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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
04/25/2008 02:48 PM
FEE \$46.00 Pgs: 17
DEP RT REC'D FOR FARMINGTON CITY C
ORP

WHEN RECORDED, MAIL TO:

Farmington City
Attn: City Manager
130 North Main
P.O. Box 160
Farmington, Utah 84025

Parcel Number(s): 08-331-0056, 08-331-0057, 08-331-0058, 08-331-0059, 08-331-0060

**FIRST AMENDMENT TO
CONSERVATION EASEMENT FOR FARMINGTON RANCHES EAST SUBDIVISION**

THIS FIRST AMENDMENT TO CONSERVATION EASEMENT FOR FARMINGTON RANCHES EAST SUBDIVISION (the "First Amendment") is made and entered into as of the 15th day of April, 2008, by and between **FARMINGTON CITY**, a Utah municipal corporation, hereinafter referred to as the "City," and **FARMINGTON RANCHES HOMEOWNERS ASSOCIATION**, a Utah non-profit corporation, hereinafter referred to as "Homeowners Association."

RECITALS:

A. The City and Boyer Wheeler Farm, LC, a Utah limited liability company, as the original grantor, entered into that certain Conservation Easement dated May 3, 2004, and recorded at the Davis County Recorder's Office on June 25, 2004, as Entry No. 1997593, Book No. 3569, Pages 600-615 ("Conservation Easement"), preserving and protecting various parcels of property within the Farmington Ranches East Subdivision; and

B. The underlying property subject to the Conservation Easement is more particularly described in **Exhibit 1**, attached hereto and incorporated herein by this reference ("Property"); and

C. The Property subject to the Conservation Easement was transferred and conveyed to the Homeowners Association by Quitclaim Deed dated April 25, 2005, as recorded in the Davis County Recorder's Office on April 26, 2005, as Entry No. 2068759, Book No. 3775, Page

963, and the Homeowners Association is the current legal property owner of record of the Property; and

D. The Homeowners Association desires to amend Section 6 of the Conservation Easement regarding conditional uses, Exhibit "B" regarding the Use Map designating and more particularly describing the permitted and conditional uses of the Property, and Exhibit "C" regarding the Maintenance Plan for the preservation, protection and maintenance of the Property; and

E. The City has reviewed the proposed amendments to the Conservation Easement in accordance with the City's Conservation Easement Amendment Policy ("Amendment Policy") and has held a public hearing, including required notice of the same, in accordance with the Amendment Policy; and

F. The City has determined, in accordance with the Amendment Policy that the amendments are legally permissible, consistent with the purposes and intent of the Conservation Easement, and are warranted under the circumstances as more particularly set forth herein, and the City is willing to amend the Conservation Easement subject to and in accordance with the terms and conditions of this First Amendment.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Homeowners Association agree as follows:

1. **Purpose.** The stated purpose of the Conservation Easement is to assure that the Property will be retained forever in its natural, scenic, agricultural and/or open space condition and to prevent any use of the Property that will significantly impair or interfere with the conservation values of the Property. The stated conservation values of the Conservation Easement are: unique, sensitive, natural, ecological, educational, scientific, scenic, aesthetic, wildlife, farmlands, water resources, wetlands, riparian communities, floodplains and open space. Among other permitted and conditional uses of the Property, the following uses may be permitted on the Property as a conditional use, subject to obtaining a conditional use permit from Farmington City for such use in accordance with applicable City Ordinances: (1) non-commercial and non-motorized recreational use of the Property, such as trails, bikeways, playing fields and playgrounds, in designated areas as delineated on the Use Map; and (2) community open space uses, such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses, in designated areas as delineated on the Use Map.

2. **Amendment Policy and Procedures.** In compliance with the Amendment Policy, it is the City's intent and desire to uphold the terms and conditions of conservation easements it holds and to preserve and protect the conservation values of all property so encumbered. The City also recognizes the need to provide for amendments to such easements in limited circumstances as necessary. Pursuant to the terms and conditions of the Amendment Policy, the City Council held a public hearing on the proposed amendments providing the

applicant, the public and any interested party the opportunity to comment on the proposed amendments. The City provided fourteen (14) days advance notice of such hearing by publishing notice thereof in the Davis County Clipper, a daily newspaper of general circulation within the City.

3. Findings. The amendments to the Conservation Easement provided for herein clarify that lawn and manicured landscaping are included as a conditional use as part of village greens and community open space uses, designate the permitted areas for such uses on the Use Map, and provide updates to the Maintenance Plan for the Conservation Easement Property. Pursuant to provisions and requirements of the Amendment Policy, the City Council hereby finds that such amendments to the Conservation Easement are minor or incidental changes which are not inconsistent with the conservation values or purposes of the Conservation Easement and/or provide clarification to aid in the interpretation of the document. The City Council further finds that the amendments are consistent with the overall purpose of the Conservation Easement and will not be detrimental to or compromise the protection of the stated conservation values of the Property; the amendments are substantially equivalent to or enhance the conservation values of the Property; the amendments are consistent with the City's goals for conservation of land under the Farmington City Conservation Subdivision Ordinance and will not undermine the City's obligation to preserve and enforce other conservation easements it has accepted; the amendments are the minimum change necessary to achieve the desired and acceptable purpose; the amendments are clearly warranted and in the best interest of the public and the subject Property; the granting of the amendments will not set an unfavorable precedent for future amendment requests; the amendments do not adversely affect the City's qualification as a holder of conservation easements or any claimed deduction for donation of the conservation easement; and the amendment does not provide a private benefit for the landowner or any private party or parties.

4. Amendment to Conditional Uses. Section 6(b)(ii) of the Conservation Easement regarding conditional uses is hereby amended read in its entirety as follows clarifying that lawn and manicured landscaping is included as a conditional use as part of village greens and community open space uses:

(ii) Community open space uses and facilities, such as village greens, lawn, manicured landscaping, commons, picnic areas and facilities, bowery, pavilions, community gardens, trails, and similar low-impact passive recreational uses, excluding motorized vehicles, firearm shooting ranges and commercial uses, in designated areas only as delineated on Exhibit "B."

5. Amendment to Exhibit "B". Exhibit "B" of the Conservation Easement regarding the Use Map for the Property is hereby amended to read in its entirety as set forth in Exhibit 2, attached hereto and incorporated herein by this reference.

6. **Amendment to Exhibit "C"**. Exhibit "C" of the Conservation Easement regarding the Maintenance Plan for the Property is hereby amended to read in its entirety as set forth in **Exhibit 3**, attached hereto and incorporated herein by this reference.

7. **Full Force and Effect**. The terms of this First Amendment are hereby incorporated as part of the Conservation Easement. All other terms and conditions of the Conservation Easement not modified by this First Amendment shall remain the same and are hereby ratified and affirmed. To the extent the terms of this First Amendment modify or conflict with any provisions of the Conservation Easement, the terms of this First Amendment shall control.

8. **Binding Effect**. This First Amendment shall inure to the benefit of and be binding upon the parties hereto and their respective officers, employees, representatives, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment by and through their respective, duly authorized representatives as of the day and year first above written.

"CITY"

FARMINGTON CITY

ATTEST:

Margy Lomax
Margy Lomax, City Recorder

By: Scott C. Harbertson
Mayor Scott C. Harbertson



"HOMEOWNERS ASSOCIATION"

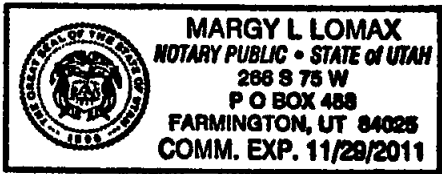
**FARMINGTON RANCHES
HOMEOWNERS ASSOCIATION**

By: Anderson Spalding
Its: President

CITY ACKNOWLEDGMENT

STATE OF UTAH)
 :SS.
COUNTY OF DAVIS)

On the 15th day of April, 2008, personally appeared before me **SCOTT C. HARBERTSON**, who being duly sworn, did say that he is the Mayor of **FARMINGTON CITY**, a municipal corporation of the State of Utah, and that the foregoing instrument was signed in behalf of the City by authority of its governing body and said Scott C. Harbertson acknowledged to me that the City executed the same.

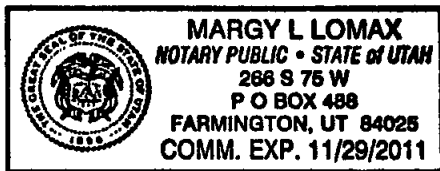


Margy L. Lomax
Notary Public

HOMEOWNER ASSOCIATION ACKNOWLEDGMENT

STATE OF Utah)
 :SS.
COUNTY OF Davis)

On the 24th day of April, 2008, personally appeared before me Gordon Crabtree who being by me duly sworn did say that ~~(s)~~he is the President of the **FARMINGTON RANCHES HOMEOWNERS ASSOCIATION**, a Utah non-profit corporation, and that the foregoing instrument was signed in behalf of said corporation by authority of a resolution of its Board of Directors; and they acknowledged to me that said corporation executed the same.



Margy L. Lomax
Notary Public

EXHIBIT 1
to First Amendment to Conservation Easement
for Farmington Ranches East Subdivision

Legal Description of Conservation Easement Property

FARMINGTON RANCHES EAST SUBDIVISION

A TRACT OF LAND SITUATED IN THE NORTH ½ OF SECTION 23, TOWNSHIP 3 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF PARCELS A, B, C, D, AND E OF THE FARMINGTON RANCHES EAST SUBDIVISION SHOWN IN THE OFFICIAL PLAT THEREOF, RECORDED IN THE OFFICE OF THE DAVIS COUNTY RECORDER.

EXHIBIT 2
to First Amendment to Conservation Easement
for Farmington Ranches East Subdivision

Revised Use Map as Exhibit "B" to the Conservation Easement

**Revised Exhibit "B"
to the Conservation Easement for
Farmington Ranches East Subdivision**

**FARMINGTON RANCHES EAST
USE MAP**

The following Notes are provided regarding the specified use of Property within the Conservation Easement for Farmington Ranches East Subdivision, as indicated and designated on the attached Use Maps for the subject area.

Note 1:

Allow 0-8' of lawn or manicured landscaping with an approved Conditional Use Permit in areas adjacent to the public sidewalks, exclusive of wetlands areas, and everything else to be natural vegetation; provided: (1) a barrier acceptable to the City is provided between the natural vegetation areas and the manicured lawn areas; and (2) some type of boundary line designation acceptable to the City is provided to delineate the Conservation Easement Area from adjacent private property.

Note 2:

Allow lawn or manicured landscaping with an approved Conditional Use Permit in this area; provided, some type of boundary line designation acceptable to the City is provided to delineate the Conservation Easement Area from adjacent property. A trail may be allowed as a Conditional Use in this area; provided, the location and materials for the trail shall be approved by the City in conjunction with Conditional Use Permit review and approval.

Note 3:

Vegetation to be left in its natural state and maintained in accordance with terms and conditions of the Conservation Easement and Maintenance Plan.

Note 4:

Wetlands shall be left in natural state and maintained in accordance with and subject to the rules and regulation of the U.S. Army Corps of Engineers and in accordance with terms and conditions of the Conservation Easement and Maintenance Plan.

Note 5:

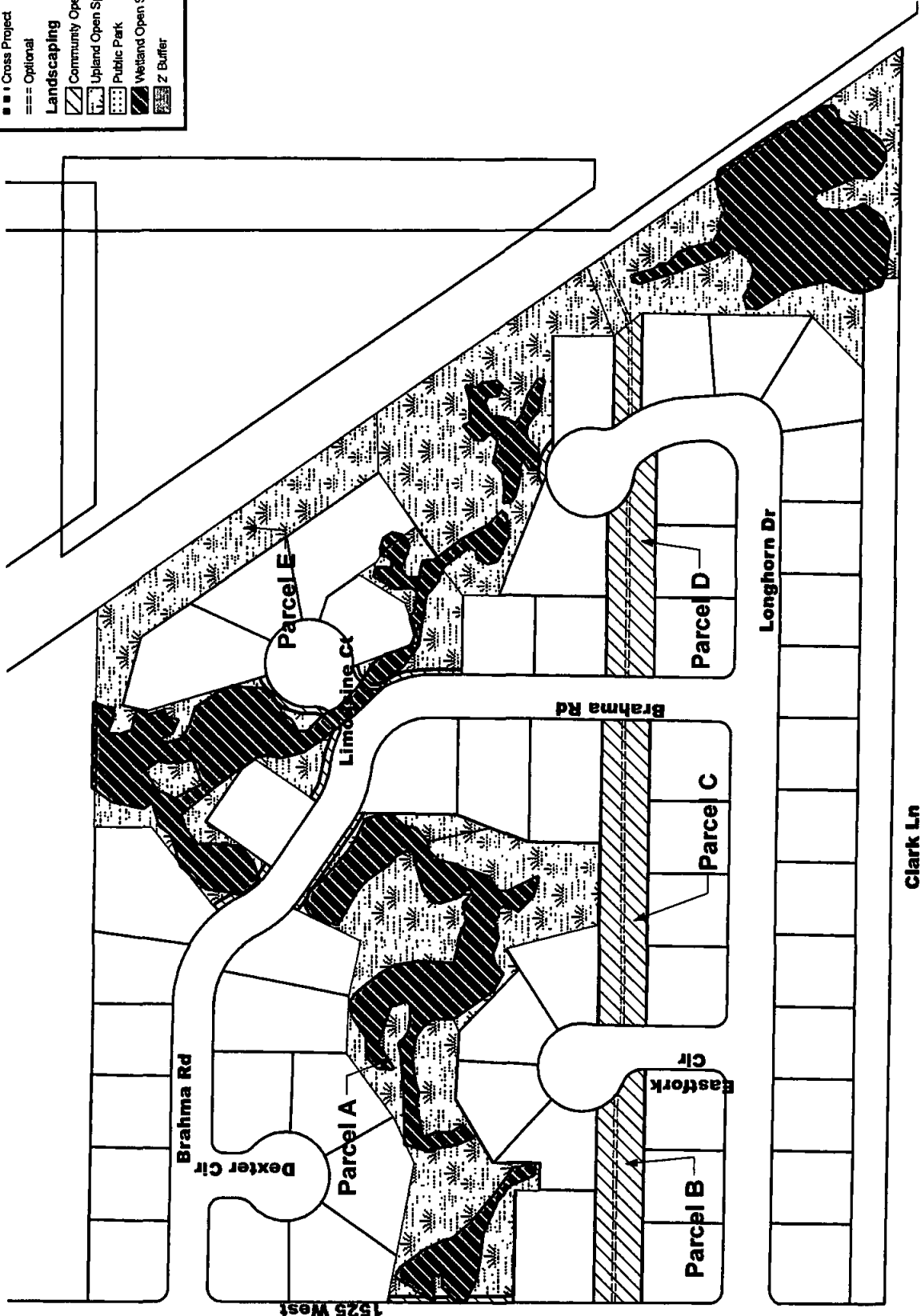
Allow lawn or manicured landscaping with an approved Conditional Use Permit in this area; provided, some type of boundary line designation acceptable to the City is provided to delineate the Conservation Easement Area from adjacent property. D&RG access trail across from parcel D to be restored.



Farmington Ranches East Use Map

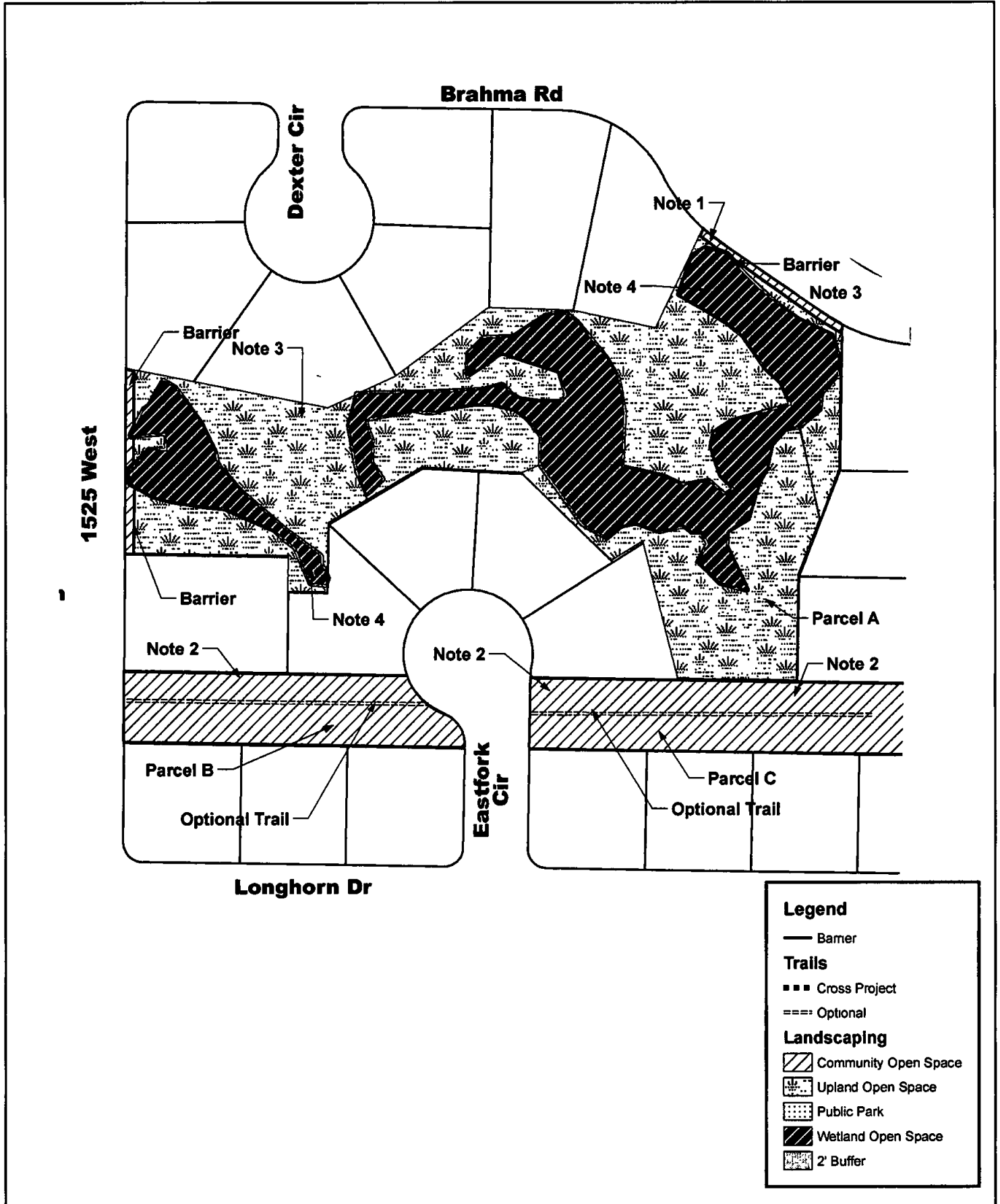
Legend

- Barrier
- Trails
- ■ ■ Cross Project
- === Optional
- Landscaping**
- ▨ Community Open Space
- ▧ Upland Open Space
- ▩ Public Park
- ▦ Wetland Open Space
- ▤ 2' Buffer



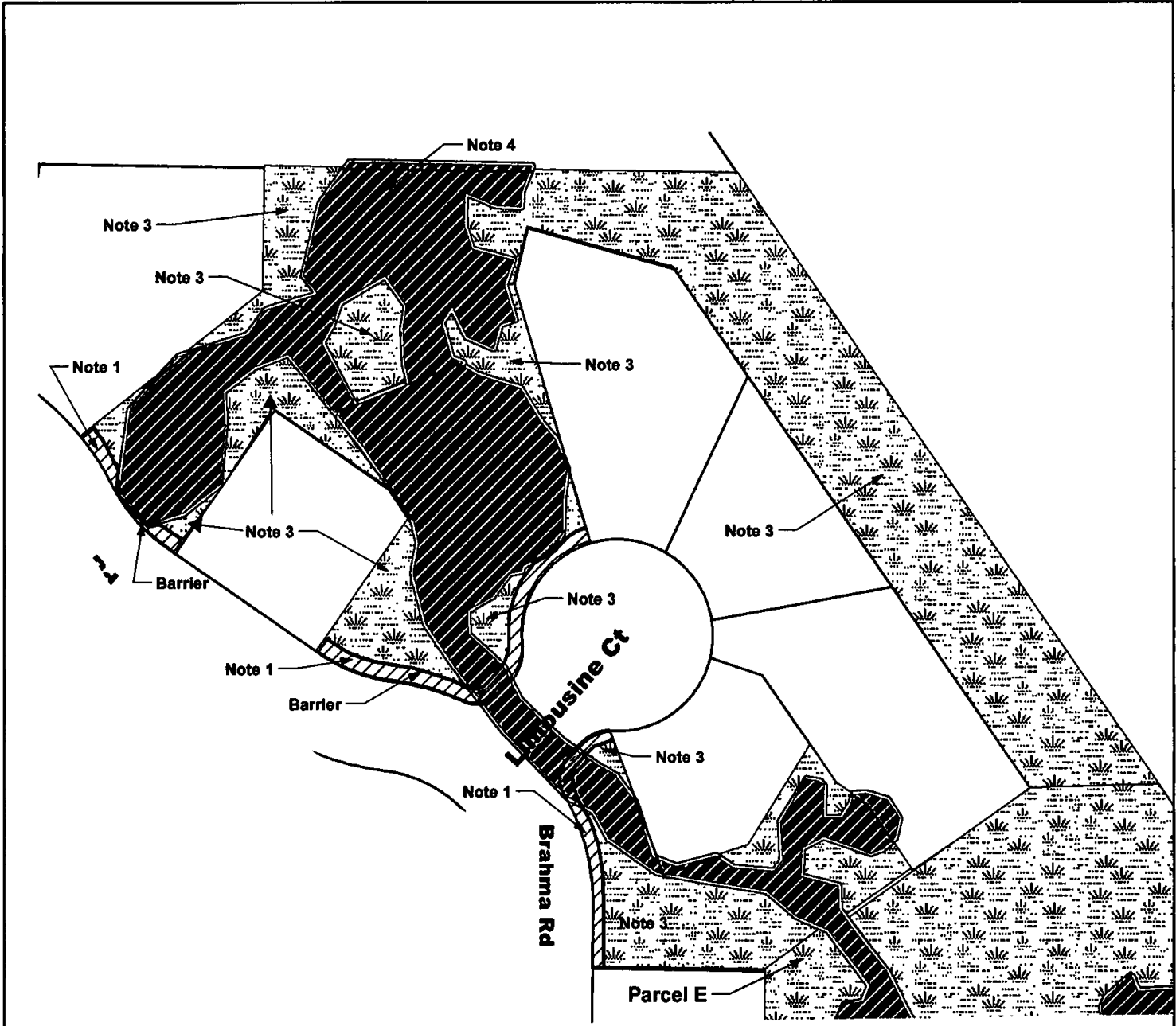


Farmington Ranches East Use Map Parcels A, B and C





Farmington Ranches East Use Map Parcel E (North)

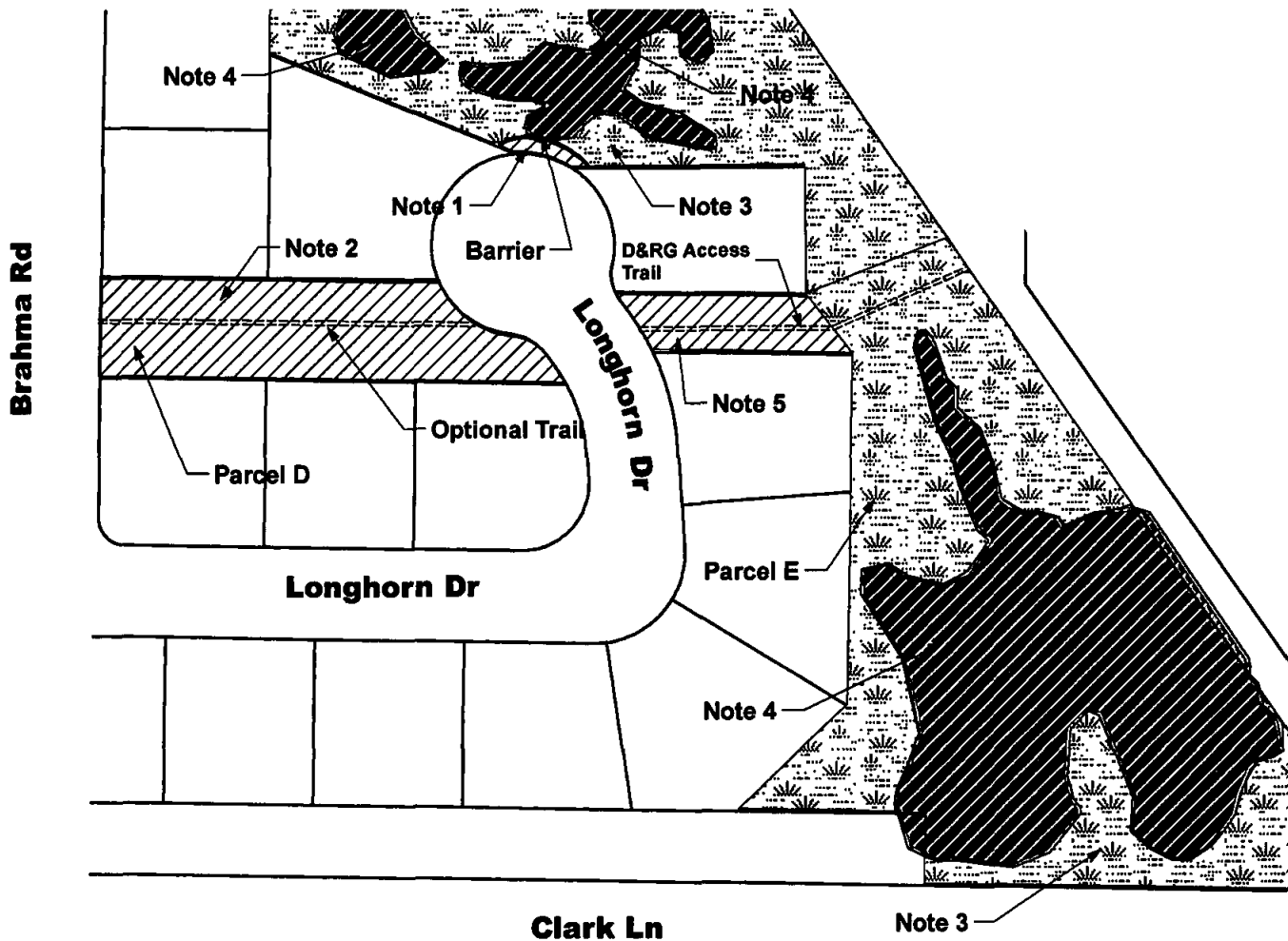


Legend

- Barrier
- Trails**
- ■ ■ Cross Project
- ==== Optional
- Landscaping**
- ▨ Community Open Space
- ░ Upland Open Space
- ▤ Public Park
- ▩ Wetland Open Space
- ⊞ 2' Buffer



Farmington Ranches East Use Map Parcel E (South) and D



Legend

- Barrier
- Trails**
- ■ ■ Cross Project
- ==== Optional
- Landscaping**
- ▨ Community Open Space
- 🌳 Upland Open Space
- 🌳 Public Park
- 🌳 Wetland Open Space
- 🌳 2' Buffer



EXHIBIT 3
to First Amendment to Conservation Easement
for Farmington Ranches East Subdivision

Revised Maintenance Plan as Exhibit "C" to the Conservation Easement

**Revised Exhibit "C"
to the Conservation Easement for
Farmington Ranches East Subdivision**

MAINTENANCE PLAN

SECTION 1- PURPOSE

The purpose of this Maintenance Plan is to supplement the development criteria for the development of Farmington Ranches East Subdivision as contained in the Farmington City Zoning Ordinances for Conservation Subdivisions, the Development Agreement, the Conservation Easement, and the Covenants, Conditions and Restrictions applicable to the subdivision in order to fix maintenance responsibility and provide additional maintenance guidelines, where necessary for property located within the Conservation Easement Area. The Maintenance Plan is intended to provide guidelines and fix responsibility for areas within Farmington Ranches East Subdivision that are designated as Conservation Land on the plat of said subdivision and covered by the Conservation Easement recorded against the subject property.

SECTION 2- PROPERTY

The Conservation Land subject to this Maintenance Plan is located in the Farmington Ranches East Subdivision, consisting of approximately 27.86 acres of that certain real property within Farmington City, Davis County, State of Utah, on the official plat map of the Farmington Ranches East Subdivision, located in Township 3 North, Range 1 West, Salt Lake Base and Meridian, Farmington City, Davis County, State of Utah, as more particularly described in **Exhibit "A"** of the Conservation Easement for Farmington Ranches East Subdivision, as amended, and incorporated herein by this reference.

SECTION 3- MAINTENANCE AREAS

"Maintenance Areas" are identified with notes on the Use Maps contained in **Exhibit "B"** of the Conservation Easement for the Farmington Ranches East Subdivision, as amended. The areas fit into the following general categories:

- a. Community Open Space such as village greens, commons, lawn, manicured landscaping, picnic areas, community gardens, trails, and similar low-impact passive recreational uses.
- b. Upland Open Space Property
- c. Wetland Open Space Property
- d. Trails

SECTION 4- OWNERSHIP OF CONSERVATION LAND

The ownership of the "Maintenance Areas" shall be as follows:

- a. **Community Open Space:** The Farmington Ranches Homeowners Association or its authorized successors or assigns, subject to the Conservation Easement.
- b. **Upland Open Space:** The Farmington Ranches Homeowners Association or its authorized successors or assigns, subject to the Conservation Easement.
- c. **Wetland Open Space:** The Farmington Ranches Homeowners Association or its authorized successors or assigns, subject to the Conservation Easement.
- d. **Trails:** The Farmington Ranches Homeowners Association or its authorized successors or assigns, subject to the Conservation Easement.

SECTION 5- MAINTENANCE GUIDELINES AND RESPONSIBILITIES

Community Open Space: Landscaping and irrigation systems shall be installed and maintained by the property owner in accordance with the landscape plan approved as part of the Conditional Use Permit approval process. Community open space uses and facilities may consist of village greens, lawns, manicured landscaping, commons, picnic areas and facilities, bowery, pavilions, community gardens, trails and similar low-impact community uses, excluding motorized vehicles, firearms shooting ranges and commercial uses, in the areas designated on the Use Maps.

In areas where community open space landscaping is adjacent to upland or wetland open space, it shall be separated by a barrier that prevents the manicured landscaping from encroaching on the natural vegetation. This barrier will consist of a six inch by six inch concrete mow strip or similar barrier that will provide equivalent separation, as approved in the conditional use permit process.

Where community open space landscaping is adjacent to wetland open space, there will be a minimum two foot natural vegetation buffer between the barrier and the designated wetland boundary.

All community open space shall have automatic irrigation systems installed, where applicable. These spaces shall be maintained, groomed and manicured by the property owner on a regular schedule sufficient to keep them in an attractive and clean condition.

Upland Open Space: The owner of the property shall maintain the upland open space. Any disturbance of land shall be re-vegetated in natural vegetation. Cutting of vegetation will be allowed only as necessary for fire protection, thinning, elimination of diseased growth, control of non-native species and similar protective measures.

Periodic spraying to control non-native species is allowed.

The areas shall be kept in natural vegetation and shall be cleaned by the property owner at periodic intervals sufficient to keep the areas in a clean and natural appearance, free of debris and trash.

Wetland Open Spaces: Wetlands shall be maintained in accordance with the rules and regulations of the U.S. Army Corps of Engineers.

Trails: Trails shall be maintained by the owner.

SECTION 6- FUNDING MEANS FOR MAINTENANCE AND OPERATIONS

Estimates regarding staffing needs, insurance requirements, and associated costs for applicable maintenance areas shall be provided by the respective responsible party prior to conditional use permit approval. Sufficient funding may be required regarding such obligations in accordance with Farmington City Ordinances.

Community Open Space: All members of the Farmington Ranches Homeowners Association shall be assessed annual assessments, special assessments, and maintenance charges pursuant to the protective covenants, conditions and restrictions recorded with this phase of the Farmington Ranches development necessary to operate and maintain community open space areas in an attractive and clean condition consistent with the landscape plan approved with each conditional use permit.

Upland and Wetland Open Space: The Farmington Ranches Homeowners Association, or its assignee, shall fund any long-term capital improvements as well as regular yearly operating and maintenance costs associated with the upland and wetland open space.

Trails: The Farmington Ranches Homeowners Association shall provide funding to re-establish the DR&G access trail and to construct any other trails in the conservation easement.

SECTION 7- MODIFICATION

Any changes to this Maintenance Plan must be in writing and approved by the City. Any such amendments shall be considered an amendment of the Conservation Easement and shall comply with easement amendment procedures adopted by the City.

SECTION 8- CORRECTIVE ACTION

The City may enter the premises and take corrective action, including extended maintenance. The costs of such corrective action may be charged to the property owner, condominium association, or homeowners association and may include administrative costs and penalties. Such costs shall become a lien on said properties. Notice of such lien shall be filed by the City in the County Recorder's Office. Documents creating or

establishing any association or conservation organization shall reference the City's corrective action authority.

SECTION 9- PROHIBITED ENCROACHMENTS

No encroachment by any structure, improvement or disturbance to the land shall be permitted into designated wetlands unless specifically authorized by the U.S. Army Corps of Engineers. No encroachment by any structure, improvement or disturbance to the land shall be permitted into Conservation Lands by private parties or adjacent landowners. Uses of the Conservation Land shall be strictly limited to those conditional and permitted uses set forth in the Conservation Easement and as shown on the applicable Use Maps.