

921

DECLARATION OF TRUST ESTABLISHING  
SHAWSHEEN RIDGE REALTY TRUST  
UNDER THE PROVISIONS OF CHAPTER 182 OF THE  
GENERAL LAWS OF THE  
COMMONWEALTH OF MASSACHUSETTS

AGREEMENT AND DECLARATION OF TRUST made at Boston, Massachusetts on JUNE 25<sup>TH</sup>, 1986, by William J. Callahan of Bedford, Middlesex County, Commonwealth of Massachusetts and John J. Callahan of Bedford, Middlesex County, Commonwealth of Massachusetts (hereinafter called the "Trustees"); and such persons as may become parties hereto by the acceptance of certificates of equitable ownership issued hereunder (hereinafter sometimes called the "Shareholders").

WHEREAS, it is proposed that the Trustees shall manage in the manner hereinafter stated all property which they may hereafter acquire as Trustees.

It is therefore agreed:

The Trustees shall hold all property which they may hereafter acquire as Trustees, together with the proceeds thereof, in trust to engage in the business of owning and leasing real estate, holding and trading bonds and other securities and such other business activity as they deem proper for the benefit of

the Shareholders, upon the terms provided in the following paragraphs 1 through 15.

1. Name of Trust and Location of Resident Agent.

a. All acts of the Trustees relating to this trust may be done under the name of "Shawsheen Ridge Realty Trust", or such other name or names as the Trustees may from time to time adopt.

b. The principal place of business of this trust shall be in Bedford, Massachusetts. All notices should be addressed to:

William J. Callahan, Trustee  
John J. Callahan, Trustee  
Shawsheen Ridge Realty Trust  
P.O. Box 269  
Bedford Farms  
Bedford, Massachusetts 01730

The Trustees may from time to time change the address of the trust or appoint a resident agent.

c. Any such change of name, address, or resident agent shall become effective when notice thereof is filed with the Secretary of State for the Commonwealth of Massachusetts.

2. Trustees.

The following provisions shall apply to Trustees serving under this trust agreement:

a. Number and Tenure.

In the event of the death, removal, resignation, or inability to serve of either of the original Trustees,

William J. Callahan, Jr. shall become the successor Trustee. Any Trustee may be removed, and succeeding or additional Trustees may be appointed, by vote of the holders of a majority of the outstanding certificates of beneficial interest at a meeting of the Trustees and Shareholders called for the purpose of removing and/or electing Trustees. Upon the appointment of any succeeding Trustee, the title of the trust estate shall thereupon and without the necessity of any conveyance be vested in said succeeding Trustee jointly with the remaining Trustee or Trustees, if any. Any succeeding Trustee shall have all the rights, powers, authority and privileges as if named as an original Trustee hereunder. No Trustee shall be required to furnish bond, security or surety in any form.

c. Public Record.

The appointment or election of any Trustee or successor Trustee shall become effective when a notice thereof is filed with the office of the Secretary of State of the Commonwealth of Massachusetts.

3. Powers.

In the administration of the trust, the Trustees shall have the following powers:

a. To own, operate, construct and lease residential and commercial real estate, to perform services of every class and description related to the operation or maintenance of such

real estate, and to invest, trade, and deal in tangible and intangible properties, with no requirement of diversification of assets.

b. To purchase or otherwise acquire real or personal property, and to sell, exchange, mortgage, pledge, lease (including leases that may have a duration longer than the duration of this trust), or in any manner deal with the property of the trust or any part thereof, or any interest therein, upon such terms and for such considerations as they deem proper.

c. To make such contracts as they deem expedient in the conduct of the business of the trust.

d. To borrow money to further the trust purpose and to pledge the trust property as security therefor.

e. To receive or sue for all moneys at any time becoming due to the trust.

f. To compromise or refer to arbitration any claims against or rights of the trust.

g. To employ any persons, corporations, or other entities, including brokers, to assist the Trustees in the conduct of the business of the trust or manage the properties of the trust, and to confer upon such persons or entities such power and authority as the Trustees may deem expedient.

h. To do such other things and incur such other obligations as in their judgment will advance the trust purpose.

4. Protection of Persons Dealing with Trustees.

A resolution of the Trustees authorizing a particular act shall be conclusive evidence in favor of strangers to the trust that such act is within the powers of the Trustees. No license of court shall be requisite to the validity of any transaction entered into by the Trustees, and the Trustees shall have full power and authority to execute all deeds and other instruments necessary or proper to carry such transactions into effect. No purchaser from the Trustees shall be bound to see to the application of the money or other consideration paid by the purchaser to the Trustees.

5. Protection of Trustees and Shareholders.

a. A trust, and not a partnership, is created by this Declaration. The relationship of the Shareholders to the Trustees is solely that of cestuis que trustent and neither the Shareholders nor the Trustees are partners.

b. No Shareholder shall be personally liable for any obligation or liability incurred by this trust or by the Trustees, and the Trustees shall have no right of indemnity or exoneration against the Shareholders in respect thereof.

c. Subject to Paragraph f of this Section 5, no Trustee shall be personally liable for any obligation or liability

incurred by this trust or by the Trustees, and each Trustee shall be entitled to reimbursement and exoneration out of the trust estate according to law and the terms of this agreement.

d. The Trust estate alone shall be liable for the payment or satisfaction of all obligations and liabilities incurred in carrying out the affairs of this trust.

e. Proceedings against this trust may be brought against the Trustees as Trustees hereunder but not personally. The Trustees shall be parties thereto only insofar as necessary to enable such obligation or liability to be enforced against the trust estate. In such proceedings, service of process upon one of the Trustees or upon any agent whom they have appointed for that purpose shall be sufficient.

f. No Trustee shall be liable to this trust or the Shareholders for any acts, including without limitation any investment that results in a diminution of the trust estate, except for his own acts, neglects or defaults in bad faith.

6. Records and Filing Status.

The Trustees shall keep a record of all meetings of the Trustees and of the Shareholders and shall keep books of account showing the receipts and disbursements of the trust estate. The Trustees shall prepare, as soon as is practicable after December 31 of each year, a complete report of the business of the trust during the year ending on such December 31. The

fiscal year of the trust, unless changed by the Trustees, shall end on December 31 of each year. If the Shareholders elect to be treated as owners of a small business corporation under Section 1362 of the Internal Revenue Code, the Trustees shall execute and file all documents required to obtain and maintain such status. In addition, the Trustees shall maintain proper transfer books and a register of the names and interests of the Shareholders hereunder.

7. Legal Title.

The Trustees shall hold the legal title to all property at any time belonging to the trust and shall have absolute control over its management and disposition, subject only to the specific limitations set forth herein. The Trustees may hold legal title through a nominee. The Trustees shall have complete control of the conduct of the trust; any enumeration of specific duties and powers shall not be deemed a limitation upon the general powers herein conferred.

8. Beneficial Interest of Shareholder.

The beneficial interest in the trust shall be evidenced by certificates of beneficial interest without par value. Such certificates shall be assigned by the Trustee or Trustees and give the holder thereof only an equitable interest in the trust property. The rights of a shareholder shall be limited to those specifically set forth in the certificate and in this agreement.

a. Number of Shares.

The beneficial interest in the trust estate shall be divided into nine hundred (900) shares, all without par value and of one class. The Trustee or Trustees may issue such shares to such persons, at such times, and for such consideration as they may determine from time to time. The shares shall be non-assessable.

b. Change in Number of Shares.

The number of shares may be increased or reduced to further the trust purpose. Any change in the number of shares shall be made only with the consent of the holders of a majority of the outstanding shares at a meeting called for that purpose.

c. Transfer of Beneficial Interest.

Subject to the provisions of Subparagraph d hereof, certificates of beneficial interest may be transferred by the holders thereof in person, or by duly authorized attorney. The transferee shall surrender such certificate, duly endorsed for transfer, to the Trustee or Trustees, who shall execute a new certificate representing the share or shares so transferred. The acceptance by the transferee of a certificate so assigned, or any certificate issued in place thereof, shall constitute such transferee a party to this agreement and he shall be bound by the provisions hereof. No such transfer shall be binding upon the Trustees until it has been recorded on the transfer books of the trust.



d. Restriction on Transfer.

No Shareholder shall sell or assign any shares of beneficial interest without the prior written consent of the Trustees. If the Trustees shall refuse consent to any requested sale or assignment, such Shareholder may request the purchase of his shares by the Trustees. Upon any such request, all rights of the requesting Shareholder, except in regard to the sale of his shares of the trust, shall immediately cease; and the Shareholder shall sell, and the Trustees shall purchase the interest of such Shareholder, at the fair market value thereof, as determined by the Trustees, as of the date of such request, and such purchase price shall be paid within ninety (90) days of such request. For the purposes of this paragraph, the fair market value of each share of beneficial interest shall be deemed to be the fair market value of all assets of the trust less the amount of all liabilities of the trust, including reasonable reserves for taxes and other expenses properly allocable to business conducted prior to such determination, divided by the total number of shares of beneficial interest outstanding and owned by Shareholders. In addition to any other restrictions contained herein, the Trustees may refuse to consent to any requested sale or assignment of shares of this trust until the Trustees are provided with written opinion of legal counsel

that such sale or assignment would not violate any federal or state securities law.

e. Death of Shareholder.

The death of a Shareholder during the continuance of this trust shall not terminate the trust nor entitle the legal representative of such Shareholder to any accounting or to any action in the courts or otherwise against the trust property or the Trustees. The executors, administrators, or assigns of a deceased Shareholder shall succeed to the rights and be subject to the liabilities of the decedent as a certificate holder of the trust.

f. Lost or Destroyed Certificates.

In the event of the loss or destruction of a certificate, the Trustees may, in their discretion, issue a new certificate representing the interest evidenced by the lost or destroyed certificate upon satisfactory proof of its loss or destruction. The Trustees may in their discretion require an adequate bond as a condition of the issuance of a new certificate.

9. Dividends.

The Trustees shall distribute to the Shareholders out of the net income of the trust such sums as they shall determine. The amounts to be distributed and the time of the distribution shall rest in the discretion of the Trustees. The Shareholders shall share in such distributions in proportion to their bene-

ficial interest in the trust as represented by their holdings of certificates of beneficial interest.

10. Meetings of Shareholders.

a. The Trustees shall call meetings of the Shareholders for the purposes described in paragraphs 2, 8b, 12, 13 and 14 of this instrument upon receipt of a written request for such a meeting, stating the purposes for which a meeting is requested and signed by holders of at least one-third (1/3) of the outstanding shares. Notice of such meeting, specifying the purpose, time, and place thereof, shall be sent by registered mail to the Shareholders thirty (30) days prior to the holding of such meeting. A majority of the Shareholders shall constitute a quorum at such meeting.

b. In addition to meetings for the purposes described in paragraphs 2, 8b, 12, 13 and 14 of this instrument, the Trustees shall call other meetings of the Shareholders at such times as they may deem advisable in the best interests of the trust. Written notice of such meetings (specifying the time, place, and purpose thereof) shall be sent by registered mail to the Shareholders fifteen (15) days prior to the holding of such meeting.

c. For all purposes of this paragraph 10, a notice addressed to a Shareholder at the address listed in the register of the Trustees shall be sufficient notice.

d. Notice of any meeting can be waived by a statement to that effect signed by a Shareholder. Action by the Shareholders can be taken without a meeting if such action is consented to in writing by all of the Shareholders.

11. Indemnity.

In the event that any Trustee, agent or Shareholder shall at any time be held personally liable as such Trustee, agent or Shareholder for acts other than in bad faith, such Trustee, agent or Shareholder shall be indemnified out of the trust property against all costs and expenses by reason of such liability. The trust property shall be applied to satisfy such indemnity in preference to all other claims, except as otherwise provided by law, and shall be applied first to the indemnification of the Trustees, then of the agents of the trust, and then of the Shareholders.

12. Term.

The trust shall continue until twenty-one (21) years after the death of the Trustees whose names are signed hereto, unless sooner termination is hereinafter provided. In the case of any such termination, the Trustees shall transfer and convey the entire net trust estate to the Shareholders in proportion to their respective interests. When, in the opinion of the Trustees, liquidation or division of a trust asset would not be practicable, such asset, subject to any leases, mortgages, con-

tracts, or other encumbrances, shall upon termination of the trust be distributed to the Shareholders as tenants in common in proportion to their respective interests, or as otherwise directed by all of the Shareholders. The Trustees in office at the time of such termination shall continue in office until the liquidation is completed.

The trust may be terminated prior to the expiration of the above period by agreement of all of the Trustees then serving or by the vote of the holders of at least eighty percent (80%) of the outstanding shares at a meeting of the Trustees and Shareholders called for that purpose. If the Trustees agree to terminate the trust or if the holders of eighty percent (80%) of the outstanding shares vote to terminate the trust, the Trustees shall proceed to liquidate the trust hereinabove provided.

13. Amendment.

This agreement may be amended in any particular except that no change may be made in the liability of the Trustees, of their agents, or of the Shareholders. Amendments may be considered at any meeting of the Shareholders provided notice of the proposed amendment is included in the call for the meeting. The consent of the Trustees and of the holders of two-thirds (2/3) of the outstanding shares shall be necessary to adopt any amendment. The amendment shall become effective when certified by the chairman of the meeting which voted it, countersigned by the Trustees,

attached to this agreement, and a copy thereof filed with the Office of the Secretary of State of the Commonwealth of Massachusetts.

14. Reorganization and Merger.

The Trustees may consent to or participate in any plan for the reorganization of this trust, or for the consolidation or merger of this trust and any corporation or business trust. Any such reorganization, consolidation or merger shall require the approval of a majority of the Shareholders.

15. Miscellaneous.

The following additional provisions shall apply to this instrument:

a. The various headings in this instrument and the groupings of the provisions of this instrument into separate paragraphs and subparagraphs shall not be construed to limit or restrict either the meaning or application of any provision of this instrument and are for the purpose of convenience only.

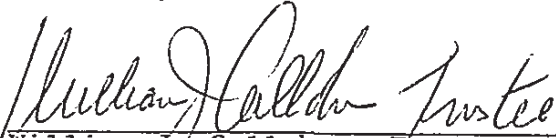
b. All provisions of this instrument shall be construed in accordance with the laws of the Commonwealth of Massachusetts.


c. Where a noun or pronoun is used in this instrument referring to a beneficiary or beneficiaries or to a Trustee or Trustees, said noun or pronoun shall be regarded as

referring to the appropriate person or persons, even though it be incorrect as to gender or as to being in the singular or plural.

IN WITNESS WHEREOF, four identical counterpart copies of this instrument have been executed under seal by the Trustee hereunder named on this 25<sup>TH</sup> day of JUNE, 1986.

TRUSTEES:

  
 \_\_\_\_\_  
 William J. Callahan, Trustee

  
 \_\_\_\_\_  
 John J. Callahan, Trustee

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

June 25, 1986

Personally appeared before me the above-named William J. Callahan and John J. Callahan, and they acknowledged the foregoing instrument to be their free act and deed.

  
 \_\_\_\_\_  
 Notary Public

My commission expires: 10/31/91

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