



March 5, 2014

City of New Bedford  
Conservation Commission  
Office of Environmental Stewardship  
133 William Street, Room 304  
New Bedford, MA 02740  
ATTN: Ms. Sarah Porter

Re: Request for Determination of Applicability Filing  
City Property between Kempton Street and Route 140, Map 61 Parcel 2

Dear Ms. Porter:

On behalf of our client, the Massachusetts Clean Energy Technology Center (MACEC), and the City of New Bedford (the property owner for above referenced parcel), Apex Companies, LLC is pleased to provide this Request for Determination of Applicability (RDA) filing. This RDA is being filed because as part of MACEC's due diligence to acquire this parcel, we will need to conduct some subsurface soil explorations to gain a better understanding of the potential uses for the property. We are proposing to conduct 4 borings and a series of soil resistivity probes. In order to provide the New Bedford Conservation Commission with a better understanding the work being proposed under this RDA filing, we are providing the following documentation:

- WPA Form 1 – Request for Determination of Applicability
- Proof of Ownership - Letter from City of New Bedford, Copy of the 9/28/06 Memo from the City Solicitor, Copy of the Deed for the Property
- Figure- 1 USGS Topographic Locus Plan
- Figure -2 MassGIS Aerial Photo Locus Plan
- Figure- 3 City Of New Bedford Assessor's Map
- Plan entitled "*Proposed Clearing Plan, RDA Filing AM Radio Tower*" dated 3/5/14
- MACEC's Certificates of Exemption – To support that they are a Fee exempt applicant

All of this information is provided in one original package, and two copies of the submittal package. The entire submittal package will also be provided electronically as required in the Application checklist for the Commission. We look forward to meeting with the Commission to discuss the proposed work. In the meantime, should you have any questions, please do not hesitate to contact me at (617) 936-9024.

Sincerely,  
Apex Companies, LLC

A handwritten signature in blue ink, appearing to read 'J. McAllister', is written over a horizontal line.

John B. McAllister, P.E.  
Senior Project Engineer

Z:\Boston\Jobs\6690 NBH\_Phase IV\RADIO\_TOWER\_\AM Tower Relocation\Wetlands Permitting\RDA Cover Page.docx



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

New Bedford

City/Town

WPA Form 1- Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

A. General Information

Important:

When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. Applicant:

Massachusetts Clean Energy Technology Center

Name

cmorris@masscec.com

E-Mail Address

63 Franklin Street, 3rd Floor

Mailing Address

Boston

City/Town

MA

State

02110

Zip Code

617-315-9324

Phone Number

Fax Number (if applicable)

2. Representative (if any):

Apex Companies, LLC

Firm

John McAllister

Contact Name

jmcallister@apexcos.com

E-Mail Address

1213 Purchase Street, Room 301

Mailing Address

New Bedford

City/Town

MA

State

02740

Zip Code

617-936-9024

Phone Number

Fax Number (if applicable)

B. Determinations

1. I request the New Bedford Conservation Commission make the following determination(s). Check any that apply:

- a. whether the area depicted on plan(s) and/or map(s) referenced below is an area subject to jurisdiction of the Wetlands Protection Act.
b. whether the boundaries of resource area(s) depicted on plan(s) and/or map(s) referenced below are accurately delineated.
c. whether the work depicted on plan(s) referenced below is subject to the Wetlands Protection Act.
d. whether the area and/or work depicted on plan(s) referenced below is subject to the jurisdiction of any municipal wetlands ordinance or bylaw of:

New Bedford

Name of Municipality

- e. whether the following scope of alternatives is adequate for work in the Riverfront Area as depicted on referenced plan(s).



# WPA Form 1- Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

## C. Project Description

1. a. Project Location (use maps and plans to identify the location of the area subject to this request):

<u>Kempton Street</u>	<u>New Bedford</u>
Street Address	City/Town
<u>61</u>	<u>02</u>
Assessors Map/Plat Number	Parcel/Lot Number

- b. Area Description (use additional paper, if necessary):

The parcel in question is currently owned by the City of New Bedford and is located between the  
State Highway Layout (Route 140) and St. Mary Cemetery, off Kempton Street. The existing parcel  
is wooded, covered mostly in deciduous vegetation. As part of its due diligence effort, MassCEC  
is proposing to have the City of New Bedford clear the areas shown on the plan to facilitate  
subsurface soil explorations and testing to be used in the analysis and development of the parcel.

- c. Plan and/or Map Reference(s):

<u>Proposed Clearing Plan, RDA Filing, AM Radio Tower</u>	<u>3/5/14</u>
Title	Date
<u> </u>	<u> </u>
Title	Date
<u> </u>	<u> </u>
Title	Date

2. a. Work Description (use additional paper and/or provide plan(s) of work, if necessary):

As part of its due diligence effort, MassCEC is proposing to have the City of New Bedford clear the  
areas shown on the referenced plan to facilitate subsurface soil explorations and testing to be used in  
the analysis for the potential development of the parcel. The subsurface explorations will include  
geotechnical borings using an ATV drill rig and soil resistivity testing. Soil resistivity testing involves  
inserting electrodes into the soil at a shallow depth at specific intervals and measuring the resistivity  
across them. The clearing for the drill rig will be a minimum of the machines width wide for the path  
and up to a maximum of 15 ft wide, particularly around the locations of the borings. This additional  
clearing space is necessary to allow the workers space to conduct their activities and to avoid  
interference from overhanging branches for the drill tower.



## WPA Form 1- Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

### C. Project Description (cont.)

b. Identify provisions of the Wetlands Protection Act or regulations which may exempt the applicant from having to file a Notice of Intent for all or part of the described work (use additional paper, if necessary).

10.02 Part 2(b)1. g. "Activities that are temporary in nature, have negligible impacts, and are necessary for planning and design purposes (e.g., installation of monitoring wells, exploratory borings, sediment sampling and surveying). " All proposed work is in the buffer zone of the wetlands and is necessary for planning and design work.

3. a. If this application is a Request for Determination of Scope of Alternatives for work in the Riverfront Area, indicate the one classification below that best describes the project. **N/A**

- Single family house on a lot recorded on or before 8/1/96
- Single family house on a lot recorded after 8/1/96
- Expansion of an existing structure on a lot recorded after 8/1/96
- Project, other than a single family house or public project, where the applicant owned the lot before 8/7/96
- New agriculture or aquaculture project
- Public project where funds were appropriated prior to 8/7/96
- Project on a lot shown on an approved, definitive subdivision plan where there is a recorded deed restriction limiting total alteration of the Riverfront Area for the entire subdivision
- Residential subdivision; institutional, industrial, or commercial project
- Municipal project
- District, county, state, or federal government project
- Project required to evaluate off-site alternatives in more than one municipality in an Environmental Impact Report under MEPA or in an alternatives analysis pursuant to an application for a 404 permit from the U.S. Army Corps of Engineers or 401 Water Quality Certification from the Department of Environmental Protection.

b. Provide evidence (e.g., record of date subdivision lot was recorded) supporting the classification above (use additional paper and/or attach appropriate documents, if necessary).

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# WPA Form 1- Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

## D. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Request for Determination of Applicability and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge.

I further certify that the property owner, if different from the applicant, and the appropriate DEP Regional Office were sent a complete copy of this Request (including all appropriate documentation) simultaneously with the submittal of this Request to the Conservation Commission.

Failure by the applicant to send copies in a timely manner may result in dismissal of the Request for Determination of Applicability.

Name and address of the property owner:

City of New Bedford

Name

133 William Street

Mailing Address

New Bedford

City/Town

MA

State

02740

Zip Code

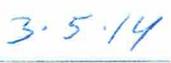
Signatures:

I also understand that notification of this Request will be placed in a local newspaper at my expense in accordance with Section 10.05(3)(b)(1) of the Wetlands Protection Act regulations.

  
Signature of Applicant

  
Date

  
Signature of Representative (if any)

  
Date

## PRELIMINARY SITE ACCESS AGREEMENT

This Preliminary Site Access Agreement (the "Agreement") is entered into this 6<sup>th</sup> day of March 2014, by and between **The Massachusetts Clean Energy Technology Center**, a body politic and corporate and public instrumentality of the Commonwealth of Massachusetts, with an address of 55 Summer Street, 9<sup>th</sup> Floor, Boston, Massachusetts 0211 (the "Proposer"), and **The City of New Bedford**, a Municipal Corporation in the Commonwealth of Massachusetts, acting by and through its Treasurers Office, with offices at 133 William Street, New Bedford, Massachusetts, 02740 (the "City").

**WHEREAS**, the City is the current owner of Lot 2 on New Bedford Assessor's Plat 61, located on the North Side of Kempton Street, New Bedford, Massachusetts (the "Property"); and

**WHEREAS**, the City issued an RFP for the Property on November 14, 2013; and

**WHEREAS**, the Proposer was awarded the RFP on January 28, 2014; and

**WHEREAS**, the Proposer seeks access to the Property to perform certain due diligence activities; and

**WHEREAS**, due diligence activities may involve the installation of borings, monitoring wells, test pits, and collection of soil and/or groundwater samples.

**NOW, THEREFORE**, in order to enable the Proposer to perform due diligence, City agrees to provide Proposer access to the Property, subject to the following conditions and understandings:

1. The right of access shall include the right to enter the land with personnel, equipment, tools and other items necessary to perform the tasks described in Paragraph 6.
2. Proposer shall be responsible for contacting Dig Safe in advance of any subsurface drilling or excavation.
3. All activities performed by the Proposer, its employees, agents and/or contractors pursuant to this Agreement shall be performed in accordance with all applicable environmental,

health and safety statutes and regulations currently in effect, and in such a way as to minimize interference with the normal operations on the Property.

4. The Proposer shall promptly repair any physical damage to the Property, including any structures affected by the work, if any, and return the Property to substantially the same condition it was prior to its activities.
5. The Proposer shall provide the City with a complete copy of any reports prepared for the Property, including any analytical data for soil, groundwater, surface water or building materials samples. The Proposer shall promptly notify the City of any condition identified during the performance of due diligence that requires notification to the Massachusetts Department of Environmental Protection in accordance with the Massachusetts Contingency Plan.
6. The Proposer, its subcontractors, agents, or contractors shall provide the City with proof of compliance with the Commonwealth of Massachusetts Worker's Compensation Law. The Proposer, or the party or parties performing due diligence on behalf of the Proposer shall provide the City with proof of Environmental Insurance, in the amount of one million dollars (\$1,000,000.00) combined single limit. The Proposer, its subcontractors, agents or contractors shall provide the City with proof of General Liability Insurance for bodily injury and property damage in the amount of one million dollars (\$1,000,000.00) combined single limit and shall provide the City with a certificate of insurance naming the City of New Bedford as an "additional insured" on their general liability policy.
7. The Proposer will defend, indemnify, and hold harmless the City for injury to persons or property incurred during and resulting from the Proposer's presence on the Property.
8. The City recognizes that the proposed work may involve minor disruption or damage to the Property. The Proposer and its Contractor agree to make reasonable efforts to minimize the disruption or damage to the Property.

9. Any disputes arising pursuant to this Agreement shall be resolved, if feasible, by good faith consultation between the Parties and their authorized agents.
10. The City, by this written Agreement, has granted the Proposer certain rights of access pursuant to the conditions set forth herein and the City hereby releases and indemnifies the Proposer from any and all claims alleging invalid access, when said access was made pursuant to and in accordance with this Agreement.
11. Except as otherwise provided herein, the City hereby reserves and does not in any manner waive any rights or causes of action against the Proposer or any other party.
12. This document constitutes the entire agreement between the Parties relating to access to the Property in connection with the activities described herein, and shall be governed by and construed in accordance with the laws of the United States and the Commonwealth of Massachusetts.
13. All notices or other submissions required or appropriate under this Agreement shall be sent by first class mail, facsimile, nationally recognized overnight delivery service, or certified mail, return receipt requested. Such notices or submissions shall be sent, unless written notice has been given of a change by either Party, to the address set forth above.

**SEE NEXT PAGE FOR SIGNATURES**

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed as a sealed instrument as of the dates set forth below their respective signatures.

**City of New Bedford**

**Proposer**

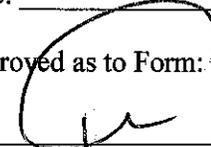
Name:   
R. Renee Fernandes-Abbott  
City Treasurer

Name: \_\_\_\_\_  
Christopher W. Morris, PE  
Senior Project Manager

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to Form:

  
Thomas J. Mathieu, Associate Solicitor



## CITY OF NEW BEDFORD

### OFFICE OF THE CITY SOLICITOR

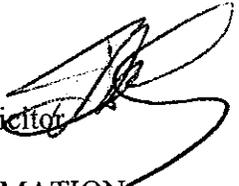
133 William Street, Room 203  
New Bedford, MA 02740-6163

Tel.# (508) 979-1460

Fax.# (508) 979-1515

# MEMORANDUM

TO: Planning Board  
Zoning Board of Appeals  
✓ Conservation Commission  
Board of Health  
Licensing Department  
Traffic Division

FROM: Irene B. Schall, City Solicitor 

SUBJECT: APPLICATION INFORMATION

DATE: September 28, 2006

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Effective immediately all applications for any permits issued by your respective boards must be accompanied by documentation showing the nature of the property interest(s) affected by the permit(s). Required will be: copies of deeds, certificates of title, leases and purchase and sales agreements and most recent plan or record showing the affected lot or lots. In addition, for ZBA applications, also include a copy of the deed or deeds of abutting parcels, if said parcels have been held in common ownership with the subject parcel at any time since January 1, 1976. If the applicant is not the owner, a signed and notarized letter from the record owner (or authorized representative) which authorizes the applicant to submit an application for the parcel or parcels affected will be required. If you are not provided with the necessary information or you require clarification on ownership, please contact this office.

This change should immediately be reflected in a change to your applications and may be attached to the Application as an Appendix (submitted herewith) or incorporated directly into the application itself.

Your cooperation will be greatly appreciated.

IBS/bar

## Appendix

- (1) Owner's/Landlord's Name: City of New Bedford
- (2) Title Reference to Property: Book 4187 Page 337

(Attach copy of Deed, Certificate of Title & most recent Recorded Plans showing affected lot or lots)

- (3) If the Applicant is Not the Owner:

Provide:

1. Notarized authorization letter from owner to tenant or buyer for application for this permit (on letterhead);
2. Copy of Purchase & Sale agreement or lease, where applicable;

**(In addition, for ZBA only)**

3. Copy of the deed or deeds of abutting parcels if said parcels have been held in common ownership with the subject property at any time since January 1, 1976.

THE COMMONWEALTH OF MASSACHUSETTS  
CITY OF NEW BEDFORD  
OFFICE OF THE COLLECTOR OF TAXES

*Complaint*  
*2-15-08*  
*8945-156*  
*Final*  
*Decree*  
*3/17/09*  
*9298-266*

I, Daniel W. Patten, Collector of Taxes for the City of New Bedford, pursuant and subject to the provisions of General Laws, Chapter 60, Sections 53 and 54, hereby take for said City the following described land:

DESCRIPTION OF LAND

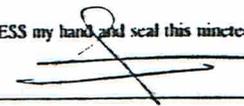
[The description must be sufficiently accurate to identify the premises and must agree with the notice of taking. In the case of registered land, the Certificate of Title Number and Registry Volume and Page must be given.]

Plat 61 Lot 2  
W. S. Rockdale Avenue

Said land is for taken for non payment of taxes as defined in Section 43 of said Chapter 60 assessed thereon to Hazel M. Wallace and Frank J. Richard Oliver for the year 1998, which were not paid within fourteen days after demand therefore made upon Hazel M. Wallace and Frank J. Richard Oliver on June 18, 1998, and now remain unpaid together with interest and incidental expenses and costs to the date of taking in the amounts hereinafter specified, after notice of intention to take said land given as required by law.

1998 TAXES REMAINING UNPAID.....	\$401.73
INTEREST TO THE DATE OF TAKING.....	\$34.60
INCIDENTAL EXPENSES AND COSTS TO THE DAY OF TAKING.....	\$46.67
SUM FOR WHICH LAND IS TAKEN.....	\$483.00

WITNESS my hand and seal this nineteenth day of August, 1998

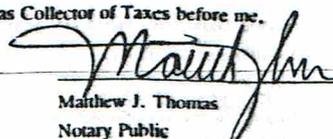
  
\_\_\_\_\_, Collector of Taxes for the City of New Bedford

THE COMMONWEALTH OF MASSACHUSETTS

Bristol, ss

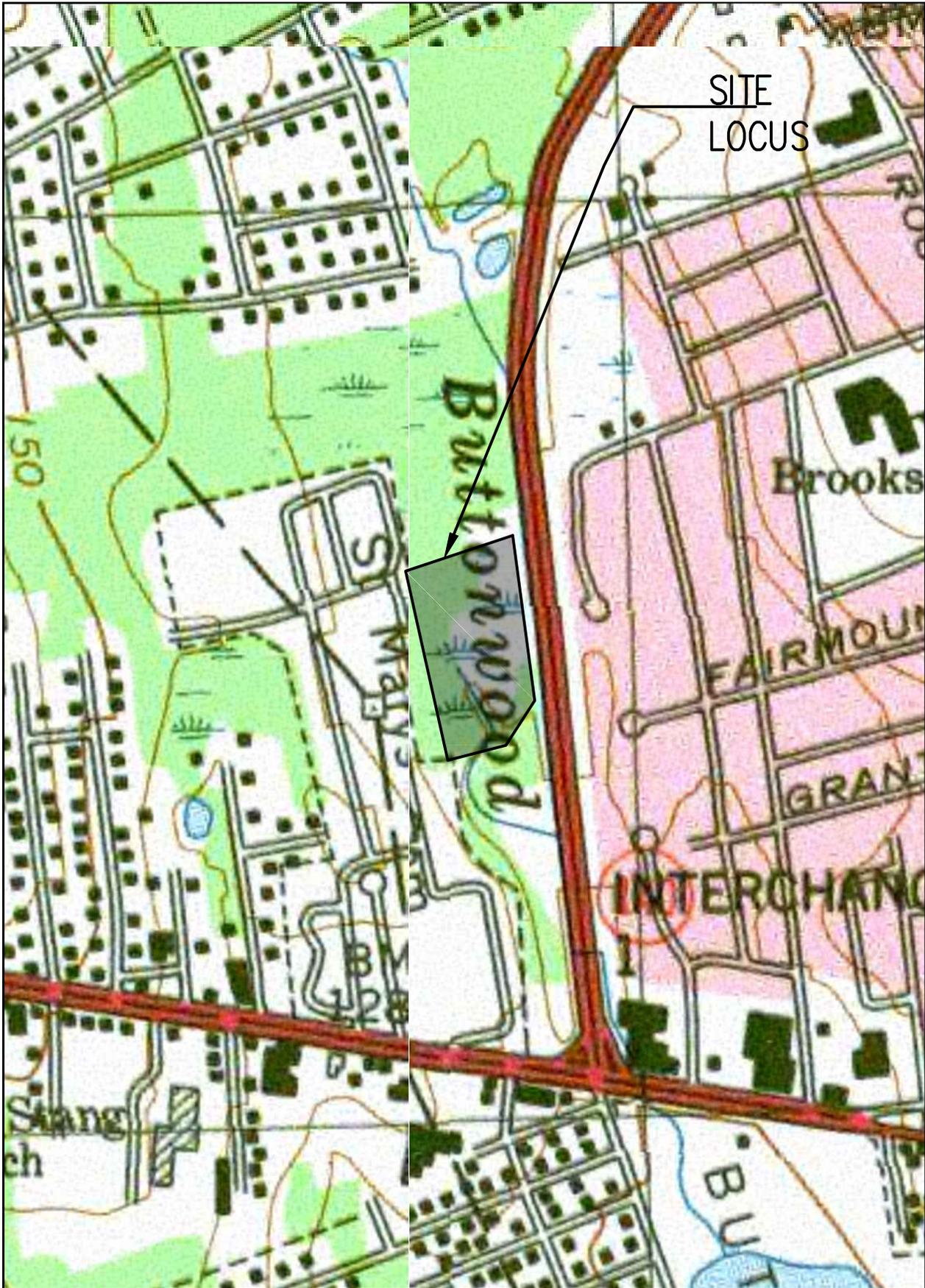
August 19, 1998

Then personally appeared the above named Daniel W. Patten and acknowledged the foregoing instrument to be his free act and deed as Collector of Taxes before me.

  
\_\_\_\_\_  
Matthew J. Thomas  
Notary Public  
My Commission Expires: September 20, 2002

A true copy of instrument as recorded in  
Bristol County (S.D.) Registry of Deeds  
in Book 4187 Page 337  
ATTEST:

  
REGISTER



SITE  
LOCUS

Buttornwood

INTERCHANGE

This drawing is the property of the project and is not to be used for any other purpose without the written consent of the project owner. The user of this drawing is responsible for obtaining all necessary permits and for compliance with all applicable laws, codes, and regulations. The project owner is not responsible for any errors or omissions in this drawing.

SHEET TITLE  
**USGS TOPO  
PLAN  
RDA FILING  
AM RADIO TOWER**  
DRAWING NO.  
**FIG-1**

PROJECT NO.	6690
CADD FILE	AM RADIO TOWER
DESIGNED BY	JBM
DRAWN BY	NB DPI
CHECKED BY	JBM
DATE	3/5/14
DRAWING SCALE	1"=50'
GRAPHIC SCALE	

NO.	DATE	DESCRIPTION	BY

PROJECT  
**NEW BEDFORD  
AM RADIO TOWER  
RELOCATION**  
OWNER  
**MASSACHUSETTS  
CLEAN ENERGY TECHNOLOGY CENTER**



**APEX**  
ROCKVILLE, MD  
SOUTH WINDSOR, CT - BOSTON, MA -  
NEW BEDFORD, MA - HOLYOKE, MA  
125 BROAD STREET 20TH FLOOR  
BOSTON, MA 02109  
59H CONNECTICUT AVENUE  
SOUTH WINDSOR, CT



SITE  
LOCUS

This drawing is the property of the project and is not to be used for any other project without the written consent of the project manager. The project manager is not responsible for any errors or omissions in this drawing and shall not be held liable for any damages resulting from the use of this drawing.

SHEET TITLE  
**MASSGIS AERIAL  
PLAN  
RDA FILING  
AM RADIO TOWER**

DRAWING NO.  
**FIG-2**

PROJECT NO.	6690	NO.	DATE	DESCRIPTION	BY
CADD FILE	AM RADIO TOWER				
DESIGNED BY	JBM				
DRAWN BY	NB DPI				
CHECKED BY	JBM				
DATE	3/5/14				
DRAWING SCALE	1"=50'				
GRAPHIC SCALE					
0 125 250 500					

PROJECT  
**NEW BEDFORD  
AM RADIO TOWER  
RELOCATION**

OWNER  
**MASSACHUSETTS  
CLEAN ENERGY TECHNOLOGY CENTER**

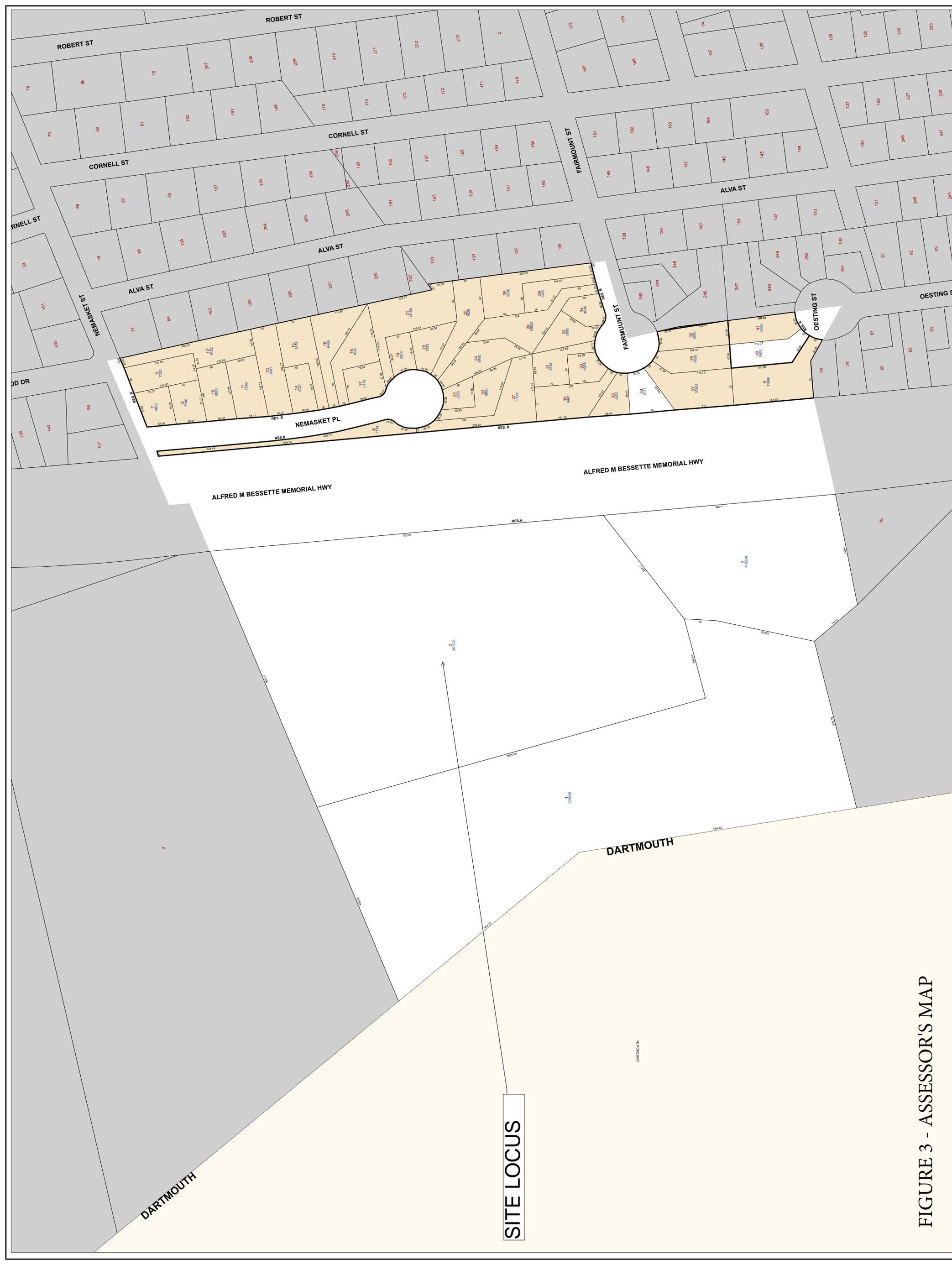


**APEX**

ROCKVILLE, MD  
SOUTH WINDSOR, CT - BOSTON, MA -  
NEW BEDFORD, MA - HOLYOKE, MA

125 BROAD STREET 5TH FLOOR  
BOSTON, MA 02210

588 CONNECTICUT AVENUE  
SOUTH WINDSOR, CT



**FIGURE 3 - ASSESSOR'S MAP**

**Legend**

- Easement
- Planned Subdivision
- Combined Parcels
- Master Parcel Linking to Assessing DB
- Associated Parcels
- Water Bodies
- Town Boundary
- Text Engineering Lot Number
- Text Lot Area

1 inch = 60 feet

60 30 0 60 Feet

**Map: 61**

Fiscal Year 2011

This parcel map should be used for planning and assessment purposes only.

Map Produced By:  
City of New Bedford  
Department of  
Management Information Systems  
January 2011

City of New Bedford  
Massachusetts







Form ST-5  
Sales Tax Exempt  
Purchaser Certificate

Rev. 5/08  
Massachusetts  
Department of  
Revenue

**Part 1. Exempt taxpayer information.** To be completed by exempt government or 501(c)(3) organization.

Name Clean Energy Technology Center  
 Address 100 Cambridge St, 10th Floor  
 City Boston State ma Zip 02114  
 Exemption number 263-851-659  
 Issue date 1/28/09 Date of expiration of certificate 1/28/19

Certification is hereby made that the organization named above is an exempt purchaser under Massachusetts General Laws, Chapter 64H, sections 6(d) or 6(e). All purchases of tangible personal property or services by this organization are exempt from taxation under said chapter to the extent that such property or services are used in the conduct of the business of the purchaser. Any abuse or misuse of this certificate by any tax-exempt organization or any unauthorized use of this certificate by any individual constitutes a serious violation and will lead to revocation.

Signature \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

Warning: Willful misuse of this certificate may result in criminal tax evasion sanctions of up to one year in prison and \$10,000 (\$50,000 for corporations) in fines.

**Part 2. Agent information.** To be completed by agent of exempt government or 501(c)(3) organization.

Name of agent's organization Clean Energy Technology Center  
 Address 100 Cambridge St, 10th FL  
 City Boston State Ma Zip 02114  
 Agent's name Jennifer Baker  
 Address \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

I certify that in making this purchase, I am acting as an agent for the exempt organization named above (select one):

- Government organization (local public school, city/town government, state agency, etc.).  
 Attach Form ST-2, if available. If Form ST-2 is not available, enter exemption number, if known: \_\_\_\_\_  
 501(c)(3) organization (parochial school, Scout troop, etc.). Form ST-2 must be attached.

Signature J Baker Title Chief of Staff Date 2-25-09

**Part 3. Vendor information**

Vendor's name \_\_\_\_\_

- Check applicable box:  
 Single purchase certificate (attach detailed receipts or complete Part 4, on reverse)  
 Blanket certificate



**Massachusetts**  
**Department of**  
**Revenue**

**Form ST-2**  
**Certificate of Exemption**

Certification is hereby made that the organization herein named is an exempt purchaser under General Laws, Chapter 64H, sections 6(d) and (e). All purchases of tangible personal property by this organization are exempt from taxation under said chapter to the extent that such property is used in the conduct of the business of the purchaser. Any abuse or misuse of this certificate by any tax-exempt organization or any unauthorized use of this certificate by any individual constitutes a serious violation and will lead to revocation. Willful misuse of this Certificate of Exemption is subject to criminal sanctions of up to one year in prison and \$10,000 (\$50,000 for corporations) in fines. (See reverse side.)

Clean Energy Technology Center  
100 Cambridge St. 10th Floor  
Boston, MA. 02114

EXEMPTION NUMBER E  
263-851-659  
ISSUE DATE  
1/28/09  
CERTIFICATE EXPIRES ON  
1/28/19

NOT ASSIGNABLE OR TRANSFERABLE

COMMISSIONER OF REVENUE