

## **CHAPTER 4 FINANCE**

### **IN GENERAL**

#### **SECTION 4.1            FISCAL YEAR**

The annual accounts of the Treasurer and Controller of Accounts shall include the last day of June. The financial year shall begin on the first day of July.

#### **SECTION 4.2            DUE DATE OF PROPERTY TAXES**

Taxes shall be due and payable quarterly, one-quarter to be paid on or before each of the following dates annually: August 1; November 1; February 1; and May 1.

#### **SECTION 4.3            HOW MONEY TO BE WITHDRAWN FROM TREASURY**

No money shall be paid out of the Treasury except upon written order of the Mayor, and approved by the Controller of Accounts, to the Treasurer, nor shall any order be drawn in payment for services rendered or material furnished, to any department, beyond the sum appropriated therefor by the City Council; provided, however, that the Treasurer may pay any sum of money due on the principal or interest of any note, bond or other security of the City, or for state and county taxes, or any judgment against the City, and any refunds on water bills, betterment assessment bills, annual sewer rate bills, assessment bills paid in lieu of annual sewer rates, apportionment bills, whether betterment or sewer assessment bills, and sidewalk assessment bills. All refunds shall be certified by the Board or Commission from which the refund is sought.

#### **SECTION 4.4            INTRA DEPARTMENTAL TRANSFERS**

Transfers from any account in a department to another account in the same department not exceeding the sum of five hundred dollars (\$500.00) may be made on the recommendation of the Controller of Accounts with the consent of the Mayor. Transfers of amounts in excess of five hundred dollars shall be made only upon majority vote of the members of the City Council.

#### **SECTION 4.5            BONDS**

Whenever a loan shall be authorized by the City Council, bonds or notes of the City, so prepared as to meet its conditions, shall be issued therefor and disbursed of by the City Treasurer with the approval of the Mayor; and all bonds and notes issued by the City shall be signed on behalf of the City by the City Treasurer and countersigned by the Mayor and Controller, and all bonds shall bear the seal of the City. The Controller shall keep a record of all bonds and notes so signed and countersigned entering the same against the order authorizing the loan.

## **ASSESSING DEPARTMENT**

### **SECTION 4.6 COMPOSITION, POWERS, AND DUTIES**

The Assessing Department shall be under the charge of the Board of Assessors, consisting of three Assessors, who shall have and exercise all the powers and duties of Assessors of Taxes.

### **SECTION 4.7 INTERNAL ORGANIZATION; DUTIES; RECORDS**

The Board of Assessors, with Council confirmation, shall annually as soon after March first as practicable, meet and organize by selecting a Chairman of the Board of Assessors; and the Board of Assessors shall annually, as soon after March first as practicable, meet and choose a Clerk, who shall not be member of the Board of Assessors.

The Chairman, with such assistance from the other members and the Clerk as may be required, shall compute and cast all taxes.

The Clerk shall keep a record of all transactions of the Board, and under the direction of the Board, have charge of the books of the Department. The Clerk shall keep a complete record of transfers of real estate and all information necessary for the legal and correct assessment of taxes, and shall perform such other duties as the Board of Assessors may from time to time determine.

### **SECTION 4.8 TO ASSURE THAT THE CITY OBTAINS ITS SHARE OF TAXES ON NATIONAL BANKS AND CORPORATIONS**

The Board of Assessors shall, by an examination of the returns and records in the office of the Tax Commissioner, and by all proper methods, see that the City obtains its share of taxes on national banks and other corporations.

### **SECTION 4.9 REPORT TO CONTROLLER AND TREASURER; WHEN**

## **REQUIRED**

The Board of Assessors shall, on or before the first day of September in each year, make a true return to the Controller of Accounts of the amount of taxes set in the annual warrant to the Collector of Taxes, and shall, thereafter, make a return to the Controller of Accounts of all other assessments made by it. It shall make a certificate of every abatement allowed, and keep a record of the same, which certificate shall state the name of the person assessed, the ward in which he is assessed, and the amount abated; and shall present to the Controller of Accounts the sum total of all such abatements.

### **SECTION 4.10 TAX ASSESSMENT LIST-TO BE DELIVERED TO COLLECTOR AND CONTROLLER**

The Board of Assessors shall complete the assessment of taxes, and deliver a list thereof, including a full and exact description of the land, and the name of the owner, to the Collector, on or before the first day of September in each year. It shall also furnish to the Collector a list of property that has become liable to sale for nonpayment of taxes.

The Board of Assessors shall render to the Controller of Accounts at the time when they deliver any tax list to the City Collector a statement of the amount of such tax list so far as the amounts thereof have not been included in any statement previously made and shall on or before the first day of each month submit a statement showing the amount of taxes which have been abated during the preceding month, giving the year in which the taxes abated were paid.

### **SECTION 4.11 ABATEMENT OF TAXES**

All abatement of taxes shall be made at a public meeting of the Board of Assessors, and shall be recorded in a book provided for that purpose, which record shall be kept as required by law. All votes on abatements and reviews of property shall be with the concurrence of a majority of the Board.

#### **SECTION 4.11.1 PAYMENT VOUCHERS FOR REAL ESTATE TAXES TO SENIOR CITIZEN VOLUNTEERS**

4.11.1A: The City of Malden hereby establishes a program permitting issuance of real estate tax payment vouchers for Senior Citizens who wish to volunteer to do services for the City of Malden. This program is intended to increase senior citizen's involvement in local government, enhance municipal services by utilization of skills of

senior citizens, and to employ qualified senior citizens who apply their earnings towards payment of real estate taxes.

4.11.1B: The City Treasurer shall issue payment vouchers towards the real estate taxes of persons who are homeowners, who are Malden residents living in said home, and who are age 60 or older (hereafter Senior Citizens), beginning as of January 1, 1996, up to a maximum of \$500.00 for each calendar year that said Senior Citizen volunteers to work for the City of Malden. A copy of the current real estate tax bill must accompany any application to this program. Payment vouchers shall be issued by the Administrator of this program to the City Treasurer to be used either towards the Senior Citizen's next tax bill after employment is terminated or as the City Treasurer and Senior Citizen may agree.

4.11.1C: This program shall be administered by an Administrator, appointed by the Mayor and confirmed by the City Council under such terms and conditions as they deem appropriate. The Administrator is granted sole discretion and authority to establish such forms as may be necessary for the aforesaid purposes, maintain records of services provided hereunder, determine and regulate all terms and conditions of program employment including the sole right to terminate employment of persons accepted into this program (which persons are terminable at will, with or without cause, at the pleasure of the Administrator) and to do all acts reasonably required to accomplish the aforesaid purposes. In determining whether or not to hire an applicant, consideration may be given to such factors as the Administrator deems appropriate, including but not limited to qualification, experience, availability, transportation, and disability, if any.

4.11.1D: Senior Citizens who offer their services under this program shall receive no unemployment benefits or other compensation, and shall waive all employee benefits and privileges, including any and all fringe benefits (including but not limited to all types of insurance, vacation, sick leave benefits, holiday, longevity, education, retirement rights or benefits) payable under any state, federal or local law to regular municipal employees.

## **COLLECTOR OF TAXES**

### **SECTION 4.12 DUTIES**

The Collector shall:

**A.** collect all sums payable to the City on account of water usage and shall furnish the Public Works Commission with an accurate record of receipts therefor, with the number and amount of each bill collected.

**B.** issue tax bills as soon as practicable after the tax lists are

received and, for each fiscal year, issue summonses and collect all taxes and interest accruing thereon, as allowed by law.

C. collect any bills for assessment on account of sidewalks, streets, sewers, drains, and for each fiscal year, issue summonses and collect all betterments and interest accruing thereon, as allowed by law.

D. collect, as allowed by law, all other funds, together with any interest accruing thereon, due the City;

E. shall annually furnish to each department, board, commission, or division that issues license or permits including renewals or transfers, a list of any person, corporation, or business enterprise that has neglected or refused to pay any taxes, fees, assessments, betterments, or other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

## **CONTROLLER OF ACCOUNTS**

### **SECTION 4.13 TO BE IN CHARGE OF ACCOUNTING DEPARTMENT; RECORD OF ACCOUNTS**

The Controller of Accounts shall be in charge of the Accounting Department and shall keep a complete set of books and accounts which shall comprise all of the financial transactions of the City through the various departments and officers under their respective appropriations. All accounts rendered to or kept in the departments of the City shall be subject to the inspection and revision of the Controller of Accounts. Accounts shall be kept in such form as prescribed by the Controller.

### **SECTION 4.14 TO RECEIVE ACCOUNTS AND CLAIMS; TO ALLOW OR DISALLOW CLAIMS; CERTAIN PURCHASES TO REQUIRE OTHER APPROVAL; WHEN BILLS TO BE PRESENTED TO CONTROLLER**

The Controller of Accounts shall receive and carefully examine all accounts, claims, bills and payrolls which have been approved and certified by the several boards, committees, commissions, commissioners, and officers authorized to make expenditures, if they are correctly cast and duly approved; or if such indebtedness arises from a written contract and such account, claim, bill or payroll conforms with the terms of such contract, the same shall be approved.

The Controller of Accounts may refuse to pay, in whole or in part, any

claim on the ground that it is fraudulent, unlawful or excessive, and in that case he shall file a written statement with the Mayor stating reasons for refusal.

No account, claim, bill or payroll shall be approved by the Controller of Accounts unless at the time the indebtedness is contracted the unexpended balance of the appropriation to which it is chargeable is in excess of such account, claim, bill or payroll, together with all prior orders against such appropriation; nor shall it be approved if not properly chargeable to the appropriation to which it is sought to be charged and properly itemized.

The Controller of Accounts shall not approve or allow payment of any bill for coal in lots of one ton or more, purchased for the use of the several departments of the City, except such as have been certified to him by the Sealer of Weights and Measures, and he shall, at the time of auditing such bills, endorse on the same the number and date of certification.

All bills of each month which have been properly approved shall be in the hands of the Controller on or before the fifth of the succeeding month or more often as determined by the Controller.

#### **SECTION 4.15 TO DRAW ALL WARRANTS**

The Controller of Accounts shall draw all warrants on the Treasury for the payment of such account, claims, bills and payrolls, for any amounts due on the principle or interest of any bond, note or other security of the City or any sum payable under the law regulating military and state aid, soldiers' relief, burial or indigent soldiers, or any claim which the City Council has ordered to be paid; or any sums due as wages to such of the employees of the City as are entitled by law to be paid weekly, or any salary fixed by the City Council to be paid, if there be a balance of any appropriation therefor sufficient for the payment of the final judgments of courts, sums payable to the Commonwealth or county by law. All warrants drawn by the Controller of Accounts for the payments of moneys from the Treasury shall only be valid when countersigned and approved by the Mayor.

#### **SECTION 4.16 REPORTS AND RECORDS**

The Controller of Accounts shall keep a record of all funded and temporary loans, the rate of interest thereon and the time when the principle and interest are payable. At the close of each financial year, the Controller shall report to the Mayor and City Council the expenditures and receipts during the year, giving in detail the amount of the appropriation and expenditures, and the receipts from each

source of income; and the whole shall be arranged, so far as practicable, to indicate the expenses of maintaining each department. The report shall include a statement of funded and temporary loans, with the rate of interest thereon and the payment due date.

The Controller of Accounts shall keep accounts in such form and in such detail as may be necessary to show clearly all expenditures and receipts. The Controller shall credit each City account with its appropriations for the financial year, and charge the expenditures against the same as they shall from time to time be allowed. The Controller shall provide monthly statements of expenditures and unexpended balances of each account to the Mayor and the City Council, and shall provide each board or officer a statement of the expenditures and unexpended balance of any appropriation under their charge.

#### **SECTION 4.17                    QUARTERLY STATEMENT TO BE SUBMITTED**

The Controller of Accounts shall, at the close of each quarter year, or as often as deemed expedient, examine the accounts of the Treasurer, and Collector of Taxes; and for that purpose shall have access to all books and vouchers in possession of any officer of the City. The Controller shall make report thereof to the Mayor and City Council quarterly.

#### **SECTION 4.18                    TO RECEIVE INVENTORIES OF PROPERTIES**

The Controller of Accounts shall obtain from the Purchasing Agent at the end of each financial year an inventory of any property, real or personal, belonging to the City and an estimate of its value.

#### **SECTION 4.19                    ANNUAL AUDIT**

The Controller shall cause an audit to be made of all of the accounts of the City at the close of each fiscal year, in accordance with guidelines or standards set by the director of the Department of Revenue Division of Accounts. The Controller of Accounts shall petition the director of the Division of Accounts for such an annual audit.

#### **SECTION 4.20                    PAYROLL FORMS**

The heads of departments shall furnish payrolls of employees in their respective departments in such forms as the Controller of Accounts shall approve, duly certified as required by statute, and submit the same to the Controller of Accounts. After the certification and

approval of payrolls by the Controller of Accounts the Treasurer shall pay the same by check in accordance therewith and each check shall contain the amount of every deduction.

## **ACCOUNTS AND FINANCE; FINANCE COMMITTEE; CLAIMS COMMITTEE**

### **SECTION 4.21 ACCOUNTS TO BE APPROVED BY FINANCE COMMITTEE**

If the Controller of Accounts refuses to pay any bill, said bill may be referred to the Finance Committee for its consideration and approval or rejection.

Excepting bills which may be discounted, all bills which have been approved by the Finance Committee or by the Controller of Accounts shall be payable by the City Treasurer on or after the fifteenth day of each month. All bills which may be discounted shall be payable when approved and certified as above provided and shall be paid as early as necessary to secure discount.

### **SECTION 4.22 CLAIMS AGAINST THE CITY FOR DAMAGES APPROVED BY COMMITTEE ON CLAIMS; AUTHORITY OF COMMITTEE TO ADJUST SMALL CLAIMS; NOTICE TO CITY SOLICITOR**

All claims made against the City for damages, and such other claims as may be referred to them, shall be examined by the Committee on Claims; and the Committee may take such steps as it deems expedient for the defense of the City in an amount not exceeding five hundred dollars. Claims so allowed shall be certified by the Controller of Accounts to the Treasurer without further examination. Notices of all injuries to persons or property shall be forwarded forthwith by the officers upon whom such notices may be served to the City Solicitor for examination.

## **CITY TREASURER**

### **SECTION 4.23 TO BE COLLECTOR OF TAXES**

TheThe City Treasurer shall be the collector of taxes and all sums payable to the City not otherwise provided for by law.

### **SECTION 4.24 PHOTO KEEP ACCOUNTS, PAY WARRANTS, TO KEEP ACCO ETC.ETC. LIMIE ETC. LIMITATIO ETC. LIMITATION ON PAYME**

## REPORT

The City Treasurer shall keep an accurate account of all payments.

Prior to payment by the City Treasurer, certificates of indebtedness and the interest due on the same shall be signed by the Controller of Accounts and Mayor. The Treasurer shall cancel all such bonds or certificates of indebtedness and coupons when paid.

The Treasurer shall, annually in October, furnish the City Council with a report of receipts and expenditures for the prior fiscal year.

### **SECTION 4.25                    TOTO FURNISH MTO FURNISH MONTHLY CONTROLLER OF ACCOUNTS**

The City Treasurer shall, on the first day of each month, furnish the Controller of Accounts the following:

- A.** a detailed statement of collections, a detailed statement of collections, names of payers and accounts credited, during the month, except that, reports of receipt of taxes, assessments and fees need only include the amount received on each collection was made;
- B.** a record of all discounts, abatements and repayments allowed during the month;
- C.** a statement of all fees, charges, costs and commissions received;
- D.** a certification that all moneys received on behalf of the City by any duly appointed sheriff, deputy sheriff, or constable have been paid into the Treasury.

### **SECTION 4.26                    SURETY BOND**

Prior to assuming office, the City Treasurer and Collector of Taxes shall give a bond, to be approved by the City Council, in the amount as required by law.

Failure to provide such bond with the City Council, shall rescind the election, and a new election shall be held.

In case of bond revocation, a new bond, as herein required, shall be provided; and failure to do so within fifteen days shall be cause for removal from office.

**SECTION 4.27 TO KEEP DEEDS AND INSTRUMENTS CONVEYING REAL ESTATE**

All recorded deeds and instruments conveying real estate to the City shall be kept by the Treasurer.

**PURCHASING DEPARTMENT**

**SECTION 4.28 CONTROLLER OF ACCOUNTS TO BE PURCHASING AGENT**

The Controller of Accounts shall be the Purchasing Agent and shall have all the powers and duties conferred upon purchasing agents or procurement officers by law and by ordinance.

**SECTION 4.29 POWERS AND DUTIES**

**A.** The Purchasing Agent shall have power and duty to purchase, depose of, or contract for all supplies, materials, equipment and contractual services, including installation, repair, and maintenance thereof, as needed by any of the departments, boards, commissions and other officers or municipal agencies, hereinafter respectively called "using agencies," except those exempt under Chapter 687 of the Acts of 1989.

"Contractual services" shall not be construed to mean the hiring of departmental personnel, expert witnesses, labor relations representatives, medical, legal, technical and other professional services, or awarding and administering of contracts for the construction, reconstruction or alteration of City buildings and property. Also exempted are special programs or grants provided by state or federal funds or bidding procedures.

The term "supplies, materials, and equipment" as used throughout this article shall be construed to mean any and all articles, materials and equipment, including installation, repair, maintenance or insurance therefor, which may be furnished to or used by any using agency.

The Purchasing Agent shall have the power to transfer all supplies, materials, and equipment from one department to another.

The Purchasing Agent shall have the power to sell, exchange or trade any supplies, material and equipment which have become obsolete or are no longer suitable for public use.

The Purchasing Agent is designated as Chief Procurement Officer and Chapter 687 of the Acts of 1989 is hereby incorporated by reference as if set forth hereat.

**B.** The Purchasing Agent shall have authority to order or make inventories of the supplies, materials, equipment and furnishings of any and all departments. Any department possessing excess or surplus personal property of any kind or description shall not exchange, transfer or dispose thereof without first certifying such personal property as surplus to the Purchasing Agent. Thereupon, the Purchasing Agent shall notify all departments and agencies as to the availability of such surplus personal property, and may order transfer of such property from one department or agency to another. Inventory adjustments between the departments shall be made accordingly.

Property determined by the Purchasing Agent to be no longer useful for any municipal purpose may be sold and the proceeds shall be paid to the City Treasurer.

The Purchasing Agent shall require that each using agency shall provide an inventory during the month of June in each year of the personal property under its charge.

Between the first day of November and the first day of December in each year there shall be forwarded to the Purchasing Agent an estimate of equipment, material, supplies and contractual services that will be needed by each using agency for the ensuing year. The requirements for preparing estimates shall not prevent any using agency from filing with the Purchasing Agent at any time a requisition for any supplies, materials, equipment or contractual service, the need for which was not foreseen when the detailed estimate was filed.

**C.** The Purchasing Agent shall control and supervise any and all storerooms and warehouses.

The City Council, upon estimates prepared by the Purchasing Agent and submitted from time to time by the Mayor, shall provide a revolving stores fund of sufficient amount to finance the purchase and storage of standard supplies, materials and equipment for use by all departments and agencies which may be purchased and stored advantageously, and such fund shall be under the control of the Purchasing Agent who shall also be responsible and accountable for all supplies, materials and equipment under his control and shall maintain a perpetual inventory record thereof.

**D.** The Purchasing Agent shall prepare written specifications for standard supplies used by the departments. Except in the case of non-competitive purchases, all specifications shall permit competition. The Purchasing Agent shall have the authority with the approval of the Mayor, to exempt any department of the City from the use of any standard supply. The Purchasing Agent shall consult with the heads of the departments to determine their requirements and shall endeavor to prescribe those standards which best meet the needs of the majority of departments. The Agent shall have the authority to make

use of the laboratory and engineering facilities of the City and technical staffs thereof.

**E.** The Purchasing Agent shall be responsible for the inspection of all supplies, materials, equipment and contractual services delivered to the City in order to determine conformance with the specifications set forth in the orders or contract and for such purpose any department or office may be authorized by the Purchasing Agent to determine such conformity as is required hereunder.

**F.** The Purchasing Agent may require any office or department head to furnish information essential to the operation of the Purchasing Department for compliance with public purchasing requirements.

### **SECTION 4.30                    REQUISITIONS FOR SUPPLIES**

Except as provided in Section 4.40 or Chapter 687 of the Acts of 1989, requisitions for the purchase of supplies or contractual services for any department, board or commission shall be received by the Purchasing Department prior to the issuance of a purchase order or contract for such supplies or contractual services and shall be signed by the head of the using department, or an authorized agent. The Purchasing Agent shall examine each requisition and shall have the authority, only after consultation with the department head, to revise it as to quantity, quality or estimated cost.

### **SECTION 4.31                    REQUISITIONS AND PURCHASE ORDERS**

No requisition, order or contract shall be subdivided to avoid public purchasing requirements.

The head of each using agency shall file with the Purchasing Agent the names of members of that department who shall be authorized to originate requisitions.

All purchase orders shall issue from the Purchasing Agent and no other person is authorized to place or commit any order for purchases.

All requisitions are to be made on forms approved and prepared by the Purchasing Agent.

### **SECTION 4.32                    PROCEDURE FOR CONTRACT PURCHASES; LIMITATION ON AMOUNTS**

**A.**

(1) All purchases of, and contracts for, supplies, materials, equipment or contractual services, and all sales of personal

property which have become obsolete and unusable, involving a sum of ten thousand dollars (\$10,000.00) or more, shall be purchased or sold by competitive bid. Such bid shall be solicited by invitations to bid sent on the same day to at least three vendors.

(2) All purchases exceeding one thousand dollars and less than ten thousand dollars shall, whenever possible, be based on at least three comparative open market price quotations, without newspaper advertisement and without necessity of observing the procedure described at Section 4.35 (B) for the award of contracts. The order shall be awarded to the lowest responsible and responsive bidder. The purchasing agent shall keep a record of all open market orders and the price quotations submitted thereon, and such records shall be open to public inspection.

(3) Before entering into any contract for supplies, materials, equipment or contractual services involving the expenditure of more than ten thousand dollars (\$10,000.00), the Purchasing Agent shall prepare, or cause to be prepared, plans and specifications; notices inviting sealed competitive bids for such contracts shall be published in at least one local newspaper and one Boston newspaper at least one week before the final date for submitting bids.

**B.**

The only exception to the purchasing procedure outlined within this Chapter shall be due to emergencies where immediate procurement is essential to prevent delays in the work of the using agency which may vitally affect the life, health or convenience of citizens and in such cases a detailed report of the circumstances of the emergency shall be filed by the using agency and the Purchasing Agent with the Mayor and approved by the City Solicitor.

In the case of an emergency, the head of any department or those authorized by any and all using agencies may, with the approval in writing of the Purchasing Agent or the Mayor, if the Purchasing Agent is not available, purchase directly any supplies, materials, equipment or contractual services whose immediate procurement is essential to prevent delays in the work of the using agency which may vitally affect the life, health or convenience of the citizens.

The individual authorized to make such emergency purchase shall send to the Purchasing Department a requisition and a copy of the delivery record.

The Purchasing Agent may establish, with the approval of the City Council, rules and regulations prescribing the procedure under which emergency purchases may be made.

**C.**

Whenever a bid is solicited, the using agency shall furnish to the Purchasing Agent a complete and accurate schedule showing in detail the amount, the quality, the dimensions and all other necessary details concerning such items to be bid upon. The Purchasing Agent shall provide copies of such plans and specifications to all parties proposing to bid.

**D.**

All pending contracts shall be advertised by notices posted on a bulletin board in the office of the Purchasing Agent and located so as to be easily accessible to the public.

**E.**

Every contract awarded by competitive bid in excess of \$5,000.00 shall be executed in triplicate by the Mayor and Purchasing Agent on behalf of the City and the head of the using agency shall sign the contract indicating approval or disapproval.

**F.**

Every contract shall be executed in triplicate by an officer, director, owner or authorized person on behalf of the awardee and shall be accompanied by a performance bond or by the deposit of money or security in the amount of such bond.

**G.**

After being executed, no contract shall be altered, in any particular, unless the parties who originally signed the contract endorse on such contract their written assent to each alteration.

**H.**

The City Clerk and the Controller of Accounts shall be furnished all contracts or copies thereof within one week after execution.

**I.**

Bids shall be returned to the Purchasing Agent and City Controller in a sealed envelope, properly denoting on the face thereof the type of bid enclosed. Such bids shall be deposited in a locked box kept for that purpose by each of those officials. The Purchasing Agent shall cause these provisions to be printed on or attached to all invitations to bid.

**J.**

Bids shall be publicly opened and read at the hour and place designated in the advertisement, or as soon thereafter as possible, by the Purchasing Agent. Contracts shall be awarded to the lowest responsible, eligible and responsive bidder possessing the skill, ability and integrity necessary for the faithful performance of the terms and conditions thereof; provided, however, that preference may be given to substantially similar bids offered by responsible firms or

persons established and doing business in the City.

**K.**

No proposals shall be accepted from any person who has breached a contract with the City during the three years preceding. Any contractor who furnished or seeks to furnish goods, equipment, materials, or services to the City may be debarred or excluded from eligibility for future public contracts with the City of Malden for a period of time, to be determined as set forth herein, for any of the following causes:

- (1) a criminal offense involving embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which seriously and directly will or may affect the contractor's present responsibility or ability as contractor to comply with contractual requirements;
- (2) violation of any state or federal law regulating hours of labor, prevailing wages, minimum wages, overtime pay, equal pay, child labor, or any other state or federal law regulating labor relations or occupational health or safety;
- (3) violation of any state or federal law prohibiting discrimination in employment;
- (4) supplying of material false information incident to obtaining or attempting to obtain or performing any public contract or subcontract;
- (5) a record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more public contracts, provided that such failure to perform or unsatisfactory performance has occurred within a reasonable period of time preceding the determination to debar and provided the failure to perform or unsatisfactory performance was not caused by factors beyond the control of the contractor;
- (6) debarment by the Division of Capitol Planning and Operations, under Mass. G.L. chapter 149 section 44C;

**L.**

The Purchasing Agent may reject any and all bids and cause new advertisements to issue, except as otherwise allowed by law.

**M.**

"Contractor" shall be defined as any individual, partnership, corporation or any other entity, its affiliate or subsidiary or subdivision. If debarment proceedings are undertaken, the contractor

shall be ineligible to bid on any City of Malden contracts from the date of notice of proceedings herein until the proceedings are concluded. The Purchasing Agent will send notice by certified mail, return receipt requested, to the contractor, at the last known address, stating the reasons and the proposed duration of the proposed debarment. Upon request, the contractor will be given a hearing, if the request is mailed certified mail or delivered to the Purchasing Agent within 14 calendar days of receipt of the notice. If no hearing is requested, debarment as directed shall become in full force and effect. If a hearing is requested, the same shall be public or private, as requested by the contractor, and shall be held within 30 days of the request for hearing unless otherwise agreed.

Debarment shall be ordered only to protect the integrity of the public contracting process in the particular instance and shall not exceed five (5) years. Rules and regulations relating to hearings under Mass G.L. C.. 149 section 44C, as amended, if applicable, shall be complied with.

**N.**

All bids shall be preserved by the Purchasing Agent and shall be open to public inspection, as required by law.

**SECTION 4.33 PRINTING CONTRACTS**

The Purchasing Agent shall contract annually for the printing of the City reports, the Departmental reports, the Rules and Orders of the City Council, and all letter heads and envelopes used by the City in its several departments. The cost thereof shall be charged to the appropriate departments except as otherwise provided for by budget appropriation. The using agencies shall annually on or before the first day of February in each year make requisitions for printing needed during the ensuing year. All bills for such printing shall be submitted to the Purchasing Agent for his approval prior to the approval of the same by the using agency and no such bill shall be paid by the City Treasurer until approved by the Purchasing Agent.

**SECTION 4.34 PURCHASES OF FUEL**

The Purchasing Agent shall purchase fuel for the public schools, and for all buildings used by the City and shall likewise purchase all fuel used by the City whether for heating, power, or for any other purpose. The expense shall be charged to the appropriate departments. The using agency shall submit requisitions to the Purchasing Agent for fuel needed during the ensuing year. All coal purchased by the Purchasing Agent shall be weighed upon designated scales by him and without expense to the City.

## **SECTION 4.35                    ENCUMBRANCE OF FUNDS**

No officer, department head, board or commission authorized to expend money shall submit requisitions to the Purchasing Agent for the purchase of equipment, supplies, materials, or contractual services until funds are available therefor. No obligations shall be incurred against appropriations except in the case of emergency purchases until the City Controller verifies in writing the availability of an appropriation for such expenditure. Orders issued by the Purchasing Agent shall not be delivered to the vendors until the City Controller shall have certified that there is a sufficient unencumbered balance of the appropriation to be charged to pay the amount due under the purchase order.

## **SECTION 4.36                    CONTRACTS COVERING MORE THAN ONE YEAR**

The Purchasing Agent shall not execute any contract on behalf of the City which will extend beyond one year from the date thereof unless special permission to do so has been given by vote of the City Council or by the statutes of the Commonwealth.

## **SECTION 4.37                    CERTIFICATION BY PURCHASING AGENT OF PURCHASES**

The Purchasing Agent shall certify to the correctness of all bills incurred by the Purchasing Department in the following manner:

- (a) that the material, supplies, equipment or contractual services were received;
- (b) that the quality of materials, supplies, etc., were in accordance with the specifications or purchase order;
- (c) that all prices charged are fair;
- (d) that a purchase order has been issued for materials, supplies, equipment or contractual services.

The above mentioned procedure must be complied with before invoices are forwarded for payment by the Controller.

## **SECTION 4.38                    VIOLATION OF PUBLIC PURCHASING REQUIREMENTS**

Violation of public purchasing laws, rules, regulations or requirements by any municipal official or employee shall constitute official misconduct and shall be grounds for termination of employment and such other penalties as provided by law.

Violation of public purchasing laws, rules, regulations or

requirements by any supplier or contractor shall be grounds for refusal of the Purchasing Agent to issue a purchase order or award a contract.

### **SECTION 4.39 ANNUAL REPORT**

The Purchasing Agent shall submit annually, on or before August 1 a report to the Mayor and the City Council of the activities of the department during the preceding fiscal year, which shall contain an account of equipment, materials and supplies bought, furnished and sold, during said fiscal year and the prices paid or received therefor; an account of equipment, materials, and supplies ordered but not yet received as of the close of the fiscal year and the prices to be paid therefor; an inventory of equipment, materials, and supplies on hand, and such recommendations as he shall deem expedient.

### **SECTION 4.40 PURCHASING AGENT TO PREPARE RULES AND REGULATIONS**

The Purchasing Agent shall prepare, and from time to time establish and amend such rules and regulations concerning purchasing authorized by this article and any other changes necessary to its operation. Such rules and regulations and amendments thereof shall be subject to the approval of the City Council.

### **SECTION 4.41 (RESERVED)**

### **SECTION 4.42 WOMAN/MINORITY BUSINESS ENTERPRISE PLAN**

#### **I OBJECTIVES AND GOALS**

The City of Malden, Women/Minority Business Enterprise (W/MBE) Program has been formulated to further implement the City's policies as set forth herein. The main objective of the Program is to increase the W/MBE participation in the City's construction contracts and in the procurement of goods, services and supplies.

The annual W/MBE utilization goal for the City of Malden shall be set at, but not limited to, at least ten per cent (10%) of the total annual dollar value of all construction contracts and the procurement of goods, services and supplies. The Woman Business Enterprise utilization goal for the City of Malden shall be set at (but not limited to) at least five per cent (5%) of the total annual dollar value of all construction contracts and the procurement of goods, services and supplies. However, this goal need not be complied with on a contract-by-contract basis.

Nothing in this program shall be construed to require W/MBE participation in circumstances where no qualified Woman/Minority Business Enterprise is available.

## **II DEFINITION, CERTIFICATION, AVAILABILITY AND QUALIFICATIONS OF WOMAN/MINORITY BUSINESS ENTERPRISES**

### **A. DEFINITIONS**

For purposes of the Program, a "Woman/Minority Business Enterprise" (W/MBE) shall be those eligible applicants as defined at 425 CMR 2.02, Massachusetts State Office of Minority Business Assistance (SOMBA) Regulations. The precise definitions established by SOMBA are hereby incorporated by reference and the City of Malden does hereby adopt said regulations as its standard.

A "Minority Group Member" shall be as defined at 425 CRM 2.00 et seq., the SOMBA regulations.

### **B. CERTIFICATION**

The City of Malden hereby recognizes as an W/MBE, for the purposes of this program, only those eligible applicants included in SOMBA's most recently up-dated directory of certified Minority Businesses, or such individuals and firms referred to SOMBA by the City of Malden and subsequently found by them to qualify for certification in the next up-date of their directory. The City will make every effort through the local business channels to encourage potential W/MBE members to become certified through SOMBA.

### **C. AVAILABILITY**

An W/MBE shall be considered available if located within the Metropolitan Area. However, efforts to locate minority business enterprises need not be limited to this area.

### **D. QUALIFICATIONS**

An W/MBE shall be judged qualified if it can provide reasonable assurances that it can perform services or supply materials that are needed, in accordance with contract specifications, when and as due, at a satisfactory level. In construction projects, prime contractors will be expected to provide technical assistance, including assistance in obtaining bonds, to W/MBE's as needed.

## **III RESPONSIBILITY FOR IMPLEMENTATION**

### **A. CITY**

The Mayor, as Chief Executive Officer, has overall responsibility for the City's Woman/Minority Business Enterprise Program.

**B. AFFIRMATIVE ACTION/WOMAN/MINORITY BUSINESS ENTERPRISE/ CONTRACT COMPLIANCE OFFICER**

The Affirmative Action/Woman/Minority Business Enterprise/Contract Compliance Officer (hereinafter called "AA/W/MBE CCO") shall administer the Woman/Minority Business Enterprise Program, including start-up, on-going operation, monitoring, evaluation, and reporting/functions and shall report directly to the Mayor. A major element of his/her work will be the coordination of the Program's operations throughout all the City's departments.

**IV. ADVANCE PLANNING AND GOAL SETTING**

**A. SIX MONTH PROJECTIONS BY DEPARTMENTS**

All City Departments shall submit to the AA/W/MBE Contract Compliance Officer on July 15 and January 15, a projection of contracts to be let and of goods and supplies to be purchased during the next two (2) calendar quarters. Insofar as possible, the projections for construction contracts requiring expertise shall include information as to which parts of the contract could be sub-contracted. An updated listing of projected contracts, by each department, shall be required when necessary.

**B. COMPLIANCE OFFICER USE OF DEPARTMENT PROJECTIONS**

After receiving the departmental projections, the AA/W/MBE CCO shall proceed as follows:

1. Using the most recently up-dated SOMBA Minority/Women Business Directory, the AA/W/MBE CCO shall prepare for the Awarding Authority lists of minority firms to which invitations to bid or Requests-for-Proposals, where applicable, should be sent for each of the projected contracts.
2. The AA/W/MBE CCO, in consultation with the Purchasing Agent shall review reasonable proposals for subdividing projected contract work in such a way as to maximize the opportunity for small minority firms to participate. Based on this joint review, the Purchasing Agent and the AA/W/MBE CCO shall make efforts to reach agreements as to making such subdivisions of the projected work, unless otherwise prohibited by law.
3. In consultation with SOMBA, the AA/W/MBE CCO shall make recommendations to the Mayor and Purchasing Agent when determined practical, that certain subcontracts or entire contracts be designated for one hundred (100) per cent participation.
4. Also through consultation with SOMBA, the AA/W/MBE CCO shall recommend to the Mayor and/or Purchasing Agent a reasonable

percentage for W/MBE participation in certain projected contracts. This determination will be based on SOMBA general knowledge of the current availability of each type of business to be involved, and may vary from zero (0) to one hundred (100) per cent.

**V. W/MBE PROGRAM PROCEDURES FOR PUBLICLY-BID CONSTRUCTION CONTRACTS**

**A. PREPARATION OF BIDDING DOCUMENTS AND INVITATION TO BID**

1. Focus on W/MBE Requirements- Both the cover page for the Bidding Documents and the Invitation to Bid shall provide a reference to the W/MBE requirements on the documents.
2. Certification of Compliance- The Bidding Documents shall include a Contractor Certification of Compliance with W/MBE Requirements to be filled out and submitted with the Bid Proposal.
3. Request for Waiver- The Bidding Documents shall include a Request for Waiver form to be submitted with the Bid Proposal in the event that a bidder has been unable to secure W/MBE participation at the minimum level specified in the Bidding Documents. In this event, full documentation of the effort is required.
4. Per Cent W/MBE Participation- The Bidding Documents shall clearly state the minimum W/MBE participation percentage established for the contract. (see V-B-4 above as to procedure for setting percentage)
5. W/MBE Letter of Intent- The Bidding Documents shall include a form (Woman/Minority Business Enterprise Participation Letter of Intent) to be filled in by each W/MBE listed in the bidder's Contractor Certification of Compliance. The Letter of Intent shall be submitted with the Bid Proposal.
6. Ten-Day Rule- The Bidding Documents shall include a provision that, in the event that the low bidder has submitted a Request for Waiver that is acceptable to the City, the low bidder will be allowed ten (10) additional working days to develop the required W/MBE participation and to submit the Contractor Certification of Compliance and Letters of Intent. This will provide the low bidder with an opportunity to recruit W/MBE's who were previously not available due to their tie-in with other bidders on the same contract. The Bidding Documents shall further state that the ten-day period will begin with the first working day following the low bidders receipt of written notification (by certified mail, return receipt requested) that the AA/W/MBE CCO has found

the Request for Waiver satisfactory, and is, therefore, granting a ten-day additional period for meeting the W/MBE requirement. This notification shall state that the Contractor Certification of Compliance and Letters of Intent must be received and date-stamped at the Affirmative Action Office, the Malden Redevelopment Authority, or the City Purchasing Department before 5:00 P.M. on the tenth day.

7. W/MBE Reviewing- The Bidding Documents shall state that the City has established an AA/W/MBE CCO procedure and approval process.

8. Compliance Details- the Bidding Documents shall contain Compliance Details dealing with Percentage of Participation, Role of the AA/W/MBE CCO, Changes of W/MBE status and sanctions.

**B. OUTREACH**

1. Invitation to Bid- Invitations to Bid shall be mailed by the AA/W/MBE CCO and/or City Purchaser at a reasonable time or as required by law prior to bid opening. The mailing list shall be prepared by the AA/W/MBE CCO as set forth in V-B-1 above.

2. SOMBA- Copies of Invitations to Bid shall also be mailed by the AA/W/MBE CCO to the State Office of Minority Business Assistance (SOMBA).

3. Advertising- Bid notices shall be advertised in at least one local newspaper of general circulation, and as otherwise required by law. The AA/W/MBE CCO will notify SOMBA that City of Malden advertising will be placed in the selected publications.

4. Pre-Bid Conferences- A Pre-Bid Conference may be held for all publicly-bid contracts when determined appropriate by the AA/W/MBE CCO and/or the Purchasing Agent and/or the Malden Redevelopment Authority. A major function of the Pre-Bid Conference will be to explain the Woman/Minority Business Enterprise requirements. Technical assistance in preparing bids will be available. The date, time, place and W/MBE elements of the Pre-Bid Conference shall be clearly set forth in the Invitation to Bid as mailed and as advertised.

5. SOMBA Directories- Notice that a copy of SOMBA's Directory is available for examination at the office of the Malden Redevelopment Authority, the Purchasing Department, and/or the Affirmative Action Office shall be included in the invitation to bid.

6. Technical Assistance- Technical Assistance will be available to prospective bidders by available City personnel in regard to

preparing the Woman/Minority Business Enterprise bid forms or as to any other aspect of preparing a bid. Both the Invitation to Bid and the Bidding Documents shall clearly identify the staff person(s) to contact.

7. All forms required in furtherance of the Plan shall be prepared by the AA/W/MBE CCO, as approved to form and legality by the City Solicitor.

**VI. W/MBE PROGRAM PROCEDURES FOR PUBLICLY-BID EQUIPMENT OR SUPPLIES CONTRACTS**

The AA/W/MBE CCO and/or Purchasing Agent shall mail an Invitation to Bid to each W/MBE company recommended on the list prepared by the AA/W/MBE CCO pursuant to V(b) (1) above. Such Invitation to Bid shall be mailed at a reasonable time or as required by law prior to the date on which the bids will be opened, with copies of each to SOMBA.

**VII. W/MBE PROGRAM PROCEDURES FOR CONTRACTS UNDER \$10,000.00**

In handling contracts below \$10,000.00 the Purchasing Agent shall seek to secure bids from all W/MBE companies identified by the AA/W/MBE/CCO as able to provide the type of equipment or supplies from which the informally bid contract is to be let. However, in cases where the purchase is to be below five thousand (\$5000.00) dollars, discretion may be used by the Purchasing Agent as to the optimum number of bids to solicit.

**VIII. W/MBE PROGRAM PROCEDURES FOR CERTAIN CONTRACTS**

The City Purchaser or, if applicable, the Appointing or Awarding Authority or department head shall contact the AA/W/MBE/CCO at least ten (10) calendar days prior to distributing a Request for Proposal or contacting businesses as a first step to entering into contracts for hire, contracts for professional services, personal services, or consultants or independent contractors whether with or without a compensation on a full, regular or part-time or intermittent basis. These provisions shall not apply to the hiring of Malden salaried Personal Service account employees or to emergency requirements.

The AA/W/MBE CCO shall prepare a list of minority business firms to be contacted hereunder by Request for Proposals of otherwise, and either the City Purchaser, Appointing Authority, Awarding Authority, or department head or AA/W/MBE CCO shall send out the same within a reasonable time prior to awarding the contract hereunder.

The City department head must request written approval from the

AA/W/MBE CCO before the contract is awarded. Such approval shall not be given unless the City Purchaser or Appointing or Awarding Authority or department head provides the AA/W/MBE CCO with satisfactory evidence that it has dealt with all proposals received from minority firms in an objective, fair, and otherwise appropriate manner. In the event no disapproval is received within 7 days of notice to the AA/W/MBE CCO, approval shall be deemed given.

**IX. MONITORING, RECORD-KEEPING, REPORTING AND EVALUATION; MEETING WITH MAYOR**

**A. Monitoring-** The AA/W/MBE CCO shall monitor each department's contracting procedures at least every six (6) months in order to determine whether both the letter and the spirit of the procedures established in the W/MBE program are being properly implemented. A report on such monitoring shall be submitted by the AA/W/MBE CCO to the Mayor and to the Human Rights Commission, but only after submitting to department heads for their response.

**B. Record Keeping and Reporting-** The AA/W/MBE CCO shall maintain records necessary to provide all information needed for preparation of a report entitled REPORT ON WOMAN/MINORITY BUSINESS ENTERPRISE CONTRACTING. The report shall be completed and distributed by the last working day of the month following each quarter. The AA/W/MBE CCO shall determine the list.

**C. Evaluation-** The AA/W/MBE CCO shall prepare annually, following the close of the City's fiscal year, an evaluation of the City's contracting performance during the previous twelve (12) months. This report shall include reasonable recommendations for improving procedures, relative to a negative evaluation. The report shall be sent to the Mayor, the City Clerk, the City Council, and the Human Rights Commission.

**D.** The Mayor shall meet either individually or in one large group with all Department Heads and the AA/W/MBE CCO quarterly, if necessary, to review and discuss the success of the program.

**X. DISSEMINATION OF WOMAN/MINORITY BUSINESS ENTERPRISE PROGRAM**

The W/MBE Program shall be disseminated to those deemed appropriate by the AA/W/MBE CCO. A transmittal memorandum to each department head shall accompany the program, and shall require that the department head return the memorandum with initialing, indicating that the document has been received and read and will be complied with to the best of the department head's ability. Also, each department head shall assign an appropriate staff person, if necessary, for implementation and shall notify all personnel in the department of the requirements of this Program.

