### Municipal Real Estate Purchase/Gift Checklist

- Identify land to be acquired; issue RFP or a uniqueness determination under G.L. c.30B, §16 (not required for a gift or if value is $35,000 or less) unless acquired under Community Preservation Act (G.L. c.44B)
- Enter into a purchase and sale or donation agreement subsequent to or conditioned upon a favorable Town Meeting or City/Town Council vote if required
- Obtain Town Meeting or City/Town Council vote authorizing the acquisition and appropriation of funds, if necessary (2/3 vote required for appropriation, with some statutory exceptions)
- Obtain a title examination of the property
- Obtain a survey of the property and plan endorsement by the Planning Board if you are acquiring a portion of a larger tract of land (usually seller’s obligation); ensure that the property is properly zoned for the intended use
- Obtain G.L. c.21E site inspection of the property by a licensed site professional if history or view indicates hazardous material may have been used
- Obtain Title 5 certification from seller, if subsurface sewage disposal is used; perform any other testing or inspections necessary to determine whether the property is suitable for the intended municipal use
- Comply with relocation obligation under G.L. c.79A, if applicable
- Request seller/donor to provide a draft deed for the property to your town counsel/city solicitor
- Obtain municipal lien certificate from tax collector (taxes must be paid to date of closing unless tax abatement is authorized under G.L. c.58, §8 or G.L. c.60, §77C)
- Obtain documents necessary to clear title, e.g., discharge of mortgage
- Obtain a “Disclosure of Beneficial Interest Statement” from seller (G.L. C 7c, §38) and file with the Division of Capital Asset Management and Maintenance
- Prepare settlement statement showing closing adjustments and funds to be disbursed
- Appropriate board or officer accepts property and signs acceptance form with certified copy of Town Meeting/City Council vote, if needed, attached
- Arrange for final inspection, delivery of deed and title rundown; record deed and acceptance form and release funds to seller
- Send copy of recorded deed to appropriate board or officer, and request abatement of post-closing taxes from assessors under G.L. c.59, §72A; send original recorded deed to City/Town Clerk
- Obtain title insurance, if desired

### Eminent Domain Taking Checklist G.L. c.79

- Identify land or easement to be acquired and public purpose of acquisition.
- Obtain plan of land or easement from surveyor if required to accurately identify land/easement
- Obtain appraisal before taking is made unless owners waive appraisal
- Determine whether betterments are to be assessed for the project for which the taking is made
- Obtain Town Meeting or City/Town Council vote for authorization and appropriation (2/3 vote required for appropriation, with some statutory exceptions)
- Obtain title examination for property to confirm names of owners and identify mortgagees and other parties having an interest in the property
- Draft order of taking, notice, offers, and other associated documents
- If applicable, request owners to sign waiver of damages
- Comply with relocation obligation under G.L. c.79A
- Authorized board or officer executes order of taking, and, if applicable, awards damages
- Record order of taking and plan - MUST be recorded at Registry of Deeds within 30 days of execution; title vests upon recording
- Consult with Accountant/Treasurer relative to time of payment of pro tanto amount to property owner and set time and place for payment
- Execute and serve notice of taking and pro tanto offer on owner and any mortgagee by: personal service, service at residence or registered mail; offer must be made within 60 days of taking
- Send copy of recorded order of taking to Tax Collector and appropriate board or officer; send original recorded order of taking to City/Town Clerk
- Make pro tanto payments upon application by property owner, making sure that owner and mortgagee have agreed to whom the damages will be paid
### Municipal Real Estate Acquisition

See also G.L. c.30B, §16

<table>
<thead>
<tr>
<th>Purpose</th>
<th>Statutory Authorization</th>
<th>City Council/Town Meeting Vote</th>
<th>Board or Officer Authorized to Acquire</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Purpose</td>
<td>G.L. c.40, §14</td>
<td>Required¹</td>
<td>Board of Selectmen or Mayor</td>
<td>Limited to land within city or town not already in public use</td>
</tr>
<tr>
<td>Affordable Housing</td>
<td>G.L. c.44, §§55C², G.L. c.44B³</td>
<td>Not required under c.44, §55C for purchase or gift; required under c.44B</td>
<td>c.44, §55C, Trustees; c.44B, Executive Officer(s) unless otherwise voted</td>
<td>Under c.44, §55C, power to acquire by purchase or gift (not eminent domain) may be granted to Trustees; Under c.44B, CPA Committee must recommend acquisitions</td>
</tr>
<tr>
<td>Common Landings⁴</td>
<td>G.L. c.88, §14</td>
<td>Required to accept layout⁵,⁷</td>
<td>City Council or Board of Selectmen</td>
<td>Layout must be filed with City/Town Clerk, County Commissioners, Department of Conservation and Recreation, and Registry of Deeds</td>
</tr>
<tr>
<td>Conservation, Open Space⁵</td>
<td>G.L. c.40, §8C, G.L. c.44B³</td>
<td>Not required under c.40, §8C for purchase or gift; required under c.44B</td>
<td>c.40, §8C, Conservation Commission; c.44B, Executive Officer(s) unless otherwise voted</td>
<td>Under c.40, §8C, City Council or Board of Selectmen approval required for gift and 2/3 vote of City Council/Town Meeting required for eminent domain and taking must be made by Board of Selectmen/Mayor; under c.44B, CPA Committee must recommend acquisition</td>
</tr>
<tr>
<td>Drains for Highways (town ways)</td>
<td>G.L. c.83, §4</td>
<td>Not required¹</td>
<td>Officers having charge of highways</td>
<td>County Commissioners are authorized to acquire for drains and ditches in county ways and the department of highways for those in state highways</td>
</tr>
<tr>
<td>Footways and Bicycle Paths⁴</td>
<td>G.L. c.82, §§33-35</td>
<td>Required to accept layout⁵,⁷</td>
<td>City Council or Board of Selectmen</td>
<td>Or Road Commission⁸ of town; if G.L. c.82, §34 is accepted, bicycle paths may be reserved within sidelines of public ways</td>
</tr>
<tr>
<td>Historic Preservation⁵</td>
<td>G.L. c.40, §§D, G.L. c.44B³</td>
<td>Not required for purchase or gift</td>
<td>Historical Commission</td>
<td>Vote of City Council/Town Meeting required for eminent domain (2/3 vote if appropriation needed)</td>
</tr>
<tr>
<td>Park, Parkway⁵</td>
<td>G.L. c.45, §§3-4</td>
<td>Required by 2/3 vote for purchase or eminent domain, not gift</td>
<td>Park Commission or Board of Selectmen acting as Park Commission</td>
<td>Acquisition of parkways requires consent of public authority controlling way and written consent of a majority of abutters</td>
</tr>
<tr>
<td>Playground⁴</td>
<td>G.L. c.45, §14</td>
<td>Not required¹</td>
<td>Park Commission</td>
<td>Or School Committee, Planning Board, Playground or Recreation Commission, as the City Council/Town Meeting may decide</td>
</tr>
<tr>
<td>Public Domain/ Town Forest⁶</td>
<td>G.L. c.45, §§19-23</td>
<td>Required by 2/3 vote at annual meeting</td>
<td>City Council and Mayor or Board of Selectmen</td>
<td>Mayor and City Council or Selectmen shall appoint a Town Forest Committee to manage the public domain land dedicated to town forest or town may vote that Conservation Commission shall manage town forest</td>
</tr>
<tr>
<td>Public Way⁷</td>
<td>G.L. c.82, §§21-24</td>
<td>Required to accept layout⁵,⁷</td>
<td>City Council or Board of Selectmen</td>
<td>Or Road Commission⁸ of town; towns (not cities) must acquire land or easements within 120 days of Town Meeting vote</td>
</tr>
<tr>
<td>Public Water Supply</td>
<td>G.L. c.40, §39B</td>
<td>Not required¹</td>
<td>Water Commission or Selectmen acting as Water Commission⁹</td>
<td>Department of Environmental Protection approval required to use such land; special legislation may vary or supersede these requirements</td>
</tr>
<tr>
<td>Public Water Supply Protection⁵</td>
<td>G.L. c.40, §§39B, 41 G.L. c.44B³</td>
<td>Not required under c.40, §§39B, 41; required under c.44B³</td>
<td>Water Commission or Selectmen acting as Water Commission⁹</td>
<td>Department of Environmental Protection approval and hearing required to take such land; DEP must determine acquisition to be necessary; special legislation may vary or supersede these requirements</td>
</tr>
<tr>
<td>Sewers or Drains</td>
<td>G.L. c.83, §1</td>
<td>Not required¹</td>
<td>Sewer Commission or Board of Selectmen or Road Commission⁸</td>
<td>Special legislation may vary or supersede these requirements</td>
</tr>
</tbody>
</table>

1. 2/3 vote required if an appropriation is necessary; majority vote if gift
2. For CPA funded projects where Community Preservation Act has been accepted; c.44B, §12 requires a restriction; c.44B, §55C requires 2/3 vote for taking
3. Where Affordable Housing Trust Fund Act has been accepted
4. Procedure for laying out of public ways under c.82, §§21-24
5. Article 97 applies to land or interest acquired for this purpose
6. In cities, Council votes layout and no further vote is required to accept layout; 2/3 vote required if way not previously approved under subdivision control law
7. Required if appropriation of funds is necessary (majority vote)
8. Or Board of Public Works, if such exists
9. Applies to acquisitions by gift, purchase, and eminent domain, unless specified otherwise