

REALIZING THE DEVELOPMENT POTENTIAL OF MUNICIPAL SITES

A Guidance Manual for the Effective Disposal
of Surplus Municipal Property



Developed for MassDevelopment by Horsley Witten Group

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REALIZING THE DEVELOPMENT POTENTIAL OF MUNICIPAL SITES

INTRODUCTION

Across the Commonwealth, public properties are ripe for reinvestment. Whether they are vacant lands taken by tax title, old schools that no longer meet the needs of public education in the 21st century, or dilapidated facilities that have been replaced and have limited public benefit—these scenarios will continue to represent important economic and/or housing opportunities at the local level.

The Real Estate Services (RES) Technical Assistance Program

Real Estate Services Technical Assistance is part of the *Community One Stop for Growth*, a single application portal and collaborative review process of community and economic development grant programs that make targeted investments based on a Development Continuum. Access to this program is now exclusively available through the One Stop.

MassDevelopment provides technical assistance to municipalities looking to move forward on development that will catalyze economic opportunity, provide critical facilities, and meet local housing needs (see inset). The agency recognizes the disposition of surplus municipal land as an important local opportunity and wishes to develop guidance that goes beyond the legal framework and helps increase the capacity for local governments to think strategically about these properties. Through MassDevelopment's in-house expertise and contracts with "house doctor" consultants, the agency's real estate services team provides creative solutions and feasible steps for municipalities and other public entities to effectively address planning and development projects.

The Legal Framework

Disposing of municipal surplus lands is generally governed by M.G.L. Chapter 30B The Uniform Procurement Act. Further, The Chapter 30B Manual: Procuring Supplies, Services, and Real Property (the Manual) is an excellent publication regularly updated by the Office of the Inspector General. The guidance provided here by MassDevelopment borrows from that publication but adds more "on-the-ground" insights based on MassDevelopment's extensive experience with this process.

The following guidance is divided into two primary sections: PREPARATION and THE RFP PROCESS.

The Chapter 30B Manual: Procuring Supplies, Services and Real Property

- Legal Requirements
- Recommended Practices
- Sources of Assistance



Commonwealth of Massachusetts
Office of the Inspector General
Glenn A. Cunha
Inspector General

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PREPARATION

MassDevelopment's experience with these projects has shown that the time needed to prepare for the RFP process is often underestimated and this guidance devotes considerable treatment to this early phase of the work. Especially for communities that have limited experience with this process, careful preparation will help to ensure all required information is organized and available for municipal officials, the public, and prospective developers. Once the RFP process begins, things can move quickly and there will be "many moving parts." Communities are strongly encouraged to move through preparation carefully and thoughtfully to facilitate a successful project.

Internal Planning

When entering this process, local staff and officials should engage in some informal discussion about the site to ensure there's a shared high-level understanding of constraints or opportunities associated with the site. Examples of potentially important background issues to consider:

While it is not always possible to do so, it is ideal to have these PREPARATION steps completed before or very shortly after a property is declared surplus. Leaving a property empty for years while a community assesses its options can be very costly to the municipality because of maintenance and opportunity costs associated with keeping it off the market and out of the tax base.

Existing Plans

Municipalities will need to check existing plans to see if there is any discussion of the site in question or if there are any documented community needs that may be served by the site. Examples could include:

- A community Master Plan may have mentioned the site in one or more sections related to housing, facilities, recreation or other needs. If the Master Plan contains a Future Land Use Map, this map will have a land use designation for the site.
- An Open Space and Recreation Plan may have identified the parcel as a priority for acquisition or may have identified the neighborhood as having needs for more park space.
- Facilities Plans may have identified strong needs for a particular facility (e.g., Senior Center, library, public safety) and these needs may be well met with the site.
- A Housing Production Plan or Housing Strategy may have identified the site as a candidate for future housing development.

Public Sentiment

Public sentiment can vary widely about a particular site. Some sites have little significance to the community and many would welcome the sale and redevelopment of the property. In other cases, however, sites may carry historic significance or community nostalgia related to structures like libraries, community centers or schools. Further, regardless of the former use, there may be fears about the process and potential future use. Perceptions related to affordable housing, fears of gentrification, and general mistrust of local government can serve as a barrier to the successful disposition of land. A preliminary understanding of public sentiment will help shape the entire process.

Review Other RFPs

Many Massachusetts communities have been successful in disposing of surplus municipal property resulting in widely different developments including “raze and replace,” adaptive re-use, commercial, residential, and mixed use projects. Many of the RFPs associated with these developments are readily available on the Internet and MassDevelopment has posted several in the Resources section of the webpage dedicated to disposal of surplus municipal property. Reviewing these documents at the outset of early planning can help to identify important information needs or procedural requirements.

Procurement Officer and Municipal Counsel

As discussed, the disposition of surplus municipal land is governed by statute and there will also be municipal legislation that adds to the foundation laid by M.G.L. Chapter 30B. Accordingly, it is critical that the team leading this process, whether it is the Town Planner or a City’s Division of Planning and Development, convenes a discussion with their municipal counsel and Procurement Officer to review those aspects of the process governed by state and local legislation. Issues to be discussed/confirmed with these individuals include (but are not limited to):

- Are there unique procedures at the local level for RFP solicitations that will affect this process?
- Is there existing RFP language (e.g., contract terms and conditions) that are already drafted?
- Which municipal body holds the power to make a final selection and then enter into agreements with a private entity?
- What will the appropriate procedures be for declaring the property surplus?

Understanding Your Site

The process of gathering and developing information about a site should be thoughtful and strategic. This information plays a vital role for the three major stakeholders in the process:

1. The Public – Information about the site serves a vital role developing a shared understanding of existing conditions and setting expectations for future use. For example, if investigations on the site show an existing building has structural problems, this can help set expectations around the costs associated with potentially reusing that building. Similarly, if a site has large areas of wetlands, this can set expectations around which areas will be off-limits to future development.
2. The Municipality – Existing information for the municipality provides a strong understanding of its ability to set a target purchase price. It can also point to data gaps or problems with local regulations that need to be addressed before issuing the RFP.
3. The Developer – Simply put, the more information a developer knows going into the process, the more certainty the developer has about the project viability. Even when existing conditions are unfavorable, such as site contamination, understanding these issues can help the developer create a viable pro forma.

Information to Consider

LOW TO MID-LEVEL EFFORT

- Existing Zoning – A basic summary of the existing Zoning District provisions in a narrative format.
- Permits – A preliminary list of permits that will be required.

- Ownership and Easements – The property deed and Assessor’s field card should be pulled.
- GIS data – Readily available data from MassGIS or the local GIS database can be pulled together onto a series of maps showing potential constraints (e.g., wetlands, etc.).
- Photographs – A library of photos showing all areas of the site (including an aerial photograph), all sides of the existing buildings, and interior photographs of every room and corridor.
- Utilities – Locations of utilities associated with the site including water lines, sewer lines, gas/ electric, communications, and storm drainage. Note that this information may not be readily available depending on record keeping practices and the age of a site.

Note that while the individual pieces of information may not be particularly difficult to track down, they do require varying levels of time. For example, an individual staff member may visit the site and take close to 100 photos to properly document all conditions. Between travel time, time on the site, and labeling/organizing photographs, this will take a full day of effort. Assigning all these tasks to one or two members of municipal staff will take time to complete.

MID-HIGH LEVEL EFFORT

- Hazardous Materials – Developing a Phase I assessment and Limited Hazardous Materials Inventory may be a worthwhile investment before starting the RFP development process. If contamination is suspected, confirming the presence/extent of contamination and potential costs associated with remediation can have a major impact on the direction of the process and expectations around future use. Doing this assessment early can also eliminate the need to do an architectural/structural assessment of the building. If remediation costs for reuse are impractical, then the other aspects of building condition may no longer be relevant.
- Condition of Buildings – If reuse of existing buildings is a possibility, a municipality may consider having a team of professionals develop a report that examines a series of important issues:
 - Structural integrity of key elements
 - Energy efficiency
 - The existing HVAC system
 - The layout of floor plans and which uses could be easily accommodated
 - The need for building code upgrades (e.g., elevators, sprinklers, etc.)
- Wetland Delineation and Survey – While MassGIS provides detailed information relative to wetlands, this information is an estimate based on aerial photography and must be replaced with field survey at the time permits are developed. The developer can do this work as part of the permitting process, but the municipality may wish to set the boundary of existing resources in advance. This provides assurance to the municipality and also provides the developer with more precise information when creating conceptual development plans.



Old HVAC systems like the one shown here are common in municipal buildings that were used in the mid-20th century. These systems often require oil tank and asbestos removal as part of any re-use or demolition.

As a final consideration for any background information on the property, municipalities should be careful not to limit this information to large technical reports that may be difficult to decipher. Architectural assessments and Phase I documents, in particular, can be very lengthy and very technical. Market assessment may also be difficult to understand. In any case, the municipality should ensure that the team developing these reports includes summaries that effectively communicate key findings for the public and municipal leadership. Brief slideshow presentations, 1-2 page downloadable summaries, and other similar products should be readily available for those who do not have the resources to read 100+ page documents.

Community Engagement

It is difficult to provide concise guidance on effective community engagement related to the disposal of surplus municipal property because the circumstances in each community can be dramatically different. Ultimately, the municipality will need to design a process that suits the complexity of the site and the needs of the community. Some important guiding considerations include:

Community engagement is another activity that may be beyond the expertise or capacity of municipal staff depending on the complexity of the project. This process is eligible for funding under MassDevelopment's RES Technical Assistance Program.

Be Intentional and Inclusive

An important part of any community engagement process is being intentional about creating an equitable process. When considering the future redevelopment of municipal lands, reflecting on the needs of the most vulnerable and under-represented groups in the community is an important step towards both a more equitable process and outcome. Direct engagement with seniors, low-income residents, communities of color, youth organizations, veterans, and people with disabilities can elevate opportunities for sites that would not otherwise be visible without these discussions.

Consider Investing in Information

In the section on "Information to Consider" above, a number of the items listed can require some financial investment on the part of the municipality. With that said, understanding the details related to existing site and market conditions can be incredibly useful to all parties and can also help ease tensions around community discussions. For example, there may be a strong community voice in favor of adaptive reuse related to an older school with some historical features. However, detailed assessment may reveal a high level of contamination and numerous structural issues with the building. Having this knowledge before the RFP process begins delivers the information in a manner that will seem more trustworthy. Hearing this information for the first time from a potential developer is a much more difficult discussion to navigate.

Provide Access to the Process

As discussed earlier in this guidance, providing easily accessible, current information on the project is not only critical to protecting the legal interests of the community, but it is essential to building trust in the process. A well-designed webpage or similar virtual platform should be a core component of communicating with everyone in the community. Further, municipalities should consider local population demographics to determine whether supportive services like translation will be needed for the website and other components of the engagement process.

Case Study: Investing in Information

The Town of Shrewsbury and the Beal Early Childhood Center Property

The Town of Shrewsbury built and occupied a new school in 2021. Moving students into this new facility meant the Beal School property, located in the heart of the Town Center, would be vacant. As part of early planning to dispose of this surplus property, municipal staff and leadership identified early that emotional attachment to the building was strong in the community and the structure did have historical appeal. Fortunately, the School Committee had previously commissioned a study of the school when it was considering repurposing the building. This study examined issues related to architecture, the site, structural conditions, fire protection, mechanical systems, electrical systems, and hazardous materials.

Although the original purpose was to determine whether the building was valuable to the School Department, it remained a useful reference for discussions about adaptive reuse after it was declared surplus. The findings of the study showed that a collection of issues related to architecture, HVAC, and other items presented obstacles to reuse. Taken in the aggregate, these issues convinced leadership and most residents that re-use of the building was not practical. Having this report completed before the community engagement began turned out to be instrumental in avoiding unnecessary controversy.



The picture above shows the interior roof framing for the Beal School. The interior beam system clearly showed that substantial renovation would not be an option without new walls and bracing systems. These new systems, in turn, were not feasible due to the tight interior space.

Using Engagement to Shape the Outcome

Community engagement should be accounted for in the outcome of the process, whether in the terms of the RFP or the actual development that gets built. Even where community aspirations for a particular site or building cannot be met, a well-designed engagement process will show careful consideration of these aspirations and clear communication regarding why certain uses, amenities or site elements cannot be included.

Case Study: Using Engagement to Shape the Outcome *City of Revere and the McKinley School*

The public process for the McKinley School in Revere was integral to informing the future development program of the building. Unlike many projects that rely heavily on the vision of a private developer to reinvigorate a particular site, preparation for this process showed that repurposing the building for significant community use was highly desirable.

A series of meetings and surveys offered in both Spanish and English were used to gather information about what residents wanted to see in the space. An excerpt from the summary developed by Studio Luz is shown below.

What would you like to see happen here? ¿Qué le gustaría que sucediera aquí?



**Community / Community
Education Space**



**Early Education
Spaces**

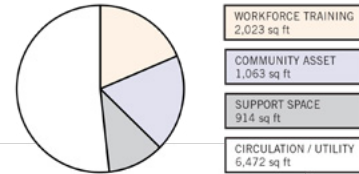


**Performing Arts/
Gallery Spaces**

These preferences were used by the professional designers to examine the floor space in the building and guide potential programming choices in different spaces (see next page).

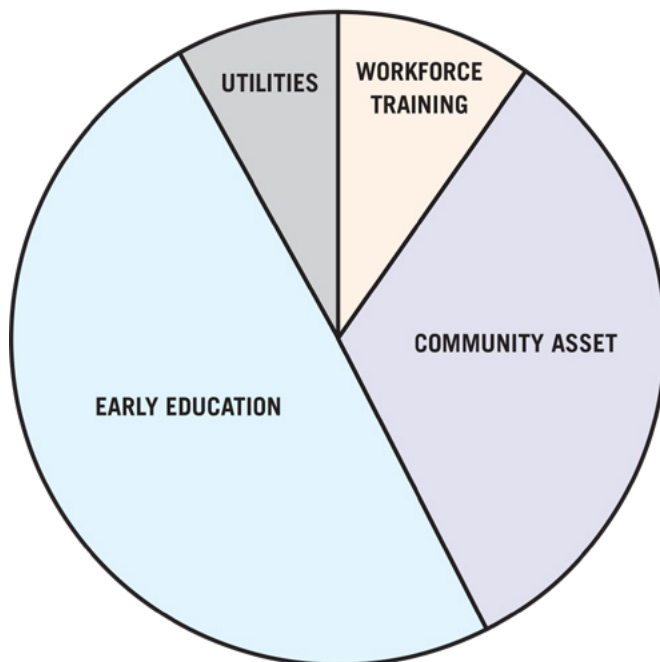
Case Study Continued

BASEMENT PROGRAM BREAKDOWN



The final program for the entire three-story building demonstrated that professional designers could apply the feedback from the public process to create a program that very closely resembled the desires and preferences of the community.

PROGRAM BREAKDOWN



TOTAL BUILDING SQUARE FOOTAGE:
~ 36,642 gross sq ft

UNOCCUPIABLE SQUARE FOOTAGE:
12,737 sq ft

EARLY EDUCATION CENTER (EEC) SQUARE FOOTAGE:
11,790 sq ft

WORKFORCE TRAINING SQUARE FOOTAGE:
2,335 sq ft

COMMUNITY ASSET SQUARE FOOTAGE:
7,870 sq ft

UTILITIES (ELEVATOR & ADA BATHROOMS) SQUARE FOOTAGE:
1,910 sq ft

Mapping the Process

Before moving forward with the RFP development process, it is important for the municipality to answer a few critical path questions and also establish platforms for communications.

The Question of Outside Assistance

At the highest level of planning is a decision about who will be driving the process based on the full scope of what needs to occur before selecting a developer. In situations where a property is not particularly important to the neighborhood and where redevelopment will not generate concerns or controversy, it may be very reasonable for existing staff to take the lead on the RFP development, especially if they have done so before. The following is a list of example situations where the use of a special committee and/or consultant team to assist with the process may be beneficial:

See also Lessons Learned and Helpful Tips on page 14.

The Municipality's Experience with the Process

The process of selling surplus municipal land to a private developer can take two to three years and there are dozens of steps that require considerable attention to detail. If a municipality has little to no experience with this process, outside assistance can provide important technical assistance on individual issues (e.g., market assessment, zoning, etc.) but can also ensure the municipality is anticipating milestones and staying on schedule.

The Clarity of a Future Vision

In some instances, local planning efforts or community discussions make it simple to identify the future vision for a redeveloped municipal site. More commonly, however, there may be important decisions to make before an RFP is issued about use limitations or preferences, the scale of redevelopment, and aspects of architectural or site design. Where these basic questions are unclear to decision makers, technical assistance may be useful in creating a vision for the site that creates a shared framework for local officials, the public, and future investors.



These images were developed by Union Studio Architecture and Community Design as part of a public engagement process in Grafton, MA. The Town was preparing to develop an RFP for a soon-to-be abandoned DPW site. These images were the result of a community-based design forum and helped to inform the RFP and the winning proposal.

The Site is Highly Visible and Important to the Community

Municipal sites that are located in well-established neighborhoods, on Main Streets, in downtown areas, and similar high visibility locations are particularly important to the residents and business owners who live and work there. These individuals may bring a lot of time and attention to the process and will want to be sure they have trustworthy information and that their questions have been answered. Managing this level of community interest, even when there is little to no controversy, requires time and resources from people dedicated to the project.

The Potential for Controversy

As already mentioned, the sale of surplus municipal property can generate controversy over a wide array of issues. Whether there is disagreement about the best future use, fear of potentially losing a culturally important building, or general mistrust of local government—all these factors and many more can make it very difficult to get through the process and can also create a hostile or uncertain environment for future investors. Municipalities may benefit from a committee with a diversity of perspectives on future development to demonstrate a commitment to healthy debate throughout the process. They may also benefit from consultants skilled with process design and consensus building to help with challenging public discussions.

Considerations for RFP Committees

Membership

Convening a Committee will have varied levels of complexity depending on the community. In some cases, an existing committee may be in place to take on the project (e.g., Facilities Committee). In other municipalities, it may be common practice for the chief elected officials to appoint members to these types of committees. However, even where a committee may be simply appointed by a Select Board or City Council, this process can take several months with regularly scheduled meetings needed to start the process, clearly document duties and powers, and then approve the membership. Where an open solicitation may be used, advertising, reviewing applications, interviewing, and finalizing membership can require even more time. It is important to convene the committee early in the process.

Committee Convening and Management

If an RFP Committee is established, this Committee will generally need to follow the rules established for any public board in the municipality. Public notice of meetings, posted agendas, approved minutes, rules of communications, and other requirements will need to be followed. Some Committee members may have experience with these procedures, while others may not. A dedicated municipal staff person familiar with these rules and procedures will need to be assigned to the Committee to ensure all appropriate measures are followed.

Duties, Commitment, and Authority

Having a clear charge for an RFP Committee is essential for setting expectations of the membership and the public. Examples of items that can be included in the Committee's early documentation include:

Duties

- Attendance at regular Committee meetings
- Review of minutes at regular Committee meetings
- Attendance at public engagement events
- Efforts to raise awareness and increase engagement
- Review of background information (e.g., technical reports)
- Input on important policy and content-related issues in the RFP
- Review of draft RFP materials
- Attendance at pre-bid site visits
- Review of proposals
- Input on drafting recommendations

Commitment

- Expected duration of the process (e.g., 12 months)
- Expected frequency of meetings (e.g., monthly)
- Expected duration of meetings (e.g., 90 minutes)
- Expected location of meetings (e.g., Town Hall, virtual)

Authority

- Committees serve in an advisory capacity to the body identified as having the authority to enter into a development and sales agreement with a private party.

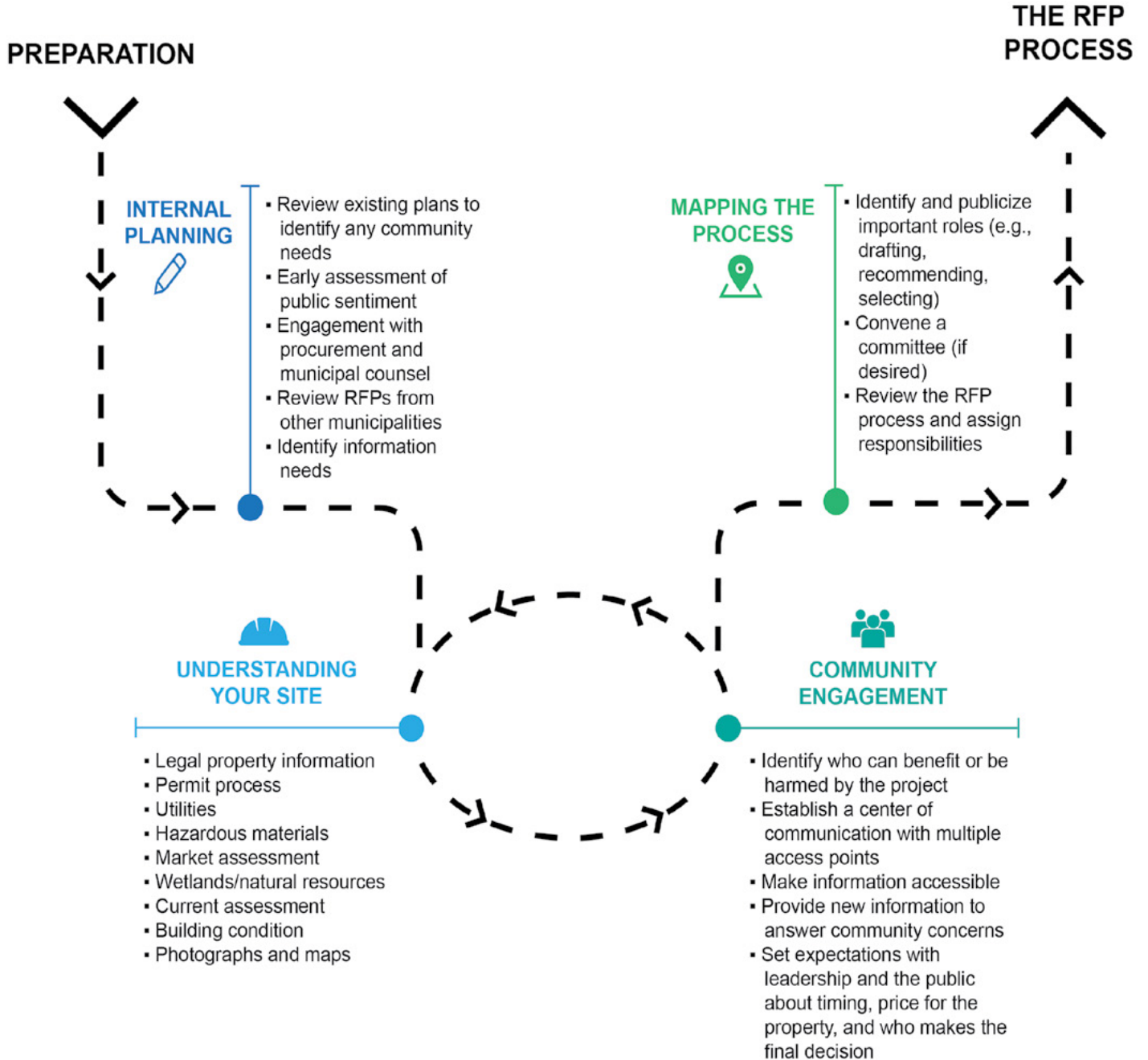
Communication Platforms

Over the course of the entire RFP process, transparency is critical to maintaining public confidence, effectively sharing information, and staying clear of any legal issues (e.g., bid protests). Regular communication between those working day to day on the project and the municipal boards/councils in a public setting is important to maintain awareness of where the process is on the overall timeline and any important policy issues that emerge along the way. Beyond these meetings, a dedicated webpage either on the municipal website or developed by a consultant should serve as a clearinghouse for information and a place where the public can check in on the process at any time. Where a Committee is involved, all materials related to Committee meetings can be made available on the same website. Importantly, this webpage will require regular maintenance assigned to one or more staff members.

Valuing the Property

A necessary step in the disposition process is valuing the property that is to be sold. The Chapter 30B Manual explains the role of this process, particularly as it relates to state-level notifications and RFP selection criteria. Readers are encouraged to reference that document and the statute on this issue. For the purposes of this guidance, it is important to understand – **early in the process** – the validity of the most recent valuation of the property and whether a new, independent appraisal is required.

Stages from Preparation to the RFP Process



THE RFP PROCESS

This section of the MassDevelopment Guidance is structured to be used as a supplement to the Chapter 30B Manual. The subsections here mirror those in the Chapter 30B Manual, which provides a concise summary of the legal requirements associated with each step. These subsections below provide additional details and practical considerations for each step.

Step 1: Declare Property Available for Disposition and Identify Reuse Restrictions

Practical considerations for this step are generally procedural in nature. Based on the initial discussions with the Procurement Officer and municipal counsel, the team working on this process should have a clear understanding of which bodies need to vote, what these motions need to contain, and how the results will be recorded. Importantly, more than one vote may be required. For example, a School Committee may need to vote on enabling the Select Board to assume authority over a defunct school site. Following that vote, Town Meeting may need to vote to declare the property surplus.

Step 2: Determine the Value of the Property

As discussed under PREPARATION above, a municipal appraisal may qualify as valid for the purposes of valuation. While not required to do so, the municipality may hire a professional appraiser for this task.

Step 3: Develop the Solicitation

This step can be the lengthiest in the process, especially if a Committee is leading the RFP development and/or the municipality has limited practical experience. Importantly, much of the work identified as PREPARATION above directly informs the substance of the RFP, emphasizing the advantage a municipality has if PREPARATION is performed early in the process. The Table below shows the five minimum requirements under the statute and how early PREPARATION connects with those elements:

| Core RFP Elements | Link to PREPARATION |
|-------------------------------|--|
| Property description | “Information to Consider” on page 3 provides a list of items that could be extremely important to the applicant and can play a significant role in the development vision, proposed uses, and price offered for the property. Individual reports developed in advance (e.g., building assessment, market evaluation, Phase I) can be provided as supplements to the RFP. |
| Evaluation criteria | The policy discussions held with the committee, engagement with local leadership, and public engagement will identify the priorities, “non-starters,” and overall framework for what is important in the selection process and how applications will be scored. Examples gathered from other communities will also be helpful in informing this process. |
| Rule for award | This sets the approach for how the final selection will be made. Engagement with the decision making authority early in the process will help determine the relative importance of qualifications, vision, price, and other factors. |
| Proposal submission | A municipality can use existing development application requirements as a foundation for this section, but these will not be comprehensive enough. The early research used to gather RFPs from other municipalities will be very helpful in this regard. |
| Contract terms and conditions | These will likely come from municipal counsel. Engaging with this individual early will ensure this language is ready once staff or the Committee are done with the bulk of the RFP. |

Step 4: Advertise for Proposals

Similar to public hearings or Town Meeting, there are strict minimum requirements for advertising the RFP. With regard to those requirements, attention to detail is critical and carefully reading both the statutory language and the 30B Manual is important.

Beyond the minimum requirements, catching the attention of qualified developers is also a priority and supplementing the minimum notifications with other well-placed advertising can be valuable. Investing in publications like the New England Real Estate Journal (NEREJ) is worth considering. There may be other free social media channels worth considering such as the MassPlanners listserv, LinkedIn, and others. Lastly, there are several private companies that use a web-based clearinghouse for municipal property that municipalities may consider.

Step 5: Distribute the Solicitation

This section of the Chapter 30B Manual refers to the distribution process that follows the initial announcement of the RFP. In the weeks that follow posting the RFP, potential developers may submit questions, there may be one or more site visits, and addenda may be issued related to the RFP. These communications and interactions must be meticulously documented and publicized to ensure transparency.

Step 6: Open and Evaluate Proposals

Similar to previous steps, there are strict minimum requirements in the statute for opening and evaluating bids. However, municipalities may have supplemented these requirements and it is important to have the Procurement Officer's guidance in this phase. Further, the evaluation criteria developed specifically for the RFP will be the determining criteria for award.

Steps 7-9: Submit Disclosures; Execute the Contract; and Retain Records

These final steps occur after the selection process is made and, like many other steps, require attention to detail regarding publications and record keeping. However, it is important to note that these steps often require considerable discussion and time to complete. For example, if an RFP Committee has evaluated all proposals, conducted interviews, and made a final recommendation, the decision-making authority (e.g., City Council, Select Board) will want to meet with the developer, create a development agreement, and finalize terms.

LESSONS LEARNED AND HELPFUL TIPS

Set Expectations with Leadership and the Public

Schedule and Level of Effort

Members of municipal leadership and the public will enter this process with widely different expectations about how it works and, in particular, how long it will take. A sample schedule is attached to this guidance to illustrate the potential timeline associated with a comprehensive process.

Authority and Roles

It is important to clearly identify who has different levels of authority in the process and the roles of key project team members. Information posted on the project website from the outset should list key individuals/groups and summarize responsibilities.

Closing the Deal

Once a developer is selected by the community, it is common to enter into a development agreement that binds the developer to certain terms within the proposal. These are generally discussed as part of the closing process and can be particularly important for aspects of the project that do not fall within the purview of standard permit review. For example, if a developer has proposed a pocket park on the site, a development agreement can specify the characteristics of the park, ensure public access, and set terms of maintenance.

Depending on the goals of the municipality, difficulties associated with the site, and the quality of the development proposal, municipalities may want to sell the property for less than its appraised value. This is potentially a powerful bargaining mechanism for the municipality. The ability to exercise this option (not necessarily the commitment to do so) should be clearly articulated at the outset of the project. This will help to mitigate the perception of favoritism should it come to pass. Note, there are legal requirements for documentation under the statute if the municipality does opt to sell the property for less than its value. These are discussed in the Chapter 30B Manual.

The development agreement and a potential reduction in price are two examples of important issues that can arise during the closing process. Municipalities should budget for legal services at the outset of the process that will ensure adequate representation through these complex transactions.

After the Property is Sold

Because so much effort can go into the RFP process, residents and leadership often have an expectation that the developer will be “off and running” once the property is finally transferred. While developers generally do want to move as quickly as possible, there are several important tasks to complete. One of the most complex is finalizing the financing package for the development. Within the development team, there may be several investors who need to make formal commitments and loans from banks will need to be secured. Where public funding or subsidies are part of the package, this adds even more complexity to the process. Tax credits, affordable housing subsidies, tax increment financing, and district improvement financing all require considerable time and effort to secure. It is not unusual for the assembly of financing to require several years to complete.

In addition to financing, the applicant will also need to get the project permitted and may require additional work for remediation. Different projects can have a broad range of permitting requirements, but it is not uncommon to have lengthy permit reviews with at least two local boards. In addition to local review, potential state-level review processes can add time to the process, addressing issues like remediation of hazardous materials and curb cuts on state roads.

Be Clear with the Terms in the RFP

To the extent possible, the RFP should clearly articulate the municipality’s vision for the site and any details for future development. While providing a developer with some flexibility can be beneficial, important issues to address include, but are not limited to:

- Desired and Undesired Uses – In accordance with Chapter 30B, when a building is declared surplus, restrictions on use are supposed to be included with the declaration. Beyond these legal requirements for outright restrictions, developers will want all the information they can

get regarding what the municipality does or does not want to see on the site.

- **Architectural and Site Design** – Where a building is situated in a neighborhood that has a visual context (e.g., historical buildings or streetscapes), communities may wish to articulate design elements that will be considered favorable (or unfavorable) in a future development proposal. When considering requirements for architecture of site design, municipalities should carefully consider how prescriptive they are in terms of the RFP. Design requirements that are too onerous may deter interest, while too little guidance can result in proposals that do not meet the community’s needs.
- **Desired Amenities** – Discussing the future development of municipal property can quickly lead to a wish list of amenities like pocket parks, community gardens, public parking, public art, community meeting space, etc. Developers may very well be willing to incorporate amenities into a proposal if it makes financial sense. Communities drafting an RFP should carefully consider the extent to which they call for amenities. Note that Chapter 30B does allow for a municipality to sell a property for less than its market value when linked to the provision of a public good. This type of sale has legal disclosure requirements that should be reviewed with municipal counsel.

Chapter 40B and Municipal Surplus Property

Massachusetts General Law Chapter 40B is most noted for its provisions allowing local Zoning Boards of Appeals to approve housing development proposals that do not strictly comply with local zoning if at least 20-25% of the units have long-term affordability restrictions. This tool may be well suited to situations of surplus property sale, especially where a municipality may have already identified the site through its local Housing Production Plan as favorable for affordable housing. Because municipalities can dictate the selling price of the land, they may be in a position to sell property to experienced, mission-driven affordable housing developers at reduced costs. In return, a municipality may unlock the potential for high percentages of deed restricted housing, helping to meet local housing needs.

Have the Appropriate Zoning in Place

One of the most important conditions for a prospective developer is whether the zoning needed to achieve the vision for the site is already adopted. While it is certainly possible to amend zoning to match an excellent proposal, this can be an enormous risk to the developer making any preliminary investment. This is particularly risky in communities where Town Meeting is required to change zoning. Further, amending the zoning can easily add a year to the process. In the case of an affordable housing development, the use of Chapter 40B is always an option, but still carries a higher level of risk for the developer.

Don't Shy Away from Affordable Housing

Some communities may want to include affordable (subsidized) housing in a future site redevelopment, but may worry this would “scare off” developers who will not want to deal with the financing and administrative complexity. This should not be a concern. There are many high quality developers in Massachusetts who are very comfortable with the affordable housing process and can navigate the financing at a sophisticated level. Further, redevelopment of these sites to include affordable housing may provide measurable increases to a municipality’s Subsidized Housing Inventory (SHI).

Understanding What is Involved with Developing a Proposal

A common flaw in the RFP process comes from municipalities not understanding the amount of time, effort, and money required to create a high quality proposal. Once a developer decides an RFP is attractive, the following steps might occur:



The example above is hypothetical. The timeframes provided are realistic, but there may be overlap and efficiencies in some areas. Regardless, communities should expect developers to require approximately two months to create quality proposals, especially as there are site visits and Q&A embedded in the process.

CONCLUSION

The intent of this document is to provide municipalities with step-by-step guidance that should help to navigate a process that can seem overwhelming. Municipalities looking to dispose of surplus lands, especially those who do not do this often, should consider the amount of time and resources required to undertake this process long before it begins. Careful planning, a well-crafted community discussion, and attention to detail are critical to the eventual success of the effort.

While some communities may choose to dispose of surplus lands with in-house resources, MassDevelopment is specifically equipped with funding and expertise to assist. Additional resources about this process and the services available to municipalities are available at www.MassDevelopment.com.