Commonwealth of Massachusetts

Division of Local Services

Supporting a Commonwealth of Communities

Community Preservation Act

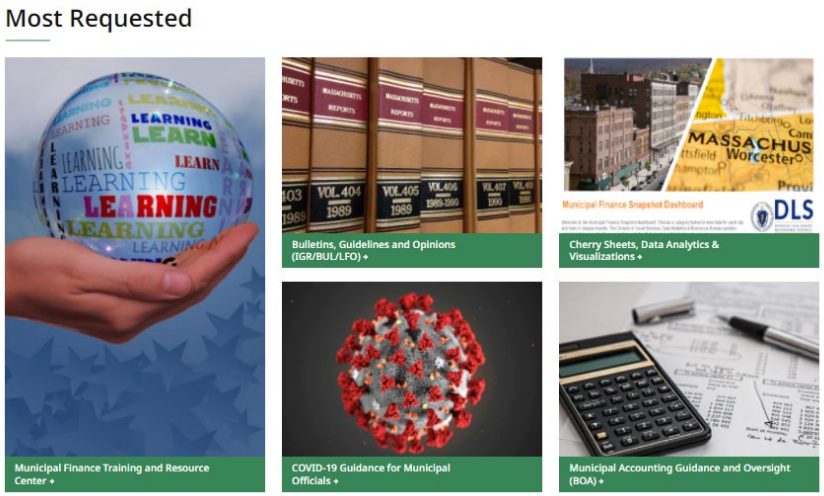
April 23, 2024

Introduction: Overview of the Division of Local Services

- DLS promotes sound municipal finance management practices and supports local officials by providing guidance, training, and oversight
- Five bureaus:
  - Bureau of Accounts
  - Bureau of Local Assessment
  - Data Analytics and Resource Bureau
  - Financial Management Resource Bureau
  - Bureau of Municipal Finance Law

DLS
DIVISION OF LOCAL SERVICES
MA DEPARTMENT OF REVENUE

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Agenda

- CPA basics - acceptance, amendment, and revocation
- CP Fund revenues
- CP Fund eligible expenditures
  - Community Preservation Committee
- Operation over a fiscal cycle
- CP annual forms

Community Preservation Act

- Community Preservation Act added by Chapter 267 of the Acts of 2000 – M.G.L. c. 44B
- Local acceptance property tax surcharge
- Provides funding for community preservation purposes
  - As defined in Chapter 44B

Acceptance

- ❑ Legislative body accepts CPA & approves surcharge & funding plan

44B:3(b) Traditional CPA (190 communities)	44B:3(b½) Blended CPA (5 communities)
❑ Approves surcharge amount up to 3% of taxes assessed annually on real property	❑ Approves surcharge amount of at least 1% of taxes assessed annually on real property ❑ Approves annual appropriation of additional municipal revenues up to 2% ❑ Surcharge & additional revenues together cannot exceed 3% of taxes assessed annually on real property
❑ Approves any exemptions	❑ Approves any exemptions

Alternative Acceptance

- Alternative to legislative body acceptance
  - Acceptance by petition signed by 5% of registered voters
  - Funding plan under § 3(b) or § 3(b½)
  - Surcharge amount
  - If § 3(b½), maximum percentage of additional municipal revenue that may be appropriated
  - Exemptions

Acceptance

- Voters must approve proposal approved by legislative body or contained in petition
  - Question must appear on ballot at next regular municipal election (35-day notice) or state election (60-day notice) where city/town can comply with notice requirements
  - Question form specified in CPA
  - Municipal counsel must provide fair and concise summary to appear under question

Acceptance

- Notification of Acceptance
  - Sent to DLS DARB
  - Within 30 days of acceptance

Community Preservation Surcharge

- Once accepted, surcharge assessed on the municipality's real estate taxes
- Imposed on every type of real estate tax assessment
- Displayed as separate item on tax bill
- Surcharge calculated by multiplying real estate tax (less property tax exemptions) by adopted percentage

Local Option Surcharge Exemptions

- Residential Exemption
  - First $100K in assessed valuation
- Commercial / Industrial Exemptions
  - First $100K in assessed valuation and/or
  - Total exemption from surcharge if split tax rate
- Low Income / Low Income Senior Exemption
  - Domicile, age, and income requirements

Blended CPA 44B:3(b½)

- Additional municipal revenues under 44B:3(b½) may include:
  - General fund revenues
  - Available funds – if subject to a restriction, funds remain subject to restriction
    - Existing dedicated housing, open space, and historic preservation funds
  - Gifts for community preservation purposes
- Additional municipal revenues may not include state or federal funds

Blended CPA 44B:3(b½) Continued

- Appropriation of additional municipal revenue to CP Fund under 3(b½) by legislative body must:
  - State fixed dollar amount
  - Be voted before tax rate set if appropriating general fund revenues
  - Be voted by 6/30 if appropriating from available funds
  - As of 6/30, must have raised local revenues (surcharge & additional municipal revenues) equal to 3% of levy to be eligible for all three rounds of state trust fund distribution

Surcharge Amendments

- May amend surcharge rate or exemptions, but original and amended rate or exemptions must be in effect for at least 1 fiscal year - 44B:16(a)
  - Requires legislative body vote and voter approval at next regular municipal or state election (no petition process)
  - City or town with traditional CPA must follow the amendment process to appropriate additional municipal revenue to CP Fund under 44B:3(b½) (See sample votes in IGR) and
    - Amend surcharge rate to at least 1% and
    - Approve appropriation of additional municipal revenue under 44B:3(b½) to the CP Fund of ≤ 2%

Community Preservation Committee

- Established by by-law or ordinance
- Statutory duties (G.L. c. 44B, § 5)
  - Studies community preservation needs of city or town
  - Makes recommendations to legislative body for appropriations from CP Fund
    - For eligible CP projects
    - Reserves for future appropriation for eligible CP projects

Community Preservation Committee

- Recommendation of CPC required for all appropriations from CP Fund except:
  - Appropriations for CPC Administrative Budget (G.L. c. 44B, § 7)
  - Appropriations for payment of debt service on CPA debt authorized by legislative body
  - Upon revocation of CPA, unless by-law or ordinance states CPC role continues during wind-down of CP fund
  - CPA year 1 only vote to annual budgeted reserve

Community Preservation Fund Spending Purposes

- CP Fund appropriations fall into two types of allowable spending purposes:
  - CPC annual administrative or operating budget
  - Eligible CP projects (asset-based funding)

Community Preservation Committee Administrative Budget

- Funds spending necessary to support the CPC's statutory duties (G.L. c. 44B, § 5)
  - Study "needs, possibilities, and resources" regarding community preservation
  - Make community preservation spending recommendations to the legislative body
- Appropriations from annual revenues for CPC budget are limited to 5% (G.L. c. 44B, § 6)
- Annual appropriation
  - Unspent and unencumbered balance closes on 6/30

Community Preservation Committee Administrative Budget

- Eligible expenditures
  - Clerical support for CPC, office supplies, advertisements, wage or salary of person providing direct administrative support
  - Consulting services to assist CPC to make decisions or provide data needed to make spending recommendations to the legislative body, *e.g.*, feasibility studies, assessments, appraisals, preliminary plans related to a CPA project under consideration, historic resource or affordable housing inventories or plans
  - Tax billing software to implement CPA in 1st year only

Community Preservation Committee Administrative Budget

- Ineligible Expenditures:
  - Salaries incurred by other departments or other indirect costs
  - Costs of study to determine if property is historic (CPA defines historic resources in G.L. c. 44B, § 2)
  - Costs of studies or plans unrelated to: (i) CPC duties or (ii) project under consideration by CPC
  - Costs of studies or plans related to a project not eligible for CP funding
  - Supplemental costs of approved CP project
    - Administrative budget is separate appropriation from a CP project appropriation (See G.L. c. 44, § 33B – transfer of appropriations)

Community Preservation Fund Eligible Project Expenditures

- Projects related to CPA asset categories:
  - Open Space (including land for recreational use)
  - Historic Resources
  - Community Housing

Community Preservation Fund Eligible Projects – Open Space

- Open Space
  - Acquisition
  - Creation
  - Preservation

- Open Space acquired or created with community preservation funds
  - Rehabilitation
  - Restoration

Community Preservation Eligible Projects – Open Space Recreational Land

- Land for Recreational Use
  - Acquisition
  - Creation
  - Preservation
  - Rehabilitation
  - Restoration

Community Preservation Eligible Projects – Historic Resources

- Historic Resources
  - Acquisition
  - Preservation
  - Rehabilitation
  - Restoration

Community Preservation Eligible Projects – Community Housing

- Community Housing
  - Acquisition
  - Creation
  - Preservation
  - Support
- Community Housing acquired or created with community preservation funds
  - Rehabilitation
  - Restoration
- Appropriations to Municipal Affordable Housing Trust Fund (G.L. c. 44, § 55C) - funds must be spent for eligible CPA purpose

Community Preservation Fund Prohibited Expenditures

- "Maintenance" - incidental repairs that do not materially add to the value of the property or appreciably prolong property's life, but keep property in condition of fitness, efficiency, or readiness (G.L. c. 44B, § 2; See Opinion 2013-1280)
- Acquisition of turf for athletic fields (after 7/1/12) (G.L. c. 44B, § 5(b)(2))
- To supplant funds being used for existing expenses (G.L. c. 44B, § 6)
- For horse or dog racing or use of land for stadium, gymnasium, or similar structure (G.L. c. 44B, § 2)

Community Preservation Fund Minimum Annual Commitment

- 10% minimum spending (or reservation) is required for each of the community preservation purposes: open space (including recreation), historic resources and community housing 44B, §6 (Note – debt service is included in 10%)

- Base 10% estimate on best analysis of surcharge and state matching funds anticipated for upcoming FY. Consider most current information available, prior FY's actual revenues, DOR Bulletins

- If 10% minimum is underfunded by more than a "de minimus" (insignificant) amount, CPC should recommend appropriations to legislative body to supplement the reservations to meet the required 10%

Community Preservation Fund Legislative Body Actions

- Legislative body makes appropriations based on CPC recommendations
- Legislative body may reject CPC recommendations
- Cannot increase a recommended appropriation
- Cannot change the funding source
- Cannot appropriate or reserve CPA fund monies on its own initiative

Community Preservation Fund

- Special Revenue Fund
- Maintained by accounting officer
- Receipts consist of:
  - Surcharge revenue collected
  - Additional funds appropriated to the CP Fund
  - All proceeds from borrowings under Chapter 44B
  - Commonwealth state match distribution
  - All other funds received for community preservation purposes
    - Gifts or donations
  - Proceeds from disposal of real property acquired with CP funds
  - Income and interest earned on CP funds

Community Preservation Fund Financing Sources

- Annual fund revenues:
  - Surcharge
  - State distribution match
  - Other (interest or appropriations into the fund)
- Appropriate from annual revenues until tax rate is set
- Spending from annual revenues commences July 1st
- Other fund financing sources:
  - Special purpose reserves
  - Annual budgeted reserve
  - Community Preservation fund balance

Community Preservation State Trust Fund

- Massachusetts Community Preservation Trust Fund:
  - State trust to benefit participating cities and towns
  - Funds derived from surcharges for recording documents with Registry of Deeds and Land Court
  - DLS manages disbursements from the fund
  - Distribution occurs annually on or before November 15th
  - Max distribution consists of 100% of total surcharge assessed

Borrowing

- Power to borrow - derived from c. 44 borrowing purposes or other laws authorizing borrowing
- Borrowing periods - same as c. 44 or director of accounts guidelines
- 44B:11 authorizes CPA funds to pay debt service if borrowing for a CP purpose
  - Example 1 – May borrow to acquire municipal land under 44:7(1) – so may borrow under CPA to acquire land for open space
  - Example 2 – May not borrow to fund a cash grant or rehabilitate privately-owned building (not a municipal borrowing purpose) - so may not borrow under the CPA to fund cash grant to rehabilitate a privately-owned historic building

Revocation of Acceptance

- May revoke acceptance, but CPA must be in effect for at least 5 fiscal years - 44B:16(b)
- Must use exact same procedure used to accept
  - Legislative body vote or 5% voter petition and
  - Voter approval at next regular municipal or state election
  - Determine revocation effective date in same manner as acceptance date

Revocation of Acceptance Continued

- Once revoked, CPA no longer operational
- No new CPA borrowings can be authorized
- No new annual 10% minimum spending required for open space, historic resources and community housing
- No CPC recommendation needed for appropriations unless provided by by-law or ordinance establishing CPC

Revocation and Wind-Down of Community Preservation Fund

- If CPA revoked, city or town must wind-down fund
- Accounting officer determines fund obligations (*e.g.*, future debt service payments, deficits)
- Accounting officer determines uncommitted fund monies available for reservation to meet existing fund obligations from:
  - Fund balance
  - Uncommitted annual revenues
  - Applicable reserves (budgeted or categorical)

Revocation and Wind-Down of Community Preservation Fund

- If monies in fund are sufficient to cover obligations
  - Accounting officer reserves funds
- If monies in fund insufficient, city or town
  - Must continue to assess surcharge until sufficient monies accumulated
  - May amend surcharge to a reduced rate needed to do so (G.L. c. 44B, § 16(a))
  - Will continue to receive state distribution in any year after surcharge assessed
- Balances after reservations must still be appropriated for CPA purposes

Operation of Fund Over Fiscal Cycle

- Spring:
  - CPA budget for upcoming FY is recommended by the CPC
  - Legislative body makes appropriations (primarily from estimated annual CP fund revenues, i.e. local surcharge, state matching funds, investment income)
  - Appropriations may include CPC annual administrative budget, CPA projects, reservations to special purpose reserves, and annual general budgeted reserve

Operation of Fund Over Fiscal Cycle

- July 1 – FY begins:
  - Community may begin spending from appropriations from annual fund revenues even though the monies have not been collected, i.e., surcharges not billed and collected in full and trust fund distribution not yet received
  - CPA fund is not a receipts reserved for appropriation account where appropriations and spending may only be made from actual collections

Operation of Fund Over Fiscal Cycle

- Before tax rate is set:
  - CPA annual fund revenues are a financing source for appropriations voted until the tax rate is set (same as general and enterprise funds)
  - The setting of each FY's tax rate requires reporting of anticipated revenues from all sources, including CPA revenues

Operation of Fund Over Fiscal Cycle

- After tax rate is set:
  - Can appropriate from borrowing or available funds
  - CPA available funds: (1) fund balance, (2) annual budgeted and special purpose reserves, (3) unexpended & unencumbered appropriation balances and (4) CPA surplus bond proceeds
  - Except for fund balance and annual budgeted reserve, other funds may be restricted to particular CPA projects
  - Excess revenues received during FY overestimates are not available for appropriation until after the FY closes - they become part of the next fund balance

Operation of Fund Over Fiscal Cycle

- June 30th - FY ends
  - Accounting officer closes books
  - Actual expenditures and revenues are compared to those budgeted
  - Results are reported on Form CP-2 via Gateway.
  - Excess revenue is closed to CPA fund balance and can be appropriated until the next June 30th
  - If revenue or appropriation deficits, they must be covered by the CPA fund – either raised from annual revenues or otherwise funded by appropriations from CPA financing sources

Community Preservation Annual Reporting

- CP-1 Community Preservation Surcharge Report
  - Used to determine communities state match
- CP-2 Community Preservation Fund Report
  - Report annual revenues, expenditures, and fund balances
- CP-3 Community Preservation Initiatives Report
  - Report annual projects undertaken
- A-4 Community Preservation Fund
  - Submitted with the tax rate recap
  - Budget of estimated revenues and expenditures for the current year
- Schedule A Part 3
  - Report actual revenues and expenditures

Reporting Requirements – Community Preservation Surcharge Report CP-1

Surcharge %	3.00
Total Surcharge Committed to Collector for FY	4,110,001.77
Current Yr Surcharge Abatements/Exemptions	44,369.74
Prior Yr Surcharge Abatements/Exemptions	4,879.37
Net Surcharge Raised for FY	**4,060,752.66**
Additional Revenue Appropriated to CPF (Ch. 44, Sec. 3b1/2)	0.00
Total Net Surcharged Raised and Other Appropriated Revenue	**4,060,752.66**

Reporting Requirements – Community Preservation Fund Report CP-2

	Surcharge %	3.00
1. Total fund balance from prior year (PY) report (Form CP-2)		11,727,338.53

NEW REVENUES/OFS

2. Proceeds from bonds and OFS	
3. Collections from community preservation surcharge	4,056,770.55
4. Distributions from State trust fund	1,598,125.00
5. Earnings on investments	298,450.31
6. Gifts, Grants, Donations	
7. Other, i.e. Interest, OFS appropriated to the fund-CH44B 3-b1/2 (please enter description) stabilization fund to augment CPC appropriations	820,597.00
Total New Revenue/OFS	6,773,942.86

Reporting Requirements – Community Preservation Fund Report CP-2

EXPENDITURES/OFU

8. Expenditures:		
a. Open Space	438,200.00	
b. Historic Resources	187,913.81	
c. Community Housing	0.00	
d. Other (Community Recreation)	35,443.55	**661,557.36**
9. Expenditures for Debt Service:		
a. Open Space	1,008,354.00	
b. Historic Resources	74,725.00	
c. Community Housing		
d. Other (Community Recreation)		**1,083,079.00**
10. Administrative Expenses	139,678.41	
11. Other		
	Total Expenditures/OFU	**1,884,314.77**
	Total Fund Balance June 30, 2023 (Detail Following)	**16,616,966.62**

Reporting Requirements – Community Preservation Fund Report CP-2

CITY/TOWN OF
DETAIL OF COMMUNITY PRESERVATION FUND TOTAL FUND EQUITY
FISCAL YEAR ENDED JUNE 30, 2023

1. Fund Balance Reserved for Encumbrances (3211)	477,606.10
2. Fund Balance Reserved for Expenditures (3240)	6,331,595.27
3. Fund Balance Reserved for Open Space (3241)	
4. Fund Balance Reserved for Historic Resources (3242)	85,486.18
5. Fund Balance Reserved for Community Housing (3243)	546,161.00
6. Fund Balance Reserved for Special Purposes (3280)	0.00
7. Fund Balance Reserved for Community Preservation Act (3320)/Undesignated (3590)	9,176,118.07
8. Total Community Preservation Fund Balance June 30, 2023 (Total must equal total fund balance page 1)	**16,616,966.62**

Has the community met the requirement to either appropriate or reserve for future appropriation at least 10% of the estimated annual fund revenue for open space, historic resources and community housing? (●) Yes ( ) No

If no, explain how the town plans to meet the requirement?

Reporting Requirements – Community Preservation Inventory Database CP-3

- Updated by the CPC
- Report CPA projects completed
- Complete database of all CPA projects
- Username and password required
- Maintained by Community Preservation Coalition

Reporting Requirements – Tax Rate A-4

		(A) FY 2023 Actual Revenues	(B) FY 2024 Estimated Revenues
1.	Annual Revenues and other available Funds		
	Surcharge	4,056,771.00	4,179,125.00
	State trust fund distribution	1,598,125.00	854,771.00
	Other (i.e. Interest, OFS appropriated to the fund-CH44B 3-b1/2)	298,450.00	0.00
1A.	Total Annual Revenues	**5,953,346.00**	**5,033,896.00**
	Fund reserves and or balances voted at City/Town meeting(s)		5,666,565.00
	Other		0.00
	Total Revenues and Available Funds	(To Recap page 2, Part IIIB, Line 4)	**10,700,461.00**

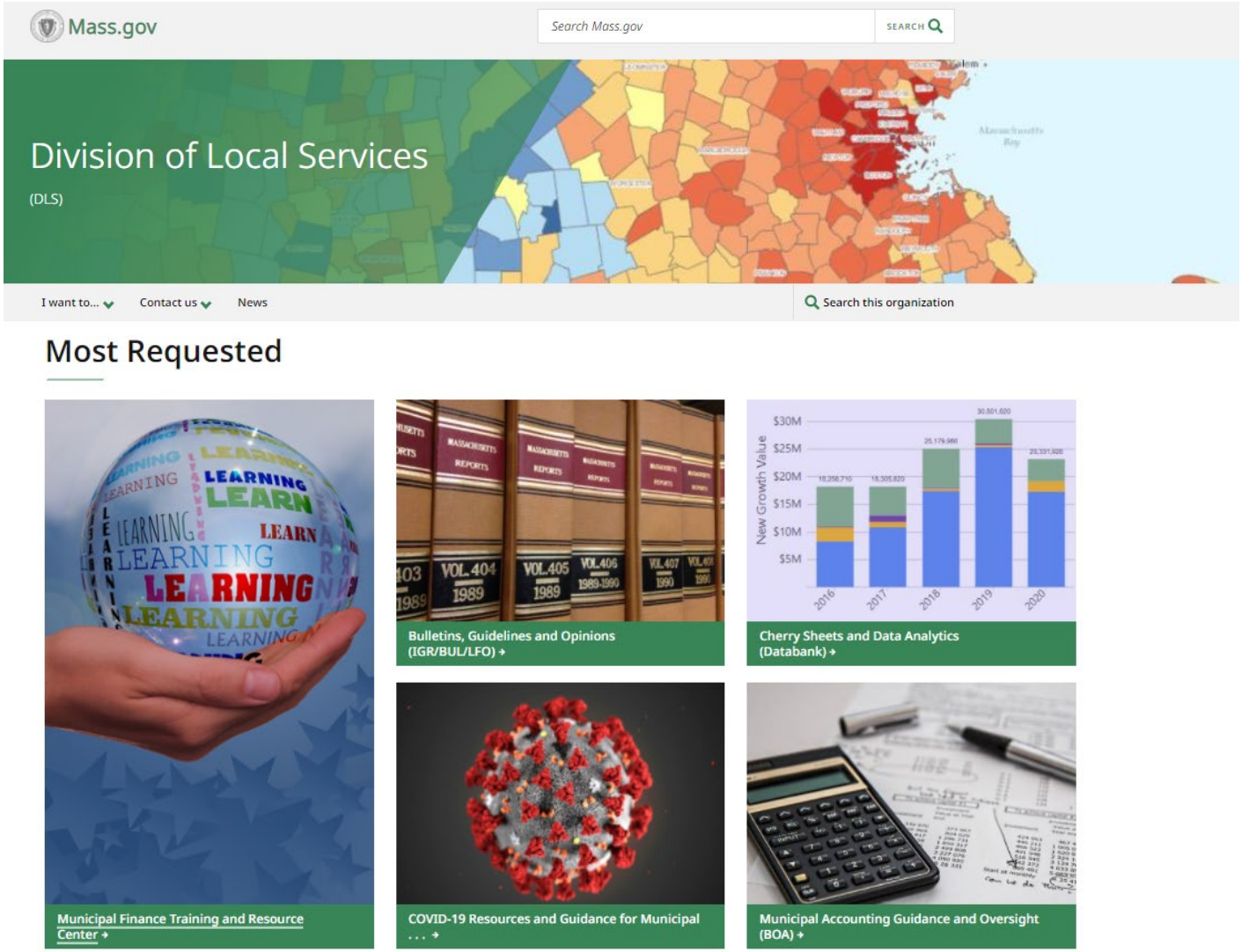
Reporting Requirements – Tax Rate A-4

2.	Appropriations and Reservations		
	Projects, Acquisitions, Debt service and Other		5,972,834.00
	Administrative Expenses (5% or less of 1A - Total annual revenues)		200,000.00
	Reservations (10% min of 1A - for each Reserve, if not voted within Appropriations)		1,510,171.00
	Budgeted reserve to be appropriated		3,017,456.00
	Prior Year Deficits		0.00
	Total Appropriations and Reservations	(To Recap page 4, Col g)	**10,700,461.00**
3.	Other (unappropriated, unreserved)	(To Recap page 2, Part IIB, Line 8)	**0.00**
	TOTAL Appropriations and Reservations and Other		**10,700,461.00**

Reporting Requirements – Schedule A Part 3 Other Special Revenue

Acct. No.	Item Description	Water	Sewer	Education	School Lunch	Adult Education	Professional Development	Comm. Preserv. Act
	REVENUES							
4100	Taxes and Excises							35,217
4200	Charges for Services							
4500	Federal Revenue							
4600	State Revenue							29,377
4800	Miscellaneous Revenues		175					
4820	Earnings on Investments							546
	TOTAL REVENUES		**175**					**65,140**
	OTHER FINANCING SOURCES							
4910	Bond Proceeds							
4970	Transfers From Other Funds							
4990	Other Financing Sources							
	TOTAL OTHER FINANCING SOURCES							
	TOTAL REVENUES AND OTHER FINANCING SOURCES		**175**					**65,140**
	EXPENDITURES							
5100	Salary and Wages							
5700	Expenditures							23,367
5800A	Construction							
5800B	Capital Outlay							
5900	Debt Service							
	TOTAL EXPENDITURES							**23,367**
	OTHER FINANCING USES							
5960	Transfers to Other Funds							
5990	Other Financing Uses							
	TOTAL OTHER FINANCING USES							
	TOTAL EXPENDITURES AND OTHER FINANCING USES							**23,367**
	Excess (Deficiency) of Revenues Over Expenditures and Other Financing Sources (Uses)		**175**					**41,773**
0002	**Fund Balance Beginning of Year**							**204,063**
0003	Adjustments		647					
0004	**Fund Balance End of Year**		**822**					**245,836**

Municipal Finance Training – Mass.gov/DLS



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