



# **MEMORANDUM OF UNDERSTANDING**

Between

**CITY OF CORNING**

and

**OPERATING ENGINEERS UNION LOCAL NO. 3**

of the

**INTERNATIONAL  
UNION OF OPERATING ENGINEERS  
AFL-CIO**

for

***PUBLIC SAFETY EMPLOYEES***

**Effective:**

**January 1, 2017 – December 31, 2019**

Agreement March 21, 2017

Ratified by City Council March 28, 2017

**City of Corning  
and the  
Operating Engineers Local Union No. 3 of the  
International Union of Operating Engineers AFL-CIO  
for Public Safety Employees**

**Effective: January 1, 2017 – December 31, 2019**

This Memorandum of Understanding is made and entered into between the Operating Engineers Local No. 3 of the International Union of Operating Engineers, AFL-CIO, hereinafter referred to as "**Union**", and the designated representatives of the CITY OF CORNING, hereinafter referred to as the "**City**", pursuant to the provisions of the Meyers-Millias-Brown Act (Government Code Section 3500, et seq.). This Memorandum of Understanding supersedes and replaces all previous Memorandum of Understandings between the parties.

**ARTICLE 1  
GENERAL PROVISIONS - DEFINITIONS**

**1.1 DEFINITIONS:**

- A. Employer:** The term "Employer", as used herein, shall refer to the City of Corning.
- B. Union:** The term "Union", as used herein, shall refer to the Operating Engineers Local No. 3 of the International Union of Operating Engineers, AFL-CIO.
- C. Employee:** The term "Employee", as used herein, shall mean all Employees of the Peace Officer Unit as established under the provisions of the Employer-Employee Relation Policy of the City of Corning.
- D. Employment Anniversary Date:** The term "employment anniversary date", as used herein, shall mean the anniversary date of the employee's employment with the City.
- E. Step Anniversary Date:** The term "step anniversary date", as used herein, shall mean the date upon which an employee has finished serving the requisite amount of time in order to be eligible for a salary step increase. A new time period for such requisite service shall commence upon the occurrence of any of the following events: Promotion, reclassification, implementation of a Memorandum of Understanding provision or Side Letter of Understanding specifying a movement into a new step or an increase in the rate paid for the step currently held by the employee.

**ARTICLE 2  
RECOGNITION**

- 2.1** The Employer hereby recognizes the Union as the only organization entitled to meet and confer on matters within the scope of representation.

**ARTICLE 3  
HIRING PROVISIONS**

- 3.1** No Employee covered by this Memorandum of Understanding shall be discriminated against by the Employer or by the Union by reason of race, color, religion, sex, age or national origin.
- 3.2** The Employer shall not discharge, or otherwise discriminate against any Employee by reason of Union activities not interfering with the proper performance of his work.

**ARTICLE 4  
CHECK OFF**

- 4.1** The Employer agrees to deduct from the wages of its Employees' initiation fees and dues and transmit the moneys so deducted to the Financial Secretary of the Union. An Employee desiring to have such deduction or deductions made shall sign a proper assignment form authorizing such deductions.

4.2 The Employer agrees to deduct from the wages of its Employees' Operating Engineers Local Union No. 3 Credit Union deductions and to transmit the moneys so deducted to the Credit Union. An Employee desiring to have such a deduction or deductions made shall sign a proper assignment form authorizing such deductions.

4.3 Such deductions shall not be made more often than once per month.

## **ARTICLE 5 MANAGEMENT RIGHTS**

5.1 The Employer retains the exclusive right to manage the City. All the rights, powers, functions and authority of the Employer, which it had prior to the time the Union became certified as representative of the Employees of the Employer, and which are not limited or modified by specific provisions of the Memorandum, are retained by the Employer. The Employer specifically retains the right to manage and supervise its Employees as follows:

1. To hire, promote, transfer, assign, classify positions, retain employees, and to suspend, demote, discharge or take other disciplinary action against Employees.
2. To lay-off or demote Employees from duties because of lack of work, lack of funds, in the interest of economy, or other legitimate reasons.
3. To determine the policies, standards, procedures, methods, means and personnel by which City operations are to be conducted.
4. To take whatever actions may be necessary to carry out the mission of the City in situations of emergency.
5. To limit or prohibit the right of Employees in certain positions or classes of positions from forming, joining, or participating in employee organizations as provided in the California Government Code, and designating such employees in the current schedule of Departments and Authorized Positions adopted by resolution.
6. Nothing in this policy shall be construed to interfere with the City's right to manage its operations in the most economical and efficient manner consistent with the best interests of all citizens, taxpayers, and employees in the City.

## **ARTICLE 6 UNION RIGHTS**

6.1 The Union recognizes its obligation to cooperate with the Employer to assure maximum service of the highest quality and efficiency to the citizens of the City of Corning consistent with its obligations to the Employees it represents.

6.2 Employer and Union affirm the principle that harmonious Employer-Employee relations are to be promoted and furthered. When a person is hired in any of the covered job classifications, the City shall notify that person that the Union is the certified representative for the Employees and shall notify the Union of such hiring.

6.3 The Employer shall provide the Union space to erect a bulletin board in each area where Employees covered by this Memorandum are assigned.

6.4 Business Representatives of the Union shall have reasonable access to Employees, provided such access does not interfere with City business. Department Heads and First-Line Supervisors will be notified by the Employer of the provisions of this Section. Solicitation for membership shall not be conducted during working time.

6.5 Business representatives of the Union shall have access to any Employee or Employees presenting a grievance; and Employees have the right to have the Union Business Representative represent him/her at all stages of disciplinary action.

6.6 The Union may select one (1) Employee as Union Steward.

- 6.7 In addition to his regularly assigned work, the Union Steward shall be permitted reasonable time during working hours to notify the Business Representative of any violations of this Memorandum. Employees are authorized to contact their Union Steward during working hours to report a grievance or violation of this Memorandum.

## **ARTICLE 7 PEACEFUL PERFORMANCE**

- 7.1 The parties to this Memorandum of Understanding recognize and acknowledge that the services performed by the City Employees covered by this Memorandum are essential to the public health, safety and general welfare of the residents of the City of Corning. The Union agrees that under no circumstances will the Union recommend, encourage, cause or permit its members to initiate, participate in, nor will any member of the bargaining unit take part in, any strike, sit-down, stay-in, sick-out, slow-down or picketing (hereinafter collectively referred to as work stoppage), in any office or department of the City, nor to curtail any work or restrict any production, or interfere with any operation of the City. In the event of any such work stoppage by any member of the bargaining unit, the City shall not be required to negotiate on the merits of any dispute, which may have given rise to such work stoppage until said work stoppage has ceased.
- 7.2 In the event of any work stoppage during the term of this Memorandum of Understanding, whether by the Union or by any member of the bargaining unit, the Union, by its officers, shall immediately declare in writing and publicize that such action is illegal and unauthorized, and further direct its members in writing to cease the said conduct and resume work. Copies of such written notice shall be served upon the City. If in the event of any work stoppage the Union promptly and in good faith performs the obligations of this paragraph, and providing the Union has not otherwise authorized, permitted or encouraged such work stoppage, the Union shall not be liable for any damages caused by the violation of this provision. However, the City shall have the right to discipline, including discharge, any Employee who instigates, participates in, gives leadership to, any work stoppage activity herein prohibited, and the City shall also have the right to seek full legal redress including damages, as against any such Employee.

## **ARTICLE 8 PAYMENTS**

- 8.1 This Memorandum is intended to cover all aspects of wages, hours, and working conditions for Employees covered herein, therefore, nothing in this Memorandum shall prevent the Employer from modifying any fringe benefits or benefit plans not specifically provided for in this Memorandum such as retirement plans, salary continuation plans, etc., subject to meet and confer.
- 8.2 If an Employee covered by this Memorandum is permanently assigned work of a substantially new or different nature so as to constitute a new job classification, the Employer and the Union shall determine the wage rate through the established procedures.
- 8.3 Effective 6/24/01 in accordance with the City's Standard Bi-weekly Pay Plan, the pay period for all employees covered by this MOU will be bi-weekly. Initial bi-weekly payment to be made 7/12/01 and every other week after that date in the same manner and time as all other City employees.

This transition will allow employees to receive a modified semi-monthly paycheck for work performed in the portion of the last period of June 2001 (between 6/16/01 and 6/23/01) in the same manner and time as previously scheduled.

The work period will be the 80 hours bi-weekly allowed under the provisions of the FLSA 7K exemption for Safety employees.

**ARTICLE 9  
PREVAILING RIGHTS**

- 9.1** This Memorandum of Understanding contains all of the covenants, stipulations and provisions agreed upon by the parties. It is understood that all items relating to Employees' wages, hours, and other terms and conditions of employment not covered in this Memorandum of Understanding shall remain the same, except as specifically mentioned in this Memorandum; therefore, for the life of this Memorandum, neither party shall be compelled to bargain with the other concerning any mandatory bargaining issues, whether specifically bargained about prior to the execution of this Memorandum or which may have been omitted in the bargaining which led up to the execution of this Memorandum of Understanding, except by mutual agreement of the parties or as specifically mentioned in this Memorandum.

**ARTICLE 10  
WAGES**

- 10.1 (A) Wage Increase:**
- a.) Wages: Article 10.1(A):**

The City agrees to increase the base wages of all members of the Bargaining Unit by five and one-half percent (5½%) effective the start of the first pay period in 2017 following City Council ratification of the Memorandum of Understanding (MOU). The City further agrees to utilize IRS Code 414(h)2, making these payments with pre-taxed dollars.
  - b.) A three (3%) percent increase to base wages for all members of the Bargaining Unit effective the first pay period in January 2018; and**
  - c.) A two (2%) percent increase to base wages for all members of the Bargaining Unit effective the first pay period in January 2019.**
- (B)** For the period of this agreement, Employees will be eligible for merit step increases in accordance with section 10.2.
- 10.2** Employees may advance to the next step in the pay schedule upon satisfactory completion of the required time in the lower step. The time required to advance from step A to B, and B to C is currently six (6) months. For employees hired after July 1, 2005, the time required between step A and B shall remain six (6) months. For employees hired after July 1, 2005 advancement from step B to C, C to D and D to E shall be twelve (12) months between each step.
- 10.3** Employees transferring into the unit from other public agencies or from other departments within the City shall be placed on whatever salary step the City determines is appropriate based on their qualifications. However, an Employee receiving a promotion within the department shall not be placed in a step requiring a lower salary than was earned in the previous position.
- 10.4** Longevity Pay: Employees will be eligible for longevity performance incentive pay under the following conditions:
- A.** Annual satisfactory performance evaluations will be required to receive and maintain annual pay increase.
  - B.** A performance evaluation will be made 30-days before the employee's anniversary date.
  - C.** Qualifying employees will receive a longevity performance incentive pay increase to be added to their base rate as follows:
    - 1.** 3% after 10 years, effective the first pay period after anniversary date.
    - 2.** 6% after 15 years, effective the first pay period after anniversary date, (not compounded with the 3%).

- D. In the event the employee is denied a longevity performance incentive pay increase, the employee may request the City Manager for review and to make final determination. The matter may not be filed under any other grievance procedure.
- E. The plan will be implemented for all eligible employees effective the pay period closest to the date the City Council ratifies the Memorandum of Understanding (MOU). The initial performance increase will be effective the first pay period following a satisfactory performance evaluation. The initial evaluation is to be made as soon as administratively feasible following the adoption of the MOU. Such increase will remain in effect to the employee's next anniversary date prior to which time a reevaluation is required.

**ARTICLE 11  
HEALTH AND WELFARE INSURANCE**

- 11.1 The City offers a choice of four (4) Health and Safety Insurance Policies: (1) Operating Engineers Public Employees' Health and Welfare Plan; and (3) different tier Blue Shield Health Savings Account Plans. All Employees and their eligible dependents may participate in the Plans, with the City contributing to the cost of such plans up to **\$1,284.91** per month towards the rate. The employee shall pay any remaining costs of insurance.  
Future increases shall be divided equally between the City and the employee.
- 11.2 The City shall pay the fee for Employees who are not members of the Operating Engineers Local Union No. 3 in order to participate in the Union's Health and Welfare Plan.
- 11.3 The City shall provide life insurance in the amount of one hundred thousand dollars (\$100,000) effective the first pay period in 2016 following City Council approval of the Memorandum of Understanding (MOU) and will continue to pay the life and disability insurance premiums.
- 11.4 The City shall have the option of replacing the Operating Engineers Public Employees Health and Welfare Plan with a plan of the City's choosing. If the City exercises this option, the City shall maintain coverage that is comparable and substantially equivalent to that provided currently under the present plan.
- 11.5 A Health Plan Review Committee consisting of one employee from each bargaining unit will be established and coordinated by the City Manager to review alternate health plans. A non-binding Committee Report will be made to the City and the Union. The committee will study both the health plan and the short-term disability and "cafeteria" plans. Upon receipt of the committee's report, the City or the Union, upon the request of either, will meet and confer on the recommendations of the committee.

**ARTICLE 12  
WORKDAY AND WORKWEEK**

- 12.1 The regular workday shall be eight (8) hours, inclusive of mealtime. The regular workweek shall not exceed forty (40) hours per week on duty. Workweeks shall be scheduled by the Employer to provide for five (5) consecutive days on duty and two (2) consecutive days off duty. All time worked in excess of the regular workday or workweek shall be considered overtime.
- 12.2 The City may institute an optional work schedule to the (5-8) shift. If another shift is considered, it is the understanding that management retains the right to schedule in the best interests of the department, and for the safety of the citizens of Corning.

**ARTICLE 13  
OVERTIME**

- 13.1 Overtime shall be compensated at the rate of time and one-half, which will be paid in the same manner as other wages, except C.T.O.

- 13.2 An Employee shall, upon termination of employment, be entitled to be paid all unpaid accumulated overtime together with the Employee's normal wages.
- 13.3 All cash payments for overtime worked will be made on the regular salary check in which it was earned. The only exception is holiday pay. (See Article 19 regarding holidays.)
- 13.4 All overtime worked shall be first approved by the Chief or Shift Sergeant.
- 13.5 Compensatory Time in lieu of overtime (CTO): Currently members of the Bargaining Unit may accrue up to a maximum of one hundred fifty (150) hours annually upon the Police Chief's discretionary authority. Effective the pay-period beginning January 4, 2015, members of the Bargaining Unit may accrue up to a maximum of one hundred seventy five (175) hours annually upon the Police Chief's discretionary authority. CTO time may be carried into the following year, but at no time can it exceed the one hundred fifty (150) hours. The Police Chief shall approve when employees can take time off, taking into consideration the desire of the employees and the operational needs of the department. The Police Chief and employees may mutually agree to pay out any or all CTO time at any time. All unused CTO shall be paid upon termination. All CTO in excess of one hundred fifty (150) hours shall be paid.

#### **ARTICLE 14 SPECIALTY PAY**

- 14.1 Employees in the classification of Police Officer shall receive in addition to regular pay a 5% premium when assigned, in writing by the Police Chief, to serve and perform as a Field Training Officer (FTO).
- 14.2 **Out of Class Pay. An Employee who is temporarily assigned, in writing, the duties of a supervising position shall receive premium pay of five percent (5%) above his/her present salary.**
- 14.3 Officers assigned by the Chief of Police to the K-9 Unit shall receive one hundred fifty dollars (\$150) per month for the incidental duties related to the assignment effective June 24, 2001.
- 14.4 Officers certified and assigned by the Chief of Police as **bi-lingual shall receive a total of 5%** for the incidental duties related to the assignment effective the first pay period in 2016 following City Council approval of the Memorandum of Understanding (MOU). The Police Chief shall establish reasonable standards to qualifying Officers and for ongoing review of skills.
- 14.5 Effective the first pay period in 2016 following City Council approval of the Memorandum of Understanding (MOU), Officers certified and assigned by the Chief of Police as Range Master shall receive an additional 3% of a qualifying Officer's base wages when actively instructing (Estimated at no more than 40 hours per year in total for all qualifying Officer's.)

#### **ARTICLE 15 STAND-BY COMPENSATION**

- 15.1 When the Employer requires an Employee to remain available for call back at any time, the Employee shall receive stand-by pay.
- 15.2 When an Employee is required to stand by, he shall be compensated for such stand-by at the rate of two (2) hours of straight time compensation by cash for each accumulated eight (8) hours of stand-by.

#### **ARTICLE 16 CALL-BACK COMPENSATION**

- 16.1 When the City requires an employee to return to work other than his regularly scheduled workday, or for hours that are not contiguous to the beginning or end of an employee's normal shift, the employee shall be entitled to call-back compensation.

16.2 The City shall compensate the employee a minimum of two (2) hours of overtime compensation irrespective of the actual time worked when an employee is called back to work. In the event the task exceeds two (2) hours duration, the total overtime compensation shall be for the hours actually worked.

## **ARTICLE 17 SICK LEAVE**

- 17.1 Sick leave is available to an employee to use in case of illness, bodily injury, exposure to a contagious disease, medical or dental appointment or attendance upon seriously ill member of employee's immediate family, as defined by these rules. An employee may take paid sick leave after the first month of employment. Every effort by the employee shall be made to schedule appointments during non-working hours.
- 17.2 Sick leave with pay shall be granted to all employees. Sick leave shall be earned at the rate of eight (8) hours per calendar month of service, not to exceed a total maximum accumulation of one thousand four hundred forty (1440) hours. No sick leave shall be earned once the maximum accrual is reached.
- 17.3 The City agrees to pay fifty percent (50%) of Employee's unused accumulated sick leave upon retirement or death effective the start of the first pay period in 2016 occurring after the City Council approves the Memorandum of Understanding (MOU). Upon reduction in force, the City shall pay twenty-five (25%) of Employee's unused accumulated sick leave.
- 17.4 Employees who have less than thirty-six (36) days of sick leave accumulated may, in lieu of taking vacation, bank said vacation time under sick leave.
- 17.5 Family Leave shall be administered in accordance with applicable State and Federal law.
- 17.6.1 **Bereavement Leave - Effective the start of the first pay period in 2017 following City Council ratification of the Memorandum of Understanding (MOU), the City agrees to not charge Bereavement Leave to Sick Leave.** In the event of a death in the immediate family, the Employee may take off up to four (4) days. The immediate family shall be defined as husband, wife, child, step child, mother, father, brother, sister, grandparents, and grandchildren. Such leave shall be charged to sick leave.
- 17.7 When an employee is off work as a result of a valid on-the-job injury sustained in the service of the City, the employee is entitled to use their accrued Sick Leave during the period of disability to make up the difference between their regular pay and the Workers Compensation Temporary Disability Payments. The City shall pay only that amount necessary to make up the difference between the employee's monthly rate and the amount payable to the employee as temporary disability payments from the Worker's Compensation Insurance Plan of the City. To take advantage of this benefit, the employee must forward their Temporary check to the City.
- 17.8 The City may require verification of the necessity for sick leave. Such verification may be in the form of a written statement from a doctor or a personal affidavit from the Employee. The City reserves the right to specify which of the two verification procedures will be required in any particular situation. If the City requires verification from a physician, the City shall pay for the cost of such verification to the extent such cost is not reimbursed by the Employee's health insurance.
- 17.9 If the City determines that an Employee has abused the provisions of the sick leave policy, the Employee shall be subject to disciplinary action.
- 17.10 **Sick Leave Conversion Upon Retirement:** In lieu of a cash out of sick leave, an employee, upon retirement under PERS, may choose as an option, to convert a percentage of the dollar value of the sick leave at the employee's current hourly base rate of pay as of the date of retirement, to pay the pre-paid health insurance premium up for a period of time up to age 65 according to the following conversion plan:

<b><u>Employee's year of Service with City</u></b>	<b><u>Percentage value of employee's accrued Sick Leave</u></b>
Through 15 years	50 %
16 through 19 years	70 %
20 or more years	80 %

The following is the procedure to account for the percentage value of converted sick leave:

- (A) At the written request of the retiring employee, the City Staff will compute the dollar value of the accrued sick leave according to the percentages shown above, and maintain an accounting in the employee's name, deducting the amount of monthly City health insurance premium for the "balance".
- (B) The value of sick leave does not accrue in a cash fund for each employee, therefore no actual funds are held in trust. The City simply agrees to pay the retiree's premium for a period of time until the balance value of the conversion is depleted.
- (C) Should a retired employee want to stop their insurance premium payments under this Section, the employee must notify the City Manager in writing, giving the date payments should end, and City Staff will do an accounting of the actual dollar amount paid out. Should this amount still be less than the fifty percent (50%) value provided for in the sick leave payoff provisions of this MOU, Section 17.3 the balance will be paid to the employee.
- (D) Should a retired employee die prior to fully using this benefit, any dependents covered under the health insurance may, if permitted to, continue insurance coverage by the insurance carrier and receive the continuation of this benefit until fully expended. The benefit shall have no cash value to the employee's estate nor can the City accept any claim for payoff by heirs.
- (E) Employees' not choosing to remain in the City's offered health plan may use the benefits set out in these sections, to be applied to the cost of a private health plan. The retired employee will be reimbursed on a quarter year basis, such amounts as provided in these sections, upon submission of a written claim and proof of a paid premium by the retired employee. The form, manner of claim, and proof will be as prescribed by the City.

#### **ARTICLE 18 UNIFORM ALLOWANCE**

- 18.1 Effective January 1, 2009 the City agrees to pay all members of the Public Safety Employees Bargaining Unit covered by this Memorandum of Understanding, a uniform allowance, also to include Body Armor Shell, of nine hundred dollars (\$900) per year, payable on the Employee's employment anniversary date. Notwithstanding the foregoing, the City reserves the option to implement a system by which the City will purchase and maintain the uniforms required of Employees at City's expense in lieu of providing the aforementioned uniform allowance.
- 18.2 The Employer agrees to replace, at no cost to the Employee, any item of uniform clothing damaged in the line of duty.

#### **ARTICLE 19 HOLIDAYS & HOLIDAY PAY**

- 19.1 **Members of the bargaining unit shall receive "Holiday in Lieu". The amount shall annually be equal to one hundred sixteen (116) hours pay effective January 15, 2018.**
- 19.2 Employees hired into full time positions during each calendar year shall have their Holiday in Lieu pay prorated based on the number of full months worked in relationship to twelve (12) months. This section applies only to initial hires by the City, not employees who promote during the year.
- 19.3 Annual payment is to be made on the last pay period in November.

**ARTICLE 20**  
**457 DEFERRED COMPENSATION PLAN**

**Effective the first pay period in 2017 following City Council ratification of the Memorandum of Understanding, the City will match employee's contributions to their 457 Deferred Compensation Plan up to \$60 per month.** The City match is only available for one (1) Deferred Compensation Plan even if employees are enrolled in more than one (1) Plan. Employees must commit to maintain their 457 contribution for one full year.

**ARTICLE 21**  
**EDUCATIONAL INCENTIVE PAY**

- 21.1** The Employer agrees to provide Incentive Pay for all Peace Officers at the following rates:
- A.** All Employees to receive, monthly, two and one-half percent (2 1/2%) above base monthly pay for possession of a POST Intermediate Certificate or an Associate of Arts Degree.
  - B.** All Employees to receive, monthly, five percent (5%) above base monthly pay for possession of a POST Advanced Certificate or a Bachelor's Degree.

**ARTICLE 22**  
**VACATION TIME**

- 22.1** Employees shall earn vacation according to the following:
- A.** Employees shall earn vacation with pay at the rate of one hundred twenty (120) hours per year after one (1) year and during the first seven (7) years of City employment.
  - B.** Employees shall earn vacation with pay at the rate of one hundred sixty (160) hours per year after completion of seven (7) years of City employment.
  - C.** Effective January 1, 2009, employees shall earn vacation with pay at the rate of two hundred (200) hours per year after fifteen (15) years of City employment.
  - D.** The maximum number of vacation hours employees may carry over or have in a vacation account at the start of each new calendar year is one hundred fifty (150) hours.
  - E.** Employees who have more than one hundred fifty (150) hours in their vacation account will have the excess vacation time paid off at the close of each calendar year.
- 22.2** The Employee shall have the option of converting up to fifty percent (50%) of unpaid accumulated vacation to cash payment in lieu of taking vacation. The Employee may exercise this payoff option only one (1) time per fiscal year with five (5) working days notice to payroll.

**ARTICLE 23**  
**SAFETY**

- 23.1** The Employer agrees to furnish, at no cost to the Employee, all items of safety equipment including, but not limited to: weapon, holster, belt with ammo pouches, cuffs, nightstick and rain gear with waterproof boots, plus reflectorized traffic vests and traffic batons for each patrol car.
- 23.2** **Body Armor:** The City shall periodically choose a manufacturer and brand of body armor that meets the "Threat Level III-A" Standard published from time to time by the National Institute of Justice. Each employee represented by the Bargaining Unit will be provided "Threat Level III-A" body armor upon employment. Such body armor shall be replaced every four (4) years. Initial and replacement armor will include both the armor and the shell. The employee is responsible for the periodic replacement of the shell as part of the annual Uniform Allowance, as explained in Article 18. The Employee may select a higher priced unit (meeting this standard) by paying the difference. The body armor will be required to be worn at all times when the Officer is on duty.

- 23.3 Vehicles:** The City Police Chief will consult with a representative of the Unit and consider Unit input when developing a maintenance inspection program for patrol cars. The program will include routine "certified" vehicle inspections at specific mileage and following an accident or high-speed chase involving the vehicle.
- 23.4 Manning:** The Police Chief will consult with a representative of the Unit and consider Unit input when developing a plan for the scheduling and deployment of available staff to best meet the needs of the Department and the City population.
- 23.5 Ammunition:** City will provide all duty ammunition and range qualification and ammunition for all City duty issued weapons.
- 23.6** A Physical Fitness Plan Committee, consisting of one employee from the bargaining unit and the Police Chief, will be established and coordinated by the City Manager to review physical fitness plans.
- 23.7** Employees who qualify under the physical fitness incentive plan shall receive a total of five percent (5%) pay increase.

## **ARTICLE 24 LAY-OFF POLICY**

- 24.1** The City may lay-off Employees whenever it becomes necessary because of lack of work or funds, or whenever it is deemed advisable in the interests of the economy to reduce the force in a department or office.
- 24.2** Persons shall be laid off in the following order:
1. All extra help, temporary and provisional Employees in the same department and within the same job classification shall be laid off before any regular Employee is laid off.
  2. When it becomes necessary to reduce the force in any department or office by lay-off of regular Employees, seniority shall be the determining factor. In the case where seniority is equal, ability shall govern.
- The determination of ability shall be the exclusive responsibility of the department head, provided that in making such determination, consideration shall be given to skill, efficiency, knowledge, physical fitness, training and attitude toward fellow Employees.
- 24.3** Seniority shall be measured from the Employee's initial appointment to City service, but shall not include any period during which such Employee was on leave without pay, or not actually in City employment because of the Employee's voluntary termination, lay-off or other cause; provided that, for any Employee who is reemployed after being discharged, seniority shall be measured from the date of the Employee's most recent appointment.
- 24.4** The City shall send written notice by certified mail, postage prepaid, return receipt requested, and correctly addressed to the last known mailing address of the Employee as found in the Employee's personnel file. In lieu of the above, the City may serve notice by personal service. Notice of lay-off shall be made at least (30) thirty-days prior to the effective date of the action.
- 24.5** In lieu of being laid off, a regular Employee may elect demotion and displacement in the same department to a classification previously held by said Employee with substantially the same or lower salary step and/or to a classification in which said Employee meets the minimum qualifications. Demotion and displacement rights to specified classifications shall be applicable only within the department and subject to layoff list provisions in this Section based on seniority and ability. Employees wishing demotion and displacement in lieu of layoff must notify the City Manager in writing of this election no later than seven (7) calendar days after receiving notice of layoff.

**ARTICLE 25  
PROBATION PERIOD AND EVALUATION**

- 25.1** All Employee evaluations should be made by the Employee's immediate Supervisor or the Employee's Department Head when possible. In the event the immediate Supervisor or Department Head is unable to complete the evaluation, the City Manager may complete the evaluation. The City reserves the right to conduct formal evaluation summaries every six (6) months. Nothing contained herein should be construed to limit the right of the City to continually monitor and assess Employee performance and provide feedback to the Employee regarding the Employee's performance.
- 25.2** All new, promoted and reclassified Employees are on probation for one (1) year. The Police Chief may extend a probation period for a worker, on a day for day basis, which has been on a limited duty assignment or on leave, either compensated or non-compensated in excess of ten (10) days.
- 25.3** Current City Employees accepting a promotion to a higher classification retain the right to return to their former classifications if the City determines they are unable to satisfy the requirements of the new classification.

**ARTICLE 26  
RETIREMENT**

- 26.1** For existing Tier 1 Public Safety Employees, the City provides retirement benefits under a contract with the California Public Employees Retirement System (PERS) as follows:

The City will implement the CalPERS "3% @ 50 Formula" safety retirement including the "single highest year" option to be effective no later than June 30, 2002. The City assumes responsibility for all costs associated with buying back past service as well as assuming all costs associated with maintaining said monthly benefit.

**The City confirms that all current PERS Tier 1 Safety Members are in the 3% at 50 Retirement Formula and:**

- a) Bargaining unit members agree to pick up an additional five and one-half percent (5 1/2 %) of the employee share of the CalPERS pension payment for a total of nine percent (9%) of retirement costs effective the start of the first pay period in 2017 following City Council ratification of the Memorandum of Understanding (MOU).
  - b) The City further agrees to utilize IRS Code 414(h)2, making these payments with pre-taxed dollars.
- 26.2** For PERS Safety Members the 3% @ 55 Formula with three (3) year average salary.

The City also adds the following change for new hires as soon as administratively feasible after the City Council approves the Memorandum of Understanding (MOU). (City Council approved the 2012 MOU on December 13, 2011.)

- 26.3** Tier 2 PERS Safety Members currently pay six and one half percent (6.5%) of the employee's share of retirement cost which is 9% for Safety.
- a) The City and City of Corning Public Safety Bargaining Unit Members agree to the deferral of PERS EPMC pick up of an additional one and one half percent (1.5%) by Public Safety Bargaining Unit members until the first pay period in July of 2016. The total employee share of retirement pickup would then be 8% of the 9% employee's share of retirement costs.
- 26.4** The City agrees that the retirement tier changes in 26.3 and 26.4 will not affect employees hired prior to January 1, 2012.

- 26.5 Employees hired on or after January 1, 2013, who are not eligible for reciprocity or are not current CalPERS members without a break in service greater than six (6) months, shall participate in legislatively mandated CalPERS contributions and retirement benefit formula plans established by AB340, the "Public Employees' Pension Reform Act of 2013". This legislation is administered/interpreted by the California Public Employees Retirement System (CalPERS). New employee members shall have the following retirement benefit formula and contribution rate:
- a. For PERS Safety Members 2.7%@57, 3 year final compensation as defined by PERS
  - b. Member contribution rate is 11.5%.
  - c. The member contribution rate is expected to remain unchanged until July 1, 2015

The current safety member contribution rate is 11.50%. CalPERS may change this rate following actuarial review during the term of the MOU.

**ARTICLE 27  
SAVINGS CLAUSE**

- 27.1 If any Article, Section, subsection, paragraph, sentence, clause or phrase of this Memorandum of Understanding shall, for any reason, be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portion of this Memorandum, it being expressly provided that this Memorandum and each section, subsection, paragraph, sentence, clause, or phrase hereof would have been adopted irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses or phrases shall be declared invalid or unconstitutional.

**ARTICLE 28  
TERM OF AGREEMENT**

- 28.1 This Memorandum of Understanding shall be effective January 1, 2017, upon adoption by the City Council of the City of Corning and shall remain in effect until the 31st day of December 2019.
- 28.2 Either party may, in writing, notify the other party within 120 days of the terminated date of this Memorandum of Understanding after start to negotiate a new Memorandum.

**IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Understanding this 28th day of March 2017.**

**CITY OF CORNING**

**OPERATING ENGINEERS LOCAL  
UNION NO. 3 AFL-CIO**

\_\_\_\_\_  
**Kristina Miller  
City Manager**

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**Art Frolli  
Chief Negotiator**

\_\_\_\_\_  
**William L. "Bill" May  
Chief Negotiator**

\_\_\_\_\_  
**Jeremy White  
POA Representative**

\_\_\_\_\_  
**Matthew Portillo  
POA Representative**