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November 14, 2008

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS  
ON THE  
DRAFT ENVIRONMENTAL IMPACT REPORT

PROJECT NAME : Massachusetts Turnpike Parcel 7 Air Rights,  
Kenmore/Fenway Area  
PROJECT MUNICIPALITY : Boston  
PROJECT WATERSHED : Boston Harbor  
EEA NUMBER : 14163  
PROJECT PROPONENT : Meredith Kenmore/Fenway Development Group, LLC  
DATE NOTICED IN MONITOR : August 27, 2008

As Secretary of Energy and Environmental Affairs, I hereby determine that the Draft Environmental Impact Report (DEIR) submitted on this project **adequately and properly complies** with the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62I) and with its implementing regulations (301 CMR 11.00). The proponent may prepare and submit for review a Final Environmental Impact Report (FEIR).

As described in the Draft EIR, the project includes the construction of approximately 1.3 million square feet (sf) of housing, offices, retail space and parking directly adjacent to the Massachusetts Bay Transportation Authority (MBTA) Yawkey Commuter Rail Station. The 3.63-acre project site is designated as the Massachusetts Turnpike Authority's (MTA) Parcel 7, which comprises the area over Interstate 90 (the Massachusetts Turnpike) between the Beacon Street overpass to the west and the Brookline Avenue overpass to the east, as well as an area on the east side of Beacon Street between the Mass Turnpike and Maitland Street. The project will include four buildings, ranging in heights from seven to 23 stories, with 308 residential units,

387,000 sf of commercial space, 92,500 sf of retail space, a private parking garage (590 spaces), a 700-space shared-use parking garage (620 public, 80 private), and public open space and pedestrian connections. A 2,000 sf community center has been proposed for incorporation into the development program.

According to the Proponent, the development of a multi-building air-rights project on this site would serve to unify the Beacon Street and Brookline Avenue corridors, and assist in facilitating improved connections between the Fenway Park/Landsdowne Street entertainment areas with Kenmore Square, Audubon Circle, Boston University and a multi-modal transportation center at Yawkey Station. Under existing conditions the project site is characterized by long, unprotected pedestrian corridors adjacent to roadways and parking lots. The site lacks vibrant street-level uses, streetscape or landscape amenities and open space, and clear pedestrian connections to the Yawkey Commuter Rail Station. The site serves as an asset to the Longwood Medical Area (LMA) and Fenway Park, as it provides parking for LMA staff and visitors to events at Fenway Park.

Project impacts are estimated to include 5,514 net new vehicle trips per day, along with the construction of 1,290 new parking spaces. Parking spaces will serve the new uses proposed on-site, as well as demand generated by sporting events and entertainment uses in the Fenway area, along with parking demands associated with the nearby Longwood Medical Area (LMA). The project is estimated to use approximately 114,600 gallons per day (gpd) of water and generate approximately 94,636 gpd of wastewater. The project will span an area of the Mass Turnpike approximately 600 feet in length between Beacon Street and Brookline Avenue. Access and egress to the shared-use parking garage will be from Beacon Street and Brookline Avenue. Access and egress to the underground private parking garage will be from Maitland Street and the new Yawkey Way Extension. The project will include a land transfer (a long-term ground and air rights lease) from the MTA to the proponent.

### Jurisdiction and Permitting

The project exceeds a mandatory EIR threshold in accordance with 301 CMR 11.03, and will require several state permits. The project was subject to the preparation of a mandatory EIR pursuant to: Section 11.03(6)(a)(6) due to the generation of 3,000 or more new average daily trips on roadways providing access to a single location; and Section 11.03(6)(a)(7) due to the construction of 1,000 or more new parking spaces at a single location. The project will require a Sewer Connection/Extension Permit, Air Quality Plan Approval and review of tunnel ventilation systems from the Massachusetts Department of Environmental Protection (MassDEP), and approval from the Massachusetts Water Resources Authority (MWRA) and the Boston Water and Sewer Commission (BWSC) for water and wastewater impacts. The project will also require approval from the Executive Office of Transportation for construction on former railroad land and disposition of railroad land. The project must obtain a Cooperation Agreement with the MBTA and a long-term ground and air rights lease from the MTA. A National Pollutant Discharge Elimination System (NPDES) Construction General Permit from the U.S. Environmental Protection Agency will be required. The project will also require approval from the Federal Aviation Administration (FAA) related to potential height restrictions. Finally, the

project must obtain a variety of approvals from the City of Boston, including but not limited to, Article 80 Large Project Review from the Boston Redevelopment Authority (BRA).

Because the proponent is seeking a land transfer (in the form of leased air rights and ground rights), MEPA jurisdiction is broad and extends to those aspects of the project within the area subject to the land transfer that are likely, directly or indirectly, to cause Damage to the Environment as defined in the MEPA regulations. In this instance, pursuant to 301 CMR 11.01(2)3, MEPA subject matter jurisdiction is functionally equivalent to full scope jurisdiction.

#### Joint MEPA/BRA Review

The document filed on behalf of the Proponent was a joint Draft Project Impact Report (DPIR) filed in accordance with Boston Redevelopment Authority (BRA) Article 80 requirements and a DEIR filed in accordance with the MEPA regulations (301 CMR 11.00). This document responded collectively to the separate scopes issued by each agency. Subsequent MEPA documents as requested in this scope may include a joint response to corresponding BRA Article 80 information requests, or an independent document that specifically addresses items outlined in this MEPA Certificate.

#### Project Changes Since the ENF

The project presented in the DEIR reflects modifications made in response to continued meetings with the BRA, the Mayor's Citizens Advisory Committee (CAC), and other members of the community. Changes to the project include increasing the number of on-site residential units (but reducing overall residential square footage), increasing commercial square footage by approximately 48,000 sf, a minor reduction in retail space, and a reduction in private parking spaces from 660 to 590. Building massing, heights and orientation have also been modified since the filing of the ENF. Due to modification in use distribution within the project, water demand and wastewater generation amounts have increased slightly.

#### Review of the DEIR

The DEIR included a description of the project and characterization of the existing environment. The DEIR has described the current site control status and future easements necessary to achieve the project program. The DEIR provided an updated summary of anticipated federal, state and local permits and approvals.

The DEIR provided an alternatives analysis that described several alternatives including: the original alternative presented in response to the MTA's Response for Proposals (RFP) for Parcel 7, the ENF Alternative, the current Preferred Alternative, a No-Action Alternative, and a No-Garage Alternative. The Proponent has stated that the No-Garage Alternative has been dismissed because of conflicts with urban design principles, traffic impacts, density and massing,

and economic infeasibility. I have requested additional information on the evaluated alternatives as part of the FEIR.

A transportation study was included in the DEIR that conforms to the Boston Transportation Department (BTD) "Transportation Access Plan Guidelines" (1989) and to the EEA/EOTPW Guidelines for EIS/EIT Traffic Impact Assessments. The traffic study contained an analysis and supporting data regarding existing and future conditions of the study area. The traffic study included a description of the existing study area roadway network, existing traffic volumes, crash histories, and existing public transportation, pedestrian, bicycle, parking and loading conditions. To evaluate the potential future impact of the project on transportation resources the DEIR contained information pertaining to project trip generation, mode share, distribution of automobile trips, impacts on truck loading, pedestrian and bicycle trips and parking. An overall transportation operations analysis was provided that discussed levels of service (LOS) for signalized and unsignalized intersections, pedestrians and bicycles. The DEIR included a discussion of a traffic management plan to be implemented during Fenway Park events, including managing traffic into and out of the parking garages, traffic flow through intersections and limiting pedestrian/vehicle conflicts. The DEIR outlined a preliminary program to implement Transportation Demand Management (TDM) measures to reduce the number of vehicle trips to the project site and a description of intersection improvements to mitigate impacts from traffic flows.

The DEIR provided additional information regarding on-site and neighborhood parking demand, the potential loss of parking associated with the project, and the relationship of proposed on-site parking to overall future parking demand in the Kenmore/Fenway area. The DEIR described the proposed Yawkey Station improvements and efforts to coordinate project construction with the separate improvements to Yawkey Station proposed by the MBTA.

The DEIR included analyses of potential wind, shadow, daylight, solar glare and heat loading impacts of the project. The DEIR provided a microscale and mesoscale air quality analysis. The mesoscale analysis was prepared in accordance with MassDEP modeling guidance using the MOBILE 6.2 emission model. The air quality analyses evaluated potential impacts from vehicles traveling to and from the site, as well as parking garage exhaust vents, tunnel ventilation, odors, loading areas, and stationary sources such as heating equipment and generators. The DEIR included a voluntary analysis of potential mobile and stationary greenhouse gas (GHG) emissions and a comprehensive discussion of sustainable design measures to be incorporated into the project.

The DEIR described project impacts on stormwater management, water supply demand and wastewater generation. The DEIR identified the types of stormwater and wastewater discharges from the project site and consistency with disposal requirements. The DEIR discussed measures to be implemented during project design and construction to limit impacts to groundwater resources and pledged to design the project in a manner consistent with City of Boston design requirements.

The DEIR contained a discussion of anticipated construction period impacts, including noise, vibration, dust, odor and traffic flow impacts. The DEIR also included draft mitigation

measures to offset project environmental impacts, draft Section 61 findings, and a response to comments section.

### SCOPE

I am allowing the proponent to proceed to the preparation of an FEIR; however I note the requests by commenters for additional information and clarification to assist state agencies with future permitting processes. I anticipate that the FEIR will respond to the scope outlined below with sufficient detail to satisfy state agencies. I retain my authority to require further review in the form of a Supplemental Final Environmental Impact Report if issues outlined in this Scope and in comments (to the extent incorporated in this Scope) are not thoroughly addressed in the FEIR.

#### General

The FEIR should follow Section 11.07 of the MEPA regulations for outline and content, as modified by this Certificate. If a joint document will be filed, the format of the FEIR can be largely determined by the requirements of Article 80, the applicable MOU, any additional scope issued by the BRA and this Certificate. The FEIR should include a copy of this Certificate.

#### Project Description and Permitting

The FEIR should provide an update on any changes to the project since the filing of the DEIR. This update should include changes to project layout or design, environmental impacts, or additional permitting requirements, as applicable.

#### Alternatives

Upon review of the DEIR, I have concluded that the analysis of the "No-Garage" Alternative was insufficient and did not meet the requirements set forth for that analysis in the Certificate on the ENF. The DEIR outlined an alternative that proposed an additional 367,000 sf of building space, with associated garaged private parking, in lieu of the proposed public parking garage. The FEIR should present an alternative, and compare potential environmental impacts to the Preferred Alternative, that contains no public or private parking in order to assess the feasibility of such an alternative for the proposed project.

#### Transportation

A key component of reducing single occupancy vehicle trips to the project site is a robust TDM program. While the project's location is ideal for the success of transit oriented design (TOD), additional measures must be taken to further capitalize on opportunities to reduce vehicle trips and promote alternative forms of transportation. At the request of MassDEP, the FEIR should contain a more comprehensive list of TDM measures (including a consideration of those

recommended in the MassDEP/DEIR comment letter), with clear commitments to their implementation, a description of responsible parties for each measure, and how such commitments will be maintained in the long term. While I note the concern expressed by the Proponent regarding TDM commitments and the unknown nature of future tenants, the success of this project as a true TOD development hinges on measurable and credible TDM measures. The Proponent should commit to an extensive TDM program and require integration of these measures into lease agreements with future tenants. The Proponent should specifically address this requirement as part of the FEIR.

The DEIR has also outlined improvements to several Study Area intersections to offset project-related transportation impacts. These include:

- Installation of a traffic signal system at the Beacon Street/Mountfort Street/Maitland Street intersection;
- Conversion of Mountfort Street from one-way to two-way operation between Park Drive and Buswell Street;
- Addition of bicycle lanes on the Beacon Street corridor between Maitland Street and Kenmore Square, a mid-block pedestrian crossing, and reconstruction of a median island from Maitland Street to just east of the Beacon Street bridge;
- Reconstruction of Maitland Street with an improved horizontal and vertical alignment; and
- Extension of Yawkey Way, including curbside space for multiple bus berths.

Additionally, the DEIR has noted that the improvements to Kenmore Square as part of the MBTA's Kenmore Square Improvement Project and the proposed improvements to the Sears Rotary as part of the U.S. Army Corps of Engineers' Muddy River Flood Damage Reduction and Environmental Restoration Project will improve other intersections impacted by the project. Given the Proponent's reliance on the completion of these projects to effectively mitigate their own project's impacts, the FEIR must discuss how these other traffic improvement projects being undertaken by others will correspond with the Parcel 7 Air Rights phasing and how delays in improvements may impact estimated traffic volumes and intersection function from the Parcel 7 Air Rights project. If necessary, alternative mitigation measures should be presented in the FEIR.

I commend the Proponent for committing to an expansive traffic management plan to be undertaken during Fenway Park events to assist in access and egress to the public parking garage and to manage pedestrian traffic between the project site and Fenway Park. The FEIR should expand upon this plan to specifically address how MBTA bus route schedules may be affected by increased project-related traffic and the traffic management plan itself during events.

The Proponent has made a strong commitment to on-site transit, bicycle, and pedestrian facilities. A commendable off-site mitigation measure is a commitment to construct bicycle lanes on Beacon Street between Maitland Street and Kenmore Square consistent with the Beacon Street Corridor Enhancement project. Additional commitments to accommodate bicycle trips within the project study area should continue to be explored with the Boston Transportation Department (BTD).

### *Parking*

The DEIR included a discussion of both the on-site private and public parking provided, as well as a discussion of the overall parking demand and supply within the Fenway/Kenmore neighborhood. The project includes 590 private parking spaces, provided in accordance with City of Boston parking requirements, and an additional 620 public parking spaces provided within a 700-vehicle capacity above-ground parking structure. The Proponent has provided supporting data outlining existing neighborhood parking supply and the anticipated loss of parking due to future redevelopment opportunities. The DEIR states that as part of the Fenway/Longwood/Kenmore Transportation Study, the Boston Transportation Department (BTD) has stated a goal of maintaining a reservoir of 4,000 parking spaces in close proximity to Fenway Park that are available for games and for patron parking. The Proponent has proposed the 620 public parking spaces in conjunction with this project as replacement parking for anticipated future existing parking loss, in an effort to reach the 4,000 parking space goal set by BTD.

I continue to receive comment letters expressing concern about the potential conflict between a TOD development capable of harnessing all the transportation benefits associated with proximity to a variety of transit uses and the provision of 620 public parking spaces within the project site. While I acknowledge that all visitors to the Kenmore/Fenway neighborhood will not take public transportation or bicycle or walk to the site, the Proponent must provide additional information in the FEIR demonstrating that feasible measures to reduce vehicle trips to the project site will be implemented. In examining ways to minimize the need to drive and park in the area, the FEIR should discuss pricing policies and shuttle bus services to remote parking (as suggested by the Metropolitan Area Planning Council), particularly for Fenway Park events. The mix of uses and the times of peak parking demand should be examined in an evaluation of shared parking, both on-site and in the surrounding area. The DEIR failed to address these scope items as requested in the Certificate on the ENF.

### *Yawkey Station*

The FEIR should provide an update on the MBTA's design plans for the upgraded Yawkey Station. The FEIR should include plans that demonstrate how the Yawkey Station platform will be integrated into the engineering and construction phasing for the Parcel 7 project. The FEIR should clarify access and pedestrian circulation from the station platforms to the proposed public and/or private spaces proposed on-site.

### *Air Quality*

The project exceeds MassDEP's review threshold of 3,000 daily trips for mixed-use projects for an air quality mesoscale analysis of volatile organic compounds (VOCs) and nitrogen oxides (NOx) emission impacts. The DEIR included a mesoscale analysis, which was also used to estimate greenhouse gas (GHG) emissions, notably carbon dioxide (CO<sub>2</sub>) emissions from transportation sources. The analysis presented in the DEIR concluded that the project, modeling for a 2012 Build with Mitigation scenario, would account for a 0.13 percent increase in

both NO<sub>x</sub> and VOC emissions when compared to a 2012 No Build condition. Mitigation measures consist of traffic intersection improvements and TDM measures.

The DEIR indicated that the Proponent has conducted a preliminary evaluation of tunnel ventilation requirements for normal and emergency tunnel operations. The tunnel will extend approximately 900 feet between the Beacon Street and Brookline Avenue bridges. The results of this preliminary study concluded that no mechanical ventilation would be required during normal operations, however during an emergency, ventilation may be required. The proponent should consult with MassDEP and the MTA to determine the applicability of 310 CMR 7.38 to the project. The FEIR should include an updated discussion of the potential environmental impacts of the installation of a mechanical ventilation system and results from the Proponent's meeting with MassDEP and the MTA.

Since the project site sits atop and adjacent to the MassPike, the Massachusetts Department of Public Health (DPH) has noted that potential public health impacts may result from exposure to mobile source emissions. Based upon the DPH comment letter, the FEIR should include additional air quality analyses to demonstrate compliance with the public health standards of the National Ambient Air Quality Standards (NAAQS) for PM<sub>2.5</sub>. This analysis should be prepared subsequent to consultation with the MassDEP regarding study methodology and protocol.

I acknowledge the concerns raised by commenters regarding potential health impacts associated with Ultra Fine Particulates (UFP). However, at this time, there are no recognized national or state-level regulatory programs or standards to measure the potential air quality impacts associated with UFPs. While I will not require a specific air quality analysis of UFPs in the FEIR, the FEIR should outline mitigation measures to be implemented on-site to reduce the potential exposure to pollutants, including UFPs, for occupants of office and residential units. Such mitigation measures may include locating residences as far as possible on-site from primary pollutant sources, installation of state-of-the art air conditioning and filtration systems (along with measures to maintain these systems), modifying building design features, etc.

### *Greenhouse Gas Policy*

The Proponent voluntarily provided an analysis of the project in accordance with the EEA Greenhouse Gas Policy and Protocol. I applaud the Proponent for proposing a project that incorporates numerous innovative sustainable design and operating measures as well as renewable technologies. Mitigation measures to improve building efficiencies presented in the DEIR include: East-West axis building orientation, green roofs and high-albedo roofing materials, a centralized district energy system and combined heat and power (CHP), solar photovoltaics (PV), building envelope measures, and energy efficient elevators. The Proponent has also outlined a goal to make the buildings at least 30 percent more efficient than the Massachusetts Energy Code and to achieve a LEED Silver rating. I commend the Proponent on these noteworthy ambitions.



The GHG analysis included in the DEIR, prepared using the EQUEST model, estimates a stationary source reduction of CO<sub>2</sub> emissions for the preferred alternative of about 22.5 percent in comparison to the base case (MA Building Code compliant). Mobile sources of CO<sub>2</sub> were reduced by 4.2 percent from the base case to the Preferred Alternative. In the base case, the total CO<sub>2</sub> from mobile and stationary sources was estimated at 4040.3 tons per year (tpy). In the Preferred Alternative, the total CO<sub>2</sub> from mobile and stationary sources was estimated at 3740.7 tpy, for an overall project reduction of 7.4 percent as a result of mitigation measures incorporated into the Preferred Alternative.

The DEIR noted that several of the sustainable design measures are still in the early planning and discovery stages. The FEIR should provide an update on the evaluation and feasibility of sustainable design measures and related measures to reduce project GHG emissions. Furthermore, I encourage the Proponent to clarify what specific, quantifiable elements of the proposed traffic improvements were accounted for in the GHG analysis and identify off-site mitigation measures and their impact on mobile source emissions.

### Stormwater

The FEIR should provide supporting data and calculations to confirm the existing and proposed future stormwater runoff quantity and quality estimates presented in the DEIR. The DEIR notes that Low Impact Development (LID) stormwater techniques will be implemented on site. The FEIR should clarify how these LID measures and other Best Management Practices (BMPs) will achieve compliance with the applicable portions of MassDEP's Stormwater Management Regulations for redevelopment projects.

### Water and Wastewater

#### *Water Supply*

The FEIR should quantify the anticipated water demand (either potable or from rainwater harvesting) for landscape irrigation. The FEIR should clarify how much of the irrigation demand will be met by the rainwater harvesting from rooftops and how they system will be sized to minimize use of potable water for irrigation purposes.

#### *Wastewater*

The DEIR indicated that the Proponent will work with the BWSC to participate in the infiltration/inflow (I/I) reduction effort. Assuming a 4:1 ratio is utilized, MassDEP has indicated that the Proponent will need to remove, or cause to be removed, 378,544 gpd of I/I. The FEIR should discuss remedial work planned to meet this I/I removal requirement and make a commitment to an implementation schedule for I/I remediation in accordance with project phasing.

### *Groundwater*

The Proponent should strive to install groundwater monitoring wells on public property and in conformance with the Boston Groundwater Trust (BGT) specifications, with data provided to the BRA and the BGT in a timely fashion. The Proponent should honor its pledge to work with the BGT and the BWSC to develop the best plan result in positive impacts on area groundwater levels.

### Historical Resources

In response to the Certificate on the ENF, the DEIR included a discussion of the potential impact of the project on historic properties. This response was prepared as part of the Article 80 review process and included a description of potential wind, shadow and visual impacts of the project. The Massachusetts Historic Commission (MHC) indicated that the DEIR adequately identified and mapped the historic properties within the area of potential effect of the project. However, the DEIR did not contain information responding to a request for 3-D or computer model graphics to evaluate visual impact, despite a statement in the DEIR saying that they would be provided during the comment period. As such, MHC has opined that the visual analysis is inadequate and the MHC is unable to make a determination of effect for the project. I understand that the Proponent has forwarded 3-D renderings to MHC for their consideration. I expect that these renderings will be included in the FEIR along with a discussion of any additional coordination efforts with MHC on the project.

### Construction Period Impacts

The FEIR should clarify how the project's construction process can be sequenced and staged to limit impact on shuttle bus activity originating from the project site to connect to the Longwood Medical Area (LMA). The FEIR should describe how the LMA shuttle will continue to be accommodated on-site throughout the construction process. While pedestrian signage can convey flows from the Yawkey Station, it remains unclear how shuttle operations will function. The FEIR should clarify during what phase of construction certain uses (i.e. parking) may be temporarily or permanently removed from the project site, and how and where such impact (particularly LMA parking) will be mitigated. It remains unclear if parking generally used by LMA employees (and Fenway events) will be eliminated in their entirety during the extended construction period. While the DEIR addressed traffic management planning techniques to be implemented during Fenway events in a post-construction condition, the FEIR needs to expand upon this plan to specifically address how to mitigate construction period impacts during activities at Fenway Park.

### Mitigation

The FEIR should include a separate chapter updating commitments to project-related mitigation. This section should include a summary of mitigation commitments as well as draft

Section 61 finding language for use by state agencies during each individual permitting process. The updated Section 61 findings should specify in detail all feasible measures the proponent will take to avoid, minimize and mitigate potential environmental impacts to the maximum extent practicable. Section 61 findings should identify and clarify parties responsible for funding and implementation, and the anticipated implementation schedule that will ensure mitigation is implemented prior to or when appropriate in relation to environmental impacts.


### Comments/Circulation

The FEIR should contain a copy of this Certificate and a copy of each comment letter received. In order to ensure that the issues raised by commenters are addressed, the FEIR should include a response to comments. This directive is not intended to, and shall not be construed to, enlarge the scope of the FEIR beyond what has been expressly identified in the initial scoping certificate or this certificate.

The FEIR should be circulated in compliance with Section 11.16 of the MEPA regulations. Copies should be sent to any state agencies from which the proponent will seek permits or approvals, to the list of "comments received" below, and the local branch of the Boston Public Library.

November 14, 2008

Date



Ian A. Bowles

### Comments received:

08/27/08	Boston Fire Department
09/19/08	Boston Groundwater Trust
10/29/08	Fenway CDC
10/31/08	Massachusetts Department of Public Health
11/03/08	MASCO
11/06/08	Massachusetts Historical Commission
11/07/08	Massachusetts Department of Environmental Protection – NERO
11/07/08	Metropolitan Area Planning Council
11/07/08	Metropolitan Highway System Advisory Board
11/10/08	Shirley Kressel
11/10/08	Ned Flaherty

IAB/HSJ/hsj