefit programs as set forth in the Trust Agreement, the Public Authority's obligation to make funding contributions to the Trust shall cease. The Union shall notify the Public Authority in writing within three (3) calendar days of any action or proposed action to terminate, revise the Trust, eliminate or reduce the health care benefit programs provided by the Trust.

SECTION 8. REGISTRY

8.1 Registry Services

It is recognized that one of the Public Authority's primary missions is to provide assistance to IHSS Consumers in finding IHSS Providers through the establishment of a Registry. The operation of the Registry will be conducted in such a way as to respect the rights and needs of both Consumers and Providers. The Public Authority will adopt written procedures regarding the operation of the Registry and shall make a copy of the most current version of these procedures available to the Union.

Nothing in this Section shall be construed to limit the IHSS Public Authority's exclusive right to: list; refer with or without comments regarding training, experience and availability; suspend; or, remove an individual Provider from the Registry.

8.2 Application

This Section only applies to IHSS Providers seeking employment through the Public Authority's Registry, and is not intended to abrogate in any way the rights of Consumers as set forth in Section 3. Consumer Rights of this Memorandum.

SECTION 9. LABOR-MANAGEMENT COMMITTEE

9.1 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 subject to the following:

- A. The committee will meet as mutually agreed by the parties. Unless mutually agreed otherwise, the Labor-Management Committee shall meet at least quarterly each calendar year.
- B. The role of the Committee will be advisory in nature. The Committee will have no authority to modify this MOU. Committee meetings will not serve as a substitute for, nor will they satisfy, the parties' mutual obligation to meet and confer in good faith regarding matters within the scope of bargaining.
- C. The Labor-Management Committee will be composed of a maximum of five (5) representatives appointed by the Public Authority and a maximum of five (5) representatives appointed by the Union. The Public Authority Program Manager will be one of the Committee members. At least one of the Union representatives will be a Union official. If a member of the Labor-Management Committee is unable to attend a scheduled meeting, a substitute, designated by either the Public Authority or the Union as appropriate, may attend the meeting in his/her place.

SECTION 10. TRAINING AND EDUCATION

10.1 Training and Education

The Public Authority shall provide training for IHSS Providers and Consumers in accordance with applicable State and Federal laws and regulations.

SECTION 11. DIRECT DEPOSIT OF PAYCHECKS

11.1 Direct Deposit of Paychecks

During the term of this Agreement if the State makes the direct deposit of paychecks available to Providers, the Public Authority will work cooperatively with the State and the Union to make direct deposit available, provided such service is made available at no additional cost to the Public Authority or the Provider.

SECTION 12. GRIEVANCE PROCEDURE

12.1 Definition and Procedural Steps

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

- A. Except as specifically provided herein, Provider participation in the grievance procedure in any capacity shall be solely on the Provider's own time, and shall not be treated as being within any Consumer's allocated service hours, or as paid time. The Union and the Public Authority recognize that Providers and Consumers are not always able to find replacements to cover the temporary absences of Providers. Therefore, with advance approval from the Public Authority, the Consumer may accompany the Provider during the processing of a grievance when the Public Authority has verified that there are no other reasonable scheduling opportunities available and the Consumer has agreed to accompany his/her Provider. Unless the Public Authority and the Union have mutually agreed in writing to the contrary, the filing and processing of a grievance shall not serve to stay any Public Authority action.

B. Grievances must be filed within thirty (30) calendar days of the incident or occurrence giving rise to the grievance and shall be processed in the following manner:

Step 1 (Informal): Any Provider who believes that a provision of this Agreement has been violated shall discuss the complaint with the Public Authority Program Manager or such representative as the Program Manager may designate. A decision by the Public Authority shall be issued within ten (10) workdays following the discussion.

Step 2 (Formal): If a grievance is not satisfactorily resolved at Step 1 above, the grievant or the Union may submit the grievance in writing to the Assistant Director of Human Services within ten (10) workdays of notice of the Step 1 decision. The grievance shall state which provision of the Agreement has been violated, and the remedy sought, if any.

The Assistant Director of Human Services or designee shall have ten (10) workdays in which to respond to the grievance in writing. If the Union requests a meeting with the Assistant Director of Human Services or designee, such a meeting will be held. If a meeting is held, the written response shall be ten (10) workdays following the meeting.

Step 3 (Mediation): If the grievance is not resolved at Step 2, either the Union or the Public Authority may, within ten (10) workdays of receipt of the written Step 2 response, file written notification with the other party that the grievance is being advanced to Step 3, Mediation. Within twenty (20) workdays of the request for mediation, the parties shall mutually agree to a Mediator.

In the event the parties are unable to agree on a mediator within the twenty (20) workdays, the parties shall request that the State Mediation and Conciliation Service assign a mediator to assist with the processing of the grievance.

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 (Director): If the grievance is not resolved at Step 3, either the Union or the Public Authority may, within ten (10) workdays of the conclusion of mediation, file written notification with the other party that the grievance is being advanced to Step 4, the Director of Human Services or designee.

The Director of Human Services or designee shall have twenty (20) workdays in which to

respond to the grievance in writing. If the Union requests a meeting with the Director of Human Services or designee, such meeting will be held. If a meeting is held, the written response shall be twenty (20) workdays following the meeting.

The decision of the Director of Human Services shall be the final administrative remedy. Nothing in this MOU shall preclude either party to a grievance from pursuing legal action once his/her administrative remedies have been exhausted.

12.2 Time Limits

Each party involved in a grievance shall act quickly so that the grievance may be resolved promptly. Every effort should be made to complete action within the time limits contained in the grievance procedure. If the grievant or the Union fails to file or advance a grievance within the above specified time limits, the grievance shall be forfeited. If the Public Authority fails to respond within the above-specified time limits, the grievant or the Union, whichever is appropriate, may advance the grievance to the next Step.

The Union and the Public Authority may agree to waive the time limits for the processing of a grievance. Such waivers shall be in writing and shall be for a specified period of time.

12.3 Workday

For the purposes of the above-described grievance procedures, a "workday" shall be defined as a day that the County's Administrative Offices are open to the public.

SECTION 13. NO STRIKES / NO LOCKOUTS

13.1 No Strikes

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.

13.2 No Lockouts

During the term of this Memorandum, the Public Authority agrees not to engage in a lockout of Providers who are covered by this MOU or take any other concerted action to prevent Providers from working or being paid for work already performed. The number of hours to be worked by an individual IHSS Provider shall be determined solely by agreement between the Provider and the appropriate Consumer; subject only to the limitations imposed by the number of the Consumer's authorized hours.

SECTION 14. FULL UNDERSTANDING, SAVINGS CLAUSE, TERM

14.1 Full Understanding

The Public Authority and the Union agree that this Memorandum of Understanding sets forth the full and entire understanding of the parties regarding the matters set forth herein. It is agreed and understood that each party hereto voluntarily and unqualifiedly waives its rights and agrees that the other party shall not be required to meet and confer during the term of this Agreement with respect to any matter covered herein, except regarding the interpretation of this Memorandum of Understanding. Nothing in this Section is intended to prevent the Public Authority and the Union from meeting and conferring during the term of this agreement regarding matters covered herein upon the mutual agreement of the parties to do so.

14.2 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. If any Article, section, clause, or provisions of this Agreement operate to withhold or prohibit the receipt of any State or Federal funds, such Article, section, clause, or provision shall be suspended to the extent that the Article, section, clause, or provision operates to withhold or prohibit the receipt of such funds. Should any provision of this Agreement be invalidated as described above, the Public Authority and the Union agree to meet and confer for the sole purpose of developing a mutually acceptable replacement provision.

14.3 Term

The term of this Memorandum of Understanding shall be from July 1, 2010 through June 30, 2013.

14.4 Notification

In the event either party desires to begin negotiations for a successor Memorandum of Understanding (MOU), either party may serve on the other a written request to commence negotiations for a successor MOU.

14.5 Contingency

All other terms and conditions of this MOU notwithstanding, it is expressly understood and agreed upon by the parties that if during the term of this agreement, the legal requirement that counties provide for an employer of record for independent IHSS Providers is either eliminated or made optional to the counties by any change in law or judicial decision, this MOU shall become null and void upon formal action by the County of El Dorado Board of Supervisors to eliminate the Employer of Record within

the County of El Dorado. The Public Authority will provide the Union with no less than thirty (30) days advance written notice of intended action by the Board of Supervisors.

COUNTY OF EL DORADO

**UNITED DOMESTIC WORKERS OF
AMERICA, AFSCME LOCAL 3930, AFL-CIO**

Date: _____

Date: 4-27-2012

John R. Knight, Chair
Board of Supervisors




Dong Moore, Executive Director

ATTEST: Suzanne Allen de Sanchez
Clerk of the Board of Supervisors



Laura Reyes, UDWA President

By: _____



Yvonne Olivares-Maldonado, Chief Negotiator

Date: _____



Josh Cain, Bargaining Team Member

ATTACHMENT A

**TRUST DOCUMENT -GOVERNING THE UDW AFSCME LOCAL 3930
EL DORADO COUNTY IHSS PROVIDER BENEFITS TRUST**

**TRUST DOCUMENT
GOVERNING THE
UDW AFSCME LOCAL 3930
EL DORADO COUNTY IHSS PROVIDER BENEFITS TRUST**

Effective: June 1, 2012

**TRUST DOCUMENT GOVERNING THE
UDW AFSCME LOCAL 3930
EL DORADO COUNTY IHSS PROVIDER BENEFITS TRUST**

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**TRUST DOCUMENT
GOVERNING THE
UDW AFSCME LOCAL 3930
EL DORADO COUNTY IHSS PROVIDER BENEFITS TRUST**

PREAMBLE

WHEREAS, the El Dorado County IHSS Public Authority ("Authority") and the United Domestic Workers of America ("UDW") have agreed in the Memorandum of Understanding ("MOU") dated _____ that the Authority will pay certain sums for the purpose of providing health benefits to eligible members of the El Dorado County IHSS Public Authority Home Care Workers; and

WHEREAS, UDW wishes to create an employee welfare benefit trust fund to hold contributions made pursuant to agreements between Public Authority and the UDW; and

WHEREAS, UDW seeks to grant administration of the trust fund to a Board of Trustees as set forth in this Trust Document; and

WHEREAS, the Board of Trustees hereby agrees to act as trustees and to hold the assets contributed by the Authority and the Participants in a trust maintained pursuant to Section 501(c)(9) of the Internal Revenue Code for the benefit of members of the El Dorado County IHSS Public Authority Home Care Workers on the terms and conditions hereinafter set forth;

NOW THEREFORE, in consideration of the foregoing premises and the mutual covenants hereinafter set forth, the Board of Trustees declare that this Trust Document sets forth the terms of the UDW AFSCME Local 3930 El Dorado County Benefits Trust (referred to as the "Union Health Care Trust Fund" in the MOU), and the Board of Trustees further agrees as follows:

ARTICLE I
DEFINITIONS

- 1.1 Authority. The El Dorado County IHSS Public Authority or any lawful successor. The Authority is not the employer of participants.
- 1.2 Authorized Investments. The Trust may invest and reinvest, subject to applicable law, in bank accounts, savings and loans accounts, and securities, as they deem prudent, provided that in the making of investments the Trustees shall diversify such investments so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.
- 1.3 Board of Trustees. The individuals named in the Preamble to this Trust Document, and their successors, from time to time acting as fiduciaries collectively as the Board of Trustees under this Trust Document appointed to control and manage the operation and overall design and administration of the Trust and Plan.
- 1.4 Code. The Internal Revenue Code of 1986, as amended, and any successor statute hereto.
- 1.5 Effective Date: June 1, 2012
- 1.6 Eligible Employee. An individual entitled to contributions to the Trust pursuant to a Memorandum of Understanding. Membership in the UDW is not required for an individual to be an Eligible Employee.
- 1.7 Investment Manager. An investment manager initially designated in Section 6.11 or his or her successor.
- 1.8 Member. A member of the Board of Trustees initially designated in Section 8.2 hereof as a Member of the Board of Trustees or his or her successor.
- 1.9 Memorandum of Understanding. An agreement between the El Dorado County IHSS Public Authority and the United Domestic Workers of America providing for the payment by the Authority of certain sums to provide health benefits to eligible members of the El Dorado County IHSS Public Authority Home Care Workers.
- 1.10 Participant. Any individual to whom benefits are being provided under the Plan.
- 1.11 Plan. The detailed rules and regulations, established by the Board of Trustees, setting forth the terms and conditions of health benefits payable to Participants out of the Trust, as specified therein.
- 1.12 Trust Document. This Trust Document Governing the UDW AFSCME Local 3930 El Dorado County Benefits Trust.

- 1.13 Trust or Trust Fund. The UDW AFSCME Local 3930 El Dorado County Benefits Trust established by this Trust Document, comprising all property or interests in property held by the Board of Trustees from time to time under this Trust Document.
- 1.14 UDW. The United Domestic Workers of America, AFSCME, AFL-CIO, Local 3930.

ARTICLE II PARTICIPATION

2.1 Eligibility for Participation

The Memorandum of Understanding sets forth the classes of individuals eligible for participation in the Plan.

2.2 Determination by Board of Trustees

The Board of Trustees shall have the sole and exclusive responsibility of determining the status of any individual as a Participant pursuant to the eligibility requirements set forth in the Memorandum of Understanding.

ARTICLE III ESTABLISHMENT OF TRUST

3.1 Purpose

The Trust is established for the purpose of providing health benefits to the Participants in accordance with the Plan. The Trust, together with the Plan, is intended to constitute a "voluntary employees' beneficiary association" under Section 501(c)(9) of the Code.

3.2 Receipt of Funds

The Board of Trustees shall accept all sums of money and other property contributed to the Trust by the Authority pursuant to Article IV and by some or all of the Participants. The Board of Trustees shall hold, manage, and administer the Trust without distinction between principal and income.

3.3 No Diversion

Except as otherwise provided herein, at no time shall any part of the corpus or income of the Trust be used for or diverted to purposes other than the exclusive benefit of the Participants including reasonable costs of operation and administration of the Trust and the Plan and at no time shall any part of

the net earnings improperly inure to the benefit of any private individual as provided in Section 501(c)(9) of the Code and Section 1.501(c)(9)-4 of the Treasury Regulations promulgated thereunder.

3.4 Fiduciary Duties

Except as otherwise provided herein, the responsibilities of each fiduciary as such shall be limited to the performance of those duties specifically assigned to it hereunder. No fiduciary shall have any responsibility for the performance of any duty not specifically so assigned, except to the extent such responsibility is imposed by applicable law. The Board of Trustees shall be the fiduciary hereunder with authority to control and manage the operation of the Trust to the extent set forth herein and in the Plan.

3.5 No Guarantee

Nothing contained in the Trust or the Plan shall constitute a guarantee that the assets of the Trust will be sufficient to pay any benefit to any person or make any other payment. The obligation of the Plan to pay any benefit provided under the Plan is expressly conditioned on the availability of cash in the Trust to pay the benefit, and no plan fiduciary or any other person shall be required to liquidate any Plan asset in order to generate cash to pay benefits. The Authority shall not have any obligation to contribute any amount to the Trust except as provided in the MOU. Except for payments of benefits under the Plan, no Participant shall receive any distribution of cash or other thing of current or exchangeable value from the Board of Trustees on account of or as a result of the Trust created hereunder.

3.6 No Interest

Neither the Authority nor UDW shall have any legal or equitable interest in the assets of the Trust at any time, including following the termination of the Trust.

**ARTICLE IV
CONTRIBUTIONS TO THE TRUST**

4.1 Authority Contributions

The Authority shall make contributions to the Trust only as agreed to by the Authority and specified in the MOU. If the Board of Trustees amends the Trust Document in contravention of Section 9.1 hereto, then the Authority's obligation to fund the Trust will cease.

4.2 Participant Contributions

Participants may make contributions to the Trust as permitted or required by the Board of Trustees.

4.3 Medicare Subsidies

The Trust shall accept Medicare Part D subsidies and any other governmental payments relating to the benefits provided to Participants and Beneficiaries pursuant to the Plan and Trust.

4.4 Other Legal Sources

The Trust may accept money or other property from sources other than those described in Sections 4.1, 4.2 and 4.3, provided that acceptance from such other sources is permitted by law.

**ARTICLE V
PAYMENTS FROM THE TRUST**

5.1 Payments from the Trust

The Board of Trustees shall make payments from the Trust to pay benefits under the Plan.

5.2 Excessive Payments

If the payment of any benefit under the Plan is determined to have been excessive or improper, and the recipient thereof fails to make repayment to the Board of Trustees of such excessive or improper payment upon the Board of Trustees' request, the Board of Trustees shall deduct the amount of such excessive or improper payment from any other benefits thereafter payable to such person. Further, this does not prevent the Trustees from pursuing legal action against the recipient of the excessive or improper payments.

**ARTICLE VI
POWERS AND DUTIES OF THE BOARD OF TRUSTEES**

6.1 General

The Board of Trustees shall be responsible for the overall operation of the Trust and the Plan. Subject to the provisions of this Trust Document and applicable laws, the Board of Trustees shall have sole, absolute, and discretionary authority to adopt such rules and regulations and take all actions that it deems desirable for the administration of the Trust, and to interpret the terms of the Plan and Trust. The decisions of the Board of Trustees will be final and binding on all Participants and all other parties to the maximum extent allowed by law.

6.2 Powers of the Board of Trustees

The Board of Trustees shall have the following powers in addition to the powers customarily vested in trustees by law:

- A. With any cash at any time held by it, to purchase or subscribe for any Authorized Investment, and to retain such Authorized Investment in the Trust;
- B. To sell for cash or on credit, convert, redeem, exchange for another Authorized Investment, or otherwise dispose of, any Authorized Investment at any time held by it;
- C. To retain uninvested all or any part of the Trust, which shall be deposited in an interest-bearing account in any banking or savings institution;
- D. To exercise any option appurtenant to any Authorized Investment in which the Trust is invested for conversion thereof into another Authorized Investment, or to exercise any rights to subscribe for additional Authorized Investments, and to make all necessary payments therefore;
- E. To join in, consent to, dissent from or oppose the reorganization, recapitalization, consolidation, sale, merger, foreclosure, or readjustment of the finances of any corporations, entities or properties in which the Trust may be invested, or the sale, mortgage, pledge, or lease of any such property or the property of any such corporation or entity on such terms and conditions as the Board of Trustees may deem wise; to do any act (including the exercise of options, making of agreements or subscriptions, and payment of expenses, assessments, or subscriptions) which may be deemed necessary or advisable in connection therewith; and to accept any Authorized Investment which may be issued in or as a result of any such proceedings, and thereafter to hold the same;
- F. To vote, in person or by general or limited proxy, at any election of any corporation in which the Trust is invested, and similarly to exercise, personally or by general or limited power of attorney, any right appurtenant to any Authorized Investment held in the Trust;
- G. To purchase any Authorized Investment at a premium or a discount;
- H. To employ for the administration and benefit of the Trust suitable agents, actuaries, accountants, investment counselors, legal counsel and consultants, and to pay their reasonable expenses and compensation, provided, however, that the Trustees shall periodically review the performance of such persons employed, and in no event shall more than 20% of available funds be used to pay for such administrative expenses or other costs not related to direct medical services;
- I. To purchase, to sell, to exercise, to allow to expire without exercise, and to honor the exercise of, options to purchase or sell stock, commodities or other assets subject to such options;

- J. To borrow, raise or lend moneys, for the purposes of the Trust in such amounts and upon such terms and conditions as the Board of Trustees, in its absolute discretion, may deem advisable, and for any such moneys so borrowed, to issue its promissory note as the Board of Trustees and to secure the repayment thereof by pledging or mortgaging all or any party of the Trust, provided that no person lending money to the Board of Trustees shall be bound to see to the application of the money lent or to inquire into the validity, expediency or property of any such borrowing;
- K. To cause any Authorized Investment in the Trust to be registered in, or transferred into, its name as Board of Trustees or the name of its nominee or nominees, or to retain such investments unregistered in a form permitting transfer by delivery, but the books and records of the Board of Trustees shall at all times show that all such investments are part of the Trust, and the Board of Trustees shall be fully responsible for any misappropriation in respect of any investment held by its nominee or held in unregistered form and shall cause the indicia of ownership to be maintained within the jurisdiction of the district courts of the United States:
- L. To apply for, purchase, hold, transfer, pay premiums on, surrender, and exercise all incidents of ownership of any insurance contract, any guaranteed income, guaranteed investment, and similar contracts which it is properly directed to purchase;
- M. To invest in units of any common or collective trust fund, mortgage or other asset pool, or short term investment fund exclusively for the purpose of investment of assets of employee benefit plans except form income taxation under Section 501(a) of the Code, and at any time at which any assets of the Trust are so invested, the Trust Document, or other instrument governing such common or collective trust fund, mortgage or asset pool, or other investment fund shall be deemed incorporated herein and made a part hereof, as though set forth at length in this Trust Document;
- N. To begin, maintain or defend any litigation necessary in connection with the administration of the Plan or Trust;
- O. To pay any income or other tax or estimated tax, charge or assessment attributable to any property or benefit out of such property or benefit in its sole discretion, or any tax on unrelated business income of the Trust, if any, out of the Trust;
- P. To retain any funds or property subject to any dispute without liability for payment of interest, or decline to make payment or delivery thereof until final and unappealed adjudication is made by a court of competent jurisdiction;
- Q. To grant consents, take actions and otherwise implement the right of the Board of Trustees under the Plan;

- R. To act in any jurisdiction where permitted by law to do so or to designate one or more persons, or a bank or trust company, to be an ancillary trustee in any jurisdiction in which ancillary administration may be necessary; to negotiate and determine the compensation to be paid to any such ancillary trustee; and to pay such compensation out of principal or income or both; and such ancillary trustee shall be granted with respect to any and all property subject to administration by it all of the powers, authorities, and discretion granted in this Trust Document to the Board of Trustees; provided, however, that such action as may require the investment of additional funds or the assumption of additional obligations shall not be undertaken without the written consent of the Board of Trustees;
- S. To disburse funds upon the written signature of two Members; and
- T. To do all acts which it may deem necessary or proper and to exercise any and all powers of the Board of Trustees under this Trust Document upon such terms and conditions as it may deem to be in the best interest of the Trust.

6.3 Benefits.

- A. Establishment of Plan. The Board of Trustees shall establish a Plan to offer health benefits to Participants. The terms of the Plan shall be determined by the Board of Trustees, and may provide for different benefit structures for different groups of Participants and may provide for different contributions for such groups; provided, however, that such terms shall be consistent with the relevant provisions of this Trust Document, and membership in the UDW is not the basis for the different benefit structures and/or contributions amounts.
- B. Benefits. The Plan shall include benefits, co-pays, Participant contributions, and any other features that the Board of Trustees from time to time determines appropriate or desirable in its sole discretion. In designing the Plan and the benefits to be provided thereunder, the Board of Trustees shall take into account relevant circumstances, including, without limitation, the degree to which Participants may have alternative resources or coverage sources, as well as the resources of the Trust based upon expected contributions. Benefits provided under the Plan shall be limited to those medical benefits permitted by Section 501 (c)(9) of the Code.
- C. Method of Providing Benefits. Benefits under the Plan may be fully insured, partially insured or self-insured, as determined by the Board of Trustees from time to time. The expected cost of benefits under the Plan shall not exceed the amount expected to be available under the Trust. The Plan may provide for different programs for different groups of Participants. The Board of Trustees, in its sole discretion, shall decide which of the Participants of the Trust will receive benefits under the Plan, in what form and in what amount. The exercise of this discretion shall be limited to the design of the Plan and may not be used in making decisions regarding benefits for individual Participants (except in connection with claims for benefits under the terms of the Plan).

6.4 Title to Trust

All rights, title, and interest in and to the Trust shall at all times be vested exclusively in the Board of Trustees.

6.5 Standard of Care

The Board of Trustees shall discharge its duties in the interests of Participants and for the exclusive purpose of providing benefits to Participants and defraying reasonable expenses of administering the Trust and the Plan and shall act with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in conduct of an enterprise of like character and with like aims, consistent with the provisions of the Code.

6.6 Continuance of Plan

Neither the Board of Trustees nor the Authority nor UDW assumes any contractual obligation as to the continuance of the Plan and shall not be responsible for the adequacy of the Trust to meet and discharge any liabilities under the Plan (except for the Authority's contribution obligation pursuant to the MOU) and the Board of Trustees' obligation to make any payment shall be limited to amounts held in the Trust at the time of the payment.

6.7 Payment of Expenses

The Board of Trustees shall apply the assets of the Trust to pay all reasonable costs, charges, and expense including, but not limited to, all brokerage fees and transfer tax expense and other expenses incurred in connection with the sale or purchase of investments, all real and personal property taxes, income taxes and other taxes of any kind at any time levied or assessed under any present or future law upon, or with respect to, the Trust or any property included in the Trust and all legal, actuarial, accounting, and financial advisory expenses, reasonably incurred (and where applicable previously approved) by the Board of Trustees in connection with establishment, amendment, administration and operation of the Trust or Plan.

6.8 Consultation

The Board of Trustees may engage or consult with counsel or other advisors, may pay reasonable compensation therefore from the Trust, and may take or may refrain from taking any action in accordance with or reliance upon the opinion of counsel or such expert advisors.

6.9 Reliance on Written Instruments

Each Member of the Board of Trustees shall be fully protected in acting upon any instrument, certificate or paper believed by him or her to be genuine and to be signed or presented by a duly authorized person or persons, and shall be under no duty to make any investigation or inquiry as to any

statement contained in any such writing, but may accept the same as conclusive evidence of the truth and accuracy of the statements therein contained.

6.10 Investment Guidelines

The Board of Trustees may establish investment guidelines for managing (including the power to acquire and dispose of) all or any part of the Trust.

6.11 Appointment of Investment Managers

The Board of Trustees may appoint (and terminate the appointment of) one or more Investment Manager(s) to manage all or part of the Trust, and enter into an agreement with the Investment Manager(s).

6.12 Government Reports and Returns

The Board of Trustees shall file all reports and returns that are required to be made with respect to the Trust and the Plan.

6.13 Compromise or Settle Claims

The Board of Trustees may compromise, settle and release claims or demands in favor of or against the Trust or the board of Trustees on such terms and conditions as the Board of Trustees may deem advisable.

6.14 Appointment of Administrator; Delegation of Authority

The Board of Trustees may appoint a third party to perform any functions assigned to it by the Board of Trustees. The Board of Trustees may by adoption of a written resolution delegate to any one or more Members the authority to act on behalf of the full Board of Trustees to the extent set forth in the resolution.

6.15 Bonding

The Members of the Board of Trustees shall be bonded and may be covered by liability insurance. To the extent permitted by applicable law, the costs of such bonding and insurance shall be expense paid by the Board of Trustees under Section 6.7.

6.16 No Individual Liability on Contracts

The Members of the Board of Trustees shall not be liable personally, either individually or jointly, for any debts, obligations, or undertakings contracted by them, or for the breach of any contracts. Such claims and obligations shall be paid out of the Trust, provided, however, that the Members shall not

be exempt from personal liability for willful misconduct, breach of trust, or fraud, and the Trust shall not indemnify the Members for such liabilities.

6.17 Authority nor UDW Liable for Conduct of Board of Trustees

The Members of the Board of Trustees, individually and jointly, are not, in their capacity as members, officers, agents, or employees, representatives of the Authority or UDW. In their capacity as Members, each Member is a principal acting independently of the Authority and UDW, neither of which shall be liable for any act, omission, contract, obligation, or undertaking of the Board of Trustees or their officers, agents, or representatives.

6.18 Compliance with Internal Revenue Code

The Trustees shall administer the Trust Fund and the benefit plans to comply with applicable provisions of the Internal Revenue Code.

**ARTICLE VII
TRUSTEE ACCOUNTS**

7.1 Records

The Board of Trustees shall maintain accurate and detailed records and accounts of all investments, receipts, disbursements, and other transactions with respect to the Trust.

7.2 Annual Audit

The Board of Trustees shall appoint an auditor to conduct an annual audit of the Trust, a statement of the results of which shall be made available for inspection by interested persons at the principal office of the Trust.

7.3 No Interest by Participants

In no event shall any Participant have any interest in any specific asset of the Trust. At no time shall any account or separate fund be considered a savings account or investment or asset of any particular Participant or class of Participants, dependent or beneficiary, and no Participant, dependent or beneficiary shall have any right to any particular asset which the Board of Trustees may have allocated to any account or separate fund for accounting purposes.

7.4 Accounting Year, Cash Basis

The accounting year of the Trust shall be the calendar year. All accounts of the Board of Trustees shall be kept on a cash basis.

**ARTICLE VIII
PROCEDURES FOR BOARD OF TRUSTEES**

8.1 Composition of Board of Trustees

The Board of Trustees shall comprise three individuals appointed by the Executive Board of the UDW.

8.2 Initial Designation

The initial Board of Trustees shall consist of the following named Members:

- A. Doug Moore;
- B. Laura Reyes; and
- C. Josh Cain.

8.3 Term of Office

Each Member shall serve as such until his or her death, incapacity to serve hereunder, resignation or removal by the Executive Board of the UDW.

8.4 Resignation

A Member may resign, and shall be fully discharged from further duty or responsibility under this Trust Document to the extent permitted by law, by giving at least thirty (30) days' advance written notice to the Board of Trustees (or such shorter notice as the Board of Trustees may accept as sufficient) stating a date when such resignation shall take effect. Such resignation shall take effect on the date specified in the notice or, if a successor Member has been appointed effective as of an earlier date, on such earlier date.

8.5 Removal

A Member may be removed at any time, with or without cause, by a majority vote of the Executive Board of the UDW.

8.6 Successor Board of Trustees Members

- A. If a Member dies, becomes incapable of acting hereunder, resigns, or is removed, the Executive Board of the UDW shall appoint a successor Member.
- B. Each successor Member shall signify his or her acceptance of the Trust Document.

8.7 Chairs

The Board of Trustees shall select a chair from among its Members (the "Chair"). The term of the Chair will continue until he or she ceases to be a Member, resigns as Chair or is replaced as chair by another Member of the remaining Members.

8.8 Meetings

- A. The Board of Trustees shall hold meetings as frequently as is necessary to ensure the efficient administration of the Trust and Plan and shall hold a minimum of one meeting during each calendar year. The Chair, or any two (2) Members, may call a special meeting of the Board of Trustees by giving at least five (5) days' advance written notice of the time and place thereof to all other Members.
- B. One Member, or another individual so designated, shall maintain minutes of all Board of Trustees meetings, but such minutes need not be verbatim. Copies of such minutes shall be provided to all Members and to other such parties as the Board of Trustees may designate.

8.9 Place of Meeting; Telephonic Meetings

Meetings of the Board of Trustees may be held at any place designated in the notice of meeting. Meetings of the Board of Trustees may be held through any communications equipment if all persons participating can hear each other, and such participation in a meeting is presence at the meeting.

8.10 Quorum

A majority of the Members of the board of Trustees then in office shall constitute a quorum for the purpose of transacting any business.

8.11 Vote of Board of Trustees

- A. Each Member shall have one vote. Except as otherwise specified in this Trust Document, all actions of the Board of Trustees shall be by majority vote of those present at a meeting at which a quorum is present.
- B. In addition to decisions made at meetings, actions may be taken without a meeting by unanimous written consent of each of the Members.

8.12 Compensation

Members of the Board of Trustees shall not receive compensation out of the Trust or for their services under this Trust Document, but may, subject to the provisions of Section 6.7 hereof, be reimbursed for direct out-of-pocket expenses incurred in the performance of the Members' duties hereunder.

**ARTICLE IX
AMENDMENTS, TERMINATION, AND MERGER**

9.1 Amendments

The Trust Document may be amended at any time in writing by the Board of Trustees; provided that no amendment may alter the obligations, liabilities, or rights of the Authority or UDW without the written consent of the affected party; and provided further that no amendment shall adversely affect the exempt status of the Trust or Plan under Section 501(c)(9) of the Code.

9.2 Termination

- A. The Trust and this Trust Document may be terminated at any time in writing by the Board of Trustees; provided that reasonable advance notice is furnished to the Authority and UDW. Upon termination of this Trust Document, the assets of the Trust shall be paid out at the direction of the Board of Trustees in the following order of priority: (i) the payment of reasonable and necessary administrative expenses (including taxes); (ii) the payment of benefits to Participants entitled to payments for claims arising prior to such termination; and (iii) at the discretion of the Board of Trustees, used in accordance with Section 501(c)(9) of the Code, for the benefit of such group of Participants in such fashion as the Board of Trustees determines. Neither the Authority, UDW, nor the Board of Trustees shall have any beneficial interest in the Trust. The Trust shall remain in existence until all assets have been distributed.
- B. Upon termination, the Board of Trustees shall continue to have all of the powers provided in this Trust Document as are necessary or desirable for the orderly liquidation and distribution of the Trust in accordance with the provisions hereof.

9.3 Transfer of Assets

To the extent permitted by applicable law, some or all of the assets of the Trust may at the discretion of the Board of Trustees be transferred directly to another trust for the purpose of providing health benefits to some or all of the Participants on such terms and conditions as the Board of Trustees may determine.

**ARTICLE X
MISCELLANEOUS**

10.1 Rights in Trust

No Participant or other person shall have any right, title or interest in the Trust or any legal or equitable right against the Board of Trustees, the Authority, or UDW, except as may be otherwise expressly provided in the Plan or in this Trust Document.

10.2 Non-Alienation

Except to the extent required by applicable law, the rights or interest of any Participant to any benefits or future payments hereunder or under the provisions of the Plan shall not be subject to attachment or garnishment or other legal process by any creditor of any such Participant, nor shall any such Participant have any right to alienate, anticipate, commute, pledge, encumber or assign any of the benefits or payments which he may expect to receive, contingent or otherwise, under this Trust Document.

10.3 Controlling Laws

The Trust shall be construed and the terms hereof applied according to the laws of the State of California.

10.4 Counterparts

The Trust Document may be executed in any number of counterparts, each of which shall be considered as an original.

10.5 Headings

The headings and subheadings of this Trust Document are for convenience of reference only and shall have no substantive effect on the provisions of this Trust Document.

EXECUTION

IN WITNESS HEREOF, and as evidence of the establishment of the Trust created hereunder, the parties hereto have caused this instrument to be executed as of this 1st day of June, 2012.

**BOARD OF TRUSTEES,
UDW AFSCME LOCAL
EDC IHSS PROVIDER BENEFITS TRUST**

Laura Meyer

David M. Meyer

John

Signature Date: 5/14/12