

**LETTER OF AGREEMENT BY AND BETWEEN
CITY OF MODESTO
AND
IAFF Local 1289**

CAFETERIA PLAN PAYMENT

This Letter of Agreement ("Agreement") is effective August 28, 2013, and has been jointly prepared by the designated representatives of the City of Modesto ("City"), a public agency within the meaning of Section 3501(c) of the Government Code of the State of California, and the IAFF Local 1289, a recognized employee organization within the meaning of Section 3501(b) of the Government Code of the State of California, with reference to the following facts:

WHEREAS, Paragraph 9 of the 2010 IAFF Letter of Understanding provides:

Effective January 1, 2013, the City's monthly allowance for the cafeteria plan, except those employees who "Opt Out," shall be increased by \$25.00 for all other categories, provided, however, that if the City's General Fund revenues for FY 12, exclusive of transfers, exceed General Fund revenues for FY 10 by six percent (6%) or more, any increase in the City's monthly allowance shall be determined by negotiations between the City and the Union and the MOU shall reopen for negotiation over the City's monthly allowance for the cafeteria plan under Article 20 of the MOU effective January 1, 2013.

And

WHEREAS, the City's General Fund revenues for FY 12 did not exceed GF revenues for FY 10 by six percent.

WHEREAS, on June 13, 2013, IAFF Local 1289 instituted a grievance alleging that the City failed to pay the \$25.00 per employee to a cafeteria plan commencing on January 1, 2013; and

WHEREAS, on June 26, 2013, the City responded to the grievance asserting that it wished to resolve this issue; and

WHEREAS, after review, the City and IAFF have engaged in good faith settlement discussions, resulting in this letter of understanding, which is intended to settle and resolve IAFF's June 13, 2013 grievance according to the terms set forth below.

///

///

Letter of Understanding (IAFF)
2013 Cafeteria Payment
Effective August 28, 2013

///

NOW, THEREFORE, the City and IAFF, after meeting and conferring in good faith, understand and agree as follows:

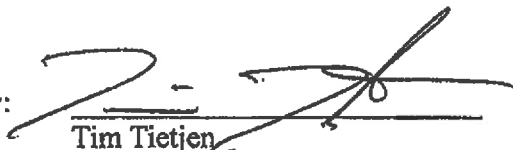
1. The City will begin paying an additional \$25.00 per month to a cafeteria plan for each employee, excluding those who opt out of insurance coverage, in this unit by pay period beginning September 10, 2013.
2. Effective pay date September 27, 2013 the City will provide each employee in this unit, excluding those who opt out of insurance coverage, a lump sum payment to provide for the monthly \$25.00 retroactive payments to the cafeteria plan for the months of January 2013 through August 2013.
3. IAFF withdraws its grievance by execution of this agreement.
4. Settlement of this grievance shall not be construed as an admission of liability or fault on the part of the City or IAFF.
5. The parties shall bear their own attorneys fees and costs associated with the grievance, settlement discussions, and preparation of this Agreement.
6. This Agreement may be executed in counterparts (each of which shall be deemed to be an original but all of which taken together shall constitute one and the same agreement) and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

IN WITNESS WHEREOF, the parties hereto have executed this Letter of Agreement on August _____, 2013.

IAFF Local 1289

CITY OF MODESTO

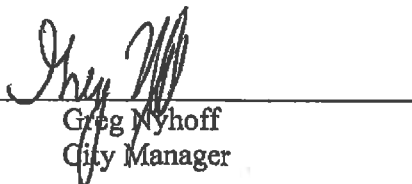
By:



Tim Tietjen
President

Its:


By:

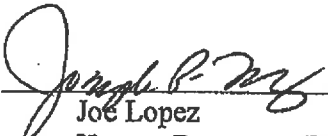


Greg Nyhoff
City Manager

Its:


Letter of Understanding (IAFF)
2013 Cafeteria Payment
Effective August 28, 2013

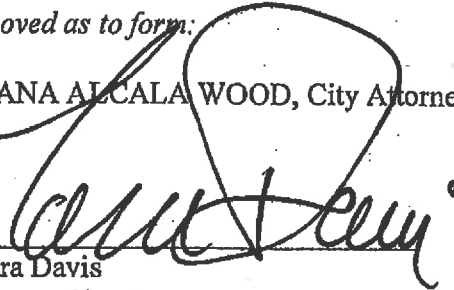
By: 
Doug Rice
Its: Vice President


By: 
Joe Lopez
Its: Human Resources Director

Approved as to form:

Approved as to form:
SUSANA ALCALA WOOD, City Attorney

By: 
Chris Platten
Attorney

By: 
Tara Davis
Deputy City Attorney

ATTEST: 
Stephanie Lopez, City Clerk