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MAINTENANCE AGREEMENT - CENTERPOINTE BUSINESS PARK PROPERTY OWNERS  
ASSOCIATION, CFD NO. 4 - MAINTENANCE AND THE CITY OF MORENO VALLEY

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**MAINTENANCE AGREEMENT  
BY AND AMONG  
CENTERPOINTE BUSINESS PARK PROPERTY OWNERS ASSOCIATION,  
COMMUNITY FACILITIES DISTRICT No. 4 - MAINTENANCE AND  
CITY OF MORENO VALLEY**

This Maintenance Agreement (“**Agreement**”) is made and entered into effective on the date (“**Effective Date**”) the Mayor signs this Agreement. This Agreement is by and among CENTERPOINTE BUSINESS PARK PROPERTY OWNERS ASSOCIATION, a California nonprofit corporation (“**Association**”), COMMUNITY FACILITIES DISTRICT No. 4 - MAINTENANCE (“**District**”), and the CITY OF MORENO VALLEY (“**City**”). Each of the Association, District and City are sometimes hereinafter referred to as a “**Party**” and collectively as the “**Parties**”.

**P R E A M B L E**

A. Ridge Property Trust (“**Ridge**”), a Maryland real estate investment trust, is the owner of certain real property described in **Exhibit “A”** hereto and incorporated by this reference (the “**Ridge Property**”). Ridge has processed Planning Application, PA04-0063 with the City seeking land use entitlements (the “**Conditions of Approval**”) for a proposed industrial development (the “**Project**”) within the Ridge Property.

B. District is formed and authorized by the City among other things to perform the maintenance of infrastructure improvements that provide public benefit.

C. The two existing publicly maintained Heacock Channel and the Cactus Avenue Channel (collectively the “**Downstream Improvements**”) adjoining the Project do not have the hydraulic capacity or size to accept post-construction runoff from the Project, and the adjoining upstream properties (collectively the “**Benefiting Properties**”), all of which are more fully described in Resolution No. 2005-84, a Resolution of the City Council of the City of Moreno Valley, California, Approving a Boundary Map Showing the Boundaries of the Territory Proposed to be included in the Proposed Community Facilities District No. 4 – Maintenance, and other adjacent upstream properties (the “**Tributary Properties**”). To mitigate the Benefiting Properties’ and Tributary Properties’ post-construction storm water impacts, there has been or will be constructed certain storm water and detention basin improvements (the “**Upstream Improvements**”) more fully described in **Exhibit “B”** hereto and incorporated herein by this reference adjoining the Downstream Improvements with sufficient hydraulic capacity and size within the Project for current and future use by the Benefiting Properties and Tributary Properties as required in the **Conditions of Approval**.

D. Ridge shall convey title to the Upstream Improvements to the Association at such time as such maintenance is required following the Effective Date of this Agreement. The Association has been created for the purposes of, among other things, owning, operating and maintaining the Upstream Improvements. In connection therewith, there has been or will be recorded against the Ridge Property a declaration of covenants, conditions and restrictions (the “**Declaration**”), which among other things will serve to delineate the rights and responsibilities of the Association with respect to the operation and maintenance of the Upstream Improvements,

will create certain easements across the Ridge Property, and will provide for all owners of property within the Ridge Property to pay applicable assessments.

E. The functional operation and integrity of the Downstream Improvements is dependent upon the functional operation and integrity of the Upstream Improvements. The Upstream Improvements including the property the improvements are situated upon are within the Project. The Upstream Improvements provide public benefit, therefore the Association desires the City and the District to perform the operation and maintenance of the Upstream Improvements on behalf of the Association.

F. District and City are willing to perform the operation and maintenance of that part of the Upstream Improvements identified in **Exhibit "B"** for the Association, provided that (i) the Declaration shall be recorded with the County Recorder of Riverside County, shall be subject to the reasonable approval by the District and City (such approval to not be unreasonably withheld or delayed), shall provide that the portion of the Upstream Improvements used for detention basin purposes (the "Detention Basin Property") cannot be altered or further developed so as to negatively affect development of Benefiting Properties and Tributary Properties until such time Downstream Improvements are of sufficient hydraulic capacity and size to accept post-construction runoff from said properties, and (ii) the Association or the then owner of the applicable portion of the Upstream Improvements shall convey the necessary easements to the District and City for the operation and maintenance of the Upstream Improvements identified in **Exhibit "B"**.

In satisfaction of the Conditions of Approval for development of the Project, the Association is required to enter into an agreement with the District and the City to provide certain services relating to maintenance ("**Maintenance**") of the Upstream Improvements.

THEREFORE, in consideration of the promises contained herein, the Parties agree as follows:

1. Term. Subject to applicable law, the term ("**Term**") of this Agreement shall commence as of the Effective Date of this Agreement, and shall remain in effect for thirty (30) years from the Effective Date of this Agreement. At the end of such thirty (30) year period, this Agreement shall be extended for successive terms of thirty (30) years unless a document executed by each of the Parties hereto or their respective successors-in-interest cancels this Agreement or any portion hereof and said document is recorded in the office of the County Recorder of Riverside County. If applicable law limits the duration of the Term, then this Agreement shall be deemed to have a Term equal to the maximum Term permitted by law, and shall, unless affirmatively terminated by the parties hereto, be deemed to be renewed and extended for successive maximum terms as permitted by law. The Maintenance shall commence at such time as such maintenance is required following the Effective Date of this Agreement. During the Term of this Agreement, the Parties hereby covenant and agree to negotiate in good faith any changes to the terms set forth herein as then reasonably required by law.

2. Maintenance of Upstream Improvements by the City. Throughout the term of this Agreement, the City shall directly provide all Maintenance of Upstream Improvements depicted on **Exhibit "B"** attached hereto for the Association. Such Maintenance shall include, without limitation, the maintenance responsibilities described on **Exhibit "C"** attached hereto. In order

to finance the cost of providing the Maintenance the legislative body of the City has formed the District. The City at its sole discretion reserves the right to contract Maintenance with third parties for the Term or parts of the Term. Third parties shall be subject to all requirements of the then current City of Moreno Valley Professional Services Agreement and the City contract documents drafted for Maintenance. For as long as it is authorized to do so, the District shall, on a pro rata basis for the benefit of all applicable property owners, levy special taxes or cause special taxes to be levied against the Project within the District for City costs and expenses related to the Maintenance.

3. Benefiting Properties subject to CFD No. 4—Maintenance. The Parties acknowledge on the Effective Date of this Agreement there exists Benefiting Properties that are not developed and within the boundary of the District. During the entitlement stage of the Benefiting Properties, City shall prepare a condition of approval requiring owner/developer of Benefiting Properties to annex to District. In such instance and upon the issuance of a building permit the obligations of the Project property owners shall be appropriately apportioned to reflect the addition of such other Benefiting Properties and in no event shall the Project property owner(s) have responsibility for the costs that are to be borne by such other Benefiting Properties. Additionally, there exists Tributary Properties both developed and undeveloped that are not located within the boundary of the District that may derive benefit from Upstream Improvements. The legislative body of the District shall make no attempt throughout the term of this Agreement to change the final boundary of the District to include Tributary Properties and levy special taxes or cause special taxes to be levied against Tributary Properties.

4. Suspension of Payments of the District. For a period (“**Suspension Period**”) commencing on the Effective Date of this Agreement and continuing to and including the date on which the District is no longer able to assess, through special taxes, adequate charges against the Benefiting Properties for expenses incurred by the City relating to the Maintenance, the Project (and the owners thereof) shall not be responsible for the payment of any cost or expenses related to the Maintenance except for the payment of the special taxes levied against the Project within the District. Upon receipt of written notice from the District to Association at the address listed in **Section 9** hereof (on behalf of all owners of property within the Project), informing the Association of the District’s inability to further levy special taxes sufficient to pay the costs and expenses of the Maintenance, the Suspension Period shall terminate and, as between the City and the Association, the Association shall thereafter be solely responsible for all costs and expenses related to the City’s Maintenance (subject to the terms set forth in the Rate and Method of Apportionment with respect to the obligations of other Benefiting Properties).

5. Budget and Reimbursement to City. Following termination of the Suspension Period, the City shall prepare and provide to the Association a budget for the next Fiscal Year (as defined below) for the Maintenance obligations described in **Exhibit “C”**, which Budget shall set forth the Fiscal Year expenses projected to be incurred by the City for Maintenance and operations of the City with respect to the Upstream Improvements (including, without limitation, the City’s administrative overhead); provided, however, the amounts set forth in the Budget shall only include those amounts appropriately allocated to the Project. Any costs for Maintenance of the Upstream Improvements that can be allocated to other Benefiting Properties shall be so allocated and the Association shall have no responsibility for such amounts. The expense projections in each year’s Budget shall be based upon the Associations’ share of the Maintenance and operating expenses (including, without limitation, the City’s administrative overhead)

reasonably incurred by the City within the previous three (3) years, and may include (i) normal and customary reserves and contingencies of twenty percent (20%) of the amount of such annual expenses, in the aggregate), and (ii) cost of living increases based upon the percentage change calculated for the previous calendar year for the Los Angeles-Riverside-Orange County Regional Consumer Price Index, as published by the United States Department of Labor's Bureau of Labor Statistics. The Budget shall also reflect an amount for the Association's share of depreciation of facilities, equipment and vehicles, if any, and, included as part of the reserve referred to above. Following the termination of the Suspension Period and the Association's receipt of the Budget, the Association shall make an annual payment to the City for the Association's share of Maintenance expenses incurred by the City as set forth in such Budget by July 1 of the Fiscal Year to which such payment obligation applies. For the purposes of this Agreement, the District's/City's "Fiscal Year" shall be July 1 through June 30 of the following year, unless the Association is otherwise notified of a change pursuant to **Section 9** hereof.

Notwithstanding any other provision herein, the parties hereto acknowledge, understand and agree that in the event that the right of the District/City to impose the charges contemplated herein is or becomes prohibited, that, notwithstanding such prohibition, it is the intention of the parties hereto to continue to have the City perform the Maintenance as contemplated hereby, and to have the costs therefore charged to the Association. In the event that the Association fails or is unable to so pay the amounts that the City is prohibited from charging as contemplated hereby, then, after no less than sixty (60) days prior written notice by the City that the Association is in default, City may use any and all corresponding remedies of lien and foreclosure as provided by law against the Association to recover City costs for Maintenance.

6. Obligations of the Association. The Association agrees as follows:

a. The Association shall not take any action with respect to the Upstream Improvements which would in any manner increase or may increase the obligations of the City or decrease or may decrease the obligations of Association under this Agreement, without the prior written consent of the City (which consent or dissent shall not be unreasonably withheld or delayed);

b. Without the prior written consent of the City (which consent or dissent shall not be unreasonably withheld or delayed), the Association may not assign, transfer, or hypothecate this Agreement or their rights or obligations hereunder. In addition, in view of the personal nature of this Agreement, the Association agrees that, during the term of this Agreement, it will not sell, transfer, encumber, or otherwise dispose of the Upstream Improvements, or any part thereof, without the prior written consent of City (which consent or dissent shall not be unreasonably withheld or delayed), and any purported sale, transfer, hypothecation, or other disposition thereof, without such consent, shall be null and void ab initio; and

c. The Association shall pay the annual amount to the City required pursuant to **Section 5** hereof, if any.

d. By executing this Agreement, the Association acknowledges the City may contract with third parties to perform Maintenance at the City's discretion; provided, however, the City shall contract with such third parties through a competitive bid process by soliciting bids

from a minimum of three (3) contractors. Execution of this Agreement by the Association is written consent to City to contract Maintenance for the Term or parts thereof. No other consent is required from the Association for the City to contract Maintenance.

e. Upon completion of the Upstream Improvements, the Association shall provide a cash deposit with the City in the amount of TWENTY FIVE THOUSAND DOLLARS (\$25,000) to secure payment to City for verified expenses incurred by City to respond to an emergency situation within the Upstream Improvements. The deposit shall be returned to the Association at such time as the Downstream Improvements are of sufficient hydraulic capacity and size and are accepting runoff from Benefiting Properties and Tributary Properties without routing this runoff through the Detention Basin Property. The deposit shall be adjusted annually on the anniversary date of this Agreement to account for cost of living increases based upon the percentage change calculated for the previous calendar year for the Los Angeles-Riverside-Orange County Regional Consumer Price Index, as published by the United States Department of Labor's Bureau of Labor Statistics but shall never be less than twenty five thousand dollars (\$25,000). The deposit amount will be invested by the City in any investment permitted under the Government Code at the time of such investment. All interest earned, dividends paid, or other amounts that accrue to the benefit of the deposit shall be credited in the deposit and inure to the benefit of the Association (unless otherwise paid in accordance with the terms hereof). To the extent that other Benefiting Properties are responsible for a portion of the deposit, the City shall collect such amount from the owner(s) of such other Benefiting Properties and return the applicable portion of such deposit to the Association.

7. Obligations of District: District agrees as follows:

a. The legislative body of the District shall require Benefiting Properties within the boundary of CFD No. 4—Maintenance to annex said properties to said District but only to the extent that said properties derive benefit from Upstream Improvements. This shall include a condition of approval during the entitlement stage of the Benefiting Properties to annex to the District if warranted. Upon such annexation, the District shall levy all applicable assessments against such other Benefiting Properties.

b. If warranted, District shall prepare a separate maintenance agreement by and between Benefiting Properties, District and City requiring the developer/owner of Benefiting Properties to pay his/her fair share of cost of Maintenance for Upstream Improvements should District no longer be able to assess, through special taxes, adequate charges against the Benefiting Properties for expenses incurred by the City relating to the Maintenance.

c. If warranted, pursuant to the time frames as required by applicable Government Codes, upon annexation of Benefiting Properties to the District, The legislative body of the District shall reapportion any special taxes to the Benefiting Properties within CFD No. 4—Maintenance for the cost and expenses related to the Maintenance.

d. The legislative body of the District shall upon successful completion of annexation for Benefiting Properties to the District and for as long as it is authorized to do so, levy special taxes or cause special taxes to be levied against the Benefiting Properties within the District for costs and expenses related to the Maintenance.

e. The District and/or the City shall perform all Maintenance hereunder in a good and workmanlike manner, in compliance with all applicable laws and in a lien-free manner. The District and/or the City shall not allow any liens to be placed against any portion of the Detention Basin Property resulting from District/and or the City Maintenance and shall coordinate the Maintenance hereunder with any other business operations at the Project. In addition, the District and/or the City shall maintain or cause to be maintained all necessary insurance required in performing the Maintenance hereunder.

8. Establishment and Maintenance of Trust Account.

a. No later than thirty (30) days after the approval of this Agreement by the legislative body of City, the Association and City shall establish an irrevocable trust account to be held by the City (the "Trust" or the "Trust Account"), the sole beneficiary of whom is City. The purpose of such Trust shall be to: (i) fund any unfunded liability of the Association associated with or arising from the Maintenance, or arising out of or related to the subject matter of this Agreement after giving affect to all applicable insurance as described in **Section 12** hereof; (ii) provide full or partial payment with respect to any lawsuit, claim, charge, or fine associated with the Maintenance; (iii) to pay any insurance premium associated with the Upstream Improvements or the Maintenance thereof; and (iv) pay any amounts not promptly paid by the Association with respect to its indemnity under **Section 11** hereof. The amounts held in trust may be invested with other amounts held by City, but all interest earned thereon shall accrue to the benefit of the Association (unless otherwise paid out in accordance with the terms hereof), as provided in subsection c hereof.

b. The initial deposit into the Trust shall be made by the Association and shall equal three (3) times the deductible amount in the insurance policy for bodily injury and property damage insurance that Association must furnish in accordance with **Section 12** hereof. Each year on the anniversary date of this Agreement Association shall as quickly as reasonably possible and consistent with all applicable legal authorities increase the amount in the Trust as necessary in accordance with the cost of living adjustment formula provided above so that after any additional deposit the Trust value shall equal at least three (3) times the then deductible amount under the then effective Insurance policy purchased to meet the terms of **Section 12** hereof.

c. All interest earned, dividends paid, or other amounts that accrue to the benefit of Trust shall be credited in the Trust.

d. The City shall provide the Association with ten (10) days' written notice prior to withdrawing any funds from the Trust in order to afford the Association sufficient time to cure any associated deficiency. Upon expiration of such ten (10) day cure period, the City may withdraw all necessary amounts from the Trust for any lawful purpose permitted hereunder. In such instance, the Association covenants and agrees to replenish such amounts within thirty (30) days upon written notice of such withdrawal to the amount required an amount equal at least three (3) times the then deductible amount under the Insurance policy purchased to meet the terms of **Section 12** hereof.

e. At such time as the amount in the Trust exceeds five times the highest annual deductible for the preceding five years (the "**Maximum Trust Amount**"), any funds in excess of such Maximum Trust Amount will be paid to the Association.

f. Notwithstanding anything to the contrary herein, the City shall have no right to withdraw monies from the Trust (or if withdrawn shall be promptly replenished by the City) if the liability arises due to City's intentional acts, gross negligence or wilful misconduct.

g. The Trust amount will be invested by the City in any investment permitted under the Government Code at the time of such investment.

9. Notices. All notices, statements, or other documents which any party shall be required or desire to give to any other party hereunder must be in writing and shall be given by the party only in one of the following ways: (i) by facsimile, or (ii) by personal delivery, or (iii) by addressing it as indicated below, and by depositing it, registered or certified mail, postage prepaid, in the United States mail. If so delivered or mailed, each such notice, statement, or other document shall be conclusively deemed to have been given when personally delivered, or forty-eight (48) hours after the date of mailing (excluding Saturdays, Sundays, and federal holidays), as the case may be. The addresses for notices and other communications, until further notice, are:

CITY and DISTRICT:

City of Moreno Valley  
c/o City of Moreno Valley  
14177 Frederick Street  
Moreno Valley, California 92553  
Attn: Enterprise Services Manager  
Facsimile Number: (951) 413-3498

ASSOCIATION:

Centerpointe Business Park Property Owners Association  
c/o Ridge Property Services  
201 Covina Avenue, Suite 8  
Long Beach, CA 90803  
fax: (562) 856-3820  
Attn: Jim Bowers, Vice President  
Facsimile Number: (562) 856-3830

Ridge Property Services  
8430 W. Bryn Mawr Avenue, Suite 400  
Chicago, IL 60631  
Attn: General Counsel  
Facsimile Number: (773) 695-1251

10. Resolution of Certain Disputes. Any dispute between the City, District and the Association, which relates to this Agreement shall be settled between them by Judicial Reference as provided by California Law. Accordingly, any such dispute shall be heard by a referee

pursuant to the provisions of the California Code of Civil Procedure, §§638 - 645.1, inclusive, and in connection therewith;

a. The Parties to such dispute shall promptly and diligently cooperate with one another and the referee, and shall perform such acts as may be necessary to obtain a prompt and expeditious resolution of the dispute or controversy in accordance with the terms of this Agreement;

b. The Parties to such dispute shall agree upon a single referee who shall then try all issues, whether of fact or law, and report a finding and judgment thereon. If the Parties are unable to agree upon a referee within ten (10) days of a written request to do so by any party, then any party may seek to have a referee appointed pursuant to the California Code of Civil Procedure §§638 and 640;

c. Subject to the limitations of this Section, the referee shall have the right to award all legal or equitable relief appropriate under the circumstances of the controversy before him or her;

d. The cost of such proceeding shall be apportioned among the Parties to the dispute in accordance with California Code of Civil Procedure §645.1. In no event shall any such reference proceeding or any appeal therefrom result in an award of punitive damages, and all such damages are hereby waived.

11. Indemnity. The City shall indemnify, defend, protect and hold the Association as well as all other owners of property within the Project harmless from and against all claims, suits, losses, damages, costs, expenses and liabilities (including, without limitation, attorneys' fees and costs, and court costs) arising out of or incurred in connection with the City's Maintenance obligations, but not to the extent the loss arises from the Association's gross negligence or willful misconduct. The Association shall indemnify, defend, protect and hold the City, the District and the City of Moreno Valley Redevelopment Agency, and their respective officers, employees and agents harmless from and against all claims, suits, losses, damages, costs, expenses and liabilities (including, without limitation, attorneys' fees and costs, and court costs) arising out of or in connection with the Association's performance of its obligations hereunder, but not to the extent the loss arises from the City's gross negligence or willful misconduct.

12. Insurance. The Association shall cause all policies of bodily injury and property damage insurance from time to time be maintained by the Association covering operations arising out of or related to the subject matter of this Agreement to name the City, the District and the City Redevelopment Agency and their officers, employees and agents as additional insured and to provide for and protect the City, the District and the City Redevelopment Agency from incurring any legal costs in defending claims for alleged loss. The Association shall furnish or cause to be furnished to City and District duplicate originals or appropriate certificates of bodily injury and property damage insurance policies as follows:

General Liability

Bodily Injury

\$1,000,000 per occurrence

Property Damage                      \$1,000,000 per occurrence

a.        A combined single limit policy with aggregate limits not less than \$2,000,000 per occurrence shall be considered equivalent to the above minimum limits.

b.        The Association shall have public liability and property damage insurance coverage for owned and non-owned automotive equipment in the amount of not less than \$1,000,000.

c.        Association shall have Worker's Compensation Insurance in the amounts as will fully comply with the laws of the State of California.

d.        The Certificate of Insurance or an appropriate binder shall bear an endorsement containing the following provisions:

“Solely as respect to services done by or on behalf of the named insured for the City of Moreno Valley, it is agreed that the City of Moreno Valley, the Community Redevelopment Agency of the City of Moreno and the Moreno Valley Community Services District, its officers, employees and agents are included as additional insured under this general liability policy and the coverage(s) provided shall be primary insurance and not contributing with any other insurance available to the City of Moreno Valley, the Redevelopment Agency of the City of Moreno Valley and the Moreno Valley Community Services District, its officers and employees and agents, under any third party liability policy.

e.        Insurance companies providing insurance hereunder shall be rated (A-minus: VII - Admitted) or better in Best's Insurance Rating Guide and shall be legally licensed and qualified to conduct insurance business in the State of California

f.        The terms of the insurance policy or policies issued to provide the above insurance coverage shall not be amended to reduce the above required insurance limits and coverages or shall such policies be cancelled by the carrier without thirty (30) days prior written notice by certified or registered mail of amendment or cancellation to the Agency, except that cancellation for nonpayment of premium shall require ten (10) days prior written notice by certified or registered mail. In the event the said insurance is cancelled, the consultant shall, prior to the cancellation date, submit to the City Clerk new evidence of insurance in the amounts established.

g.        Notwithstanding anything to the contrary in this Agreement, the parties hereby agree that the City and the Association may enter into this Agreement and it shall become effective without the delivery of the insurance policy required by this **Section 12**, if the following occurs:

i. The Association delivers to the City, and the City, in its sole and absolute discretion, approves a pro forma copy of the insurance policy required by this **Section 12**;

ii. The Association delivers a written certificate or other written evidence satisfactory to the City (in its sole and absolute discretion), from an Insurance Carrier meeting the requirements of **Subsection 12(e)** above stating that such Insurance Company intends to issue an insurance policy substantially in the form of the pro forma policy delivered pursuant to **Subsection 12(g)(i)** above; and

iii. The Association delivers evidence satisfactory to the City (in its sole and absolute discretion), that the premium for the insurance policy required for 2005 in accordance with this **Section 12** has been paid in full, or the Association delivers to City a certified check in the amount of such premium made payable to said Insurer. City hereby agrees to mail or deliver said check to Insurer upon the written instruction of the Association. Such obligations include, but are not limited to, the obligation to establish the Trust Account described in **Section 8**.

h. If the definitive insurance policy meeting the terms of **Section 12** and corresponding to the pro forma policy is not issued within ninety (90) days from the Effective Date of this Agreement, then Association covenants and hereby agrees without defense or future objection that City may do the following without any liability whatsoever:

i. Cease issuing building permits for the Project; and

ii. Cease issuing or otherwise approving certificates of occupancy for any aspect of the Project regardless of the date the building permit was issued.

i. Association further acknowledges and agrees that notwithstanding **Subsection 12(g)** above, all of its other obligations under this Agreement will become effective and remain in full force and effect upon the execution and delivery of this Agreement and the delivery and acceptance by the City of the documents and material described in **Subsection 12(g)** above and/or the insurance policy.

The requirements for the insurance shall only terminate upon termination of this Agreement as specified in **Section 1** hereof.

13. Recordation. This Agreement and any amendment thereto shall be recorded within the records of the Office of the Recorder for the County of Riverside and shall constitute a covenant running with the land for all the parcels within the Project and shall be binding on the Association, all property owners, administrators, executors, assigns, heirs, and all other successors in interest.

14. Default and Remedies. In the event the Association fails to make the payments required under **Section 5** hereof, obtain the insurance required under **Section 12** hereof, or fails to take any other required action under this Agreement, the City may take whatever action at law or in equity that may appear necessary or desirable, including but not limited to an action for damages or for specific performance or otherwise to enforce performance and observance of any

obligation, condition or covenant of the Association under this Agreement. Notwithstanding anything else in this Agreement, if the Association fails to obtain the insurance required under **Section 12** hereof, the City may obtain such insurance insuring the City, and if available, the Association, and charge the Association for same. In addition, the City shall be entitled to all of its costs associated with enforcing the terms of this agreement, including, without limitation, attorneys' fees and costs, and court costs. In the event the City fails to take any required action under this Agreement or otherwise defaults under the terms hereof, the Association may take whatever action at law or in equity that may appear necessary or desirable, including but not limited to an action for damages or for specific performance or otherwise to enforce specific performance and observance of any obligation, condition or covenant of the City under this Agreement. Notwithstanding the foregoing, prior to either Party declaring a default hereunder (the "Declaring Party"), the Declaring Party shall provide written notice of such default to the other party (the "Defaulting Party") and the Defaulting Party shall have (a) ten (10) days after written notice in which to cure a monetary default; and (b) thirty (30) days after written notice in which to cure a non-monetary default (provided, if such non-monetary default is not susceptible of cure within thirty (30) days and the Defaulting Party is at all times proceeding diligently to effect the necessary cure, the cure period for such default shall be extended for such additional time as is reasonably necessary). To the extent a longer cure period is provided for elsewhere in this Agreement, the Defaulting Party shall be entitled to the benefit of such longer cure period.

15. Miscellaneous. As used in this Agreement, all words in the masculine, feminine, or neuter gender, and the plural or singular number, shall each be construed to include the others whenever the context so requires. This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties hereto. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Time is of the essence of this Agreement. No change in or addition to, or waiver or termination of this Agreement or any part thereof, shall be valid unless in writing and signed on behalf of each of the Parties hereto. Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or unenforceability shall not affect the validity of the remainder of this Agreement. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date set forth below.

CITY:

CITY OF MORENO VALLEY

By: Bonnie Flickinger  
Name: Bonnie Flickinger  
Title: Mayor

Effective Date: 5/20/06

ASSOCIATION:

CENTERPOINTE BUSINESS PARK  
PROPERTY OWNERS ASSOCIATION, a  
California nonprofit corporation

By: Dennis S. Rice  
Name: Dennis S. Rice  
Title: President  
Date: 5-16-06

By: James Bowers  
Name: James Bowers  
Title: Secretary  
Date: 5/16/06

ATTEST:

Alice Reed  
Alice Reed, City Clerk

APPROVED AS TO FORM:

Robert Herrick  
Robert Herrick, City Attorney

CFD No. 4:

CITY OF MORENO VALLEY

By: *Bonnie Flickinger*

Name: Bonnie Flickinger

Title: Mayor for the City of Moreno Valley  
Acting as the Legislative Body of  
Community Facilities District  
No. 4 -- Maintenance

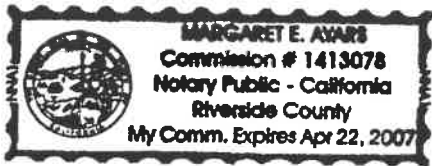
**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California  
County of Riverside } ss.

On 4/21/2006, before me, Margaret E. Ayars Notary Public,  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")  
personally appeared Bonnie F. Fickinger,  
Name of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Margaret E. Ayars  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer**

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_



**ALL-PURPOSE ACKNOWLEDGEMENT**

State of California

County of Los Angeles } SS.

On 5/16/06 before me, Carleen Kezeor  
(DATE) (NOTARY)

personally appeared Dennis S. Rice  
SIGNER(S)

personally known to me - OR -  proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Carleen Kezeor  
NOTARY'S SIGNATURE

**OPTIONAL INFORMATION**

The information below is not required by law. However, it could prevent fraudulent attachment of this acknowledgement to an unauthorized document.

**CAPACITY CLAIMED BY SIGNER (PRINCIPAL)**

- INDIVIDUAL
- CORPORATE OFFICER  
President  
TITLE(S)
- PARTNER(S)
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER. \_\_\_\_\_

**DESCRIPTION OF ATTACHED DOCUMENT**

maintenance Agreement by and among Centerpointe business Park Property Owners Association,  
TITLE OR TYPE OF DOCUMENT

Seventeen (17)  
NUMBER OF PAGES

5-16-06  
DATE OF DOCUMENT

OTHER \_\_\_\_\_

SIGNER IS REPRESENTING:  
NAME OF PERSON(S) OR ENTITY (IES)  
Centerpointe Business Park  
Property Owners Association

RIGHT THUMBPRINT  
OF  
SIGNER



**ALL-PURPOSE ACKNOWLEDGEMENT**

State of California

County of Los Angeles } SS

On 5-16-06 before me, Carleen Kezeor  
(DATE) (NOTARY)

personally appeared James Bowers  
SIGNER(S)

personally known to me - OR -  proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~is/are~~ subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(ies), and that by ~~his/her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Carleen Kezeor, notary Public  
NOTARY SIGNATURE

**OPTIONAL INFORMATION**

The information below is not required by law. However, it could prevent fraudulent attachment of this acknowledgement to an unauthorized document.

**CAPACITY CLAIMED BY SIGNER (PRINCIPAL)**

- INDIVIDUAL
- CORPORATE OFFICER  
Secretary TITLE(S)
- PARTNER(S)
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: \_\_\_\_\_

**DESCRIPTION OF ATTACHED DOCUMENT**

Maintenance Agreement by and among Centerpointe business park Property owners association,  
TITLE OR TYPE OF DOCUMENT

seventeen (17)  
NUMBER OF PAGES

5-16-06  
DATE OF DOCUMENT

OTHER \_\_\_\_\_

**SIGNER IS REPRESENTING:**  
NAME OF PERSON(S) OR ENTITY (ILS):  
Centerpointe Business Park  
Property owners Association

RIGHT THUMBPRINT  
OF  
SIGNER



**EXHIBIT "A"**  
**RIDGE PROPERTY**

**PARCEL 1/PORITION OF APN# 297-170-007:**

A PARCEL OF LAND IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA INCLUDED WITHIN LOT 6, BLOCK 242 OF MAP NO. 1, BEAR VALLEY AND ALESSANDRO DEVELOPMENT CO., AS SHOWN BY MAP ON FILE IN BOOK 11, PAGE 10 OF MAPS, RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA, WHICH LIES WITHIN THE FOLLOWING DESCRIBED BOUNDARIES:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 6; THENCE ALONG THE WESTERLY LINE OF SAID LOT 6 NORTH 00°25'46" EAST 660.16 FEET TO THE NORTHWEST CORNER OF SAID LOT 6; THENCE ALONG THE NORTHERLY LINE OF SAID LOT 6 SOUTH 89°34'17" EAST 300.21 FEET; THENCE SOUTH 00°27'30" WEST 660.17 FEET TO THE SOUTHERLY LINE OF SAID LOT 6; THENCE ALONG SAID SOUTHERLY LINE NORTH 89°34'09" WEST 299.87 FEET TO THE POINT OF BEGINNING.

EXCLUDING THAT PORTION LYING WITHIN BRODIAEA AVENUE.

**PARCEL 2/PORITION OF APN# 297-170-007:**

A PARCEL OF LAND IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA INCLUDED WITHIN LOT 6, BLOCK 242 OF MAP NO. 1, BEAR VALLEY AND ALESSANDRO DEVELOPMENT CO., AS SHOWN BY MAP ON FILE IN BOOK 11, PAGE 10 OF MAPS, RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA, WHICH LIES WITHIN THE FOLLOWING DESCRIBED BOUNDARIES:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 6; THENCE ALONG THE WESTERLY LINE OF SAID LOT 6 NORTH 00°25'46" EAST 660.16 FEET TO THE NORTHWEST CORNER OF SAID LOT 6; THENCE ALONG THE NORTHERLY LINE OF SAID LOT 6 SOUTH 89°34'17" EAST 300.21 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTHERLY LINE SOUTH 89°34'17" EAST 359.91 FEET TO THE NORTHEAST CORNER OF SAID LOT 6; THENCE ALONG THE EASTERLY LINE OF SAID LOT 6 SOUTH 00°25'48" WEST 660.18 FEET TO THE SOUTHEAST CORNER OF SAID LOT 6; THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 6 NORTH 89°34'09" WEST 360.24 FEET TO A LINE THAT BEARS SOUTH 00°27'30" WEST FROM THE POINT OF BEGINNING; THENCE ALONG SAID LINE NORTH 00°27'30" EAST 660.17 FEET TO THE POINT OF BEGINNING.

EXCLUDING THAT PORTION LYING WITHIN BRODIAEA AVENUE.

**EXHIBIT "A" (cont'd)**

**RIDGE PROPERTY**

**PARCEL 3/APN# 297-170-006:**

LOT 7, BLOCK 242 OF MAP NO. 1, BEAR VALLEY AND ALESSANDRO DEVELOPMENT CO., AS SHOWN BY MAP ON FILE IN BOOK 11, PAGE 10 OF MAPS, RECORDS OF SAN BERNARDINO COUNTY LOCATED IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA.

EXCLUDING THAT PORTION LYING WITHIN BRODIAEA AVENUE.

**PARCEL 4/APN# 297-170-013, 014, 030 & 031:**

LOTS 1, 2, 7 AND 8, BLOCK 259 OF MAP NO. 1, BEAR VALLEY AND ALESSANDRO DEVELOPMENT CO., AS SHOWN BY MAP ON FILE IN BOOK 11, PAGE 10 OF MAPS, RECORDS OF SAN BERNARDINO COUNTY LOCATED IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA.

EXCLUDING THOSE PORTIONS LYING WITHIN BRODIAEA AVENUE, GRAHAM STREET AND CACTUS AVENUE.

**PARCEL 5/APN# 297-170-033:**

LOT 4, BLOCK 260 OF MAP NO. 1, BEAR VALLEY AND ALESSANDRO DEVELOPMENT CO., AS SHOWN BY MAP ON FILE IN BOOK 11, PAGE 10 OF MAPS, RECORDS OF SAN BERNARDINO COUNTY LOCATED IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA.

EXCLUDING THOSE PORTIONS LYING WITHIN BRODIAEA AVENUE AND GRAHAM STREET.

**PARCEL 6/PORCTIONS OF APN# 297-170-023 & 025 and 297-190-005:**

A PARCEL OF LAND IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA INCLUDED WITHIN LOTS 2, 3, 6 AND 7, BLOCK 260 OF MAP NO. 1, BEAR VALLEY AND ALESSANDRO DEVELOPMENT CO., AS SHOWN BY MAP ON FILE IN BOOK 11, PAGE 10 OF MAPS, RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA, WHICH LIES WITHIN THE FOLLOWING DESCRIBED BOUNDARIES:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 3; THENCE ALONG THE NORTHERLY LINES OF SAID LOTS 2 AND 3 SOUTH 89°34'31" EAST 950.22 FEET TO A POINT THAT BEARS NORTH 89°34'31" WEST 369.97 FEET ALONG SAID NORTHERLY LINE OF LOT 2 FROM THE NORTHEAST CORNER OF SAID LOT 2; THENCE SOUTH 00°26'28" WEST 1,320.24 FEET TO THE CENTERLINE OF CACTUS AVENUE; THENCE ALONG SAID CENTERLINE NORTH 89°35'02" WEST 949.99 FEET TO THE WESTERLY LINE OF SAID LOT 6; THENCE ALONG SAID WESTERLY LINE AND THE WESTERLY LINE OF SAID LOT 3 NORTH 00°25'52" EAST 1,320.38 FEET TO THE POINT OF BEGINNING.

EXCLUDING THOSE PORTIONS LYING WITHIN BRODIAEA AVENUE AND CACTUS AVENUE.

**EXHIBIT "A" (cont'd)**

**RIDGE PROPERTY**

**PARCEL 7/PORCTIONS OF APN# 297-170-023 & 041:**

A PARCEL OF LAND IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA INCLUDED WITHIN LOTS 1, 2 AND 8, BLOCK 260 OF MAP NO. 1, BEAR VALLEY AND ALESSANDRO DEVELOPMENT CO., AS SHOWN BY MAP ON FILE IN BOOK 11, PAGE 10 OF MAPS, RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA, WHICH LIES WITHIN THE FOLLOWING DESCRIBED BOUNDARIES:

BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF SAID LOT 1 AND A LINE PARALLEL WITH AND 83.50 FEET WESTERLY, MEASURED AT RIGHT ANGLES FROM THE CENTERLINE OF HEACOCK STREET, SAID PARALLEL LINE ALSO BEING THE WESTERLY RIGHT OF WAY LINE OF HEACOCK CHANNEL; THENCE ALONG SAID PARALLEL LINE SOUTH 00°25'53" WEST 1,046.73 FEET; THENCE NORTH 35°07'47" WEST 501.39 FEET TO A LINE PARALLEL WITH AND 285.00 FEET EASTERLY, MEASURED AT RIGHT ANGLES FROM THE WESTERLY LINE OF SAID LOT 1; THENCE ALONG SAID PARALLEL LINE NORTH 00°25'53" EAST 85.97 FEET; THENCE NORTH 35°07'47" WEST 163.67 FEET; THENCE NORTH 89°33'32" WEST 61.47 FEET; THENCE NORTH 35°07'47" WEST 467.90 FEET TO A LINE PARALLEL WITH AND 39.00 FEET SOUTHERLY, MEASURED AT RIGHT ANGLES FROM THE NORTHERLY LINE OF SAID LOT 2; THENCE NORTH 00°25'29" EAST 39.00 FEET TO THE NORTERLY LINE OF SAID LOT 2; THENCE ALONG THE NORTHERLY LINES OF SAID LOTS 1 AND 2 SOUTH 89°34'31" EAST 720.37 FEET TO THE POINT OF BEGINNING.

EXCLUDING THAT PORTION LYING WITHIN BRODIAEA AVENUE.

**PARCEL 8/PORCTIONS OF APN# 297-170-023, 025 & 041:**

A PARCEL OF LAND IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA INCLUDED WITHIN LOTS 1, 2, 7 AND 8, BLOCK 260 OF MAP NO. 1, BEAR VALLEY AND ALESSANDRO DEVELOPMENT CO., AS SHOWN BY MAP ON FILE IN BOOK 11, PAGE 10 OF MAPS, RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA, WHICH LIES WITHIN THE FOLLOWING DESCRIBED BOUNDARIES:

COMMENCING AT A POINT ON THE NORTHERLY LINE OF SAID LOT 2, SAID POINT BEARS NORTH 89°34'31" WEST 369.97 FEET ALONG SAID NORTHERLY LINE OF LOT 2 FROM THE NORTHEAST CORNER OF SAID LOT 2; THENCE SOUTH 00°26'28" WEST 419.53 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89°33'32" EAST 559.85 FEET; THENCE SOUTH 35°07'47" EAST 163.67 FEET TO A LINE PARALLEL WITH AND 285.00 FEET EASTERLY, MEASURED AT RIGHT ANGLES FROM THE WESTERLY LINES OF SAID LOTS 1 AND 8; THENCE ALONG SAID PARALLEL LINE SOUTH 00°25'53" WEST 767.30 FEET TO THE CENTERLINE OF CACTUS AVENUE; THENCE ALONG SAID CENTERLINE NORTH 89°35'02" WEST 655.20 FEET TO A LINE THAT BEARS SOUTH 00°26'28" WEST FROM THE POINT OF BEGINNING; THENCE NORTH 00°26'28" EAST 900.71 FEET TO THE POINT OF BEGINNING.

EXCLUDING THAT PORTION LYING WITHIN CACTUS AVENUE.

**EXHIBIT "A" (cont'd)**

**RIDGE PROPERTY**

**PARCEL 9/PORCION OF APN# 297-170-020:**

PARCEL 2 OF LOT LINE ADJUSTMENT NO. 931 RECORDED JUNE 11, 2003 AS INSTRUMENT NO. 2003-425288 AND RE-RECORDED JANUARY 7, 2005 AS INSTRUMENT NO. 2005-19171 BOTH OF OFFICIAL RECORDS OF RIVERSIDE COUNTY LOCATED IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA.

EXCLUDING THAT PORTION LYING WITHIN BRODIAEA AVENUE.

**NOTE: THESE DESCRIPTIONS HAVE BEEN PREPARED FOR ASSESSMENT PURPOSES ONLY AND SHOULD NOT BE USED FOR CONVEYANCE OF TITLE.**

## Exhibit "B"

### Upstream Improvements

Detention Basins "A" and "B" located within Lots "A" and "B" shown on Tentative Parcel Map 32326 as approved by the City of Moreno Valley Planning Commission on July 14, 2005 together with appurtenant facilities located within Lots "A" and "B" to include but not be limited to the following;

- Inlet Structure(s),
- Outlet Structure(s),
- Outflow Storm Drain Pipe(s),
- Manholes,
- Junction Structure(s),
- Perimeter fencing,
- Access gates,
- Spillway(s),

all as shown on the storm drain improvement plans for Parcel Map 32326 as approved by the City Engineer.

## Exhibit "C"

### Maintenance of Upstream Improvements by the City

The purpose of the maintenance services program is to ensure the successful implementation for those Upstream Improvements identified in Exhibit "B", located within Ridge Property identified in Exhibit "A".

These maintenance guidelines are specifically tailored to provide flood protection within Ridge Property. City personnel with experience and knowledge in maintenance and operation of flood control facilities, including detention basins will supervise all maintenance personnel.

For a minimum period as established in the Improvement Agreement for Ridge Property following completion of the Upstream Improvements by Ridge, Ridge will be responsible for the operation and maintenance of the Upstream Improvements.

Fourteen days prior to the release of the Maintenance Bond required in the Improvement Agreement for Ridge Property and upon the submittal to the City of "As-Built" plans for the Upstream Improvements to be maintained under this Agreement, the City will evaluate the Upstream Improvements to determine whether they are fully operable. If judged satisfactory by the City, the Maintenance Bond shall be released and the City will notify Ridge pursuant to **Section 9** of this Agreement that the City shall commence operation and maintenance. At that time, the long-term maintenance program will begin, and the City will assume the maintenance services identified herein. Should the City determine the Upstream Improvements are not fully operable, City will not assume operation and maintenance services and will notify Ridge at the address set forth in **Section 9** of the Agreement of its decision.

(Intentionally Blank)

## Maintenance Services

In accordance with the following Upstream Improvement Maintenance Tasks and Schedule, the City will perform the below operation and maintenance services.

Upstream Improvement Maintenance Tasks and Schedule									
Task	Access Road	Detention Basin Side Slopes	Detention Basin Bottom	Detention Basin Inlets	Detention Basin Outlet or Overflow Control Structures	Catch Basin Inlets	Catch Basin Sumps	Storm Drain System	Schedule
Inspect for Sediment Accumulation			▪	▪	▪	▪	▪	▪	Annually
Remove Sediment Accumulation			▪	▪	▪	▪	▪	▪	Every 5-10 Years
Inspect for Debris (dead vegetation and Trash)	▪	▪	▪	▪	▪	▪	▪	▪	Early Spring, fall and after major storms
Clean Debris	▪	▪	▪	▪	▪	▪	▪	▪	As needed
Inspect for Erosion	▪	▪	▪	▪					Early Spring, fall and after major storms
Reestablish permanent vegetation		▪	▪						As needed
Remove dead vegetation				▪	▪				Annually—early spring
Spray Herbicide	▪			▪	▪				Annually—early spring
Apply pre-emergent	▪			▪	▪				Annually--fall
Replace stone rip-rap				▪	▪				Every 3-5 years as needed
Mowing		▪	▪						0-2 times annually
Inspect structural elements during wet weather and compare to as-built plans				▪	▪			▪	Annually
Make adjustments or replacements as determined by annual wet weather inspections			▪	▪	▪			▪	As needed

Keep records of all inspections and maintenance activities	▪	▪	▪	▪	▪	▪	▪	▪	Annually
Keep records of all costs for inspections, maintenance and repairs	▪	▪	▪	▪	▪	▪	▪	▪	Annually

City shall not perform or otherwise be responsible to implement any monitoring or mitigation compliance or certify to monitoring or mitigation compliance affecting the Upstream Improvements pursuant to, (i) any conservation covenant or easement, and (ii) any permits issued by the United States Army Corps of Engineers or other similar governmental regulatory agencies.

No other services by the City may be implied or inferred without amendment or modification to this Agreement.