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PARTIAL DRAFT

VIA E-MAIL & U.S. MAIL

City Council, City Manager, and City Attorney
City of Compton
295 South Willowbrook Avenue
Compton, California 90220

Re: CMEA/AFSCME Local 2325's Response and Objections to
the City of Compton's Proposed Reorganization and Layoff

To the City Council, City Manager, and City Attorney of the City of Compton:

I have been retained by the Compton Management Employees Association, AFSCME Local 2325 ("CMEA" or the "Union") to convey CMEA's response and objections to the plan of reorganization and layoffs recently approved and implemented by the City of Compton. To be blunt, CMEA is extremely troubled by and opposed to the City's plan of reorganization and layoffs. While the CMEA recognizes the challenges presented to the City by the Covid-19 pandemic, the City's plan of reorganization and layoffs, as unilaterally implemented, is misguided as a matter of policy, violates the City's duty to bargain with CMEA over both the impact of the layoffs and the creation of new positions in the bargaining unit, and violates the City's established rules for implementing a layoff. To compound matters, the City has breached its duty to provide information to CMEA about the plan that would allow the Union to fully evaluate the plan and the impact on its members. CMEA urges the City to withdraw its flawed plan and then work with CMEA, as well the other unions and interested parties, to develop a new plan that properly and fairly serves the interests of the employees and the public they serve.

I. The City's Plan of Reorganization and Layoffs was Poorly Conceived

CMEA is extremely concerned that the City's plan of reorganization and layoffs is misguided as a policy matter. To begin with, the City reliance on the Covid-19 pandemic as the reason for the plan is disingenuous. The City's current financial situation is due to many factors

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that pre-date the Covid-19 pandemic, most notably poor budgeting and fiscal management by the City. Rather than addressing many of the underlying issues and problems that brought the City to this point, it is obvious that the City has chosen instead to blame almost everything on the Covid-19 crises. This approach is short-sighted and deceptive. Failing to cure the underlying issues will only ensure that the fiscal problems return in the future.

In particular, CMEA is appalled that the City failed and refused to involve many CMEA members in City leadership positions in the crafting of the plan of reorganization and layoffs. The City's plan was put together without the input of most of the departments in the City, most of which are led and managed by CMEA members. That input would have been invaluable in putting together a plan that was sensible and effective. The Departments and their leaders, more than anyone else, are acutely aware of the current demand for their services and their staffing needs and have many productive ideas and suggestions for sensible solutions. (For example, Marvin Hunt, the Director of the Parks and Recreation Department, has just recently provided an excellent memo to the City Council that identifies many of the issues that were missed by the City Manager in the plan adopted by the City.) Failing to solicit and incorporate the input of the Department leaders was not just imprudent – it was inexcusable.

CMEA is also disappointed that the City chose not to involve the Union (as well as the other unions representing City employees) in any part of the process leading up to the decision to adopt and implement the plan of reorganization and layoffs. Even if the City was not legally required to bargain with CMEA about the decision to implement layoffs, it would have been wise to do so. The layoff plan dramatically impacts all CMEA members, not to mention the public they serve, and the Union would have been able to provide ideas, insights, and concerns that would have resulted in a much better and more balanced plan. Rather than treating CMEA as a partner, the City treated the Union as the enemy.

Another area of specific concern for CMEA is the City's targeting of Department Directors in the layoff plan. The City's plan eliminates a total of four Department Directors, not to mention a number of other Department managers and supervisors. It is difficult to fathom how the City intends to operate the affected Departments without effective leadership at the top. Rather than being a reasonable step to cut costs, this part of the City's plan appears to be a continuation of the City Manager's attempt to remove Directors who have challenged or opposed his management. It comes on the heels of the City Manager's failed attempts in the last month or so to amend the City Charter to remove the Directors from the CMEA bargaining unit and make them "at-will" employees. There can be no doubt that the City Manager has used the "need" for a reduction in force to achieve his own personal and political advantages.

Equally mischievous is the City's plan to add new "Super Directors" to the City's payroll, presumably in CMEA's bargaining unit. In addition to being a violation of the City's

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duty to bargain about restructuring or reorganizing the existing bargaining unit, this part of the City's plan makes no sense. Adding high level positions increases labor costs rather than reducing them. While consolidating some management duties may be useful in certain contexts, the City has shown no benefits that would accrue in this situation. The creation of these two new positions appears to be nothing more than an attempt to consolidate the City Manager's power base.

Finally, CMEA must point out that the City's plan of reorganization and layoffs includes no reductions or cutbacks in the City Manager's office or the City Council's staff. The City Manager's office has the highest salaries in the City, and the City Council's staff has substantial employee expense that has been questioned in the past. Amazingly, the City's plan does nothing to reduce any of these costs. This fact causes CMEA to question the motives and methods of the City in implementing the plan.

For all of these reasons, as well as the others set forth in the following sections, CMEA implores the City to scrap the current plan of reorganization and layoffs and "go back to the drawing board." That means creating a process that includes all of the stakeholders.

II. The City has Failed to Bargain About the Impacts of the Layoff and the Restructuring of Certain Positions in the Bargaining Unit

Under California law, public agencies, like the City, have a duty to bargain in good faith with their unions about the "impacts and effects" of a layoff, even if they are not required to negotiate about the layoff decision itself. *Fire Fighters Union v. City of Vallejo*, 12 Cal.3d 608, 621-22 (1974); *International Association of Fire Fighters v. Public Employment Relations Board*, 51 Cal.4th 259 (2011). The "impacts" or "effects" of a layoff that are subject to a public agency's duty to bargain include the number of employees affected by the layoff, the order of the layoff, the timing of the layoff, , bumping rights, and re-employment rights. *See Salinas Valley Memorial Healthcare System*, PERB Decision No. 2298-M (2012).

In this case, there can be no doubt that the City has thus far failed to bargain in good faith with CMEA about the impacts and effects of the plan for layoffs. Upon learning of the City's plan for layoffs at the City Council meeting on June 16, 2020, CMEA requested, in an e-mail from Business Representative Bob Adams, to immediately meet with the City to discuss the "impacts" of the announced layoffs, including seniority lists, family groupings, bumping information and vacancies." To date, the City has not bargained with the Union about any of these impacts, although a meeting has been scheduled for today. Unless and until the City has bargained in good faith with CMEA about the impacts of the plan for layoffs, California law precludes the City from proceeding with the layoff. Since the City's layoff notice to employees includes deadlines for affected employees beginning on June 25, 2020, CMEA strongly urges the

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City to withdraw its layoff plan and/or these deadlines until it has met with the Union about the impacts and satisfied its bargaining obligations. Failure to do so will risk invalidation of the entire layoff.

In an e-mail to CMEA and others on June 18, 2020, City Attorney Damon Brown seemed to argue that the City had bargained about the decision to impose layoffs or the impact of the layoffs because it had meetings with Union representatives prior to the City Council meeting on June 16 where the subject of the potential layoffs was discussed. The discussions at those meetings revolved around CMEA and others requesting to be informed of the specifics of the contemplated layoff and the City responding that the financial numbers were still being crunched and the layoff details were still being determined. There was no bargaining about the impacts of the contemplated layoffs because the nature and scope of the layoff were unknown at the time. Those discussion certainly did not constitute “impacts bargaining” or “effects bargaining.”

Separate and apart from the obligation to bargain about the impacts of the announced layoff, the City also has an obligation to bargain in good faith about the proposed restructuring or reorganization of the CMEA bargaining unit to include new positions of “Super Directors,” who apparently will replace or assume duties of certain of the current Directors. *See, e.g., Indio Police Command Unit Association v. City of Indio*, 230 Cal.App.4th 521 (2014) (public agency has duty to bargain in good faith prior to implementing a restructuring or reorganization plan that has a significant adverse effect on wages, hours, or working conditions of the bargaining unit employees). There can be no doubt that CMEA requested the City to bargain about this plan of reorganization in Mr. Adams’s e-mail of June 18, 2020, just as there can be no doubt that the City has failed to bargain in good faith about this change to the bargaining unit. Accordingly, CMEA demands that the City withdraw this plan of reorganization and commit to bargaining in good faith with CMEA regarding this proposed change to the bargaining unit. The topics of this bargaining duty must include the creation of the “Super Director” positions as well as the elimination of existing Director positions. The City’s failure to engage in good faith bargaining on these subjects will put the entire reorganization in legal jeopardy.

III. The City has Failed to Abide by its Own Layoff Rules

The City first notified all employees of a potential layoff on May 27, 2020, when it distributed a notice that purported to inform employees that they might be affected by a workforce reduction. That notice asserted that the contemplated layoffs would proceed in accordance with Rule 8 of City’s Personnel Rules and Regulations. That notice also indicated that the layoffs and any displacements would become effective at the close of business on June 30, 2020. Although unstated, the notice seemed to suggest that employees selected for layoff would be notified when a layoff plan had been finalized.

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As it turns out, the City did not inform affected employees that they had been selected for layoff until June 17, 2020. That June 17 notice informed the affected employees that the layoff would be effective on June 30, 2020, and informed them that they had until June 25 to decide whether to bump into a lower classification in their “occupational group,” to revert to a previously held position, or to accept a layoff on June 30, 2020. The notice did not provide any information about the lower positions in the affected employee’s “occupational group” or the positions to which the affected employee could “revert.”

These two notices from the City clearly do not comply with Rule 8 of the City’s Personnel Rules and Regulations. The first notice dated May 27, 2020, does not satisfy any requirement of Rule 8 because it speaks only to a layoff that might occur in the future – i.e., a potential layoff. The second notice dated June 17, 2020, is also defective under Rule 8 because it does not meet the requirement of providing affected employees with written notice at least 30 days prior to the effective day of the layoff. The second notice is also defective under Rule 8 because it would deny affected employees with at least 30 days of pay prior to the effective day of the layoff.

Both notices are additionally defective because they fail to adequately explain the affected employees’ options to “bump” into other bargaining positions. CMEA notes that City officials have had difficulty providing information about the “family groups.” How can the City expect individual affected employees to decipher these undefined terms?

All of these issues and problems regarding the layoff notices could have been avoided if the City had undertaken to bargain with CMEA prior to implementing the plan of reorganization and layoffs. For this additional reason, CMEA requests the City to immediately withdraw its plan, or at least its layoff notices, and meet with CMEA to resolve these issues.

IV. The City has Failed to Provide CMEA with All Necessary Information

Under California law, public agencies, like the City, have a duty to provide information, upon request, to a union seeking to meet and confer over matters within the scope of representation, including the implementation and effects of a layoff. MMBA, § 3507(a)(8); *Oakland Unified School District*, PERB Decision No. 326 (1983); *Oakland Unified School District*, PERB Decision No. 275 (1982). This duty also obliges the public agency to respond promptly to the union’s information request. *Chula Vista City School District*, PERB Decision No. 834 (1990).

In this instance, there can be no doubt that the City has failed to provide information requested by the CMEA in a timely and complete matter. On June 17, 2020, and then again on June 20, 2020, the Union submitted detailed requests for information to the City Manager. Some

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of the information has been provided by the City, but much has not. This information is critical to CMEA's ability to bargain about the plan of reorganization and layoffs, and time is of the essence given the City's stated intention of making the layoffs effective on June 30. The City's failure to provide the requested information promptly and fully will further jeopardize the validity of the entire plan.

V. Conclusion

As demonstrated above, the City's plan of reorganization and layoffs is misguided and fraught with legal risk. The last thing the City needs at this time is long and expensive legal fight over its hastily-implemented plan. The City has a short window of opportunity to correct the deficiencies and avoid a legal disaster. CMEA urges the City to withdraw its flawed plan and then work with CMEA, as well the other unions and interested parties, to develop a new plan that properly and fairly serves the interests of the employees and the public they serve.

Sincerely,

Christopher W. Carlton
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cc: CMEA