

THIRD DRAFT CONTENT – FOR POLICY DEVELOPMENT

Request for Expressions of Interest (RFEL)

for

Consulting Services to Assist in the Development of a Recommendation for a Permanent Governmental Structure for the Devens Regional Enterprise Zone (“Devens”)

Revised May 10, 2023

Introduction

The Devens Regional Enterprise Zone (DREZ) was established in 1994 with the towns of Ayer, Harvard and Shirley (the towns comprising Ft. Devens) simultaneous approval (Super Town Meeting) of the 1993 Devens Reuse Plan and Zoning Bylaws, and the passage of Chapter 498 of the Acts of 1993, as amended (Chapter 498), following the decision of the Base Closure and Realignment Commission to close Ft. Devens. MassDevelopment (previously the MA Land Bank) was charged with the task of redeveloping the Army base to civilian use in accordance with the Reuse Plan, which defined residential, commercial, industrial and recreational zones. As MassDevelopment was given the authority to tax businesses and residents, it was also charged with providing all usual municipal services except for those provided by town clerks. As a result, residents vote in the underlying town in which they reside, but not on matters pertaining to the DREZ.

Chapter 498 anticipated a 40-year redevelopment window and set out a process for establishing the permanent local government structure: the towns, MassDevelopment and the Devens Enterprise Commission are to submit a recommendation to the Governor and General Court by 2030. In anticipation of developing this recommendation the towns, MassDevelopment and the Devens Enterprise Commission formed the Devens Jurisdiction Framework Committee (DJFC).

On behalf of the Devens Jurisdiction Framework Committee (DJFC), the Massachusetts Development Finance Agency (MassDevelopment) is issuing this Request for Expressions of

Commented [1]: Devens resident comment relayed by John Katter: Are there any examples of how this has been done somewhere else effectively?

Commented [2]: Resident comment shared at May Devens Committee meeting: Can we include a requirement for the consultant to engage & seek feedback from experts who have participated in similar redevelopment efforts in other areas of MA or the US?

Commented [3]: Response from Victor Normand: there are no comparable examples where towns have given up their taxing authority.

Interest (RFEI) for consulting services related to the development of a recommendation for the permanent governmental structure for the ongoing operation and administration of the Devens Regional Enterprise Zone (Devens) as contemplated by Section 23 of Chapter 498 of the Acts of 1993¹, as amended (“Chapter 498”). While various government structures will be considered, all must conform to current law and the constitution of the Commonwealth of Massachusetts.

The DJFC is an eighteen-member steering committee comprising three representatives from each of six identified stakeholders including the Town of Ayer, the Town of Harvard, the Town of Shirley, MassDevelopment, the Devens Enterprise Commission (DEC) and Devens business and Devens residents.

The DJFC’s vision is that a transparent, data-based planning process will result in a consensus recommendation in the form of a Study and a Joint Report which will be submitted to the Governor, the Secretary, the Clerk of the House and the Clerk of the Senate consistent with the requirements of Chapter 498.

The full text of Section 23 of Chapter 498 is excerpted below:

SECTION 23. Permanent Government Structure. On or before July first, two thousand and thirty, the commission, the boards of selectmen of the towns with the advice of the planning boards, and the bank [MassDevelopment] shall initiate a study, hereinafter called the study, concerning permanent government structure for the ongoing operation and administration of Devens. The study shall evaluate alternative structures for government, ownership and operation of open space, recreation, and other lands and facilities, infrastructure, easements, equipment and records, with such alternative structures, including by not limited to, town government and joint entities or combinations thereof, or the bank and joint entities or combinations thereof, or the bank and the commission, and shall identify transition costs and further investments needed. During the preparation of the study, public participation shall be encouraged and public hearings held. On or before July 1, 2033, the commission, the boards of selectmen of the Towns, and the Bank shall submit the study and a joint report to the Governor, the Secretary and to the Clerk of the House and the Clerk of the Senate recommending a

Commented [4]: Comment from Devens resident: The RFEI makes no direct mention of "Devens residents." Can we either replace "residential interests" with "Devens residents" or more clearly define "residential interests"?

Commented [5]: This comment is from someone John Katter spoke with: There's a lot of use of the word consensus, but it's poorly defined - I think it means general agreement, but we haven't been able to achieve that in some 20 years of sustained conversations, so I doubt that we would be able to do so in this next iteration. I think we need more detailed language around this point, else it is doomed to spiral toward the drain as in prior attempts. I think that consensus is desirable, but as one of several criteria, not as a vaguely defined uber criterion. So maybe something like the consultant should put together a set of alternatives based on the problem definition (devens = new town, etc.), and then filter them by a set of evaluation criteria (stakeholder approval, education outcomes for projected school population, municipal services coverage, etc.) - right now it says that all these things will be considered but to only present alternatives that have "consensus" - seems backward to me
Ed: Good comment from someone perhaps not aware of the lengthy definition of consensus in the MOA. Maybe we should footnote it with a reference.

¹ <https://www.devensec.com/ch498/dec49823.html>

permanent government structure for the ongoing operation and administration of Devens. Such report shall also identify any surplus funds that have been generated during the development of Devens, after considering the costs of funding appropriate reserve accounts, costs of retiring all bonds, notes and other debt instruments issued to maintain and develop Devens, and all the Commission's and Bank's unreimbursed costs related in any way to the redevelopment of Fort Devens, including, without limitation, all costs incurred in the operation, maintenance and development of Devens, and recommend how any such surplus funds and any future surplus funds shall be distributed, which recommendation shall include distributing all or a portion of such surplus to the Towns.

Purpose of the RFEI

One purpose of this RFEI is to notify the consulting community of an anticipated Request for Proposals (RFP) for this project. Equally importantly, however, the RFEI is intended to provide a forum for consultant feedback on the proposed planning process to the DJFC. Specifically, the DJFC is interested in recommendations related to the proposed scope of services, staffing requirements, timeline (not to exceed 18 months) and overall project fee. Consultants are expected to disclose any conflicts of interest.

Commented [6]: John Katter relays this comment from a Devens resident: "Should consultancies with conflicts be precluded from participating ? Principals with conflicts or ownership stakes that could be impacted by the study?"
Ed: Certainly any consultant with a financial interest in Devens would be precluded from contracting for this work. The committee may wish to discuss how to address less blatant potential conflicts.

To fulfill the requirements of Section 23 of Chapter 498, the DJFC has identified the below tasks as key components of a prospective consultant scope of services. This prospective scope is intended to serve as a starting point for potential consultants and is not likely to be the same scope of services included in the anticipated Request for Proposals (RFP).

Note that the DJFC does not see this as a "blank slate" planning exercise similar to the disposition plan prepared in 2006 which included proposals for an amended Devens Reuse Plan and amended Devens By-Laws. Since 2006, the buildout of Devens has significantly advanced. Accordingly, the DJFC does not believe that a "blank slate" planning exercise is now appropriate.

PROSPECTIVE SCOPE OF WORK

Task 1. Public Outreach and Communication

The DJFC expects that the consultant team will design and implement an open and transparent public planning process including but not limited to regularly-scheduled public meetings and hearings including interactive workshops when appropriate. This effort will also require a comprehensive and constantly-updated website dedicated to the project. Meetings will need to be publicly noticed consistent with the requirements of Chapter 498 and the various DJFC member entities. The DJFC will look to the consultant team to suggest additional outreach and communication strategies to ensure that a broad segment of the stakeholder population is engaged in the planning process.

Task 2. Data Collection

It is the intent of the DJFC that this be a data-driven planning process. To that effect, the consultant team will be charged with collecting up-to-date data from MassDevelopment as well as the other stakeholders. The use of a geographic information system (GIS) is strongly encouraged as a central organizing tool for this process. Specific areas for evaluation include, but are not limited to, the following items:

- Foundational Documents: The consultant team will be provided with links to electronic copies of Chapter 498, the Devens Reuse Plan and the Devens By-Laws as well as relevant planning documents from the surrounding communities. The consultant will also be provided with a final copy of the DJFC Memorandum of Agreement.
- Base Mapping: MassDevelopment's Engineering Department will make available relevant base mapping in GIS format.

- **Assessor's Data:** The Devens Assessor will make available the most recent ownership and valuation information for Devens properties in database format. Current tax rates will be provided for Devens and the three towns.

Commented [7]: This is from someone John Katter spoke with: I didn't see any mention of an analysis of the business sector - revenues, employees, TAX CONTRIBUTIONS, especially around any sweetheart deals provided up front to attract businesses that may expire in future - what's the bottom line assessment of the business sector to any future disposition?
Ed: I think this section generally addresses the comment but we may want to be more specific

- **Devens Municipal Services Overview:** MassDevelopment and the DEC will make their departmental heads available at reasonable intervals and for reasonable periods of time to meet with the consultant team to quantify the current and projected level of service, costs and associated resources required for the ongoing operation of Devens.

Commented [8]: This is from someone John Katter spoke with: I saw in the paper last week that Harvard may be looking to connect to the Devens municipal water supply - it made me think about that as a future cost entry. I think the analysis needs to look at any current or projected shared services (emergency call center in the old school across from the fire station, any other shared utilities etc.) as well as analysis of the high number of 1-offs in Devens (charter school, clearpath, Shriver)
Ed: I think this section generally addresses the comment but we may want to be more specific

Specific municipal services to be analyzed include public safety (police, fire, EMS/ambulance, etc.), public works (plowing, road maintenance, mowing and landscaping, facility maintenance, etc.), utilities, education, development permitting (by the DEC), engineering, environmental, recreation, senior services, veterans services, and others. An analysis of KPIs for the levels of service in these areas should be undertaken as well as an evaluation of how they will be maintained or improved under the various disposition scenarios.

- **Three Towns' Capacity Overview:** In the context of evaluating town government of Devens as contemplated by Section 23 of Chapter 498, the consultant team will meet with the municipal department heads to understand the current capacity of their departments to serve Devens and to develop an assessment of what additional staffing and capital investments will be required.

Commented [9]: Devens resident comment relayed by John Katter: Level of service needs to be part of this : Sewage, water , electric , roads, police, fire and any other recommended level of service KPIs.

The towns of Ayer, Harvard and Shirley will make staff (town administrators and department heads) and the chairs of town committees/boards available to meet with the consultant to assess the towns' (jointly and individually) capacity to provide municipal services including public safety (police, fire, EMS/ambulance, etc.), public works (plowing, road maintenance, mowing and landscaping, facility maintenance, etc.), utilities, education, development permitting, engineering, environmental, recreation, senior services, veterans services, and others.

- **Devens Capital Projects.** MassDevelopment will review its capital project program with the consultant. These projects include items such as utility system upgrades, road and facility improvements, demolition projects, and others. MassDevelopment will also share information regarding any current indebtedness associated with capital projects.

- Devens Real Estate Market Overview: MassDevelopment staff will review its projections for residential and commercial growth at Devens with the consulting team to help inform the consultant team’s forecasts.
- Administrative costs and capital projects associated with completion of the Devens Reuse Plan as separate and distinct from Devens municipal services and capital projects as described above.

Commented [10]: I think this will be a little confusing for prospective bidders without more context. Can Victor flesh this out?

The DJFC will look to the consultant team to identify additional data that would be useful to the planning process.

Task 3. Stakeholder Criteria Development

The consultant will work with each of the six stakeholders individually to create a list of clear “success criteria” for the permanent governance of Devens across a range of topics. Expanding upon the Goals and Issues memoranda prepared by each stakeholder pursuant to the DJFC Memorandum of Agreement, the success criteria represent the minimum standards under which each stakeholder would consider a given disposition alternative to be successful.

Commented [11]: This is a comment from someone John Katter spoke to: “I see no mention of Vicksburg, which seems like a miss - how can we not talk about the largest left undeveloped parcel on Devens? “. Ed: I think that housing/Vicksburg would be addressed in the stakeholder criteria here

Following are some hypothetical examples of success criteria:

- “All Devens residents should reside within the same municipality”
- “Land use permitting at Devens should continue to be performed on a unified and expedited basis and should remain under the control of the DEC”
- “Commercial and residential property tax rates should remain stable.”

The consultant team will guide the development of the success criteria in a manner that facilitates comparison between stakeholders. These criteria will be used by the consultant team in Task 5 below to evaluate the relative consistency of each alternative scenario with each stakeholder’s criteria, providing a general assessment of which scenarios might be more likely to gain consensus support. This analysis may also suggest potential hybrid scenarios for additional consideration.

Task 4. Scenario Development

The consultant will assist the stakeholders to develop initial disposition scenarios for analysis.

These scenarios have been previously defined to include:

- Status quo continues beyond 2033
- Areas of the regional enterprise zone revert back to the respective municipal entities for control and governance
- Devens the enterprise zone becomes its own town
- Hybrid model or some other framework of governance

Stakeholders may work individually or collectively in this process. Stakeholder(s) should only develop scenarios that have a reasonable potential for consensus approval.

At a minimum, the following information will be developed for each scenario:

- Proposed geographic delineation of jurisdiction (map format)
- Proposed approach to provision of municipal services, including
 - Education
 - Utilities
 - Public Works
 - Police
 - Fire
 - EMS/Ambulance
 - Recreation
 - Environmental
 - Engineering
 - Transportation Demand Management

Commented [12]: Devens resident comment relayed by John Katter: Status quo needs to be included as well.

Commented [13]: Source: 9/14/22 DJFC meeting, 22:22 - 23:28 in this recording: <https://vimeo.com/750442382>

Commented [14]: Traffic calming/mitigation of commuter and industrial traffic related to Devens businesses and events has been one of the most consistently engaged-upon issues for the Devens Committee over time (Buena Vista & Grant as two notable past & current examples).

The original disposition plan references the development & implementation of comprehensive TDM measures including incentivizing flex hours, promoting the commuter rail, & developing a commuter shuttle system. For residents, continued attention to and improvement of measures to reduce congestion will be an important component of scenario evaluation.

- Council on Aging, Veterans Services, Board of Health, etc.
- Financial implications to existing municipal governments of providing municipal services in Devens
- Approach to residential growth
- Approach to development permitting
- Approach to governance, including
 - Annual budgeting
 - Taxation
 - Public representation
- Voting
- Transition timeline including key milestones and criteria

Commented [15]: I understood this to be what Robert Pontbriand was asking for

Commented [16]: Restored because "voting" is broader than "election of municipal officials, and surely we want the consultant to look at this broadly

Task 5. Fiscal Analysis of Alternatives

The consultant will develop an overall financial model for the operation of Devens that takes into account current and projected revenues and expenses based upon the assumptions underlying each alternative. The model should be readily configurable to allow for changes to the scenarios. The output of the model will be a summary report detailing the estimated financial impact (positive or negative) for each of the six defined stakeholders under each scenario on an annual basis over a ten year period.

Commented [17]: Stakeholders are defined in document intro as "six identified stakeholders including the Town of Ayer, the Town of Harvard, the Town of Shirley, MassDevelopment, the Devens Enterprise Commission (DEC) and Devens business and residential interests" - want to ensure that usage of the term is consistent in referring to that group throughout the document

Task 6. Recommended Alternative

The consultant team will review the results of the fiscal analysis of the alternatives in light of the success criteria with the goal of identifying a recommended alternative that is supported by all of the stakeholders. This may require the development of additional compromise alternatives for

analysis. The consultant will facilitate discussions between the stakeholders as needed to attempt to resolve issues.

Task 7. Transition Plan

The consultant will lead an effort to prepare a phased plan for the transition to permanent governance, including a timeline and milestones.

Task 8. “Surplus Funds”

The consultant shall address the matters specifically raised in Section 23 of Chapter 498. In particular, working with MassDevelopment and the DEC, the consultant will identify any surplus funds that have been generated during the development of Devens, after considering the costs of funding appropriate reserve accounts, costs of retiring all bonds, notes and other debt instruments issued to maintain and develop Devens, and all of the DEC’s and MassDevelopment's unreimbursed costs related to the redevelopment of Fort Devens, including, without limitation, all costs incurred in the operation, maintenance and development of Devens, and recommend how any such surplus funds and any future surplus funds shall be distributed, which recommendation shall include distributing all or a portion of such surplus to the Towns.

Task 9. Document Recommended Scenario for Super Town Meeting

The consultant will prepare informational materials for use in the public outreach process leading up to Super Town Meeting. At a minimum, this will include a clear written description of the recommended scenario supplemented with maps and other graphics as appropriate. The consultant will work with the DJFC to produce a standard Powerpoint presentation to be used at the required public hearings leading up to Super Town Meeting. Consultant staff will be part of the presentation team and available to answer questions as needed. The consultant team may be needed to support administrative aspects of Super Town Meeting including drafting and running public notices, scheduling and setting up for meetings, taking notes, etc.

Task 10. Study and Joint Report Preparation

Assuming the recommended scenario is supported at Super Town Meeting, tTThe consultant will prepare a Study and Joint Report summarizing the results of the planning process in a format suitable for submission to the Governor, the Secretary, the Clerk of the House and the Clerk of the Senate in compliance with the requirements of Chapter 498.

Consultant Team

The DJFC expects that the selected consultant team will offer a depth of experience in the following areas:

- Consensus building, facilitation and process management
- Public engagement and outreach
- Verbal and written communication skills
- Database management and geographic information systems
- Municipal finance
- Municipal operations including detailed familiarity with management of major departments
- Financial modeling
- Real estate economics
- Urban planning