



ACCESS EASEMENT AND AGREEMENT

Relative to the Ashland Station Access Roadway

This Access Easement and Agreement is made this 20th day of April, 2011, by and between the **MASSACHUSETTS BAY TRANSPORTATION AUTHORITY** ("MBTA" or the "Grantor"), a body politic and corporate, and a political subdivision of the Commonwealth of Massachusetts, having its principal place of business at Ten Park Plaza, Boston, Massachusetts; and **APPLE RIDGE REALTY TRUST**, a Massachusetts realty trust u/d/t recorded in the Middlesex County (South) Registry of Deeds at Book 22694, Page 258, having its principal place of business at c/o Richmond Development Corporation, 190 Front Street, Ashland, Massachusetts 01721 (the "Grantee") for purposes of submitting certain property described below to the permanent and temporary easements hereinafter set forth.

WITNESSETH:

A. WHEREAS, The Grantor is the record owner in fee simple of that certain real property (the "Right-of-Way") taken by the Grantor pursuant to that certain Order of Taking No. 526 dated September 14, 2000, and recorded in the Middlesex County (South) Registry of Deeds in Book 31919, Page 503 (the "Order of Taking"); and

B. WHEREAS, the Grantee is the owner in fee simple of certain real property adjacent to and abutting on the Right-of-Way, shown as the "Apple Ridge Parcel" on a plan entitled "Curb Cut Plan, West Union Street, Ashland, Mass.", dated March 16, 2011, and revised on March 22, 2011, by GLM Engineering Consultants (the "Easement Plan"), a copy of which is attached hereto in Exhibit A and incorporated herein; and

C. WHEREAS, the Grantor has constructed a roadway (the "MBTA Roadway") to provide access to the Grantor's rail transit station; and

D. WHEREAS, Grantee desires a right of access on the MBTA Roadway from the intersection of Rte. 135 and the MBTA Roadway to property owned by Grantee adjacent to the MBTA Roadway in Ashland, Massachusetts and also the right to alter and improve that portion of Grantee's property on which the Grantor has established certain Permanent Slope Easements and certain Permanent Slope and Drainage Easements as more specifically described in the Order of Taking; and

E. WHEREAS, Grantee further desires the right to locate up to two (2) curb cuts on the MBTA Roadway to facilitate access to property owned by Grantee.

NOW THEREFORE, in consideration of the mutual covenants hereinafter set forth, and other good and valuable consideration paid by Grantee in the amount of Eighty Three Thousand Two Hundred and Fifty Dollars (\$83,250.00), the receipt and sufficiency of which is hereby acknowledged by the parties hereto, the Grantor does hereby grant to the Grantee the following rights and easements, subject to the covenants and agreements contained herein, and provided said easements shall be subordinate at all times, to the Grantor's right to maintain the Roadway for access by the general public to the Grantor's rail transit station.

1. Grant of Access Easement. The Grantor does hereby grant to the Grantee, for the benefit of and appurtenant to the Apple Ridge Parcel, the non-exclusive right and perpetual easement and right of access on, over, and across the MBTA Roadway for any and all purposes for which roadways are customarily used in the Town of Ashland, including without limitation pedestrian and vehicular ingress to and egress from the Apple Ridge Parcel.

2. Grant of Easement for Improvements. The Grantor further grants to the Grantee, for the benefit of and appurtenant to the Apple Ridge Parcel, the right and perpetual easement to construct, maintain, use, upgrade and repair within the MBTA Roadway:

- (a) two (2) curb cuts for access and egress whose locations shall be within the area shown on the Easement Plan and marked "2 Total Curb Cuts", the precise location of which shall be determined by Grantee, with the first curb cut to be a minimum of fifty (50) feet away from the tangent of the curve at West Union Street (Route 135) intersection;
- (b) such other improvements as the Grantee may propose as a result of requests by the Town of Ashland and approved by the Grantor, such approval not to be unreasonably withheld, conditioned or delayed, provided further that, if such other improvements are contemplated in Section 2(a) above, no additional consideration from Grantee to Grantor shall be required for such improvements.

Such work undertaken pursuant to subsections (a) and (b) above hereinafter shall be referred to as the "Work." The location of each element of the Work set forth above are as shown on the Easement Plan, recorded herewith, except that the location of future curb cuts may be as proposed by the Grantee and approved by the Grantor.

3. Grant of Temporary Construction Easements. The Grantor further grants to the Grantee the right to temporarily enter onto the MBTA Roadway for the purpose of exercising all of the rights and easements granted in Sections 1 and 2 hereof including without limitation undertaking the Work; provided (a) the Work shall be performed in good and workmanlike manner, and (b) the Roadway and all landscaping and other non-structural improvements shall be restored to a state as close as reasonably possible to the state thereof prior to the performance of the Work; (c) the Grantee shall coordinate all Work and related construction activities with the MBTA; and (d) the performance of the Work shall not block or unreasonably interfere with the right of the public, the Grantor, its employees and/or contractors, to utilize the MBTA Roadway for access to and from the Grantor's commuter rail station and maintain the roadway in a serviceable condition. The Grantor further grants to the Grantee, the right to alter those areas previously altered and improved by Grantor in exercising their rights under the easements described in the Order of Taking, with respect to parcels A-27, A-29, A-30, and A-31, owned by Grantee, as shown on the that certain plan entitled "Land Acquisition Plan, Town of Ashland, Middlesex County" recorded with said Order of Taking with said Deeds at Book 31919, Page 509, provided that such alterations do not adversely affect the Roadway or the rights of the public with respect thereto.

4. Approval of Construction Plan. The Grantee shall construct all improvements permitted hereunder in accordance with an MBTA approved plan for such work (the "Construction Plan"), to be submitted by the Grantee's engineering consultants, which Construction Plan shall include details and specifics concerning materials, methods, timing and sequencing of construction. The Construction Plan shall be subject to the Grantor's prior written approval, which approval shall not be

unreasonably withheld, conditioned or delayed. If at any time the Grantee proposes any material changes to the Work, the Grantee shall submit to the Grantor a revised Construction Plan, including such proposed changes with such level of detail as is shown on the original Construction Plan. Such revised Construction Plan shall be subject to the approval of the Grantor, which approval shall not be unreasonably withheld or delayed. Requests for Construction Plan approvals should be sent to: MBTA, Design and Construction Department, 10 Park Plaza, Boston, Massachusetts 02116, Attn: Assistant General Manager for Design and Construction.

5. Cost of Improvements. The Grantee shall (a) be responsible for all costs associated with the Work (b) maintain the MBTA Roadway in a clean and safe manner; and (c) do what is necessary in accordance with sound engineering practices to minimize any adverse impact on the Grantor's or the public's use of the MBTA Roadway.

6. Notice of Project Completion. Upon completion of the Work, the Grantee shall provide written notice of completion of such work ("Notice of Project Completion") to the Grantor with one reproducible "As-Built" copy of the final construction drawings (the "Record Drawings"). The Record Drawings shall be delivered to the Grantor at the following address: Director of Railroad Operations, Massachusetts Bay Transportation Authority, 10 Park Plaza, Boston, Massachusetts 02116, or such substitute address as the Grantor may indicate by notice to the Grantee.

7. Substantial Replacement and Repairs. The Grantee may undertake substantial replacement or repair operations within the MBTA Roadway in accordance with a proposed repair or replacement plan (the "Repair Plan") to be submitted to the Grantor for approval. The Repair Plan shall contain a description, with reasonable detail, of the work to be performed (including the materials, equipment, methods and construction sequencing to be used) and such other information as may be reasonably required by the Grantor. In addition, the Grantee shall submit for approval a detailed schedule of times when the Grantee and its employees, agents, contractors and subcontractors propose to be located within the MBTA Roadway (the "Repair Schedule") to pursue the approved Repair Plan. Both the Repair Plan and the Repair Schedule shall be subject to the Grantor's prior written approval, which approval shall not be unreasonably withheld, conditioned or delayed. The substantial replacement or repairs shall be performed in good and workmanlike manner, and the Roadway and all landscaping and other non-structural improvements shall be restored to a state as close as reasonably possible to the state thereof prior to the performance of the substantial replacement or repairs. The Grantee shall coordinate the substantial replacement or repairs and related construction activities with the MBTA, and the performance of the substantial replacement or repairs shall not block or unreasonably interfere with the right of the public, the Grantor, its employees and/or contractors, to utilize the MBTA Roadway for access to and from the Grantor's commuter rail station and maintain the roadway in a serviceable condition.

8. Minor Repairs and Maintenance. The Grantee shall be permitted to undertake minor repairs and maintenance within the MBTA Roadway by giving the Grantor at least seven (7) business days' prior notice (except in the case of emergency, in which case the Grantee shall provide notice as quickly as possible under the circumstances). Such notice shall specify a general description of the work to be performed, and the times and hours of the work. The Grantee shall undertake, at its sole cost and expense, to provide such measures as are reasonably mandated by the Grantor to protect its operations, property or employees or other persons within the MBTA Roadway. The minor repairs and maintenance shall be performed in good and workmanlike manner, and the MBTA Roadway and all landscaping and other non-structural improvements shall be restored to a state as close as reasonably

possible to the state thereof prior to the performance of the minor repairs and maintenance. The Grantee shall coordinate the minor repairs and maintenance and related construction activities with the MBTA, and the performance of the minor repairs and maintenance shall not block or unreasonably interfere with the right of the public, the Grantor, its employees and/or contractors, to utilize the MBTA Roadway for access to and from the Grantor's commuter rail station and maintain the roadway in a serviceable condition.

9. Compliance with Laws: Access. In the performance of any work by or on behalf of the Grantee within the MBTA Roadway, the Grantee and its agents and contractors shall comply with all applicable federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations and ordinances. The Grantee shall also be responsible for obtaining any and all federal, state, and/or local permits and/or approvals necessary to carry out the activities permitted hereunder. The Grantee shall not under any circumstances prevent public access to the Grantor's rail transit station.

10. Safety. The Grantee shall undertake the Work, substantial replacement and repairs, and minor repairs and maintenance in a safe manner and immediately notify Grantor if any problem occurs which may result in a safety hazard. If any unsafe situation should occur, the Grantee will correct the situation by eliminating any safety hazard immediately after notification or discovery or, if the situation cannot be reasonably cured immediately.

11. Hazardous Materials. The Grantee shall protect, defend, and save the Grantor and all of its successors in title harmless from, and shall indemnify the Grantor against any and all liabilities, losses, damages, costs, expenses, (including reasonable attorneys' expenses and fees) causes of action, suits, claims (including but not limited to claims of the Grantor's predecessors in interest), demands or judgments of any nature whatsoever (including damages to real estate or personal property or the illness, injury or death of a person) including without limitation, those related to oil and hazardous materials as those terms are defined in Massachusetts General Laws Chapter 21E ("Chapter 21E") and the regulations promulgated pursuant thereto in the Massachusetts Contingency Han, 310 CMR 40,00 et seq. (the MCP) (collectively, "Hazardous Materials"), that may be imposed upon or incurred by or asserted against the Grantor, and which occur or arise as a result of the presence or activities of the Grantee in the Right-of-Way, or the presence or activities of the contractors or other agents exercising the rights granted herein. By way of example and not limitation, this includes the discovery of pre-existing Hazardous Materials which discovery is due to the activities of Grantee hereunder.

12. Assumption of Risk and Indemnity. The Grantee assumes all the risk of entry onto the MBTA Roadway and hereby releases the Grantor from any responsibility for Grantee's losses or damages related to the condition of the MBTA Roadway (including Hazardous Materials), and the Grantee covenants and agrees that it will not assert or bring, nor cause any third party to assert or bring, any claim, demand, lawsuit or cause of action (whether by way of original claim, cross claim, counterclaim, contribution claim, indemnification claim, third-party claim or other claims) (hereinafter "Claims") against the Grantor, including, without limitation claims for response actions, response costs, assessments, containment removal and remedial costs, governmental oversight charges, including any overhead or response action costs incurred or assessed by the Massachusetts Department of Environmental Protection, fines or penalties, permit and annual compliance fees, reasonable attorney and expert fees, natural resource damages, property damages, including diminution in property value claims, and personal injury damages and damages related to a person's death relating to, or arising from, the Grantee's use of the MBTA Roadway or its construction activities within the MBTA Roadway ,

except to the extent such damages are caused by the grossly negligent acts or omissions of the Grantor or its employees, contractors, agents or licensees. It shall not be considered negligent of the MBTA if there are any Hazardous Materials on or under the MBTA Roadway at the time of the granting of this Easement. In clarification of the above release and covenant of defense and indemnification, and not in limitation of them, the Grantee shall indemnify, defend (at the option of the Grantor) and save the Grantor harmless from and against any and all liabilities, losses, damages, costs, expenses (including reasonable attorneys' expenses and fees), causes of action, suits, claims, demands or judgments related to the injury, illness or death of any employee of the Grantee or of an employee of the Grantee's tenants, contractors or consultants except to the extent such injury, illness or death was due to the grossly negligent acts or omissions of the Grantor or its employees, contractors, agents or licensees.

13. Insurance. At all times when the Grantee is undertaking a portion of the Work, substantial replacement and repairs and minor repairs and maintenance, Grantee shall maintain a comprehensive policy of general liability insurance covering the Grantee's obligations hereunder. Such policy of insurance, which shall be on an occurrence basis, shall name the Grantor as an additional insured and shall cover claims for personal injury, bodily injury and property damage, with limits not less than One Million Dollars (\$1,000,000) per occurrence, Two Million Dollars (\$2,000,000) in aggregate. Grantee shall also maintain automobile liability insurance with limits of not less than One Million Dollars (\$1,000,000.00) covering all owned, non-owned, hired, rented, or leased vehicles of Grantee and its subcontractors and consultants that are used in the activities permitted hereunder.

14. Other Work. The Grantor reserves the right to continue to license to and/or to grant easements to third parties for such utility and/or communication conduits (whether surface, parallel, subsurface or aerial) (including the right of entry to install, maintain, repair, replace and/or remove conduits) so long as such grants do not materially interfere with the rights granted to the Grantee by this Easement Agreement; except that temporary interference shall be allowed during periods of installation and repair so long as reasonable notice is given to the Grantee of any such proposed installation, maintenance, repair, replacement or removal, which notice shall include the nature, hours and dates of the proposed work (except in the case of emergency, in which case the Grantor shall provide only such prior notice as is practical under the circumstances). The Grantor shall require all future licensees and easement holders to use commercially reasonable efforts to minimize their impact on the Grantee's use of the MBTA Roadway, and (c) to promptly return the MBTA Roadway to the condition it was in prior to said entry.

15. Authority. The Grantor represents and warrants that it has the full power and authority to enter into this Agreement, and that it has not granted any mortgages or permitted any liens to exist upon the MBTA Roadway, the exercise of rights pursuant to which would terminate the Grantee's rights hereunder.

16. Affirmative Action. With respect to the performance of the Work, and consistent with law, the Grantee shall undertake affirmative action as required by applicable Federal and state laws, rules and regulations pertinent to Civil Rights and Equal Opportunity unless otherwise exempted there from. The Grantee shall not discriminate against any person, employee or applicant for employment because of race, color, creed, national origin, age, sex, sexual orientation, disability or Vietnam era veteran status in its activities in the MBTA Roadway, including without limitation, the selection of suppliers, contractors, or subcontractors. Consistent with applicable law, the Grantee shall use reasonable efforts to contact, encourage and utilize minority and female business enterprises in the procurement of materials and services related to the performance of the Work.

17. Taxes. The Grantee shall be solely responsible for the payment of any taxes, levies, betterments or assessments, fees or charges, whether in existence on the date hereof or adopted hereafter, which may be assessed against the Grantee or the Grantor which are directly attributable to the Grantee's installations in, improvements to, or use of the MBTA Roadway, or any personal property or fixtures of said Grantee located thereon (collectively referred to as "Taxes"). The Grantee shall pay all Taxes directly to the taxing authority before delinquency and before any fine, interest or penalty shall become due or be imposed by operation of law for their nonpayment. The Grantee may contest, in good faith for its own account and at its own expense, the validity or amount of any Taxes, provided the Grantee shall indemnify the Grantor against any resulting loss, cost and expense. The Grantee shall not permit a lien or encumbrance in the MBTA Roadway by reason of failure to pay any Taxes

18. Easement to Run with the Land. This Access Easement and Agreement and the rights granted herein shall be binding upon and inure to the benefit of the Grantor and the Grantee, and their respective heirs, executors, successors and assigns, it being acknowledged by the parties hereto that the benefits and burdens hereof shall run with the Apple Ridge Parcel.

19. Notices. Any notice required to be send under the provision of this Easement Agreement shall be deemed to have been property sent when mailed, postpaid, sent by facsimile, or hand delivered to the last following addressed:

If to Grantor: Massachusetts Bay Transportation Authority,
Ten Park Plaza
Boston, Massachusetts 02116
Attn: Director of Railroad Operations

with a copy to: Transit Realty Associates
77 Franklin Street, 9th Floor
Boston, Massachusetts 02110
Attn: Executive Director

If to the Grantee: Apple Ridge Realty Trust
c/o Richmond Development Corporation
48 Frankland Road
Ashland, MA 01721
Attn: Steven A. Hickey

20. Signatures. The signature of the parties hereto may be affixed to multiple counterparts hereon, and this document shall be effective as if all signatures were affixed to a single counterpart hereof.

IN WITNESS HEREOF, the Grantor has hereunto set its hand and seal this 20th day of April, 2011.

GRANTOR:
MASSACHUSETTS BAY TRANSPORTATION AUTHORITY,

Approved as to form:

By: [Signature]
Richard A. Davey
General Manager and
Rail & Transit Administrator

By: [Signature]
~~William A. Mitchell, Jr.~~
ACTING General Counsel

GRANTEE:
APPLE RIDGE REALTY TRUST,

By: [Signature]
Steven A. Hickey,
Trustee

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

April 20th, 2011

On the 20th day of April, 2011, before me, the undersigned notary public, personally appeared Richard A. Davey, proved to me through satisfactory evidence of identification, which was my personal knowledge of the said Richard A. Davey, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose as General Manager and Rail & Transit Administrator of the Massachusetts Bay Transportation Authority.

[Signature]
Notary Public
My Commission Expires: 8.15.14

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS

April 20, 2011

On the 20th day of April, 2011, before me, the undersigned notary public, personally appeared Steven A. Hickey, proved to me through satisfactory evidence of identification, which was my personal knowledge of the said Steven A. Hickey, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose as Trustee of the Apple Ridge Realty Trust.

[Signature]
Notary Public
My Commission Expires:

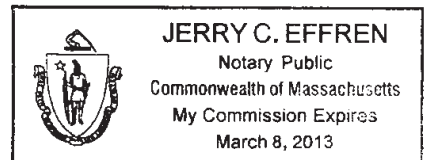


EXHIBIT A

The Easement Plan

**CURB CUT PLAN
WEST UNION STREET
ASHLAND, MASS.**

SCALE: 1"=80' MARCH 16, 2011

REVISED: 3/22/11

PREPARED FOR:
REMOND DEVELOPMENT CORP.
ASHLAND, MASSACHUSETTS

PREPARED BY:

GLM ENGINEERING
CONSULTANTS INC.

19 EXCHANGE STREET
HOLLISTON, MASSACHUSETTS 01746
(508)488-1100 Fax: (508)488-7160

FILE NO.: 33658P2.DWG

