



BULLETIN

Commissioner Ira A. Jackson
Deputy Commissioner Edward J. Collins, Jr.

May 1986

GUIDELINES RELATING TO THE MAINTENANCE OF COMPENSATING BALANCE AGREEMENTS

Chapter 740 of the Acts of 1985
(M.G.L. Chapter 44, Section 53f)

The Guidelines issued by the Commissioner of Revenue to implement Chapter 740 of the Acts of 1985 regarding "Compensating Balance Agreements" are given in this document.

Prior to enactment of Chapter 740, there was no statutory authority for a municipality or district to enter into a compensating balance arrangement to acquire banking services. The new legislation allows these agreements within the guidelines that follow.

Questions may be directed to the Bureau of Accounts at (617)727-4401.

Distribution:

Municipal Treasurers and Collectors
District Treasurers

Information Copies to:

Selectmen/Mayors
City Council Presidents



The Commonwealth of Massachusetts

Department of Revenue

Bureau of Accounts

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TO: Municipal and District Treasurers & Collectors
FROM: Kenneth Marchurs, *KM* Director, Bureau of Accounts
DATE: May 12, 1986
RE: Compensating Balance Guidelines

Enclosed are the initial guidelines issued by the Department of Revenue to administer and control the use of compensating balance arrangements to pay for banking services in cities, towns and districts. These guidelines are issued in accordance with Chapter 740 of the Acts of 1985.

The purposes of these guidelines are to assist you in evaluating how and how much you pay for your banking services and to make certain that there exists a system of accountability and disclosure in compensating balance arrangements.

Please be advised that these guidelines are only an initial step in our attempt to set in motion a process by which the use and cost effectiveness of compensating balance agreements can be evaluated. You will notice that the guidelines exempt small accounts from the contractual requirements contained in the guidelines when the estimated annual cost of services provided is less than \$500. We do intend to amend the guidelines to include transitional rules on eliminating this small account exemption. Such rules will require that all newly established accounts regardless of size, comply with the written contract requirement, and that all similar existing accounts must have a written contract within one year's time.

Further, we will consider amending our guidelines within the framework of the law, if necessary, to address any significant problems which hinder the successful implementation of this process. In this regard, we would appreciate any comments and recommendations you may have to improve these guidelines so that the operation of this new law will be effective.

April 1986

BUREAU OF ACCOUNTS

GUIDELINES FOR THE MAINTENANCE OF
COMPENSATING BALANCE ACCOUNTS BY MUNICIPALITIES
AND DISTRICTS

Chapter 740 of the Acts of 1985

The enclosed guidelines are intended to provide treasurers, collectors and other local officials with information regarding compensating balance accounts.

This release consists of four parts:

- I. Summary of the New Law
- II. Guidelines
- III. Sample Contract & Request for Proposals
- IV. Bulletin Outlining Procedures for Obtaining Town Meeting Authorization for Agreements

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GUIDELINES
RELATING TO THE MAINTENANCE
OF COMPENSATING BALANCE AGREEMENTS
BY MUNICIPALITIES AND DISTRICTS

Chapter 740 of the Acts of 1985

I SUMMARY:

A new section of the General Laws relating to municipal finance expressly authorizes a municipal or district treasurer or collector to enter into formal "compensating balance" agreements with banking institutions. The new statutory provision, inserted by Section 1 of Chapter 740 of the Acts of 1985, is now found in M.G.L. Chapter 44 Section 53F.

A compensating balance is an arrangement by which a city, town or district maintains municipal funds on deposit in return for designated banking services. Under such an arrangement, the earnings retained by the bank on the account balances compensate the bank for the services provided.

Prior to the enactment of Chapter 740, there was no statutory authority for a municipality or district to utilize a compensating balance arrangement to acquire banking services.

Now, with the advent of G.L. Ch. 44S. 53F, a municipal or district treasurer or collector is permitted to enter into such an agreement. It should be noted, however, that the law also:

- requires that any such agreement be in writing and not exceed one year;
- provides for specific limitations on the types of services which may be procured under a compensating balance agreement;
- establishes a local approval process for all such agreements;
- sets in place annual reporting requirements relating to such agreements, and requires the Commissioner of Revenue to publish a yearly evaluation report on the use of compensating balances.

By enacting this new law, the General Court of the Commonwealth clearly acknowledged that compensating balance agreements, if properly structured and administered, could assume a useful role in the effective management of municipal and district funds. By including the additional statutory requirements, the Legislature sought to ensure the productive and cost-effective use of public monies, and promote full disclosure and accountability in the procurement of banking services.

The Commissioner of Revenue is empowered to issue such reasonable rules, regulations, standards and guidelines as are necessary to promote prudent fiscal management and ensure that compensating balance agreements are not utilized to circumvent the appropriation process or other provisions of law.

The primary purposes of the new compensating balance law are:

- to promote the productive and efficient use of municipal funds;
- to ensure that the process by which banking services are procured by a municipality is open to public scrutiny;
- to introduce an appropriate degree of accountability to the use of compensating balance arrangements, and
- to establish a process by which the use and cost-effectiveness of compensating balance agreements can be readily evaluated.

II GUIDELINES:

1. DEFINITIONS:

For purposes of these Guidelines the terms "Compensating Balance" and "Banking Services" will have the following meanings:

"COMPENSATING BALANCE ARRANGEMENT"

Any arrangement whereby a municipality or district obtains banking services (as defined in these Guidelines) based upon the balances maintained in specified bank accounts.

The disbursement float, i.e. amounts in an account against which checks have been drawn but not yet presented for payment, is a compensating balance.

"BANKING SERVICES"

a) Services such as the following provided in connection with the maintenance of a collection and deposit account are banking services for purposes of this law.

- deposit of cash
- deposit of checks for collection
- billing, collection and lock-box services
- acceptance of over-the-counter payments on behalf of the municipality
- night depository services
- computer services incidental to the above accounts

b) Services such as the following provided in connection with the maintenance of a disbursement account are banking services for purposes of this law

- regular checking accounts (including ordinary NOW accounts)
- concentration/zero-balance and sweep accounts
- wire transfers
- payroll and vendor payables services and accounting
- daily Account Notification
- check sorting and account reconciliation
- computer services incidental to the above accounts

EXCEPTIONS

A collection and deposit account for the deposit of miscellaneous receipts such as license and permit fees will be exempted from the requirements of a formal written agreement and competitive procurement, if no large volume of deposits such as taxes, motor vehicle excises, utility or hospital receipts are deposited in the account, provided that the total estimated cost of the services is less than \$500. A written statement of the activity in the account must be filed annually with the Director of Accounts.

A disbursement account for miscellaneous payments will also be exempted from the requirements of a

formal written agreement and competitive procurement, if regular payroll checks, vendor disbursements or similar large volume payment items are not disbursed through the account, provided the total estimated cost of the services is less than \$500. A written statement of the activity in the account must be filed annually with the Director of Accounts.

For accounts that qualify for the above exception in every respect except the dollar amount of the services to be provided, a treasurer or collector may, with the approval of the selectmen or council, apply to the Director of Accounts in writing to have such accounts excepted; the application to the Director must include the purpose of the account, a description and estimate of the volume and cost of transactions, the volume of transactions for the municipality's major disbursement or collection accounts, and any other information which may be useful in reaching a determination.

Minimal privileges for transferring funds, such as those customarily provided in connection with money-market accounts or other investment vehicles, will be considered investment rather than banking services, even if they fall within one of the categories listed above.

EXAMPLE: An investment account which permits the account holder at no charge to write a limited number of NOW drafts per month in amounts greater than a specified minimum amount, or to make a small number of wire transfers per month, will not be considered a compensating balance account, and will need no written agreement.

Advisory and investment banking services such as underwriting, certification of bonds, placements, financial and management consulting, and portfolio management services cannot be provided on a compensating balance basis.

Note that non-banking services such as the purchase or lease of equipment or computer hardware or software cannot be provided on a compensating balance basis, and must be paid for through a direct appropriation. The acquisition of such services are not an integral part of a Treasurer's or Collector's responsibility and should remain within the discretion of the appropriating authority. Use of a dedicated terminal provided by a bank to a treasurer or collector for use in connection with an account maintained with that bank,

shall not be considered a lease of equipment for purposes of this paragraph.

Contracts entered into directly between municipalities and data-processing companies or other non-banking institutions cannot be paid for through a compensating balance.

2. EFFECTIVE DATE

The compensating balance law will become effective on April 3, 1986. For fiscal years beginning after that date, compensating balance agreements entered into by a municipal or district treasurer or collector must be in full compliance with the provisions of the new law and these guidelines.

If treasurers and collectors have obtained the authorization of the appropriating or budgetary authority (e.g., town meeting, town or city council, district governing body) by July 1, 1986, they may continue existing compensating balance agreements for services defined in these Guidelines until September 30, 1986. Written agreements in full compliance with the contractual and competitive procurement requirements of these Guidelines must be approved and in effect by September 30, 1986 at the latest.

3. AGREEMENT

The proper parties to a compensating balance agreement are a treasurer or collector of a city, town, district or regional school district, and a banking institution which has its principal offices in Massachusetts.

All compensating balance agreements must be in writing. The duration of any such agreement may not exceed one year. Municipalities may not appropriate money to maintain the balances called for by a compensating balance agreement, but may appropriate to pay for services to the extent that the earnings credits on the balances were insufficient under the terms of the agreement to pay for said services.

The Commissioner of Revenue must approve all such agreements as to form. Any compensating balance agreement must include at least the following terms:

- the duration of the agreement (ordinarily agreements should begin July 1 and terminate on June 30 to coincide with the fiscal year);
- a detailed description of the services to be provided;
- a schedule of charges for each service;
- the amount of the collected balance required to be maintained, or the formula for determining such balance, and the method of calculating the earnings credits to be applied against the charges for services;
- termination provisions;
- reporting requirements (these should be adequate to permit the treasurer or collector to report to the Commissioner in compliance with the requirements set forth below);
- approval by the selectmen, town council, city council, or district governing body;

Compensating balance agreements should be submitted to the Bureau of Accounts, P.O. Box 7015, Boston, MA 02204, for approval as to form. Any agreement submitted shall be deemed approved unless it has been disapproved within thirty days of its receipt by the Bureau. All agreements should be received by the Bureau at least thirty days before their effective dates. A sample compensating balance agreement is included with these Guidelines.

4. LOCAL APPROVAL PROCESS

A compensating balance agreement between a municipal or district treasurer or collector and a banking institution should be reviewed by the municipality's chief executive officer and by the town counsel or city solicitor. In order for the agreement to become effective, certain approvals are required.

In a city, a compensating balance agreement must be approved by the city council (and the mayor if required by law) in order to become effective.

In a town having a town council form of government, such an agreement must be approved by the town council.

In all other towns (those without a town council), a twofold requirement must be satisfied in order for a compensating balance agreement to become effective.

First, the town meeting must vote to authorize its treasurer or collector to enter into such agreements for a specified year. The treasurer or collector may then solicit a provider of banking services on such a basis.

After a compensating balance agreement has been finalized, approval of the board of selectmen is required in order for the agreement to become effective.

In a regional school district, the regional school district committee must approve the compensating balance agreement. In any other district, the approval of the district meeting or other governing body of the district is required.

Approval of the agreement must be by a majority vote, evidenced by a certification by the clerk of the city or town council and the signature of the presiding officer of the council, or by the signatures of a majority of the board of selectmen, or by a certified vote of the district meeting or other governing body of the district.

Town Meeting Warrant Article

The following article should be inserted in the warrant of a town meeting to authorize compensating balance agreements:

To see whether the town will authorize the treasurer (collector) to enter into compensating balance agreements during fiscal 1987, as permitted by General Laws Chapter 44 Section 53F.

Refer to the attached letter of February 28, 1986 for procedures to be used by towns to obtain approval to enter into compensating balance agreements for fiscal 1987.

5. REPORTING REQUIREMENTS

The new law expressly requires that a treasurer or collector who has entered into a compensating balance agreement file annually with the Commissioner of Revenue such information as is required to determine whether the funds

maintained on deposit with the bank have exceeded the amount required by the agreement. The first reporting period will be the year ending June 30, 1987 and the nature and form of the required report, along with detailed filing instructions, will be provided prior to the filing date. The information that will be required will include at a minimum the following:

- the balances maintained by the municipality;
- the type and volume of services provided;
- the charges for such services;
- the interest rates used to calculate earnings credits;
- the surplus or deficit of such credits less service charges.

Based upon such information, the Commissioner will annually prepare and issue a report on the use of compensating balance agreements. By law, such report must identify for each city, town or district using such agreements, and by banking institution, the average daily amounts maintained on deposit which are in excess of the amounts necessary to fulfill the terms of the compensating balance agreements.

A copy of the commissioner's report on compensating balances will be sent to the treasurer or collector, the mayor and city council, the selectmen, the regional school district committee, the prudential committee, if any, otherwise the commissioners of each city, town or district named in the report. A copy of the report must also be provided to the Inspector General of the Commonwealth.

6. COMPETITIVE PROCUREMENT REQUIREMENT

In order to insure the efficient acquisition of banking services through compensating balance agreements, such agreements must be entered into pursuant to a competitive procurement process, if the estimated cost of the services to be provided exceeds \$5,000. A compensating balance agreement for the provision of services worth \$5,000. or less is exempt from the procurement requirement of these Guidelines.

No agreement shall be split or divided for the purpose of evading any provision of this section.

Where the estimated amount of the services to be provided is more than \$500. but less than \$5,000., a treasurer or collector should solicit proposals orally or in writing from at least three banking institutions and make a written memorandum of the institutions solicited and the proposals made.

A compensating balance agreement may only be entered into after proposals for the agreement have been invited by direct solicitation of at least three banking institutions, and by advertisement in at least one newspaper, if any, published in the city, town or district, otherwise in at least one newspaper of general circulation in the city, town or district, such publication to be at least one week before the time specified for the opening of said proposals. The advertisement shall state the time and place for opening the proposals and shall reserve to the city, town or district the right to reject any or all such proposals. Proposals shall not be opened publicly, but shall be opened in the presence of at least two officials at the time specified in the request for proposals.

The request for proposals should include a description of the services to be purchased, the time and date for receipt of proposals, the address of the office to which proposals are to be delivered, the maximum time for acceptance by the governmental body, evaluation criteria such as compliance with all applicable General Laws, completeness of the proposal, ability of the bank to meet service requirements, the financial record and stability of the proposer, the level of compensating balance or credit required, all contractual terms and conditions applicable to the procurement, and such other criteria as the municipality may deem appropriate.

The request for proposals shall specify only one of the following two forms for the submission of cost information:

Costs shall be stated in terms of a fixed balance required to be maintained for the total volume of each service

OR

Costs shall be stated in terms of the earnings credits required per unit of each service.

The treasurer and/or collector is responsible for the evaluation of the proposals and may designate additional individuals to participate. No other factors or criteria can

be used in the evaluation other than those contained in the Request for Proposal.

The evaluation must be in writing and specify for each evaluation factor, a rating of each proposal and a composite rating for each proposal and the reasons therefor.

A sample Request for Proposals is attached.

These Guidelines may be amended from time to time as required.

REQUEST FOR PROPOSALS
TOWN OF EVERYTOWN BANKING SERVICES

(NOTE THAT THIS AGREEMENT IS ONLY A SAMPLE; THE SPECIFICATION OF SERVICES TO BE PROVIDED, THE INTEREST RATE USED IN CALCULATING EARNINGS CREDITS AND OTHER TERMS MAY DIFFER SUBJECT TO THE AGREEMENT OF THE PARTIES.)

General Information:

The Town of Everytown, by way of this document, requests proposals and competitive quotations of costs to purchase the banking services specified herein, the consideration for which will be the maintenance of a compensating balance with the provider of the service (the bank).

Background:

Massachusetts General Laws, Chapter 44, Section 53F, authorizes municipal treasurers and collectors to enter into written agreements with banking institutions having their principal offices in the Commonwealth, for periods of up to one year, to maintain a compensating balance in return for the banking institution's provision of banking services.

Municipalities may not appropriate money to maintain the balances called for by a compensating balance agreement, but may appropriate to pay for services to the extent that the earnings credits on the balances are insufficient under the terms of such an agreement to pay for said services.

The town of Everytown invites qualified banking institutions having their principal offices in the Commonwealth to submit proposals for the provision of banking services as described herein.

Instructions:

All proposals must be submitted in sealed envelopes bearing on the outside the name of the proposer, the address, the title of the proposal and the words "Town of Everytown Banking Services".

It is the sole responsibility of the proposer to insure that the proposal arrives on time at the designated place.

The proposal must be signed in the name of the banking institution and must bear the handwritten signature of the person or persons duly authorized to sign the proposal.

The name, office address and office telephone number of the point of contact must be clearly identified.

Completed proposals together with five (5) copies will be received in the treasurer/collector's office at _____ (address) _____ no later than _____ (a.m.,p.m.) _____ date, 19__.

Proposals must separately state the amount of compensating balance or compensating balance credit to be required for each banking service to be provided. For any banking service included in the Request for Proposals which the proposer does not propose to provide, or which cannot be separately provided, a statement to that effect must be included. The town may accept any service as a separate proposal unless specifically exempted by the above required statement.

Additional services the Bank may be in a position to provide may be included at the end of the proposal.

The Bank should submit with the proposal a financial history for the past three years, including a description of the institution's market area and the identity of the account officer(s) who will be responsible for the town's accounts. All banking institutions which submit a proposal will be notified within thirty days after the opening of proposals of the town's selection.

Selection criteria:

All proposals will be evaluated based on:

- compliance with all applicable General Laws, (e.g. Chapter 44, Sections 53F and 55);
- completeness of the proposal;
- the ability of the bank to meet the service requirements;
- the financial record and stability of the bank;
- the level of compensating balance or credit required.

The town will evaluate the proposals and quotations based on the information at hand and may also ask questions of a clarifying nature from proposers as required. Such questions must be in writing and forthcoming answers will become part of the official proposals. These questions and answers will not be mailed to all proposers, but only to those whose proposals require clarification.

When the town has tentatively selected a proposal, it may request a conference to formulate plans in greater detail, to clarify any unclear areas, and otherwise to complete negotiations prior to the formal award. Contract terms relating to charges for services and the calculation of earnings credits may not be altered during the conference(s).

Based upon the review of the proposals and conferences, the winning proposal will be selected and a draft contract will be prepared. Upon approval by the selectmen, the contract signing will follow.

Terms and Conditions:

The town reserves the right to reject any or all proposals, and to accept or reject any service or combination of services. The award of the contract will be to the qualified banking institution whose proposal best complies with all the requirements set forth in this request, and whose proposal in the opinion of the town is the best, taking into consideration all aspects of the proposer's responses, including the total compensating balance or credit.

In the event that the bank to whom the contract is awarded does not execute a contract within thirty (30) days after the award, the town may give notice to such bank of intent to award the contract to the next most qualified proposer or to call for new proposals, and may proceed to act accordingly. In no event will town permit modifications to the amounts in the proposal. The proposal as submitted will be the last and final offer.

This request indicates the number of transactions anticipated. Although this is the town's best estimate of volume, the town does not guarantee these as minimum or maximum volumes.

Contract Specifications:

The types of banking services which the town wishes to obtain through this agreement are set out in Appendix A.

Compensation shall be provided either in the form of a compensating balance credit determined by a formula or as a minimum compensating balance for each banking service included in the proposal, with adjustments for volume changes in services performed or fluctuations in interest rates, if permitted by the contract. A compensating balance credit will be determined by multiplying the average daily collected balance minus the bank's reserve requirement by the rate of earnings credit as specified by the contract.

The compensating balance required to support a given amount of service charges may be calculated as follows:

$$\text{Required Comp. Bal.} = \frac{(\text{Service Charges})}{(\text{earnings factor}) \times (1 - \text{reserve requirement})}$$

where the earnings factor is the rate at which credits are earned on the town's collected balance in the account

Where the agreement is structured on the basis of a fluctuating rather than a fixed balance, the above formula will be used by the treasurer or collector to project the average balance needed in the upcoming period to pay for the services which are expected to be provided.

For each banking service included in the proposal, the time period for the minimum balance or the computation of the credit must be stated (e.g. daily, weekly or monthly). If the actual balance or credit exceeds the minimum, a credit must be given to be used in any subsequent time period when the actual balance falls below the minimum called for by the contract.

If there is a surplus or shortfall in the amount of credits earned or balances maintained in any period, the amount of such surplus or shortfall shall be carried forward to the next period. In the event that at the end of the term of the contract there is an accumulated surplus in the amount of the earnings credits, payment shall be made to the town in the amount of such surplus credits, to the extent that such payment is not forbidden by law.

The bank shall have no right to payment of any damages as a result of a failure by the municipality to maintain the minimum balance called for under the contract, except to the extent that the town appropriates funds to pay for services rendered in excess of the amount the compensating balance credits earned. The bank shall have the right to cancel the contract upon written notice to the treasurer by certified mail return receipt requested. The bank's obligations under the contract shall terminate at the close of business on the thirtieth business day following the day on which notice of cancellation is given.

The municipality shall have the right to cancel the contract by giving written notice by certified mail return receipt requested to an officer of the bank to be designated in the contract. In the event of cancellation by the municipality, all obligations of the bank and the municipality shall terminate at the close of business on the thirtieth business day after notification is delivered to the bank.

Either party may call a meeting, within seven days after a notice of termination given by either party, to attempt to resolve the problem which led to the termination. Any subsequent adjustment, modification, or renegotiation of the contract terms shall require the approval of the Board of Selectmen, Town Council or City Council.

The bank shall furnish a monthly analysis report to the town within twenty (20) days after the end of each calendar month which indicates the daily average balance of each account, the volume and total cost of transactions, and the cumulative surplus or deficit in the earnings credits for the year to date.

APPENDIX A

Scope of Banking Services:

1. Checking Account Bank shall accept deposits, endorse and photograph all checks deposited, service all dishonored and returned checks, maintain and reconcile the account, provide monthly statements and all facilities normally provided to checking account customers, as well as furnishing preprinted to specifications all checks, deposit slips, stop payment forms and other instruments pertaining to transactions for the account.

Deposits average about \$750,000 per month. There are approximately 500 checks written per month in the current fiscal year.

It is estimated that three to five stop payments will be issued per month.

It is estimated that the town will have approximately ten outgoing and 5 incoming wire transfers per month.

2. Collection Services The bank will maintain a post office box from which mail will be picked up daily; the bank will be responsible for opening mail and depositing all payments of taxes and other accounts due the town for collection on behalf of the town.

It will credit all payments to the payers as of the date they are received by the bank, and return to the town all checks for which no account exists, or for which the amount of the check does not equal the amount of the liability, or which are received after the due date of the bill or account.

The bank will provide a weekly statement of payments received. The bank shall supply the town with night depository bags, keys and services.

Currently, the town uses 4 12" x 15" locking bags, 3 8" x 11" locking bags and 2 6"x11" zippered bags. Price lists for additional bank bags shall be included in the proposal. In the current fiscal year the town will issue 3400 first and second half tax bills totalling \$4,200,000, and 3700 water and sewer bills totalling \$1,900,000.

3. Payroll: Bank shall accept deposits into payroll account or honor authorized transfer of funds to the account. Bank shall completely reconcile the account, reporting to town weekly all checks paid by check number, date issued and amount, together with appropriate totals. Town will furnish bank with details of checks issued by means of magnetic tape, punched cards, duplicate check copies with magnetic ink numbers, or some other mutually acceptable transmittal system.

The town is currently on a weekly payroll basis for some two hundred (200) employees. Net pay amounts to \$175,000 weekly. It is the intent of the town to continue with this payroll system; however the system may change. The payroll checking account will be funded on payday in the full amount of the checks being issued to employees.

The bank shall also provide the town with a yearly report in such form and including such information as may be required of the town by the Commissioner of Revenue.

A proposer must include in the proposal the certification required by Chapter 40, Section 4B 1/2 of the General Laws:

"The undersigned certifies under penalties of perjury that this bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this section, the word "Person" shall mean any natural person, joint venture, partnership, corporation, or other business or legal entity.

Name of person signing bid
Company "

AGREEMENT FOR THE PROVISION OF BANKING SERVICES

(NOTE THAT THIS AGREEMENT IS ONLY A SAMPLE; THE SPECIFICATION OF SERVICES TO BE PROVIDED, THE INTEREST RATE USED IN CALCULATING EARNINGS CREDITS AND OTHER TERMS MAY DIFFER SUBJECT TO THE AGREEMENT OF THE PARTIES.)

The _____ (the bank) and the town of Everytown Massachusetts (the town) hereby enter into the following agreement for the provision of banking services.

AUTHORITY:

This agreement is made under the provisions of General Laws Chapter 44 section 53F, and has been authorized by a vote of the town taken on _____, 19__.

TERM OF AGREEMENT:

This agreement shall be valid for a term of one year starting on July 1, 19__ and terminating on June 30, 19__.

GENERAL PROVISIONS:

Payment for the service to be performed by the bank will be effected through the maintenance of a compensating balance by the town in its account with the bank. In the event that the town fails to maintain balances sufficient to meet its obligations under this agreement, the bank's only remedies shall be the right to terminate the provision of services to the town under this agreement, or request the town to appropriate for services rendered in excess of the amount of compensating balance credits earned.

The bank shall exercise its right to terminate its service obligations by notifying the treasurer of the town in writing sent by certified mail, return receipt requested, of its intent to cancel the contract; the bank's obligations to provide services under the contract shall terminate at the close of business on the thirtieth day following the day on which notice of cancellation is given. In no event shall the town be liable to pay the bank any sums on account of services rendered under this contract, except to the extent that the town appropriates funds for such purposes.

Either party may call a meeting, within seven days after a notice of termination given by either party, to attempt to resolve the problem which led to the termination. Any subsequent adjustment, modification, or renegotiation of the

contract terms shall require the approval of the Board of Selectmen, Town Council or City Council.

The town shall have the right to cancel this agreement by giving written notice signed by the treasurer and sent by certified mail return receipt requested to the account officer designated in this contract, of its intent to terminate the contract. At the close of business on the thirtieth day following the sending of such notice, all obligations of both the town and the bank under this agreement shall terminate.

The account officer responsible for handling relations with the town in connection with this agreement is (Name & position of bank officer).

BANKING SERVICES:

(Alternative A)

The bank agrees to provide the following services in return for :

| SERVICE | EARNINGS CREDIT REQUIRED |
|--|-----------------------------|
| -payment of check drawn by town | \$0.08 |
| -charge for overdrawn checks | \$12.00 |
| -charge for stop payment order | \$8.00 |
| -account maintenance & monthly statement | \$5.00 |
| -printing of blank checks (1000) | \$11.00 |
| -wire transfers | \$20.00 |

(Alternative B)

The bank agrees to provide the following services in return for the maintenance of the specified balances in the compensating balance account:

| SERVICE | BALANCE REQUIRED |
|---|------------------|
| -preparation of payroll checks | \$8,000 |
| -payroll accounting and reporting to government agencies (e.g. W-2 forms) | \$17,000 |
| -weekly payroll statement to town | \$1,500 |
| TOTAL | <u>\$26,500</u> |

(Alternative C)

The bank agrees to provide the following collection services in return for the amount of compensating balance credits specified for each transaction:

| SERVICE | EARNINGS CREDIT REQUIRED |
|---|-----------------------------|
| -maintenance of a post office box from which mail will be picked up daily | \$18./month |

- opening of mail and deposit of all payments of taxes and other accounts due the town for collection on behalf of the town \$\$.22/bill
- crediting of all payments to the payers as of the date it is received by the bank \$.06/payment
- returning to the town all checks for which no account exists, or for which the amount of the check does not equal the amount of the liability, or which are received after the due date of the bill or account \$.31/check
- providing a weekly statement of payments received \$9.00/week
- night depositary services \$70./month

CALCULATION OF CREDITS:

Credits for the maintenance of the town's balance shall be calculated based on the daily balance in the town's checking account. For each month the amount of the credit shall be the average amount of the daily closing balance in the account, multiplied by the monthly interest rate on ninety day Treasury notes issued during that month.

If there is a surplus or shortfall in the amount of credits earned or balances maintained in any period, the amount of such surplus or shortfall shall be carried forward to the next period. In the event that at the end of the term of the contract there is an accumulated surplus in the amount of the earnings credits, payment shall be made to the town in the amount of such surplus credits, to the extent that such payment is not forbidden by law.

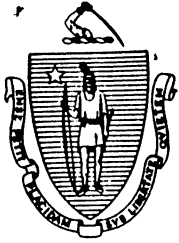
REPORTING REQUIREMENTS:

The bank shall furnish the town with a monthly statement showing the balance(s) maintained, the credits earned, the volume and type of services provided, the average daily balance, the interest rate used to calculate earnings credits, the net surplus or deficit of credits earned minus the cost of services, and the accumulated surplus or deficit for the year to date. The bank shall also furnish within twenty business days after the expiration or termination of the agreement an analysis of the account activity and credit earnings in the form required by the Commissioner of Revenue under the provisions of General Laws Ch.44 S.53F.

for the bank (s/bank officer)

for the town (s/treasurer or collector)

Approved: _____, 19__ (s/selectman)
 (s/ ")
 (s/ ")



The Commonwealth of Massachusetts

Department of Revenue

Bureau of Accounts

Leverett Saltonstall Building, Government Center

100 Cambridge Street, Boston 02204

IRA A. JACKSON
COMMISSIONER

EDWARD J. COLLINS, Jr.
DEPUTY COMMISSIONER

KENNETH A. MARCHURS
DIRECTOR OF ACCOUNTS

MAIL ADDRESS
P.O. BOX 7015
BOSTON, MASS 02204

February 28, 1986

To: All Municipal & District Treasurers & Collectors

From: Kenneth A. Marchurs, Director of Accounts

Subject: Compensating Balance Agreements

Chapter 740 of the Acts of 1985, which authorizes Treasurers and Collectors to enter into compensating balance agreements, requires that the use of such agreements be authorized each year by the town meeting in towns with a town meeting form of government.

During the past several weeks the Department of Revenue has conducted seminars throughout the Commonwealth concerning the new legislation regulating compensating balances. In the course of these seminars it has become clear that many treasurers and collectors are unaware of the broad scope of the legislation's impact.

Since bank accounts through which vendor payments and payroll checks are disbursed, lock-box collection arrangements and many other common banking services may be compensating balance arrangements within the meaning of the new law, treasurers and collectors will need to obtain either increased appropriations to pay for such banking services directly, or will need approval to enter into compensating balance agreements. Treasurers and collectors of towns with a town meeting form of government or of tax levying districts should consult the attached bulletin on how to obtain the necessary authorization now for such agreements for fiscal 1987.

Because of the problems of timing in this transition year it is important that municipal officials act as promptly as possible to minimize the inherent difficulties which may arise in the course of implementing the new legislation.

Detailed guidelines concerning the requirements for compensating balance agreements will be issued at the beginning of April 1986. In the meantime, collectors and treasurers should take the necessary steps to obtain town meeting approval for such agreements if they wish to be able to use such agreements in fiscal 1987.

BULLETIN

PROCEDURES FOR OBTAINING TOWN MEETING AUTHORIZATION
OF COMPENSATING BALANCE AGREEMENTS

In order to obtain the necessary approval for fiscal 1987 agreements, the following procedures should be considered by Treasurers and Collectors who wish to use such agreements in fiscal 1987:

- if the warrant for the annual town meeting is not closed, request the selectmen to include an article similar to the attached sample article;
- if the warrant is closed but not yet published, request the selectmen to open the warrant for the purpose of inserting such an article, and then close the warrant again;
- if the warrant is closed and published, and there is still enough time before the annual town meeting to call a special town meeting in conjunction with the annual meeting, request the selectmen to issue a warrant for such a special town meeting to consider the article authorizing compensating balance agreements;
- if there is not enough time before the annual meeting to call a concurrent special town meeting, make a motion from the floor of the annual meeting either to increase the Treasurer's and Collector's budget requests by an amount sufficient to obtain the necessary banking services by direct payment, or to authorize compensating balance agreements, or both; such a motion may also be made when the town meeting takes up the article to authorize temporary borrowing by the treasurer. The Department of Revenue will accept a vote authorizing compensating balance agreements taken upon such a motion;
- if the annual town meeting has already been held, then ask the selectmen to call a special town meeting either to increase the budget requests or to authorize compensating balance agreements, or both.

ARTICLE TO AUTHORIZE COMPENSATING BALANCE AGREEMENTS

To see whether the town will authorize the treasurer (collector) to enter into compensating balance agreements during fiscal 1987, as permitted by General Laws Chapter 44 Section 53F.

14.

S-397

Comm. from the Mass. Dept. of Revenue, transmitting informational guidelines dated May, 1986 Re: The Maintenance of Compensating Balance Agreements, Chapter 740 of the Acts of 1985. (M.G.L., Chapter 44, Section 53f).

In City Council,

June 9, 1986