

MEMORANDUM OF AGREEMENT

BETWEEN

CITY OF BEVERLY

AND

**AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL
EMPLOYEES, AFL-CIO, STATE COUNCIL 93, Local #111
LIBRARY EMPLOYEES**

This Memorandum of Agreement ("Agreement") between the City of Beverly ("City") and the American Federation of State, County, and Municipal Employees, AFL-CIO, State Council 93, Local #111 ("Union") for Library Employees is effective this ____ day of August, 2015.

WHEREAS, the City and the Union have concluded negotiations over terms for Collective Bargaining Agreements to succeed the Collective Bargaining Agreement between the parties covering the period July 1, 2011 through June 30, 2014 ("7/1/2011-6/30/2014 CBA");

WHEREAS, the City and the Union have agreed to extend the 7/1/2011 – 6/30/2014 CBA through 6/30/2015 with no changes (the "7/1/2014-6/30/2015 CBA") followed by a three year Collective Bargaining Agreement effective July 1, 2015- June 30, 2018 (the "7/1/2015-6/30/2018 CBA") with the following changes only.

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein, the parties mutually agree that the provisions as outlined below shall be incorporated into a new Collective Bargaining Agreement and shall replace any language in the previous Agreement where language for such Article or Section is included herein.

All changes shall become effective as of the date specified; if no effective date is specified, changes shall become effective as of the date this agreement is signed, ratified and funded. Neither the increases in wages or in any other benefit apply to any position or person not in the bargaining unit as of the date the 7/1/2015-6/30/2018 CBA is signed and ratified.

Specific language changes to the previous Agreement are as follows:

1. **Cover page, Preamble, and Article XXXII Duration and Renewal – (Housekeeping)** Update dates to reflect dates of new collective bargaining agreement.
2. **Article IV – Discrimination, p. 1** - Add a new sentence reflecting the “no 2 bites”:

“The provisions of this article shall be grievable but not arbitrable. Notwithstanding this non-arbitrability clause, the parties, by written agreement only in any case, may make an exception for a specific matter to be arbitrable but only after the applicable statute of limitations for filing a legal or statutory claim has run. Any such agreement shall establish a date certain by which any arbitration must be filed. Failure to specify such date shall make any such agreement to arbitrate ineffective and unenforceable. Nothing herein shall be deemed to create an obligation on the part of the City to file for arbitration.”

4. **Article VII – Management Rights, p. 2**

Add confirmation that: “It is understood that employees may be assigned as needed to such location or locations as determined by the Library Director or her designee from time to time in her sole discretion.”

5. **Article X – Grievance Procedure, p. 3**

- a. (Housekeeping) Change 5, 10 and 20 working days to 7, 14 and 30 calendar days, respectively.
- b. Step 1 - Add language to step one regarding the grievance being in writing, stating in reasonable detail the facts on which it is based, specifying the provision of the collective bargaining agreement claimed to have been violated, and indicating the remedy requested:

“All grievances shall be in writing and shall state in reasonable detail the facts on which it is based, the provision or provisions of the Agreement alleged to have been violated, and the remedy requested.”

- c. Steps 2 and 3 – Replace references to Trustees with Mayor and his/her designee. Eliminate reference to monetary matters. Eliminate references to Trustees in Step 3.
- d. Step 3 – (Housekeeping) Change arbitration to go directly to American Arbitration Association as ALA Committee no longer exists, and recognize that the arbitrator may be female, so that the first two paragraphs will read as follows:

“Any request to arbitrate the written grievance shall be filed by the filing party with the American Arbitration Association within twenty calendar days after the reply of the Mayor or his/her designee. The arbitrator shall be selected and the arbitration proceedings shall be conducted in accordance with the Voluntary Labor Arbitration Rules of the American Arbitration Association. The arbitrator’s authority shall be limited to matters involving the interpretation and application of the specific provisions of this Agreement. The arbitrator may not modify, amend, delete, or add to the terms of this Agreement. Within the limits of his/her authority, the decision of the arbitrator, to the extent permitted by law, shall be final and binding. The expenses of such arbitration shall be shared equally by the Employer and the Union.”

- e. Change last paragraph to read as follows:

“Failure of the grievant to present the written grievance within and to advance it in accordance with any of the time limits set forth in the grievance procedure shall constitute a final resolution of the grievance against the grievant. The time limits set forth herein may be enlarged only by the written consent of the parties hereto in each instance to a date certain. Failure to specify such date shall make any extension ineffective. In the event any of the parties to whom the grievance is presented, as herein before provided, fails to respond within the time limits provided, it shall be deemed a denial of the grievance entitling the Union to advance to the next step, and starting the time period within which the grievance must be advanced or waived.”

- f. Limit arbitrator to the original written grievance unless the parties agree otherwise and make certain decisions subject to *de novo* review.

“The dispute as stated in the original written grievance shall constitute the sole and entire subject matter to be heard by the Arbitrator unless the parties agree in writing to modify the scope of the hearing. A decision by an arbitrator to take jurisdiction over the procedural arbitrability objection(s) of the City, including timeliness, will be subject to *de novo* review in the courts.”

- g. (Housekeeping) – Union to notify the City of the identity of the Steward timely:

“The Union will promptly notify the Human Resources Director who has been elected Steward.”

- h. Add new mediation step prior to arbitration by agreement of the parties.

6. **Article XIII - Job Posting and Bidding, p. 5** First paragraph – add “and the City bulletin board” so that notices of such vacancy will be posted on both the Library bulletin board and the City bulletin board.

7. **Article XV – Wages, p. 6**

a. **Section 4, Wage Increases** – Delete outdated wage increases and replace as follows:

“a. **Wage Increases**

July 1, 2015 - June 30, 2016	2%
July 1, 2016 - June 30, 2017	2%
July 1, 2017 – December 31, 2017	1%
January 1, 2018 – June 30, 2018	1%

8. **Article XVIII – Sick Leave, p. 7-8**

a. Change second paragraph to read as follows:

“Each employee shall be allowed to accumulate up to a maximum of 175 days of sick leave. An employee who has accumulated more than 175 days as of 8/31/2015 is grandfathered for purposes of maximum

accumulation at the amount he/she has accumulated as of that date and may continue to accumulate up to the amount he/she had as of that date (8/31/2015).”

b. Change fifth paragraph by changing 200 to 150 (and thus 50% would be 75). Also, clarify language of first sentence to read:

Employees shall be paid 50% of their accumulated sick time up to 50% of 150 days as severance pay upon retirement.

Also add the following regarding grandfathered staff :

“An employee who has accumulated more than 150 days as of 8/31/2015 is grandfathered at the amount he/she has accumulated as of that date and may convert up to one half (1/2) of his accumulated sick pay on retirement, but in no event can an employee grandfathered under this clause convert more than 100 days, or half of the amount at which the employee is grandfathered, whichever is less”.

c. Add new section: “OPEB. Effective 10/1/2016, and annually thereafter on October 1, the City will reduce sick leave for each full time employee by one day of sick leave (7 hours). This will apply for all employees hired on or after 7/1/15. It will also apply to current employees with five or more years of service as of October 1 of each year. The City will contribute the value of such day to an OPEB fund. Sick day shall be taken from their yearly accrual allotment. This day shall not affect the employee’s eligibility for sick leave incentive.”

9. Article XXIV – Vacation, p. 11-12 – Section 6 - Change “one month’s” to “two weeks” notice so that second sentence reads: In the event of death, retirement, or resignation upon two weeks’ notice in writing, prior to the employee’s vacation eligibility date, the amount of vacation entitlement and the eligibility requirements therefor shall be prorated.”

10. Article XXV – Leaves of Absence, p. 12 - Add a provision containing the following language:

“Leave taken under this Agreement for reasons covered by any federal or state law, including but not limited to the Family and Medical Leave Act, the Small Necessities Act or the Massachusetts Maternity

Leave Act will be considered FMLA, SNLA or MMLA leave as well as leave under this Agreement and leave under any other applicable state and federal law, and will be deducted from the employee's statutory leave entitlement, if any. Employees taking leave for reasons covered by any state or federal law shall be required to comply with such notice and other requirements as may be promulgated by the City from time to time in its leave policies."

11. **Article XXVII, Miscellaneous Provisions** – Add a new section 6:

"Section 6 – Lack of Valid Driver's License. Employees shall notify their supervisor in the event of any loss, suspension, revocation, and/or other lack of valid driver's license. Such notification shall occur before or at the start of the employee's next shift."

12. **Article XXIX – Education, p. 13** - (Housekeeping) Change "NMRLS" to "MLS".

13. **Article XXX, Emergency Closings, p. 14** – See attached non-grievable side letter with one year trial.

14. **Article XXXI – Re-Opener Language, p. 14** – Change to read as follows:

"The City will agree to re-open negotiations of this contract as to wages only, only if it voluntarily gives across the board raises to any other City Unions that exceed the total across the board raise provided for in this CBA. The City is not required to re-open negotiations of this contract based upon an award from an arbitrator at the Joint Labor Management Committee for Municipal Police and Fire (J.L.M.C.).

15. **Article XXXI – Duration of Agreement, p. 14** – "This Agreement shall become effective July 1, 2015 and shall remain in full force and effect until and including June 30, 2018, except as otherwise provided herein, and thereafter until a new successor Agreement is executed.

16. **Appendix B, Weekly Wage Schedule** –Delete and replace with updated wage schedule.

17. **Major Construction/Renovation projects** – Non-grievable and non-arbitrable side letter attached.

18. **Grievances and Litigation Withdrawn/Dismissed** – The Union has reviewed any pending (including any which may have been held in abeyance) arbitration cases, grievances, charges of prohibited practice and litigation with the employer and has made an independent determination that the likelihood of success on the merits in each of the cases when considered in terms of the overall contract settlement and the likely costs of pursuing such cases, if any, does not warrant maintaining such cases and that such cases, if any, shall accordingly be withdrawn. In return for the bargained for consideration contained in this MOA, the Union hereby agrees to withdraw and dismiss any and all grievances, arbitrations, charges of prohibited practice, other proceedings or litigation in whatever forum with prejudice to refiling.

19. This Agreement is subject to the following, in each year of this agreement:

- A. Ratification by both the City and the Union; and,
- B. An appropriation by the City Council each year of sufficient monies to fund the cost increases for such year of this Agreement.

CITY OF BEVERLY

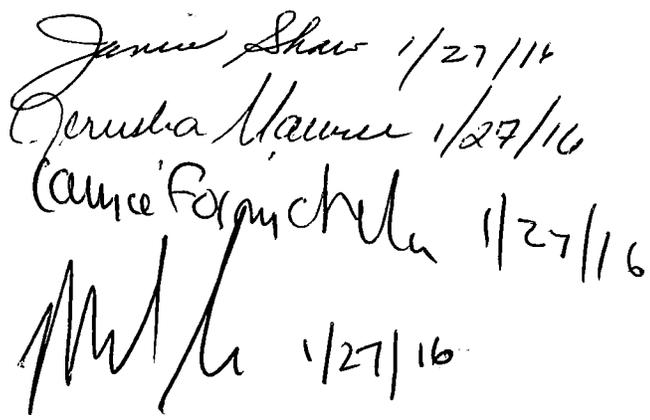
**AMERICAN FEDERATION OF
STATE, COUNTY AND MUNICIPAL
EMPLOYEES, AFL-CIO, STATE
COUNCIL 93, LOCAL #111
(LIBRARY EMPLOYEES)**

By:  _____

By:  _____

Date: 1/27/2016

Date: 1/27/16


Jennie Shaw 1/27/16
Geruba Hanner 1/27/16
Cance Forgychuk 1/27/16
 1/27/16

Dena Fleno
Staff Representative
AFSCME Council 93
7 Bedford Street
Burlington, MA 01803

Mark Lee
City of Beverly
Beverly, MA

Dear Ms. Fleno

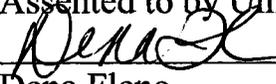
This side letter addresses on a trial basis (one year) the issue of days scheduled after an employee has worked a weekend shift and there has been an emergency closing of the library.

If an employee is scheduled to work a weekend shift (Saturday 7 hours, Sunday 4 hours), and said employee schedules his/her day off to balance his/her schedule due to working said weekend by taking a day off **after** working his/her weekend shift, and that rescheduled day off falls on a day on which the library is closed due to an emergency, said employee shall be entitled to reschedule another day off at a time deemed consistent with operational needs of the Library. In no case shall this provision apply when the day off for working the weekend was taken prior to the weekend shift. This provision shall likewise not apply when an emergency closing occurs on a previously scheduled day that an employee is not working (other than as outline herein), a vacation day, sick day, sick leave, workman's comp, or a personal day.

The provisions of this side letter shall be in place for only one year, commencing at the time of the ratification of the 2015-2018 collective bargaining agreement (CBA) and shall be reviewed by both the City and the Union upon the completion of one year from the date of ratification of the CBA. This side letter is non-arbitrable, and shall be without prejudice to either the City or the Union thereafter.

Please sign and return the attached copy confirming the Union's agreement. Thank you.

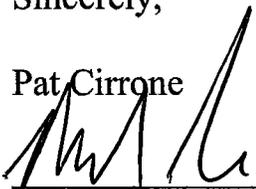
Assented to by Union:



Dena Fleno

Sincerely,

Pat Cirrone



Mark Lee

Dena Fleno
Staff Representative
AFSCME Council 93
7 Bedford Street
Burlington, MA 01803

Dear Ms. Fleno

In the event of another major construction or renovation project, I will endeavor to provide advance notice to you or the Union Steward of the anticipated scope and duration of the project. Please understand that any such notice is subject to change for many reasons, including reasons beyond the City's control. I will attempt to keep you or the Union Steward alerted to major changes as the project progresses. Please do not hesitate to let me know if you have any questions should you receive such a notice from me.

Sincerely,

Pat Cirrone

A handwritten signature in black ink, appearing to read 'Pat Cirrone', with a large, stylized initial 'P' and a horizontal line extending to the right.

Dena Fleno
Staff Representative
AFSCME Council 93
7 Bedford Street
Burlington, MA 01803

Dear Ms. Fleno:

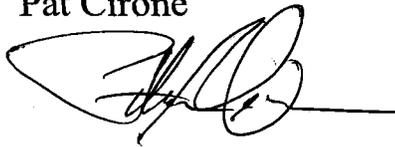
RE: Emergency Closing Non-arbitrable and Non-grievable Side letter.

The City recognizes that it is important to employees to be notified as soon as possible regarding a closure or delay in the opening of the library. Given the uncertainties and unpredictability of emergency closings, the City will make a good faith effort to inform employees as soon as reasonably possible in the event of a closure or significant delay in the opening of the library. Employees are encouraged and welcomed to contact the director if there is a question or concern about the status of the library's opening on a particular day.

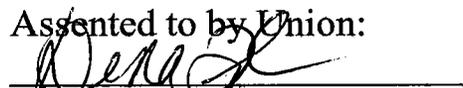
If an employee is not scheduled to work on a day where there is an emergency closing, he/she will not receive any additional compensation (monetary or time off or otherwise) in the event of a closing of the library. An employee who is scheduled to work, and who is not reassigned to another branch at the discretion of the director, will be paid for the time lost.

Sincerely,

Pat Cirone



Assented to by Union:



Dena Fleno

Mark Lee