STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD

STATIONARY ENGINEERS LOCAL 39, Charging Party, v. CITY OF SACRAMENTO, Respondent.	Case No. SA-CE-1009-M PERB Decision No. 2702-M March 25, 2020

Appearance: Weinberg, Roger & Rosenfeld by Stewart Weinberg, Attorney, for Stationary Engineers Local 39.

Before Banks, Shiners, and Krantz, Members.

DECISION

SHINERS, Member: This case is before the Public Employment Relations Board (PERB or Board) on exceptions by Stationary Engineers Local 39 (Local 39) to the proposed decision of an administrative law judge (ALJ). The complaint alleged, in relevant part, that the City of Sacramento (City) interfered with employee and employee organization rights in violation of the Meyers-Milias-Brown Act (MMBA)[1] when it implemented a policy prohibiting its Maintenance Services Division employees from placing stickers, decals, or paint on their hardhats or helmets. Following an evidentiary hearing, the ALJ dismissed the allegation, finding the policy was justified by the City's legitimate concerns for employee safety.

[1] The MMBA is codified at Government Code section 3500 et seq. Unless otherwise specified, all statutory references herein are to the Government Code.

Based on our review of the proposed decision, the entire record, and relevant legal authority in light of Local 39's exceptions, we conclude the City failed to demonstrate the existence of special circumstances that would justify its total prohibition of union insignia on employees' hardhats.[2] Accordingly, we find the City violated the MMBA as alleged in the complaint.[3]

FACTUAL BACKGROUND

The City is a public agency employer within the meaning of section 3501, subdivision (c) and PERB Regulation 32016, subdivision (a).[4] The Maintenance Services Division (MSD), a division of the Department of Public Works, is responsible for the City's street-related infrastructure system and consists of seven separate maintenance subsections. Local 39 is a recognized employee organization under

[2] A hardhat is a type of helmet. We intend all references to helmets and hardhats to be interchangeable, except in several circumstances below where context dictates otherwise.

[3] The complaint also alleged, and the ALJ found, that the City violated its duty to meet and confer in good faith when it unilaterally implemented the challenged policy. Despite prevailing on this issue, Local 39 excepts to several of the ALJ's factual and legal conclusions supporting her finding of an unlawful unilateral change. "Absent good cause, the Board will dismiss as without merit any initial exceptions filed by a prevailing party unless the Board's ruling on the exceptions would change the outcome of the ALJ decision." (*Fremont Unified School District* (2003) PERB Decision No. 1528, p. 3.) Even if we were to agree the ALJ's underlying conclusions were wrong in the manner urged by Local 39, this would not change the outcome or the remedial order with respect to the unilateral change allegation. Accordingly, we dismiss Local 39's exceptions on the unilateral change issue, and incorporate the ALJ's proposed order on that issue into our revised remedial order and Notice.

[4] PERB Regulations are codified at California Code of Regulations, title 8, section 31001.

section 3501, subdivision (b) and an exclusive representative under PERB Regulation 32016, subdivision (b).

The City and Local 39 were parties to a memorandum of understanding (MOU) effective December 28, 2013, through June 23, 2017. MOU Article 17 describes the City's obligation to provide certain bargaining unit employees with uniforms and those employees' obligation to "adhere to the uniform policy of the division and/or Department." MOU Article 18 similarly addresses the City's provision of safety shoes, safety climbing boots, and safety glasses. For purposes of general workplace safety, MOU Article 19 explains that the City will receive and consider written safety recommendations and "other safety ideas in the area of working conditions" from its employees and Local 39. Neither these articles nor any other MOU article reference hardhats.

MSD Policies and Procedures describe a variety of personal protective equipment, including hardhats, that the City provides to employees or otherwise requires them to wear. Section 5.2.7 requires employees to wear hardhats during any work activity that may expose them to a head injury. Under the policies and procedures, supervisors are responsible for the safety of employees at their worksite and may suspend any work that exposes employees to risk of head injury until they are wearing their hardhats.

All seven MSD sections are required to use hardhats. Six of the seven sections exclusively use a white, full-brimmed hardhat manufactured by ERB Industries and

bearing the City seal.[5] ERB affixes the seal to the hardhat using a pad printing process (i.e., applying ink directly to the hardhat) before it ships the hardhat to the City. Instructions accompanying the ERB hardhat warn never to alter or modify the hardhat's shell, and advise users to inspect the hardhat before each use and replace it at the first sign of wear, aging, or other signs of deterioration. An ERB warning label inside each hardhat states: "Do not paint or clean with solvents or gasoline. *Do not apply adhesive.* These chemicals may weaken the shell." (Italics added.) The City has provided employees with the same ERB hardhat for over 10 years, and the manufacturer has not modified the helmet in that period.

MSD employees sometimes attach headlamps to their hardhats to increase their visibility on the worksite.[6] The headlamps are placed on the hardhat in the approximate location of the City seal, affixed to it with clips and removable adhesive. Although it may be installed and removed for each use, it is common practice for employees to keep the headlamp attached to the hardhat.

Employees in the MSD Urban Forestry section are issued hardhats or helmets, depending on their assignment. The City provides an ERB hardhat to employees assigned to ground operations. Employees assigned to aerial operations, e.g., climbing and pruning trees, are provided an orange helmet manufactured by Petzl, which differs in appearance and function from the ERB hardhat and is designed for

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[5] As discussed *post*, the seventh section—the Urban Forestry section—uses both the ERB hardhat and a different helmet manufactured by Petzl.

[6] Employees working on the City light rail system are required to wear headlamps on the jobsite so they can be observed and accounted for when trains approach.

work at height. Petzl delivers the helmet to the City without the City seal or any other markings on it. Urban Forester Kevin Hocker (Hocker)[7] explained that the City does not apply the seal to the Petzl helmet because it lacks the ability to do so "in a way that would fit with the manufacturer's recommendations."

A pamphlet accompanying each Petzl helmet includes instructions to adjust the helmet's fit, mount headlamps, and for inspection, storage, and cleaning. Both the instructions and recommended inspection procedures caution against applying chemical adhesives or stickers to Petzl helmets, except those supplied or recommended by the manufacturer. Petzl's care and maintenance tips also prohibit modification of the helmets outside of Petzl facilities unless the user is replacing worn parts with newer parts from the manufacturer, as well as warn against applying any stickers other than those supplied by Petzl.

All MSD employees are expected to inspect their hardhat each day before use. Ultimately, though, their supervisors and management are responsible for deciding whether to retire or replace a hardhat. Gabriel Morales (Morales), one of two MSD Operations General Supervisors during the relevant time period, described this as a judgment call made after considering both the manufacturer's recommendations and employee feedback about the hardhat.[8]

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[7] Hocker is one of two Urban Forestry section managers. He oversees a group of three Arborists. The other section manager oversees approximately 20 Tree Pruning Supervisors, Tree Pruners, and Tree Maintenance Workers.

[8] In addition to routine checks before each use, Petzl's recommended inspection procedures advise a more detailed inspection every 12 months. However, there is no evidence in the record that the City or MSD performed such inspections.

In or about November 2016, Morales began researching whether the MSD could provide a different hardhat to its employees, one that was lighter, cooler, and more comfortable for the employees. He conducted research on the Internet, including the U.S. Department of Labor, Occupational Safety and Health Administration's website. He also submitted inquiries to ERB Industries via e-mail. During his research, Morales found hardhat inspection procedures recommending examination of the shell for signs of wear, cracks, or deterioration that would require the immediate replacement of a hardhat. Morales became concerned that it was unsafe to adorn the hardhats with any stickers, decals, or paint because these substances could damage the hardhats and hinder their inspection for signs of wear, cracks, and other deterioration. Following his research, Morales discussed his findings and concerns with other MSD section managers.

On or about April 13, 2017,[9] MSD began to distribute a memorandum from MSD Streets Manager Juan Montanez (Montanez) to some employees entitled "WEAR OF HARDHATS." Based on concerns regarding employees' prior use of hardhats, the memorandum required that all MSD employees wear hardhats when performing specified duties. Noting that this requirement was in addition to Section 5.2.7 of the MSD Policies and Procedures, the memorandum stated, in relevant part:

> "Employees will only wear city-issued white hardhats, with city seal. Acceptable hardhat styles are either short front brim or full brim. So as not to compromise the integrity of the protective shell, hardhats must be free of stickers, decals, or

[9] All further dates refer to 2017 unless otherwise noted.

> any other markings (except for the city seal) and not be painted."[10]

Prior to April 13, MSD did not have a written policy regarding the placement of stickers or paint on hardhats. Employees were and are, however, permitted to wear union pins and other insignia on their work uniforms, and there is no City policy preventing employees from placing union insignia on personal property, such as lunch boxes.

On April 18, Morales and Jose Sanchez (Sanchez), the second MSD Operations General Supervisor, notified Local 39 Business Representative Laura Trapp (Trapp) of the updated hardhat policy and explained that they would present it to MSD pavement employees during a monthly safety meeting scheduled on April 20. Trapp requested a copy of the policy, and Sanchez e-mailed a draft copy of the memorandum to her later that day.[11]

On April 19, Trapp e-mailed Sanchez, asserting that the City's hardhat policy would infringe on employees' rights to place union insignia on their hardhats.[12] Morales responded that day, confirming, among other things, that he would issue the memorandum to all pavement employees at the next day's safety meeting. That evening, Trapp recommended to Morales that he not distribute the memorandum to

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[10] The hardhat policy also applied to Urban Forestry employees who wore Petzl helmets.

[11] Sanchez provided Trapp with an earlier draft of the memorandum, dated April 6. Despite minor textual differences between the April 6 and 13 memoranda, the substantive message was the same.

[12] Trapp included Morales and City Labor Relations Officer Don Demavivas (Demavivas) among the carbon copy (cc:) recipients.

any employees because, among other reasons, she was concerned by the prohibition of stickers. Later that night, Morales responded:

> "Over my 20+ years of service with the [C]ity's pavement maintenance section there's been many near miss head injuries which could [have] resulted in severe injuries to [C]ity employees. There's also been some instances where employees were struck by objects on their head. Luckily the employees were wearing a [hardhat] at the time. In our industry, the risk of a head injury is real. [I] personally have struck overhead objects on my head while closing floodgates. Luckily I was wearing my [hardhat] at the time.
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> "[¶] . . . [¶]
>
> "Once again, the safety of our employees should and will always be our top priority. Therefore we will move forward in issuing the [hardhat] memo tomorrow with the understanding that the sticker issue will be discussed as soon as you make time to meet with us. Thanks in advance for your understanding."

On April 20, Demavivas e-mailed Trapp, Morales, Sanchez, and Montanez, stating, in relevant part:

> "With regard to the hardhat being clean, . . . [i]t is management's right to determine whether or not City owned property could have stickers on it because stickers add such permanency. It's not like a union button that you can take on and off.
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> "In addition, I believe there are periodic inspections to see if there are cracks or damage on the hardhat and any stickers have the potential to cover that up."

On May 8, Local 39 filed the instant unfair practice charge against the City.

DISCUSSION

California public employees have long had the right to wear union insignia in the workplace. (E.g., *Superior Court v. Public Employment Relations Bd.* (2018) 30 Cal.App.5th 158, 172 (*Superior Court*); *Regents of the University of California* (2018) PERB Decision No. 2616-H, p. 9 (*Regents*); *East Whittier School District* (2004) PERB Decision No. 1727, p. 9 (*East Whittier*); *State of California (Department of Parks and Recreation)* (1993) PERB Decision No. 1026-S, p. 4 (*Parks*).) But that right is not unlimited and may be subject to reasonable regulation. (*County of Sacramento* (2014) PERB Decision No. 2393-M, p. 20; *Parks*, *supra*, PERB Decision No. 1026-S, p. 4.)

A restriction on the right to display union insignia and messages regarding working conditions is presumptively invalid; an employer may prohibit employees from displaying union insignia and messages in the workplace only if "special circumstances" exist justifying the prohibition. (*Regents*, *supra*, PERB Decision No. 2616-H, p. 10; *Parks*, *supra*, PERB Decision No. 1026-S, p. 4.) The special circumstances test, adopted from *Republic Aviation Corp. v. NLRB* (1945) 324 U.S. 793,[13] seeks to balance employees' statutory right to freely voice their perspectives and employers' duty to provide important public services. (*Regents*, *supra*, PERB Decision No. 2616-H, p. 10; *East Whittier*, *supra*, PERB Decision No. 1727, pp. 9-11.)

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[13] Although federal judicial and administrative precedent is not binding on PERB, it often provides persuasive guidance in construing California's public sector labor relations statutes. (*County of Santa Clara* (2019) PERB Decision No. 2670-M, p. 19, fn. 20 & p. 28; *Capistrano Unified School District* (2015) PERB Decision No. 2440, p. 15, citing *Fire Fighters Union v. City of Vallejo* (1974) 12 Cal.3d 608, 616-617.)

"[T]he employer has the burden of establishing that its policy or rule is justified by special circumstances." (*Superior Court*, *supra*, 30 Cal.App.5th at p. 172; *East Whittier*, *supra*, PERB Decision No. 1727, p. 11.) "This analysis is done through a case-by-case approach that considers the particulars of the employer's operations." (*Superior Court*, *supra*, 30 Cal.App.5th at p. 172; *East Whittier*, *supra*, PERB Decision No. 1727, p. 10.) To abrogate employees' otherwise absolute right to display union insignia, the employer must make a "concrete, fact-based evidentiary showing" that special circumstances exist. (*County of Sacramento*, *supra*, PERB Decision No. 2393-M, p. 27.)

PERB has articulated several factors to be considered in determining whether special circumstances exist, including whether the insignia could jeopardize employee safety, disrupt employee discipline (e.g., exacerbate employee dissention or cause distraction from work demanding great concentration), or negatively affect the employer (e.g., damage machinery, products, or a certain image necessarily projected for the public). (*County of Sacramento*, *supra*, PERB Decision No. 2393-M, p. 23; *East Whittier*, *supra*, PERB Decision No. 1727, p. 11, citing *Pay'n Save Corp. v. NLRB* (9th Cir. 1981) 641 F.2d 697, 700; *Parks*, *supra*, PERB Decision No. 1026-S, p. 5.) Also important is the specific context in which the prohibition was enacted or enforced, the locations involved, and the parties' past practice. (*Regents*, *supra*, PERB Decision No. 2616-H, p. 15.)

On the rare occasions when PERB has addressed safety as a justification for an employer's ban of union insignia, it found the employer did not meet its evidentiary burden in establishing special circumstances. For instance, in *Parks*, *supra*, PERB

Decision No. 1026-S, the record failed to show that a union button by its design created a safety or health issue, or significantly altered the employees' uniform in a way that could lead to safety problems.[14] (*Id.* at pp. 5-6.)

In *County of Sacramento*, *supra*, PERB Decision No. 2393-M, the employer failed to establish special circumstances where it did not introduce "one scintilla of evidence" regarding safety issues with any union insignia previously worn by firefighters. (*Id.* at pp. 31-32.) We cited with approval non-California authority holding that a history of insignia in the workplace without resulting incidents is relevant to determining whether special circumstances exist, and that even a six-month history was an "important point" in finding that a correctional institution's need to protect inmate and officer safety did not justify its insignia policy. (*Id*. at pp. 27-28, fn. 32.) We also found it relevant that other municipal fire departments permitted firefighters to wear union insignia, and we presumed, in the absence of contrary evidence, that there had been no operational problems when firefighters had worn union insignia in the past, including during Breast Cancer Awareness month. (*Id*. at pp. 30-31.)

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[14] We also noted that even though alternative means of communication might be available, "this does not make buttons any less legitimate" as a form of communication. (*Parks*, *supra*, PERB Decision No. 1026-S, p. 6.) Nonetheless, in determining whether special circumstances exist, the National Labor Relations Board (NLRB) has considered employees' ability to place union insignia on their clothing and personal property, but only when the employer has demonstrated a legitimate safety concern about union insignia on hardhats. (*Andrews Wire Corp.* (1971) 189 NLRB 108, 109; *Standard Oil Co.* (1967) 168 NLRB 153, fn. 1.) We need not decide whether to follow the NLRB's approach on this point because in the instant case, as discussed *post*, the City failed to sufficiently demonstrate any safety justification for its sticker ban. Therefore, it is of no consequence that the City allows MSD employees to display union insignia on their clothing and personal property.

The NLRB has addressed safety justifications for banning stickers on hardhats on several occasions. In many of these cases, the employer asserted that stickers impaired management's visibility of the hardhat on the jobsite or made it more difficult to see employer-approved stickers conveying information such as an employee's qualifications to operate particular machinery or provide emergency medical treatment. (See, e.g., *Allstate Power Vac, Inc.* (2009) 354 NLRB No. 111 (*Allstate*);[15] *Albis Plastics* (2001) 335 NLRB 923; *Eastern Omni Constructors, Inc.* (1997) 324 NLRB 652, enforced (4th Cir. 1999) 170 F.3d 418.)

Fewer are the cases in which the employer asserts, as the City does here, that banning stickers is necessary to prevent damage to hardhats. In *Malta Construction Company* (1985) 276 NLRB 1494, the employer failed to produce any evidence showing the ban was necessary to prevent hardhat damage, leading the NLRB to refrain from addressing the issue. (*Id.* at p. 1495.)

In *Northeast Industrial Service Company, Inc.* (1996) 320 NLRB 977 (*Northeast*), the employer argued that stickers could prevent discovery of cracks, gouges, and dents in the hardhat. (*Id*. at p. 978.) The NLRB first noted that the stickers in question ranged in diameter from one to three inches, and that even the largest of these sizes would cover less than ten percent of the hardhat's surface. (*Id*. at p. 980.) There was no evidence of safety issues when the employer had previously permitted a similarly sized sticker. (*Ibid*.) Moreover, the NLRB found it significant that the employer had not shown such a great safety-related concern as to institute close,

[15] In *County of Sacramento*, *supra*, PERB Decision No. 2393-M, p. 25, we cited with approval *Allstate*'s decision invalidating an employer's ban on placing union stickers on hardhats.

regular hardhat inspections. (*Ibid*.) The record instead demonstrated that the employer merely relied on supervisors and safety personnel, as they walked through jobsites, to conduct "casual inspections." (*Id*. at pp. 978, 980.) For these reasons, the NLRB found that the employer's safety concerns did not constitute special circumstances justifying the sticker ban.

Here, the record does not establish any safety issues that foreseeably could arise from stickers being placed on hardhats or helmets. In fact, the City's practices undermine its stated safety concerns.

First, although Petzl recommends each of its helmets undergo a detailed inspection every 12 months, neither the MOU nor MSD Policies and Procedures prescribe any regular inspection of hardhats or helmets. Morales testified that all MSD employees are expected to inspect their hardhat each day before use but provided no information regarding how closely they inspected their hardhats or whether they met that expectation at all. Instead, he described the supervisors' decision to replace a damaged hardhat as a judgment call based on the manufacturer's recommendations and employee feedback. The City clearly has not "shown so great a safety-related concern for dented, gouged, or otherwise damaged hardhats that it would institute regular and closer inspections of them." (*Northeast*, *supra*, 320 NLRB at p. 980.) Instead, the City relied on casual inspections by the equipment operators and supervisors at the job site, which weighs against finding a safety concern that would constitute special circumstances. (*Ibid.*)

Second, it is undisputed that MSD employees working on the City light rail system sometimes attach headlamps to their hardhats, affixing the headlamp with

clips and removable adhesive. The City presented no evidence that the adhesive used to affix the headlamps had been supplied by the manufacturer, as both ERB and Petzl instruct; had damaged the hardhats; or had prevented employees from detecting such damage. In the absence of any such evidence, we must presume there have been no safety issues resulting from the affixing of headlamps to employees' hardhats. (*County of Sacramento*, *supra*, PERB Decision No. 2393-M, pp. 30-31.) This history of adhesive use on hardhats without incident also weighs against finding special circumstances. (*Id.* at pp. 27-31; *Northeast*, *supra*, 320 NLRB at p. 980; see *Regents*, *supra*, PERB Decision No. 2616-H, pp. 18-19 [finding that history of employees displaying union messages on stickers and buttons without incident weighed against finding that a ban on a particular union sticker was justified by special circumstances].)

We do not suggest that an employer must wait until an actual injury occurs before banning union insignia for safety reasons. (*Eastern Omni Constructors, Inc. v. NLRB*, *supra*, 170 F.3d at p. 425.) But to establish safety-based special circumstances to support such a ban, the employer must present concrete evidence that employee safety is foreseeably threatened by displaying the union insignia (*Parks*, *supra*, PERB Decision No. 1026-S, pp. 5-6), and that it has acted consistently with its stated concern (*County of Sacramento*, *supra*, PERB Decision No. 2393-M, pp. 27-31; see *Albis Plastics*, *supra*, 335 NLRB at p. 924 ["When an employer asserts that it has curtailed the right to wear union insignia on hardhats based on safety concerns, the [NLRB] examines the conditions in the workplace to determine if there is a showing that the circumstances necessitate the curtailment."].)

Here, the City failed to carry its burden of establishing safety-based special circumstances justifying its policy completely banning stickers, decals, and paint on MSD employees' hardhats and helmets. We therefore reverse the proposed decision and find the City's policy unlawfully interfered with employees' and Local 39's rights under the MMBA.

ORDER

Based on the foregoing findings of fact and conclusions of law, and the entire record in this case, it is found that the City of Sacramento (City) violated the Meyers-Milias-Brown Act (MMBA or Act), Government Code section 3500 et seq., and PERB Regulations 31001 et seq. when it unilaterally implemented a policy prohibiting employees from placing any stickers, decals, or paint, including union insignia, on their hardhats without meeting and conferring in good faith with the employees' exclusive representative, Stationary Engineers Local 39 (Local 39).

Pursuant to Government Code section 3509, subdivision (b), it is hereby ORDERED that the City, its governing board, and its representatives shall:

A. CEASE AND DESIST FROM:

1. Failing and refusing to meet and confer in good faith with Local 39 before implementing a new hardhat policy prohibiting employees from wearing any stickers, decals, or paint on hardhats.

2. Interfering with the right of bargaining unit employees to be represented by Local 39.

3. Denying Local 39 its right to represent bargaining unit employees in their employment relations with the City.

4. Interfering with the protected rights of bargaining unit employees and Local 39 by prohibiting employees from placing stickers or decals bearing union messages and insignia on their hardhats.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTIONS DESIGNED TO EFFECTUATE THE POLICIES OF THE ACT:

1. Rescind the April 6 and 13, 2017 memoranda entitled "WEAR OF HARDHATS."

2. Meet and confer with Local 39 before implementing a new hardhat policy.

3. Within 10 workdays following the date this Decision is no longer subject to appeal, post at all work locations where notices to City employees in the Operations and Maintenance bargaining unit are customarily posted, copies of the Notice attached hereto as an Appendix. The Notice must be signed by an authorized agent of the City, indicating that it will comply with the terms of this Order. Such posting shall be maintained for a period of 30 consecutive workdays. The Notice shall also be posted by electronic message, intranet, internet site, and other electronic means customarily used by the City to communicate with Operations and Maintenance bargaining unit employees. Reasonable steps shall be taken to ensure that the Notice is not reduced in size, altered, defaced, or covered with any other material.

4. Written notification of the actions taken to comply with this Order shall be made to the General Counsel of the Public Employment Relations Board, or the General Counsel's designee. The City shall provide reports, in writing, as directed

by the General Counsel or his designee. All reports regarding compliance with this Order shall be concurrently served on Local 39.

Members Banks and Krantz joined in this Decision.

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD
An Agency of the State of California

After a hearing in Unfair Practice Case No. SA-CE-1009-M, *Stationary Engineers Local 39 v. City of Sacramento*, in which all parties had the right to participate, it has been found that the City of Sacramento (City) violated the Meyers-Milias-Brown Act (MMBA), Government Code section 3500 et seq., and PERB Regulations 31001 et seq., when it unilaterally implemented a policy prohibiting employees from placing any stickers, decals, or paint, including union insignia, on their hardhats without meeting and conferring in good faith with the employees' exclusive representative, Stationary Engineers Local 39 (Local 39). By this conduct, the City also interfered with the right of employees to be represented by Local 39 and denied Local 39 its right to represent employees.

As a result of this conduct, we have been ordered to post this Notice and we will:

A. CEASE AND DESIST FROM:

1. Failing and refusing to meet and confer in good faith with Local 39 before implementing a new hardhat policy prohibiting employees from wearing any stickers, decals, or paint on hardhats.

2. Interfering with the right of bargaining unit employees to be represented by Local 39.

3. Denying Local 39 its right to represent bargaining unit employees in their employment relations with the City.

4. Interfering with the protected rights of bargaining unit employees and Local 39 by prohibiting employees from placing stickers or decals bearing union messages and insignia on their hardhats.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTIONS DESIGNED TO EFFECTUATE THE POLICIES OF THE MMBA:

1. Rescind the April 6 and 13, 2017 memoranda entitled "WEAR OF HARDHATS."

2. Meet and confer with Local 39 before implementing a new hardhat policy.

Dated: _____ CITY OF SACRAMENTO

By: _____

Authorized Agent

THIS IS AN OFFICIAL NOTICE. IT MUST REMAIN POSTED FOR AT LEAST 30 CONSECUTIVE WORKDAYS FROM THE DATE OF POSTING AND MUST NOT BE REDUCED IN SIZE, DEFACED, ALTERED OR COVERED WITH ANY OTHER MATERIAL.