

EXHIBIT 1



CITY OF EAGLE EXHIBIT NO. 1

CITY OF EAGLE, IDAHO



REASONABLY ANTICIPATED FUTURE NEEDS WATER RIGHTS ANALYSIS

Approved October 13, 2011

A handwritten signature in black ink that reads "James D. Reynolds".

James Reynolds, Mayor

A handwritten signature in black ink that reads "Michael Echeita".

Michael Echeita, Public Works Director

Executive Summary

The City of Eagle's Comprehensive Plan and other planning data reflects the City's planning information and efforts pursuant to the Local Land Use Planning Act and is the basis for determining the City's population during the planning period. For its water needs assessment, the City selected a planning area consistent with its Comprehensive Plan and a planning horizon of 30 years. The City's professional planning and engineering staff, in conjunction with the City's Public Works Department, used the planning data from the Comprehensive Plan to determine future water needs for the City in 2041 taking into account the goals of the City, the City's existing water rights, the Development Agreement between M3 Eagle and the City, and the geographic limitations on use of Application for Permit No. 63-32573.

Based on its Comprehensive Plan and other factors, the City determined its population in 2041 will be 65,322 citizens. Based on the Development Agreement with M3 and anticipating Permit No. 63-32573 will be issued for its full amount, water for 47,867 citizens will be needed. The population of 47,867 will require 32.15 cfs of water. Since the City has an assumed existing portfolio of 5.58 cfs of Municipal rights, the City will require an additional 26.57 cfs of Municipal water rights.

Introduction

This analysis of Reasonably Anticipated Future Need water rights is for the City of Eagle as a whole and encompasses the areas covered by the City's Comprehensive Plan. This includes the M3 Eagle project because the M3 Eagle project lands have been annexed into the City. However, because M3 Eagle limited Application for Permit No. 63-32573 such that the water can only be used within the M3 project area, the City has taken this special limitation into consideration in analyzing its demand for future water needs. Nevertheless, as directed by IDWR, this analysis is for the City as a whole and does not provide for separating the M3 Eagle project water needs from those for the entire City.

This analysis of water demands through 2041 for the City of Eagle (City) was prepared pursuant to the Local Land Use Planning Act I.C. § 67-6508 and I.C. § 42-202(B). This document meets two objectives: (1) it establishes the reasonably anticipated future water needs for the City of Eagle through 2041 and (2) it helps the Idaho Department of Water Resources (IDWR) and M3 Eagle LLC (M3 Eagle) implement a Settlement Agreement entered into by the two parties on January 11, 2011.

Development of the water system in the City of Eagle has been a focal point since 2002 when the City refined its process of requiring new subdivisions within its water service planning area to connect to the City's water system. Since that time, public works utility planning has become an integral part of the comprehensive land use planning process of the City.

The City has adopted a planning area as identified in its Comprehensive Plan that includes its Area of Impact. The City of Eagle, through its Public Works Department, intends to be the water service provider for development in this area. The City recognizes that, depending

on valley-wide economic factors, growth into undeveloped areas within this boundary may take 50 years or more to occur. As described herein, the City's selected window for water utility planning for the planning area in this analysis is 30 years, covering the period from 2011 to 2041.

This analysis of water demands for the City's Reasonably Anticipated Future Needs (RAFN) complies with Idaho statutory provisions that allow municipal water providers to plan for the future. It is also responsive to the Settlement Agreement between the IDWR and M3 Eagle, LLC dated January 19, 2011. Although the City's Comprehensive Plan covers planning through 2054, the City was requested by M3 Eagle to use a thirty (30) year planning horizon in order to facilitate the Settlement Agreement.

As further explained below, to serve a population of 47,867 for the Comprehensive Plan area, the City requires a diversion rate of 32.15 cubic feet per second (cfs) from groundwater sources to meet peak hour demands. The City currently has a water right portfolio for 5.58 cfs. Efforts by the City to obtain additional water rights since 2005 have been thwarted by a variety of factors including protests of the City's applications. Application for Permit No. 63-32573, which is the subject of the M3/IDWR Settlement Agreement and has been assigned to the City, seeks a maximum daily diversion rate of 23.18 cfs for the M3 project area. Assuming Application for Permit No. 63-32573 is approved for 23.18 cfs and the existing municipal rights for 5.58 cfs, the City will need an additional 26.57 cfs to meet the needs of its citizens and achieve City objectives for its growth through 2041.

City Water System Planning

In 2002, the City of Eagle developed the first master planning and budget document for its water system. It focused on the Lexington Hills and Brookwood area of the City. The City Engineer prepared a comprehensive Amended Master Plan for water in 2005, which identified improvements to the water system throughout the City's 2005 water service planning area. The Master Plan was amended and updated in 2008 as additional City wells were completed. The Idaho Department of Environmental Quality approved design and operation of the wells and water lines. Copies of the 2008 Amended Master Water Plan are on file with both the Idaho Department of Environmental Quality (IDEQ) and the Idaho Department of Water Resources and are adopted as part of this analysis. Eagle's Master Water Plan is a transitional document and periodic updates are done when necessary.

City Comprehensive Land Use Planning

A City's Comprehensive Plan is the fundamental planning document for the City. Under Idaho's Local Land Use Planning Act ("LLUPA"), I. C. § 67-6508, every city is required "to conduct a comprehensive planning process designed to prepare, implement, and review and update a comprehensive plan . . . [that] shall consider previous and existing conditions, trends, desirable goals and objectives, or desirable future situations for each [of fifteen] planning component[s]", which include:

- Analysis of past, present, and future trends in population;
- Analysis of public school capacity;
- Analysis of the economic base of the area;
- Analysis of the suitability of lands for recreation, housing, commerce, industry, and public facilities;
- Analysis of natural resources;
- Analysis of hazardous areas;
- Analysis showing general plans for public services, facilities, and utilities;
- Analysis showing the general system of major traffic thoroughfares and other related transportation facilities;
- Analysis showing a system of recreation areas;
- Analysis of areas of special historical, archeological, architectural, ecological, wildlife, or scenic significance;
- Analysis of housing conditions and needs; and
- Analysis of needs for governing landscaping, building design, tree planting, signs, and suggested patterns and standards for community design, development, and beautification.

Eagle’s Comprehensive Plan and The North Eagle Foothills Planning Area

In 2004, the City of Eagle adopted its Comprehensive Plan. The Comprehensive Plan addressed City planning areas south of Homer Road and unincorporated land in the City’s western Area of Impact. The Comprehensive Plan has been updated as is appropriate.

Later, the City turned its attention toward urban-style development occurring in unincorporated areas of Ada County, especially foothills areas. The City determined the foothills north of the City was a unique area likely to become part of the City and began to focus on how development of this area might relate to, and affect, the City, the City’s infrastructure, and the City’s overall planning goals. The City determined it was in the best interest of the public to review development opportunities and constraints, and develop population estimates and other planning data for the entire foothills area north of Eagle through the statutorily-prescribed comprehensive planning process under the LLUPA.

As part of its planning, the City undertook an extensive process to compile and adopt the “North Eagle Foothills Plan” as a special component of its existing Comprehensive Plan. The “North Eagle Foothills Planning Area” (referred to in the Comprehensive Plan as a “land use sub-area”) generally covers the area between Beacon Light Road on the south and the Gem County line on the north and between State Highway 55 on the East and State Highway 16 on the West. The North Eagle Planning Area Foothills includes the M3 Eagle project and other areas.

The comprehensive planning process under the LLUPA requires the City to: provide for citizen meetings, hearings, surveys, or other methods to obtain advice on the planning process. A City may also conduct informational meetings and consult with public officials, agencies, public utility companies, and civic, educational, professional, or other organizations.¹

¹ Idaho Code § 67-6507.

To meet the LLUPA's requirements for the North Eagle Foothills Plan, the City engaged over 500 participants through a series of weekly work groups that discussed population and planning data for the Foothills sub-area, including planning data on: water; foothills transportation, habitat and open space, infrastructure and facilities, activity centers, and landscape and design review associated with development of the Foothills. The resulting plan for the Foothills sub-area is "based upon the work of those individuals who were committed to finding workable solutions and long-term development options for the Foothills."²

The North Eagle Foothills Plan is referred to in planning parlance as a detailed "specific area plan". A specific area plan provides greater specificity and guidance from the City to landowners in the Foothills. To develop this specific area plan, the City obtained substantial input and advice from a number of individuals and experts. Because the M3 Eagle project was included in this planning area, the City's professional planning staff, engineers and consultants reviewed the population and planning data developed for the M3 Eagle portion of the Foothills planning area as part of the process for annexing the M3 Eagle land into the City.

City Population Estimates

Future population levels comprise an important component of the City's planning efforts pursuant to the LLUPA. The City's Comprehensive Plan and other data helps the City staff make a reasoned calculation of the City's population in the future. The City's Comprehensive Plan adopted a planning growth rate of 4%.

As part of this analysis, the Eagle Planning Department used the adopted Comprehensive Plan growth rate and re-evaluated it in light of recent population and growth rate estimates and historical growth rate data for the City. The City considered regional population and growth estimates to help refine the City's population estimate based on its Comprehensive Plan. The considered information was extensive. Data from eight predictive models including COMPASS for Eagle, Boise, Kuna and the Treasure Valley was considered. In addition, the City used data from Moody's Analytics 2011-2014, the State of Idaho 2011-2014, the Idaho Economic Annual (Boise MSA) 2010-2020, and the Idaho Economic Annual (Boise MSA) 2010-2040. The objective of the re-evaluation process was to consider the Comprehensive Plan growth rate in light of current data in order to develop a population estimate specific for the City of Eagle. The conclusion of the City's evaluation was that the Comprehensive Plan growth rate, which had originally considered factors such as economic indicators and rates of growth over the years, was still appropriate for City planning efforts during the planning period of the Comprehensive Plan as well as this analysis. The population figure determined by the City is specifically for the City of Eagle and reflects the City's expertise and authority in determining population levels pursuant to the LLUPA. This resulting population estimate was used by the City to calculate future water demands for the City as explained below.

According to the 2010 U.S. Census, the Eagle population as of April, 2010 was 19,908. Based on subsequent permits issued by the City, the 2011 population was determined to be

² Page 63 of the 2007 Eagle Comprehensive Plan.

20,140. This population along with the Census reporting of 2.82 persons per household for the City of Eagle is the basis for this RAFN analysis. The projected population in 2041 in the planning area is 65,322.³

M3 Eagle Annexation and Rezone

Because the IDWR/M3 Eagle Settlement Agreement addressed the issue of annexation of the M3 Eagle property, an explanation of the annexation of M3 Eagle property into the City is appropriate. As an area is annexed into a city under Idaho statutes, the land is generally rezoned because the prior land use is not the same as the anticipated use after annexation. This is what occurred with the M3 Eagle property. M3 Eagle applied to the City for annexation and for a rezone from the existing Ada County rural residential zone to the City's R-1-DA zone (residential with a development agreement). Idaho law specifically requires that any rezone request must be in accord with the legislatively-adopted comprehensive plan.⁴ During the course of public hearings held before the Eagle Planning & Zoning Commission and the Eagle City Council, the City concluded that the M3 Eagle rezone and development plan application was in accord with the City's Comprehensive Plan, including the specific North Eagle Foothills Plan component.

The City approved the annexation and rezone of the M3 Eagle property subject to the terms of a specific development agreements, as authorized by statute.⁵ On December 27, 2007, M3 Eagle and City entered into a Pre-Annexation and Development Agreement, recorded in Ada County as Instrument No. 107170114, Ada County Recorder's Office. The Development Agreement reflects the City's approval of the M3 Eagle planned community project and the annexation of the property into the City. The M3 Eagle property was annexed into the City in December, 2009.

A development agreement creates a contractual obligation between a city and a property owner. The M3 Eagle Development Agreement assures the City that the M3 Eagle planned community will be developed over time substantially as planned. The term of the M3 Eagle Development Agreement is 30 years from the date of annexation,⁶ with the ability to extend the term for an additional 10 years.

Under the Development Agreement, M3 Eagle and the City agreed to facilitate the annexation, comprehensive planning, zoning designation, adoption of ordinances and development of the property by providing for, among other things: (i) conditions, terms,

³The actual population of the M3 Eagle project is influenced by the Development Agreement between the City of Eagle and M3 Eagle and estimated by M3 Eagle based on its development and product mix. However, for City planning purposes the M3 Eagle population at buildout in 2041 is 17,455.

⁴See, e.g., *Bone v. City of Lewiston*, 107 Idaho 844, 693 P.2d 1046 (1984).

⁵ See, Idaho Code, §§ 50-222; 50-301; 67-6508; 67-6511; 67-6512; and 67-6511A; and Eagle City Code, Title 8. This contract between the City and M3 Eagle is called a "Pre-Annexation" agreement because, at the time the City entered into the agreement, the M3 Eagle property was not yet contiguous to the City. The M3 Eagle property was not ripe for annexation until the M3 Eagle property became contiguous to the City's boundary. That contiguity occurred in November, 2009. The M3 Eagle property has been annexed into the City, and the Development Agreement is in full force and effect.

⁶See Section 1.8(b).

restrictions and requirements for the annexation of the property; (ii) conditions, terms, restrictions and requirements for the construction and installation of public infrastructure; (iii) permitted uses for the property; (iv) density and intensity of such uses; and (v) other matters related to the development of the property.⁷

In addition, the Development Agreement provides that: the zoning designation of R-1-DA...is the appropriate zoning designation for the property and is designed to establish proper and beneficial land use designations and regulations, densities, provisions for public infrastructure, design regulations, procedures for administration and implementation and other matters related to the development of the M3 Eagle property.⁸

The Development Agreement's provisions in connection with water reflect the City's Comprehensive Planning efforts under the LLUPA and are consistent with the City's Comprehensive Plan's overall goal to provide safe, reliable and cost-efficient water service to Eagle residents. The City's Comprehensive Plan contemplates that securing water rights and constructing a water system in the Foothills will be an essential part of the City's future development. The Plan also acknowledges that water needs in the foothills, on a per-capita or per unit basis, may not be the same as for the rest of the City or what the City has experienced historically. The Plan also recognizes that the water system in the foothills at the outset may not be interconnected with the water system below the foothills.

According to the City's Comprehensive Plan, the City's policies recognize the unique nature of planned community development in the foothills.⁹ For example, the City's Comprehensive Plan calls for developing irrigation and water reuse goals for the foothills. The Development Agreement reflects M3 Eagle's plan to re-use water generated from both wastewater and drainage systems for irrigation consistent with the City's Comprehensive Plan.¹⁰

The M3 Eagle Development Agreement specifically addresses domestic water needs and water system development for the M3 Eagle project.¹¹ The Development Agreement's Section 2.2 requires M3 Eagle to construct the entire water system for the project, acquiring all water rights necessary to serve each phase of the M3 Eagle project, and to convey the water system and water rights to the City in phases as the project develops. All costs of the water system, acquisition of the water rights including mitigation and monitoring costs, and the City's costs incurred in cooperating with M3 Eagle on securing the necessary water rights are to be borne by

⁷ Development Agreement, Recital B, Page 7.

⁸ Development Agreement, Recital K, Page 8.

⁹ Comprehensive Plan, Section 4.6.2.

¹⁰ Comprehensive Plan, Section 4.6.3; Development Agreement Section 2.2(i), 2.3(d) and 2.4d).

¹¹ Under the Development Agreement, the "Water System" is a water production, storage, treatment, and delivery system to serve all uses on the Property and that includes, without limitation, wells, reservoirs, pumps, diversion structures, water transmission and distribution pipes and related plumbing, pump houses, water treatment facilities, water storage tanks, and pressurized irrigation systems, together with all water rights and permits pursuant to which water, both potable and non-potable, will be diverted and used by means of the Water System. The Water System shall also include those portions of the Wastewater System used for the storage and delivery of treated sewage effluent for beneficial uses on the Property, and any additional water rights or permits that may be associated with such uses.

M3 Eagle. Under the Development Agreement, the City is the M3 Eagle project’s municipal water provider. The water system for the M3 Eagle project is to be operated in conjunction with existing and planned water facilities of the City. However, the City is not allowed to use the water transferred to the City by M3 Eagle to serve other properties unless the City can demonstrate that it has obtained adequate rights to the M3 Eagle project and other properties to be served. The City is not obligated to use other City water rights to serve the M3 Eagle project and if the rights conveyed to the City are inadequate, M3 Eagle must secure additional water rights and convey them to the City.

The Development Agreement is consistent with Eagle City Code, Title 6, Chapter 5, which requires a developer such as M3 to secure the water rights for its project and convey them and the requisite water system to the City for inclusion in the City system.¹²

Current City Water Rights

Any assessment of future water needs should reflect the current water rights of the City. The current water rights for the City of Eagle water system are summarized in Table 1.

Table 1

| Water Right No. | Well No. (POD) | Priority Date | Authorized Diversion Rate (cfs) | Combined Municipal Diversion Rate (cfs) |
|---------------------------------------|----------------|---------------|---------------------------------|---|
| 63-09331 | | 1/17/1980 | 0.10 | 0.10 |
| 63-11413 | 1 | 4/2/1991 | 3.15 | 3.25 |
| 63-12448 | 2 | 4/8/1998 | 3.25 | |
| | 3 | | | |
| 63-12017 | | 2/2/1994 | 1.56 ⁽³⁾ | |
| 63-32089 | 4 | 1/19/2005 | 4.0 ⁽¹⁾ | 2.23 |
| 63-32090 | 5 | | 4.9 ⁽²⁾ | |
| Total Municipal Diversion Rate | | | | 5.58 |

- (1) Includes 1.77 cfs for Fire Protection.
- (2) The entire diversion rate is identified for Fire Protection.
- (3) Amenity use only.

Current City Well Capacity

¹² The City would note that paragraph 3 of the IDWR/M3 Settlement Agreement suggesting that M3 Eagle might contract with a municipal provider other than the City is inconsistent with the Development Agreement. Paragraph 2.2 of the Development Agreement states “As set forth in this Agreement, it is City’s and Developer’s intent to have City be the water service provider and not have a PUC regulated provider serve the Property.”

Likewise, it is helpful to also understand existing well capacity as a component of potential infrastructure needs. The pumping capacity of the City wells is summarized in Table 2.

Table 2

| Municipal Well No. | Well Location | Current Capacity (gpm) | Current Capacity (cfs) |
|------------------------|-----------------|------------------------|------------------------|
| 1 | Lexington 1 | 960 | 2.14 |
| 2 | Lexington 2 | N/A | N/A |
| 3 | Brookwood | 1,758 | 3.92 |
| 4 | Legacy Area | 1,886 | 4.21 |
| 5 | Eaglefield Area | 2,460 | 5.49 |
| Total Pumping Capacity | | 7,064 | 15.76 |

M3 Eagle Water Demand

The City’s analysis for its future water needs reflects the M3 Development Agreement because the M3 Eagle property is part of the City, but Permit 63-32573 can only be used in the M3 Eagle project area because of the limitations M3 Eagle placed on the application.

To comply with its obligations and the Development Agreement, M3 Eagle filed Application for Permit Number 63-32573 seeking an appropriation of 23.18 cubic feet per second. M3 supported its application with numerous reports and assessments which were part of a lengthy proceeding before the IDWR. M3 Eagle supported its water demands based on the requirements included in its Development Agreement and the specifics of its project. Based on its Development Agreement and submittals to the City, M3 estimated density at 2.49 persons per residential unit. The Development Agreement fixed the number of residential units in the M3 project at 7,153 units. Thus, the M3 estimated population for their project is 17,811 based on their estimated household size for the development.¹³

For its planning, the City of Eagle uses a 2010 Census value of 2.82 persons per residential unit on a city-wide basis. The difference between these estimated persons per household, whether using the City’s figure of 2.82 or M3’s 2.49, is, in the City’s opinion, so small as to be irrelevant in determining water needs over a period of 30 years. M3 Eagle’s value is simply an estimate based on its planned development. For purposes of the City’s water demand analysis, the City’s population per household is more relevant. M3 correctly determined that in the North Eagle Foothills Planning area, irrigation has not historically occurred on a broad scale. Therefore, as part of its water needs analysis, M3 also calculated a demand for irrigation.¹⁴

¹³ The City’s planning analysis estimated a population of 17,455. The difference is reflected in differing estimates of persons per household. M3 Eagle’s population estimates do not affect the City’s planning analysis pursuant to the LLUPA.

¹⁴ The City’s ordinances require that development lands with existing irrigation continue to provide irrigation water by using existing irrigation supplies. This helps conserve ground water. However, in the foothills area, there is little existing irrigation use. Therefore, M3’s determination that there is a need for additional water for irrigation is, in the City’s view, reasonable.

M3's water calculations used an average demand of 274 gallons per day per residence. For its planning, the City uses an average of 281 gallons per day per residence. The City's value was approved by the Idaho Department of Environmental Quality (IDEQ). (See attached approval letter dated April 17, 2008.) As with the population projections, the City believes that the small difference between M3's assessment of gallons per residence and the City's determination are so small as to be irrelevant for water needs planning purposes. Inherent in these slight differences is the fact that the M3 calculations are based on internal M3 Eagle planning while the City's planning calculations are based on a more generalized determination used by the City under the LLUPA. The fact that the two methodologies produced very similar figures corroborates the reasonableness of the two planning methodologies and the determinations of need.

City of Eagle Future Demands

Based on the City of Eagle's Comprehensive Plan, the City's population is anticipated to be 65,322 in 2041. This includes the entire area of the Comprehensive Plan including the M3 project area. Although the Development Agreement with M3 limits the number of household units in the M3 project area, the City's population determination for the entire City utilizes the best information available from the City's planning efforts pursuant to the LLUPA. The City's planning determinations for the City's analysis hold true regardless of whether the M3 Eagle population is slightly different.

Because the M3 Development Agreement, Permit Number 63-32573, and the M3/IDWR Settlement Agreement all anticipate the water right will only be used on the M3 project area, the City has approached its future needs analysis from a City planning perspective, while recognizing the M3 Eagle project and those limitations. The City has focused its future water needs for the City for its water service area which includes the North Eagle Foothills Plan area outside of the M3 project area. M3 Eagle determined its water demand based on a phased development approach as reflected in the Development Agreement and according to its specific development plan. The City bases its future water demand based on a projected population value for the entire City which is more appropriate from a City planning perspective. While M3 is a private developer with a defined project area and a specific number of authorized units, the City is a municipal corporation responsible for all of its citizens. The City is not in the business of constructing homes or developing property and a phased approach focused on building houses is not appropriate or applicable for a City's planning needs.

The City future needs determination is based on a total population basis and, whether the population is located in the M3 project area or outside, is irrelevant from a City water needs perspective. For City planning, it is the total population within the Comprehensive Plan area, coupled with reasonable use demands that influences the amount of water needed.

The City's water needs determination is based on a per-household average of 281 gallons per day. The City's value of 281 gpd figure is based on actual historical data using values approved by IDEQ for planning municipal service. The City's Engineer reviewed historical water use in the City's current system as identified in the City's Master Water Plan. This review of actual residential, school use, and commercial use over a 32-month period provided the 281 gallons per day value. Considering the slightly smaller density value of 2.49 persons per

household, the City believes the 274 gpd figure determined by M3 is reasonable when compared to the City's actual use data.

As mentioned, M3 has also planned for a water right including an irrigation demand. The City service area outside the M3 project typically has irrigation water already in place. The City, by ordinance, requires that when existing irrigation water is in place, a developer must use that water instead of having to secure additional water. This effectively prevents a developer from selling off the existing irrigation rights and attempting to use City water for irrigation. The City has not typically included an irrigation demand in its planning for areas with existing irrigation water rights. As noted earlier, the North Eagle Foothills Planning Area is a unique planning sub-area within the City's Comprehensive Plan. The City has reviewed M3's anticipated irrigation demand and believes the demand reflects a reasonable irrigation demand based on the submittals M3 made as part of its annexation and rezone application and the Development Agreement.

In sum, with regard to M3's potable water demand and irrigation demand, the City believes the values are reasonable. The City's acceptance of the M3 population estimates and planning data which drive the M3 irrigation and potable water determinations is reflected in the fact that, based on the City's reliance on M3 Eagle's representations and information, the City annexed the M3 project area and entered into a Development Agreement with M3 Eagle.

Future City Water Rights Need

Using the City's 4% growth rate in the Comprehensive Plan, the City's population in 2041 will be 65,322. The population in the M3 Eagle area will be 17,455. The difference of 47,867 is the City's population on which its long term (30 years) water needs are based. Table 3 below summarizes the City's water rights needs.

Table 3

| City of Eagle Future Needs | |
|--|------------|
| City Demand in 2041 ⁽¹⁾⁽²⁾ | 32.15 cfs |
| Less Current Water Rights | (5.58 cfs) |
| Future Needs | 26.57 cfs |
| Notes: CFS – Cubic Feet Per Second MDD – Maximum Daily Demand PHD – Peak Hour Demand GPD – Gallons Per Day MGD – Million Gallons Per Day | |

(1) Underlying Factors*:

City Population 2041: 47,867 (65,322 – 17,455 M3)
 Persons per Residence: 2.82
 Average Daily Demand: 281 gpd/residence
 Maximum Daily Demand Peaking Factor: 1.7
 Peak Hour Demand Peaking Factor: 1.7

*Based on undeveloped areas, the maximum future growth for the EWC and UWI service areas is 5,640 people which equates to 2.51 cfs

(2) Water Demand Calculation

- Number of Households (47,867 people/2.82 people per household) = 16,974
- Multiplied by 281 gpd per household = 4,769,726 gpd
- Divided by 1440 = 3312 gpm (7.38 cfs)
- Multiplied by Peaking Factor of 1.7 = 12.55 cfs (MDD)
- Multiplied by Peaking Factor of 1.7 = 21.33 cfs (PHD)
- Plus Irrigation for 360.5 acres @ .03 cfs/acre = 10.82 cfs
- Minus City Existing Water Rights = 5.58 cfs
- Total = 26.57 cfs

From Table 1, Eagle's Municipal rights are currently 5.58 cfs. From Table 3, based on the City's forecasted growth, the demand in 2041 will require 32.15 cfs. Application for Permit No. 63-32573 would account for the 23.18 cfs needed for the M3 project area. The difference of 26.57 cfs between 32.15 cfs and 5.58 cfs is the amount required for the City of Eagle to meet its reasonably anticipated future needs through 2041.

The City's determination is based on Peak Hour demand. The *Idaho Rules for Public Drinking Water Systems* require the City to supply Maximum Day Demands from well capacity. Therefore, the City must have adequate water rights and well capacity to meet the projected Maximum Day Demand. Peak Hour Demands (or Maximum Day Demand plus fire flow) can be supplied using a combination of pump capacity and storage. In other words, the City can have less water right and pump capacity than the Peak Hour Demand, if it develops adequate storage capacity. Historically, the City has supplied Peak Hour Demand almost entirely from well capacity.

Whether to supply Peak Hour Demand from developed storage capacity or well capacity or some combination is a decision that must be made by the City as part of its future planning and management. It may be more cost effective to construct additional wells to meet Peak Hour Demand than to construct storage reservoirs, booster pumps and pressure reducing valves. However, determining whether to use pumping capacity or storage is a decision for the City based on economics and other factors including its Comprehensive Plan.

Conclusion

Based on its Comprehensive Plan growth rate of 4%, historical water use, and assuming the approval of the 23.18 cfs under Application for Permit No. 63-32573 and 5.58 cfs of existing municipal rights, the City of Eagle has concluded its reasonably anticipated future needs are 26.57 cfs of Municipal water rights to serve 47,867 citizens in 2041.

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COMPASS Demographic Advisory Committee (2006), *Community Planning Association of Southwest Idaho Minutes from Meeting on January 26, 2006*, Boise, ID

COMPASS Sustainable Communities Grant (2011), *Community Planning Association of Southwest Idaho Agenda from Meeting on July 27, 2011*, Boise, ID

COMPASS (2004), *Destination 2030: Ada County Long Range Transportation Plan (Report No. 3-2005)*, Boise, ID

COMPASS (2002), *Destination 2025: Long Range Transportation Plan for Ada County (Report No. 12-2002)*, Boise, ID

COMPASS (?), *Population Methodology*

COMPASS MEMOS

Carl Miller, Principal Planner – COMPASS, 2011, *Approve 2040 Population and Employment Forecasts*, 23 pp.

Carl Miller, Principal Planner – COMPASS, 2008, *Discuss Population and Employment Forecast Methods*, 23 pp.

Carl Miller, Principal Planner – COMPASS, 2008, *Results of Community Preference Survey*, 8 pp.

Charles Trainor, Director of Planning – COMPASS, 2006, Proposed Revision the Demographic Advisory Committee Bylaws, 20 pp.

MaryAnn Waldinger, 2008, Review UPLAN Land Use Model and TAZ Workshop Summary, 6 pp.

ATTACHMENT 1

IRRIGATION DEMAND CALCULATION

| | Lots (1) | Irrigable area/lot (2) | Total area (sq. feet) | Total area (acres) | Required Flow at 0.03 cfs |
|---------------------------|----------|------------------------|-----------------------|--------------------|---------------------------|
| Rural Residential | 416 | 3,500 | 1,456,000 | 33.43 | 1.00 |
| Neighborhood Community | N/A | N/A | N/A | 23.60 | 0.71 |
| Unconstrained Residential | 3,777 | 3,500 | 13,219,500 | 303.48 | 9.10 |
| TOTAL | | | | | 10.82 |

(1) Potential residential lots, excluding M3, in the foothills area per the City of Eagle Comprehensive Plan.

(2) The 3,500 square feet of irrigable area per residential lot is predicated on City's approval of a similar limitation on irrigation of residential lots in M3 area.

ATTACHMENT 2

- ← Water Rights

Water Use Information

The ability to calculate the typical amount of water needed for a specific task is important in water management planning. Water rights are limited to the quantity of water that can be beneficially used. Here are some water use standards used by IDWR to evaluate water right applications and claims. Typically, applicants and claimants seeking more than these amounts will be asked for supplemental documentation explaining the need for more water.

Note:

CFS (Cubic Foot Per Second) = 448.8 gallons per minute

AF (Acre Foot) = 325,851 gallons

Stock Watering

- **Cattle, Other Than Dairy** - 12 gallons per day per cow
- **Dairy Cattle** - 35 gallons per day per cow
- **Horses** - 12 gallons per day per horse
- **Mules** - 12 gallons per day per mule
- **Hogs** - 4 gallons per day per hog
- **Goats** - 2 gallons per day per goat
- **Sheep** - 2 gallons per day per sheep
- **Chickens** - 5-10 gallons per day per 100 chickens
- **Turkeys** - 10-18 gallons per day per 100 turkeys

Some Other Uses

- **Hotels with private bath (two persons per room)** - 60 gallons per room per day
- **Motels with bath** - 40 gallons per day per bed space
- **Hospitals** - 250-400 gallons per day per bed
- **Swimming pools** - 10 gallons per day per swimmer
- **Picnic grounds with bathhouses, showers & flush toilets** - 20 gallons per day per person
- **Restaurants with bar/lounge, toilet facilities** - 9-12 gallons per day per patron
- **Schools (day) with cafeteria, gym and showers** - 25 gallons per day per student
- **Schools (boarding)** - 75-100 gallons per day per student
- **Churches** - 5 gallons per day per person
- **Service Stations** - 10 gallons per day per vehicle
- **Stores** - 400 gallons per day per restroom

- **Airports** - 3-5 gallons per day per passenger
- **Irrigation** - A total diversion of 0.02 CFS per acre irrigated, unless the applicant or claimant can demonstrate that more is required. For irrigated tracts of 5 acres or less, no additional justification is required for up to 0.03 cfs per acre. For irrigation of public spaces, such as parks and school grounds, IDWR will authorize a diversion rate of 0.02 cfs per acre times 24 divided by the number of hours irrigation actually occurs each day. For example, a park irrigated for 8 hours overnight could divert up to 0.06 cfs per acre.

Domestic Use Diversion Rates

These figures show diversion rates typical for in-house domestic use. These figures do not include water for domestic stockwater or lawn and garden irrigation. Applicants seeking to divert water in excess of these rates for in-house domestic use should provide information explaining why the additional quantity is needed.

- **1 Household** - 0.04 CFS
- **2 Households** - 0.06 CFS
- **3 Households** - 0.08 CFS
- **4 Households** - 0.10 CFS
- **10 Households** - 0.15 CFS
- **20 Households** - 0.20 CFS
- **30 Households** - 0.25 CFS
- **40 Households** - 0.30 CFS
- **50 Households** - 0.33 CFS

"Idaho's Water Resource" - Idaho Water Facts Information from the University of Idaho College of Agriculture

ATTACHMENT 3

RECEIVED

10/09

JUN 13 2011

DEPARTMENT OF WATER RESOURCES STATE OF IDAHO DEPARTMENT OF WATER RESOURCES

\$25 fee per permit

For Office Use Only

Receipt Amt \$ 25

Receipt No. 093326

Date: 6/13/2011

SR4

ASSIGNMENT OF APPLICATION AND PERMIT

To change the ownership of an application and a permit

I, M3 Eagle, LLC, hereby assign to City of Eagle, a municipal corporation, of, 660 E. Civic Lane, Eagle, Idaho 83616 (208) 939-6813

All my right, title, and interest in and to Permit No(s) to appropriate the public waters of the State of Idaho.

OR (for partial assignments)

The following described portion of my right, title, and interest in and to Application and Permit Number(s): 63-32573, to appropriate the public waters of the State of Idaho.

Describe in detail the portion of the permit and application assigned, listing the number of acres in each 40 acre subdivision, point of diversion location, and amount of the water in cubic feet per second.

See attachment.

Does the new permit and application holder own the property at the:

Point of Diversion? [] Yes [x] No

Place of Use? [] Yes [x] No

If no, describe the arrangement enabling the new owner to access the point of diversion and/or the place of use: See attachment.

Made this 13th day of June, 2011.

Signature of Permit and Application Holder, Member Title (if applicable), Signature of Permit Holder, Title (if applicable)

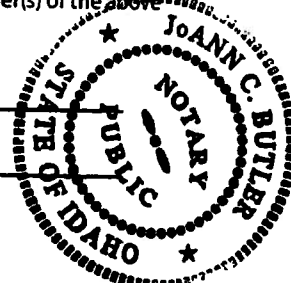
State of Idaho) County of Ada)ss

On this 13th day of June, 2011, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he/she/they executed the same.

SEAL

JoAnn C. Butler Notary Public

My commission expires: 9/24/14



**ATTACHMENT TO ASSIGNMENTS OF APPLICATION AND PERMIT FOR PERMIT 63-32573
FILED BY M3 EAGLE, LLC**

Part 1

By these Assignments of Application and Permit M3 Eagle LLC ("**M3 Eagle**") assigns to the City of Eagle ("**City**") the following:

1. Except as provided herein, M3 Eagle assigns to City all of its interest in Permit No. 63-32573 as approved in the January 25, 2010 Amended Final Order ("**2010 Order**") issued by the Idaho Department of Water Resources ("**IDWR**") and as such 2010 Order may be amended through the anticipated proceedings upon remand to IDWR by the Ada County District Court ("**District Court**") in Case No. CV-OC-1003180 ("**Remand Proceedings**") provided for in the IDWR/M3 Eagle Settlement dated January 19, 2011 ("**IDWR/M3 Eagle Settlement**") (the "**Permit**").
2. Except as provided herein, M3 Eagle assigns to City all of its interest in Application for Permit No. 63-32573 ("**Application**") such that City shall be deemed an applicant under the Application for purposes of the Remand Proceedings.
3. M3 Eagle agrees to hold harmless and indemnify City from any and all claims, costs, damages and attorneys fees which may be incurred by or asserted against City by any person or entity as a result of City's cooperation and/or participation with M3 Eagle in the Remand Proceedings and City's designation as an applicant or assignee of the Permit through the Remand Proceedings. A Pre-Annexation and Development Agreement was entered into between M3 Eagle and City and recorded in the real property records of Ada County, Idaho, on December 27, 2007, as Instrument No. 107170114 ("**Development Agreement**"). M3 Eagle agrees to pay the costs associated with any monitoring or mitigation resulting from the issuance or exercise of the Permit prior to conveyance to City of the Water System, as defined in the Development Agreement, and as may be addressed between M3 Eagle and City in connection with the Master Water Plan required under the Development Agreement, or as may be otherwise addressed between M3 Eagle and City.
4. M3 Eagle hereby reserves sufficient ownership interest in the Application and the Permit to allow M3 Eagle's full participation as a party to any judicial or administrative proceedings pertaining to the Permit, the Application and the Remand Proceedings, including the right to appeal, and to full participation in any appeal of, any final order issued pursuant to such proceeding. Any remaining ownership interest retained by M3 Eagle shall terminate and pass to City once the Remand Proceeding before the Department is complete, a final order is issued and any subsequent appeals are final.
5. This Assignment shall not be deemed nor interpreted such that it conflicts with any provision of the Development Agreement. If any provision of this Assignment conflicts with any provision of the Development Agreement, the Development Agreement prevails. This

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Attachment to Assignment—1

Assignment shall be deemed to run with the land and shall be binding on any existing and future owner, developer, member, heir, successor in interest, employee, agent or assign of M3 Eagle.

6. Pursuant to M3 Eagle's request and City's status as an applicant for the Permit, City shall have the right to take any and all actions, in City's sole discretion, necessary to protect or assert City's rights and interests in connection with the Development Agreement and/or Stipulation and Order defined in the IDWR/M3 Eagle Settlement ("**Stipulation and Order**") approved by the District Court and M3 Eagle hereby waives any and all claims against City related to such action(s) so long as City's actions are not in conflict with the Development Agreement.

7. M3 Eagle agrees to cooperate with City in City's subsequent application(s) for permits for water rights and M3 Eagle agrees to take no actions contrary to such application(s) to the extent that City's subsequent application(s) do not conflict with the Development Agreement.

8. Nothing herein waives or shall be deemed to waive any rights of City or M3 Eagle as set forth in the Development Agreement.

9. This Assignment shall be effective upon IDWR's satisfaction with the City's RAFN analysis as described in ¶ 1(A)(i) of the IDWR/M3 Eagle Settlement and the District Court's approval of the Stipulation and Order.

10. Nothing in this Assignment shall be interpreted as an assertion or conclusion that IDWR maintains jurisdiction to enforce contract or indemnification provisions between City and M3 Eagle.

11. Nothing in this Assignment shall be interpreted as an assertion or conclusion that City approved or is a party to the IDWR/M3 Eagle Settlement.

Part 2

1. M3 Eagle authorizes City to access the place of use and points of diversion in accordance with the Development Agreement referenced to in paragraph 3 herein between M3 Eagle and City.

ATTACHMENT 4

APPLICANT'S PROPOSED PRE-ANNEXATION AND DEVELOPMENT AGREEMENT

Recording Requested By and
When Recorded Return to:

Planning & Zoning Administrator
City of Eagle
P.O. Box 1520
Eagle, Idaho 83616

ADA COUNTY RECORDER J. DAVID NAVARRO AMOUNT 399.00 133
BOISE IDAHO 12/27/07 04:42 PM

DEPUTY Patti Thompson
RECORDED - REQUEST OF
Spink Butler



For Recording Purposes
Do Not Write Above This Line

PRE-ANNEXATION AND DEVELOPMENT AGREEMENT

by and between

CITY OF EAGLE

and

M3 EAGLE L.L.C.

A small, handwritten signature or mark is located in the bottom right corner of the page.

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LIST OF EXHIBITS:

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| Exhibit A | Legal Description of the Property |
| Exhibit B | M3 Eagle Planning Area Map |
| Exhibit C | M3 Eagle Zoning Map |
| Exhibit D | Conceptual Outline of PUD Standards |
| Exhibit E | Intentionally Deleted |
| Exhibit F | M3 Eagle Master Plan |
| Exhibit F1 | Big Gulch Planning Area |
| Exhibit F2 | Northern Residential Planning Area |
| Exhibit F3 | Southern Residential Planning Area |
| Exhibit F4 | Southwestern Residential Planning Area |
| Exhibit F5 | Highway Mixed-Use/Business Park Planning Area |
| Exhibit G | Conceptual Development Plan |
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| Exhibit L | Intentionally Deleted |
| Exhibit M | Constrained Lands |
| Exhibit N | BLM Land Exchange Map |
| Exhibit O | Conceptual Outline of Restrictive Covenants (CC&Rs) |
| Exhibit P | Conceptual Outline of Design Guidelines |
| Exhibit Q | Potential Vineyard Locations |

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DEFINITIONS

"**ACHD**" is the Ada County Highway District.

"**ACHD Traffic System**" is roadways under the jurisdiction of Ada County Highway District.

"**Additional Property**" is all or any portion of real property now owned, or which may become owned, by Developer and which is adjacent to or proximate to the Property.

"**Agreement**" is this Pre-Annexation and Development Agreement inclusive of all Exhibits, as may be amended from time to time.

"**Annexation Ordinance**" is, or shall be, the City ordinance that duly annexes the Property into City.

"**Base Project Density**" is the total gross residential density for the Project, as set forth in **Table 6**, prior to mitigation of slope, floodway, and habitat constraints and application of Bonus Density Provisions. The Base Project Density is 0.5 dwelling units/acre or 3,003 dwelling units, but in no case may exceed the Pre-Mitigation Density for the Property. Developer will be allowed to develop the density and intensity of uses set forth in Tables 1-6 prior to mitigation of slope, floodway, and habitat areas. Base Project Density is sometimes referred to herein in terms of the number of dwelling units and/or dwelling units per acre.

"**BLM**" is the U.S. Bureau of Land Management.

"**BLM Lands**" are the lands in the Foothills Planning Area owned by BLM.

"**Bonus Density**" is additional density allocated for compliance with the 2007 Eagle Comprehensive Plan. Bonus Density granted to Developer is set forth in **paragraph 1.3** below.

"**CC&Rs**" are the Covenants, Conditions and Restrictions, that shall encumber the Property and which shall govern the Project through one or more Owners' Associations that shall establish quality control through the Property both during development and during maturing of the community. A conceptual outline of the CC&Rs is attached as **Exhibit O**.

"**City**" is the City of Eagle, Idaho.

"**City BLM Lands**" are the approximately 1,915 acres contained in the two BLM-owned parcels contiguous to the southern border of the Project that City has made application to acquire through long-term lease or purchase for the Eagle Regional Park, through the Federal Recreation and Public Purpose Act.

"**CLOMR**" is the Conditional Letter of Map Revision issued by FEMA signifying its intent to revise its floodway maps to remove areas from designated floodways.

"**Community Center**" is a site approximately 100-150 acres in size with up to 350,000 square feet of Non-Residential Use and contains the highest density and greatest variety of uses and civic buildings of regional importance. It may have larger blocks; streets have uniform street tree planting and buildings set close to the frontages. A Community Center may include a mix of office, retail, commercial, institutional, civic, residential, hotel and recreation uses.

"**Community Open Space**" is land which is set aside for recreation, agriculture, habitat, vegetation, scenic or similar uses primarily to serve the M3 Eagle Community and as shown on **Exhibit K**. Community Open Space may be owned and maintained by the Owners' Association, a private landowner, or other entity.

"**Community Park**" is a park containing 8 or more acres that will include active and passive areas designed to serve the M3 Eagle community.

"**Community Trail**" is a public trail designed to serve M3 Eagle. Some community trails will connect to Regional Trails and Open Space.

"**COMPASS**" is the Community Planning Association of Southwest Idaho.

"**Constrained Lands**" are those lands within the Property with slopes in excess of 25%, lands within a FEMA-identified floodway, and lands defined as habitat areas of special concern as set forth on **Exhibit M**.

"**Date of Application**" is the date Developer's applications to City for annexation, comprehensive plan amendment and rezoning in connection with the Property (collectively, the "**Application**") were deemed complete by City. The Date of Application is August 23, 2006.

"**Design Guidelines**" are the planning, engineering, architectural, and landscape design guidelines applicable to new construction and later modifications to the Project. A conceptual outline of the Design Guidelines is attached as **Exhibit P**.

"**Developer**" is M3 Eagle L.L.C., a Texas limited liability company, and all successors in title and interest to Developer who undertake development of the Property.

"**Development Plan**" is the overall plan for the Project, which Development Plan is depicted on **Exhibit G**.

"**Development Rights**" is development allowed to be undertaken by Developer in accordance with this Agreement.

"**Drainage System**" is a drainage and flood control system and facilities for collection, diversion, detention, retention, dispersal, use and discharge of drain water.

"**EASD**" is the Eagle Architecture and Site Design Book.

"**Eagle Comprehensive Plan**" is, collectively, Eagle's 2007 Comprehensive Plan, as may be amended from time to time.

"**Eagle Fire District**" is the Eagle Fire Protection District.

"**Eagle Regional Park**" is the lands City seeks to acquire from BLM (City BLM Lands), which, when combined with land presently owned by Developer, as more fully provided herein, would comprise the Eagle Regional Park site, as depicted on **Exhibit K**.

"**Economic Impact Analysis**" is that certain Economic Impact Analysis & Demographic Forecast, dated October 25, 2006, and revised July, 2007 by Idaho Economics as may be amended from time to time. An update to the Economic Impact Analysis shall be provided to City in connection with each Planning Unit Master Plan.

"**Effective Date**" is the date of execution of the resolution adopted by City at a City Council meeting approving this Agreement and authorizing the Mayor of City or other City Council Member(s) to execute such resolution.

"**FEMA**" is the U.S. Federal Emergency Management Agency.

"**Fiber Optics Easement**" is an easement within public streets for the installation, operation, and maintenance of any public or private fiber optics or telecommunications facilities.

"**Final Development Plan**" is the development plan for all or a portion of a Planning Unit, which Final Development Plan is the basis for construction and is developed based on, and consistent with, the Planning Unit Master Plan.

"**Hotel/Resort**" is an establishment providing lodging, food and beverage services, meeting rooms, exercise and spa services and other related facilities. Hotel/Resort rooms are not considered residential dwelling units within the context of any density calculations or allowable densities set forth in this Agreement.

"**IDEQ**" is the Idaho Department of Environmental Quality.

"**IDFG**" is the Idaho Department of Fish & Game.

"**IDWR**" is the Idaho Department of Water Resources.

"**ITD**" is the Idaho Transportation Department.

"**ITD Traffic System**" is roadways under the jurisdiction of ITD.

"**Infrastructure Assurance**" is a letter of credit or such other security acceptable to City to assure complete installation of Public Infrastructure directly related to requested building permit or permits.

"**Infrastructure Plan**" is the Infrastructure Plan developed through coordinated planning, design, engineering, construction, acquisition, installation, and/or provision of Public Infrastructure as set forth in this Agreement and as contemplated by the Planning Unit Master Plan process.

"**M3 Eagle**" is the approximately 6,005 acres located in Ada County, Idaho, legally described on **Exhibit A**, plus any Additional Property that may later be added to M3 Eagle. M3 Eagle is also sometimes referred to herein as the "**Project**" or the "**Property**."

"**M3 Eagle Planning Area**" is that certain document or documents designating the planning goals and uses for the Property as provided further in this Agreement. The M3 Eagle Planning Area Map is depicted on **Exhibit B** and the M3 Eagle Planning Area text is set forth in **Exhibits F, F1, F2, F3, F4 and F5**.

"**Master Drainage Study**" is that certain Preliminary Master Drainage Study, dated June 14, 2006, by Stanley Consultants Inc., as may be amended from time to time.

"**Master Habitat Study**" is that certain Final Habitat Study and Natural Features Analysis, dated June 2006, by URS Corporation as may be amended from time to time.

"**Master Phasing Plan**" is the phasing plan depicted on **Exhibit H**.

"**Master Traffic Study**" is that certain Traffic Impact Study, dated June 26, 2006, by Stanley Consultants Inc., as may be amended from time to time.

"**Master Wastewater Study**" is that certain Preliminary Master Wastewater Study, dated June 14, 2006, by Stanley Consultants Inc., as may be amended from time to time.

"**Master Water Study**" is that certain Preliminary Master Potable Water Study, dated June 14, 2006, by Stanley Consultants Inc., as may be amended from time to time.

"**Maximum Density**" is the total maximum gross residential density for the Project as provided in this Agreement after conversion of Constrained Lands to Unconstrained Lands and application of Bonus Density provisions. The Maximum Density is approximately 1.19 dwelling units/acre or 7,153 dwelling

units and 245 acres of Non-Residential Uses. Maximum Density is sometimes referred to herein in terms of the number of dwelling units and/or dwelling units per acre.

"Maximum Planning Area Density" is the maximum gross residential density for each Planning Area subject to the limitation on the placement of the density within each Planning Area after conversion of Constrained Lands to Unconstrained Lands, application of Bonus Density provisions and the reassignment of dwelling units from other Planning Area(s). Maximum Planning Area Density is sometimes referred to herein in terms of the number of dwelling units and/or dwelling units per acre.

"Mitigation" is the process of converting Constrained Lands as described herein to Unconstrained Lands by City approval of grading standards and Habitat Mitigation Plan(s) and issuance of the CLOMR by FEMA (as referenced in **paragraph 2.7(d)**). Mitigation may occur on a Planning Unit by Planning Unit basis or may occur on a Project-wide basis.

"Mortgage" is any lien placed upon the Project, or any portion thereof, including the lien of any mortgage or deed of trust, as a pledge of real property to a creditor as security for performance of an obligation or repayment of a debt.

"Municipal Water Right Application" is that certain application dated November 22, 2006 and amended August 27, 2007 and filed by Developer with the Idaho Department of Water Resources.

"Neighborhood Center" is a site approximately 40-60 acres in size with up to 150,000 square feet of Non-Residential Use and has higher density mixed-use building types that accommodate retail, offices, row houses and apartments. It has a tight network of streets, with wide sidewalks, uniform street tree planting and buildings set close to the frontages. The shape of Neighborhood Centers is subject to terrain, access, and other site variables containing up to 150,000 square feet of gross leasable commercial space. Neighborhood Centers are planned to accommodate local retail uses such as grocery stores; drug stores; restaurants; neighborhood service tenants as well as civic, institutional, residential, hotel and recreation uses; and office uses for local and major employers.

"Neighborhood Park" is a park containing 3 or more acres that will include active and passive areas designed to serve individual neighborhoods or a combination of neighborhoods within M3 Eagle.

"Neighborhood Trail" is a trail designed to serve a neighborhood or combination of neighborhoods and may connect to a Regional Trail, Community Trail, and Open Space. Neighborhood Trails may be public or private.

"Non-Residential Use" may include retail and office related uses. Non-Residential Use does not include public and/or civic uses.

"North Eagle Foothills Planning Area" is the area generally set forth in the Eagle Comprehensive Plan.

"Open Space" is land which is set aside for recreation, agriculture, habitat, vegetation, scenic or similar uses. Open Space may be developed or natural and may include: (i) public and private parks, sports fields, and trails; (ii) golf courses; (iii) equestrian centers; (iv) vineyards and other agricultural lands; (v) landscape easements or common areas inside or outside of public rights of way; (vi) floodplains and floodways; (vii) the lesser of 50 percent of school sites or the area of playfields, (viii) scenic corridors; (ix) undeveloped hillsides; (x) wetlands, wildlife habitat, drainage areas, and unique or sensitive plant areas; and (xi) conservation easements or permanent open space on private lands or lots subject to deed restriction. Open Space may be publicly or privately owned and may be accessible or inaccessible to the public. The minimum Open Space within the Project shall be 20% of the Project area or 1,201 acres. The minimum amount of Open Space within any Planning Area shall be 15% of the total gross acres of the Planning Area.

"Ordinances" are ordinances or resolutions enacted by City as more particularly referenced herein, including the Annexation Ordinance and Rezoning Ordinance.

"Owners' Association" is one or more non-profit entities created or to be created by Developer, that shall be responsible for, without limitation, the perpetual management of the Common Area, as such is defined in CC&Rs encumbering or to encumber the Property, which management is at the expense of the ultimate owners of the Project.

"P & Z Commission" is Eagle City Planning & Zoning Commission.

"Party or Parties" is, individually or collectively, the parties to this Agreement.

"Planning Areas" are the five individual Planning Areas that make up M3 Eagle as further described in Exhibit(s) F, F1, F2, F3, F4 and F5.

"Planning Unit" is a distinct parcel of land, or combination of parcels within the Property that is linked to other Planning Units throughout the Property through an integrated circulation system and overall thematic character that defines the Project.

"Planning Unit Developer" is the developer of all or a portion of a Planning Unit.

"Planning Unit Master Plan" is the guide to development of all or a portion of a Planning Unit and includes, individually and collectively, a Planning Unit Master Drainage Plan, Planning Unit Master Street & Circulation Plan, Planning Unit Master Potable Water Plan, Planning Unit Master Wastewater Plan, Planning Unit Master Parks, Trails & Open Space Plan, Planning Unit Master Facilities Plan, and Planning Unit Master Environmental Design Plan applicable to a particular Planning Unit or portion thereof, and which is developed based on, and consistent with, the Project Master Plan. Planning Unit Master Plans can represent one or more phases within a Planning Area.

"Post-Mitigation Density" is the gross density allocated to the Project after conversion of Constrained Lands to Unconstrained Lands. The Post-Mitigation Density is calculated by multiplying the total acres of Unconstrained Lands after conversion by 1.7 units/acre and shall not exceed 7,153 dwelling units.

"Pre-Annexation Ordinance" is, or shall be the City ordinance that duly adopts this Agreement.

"Pre-Mitigation Density" is the gross density allocated to the Project before conversion of Constrained Lands to Unconstrained Lands. The Pre-Mitigation Density is calculated by multiplying the total acres of Unconstrained Lands before conversion by 1.7 units/acre and is 5,127 dwelling units.

"Project" is the approximately 6,005 acres located in Ada County, Idaho, legally described on Exhibit A, plus any Additional Property that may later be added to the Project. The Project is also sometimes referred to herein as **"M3 Eagle"** or the **"Property."**

"Project Master Plan" is the guide to development of the Project as a whole and includes, individually and collectively, the Master Phasing Plan, Master Drainage Plan, Master Street & Circulation Plan, Regional Circulation Plan, Master Potable Water Plan, Master Wastewater Plan, Master Parks, Trails & Open Space Plan, Master Public Facilities Plan, and Master Environmental Design Plan.

"Property" is the approximately 6,005 acres located in Ada County, Idaho, legally described on Exhibit A, plus any Additional Property that may later be added to the Project. The Property is also sometimes referred to herein as **"M3 Eagle"** and/or the **"Project."**

"Public Infrastructure" is infrastructure facilities and services improvements, including, without limitation, on-site roads, sewer, water and irrigation facilities, pathways and underlying lands that are owned or to be owned by City or third-party public service providers.

"PUD" is planned unit development.

"PUD Standards" are the M3 Eagle Planned Unit Development Standards that govern the Property, as may be amended from time to time. A conceptual outline of the PUD Standards is attached hereto as Exhibit D.

"Regional Hydrogeologic Study" is that certain Regional Hydrogeologic Characterization North Ada, Canyon and Gem Counties, Idaho, Year One Progress Report, dated May 4, 2007, which may be amended from time to time.

"Regional Open Space" is land which is set aside for Open Space uses by the general public and which is adjacent to or provides connection to large scale Regional Open Space within the North Eagle Foothills Planning Area and as shown on Exhibit K. Regional Open Space may be owned and maintained by City, Owners' Association, land trust or conservation group, or other entity.

"Regional Trail" is a public trail that will serve the entire north foothills area and beyond and connect to public lands.

"Rezoning Ordinance" is, or shall be, the City ordinance that duly attaches that certain R-1-DA zone to the Property.

"School District" is the Joint School District #2.

"Sewer District" is the Eagle Sewer District.

"Star Fire District" is the Star Joint Fire Protection District.

"Term" is the duration of this Agreement as set forth herein.

"Treatment Facility(ies)" is the sewage treatment facility and delivery system that also produces treated effluent to use for irrigation.

"Unconstrained Lands" are those lands within the Property with slopes under 25%, lands not within a FEMA-identified floodway, and lands not defined as habitat areas of special concern as set forth on Exhibit M. Some Unconstrained Lands may have been Constrained Lands at one time, but have undergone Mitigation as approved by City.

"Wastewater System" is a wastewater collection, storage, treatment, and disposal system to treat and dispose of wastewater generated at the Property that includes, without limitation, Treatment Facility(ies), major sewer lines and wastewater pumping stations, where required.

"Water System" is a water production, storage, treatment, and delivery system to serve all uses on the Property and that includes, without limitation, wells, reservoirs, pumps, diversion structures, water transmission and distribution pipes and related plumbing, pump houses, well houses, water treatment facilities, water storage tanks, and pressurized irrigation systems, together with all water rights and permits pursuant to which water, both potable and non-potable, will be diverted and used by means of the Water System. The Water System also shall include those portions of the Wastewater System used for the storage and delivery of treated sewage effluent for beneficial uses on the Property, and any additional water rights or permits that may be associated with such uses.

"Zoning Administrator" is the administrator of the Eagle Planning & Zoning Department.

"Zoning Ordinance" is the zoning ordinance of City adopted and in effect on the Date of Application.

PRE-ANNEXATION AND DEVELOPMENT AGREEMENT

THIS PRE-ANNEXATION AND DEVELOPMENT AGREEMENT (this "Agreement") is entered into by and between the CITY OF EAGLE, a municipal corporation organized and existing under the State of Idaho, by and through its Mayor ("City") and M3 Eagle L.L.C., a Texas limited liability company ("Developer").

RECITALS

A. Developer owns the Property, legally described and depicted on **Exhibit A**, which Property consists of approximately 6,005 acres located north of the existing City in the western portion of the north foothills area of Ada County, Idaho.

B. Developer and City are entering into this Agreement pursuant to the provisions of: Idaho Code, Sections 50-222; 50-301; 67-6508; 67-6511; 67-6512; and 67-6511A; and Eagle City Code, Title 8, in order to facilitate the annexation, comprehensive planning, zoning designation, adoption of Ordinances and development of the Property by providing for, among other things: (i) conditions, terms, restrictions and requirements for the annexation of the Property; (ii) conditions, terms, restrictions and requirements for the construction and installation of Public Infrastructure; (iii) permitted uses for the Property; (iv) density and intensity of such uses; and (v) other matters related to the development of the Property.

C. Developer and City are entering into this Agreement for the purpose of providing assurances to City that the Property shall be developed substantially similar to the provisions as provided herein, for the purpose of providing important protection to the natural environment, for the purpose of providing a viable tax base and long-term financial stability to City, and for the purpose of providing assurances to Developer that Developer may proceed with the Development Plan substantially under the terms hereof. City and Developer shall act in good faith when undertaking their respective obligations and covenants contained herein.

D. The development of the Property pursuant to this Agreement is intended to result in significant planning and economic benefits to City and Developer by, without limitation: (i) encouraging investment in and commitment to comprehensive planning for efficient utilization of municipal and other public resources to secure quality planning, growth and protection of the environment; (ii) requiring development of the Property consistent with the Eagle Comprehensive Plan, Ordinances and this Agreement; (iii) providing for the planning, design, engineering, construction, acquisition, and/or installation of Public Infrastructure to support anticipated development of both the Property and the larger land area that includes mitigation of impacts by and to the Property; (iv) increasing tax and other revenues to City based on private and Public Improvements to be constructed on and in reasonable proximity to the Property; (v) creating employment through development of the Property consistent with this Agreement; and (vi) creating quality housing, employment, recreation and other land uses on the Property.

E. This Agreement shall promote and encourage the development of the Property by providing Developer and Developer's creditors with general assurances of Developer's ability to timely and economically complete development of the Project. The benefits to be received by City and Developer pursuant to this Agreement and the rights granted by City and secured to Developer hereunder constitute sufficient consideration to support the covenants and agreements of City and Developer. City recognizes and acknowledges that Developer might be subject to substantial liability if City were to default in City's obligations in connection with this Agreement.

F. The development of the Property, which is a largely vacant area lacking in necessary Public Infrastructure, requires the construction of substantial Public Infrastructure early in the development process, which Public Infrastructure shall provide regional as well as local benefits.

G. Prior to annexation, Developer may participate in the provision of such Public Infrastructure described in this Agreement earlier than otherwise necessary for Developer's development

of the Property at Developer's own risk and sole expense. Developer shall be able to complete development of the Property as provided in this Agreement.

H. Developer and City desire that the Property be annexed into the corporate limits of City and be developed as an integral part of City as set forth in this Agreement. Developer has submitted to City a duly executed application requesting and consenting to annexation of the Property into City. City and Developer acknowledge that as of the Effective Date the Property does not have a common boundary with City nor is the Property contiguous with City's jurisdictional boundary.

I. Once the Property is contiguous with City's jurisdictional boundary annexation proceedings will be commenced as described in Recital L and paragraph 1.8(a), subject to the terms and conditions set forth in this Agreement. City shall not take any action or enter into any agreement with any state or local governmental entity and/or public agency and/or private entity that would limit City's ability or authority to annex and rezone the Property and City shall take actions reasonably necessary to ensure that City's authority to annex the Property is not limited or prohibited in any manner.

J. Developer and City desire that the Property be zoned R-1-DA in accordance with the Eagle Comprehensive Plan and the M3 Eagle Zoning Map, attached hereto as **Exhibit C**. Developer has submitted to City a duly executed application requesting an amendment to City's Zoning Ordinance text and map in connection with the Property. Upon annexation of the Property, City shall take steps reasonably necessary to rezone the Property subject to the terms and conditions set forth in this Agreement, including publication of the Rezoning Ordinance. City shall take actions reasonably necessary to ensure that City's authority to rezone the Property is not limited or prohibited in any manner.

K. The zoning designation of R-1-DA contained in the Rezoning Ordinance is the appropriate zoning designation for the Property and, as subject to this Agreement, is designed to establish proper and beneficial land use designations and regulations, densities, provisions for Public Infrastructure, design regulations, procedures for administration and implementation and other matters related to the development of the Property.

L. Developer's consent to annexation and rezone of the Property is contingent on contiguity of the Property with City's jurisdictional boundary within 24 months of the Effective Date and City's commencement of annexation proceedings within 90 days of City's receipt of notice of contiguity from Developer and completion of annexation proceedings in a timely manner. In the event that contiguity with City's jurisdictional boundary is not reached within such 24-month time period, or if contiguity with City's jurisdictional boundary is reached and City fails the timely completion of annexation proceedings commenced within 90 days of City's receipt of written notice of contiguity from Developer, this Agreement shall terminate. If contiguity of the Property with City's jurisdictional boundary is not reached within such 24-month period Developer and City may, by mutual agreement, extend such 24-month period by at least an additional 12 months.

M. Prior to the Effective Date of this Agreement, all duly noticed and necessary meetings and public hearings have been held and City has received public comment and has otherwise duly considered all such matters in connection with: the annexation of the Property into City the annexation and rezoning of the Property; and this Agreement.

N. Developer and City desire that the Property be planned for development as a PUD, which PUD shall be guided by the Ordinances, this Agreement, Eagle City Code and the PUD Standards.

O. Developer has submitted to City a topical outline of the PUD Standards, which PUD Standards, attached hereto as **Exhibit D**, shall provide for, without limitation, the land use and development standards for the zoning designation of R-1-DA for the Property. The final PUD Standards shall be approved by City prior to Developer's submission to City of the first Planning Unit Master Plan. City shall not unreasonably withhold its approval of the final PUD Standards provided that the final PUD Standards are generally conforming to the attached **Exhibit D**. Where a conflict occurs between the City of Eagle PUD Standards and the PUD Standards, the PUD Standards shall prevail.

P. The terms and conditions of this Agreement have undergone extensive review by City and have been found to be fair, just and reasonable and City concludes that the public health, safety and welfare of City's citizens shall be best served by entering into this Agreement.

Q. The annexation, zoning and development of the Property as contemplated by this Agreement allows City to provide for high-quality development and ensure orderly, controlled and quality growth in City. City's approval of this Agreement does not exceed City's authority under any existing multi-jurisdictional agreements. In the event of conflict between this Agreement and the Rezoning Ordinance, this Agreement shall control.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed, and in consideration of the recitals and definitions above, which are incorporated below, and in consideration of the premises and the mutual representations, covenants and agreements hereinafter contained, City and Developer represent, covenant and agree as follows:

1. MASTER PLANS; PLANNING UNIT PLANS.

1.1 Conditions of Development. Developer shall develop the Property subject to the conditions and limitations set forth in this Agreement. Further, Developer shall submit such applications regarding design review, preliminary and final plat reviews, condominium plat reviews, PUD and/or any conditional use permits, as and if applicable, and any other applicable applications as may be required by the Zoning Ordinance, except as otherwise provided within this Agreement.

1.2 Planned Unit Development. Upon the annexation of the Property, Developer shall be authorized to implement the types of uses, densities and intensities of uses as set forth in this Agreement and shall be accorded all approvals necessary to permit Developer to implement this Agreement, subject to City's review and reasonable approvals described herein, including, but is not limited to the following: Planning Unit Master Plans, Final Development Plans, site plans, subdivision plats, grading plans, construction plans and other similar requests in accordance with the notice and hearing procedures of Eagle City Code; provided, however, in the case of any conflict between such applicable code and this Agreement, the terms of this Agreement shall control.

City hereby authorizes Developer to include in Planning Unit Master Plans the types of uses that are the same as or similar to (as reasonably determined by City's Zoning Administrator), and densities and intensities of uses equal to or less than, those set forth in this Agreement. Development of the Property may include, without limitation, the planning, design, engineering, construction, acquisition, installation, and/or provision of improvements of any sort or nature, including private infrastructure and Public Infrastructure related to development of the Property, whether located within or outside the Property. City, having exercised City's discretion in approving this Agreement, shall cooperate reasonably in administratively-processing the approval or issuance of such permits, plans, specifications, plats and/or other development approvals of or for the Property as may be requested by Developer in order to implement the Project, and which are reasonably consistent with this Agreement.

Notwithstanding anything to the contrary herein, prior to annexation, Developer may submit to City Planning Unit Master Plans, Final Development Plans, site plans, subdivision plats and other similar requests, which requests shall be processed in accordance with the notice and hearing procedures of Eagle City Code.

1.3 Planning Concept. The Project consists of approximately 6,005 acres located north of City. The Project is a comprehensive master planned community planned to provide a variety of housing, jobs, recreational, educational, equestrian, wildlife, Open Space and cultural opportunities integrated into City. In addition, in keeping with City's resolution to promote viticulture in the City of Eagle, City encourages the development of vineyards, viticulture industries and services and associated hospitality and tourism uses in or associated with the Project. Developer shall be entitled to investigate the

opportunities for establishing vineyard and viticulture industries and services and associated hospitality and tourism uses on the Property, which vineyards and/or viticulture industries and services and associated hospitality and tourism uses may be located in any Planning Area. City encourages Developer's efforts to establish vineyards and to obtain suitable water rights or supplies for irrigating vineyards. See potential vineyard locations as depicted on **Exhibit Q**.

The Project is planned for a Base Project Density of 0.5 units per gross acre, or 3,003 dwelling units, and 245 acres for Non-Residential Use. Through conversion of certain Constrained Lands to Unconstrained Lands and application of Bonus Density provisions, the Maximum Density will be 1.19 units per gross acre, or 7,153 dwelling units, and 245 acres for Non-Residential Use. In the event that any of the Non-Residential Use lands within a Planning Area are developed as residential, Developer may allocate any unused acres for Non-Residential Use to another Planning Area as provided in **paragraph 1.6** below. In the event Additional Property is annexed as provided in **paragraph 1.7** below, then the Maximum Density may be increased in accordance with **paragraph 1.7**.

Developer is granted a Density Bonus in accordance with the following standards:

- 2.5 units for each acre of a Community Center.
- 10 units for each acre of a Neighborhood Center.
- 1 unit for each acre of Regional Open Space over and above the 20 percent Open Space minimum requirement.
- 0.5 units for each acre of Community Open Space over and above the 20 percent Open Space minimum requirement.
- 10% of the total units for a Regional Open Space funding mechanism.

M3 Eagle is being planned as five different Planning Areas, as set forth in **Exhibit B** and **Exhibit(s) F, F1, F2, F3, F4 and F5**. Each Planning Area represents a unique design based upon: (i) topography; (ii) location within the Development Plan; (iii) existing and planned transportation corridors; (iv) a balance of commercial, employment and residential uses resulting in trip capture within the Project; (v) a wide array of housing and employment options to create a true live/work environment; (vi) regional and community Open Space; and (vii) dedication or donation of public facility sites for schools, police and fire, library, parks, public and civic uses. The Conceptual Development Plan for the Project is depicted on **Exhibit G**.

Within all Planning Areas a minimum of 50% of all dwelling units, and 65% of all single-family detached lots less than 5,000 square feet, and 50% of all single-family detached lots less than 8,000 square feet shall abut some form of Open Space.

Big Gulch Planning Area

The Big Gulch Planning Area contains 1,891 dwelling units and 95 acres of Non-Residential Use land for a gross density of 2.97 units/acre based on Bonus Density provisions and reassignment of dwelling units as set forth in **Table 1** below. The gross density of 2.97 may be increased to a Maximum Planning Area Density of 5.24 units/acre, or 3,335 dwelling units, but would require the reassignment of additional dwelling units from other Planning Area(s) to this Planning Area or conversion of Non-Residential Use lands to residential lands in accordance with **paragraph 1.6**, below so long as the Maximum Density for the Property is not exceeded.

| Table 1: Big Gulch Planning Area Density Allocation | | | |
|--|--------------|---|--------------|
| | Acres | Density (units/acre) | Units |
| Base Density | 636 | 0.5 | 318 |
| Community Center | - | 2.5 | - |
| Neighborhood Center | 120 | 10 | 1,200 |
| Regional Open Space | - | 1 | - |
| Excess Community Open Space | 60 | 0.5 | 30 |
| Subtotal: | | | 1,548 |
| Funding Bonus (10%) | | | 155 |
| Density Reassignment | | | 188 |
| | | Units | 1,891 |
| | | Gross Density (units/acre) | 2.97 |
| | | Maximum Planning Area Density (units/acre) | 5.24 |
| | | Non-Residential Use Acreage | 100 |

The Big Gulch Planning Area contains 636 acres (approximately 11% of the total Property) and is more fully described in Exhibit F1. Topographically, over 95% of this area is less than 25% slope.

The Planning Area contains approximately 116 acres of Constrained Lands of which 75 acres will be mitigated. The maximum Pre-Mitigation Density for this Planning Area is 1,634 dwelling units. This Planning Area is the heart of the community and is planned for a mix of residential, Non-Residential Uses, civic and public uses with 120 acres of Neighborhood Centers that are planned for a mixture of commercial and/or office uses and residential uses.

Two Neighborhood Centers, each comprised of 60 acres and planned for a mixture of commercial and/or office and residential uses, are located near the center and western end of the Planning Area with the highest intensity of mixed-use development located in the center. The central Neighborhood Center may be increased to a maximum of 95 acres and 300,000 Non-Residential Use square feet to promote and recruit additional employment opportunities that allow Eagle residents to live and work within the City of Eagle with intensity and density of use based upon Eagle City Code. This Planning Area may also contain resort or hotel uses and a medical office campus with a clinic or hospital.

Residential neighborhoods are anticipated to contain single and multi-family homes with densities ranging from 2-20 units/acre. Housing options will include apartments, townhouses, condominiums, patio homes, and high-density single-family detached and attached homes.

The Big Gulch Planning Area will have an urban feel at the Neighborhood Centers with appropriate landscape, monumentation, signage and place-making features integrated into the design of the area. Housing, commercial/office uses, roadways and landscape will tend to be arranged in formal patterns with tree-lined boulevards and pedestrian scale amenities. Buildings along the main arterial roadway may be close to the roadways to create pedestrian-friendly areas with sidewalks, street trees and benches. Shared surface parking areas and parking garages will be encouraged at the sides and rear of buildings or within building clusters, to reduce large areas of paving. On-street parking will be provided where sufficient right-of-way exists. Design Guidelines will be established as set forth in this Agreement, and in conjunction with City's design review regulations and enforced through the Owners' Association and recorded CC&Rs as well as appropriate City enforcement mechanisms. Clustered housing designs and placement of homes and other structures on individual lots will be carefully integrated into the topography, and sensitive hillside grading techniques will be used to ensure, to the greatest extent possible, that visual impacts of development on slopes and ridgetops is mitigated. Renderings showing examples of

the placement of homes or structures are found in **Exhibit F3**. On a Planning Unit by Planning Unit basis, Developer shall provide City with grading guidelines and hillside development standards for City review and approval, in accordance with the notice and hearing procedures of Eagle City Code, as part of the submittal of any preliminary plat within this Planning Area.

The center of the Big Gulch Planning Area contains a Neighborhood Center which will be designed using a main street concept, with an approximate 8-acre community park around which the highest density of commercial and residential development will be located. This area will have businesses, restaurants, civic uses and residential lofts fronting out onto the central park. The central boulevard will split into 2 two-lane roadways through this area.

The Big Gulch Planning Area is planned to have four community parks as well as regional, community and neighborhood trails. This area is also anticipated to contain a combined high school and middle school, a separate elementary school, and a police and fire station. Big Gulch is the primary drainage area within the M3 Eagle community. Big Gulch will be reshaped and redesigned, in accordance with an approved CLOMR, to create a flood management system as well as a 55-acre linear park through the center of M3 Eagle. The Big Gulch floodplain will become the Big Gulch Community Park, containing both improved and native areas, lakes and ponds with wetlands, play and picnic areas, and a regional trail.

Northern Residential Planning Area

The Northern Residential Planning Area contains 4,547 dwelling units, for a gross density of 1.65 dwelling units/acre, and 80 acres of Non-Residential Use land based on Bonus Density provisions and reassignment of dwelling units, as set forth in **Table 2** below. The gross density of 1.65 dwelling units/acre may be increased to a Maximum Planning Area Density of 2.14 units/acre, or 5,917 dwelling units, but would require the reassignment of additional dwelling units from other Planning Area(s) to this Planning Area or conversion of Non-Residential Use lands to residential lands in accordance with **paragraph 1.6**, below so long as the Maximum Density for the Property is not exceeded.

| Table 2: Northern Residential Planning Area Density Allocation | | | |
|---|--------------|---|--------------|
| | <i>Acres</i> | <i>Density (units/acre)</i> | <i>Units</i> |
| Base Density | 2,760 | 0.5 | 1,380 |
| Community Center | | 2.5 | |
| Neighborhood Center | 80 | 10 | 800 |
| Regional Open Space | 20 | 1 | 20 |
| Excess Community Open Space | 261 | 0.5 | 131 |
| Subtotal | | | 2,331 |
| Funding Bonus (10%) | | | 233 |
| Density Reassignment | | | 1,983 |
| | | Units | 4,547 |
| | | Gross Density (units/acre) | 1.65 |
| | | Maximum Planning Area Density (units/acre) | 2.14 |
| | | Non-Residential Use Acreage | 40 |

The Northern Residential Planning Area contains 2,760 acres (approximately 46% of the total Property) and is more fully described in **Exhibit F2**. Topographically, 67% of this Planning Area, or 1,849 acres, is less than 25% slope.



This Planning Area contains approximately 916 acres of Constrained Lands of which 556 acres will undergo Mitigation. The maximum Pre-Mitigation Density for the Planning Area is 3,206 dwelling units. This Planning Area is anticipated to encompass predominantly residential use with two Neighborhood Centers totaling approximately 80 acres. Acreage that is planned for Neighborhood Center uses will also include residential uses at an average density of 10 dwelling units per acre.

Residential neighborhoods are anticipated to contain single-family homes with densities ranging from 1 to 10 units/acre and multi-family homes with densities of 4 to 20 dwelling units/acre (approximately 97.5% single-family will be detached or attached and 2.5% of the homes will be multi-family).

Land use intensity will generally decrease from south to north as development moves away from the Big Gulch Planning Area toward the northern, eastern and western boundaries of the Planning Area. Custom lots or lower-density neighborhoods with an average density of 1 unit per acre will be located in a transitional zone approximately 300-1,000 feet wide at the northern perimeter of the Planning Area. The one-acre average density should be achieved through clustering. This zone will provide a transition between the low-density neighborhoods within the Planning Area and the even lower-density adjacent lands outside of the Property. Clustered housing designs and placement of homes and other structures on individual lots will be carefully integrated into the topography, and sensitive hillside grading techniques will be used to ensure, to the greatest extent possible, that visual impacts of development on slopes and ridgetops is mitigated. Renderings showing examples of the placement of homes or structures are found in **Exhibit F3**. Homes will be located on moderate slopes with many steeper, non-graded slopes left as Open Space. Design Guidelines will be enforced through the Owners' Association and recorded CC&Rs as well as City enforcement through the notice and hearing procedures of Eagle City Code. On a Planning Unit by Planning Unit basis, Developer shall provide City with grading guidelines and hillside development standards for City review and approval, in accordance with the notice and hearing procedures of Eagle City Code, as part of the submittal of any preliminary plat within this Planning Area.

The Northern Residential Planning Area is anticipated to have two community parks, nine neighborhood parks and three elementary schools. Two golf courses are also planned. The Planning Area will also be served by non-motorized multi-use trails (separated or combined) that will link neighborhoods with the rest of the community and planned regional Open Space. Trails through neighborhoods not adjacent to public rights-of-ways or connecting to public parks may be private.

Southern Residential Planning Area

The Southern Residential Planning Area contains 126 dwelling units, for a gross density of 0.06 dwelling units/ acre, and no Non-Residential Use land. The maximum number of dwelling units for this Planning area is 2,109, based on Bonus Density provisions as set forth in **Table 3** below, however it is projected that 1,983 dwelling units will be reassigned to other Planning Areas in accordance with **paragraph 1.6**, below. The resultant density for this Planning Area would be 0.06 units/acre or 126 units.

| Table 3: Southern Residential Planning Area Density Allocation | | | |
|---|--------------|---|--------------|
| | Acres | Density (units/acre) | Units |
| Base Density | 2,114 | 0.5 | 1,057 |
| Community Center | - | 2.5 | - |
| Neighborhood Center | - | 10 | - |
| Regional Open Space | 860 | 1 | 860 |
| Excess Community Open Space | - | 0.5 | - |
| Subtotal | | | 1,917 |
| Funding Bonus (10%) | | | 192 |
| Density Reassignment | | | (1,983) |
| | | Units | 126 |
| | | Gross Density (units/acre) | 0.06 |
| | | Maximum Planning Area Density (units/acre) | 0.06 |
| | | Non-Residential Use Acreage | 0 |

The Southern Residential Planning Area contains 2,114 acres (approximately 35% of the total Property) and is more fully described in **Exhibit F3**. Topographically, 61% of this Planning Area is less than 25% slope.

The Planning Area contains approximately 1,614 acres of Constrained Lands of which 145 acres will undergo Mitigation. The maximum Pre-Mitigation Density for this Planning Area is 100 dwelling units. The majority of the Planning Area is planned as Regional Open Space and residential clusters with custom home lots at .2 unit/acre, but may also contain single-family detached homes with densities up to 3 units/acre. Higher density, single-family detached homes and single-family attached homes may also exist where topography allows.

The Southern Residential Planning Area has the highest concentration of steep slopes of any of the five Planning Areas. Design and placement of homes and other structures shall be carefully integrated into the topography, and sensitive hillside grading techniques shall be used to ensure, to the greatest extent possible, that visual impacts of development on slopes and ridgetops is mitigated. Renderings showing examples of the placement of homes or structures are found in **Exhibit F3**. Residential units and ancillary improvements within custom lots will be restricted to development within designated building envelopes which will increase the amount of Open Space within the community. Privacy walls will be minimized in favor of open or no fencing to preserve vistas and allow wildlife movement. The Design Guidelines will dictate special standards to minimize disturbance to the environment. The Design Guidelines will be enforced through the Owners' Association and recorded CC&Rs, as well as City enforcement through the notice and hearing procedures of Eagle City Code. On a Planning Unit by Planning Unit basis, Developer shall provide City with grading guidelines and hillside development standards for City review and approval, in accordance with the notice and hearing procedures of Eagle City Code, as part of the submittal of any preliminary plat within this Planning Area.

Amenities are anticipated to include one neighborhood park and community and regional Open Space, regional equestrian and pedestrian trails, and a public equestrian center on the west side of Willow Creek Road. One elementary school is also planned. The Planning Area will also be served by non-motorized multi-use trails (separate or combined) that will link neighborhoods with the rest of the community and planned regional Open Space for public access. Trails through neighborhoods not adjacent to public right-of-way or connecting to public parks may be private. Trails through low-density neighborhoods may be on one side of the street. A public trailhead will be located on the east side of Willow Creek Road.

The public equestrian center, as envisioned, would be a full-service training facility with professional management and training services. The center would be on approximately 30 to 40 acres and would contain a covered riding arena, and turn-outs, and would provide resident and non-resident boarding facilities for 80 to 160 horses. The facility would be owned and operated by the Owners' Association or an affiliate of the community.

Developer is designating 800 acres of the Planning Area for the planned Eagle Regional Park and 80 acres located along Willow Creek Road for the Willow Creek Road Regional Open Space Corridor. As provided further below in **paragraph 2.6(c)**, Developer desires to, and shall work toward the exchange of the 800 acres for 815 acres of BLM Lands located near State Highway 16 as set forth in **Exhibit N**. The exchange would be subject to BLM designating the M3 Eagle 800 acres as Open Space. If the exchange is completed, the 815 acres would become part of the Highway Mixed-Use/Business Park Planning Area upon receiving the appropriate approvals from City in accordance with **paragraph 1.7**, below. If the BLM exchange is not successful within 10 years from the date of this Agreement, Developer will donate the 800 acres to City for a public park. The 800 acres will be available for public use during the exchange period with BLM as if it were part of the Eagle Regional Park. The 80-acre Willow Creek Regional Open Space Corridor (60 acres of which is in this Planning Area) will be owned and maintained by the Owners' Association, City, or other entity and will contain regional trails for public use.

Southwestern Residential Planning Area

The Southwestern Residential Planning Area contains 300 dwelling units, for a gross density of 0.74 dwelling units per acre, and 10 acres of Non-Residential Use land. The Maximum Planning Area Density is 0.74 units/acre or 300 units based on Bonus Density provisions as set forth in **Table 3** below, however, it is projected that up to 188 dwelling units may be reassigned to other Planning Areas in accordance with **paragraph 1.6**, below.

| Table 4: Southwestern Residential Planning Area Density Allocation | | | |
|---|--------------|---|--------------|
| | Acres | Density (units/acre) | Units |
| Base Density | 407 | 0.5 | 204 |
| Community Center | 0 | 2.5 | - |
| Neighborhood Center | 40 | 6 | 240 |
| Regional Open Space | 0 | 1 | - |
| Excess Community Open Space | | 0.5 | - |
| Subtotal | | | 444 |
| Funding Bonus (10%) | | | 44 |
| Density Reassignment | | | (188) |
| | | Units | 300 |
| | | Gross Density *(units/acre) | 0.74 |
| | | Maximum Planning Area Density (units/acre) | 0.74 |
| | | Non-Residential Use Acreage | 17 |

The Southwestern Residential Planning Area is planned as the first phase of M3 Eagle and consists of 407 acres (approximately 7% of the total Property) and is more fully described in **Exhibit F4**. Topographically, 99% percent of this Planning Area is less than 25% slope.

The Planning Area contains approximately 375 acres of Constrained Lands of which 305 acres will undergo Mitigation. The maximum Pre-Mitigation Density for this Planning Area is 81 dwelling units. On a Planning Unit by Planning Unit basis, Developer shall provide City with grading guidelines and hillside development standards for City review and approval, in accordance with the notice and hearing procedures of Eagle City Code, as part of the submittal of any preliminary plat within this Planning Area.

This Planning Area is anticipated to contain a Neighborhood Center and rural and estate-type custom homes on 1 to 10-acre lots, and single-family detached homes at a density of 4 to 6 units/acre. This is intended to be an equestrian-themed community. The equestrian lots will have irrigated pastures and open fencing to give the area a rural feel. Development adjacent to the planned Regional Park will provide for larger setbacks.

A private equestrian center (with resident and limited outside boarding) is planned to be part of this Planning Area along with a ranch camp. The equestrian center is planned for covered and uncovered riding arenas, paddocks and 80 to 100 stalls. The ranch camp is planned for a park-like setting with recreational amenities such as, without limitation, outdoor play equipment with a western theme, camp sites for residents, tree forts and tree swings and community play fields. The equestrian center will be professionally managed. All costs associated with the maintenance and operations of these areas will be borne through the Owners' Association.

This Planning Area will also be served by a regional park and the Big Gulch Community Park, located mainly in the Big Gulch Planning Area and a separate neighborhood park. In addition, ponds and small lakes holding treated effluent water will be located throughout this Planning Area with some located along Big Gulch Park. These water bodies will serve as irrigation reservoirs, community amenities, and wildlife habitat. In addition, there will be extensive Open Space on lots due to restricting development to building envelopes which will be controlled through the CC&Rs for M3 Eagle.

This Planning Area will also include non-motorized multi-use trails that will link the neighborhoods with the rest of the community and with regional trails within the Eagle Regional Park for public use. Trails through neighborhoods not adjacent to public right-of-way or connecting to public parks may be located on only one side of the street and may be private.

Highway Mixed-Use/Business Park Planning Area

The Highway Mixed-Use/Business Park Planning Area contains 290 dwelling units, for a gross density of 3.30 dwelling units/acre and 88 acres of Non-Residential Use land based on Bonus Density provisions and reassignment of dwelling units, as set forth in **Table 5** below. The gross density of 3.30 may be increased to a Maximum Planning Area Density of 5.68 units/acre, or 500 dwelling units based upon this Planning Area being a Community Center, but would require the reassignment of dwelling units from other Planning Area(s) to this Planning Area in accordance with **paragraph 1.6**, below so long as the Maximum Density for the Property is not exceeded.

| Table 5: Highway Mixed Use Planning Area Density Allocation | | | |
|--|--------------|---|--------------|
| | Acres | Density (units/acre) | Units |
| Base Density | 88 | 0.5 | 44 |
| Community Center | 88 | 2.5 | 220 |
| Neighborhood Center | 0 | 10 | - |
| Regional Open Space | 0 | 1 | - |
| Excess Community Open Space | | 0.5 | - |
| Subtotal | | | 264 |
| Funding Bonus (10%) | | | 6 |
| Density Reassignment | | | |
| | | Units | 290 |
| | | Gross Density (units/acre) | 3.30 |
| | | Maximum Planning Area Density (units/acre) | 5.68 |
| | | Non-Residential Use Acreage | 88 |

The Highway Mixed-Use/Business Park Planning Area contains 88 acres (approximately 2% of the total Property) and is described in **Exhibit F5**. Topographically, over 93% of the Planning Area is less than 25% slope. On a Planning Unit by Planning Unit basis, Developer shall provide City with grading guidelines and hillside development standards for City's review and approval, in accordance with the notice and hearing procedures of Eagle City Code, as part of the submittal of any preliminary plat within this Planning Area. Design and placement of structures shall be carefully integrated into the topography, and sensitive hillside grading techniques shall be used to ensure, to the greatest extent possible, that visual impacts of development on slopes and ridgetops is mitigated. This Planning Area contains approximately 6 acres of Constrained Lands of which 4 acres will undergo Mitigation. The maximum Pre-Mitigation Density for this Planning Area is 48 dwelling units.

The Planning Area is planned for community retail and business space and a fire station and will retain an existing cellular tower site. This Planning Area will combine highway-oriented commercial, retail, office and business park uses to capitalize on its adjacency and visibility from the regional transportation corridor, the planned interchange on State Highway 16, and the State Highway 16 to State Highway 55 arterial roadway. The site may also include high density single- and multi-family homes and hotel uses. Eventually, this area will be the gateway to M3 Eagle with appropriate landscape, entry and place-making features integrated into the design of the area with appropriate buffering along State Highway 16.

Access to this area will be by a future grade-separated interchange on State Highway 16 which will be two miles north of a planned future interchange on State Highway 16 and Beacon Light Road. This access will also serve as a primary entry into the community as well as connect to the primary five-lane arterial that is proposed to serve as a connection between State Highway 16 and State Highway 55.

Developer desires to exchange 800 acres of land within the Property, as set forth in **Exhibit N**, for 815 acres of BLM Lands located along the western border of the Project adjacent to this Planning Area. As provided further in **paragraph 1.7**, below, if Developer is successful in the BLM exchange, Developer will file an amendment to this Agreement to incorporate such Additional Property into the Project and this Planning Area may be expanded to include such Additional Property. In addition, the Bonus Density for the corresponding amount of Regional Open Space that was designated in the Southern Planning Area shall be reduced commensurately. It is envisioned that this Additional Property would contain approximately 2.0 dwelling units per gross acre for Unconstrained Lands, and 0.2 dwelling units per gross acre for Constrained Lands, and no density for lands within a floodway. The area would also contain civic and educational uses and up to 25% of the area as mixed-use development and a minimum of 25% of the

area as Open Space. This Additional Property would expand upon the commercial and employment center in this Planning Area and at the primary entry to the community and provide easy access and visibility from the highway corridor.

| Table 6: Project Density Allocation Summary | | | | | | | | |
|---|-------|----------------------|-------------|-----------|----------------------|----------------------|--------------------------|-------------------|
| | Acres | Density (units/acre) | Total Units | Big Gulch | Northern Residential | Southern Residential | Southwestern Residential | Highway Mixed Use |
| Base Density | 6,005 | 0.5 | 3,003 | 318 | 1,380 | 1,057 | 204 | 44 |
| Community Center | 88 | 2.5 | 220 | - | - | - | - | 220 |
| Neighborhood Center | 240 | 9.3 | 2,240 | 1,200 | 800 | - | 240 | - |
| Subtotal Units | | | 5,463 | | | | | |
| Required Open Space (20%) | 1,201 | | | | | | | |
| Regional Open Space | 880 | 1 | 880 | | 20 | 860 | - | - |
| Excess Community Open Space | 321 | 0.5 | 161 | 30 | 131 | - | - | - |
| Open Space Funding Bonus (10%) | | | 650 | 155 | 233 | 192 | 44 | 26 |
| Total Open Space (40%) | 2,402 | | | | | | | |
| Reassigned Units | | | - | 188 | 1,983 | (1,983) | (188) | - |
| Sub-Total Bonus Units | | | 4,151 | | | | | |
| Total Units: | | | 7,153 | 1,891 | 4,547 | 126 | 300 | 290 |
| Gross Density (units/acre) | | | 1.19 | 2.97 | 1.65 | 0.06 | 0.74 | 3.30 |

Note: The total area designated for Non-Residential Uses in the project is 245 acres.

1.4 Master Phasing Plan. The development planned for the Property, including the Public Infrastructure, is contemplated to progress in phases (that may be non-contiguous) and accomplished over an estimated 20 years as described in the Master Phasing Plan for the Project attached as Exhibit H. The 20-year estimate is based on the COMPASS model, however, Project build-out may occur sooner based on the historical growth within Eagle. The Master Phasing Plan is designed to accommodate the development of the Property from the west to the east, which will initially concentrate the movement of traffic toward State Highway 16. The Master Phasing Plan may be modified by Developer based upon changing residential and Non-Residential Use real estate market conditions, industry factors, and/or business considerations and the subjugation of Additional Property to this Agreement. The exact boundaries of each phase shall be established in the Planning Unit Master Plan process set forth in this Agreement. Any such modification(s) shall not necessitate a formal amendment to this Agreement, but shall be retained in City's official file for the Property. The following table is an example of the timing for each phase of development using the COMPASS growth model:

| Phase | Planning Area | Projected Start Date |
|-------|--|----------------------|
| 1 | Southwestern, Northern | 2010 |
| 2 | Northern, Big Gulch | 2012 |
| 3 | Northern, Big Gulch, Highway | 2018 |
| 4 | Northern, Southern, Big Gulch, Highway | 2023 |
| 5 | Northern, Southern, Big Gulch, Highway | 2028 |

1.5 Planning Unit Master Plan; Final Development Plan. Each Planning Unit Master Plan shall be based on the Planning Area plans set forth in **Exhibit(s) F, F1, F2, F3, F4 and F5** and the Conceptual Development Plan set forth in **Exhibit G**. The Conceptual Development Plan will be updated when necessary to reflect modifications or to refine phasing within the respective Planning Unit Master Plans. It is not necessary for Planning Unit Master Plans to encompass the same geographical area as a Planning Area. A Planning Unit Master Plan should reflect the area within the Project that the Planning Unit Developer is proposing to subdivide through a Final Development Plan. The Planning Unit Master Plan may address a portion of a Planning Area or Planning Unit, a complete Planning Area or Planning Unit, or more than one Planning Area or Planning Unit. The Planning Unit Master Plan shall be filed with the Zoning Administrator for review as to completeness and compliance with the requirements of this Agreement. Thereafter, the Planning Unit Master Plan and Final Development Plan shall be reviewed by the Planning & Zoning Commission for recommendation to City Council in accordance with the notice and hearing procedures of Eagle City Code. If the Planning Unit Master Plan and Final Development Plan are substantially in conformance with this Agreement and Eagle City Code, the Planning & Zoning Commission and City Council shall not unreasonably withhold approval.

1.6 Allocation; Density. This Agreement provides for a Maximum Density of 1.19 units/acre, or 7,153 dwelling units, and a maximum of 245 acres of Non-Residential Uses within the Property. The density shall not exceed the Post-Mitigation Density of 7,153 dwelling units for the entire Project. Table 7 below sets forth an estimate of the Unconstrained Lands by Planning Area. Based on this estimate, the Maximum Base Project Density prior to conversion of Constrained Lands to Unconstrained Lands is 0.85 units/acre or 5,127 dwelling units. Notwithstanding anything to the contrary herein, Developer shall have the right to develop the Property in accordance with the Pre-Mitigation Density of 5,127 dwelling units prior to conversion of Constrained Land to Unconstrained Lands. Developer shall also have the right to allocate residential density and/or Non-Residential Use acreage as set forth on **Tables 1-7**, and the Development Rights associated with such residential density and/or Non-Residential Use acreage, from Planning Area(s) or Planning Unit(s) to other Planning Area(s) or Planning Unit(s) at any time, and Developer may allocate any unused residential density or Non-Residential Use acreage originally allocated to a Planning Area or Planning Unit to another Planning Area or Planning Unit in the event that the preliminary or final platting of a Planning Area or Planning Unit results in unused residential density and/or unused Non-Residential Use acreage, provided such allocation: (i) does not exceed the Maximum Planning Area Density; (ii) does not exceed the Maximum Density for the Property; (iii), does not exceed the maximum Non-Residential Use acreage allowed for the Property; (iv) does not alter or waive the PUD Standards; (v) does not allow a use otherwise prohibited; or (vi) cause a material change to this Agreement without prior amendment to this Agreement as required by Eagle City Code and compliance with the notice and hearing requirements thereof. The allocation of residential density and/or Non-Residential Use acreage between Planning Areas and Planning Units is consistent with City's planning efforts to encourage planning flexibility based on physical and market conditions while protecting private property rights. Developer shall deliver notice to City that an allocation of residential density or Non-Residential Use acreage shall be made from one Planning Area or Planning Unit to another Planning Area or Planning Unit and shall provide City with a statement of the number of residential units per gross acre and/or Non-Residential Use acreage being allocated. Any such allocation shall not necessitate a formal amendment to this Agreement, but shall be retained in City's official file for the Property.

| Table 7: Pre- and Post-Mitigation Density | | | | | | |
|--|-----------|----------------------|----------------------|--------------------------|-------------------|--------|
| | Big Gulch | Northern Residential | Southern Residential | Southwestern Residential | Highway Mixed Use | Totals |
| 4 Total Acres | 636 | 2,760 | 2,114 | 407 | 88 | 6,005 |
| PRE- MITIGATION | | | | | | |
| Total Pre-Mitigation Unconstrained Acres | 520 | 1,844 | 500 | 70 | 82 | 3,016 |
| Maximum Density Per Unconstrained Acre Multiplier | | | | | | 1.7 |
| Constrained Acres | 116 | 916 | 1,614 | 337 | 6 | 5,127 |
| Pre- Mitigation Maximum Units | | | | | | 5,127 |
| Pre-Mitigation Density (units/acre) | | | | | | 0.85 |
| Acres Mitigated by Planning Area | 75 | 556 | 251 | 305 | 4 | 1,191 |
| POST-MITIGATION | | | | | | |
| Total Post-Mitigation Unconstrained Acres | 595 | 2,400 | 751 | 375 | 86 | 4,207 |
| Maximum Density Per Unconstrained Acre Multiplier | | | | | | 1.7 |
| Post-Mitigation Maximum Units | | | | | | 7,153 |

1.7 Additional Property. Recognizing the uniqueness of each Planning Area herein, Eagle City Code, Title 8, Chapter 6 allows for the inclusion of Additional Property into a PUD, thus providing for its expansion in area. The Additional Property does not need to be contiguous to the Property. In the event Developer owns or acquires Additional Property which is not subject to this Agreement, including, without limitation, Additional Property that will serve to make the Property contiguous with City's jurisdictional boundary, and desires to subject such Additional Property to the benefits and obligations of this Agreement, Developer may request that City annex the Additional Property into the corporate boundaries of City (if such Additional Property is not already within City's corporate boundaries). Upon such request, the Parties will commence annexation proceedings for such Additional Property which will subject such Additional Property to this Agreement and address, additional residential density and/or Non-Residential Uses and intensities of such Additional Property or, if requested by Developer, add such additional residential density and/or Non-Residential Uses of such Additional Property may increase the Pre-Mitigation Density, Post-Mitigation Density, and Maximum Density (including the Additional Property) and alter other development parameters in connection with the Property by the amount of dwelling units and Non-Residential Use acreage allowed pursuant to the existing entitlement on the property to be annexed based on any formula for density calculations included herein. Upon annexation of said Additional Property, Developer shall apply to City for any necessary land use approvals for the Additional Property, including any necessary amendment to this Agreement. The amendment to this Agreement may include alternative plans and land use designations. Developer may apply for the allocation of residential density and/or Non-Residential Use acreage, and the Development Rights associated with such residential density and/or Non-Residential Use acreage, from existing Planning Areas or Planning Units to the Additional Property in the manner set forth in **paragraph 1.6**, above.

1.8 Term.

(a) Initial Term. The initial term of this Agreement shall commence on the Effective Date and shall end on that date of publication of the Annexation and Rezone Ordinance (the "**Initial Term**"). In no event shall the Initial Term extend past 24 months of the Effective Date unless extended by the Parties. Annexation proceedings shall be commenced within 90 days of City's receipt of notice of contiguity of the Property with City's jurisdictional boundaries from Developer and shall be timely completed. City shall not unreasonably withhold its approval of annexation that is in substantial

compliance with the Eagle Comprehensive Plan and this Agreement. Notwithstanding the first sentence of this paragraph, in the event that contiguity of the Property with City's jurisdictional boundary is not reached within such 24-month time period, or if contiguity with City's jurisdictional boundary is reached and City fails to timely complete annexation proceedings commenced within 90 days of City's receipt of written notice of contiguity from Developer, unless such 24-month period is extended as provided further herein, the Initial Term shall automatically terminate and this Agreement shall terminate. Notwithstanding anything to the contrary herein, at any time prior to the commencement of the Extension Term, defined below, if City: (i) acts in bad faith in contravention of this Agreement; or (ii) the City fails to take actions to annex the Property consistent with the terms and conditions outlined herein, Developer may withdraw Developer's consent to annexation and rezone of the Property and this Agreement shall automatically terminate. Any expenditures by Developer prior to annexation shall be at Developer's risk and at Developer's sole cost and expense.

(b) Extension Term. Provided annexation and rezone of the Property has occurred as provided immediately above, the extension term of this Agreement shall commence on the date of publication of the Annexation and Rezone Ordinances(s) of the Property and shall automatically terminate on the 30th anniversary of the first day of the extension term (the "**Extension Term**") without the necessity of any notice, agreement, or recording by or between the Parties. However, if any of the Property has not yet been developed as contemplated by this Agreement before such 30th anniversary, this Agreement shall automatically extend, without the necessity of any notice, agreement, or recording by or between the Parties, for an additional 10 years, for a total of 40 years, at which time this Agreement and the Extension Term shall automatically terminate as to the Property without the necessity of any notice, agreement, or recording by or between the Parties. The Initial Term and the Extension Term are sometimes individually or collectively, as context may dictate, referred to herein as the "**Term**."

If Developer has proceeded in good faith but has been prevented from developing the Property, in whole or in part, within the Extension Term by circumstances beyond Developer's control, including, without limitation, failure of City to annex all or a portion of the Property, judicial injunctions, inclement weather, delays due to strikes, inability to obtain materials, civil commotion, terrorism, fire, acts of God, or delays caused by City, or other local, state or federal agencies, the Term shall be extended for an additional period of time equal to the period of such delay(s). Nothing in this Agreement shall be interpreted to preclude the Parties from extending the Term by mutual agreement or from entering subsequent development agreements or extensions thereof.

2. INFRASTRUCTURE AND SERVICES.

The Parties acknowledge that a general intent of this Agreement is for Developer to provide for its proportionate share of the Public Infrastructure which will be set forth by coordinated planning, design, engineering, construction, acquisition, installation, and/or provision of Public Infrastructure as contemplated by the Planning Unit Master Plan process and as otherwise described herein. Various public facilities and services as identified in this Agreement and to be identified in the Planning Unit Master Plan(s) shall be sited, provided, maintained and operated in accordance with this Agreement or in accordance with separate agreements with other governmental or quasi-governmental entities. City and Developer recognize that a proportionate share of the costs associated with the development of the Property and Public Infrastructure shall be borne by Developer and third-party owners of Property within the development and that many necessary elements of Public Infrastructure should be provided and/or maintained by other governmental or quasi-governmental entities, and not by City, and that Developer may enter into separate agreements with such other entities. For clarification, the Parties make specific note of and acknowledge the following:

2.1 Traffic & Circulation.

(a) Ada County Highway District; Idaho Transportation Department. Improvements to the ACHD and/or ITD Traffic System, as applicable, within the Project shall be provided at the direction of ACHD, ITD or some other legally-constituted entity with jurisdiction over the ACHD Traffic System and/or the ITD Traffic System. Unless City has such jurisdiction, City shall not be

responsible for any approvals or access permits required or construction or maintenance costs associated with the ACHD Traffic System and/or the ITD Traffic System, within the Project.

(b) Regional Circulation Plan; Master Traffic Study; Master Streets & Circulation Plan. Conceptual locations of major roadways within the Property and the North Eagle Foothills Planning Area are provided in the Regional Circulation Plan, attached hereto as **Exhibit I**. Developer is working with City, ACHD, ITD, BLM and adjacent property owners to adopt a regional roadway network plan to serve as a template to guide the Master Streets & Circulation Plan, to be developed based on the Master Traffic Study, the Planning Unit Master Plans and construction of the arterials generally along the alignments shown in the Regional Circulation Plan or as determined by the Agency having jurisdiction. Developer will work with the aforementioned agencies and others to determine the appropriate funding mechanisms to provide future funding to mitigate the proportionate impact of the development of the Property on the existing ACHD Traffic System and/or ITD Traffic System. Developer and City shall cooperate to achieve approval by ITD and/or ACHD of the circulation interrelationship between the ACHD Traffic System and the ITD Traffic System, such as the location of highway interchanges and/or roundabouts, as reflected in the proposed Master Streets & Circulation Plan attached hereto as **Exhibit J**. The western primary entry may be proposed as an interchange or roundabout on State Highway 16.

(c) ACHD Traffic System. Prior to and following annexation, Developer, with consultation with ACHD, will design, engineer, construct, acquire, install, permit and dedicate the ACHD Traffic System within and/or proportional to the Project's impacts in accordance with the Master Streets & Circulation Plan, Planning Unit Master Streets & Circulation Plans and the Phasing Plan and all planning and study documents of ACHD. Any expenditures incurred by Developer prior to annexation shall be at Developer's risk and at Developer's sole cost and expense.

(d) ITD Traffic System. Prior to and following annexation, Developer, with consultation with ITD, will design, engineer, construct, acquire, install, permit and dedicate the ITD System within and/or adjacent and/or proportional to the Project's impacts in accordance with the Master Streets & Circulation Plan, Planning Unit Master Streets & Circulation Plans and Phasing Plan and all planning and study documents of ITD. City and Developer shall cooperate in pursuit of funding from or authorized by the State of Idaho for the construction of Developer's proportionate share of necessary improvements to the ITD System (which improvements may include, without limitation, interchanges, roundabouts, traffic signals, turning lanes and frontage roads) required to implement this Plan. Any expenditures by Developer prior to annexation shall be at Developer's risk and at Developer's sole cost and expense.

(e) Planning Unit Master Streets & Circulation Plan. A detailed analysis of the ACHD Traffic System within the Project and the ITD Traffic System within and/or adjacent to the Project and the ultimate design and locations of streets and circulation improvements shall be consistent with the Master Streets & Circulation Plan and further defined in each Planning Unit Master Streets & Circulation Plan, which analysis shall be submitted and approved by ACHD and/or ITD, as appropriate. Each Planning Unit Master Streets & Circulation Plan shall be prepared and approved by City taking into account the Master Streets & Circulation Plan, and any amendments thereto and the recommendations of ACHD and/or ITD, as applicable. Each Planning Unit Master Streets & Circulation Plan shall address any increase or decrease in traffic volumes from other Planning Unit Master Plans and the particular Planning Unit being planned that may occur as development progresses and densities and intensities are rearranged.

(f) Phased Construction. Developer and/or ACHD and/or ITD shall construct or arrange for the construction of, in phases, and in accordance with the Master Streets & Circulation Plan and the Planning Unit Master Streets & Circulation Plan: streets, roadways and sidewalks to be used for motorized vehicular traffic for ingress and egress to, through, within and from the Project; parking; pedestrian, bicycle and/or other facilities to be used for non-motorized vehicular traffic for ingress and egress to, through, within and from the Property; street lighting with underground electric service distribution; all striping, traffic signals, street sign posts, street name signs, stop signs, speed limit signs, and all other directional/warning/advisory traffic signage as may be reasonably required. City shall not

issue certificates of occupancy for any phase prior to adequate on-site roads being constructed to the capacity required for full build-out of that phase.

(g) Private Roads. All private roads and/or rights-of-way within the Property shall be constructed by Developer to ACHD and/or ITD, as applicable, standards and maintained by Developer and/or an Owners' Association; provided, however, in certain areas, Developer may seek approval on a phase by phase basis from City to install private roads which are not to ACHD standards or are not paved to preserve a rural character. Developer reserves the right to seek approval to limit access through access control structures, to private roads within the Property, and to determine the location of curb cuts, provided a qualified engineer determines that their location does not present a significant hazard. Developer shall have the right to retain ownership of private roads and/or rights-of-way. Some or all of private roads and/or rights-of-way may be conveyed to one or more Owners' Associations. Developer may seek City approval to install access control structures within the medians of the private roads and/or rights-of-way at any portion of the Property. Developer shall grant to the appropriate service providers license for police, fire, ambulance, garbage collection, water or sewer line installation and repair, and other similar public purposes, over such private roads and/or rights-of-way. Application for private streets shall be made to City as allowed under Eagle City Code Titles 8 and 9 at the same time as a preliminary plat application is filed which includes one or more private road(s).

(h) Fiber Optics Easement. Developer shall reserve, prior to dedication to ACHD and/or ITD, as applicable, in any public street on the Property, a non-exclusive Fiber Optics Easement reasonably acceptable to Developer and ACHD and/or ITD as applicable. Such facilities may connect to facilities external to the Property. Developer shall have the exclusive right to select providers of fiber optics and telecommunications services in connection with the Project.

2.2 Water.

(a) Water Provider. As provided in **paragraph 2.2(c)**, an addition to City's Municipal Water System, hereinafter referred to as the Water System, shall be constructed by Developer sufficient to serve the Project. The Water System shall include all water rights necessary to serve the Project as it is being developed. As provided further herein, City shall be responsible for the operation and maintenance of the Water System. City shall provide water service to the Property from the Water System on the same basis as City provides water to other residents and businesses in the City of Eagle under ordinances in place at the time of this Agreement.

(b) Regional Hydrogeologic Study; Master Water Plan. Developer is conducting a Regional Hydrogeologic Study to determine the extent and sustainability of water sources that may be used to serve the Property. The Regional Hydrogeologic Study is intended to provide a basis for a Master Water Plan. The Master Water Plan will identify the various components of the Water System and all water rights necessary for and to be used to provide water service to the Property through the Water System. As provided further herein, Developer will develop water conservation criteria for landscaping and irrigation and the criteria will be included in the Design Guidelines.

(c) Water System. Prior to annexation, Developer may and, following annexation, Developer shall design, engineer, construct, install, permit and then convey the Water System to City in accordance with the terms of this Agreement, the Master Water Plan and any necessary Planning Unit Master Water Plans and applicable federal, state and local laws. In designing and constructing the Water System, Developer shall consult regularly with City and, construct the Water System to City's standards. Developer and City shall cooperate to the greatest extent practicable to ensure that all necessary water rights are secured by Developer for the Water System, and that the Water System can be permitted and operated in conjunction with existing and planned water facilities of City. Wherever feasible, Developer and City agree to cooperate as appropriate on development and operation of facilities such as storage reservoirs, emergency back-up power generators, and similar facilities. The phasing of the Project's development shall dictate the location and construction of the Water System components. City shall not issue any building permits for any phase prior to Developer's completion of the components of the Water System sufficient to provide fire protection for that phase of the Project. City shall not issue any certificates

of occupancy for any phase prior to Developer's completion of the Water System and irrigation facilities for service of that phase. As part of the conveyance of any phase or portion of the Water System to City, Developer shall provide City with all applicable as-built drawings, operation and maintenance manuals, operation records, and water right records and other necessary information.

(d) **Planning Unit Master Water Plan.** A detailed analysis of the Water System for each Planning Unit shall be completed and submitted to City.

(e) **Assured Water Supply.** For each Planning Unit Master Water Plan, Developer shall submit evidence that Developer has secured adequate surface and/or ground water right(s) for the Water System, sufficient for all irrigation, aesthetic, amenity, potable and/or recreational use in connection with the development of each Planning Unit (unless Developer is entitled to a waiver as provided by City Code). As part of the construction of the Water System and conveyance to City, Developer shall transfer, convey or assign (on a phase by phase basis) ground water right(s) to City for inclusion in City's municipal water supply system; provided however, Developer shall not convey or assign more ground water right(s) than necessary to serve the Project as it is being developed and City shall not use any of the water transferred under such rights to serve any other properties unless City demonstrates to Developer that City has obtained adequate water rights to serve the Project and such other properties. City shall cooperate with Developer, at no cost to City, to assist Developer in Developer's obtaining all permit(s) and licenses for water rights sufficient to serve the Property as the Property is developed in accordance with this Agreement. If any transfer, amendment or other proceedings are required under Idaho Code or IDWR rule or policy for the water rights necessary to serve the Project, City shall cooperate with developer in Developer's efforts to obtain all necessary permits and approvals from IDWR, including, without limitation, approvals in connection with Mitigation that may be required. Developer shall have the right to file for a municipal water right prior to the annexation. As set forth in this Agreement, it is City's and Developer's intent to have City be the water service provider and not have a PUC regulated provider serve the Property.

(f) **Reimbursement.** If Developer, at Developer's cost and expense, develops major water facilities, such as major production wells, water storage tanks or reservoirs (but excluding local service and distribution lines) for the Project, which reasonably has been determined by City to benefit properties other than the Property, or if City requires Developer to develop a portion of the Water System in excess of that necessary to serve the Project so as to allow City to serve other properties, City and Developer shall, in good faith, enter into an agreement to the effect that the portion of the costs in connection with such development of the Water System for properties other than the Property shall be reimbursed to Developer from the service connection charges collected from such other benefited property owners who otherwise have not paid or contributed their proportionate share toward development of the Water System ("**Water Reimbursement Agreement**"). Such Water Reimbursement Agreement shall have a duration of sufficient time following completion of the portion of the Water System for which reimbursement is sought with such time to be mutually agreed between Developer and City but in no event less than ten (10) years. Such Water Reimbursement Agreement shall provide, in part, that: (i) interest be paid to Developer at the then applicable municipal bond rate; (ii) City shall charge an administrative fee for handling the accounting, auditing, and payment of the reimbursement payments to be made to Developer; (iii) the Water Reimbursement Agreement shall be binding on Developer and City and their respective successors and assigns; and (iv) the Water Reimbursement Agreement may be recorded as an encumbrance against the benefited property(ies).

(g) **Water User Charges.** Upon development and conveyance of the Water System to City of the Water System and compliance with **paragraph 2.2(c)** above, City shall provide water service to the Property in quantity and quality sufficient to satisfy the potable water needs of the Project as and when required in connection with the development of the Property, subject to any water disruption or degradation of water quality or quantity that is outside the control of City and further subject to City's reasonably enacted and imposed standard terms and conditions of delivery. All water service using the Water System shall be metered. City shall receive no fee for water service until, and only if, City accepts ownership of and operational responsibility for the Water System, after which time City shall be entitled to collect such fees for water service.

(h) **Alternative Water Service.** It is the purpose and intent of City and Developer for Developer to develop a Water System (on a phase by phase basis) and convey same to City so City can provide water service to the Project. Developer has explored, and is continuing to explore, in conjunction with the Regional Hydrogeologic Study and Master Water Plan, several alternatives for the securing of water for use in the Water System, including the primary alternative for the use of ground water from on-site and off-site wells. The Parties, for a period not to exceed 36 months from the commencement of the Extension Term, shall, in good faith, explore developing the source(s) of supply for the Water System. If Developer fails to obtain adequate source(s) of supply to serve the Property within such 36-month time period (unless such period of time is extended by Developer and City by mutual agreement on or before the last day of such 36-month time period), City and Developer shall meet to evaluate other alternative sources of supply, including temporary source of supply, to provide a source of water for the Water System. The alternative source of supply can include use of surface water or water secured from other providers while Developer attempts to secure a permanent water supply for the Water System. Only in the event City fails to perform under Section 2.2 or, if City refuses to cooperate with Developer in providing for City to be the water service provider to the Property as set forth in Section 2.2, Developer may seek alternative potable water service from other capable providers or may create a private water system for the Project.

(i) **Irrigation Study.** Developer shall secure sufficient water for irrigation and aesthetic needs of the Project. The method of providing irrigation water shall be at the discretion of Developer so long as an adequate system and source of supply is provided, including a source of supply consistent with **paragraph 2.3(f)** below. If Developer so requests, City will give good faith consideration to establishing a municipal irrigation system to maintain and serve irrigation water to the Project.

2.3 Wastewater Treatment and Disposal.

(a) **Eagle Sewer District.** Sanitary sewer collection, treatment and disposal shall be provided by Sewer District or some other legally constituted public or private provider allowed to operate in City. Following annexation, Developer agrees to annex to Eagle Sewer District and further agrees not to seek other sewer treatment services unless or until Eagle Sewer District refuses to serve the Project. City shall not be responsible for any treatment, maintenance or costs associated with sanitary sewer collection, treatment and disposal in connection with the Project unless Eagle Sewer District refuses to serve and City and Developer enter into a separate agreement regarding Wastewater Treatment and disposal.

(b) **Master Wastewater Study; Master Wastewater Plan.** Developer has completed the Master Wastewater Study and Master Wastewater Plan which shall be submitted to Eagle Sewer District for approval. The Master Wastewater Plan, to be developed based on the Master Wastewater Study shall provide general locations of the major wastewater infrastructure needed to provide service for the Property.

(c) **Assured Treatment Facilities.** In connection with each Planning Unit Master Wastewater Plan, concurrently with the submittal of a Final Development Plan in connection with each Planning Unit or portion thereof, Developer shall submit evidence that the Wastewater System is adequate to satisfy all proposed uses in connection with the development of such Planning Unit or portion thereof. A letter of approval shall be provided to City from the Eagle Sewer District, Idaho Department of Environmental Quality and/or Central District Health, and/or other applicable governmental agency, prior to issuance of any certificate of occupancy as required by law.

(d) **Re-use Water.** City acknowledges Developer's intention to retain rights, title and interest in any and all of its re-use water (for irrigation or aquifer recharge purposes) which is generated from any Wastewater System constructed by Developer. City acknowledges that Developer will be using the re-use water for irrigation of its Open Space and potentially recharging the aquifer, both of which uses will be subject to applicable governmental agency approvals.

2.4 Storm Water Drainage.

(a) **Ada County Highway District.** Post-development storm water management includes drainage collection, diversion, detention, retention, dispersal, use and discharge, which shall be provided by ACHD or some other legally-constituted public or private provider allowed to operate in City entity with jurisdiction over the Drainage System. Unless City has such jurisdiction, City shall not be responsible for any approval, construction, collection, conveyance or maintenance costs associated with the Drainage System within the Project.

(b) **Master Drainage Study; Master Drainage Plan.** Developer shall complete the Master Drainage Plan, based on the Master Drainage Study to describe pre-development drainage characteristics of the Property and a conceptual hydrologic and hydraulic analysis of the Property's existing and proposed Drainage System. In connection with such Planning Unit Master Drainage Plan, Developer shall determine the applicable 100-year floodway elevations for the Property and shall obtain from FEMA a Conditional Letter of Map Revision ("CLOMR") that adjusts the floodway boundaries as and if appropriate. City shall use all good faith efforts to cooperate with Developer in connection with Developer's applications to FEMA to modify relevant flood maps to reflect actual conditions.

(c) **Assured Drainage.** In connection with each Planning Unit Master Drainage Plan, concurrently with the submittal of a Final Development Plan in connection with each Planning Unit or portion thereof, Developer shall submit evidence that the Drainage System is adequate to satisfy all proposed uses in connection with the development of such Planning Unit or portion thereof.

(d) **Drainage Re-use.** City acknowledges Developer's intention to retain rights, title and interest in any and all of drainage on the Property (for irrigation or aquifer recharge purposes). City acknowledges that Developer may be using drainage water for irrigation of Open Space and potentially recharging the aquifer, both of which uses will be subject to applicable governmental agency approvals.

2.5 Public Facilities.

(a) **Police.** Police protection is provided to City under contract with Sheriff of Ada County ("**Sheriff**") through contractual arrangement between Ada County and City. City shall provide police protection services to the Property as developed on the same basis as is provided to other residents and businesses within City. Following annexation, Developer shall contribute 1 site (not to exceed 1 acre) for the construction of a police station in accordance with the Master Parks, Trails and Public Facilities Plan, attached as **Exhibit K**, which defines a general location. Such site shall be combined with a fire station site. The final location is subject to Developer, Sheriff, and Fire District approval. Such police station shall be identified on the Final Development Plan in connection with the applicable Planning Unit Master Plan or portion thereof. Developer shall cooperate with City and Sheriff in determining Developer's proportionate share of funds in connection with construction of such site, facility equipment, personnel and operations, but not to exceed \$1,000,000.00 unless Developer's proportionate share exceeds such monetary amount, said additional amount shall be paid by Developer (the "**Police Fees**"); provided however, City and Developer acknowledge and agree that such Police Fees paid in connection with non-capital improvements are intended to be and shall be a one-time payment meant to cover that initial period of time when *ad valorem* taxes have not yet been collected to cover the costs of such non-capital improvements. Any contribution by Developer shall be contingent upon: (i) review and approval of construction; (ii) 180 days notice provided to Developer by City or the Sheriff; and (iii) evidence that the demand for such facility is based upon the demand created by the Project. Such buildings shall be designed to be consistent with the requirements necessary to provide service to the Project. Design of the facility shall be consistent with the EASD and the Design Guidelines, and shall be reviewed for approval by Developer and City in accord with the notice and hearing procedures of Eagle City Code. In the event that impact fees are implemented in connection with police service, Developer shall receive a credit against such impact fees equal to that portion of the Police Fees paid for capital improvements (as defined in Idaho Code § 67-8203).

(b) **Fire and Emergency Services.** Fire and emergency services are now provided to City by Eagle Fire District and Star Fire District (individually, the "Fire District" and collectively, the "Fire Districts"). Unless City becomes the entity responsible, City shall not be obligated to provide fire services to the Property. Fire water flows shall be provided by the Water System and all fire protection infrastructure will be designed and constructed in conjunction with each Fire District and in accord with all applicable governmental regulations and adopted uniform fire codes. Hydrant locations will be determined following consideration of, without limitation, accessibility, obstructions, building proximity, driveway entrances, signs and light poles. Developer, in consultation with the Fire Districts, and prior to submittal of a Final Development Plan in connection with the first Planning Unit Master Plan or portion thereof, shall develop a wildfire management plan for implementation within such Fire Districts. Following annexation, Developer shall contribute 1 site (not to exceed 1 acre of land per site and in addition to the fire station site combined with the police station site referenced in **paragraph 2.5(a)** above) for construction of the fire station in accordance with the Master Parks, Trails and Public Facilities Plan, attached as **Exhibit K**, which defines a general location. The final location is subject to Developer, applicable Fire District and Sheriff approval. Such fire station shall be identified on the Final Development Plan in connection with the applicable Planning Unit Master Plan or portion thereof. Developer shall cooperate with City and the Fire Districts in determining Developer's proportionate share of funds in connection with construction of such site, facility equipment, personnel and operations, not to exceed \$1,000,000.00 unless Developer's proportionate share exceeds such monetary amount said additional amount shall also be paid by Developer (the "Fire Fees"); provided however, City and Developer acknowledge and agree that such Fire Fees paid in connection with non-capital improvements are intended to be and shall be a one-time payment meant to cover that initial period of time when *ad valorem* taxes have not yet been collected to cover the costs of such non-capital improvements. Any contribution by Developer shall be contingent upon: (i) review and approval of construction budgets; (ii) 180 days notice provided to Developer by City or Fire District(s); and (iii) evidence that the demand for such facility is based upon the demand created by the Project. Such buildings shall be designed to be consistent with the requirements necessary to provide service to the Project. Design of the facility shall be consistent with the EASD and the Design Guidelines, and shall be reviewed for approval by Developer and City in accord with the notice and hearing procedures of Eagle City Code. In the event that impact fees are implemented in connection with fire service, Developer shall receive a credit against such impact fees equal to that portion of the Fire Fees paid for capital improvements (as defined in Idaho Code § 67-8203).

(c) **Schools.** Public education is provided by the School District. City shall not be obligated to provide public education service to the Property. Developer has, and shall continue to work diligently with School District to ensure that the educational needs of Property residents are met. In furtherance of meeting educational needs, Developer may participate with School District in enhancing the technology in one or more schools constructed by School District on the Property. Developer generally has identified potential school sites within the Project, as depicted on the Master Parks, Trails and Public Facilities Plan, attached as **Exhibit K**, to accommodate the needs of students generated as a result of the development of the Property using School District's student generation rates to determine the probable number of sites. The specific location, specific number of school sites and types of schools (i.e., elementary, middle and high schools) will be subject to approval by Developer and School District. The school sites will be shown as being dedicated to School District on an applicable Planning Unit Master Plan by Planning Unit Master Plan basis.

Following annexation, Developer shall use good faith efforts to enter into an agreement with School District to contribute the necessary school sites to School District to accommodate for the development of schools in accordance with the Master Public Facilities Plan and applicable Planning Unit Master Plan. Developer shall coordinate a demographic study with School District to determine the demonstrated need for a school site caused by students generated from households within the Property. Developer shall contribute the school sites pursuant to the findings of such demographic study. Provided such a need is demonstrated and that such school site would predominantly serve students generated from the Property, Developer shall offer a site (or sites) for donation to School District on a free and clear basis in the appropriate number of acres, typical for a particular type of school (e.g., high school, middle school or grade school) and utilities stubbed to the site to accommodate the development of the type of public school planned. The site or sites shall contain the acreage needed to locate a public school or schools

within the Property consistent with the typical acreage for such schools presently found in School District. The final number of school sites, the type of schools and their locations shall be identified in the appropriate Planning Unit Master Plan. Developer shall identify the site(s) on a plat or scaled drawing at the time the site(s) is offered to School District. If School District does not accept the offered site(s) within 2 years of the original offer, the offer shall terminate and Developer shall have no further obligation to offer property to School District thereafter. Design of any school and school grounds shall be consistent with the EASD and the Design Guidelines, and shall be reviewed for approval by Developer. Notwithstanding the above, Developer may also provide sites for private school facilities which may or may not affect the number of public school sites needed on the Property in connection with the Project.

(d) Library and Other Municipal Services. Library and other municipal services presently are provided by City. City shall provide library and such other municipal services to the Property on the same basis as is provided to other residents and businesses within City. The Eagle Public Library Strategic Plan, FY 2005/06 to FY 2009/10, adopted by City Council in 2005, plans for City to secure a West End branch library site in FY 2009/10. Developer shall offer to City up to a four-acre site (subject to actual needs and based upon an approved site plan) for donation to City, with utilities stubbed, or to be stubbed, to such site to accommodate the development of the type of library and other municipal services necessary to serve the community at a location to be mutually agreed upon between City and Developer, or Developer shall have the right to incorporate the space necessary to accommodate these uses into buildings built by Developer within the Property. As of the Effective Date, it is planned that such site would be located within the Big Gulch Planning Area. Design of any library shall be consistent with the EASD and the Design Guidelines, and shall be reviewed for approval by Developer.

2.6 Parks, Trails and Open Space.

(a) Master Parks, Trails and Open Space Plan. The Project will contain Open Space, totaling a gross minimum acreage of 20% of the Project area with an overall goal of providing 40% or more of the Project area as Open Space in exchange for Bonus Density described in **paragraph 1.3**, above. Developer shall receive a density bonus equal to 1 unit per gross acre of Regional Open Space and .5 units per gross acre of Community Open Space for each acre of Open Space provided over and above the minimum requirement. Each Planning Area shall contain a minimum of 15% of its total gross acres as Open Space. A Master Parks, Trails and Open Space Plan for the Project is shown on **Exhibit K**, which depicts the intent to link neighborhoods and Planning Areas to various common areas and recreational uses. The pathways and trails will be within and through Planning Areas and may be located along Open Space corridors and near or adjacent to community streets and roads. Pathways and trails may also utilize drainage ways and dry gulches between common areas and neighborhoods or may be combined with the drainage system for the Project. The parks, trails and Open Space Plan shown on **Exhibit K** will be either owned by the Owners' Association City, or another entity, or a combination of all three. Developer will submit to City a more detailed Master Parks, Trails and Open Space Plan concurrently with the submittal of the Final Development Plan for the first Planning Unit Master Plan or portion thereof.

(b) Planning Unit Master Parks, Trails and Open Space Plan. A Planning Unit Master Parks, Trails and Open Space Plan shall be submitted as part of the Planning Unit Master Plan that generally conforms to the Master Parks, Trails and Open Space Plan and will address roadway crossings, habitat and trails within the Eagle Regional Park.

(c) Eagle Regional Park and Willow Creek Open Space Corridor. City has applied to acquire 1,915 acres of BLM Lands for the proposed Eagle Regional Park, which 1,915 acres are contiguous to the southern border of the Project. The purpose of City's acquisition of BLM Lands is to create a regional park that would preserve Open Space in the vicinity for trails and other recreational enjoyment, buffer neighboring properties, and create and/or improve wildlife habitat by providing a wildlife mitigation corridor in and through the vicinity. Subject to: (i) City completing City's acquisition of BLM Lands; (ii) annexation of the Project; and (iii) failure of Developer to complete the BLM Exchange as described below in **paragraph (d)**, immediately below, Developer will donate approximately 800 acres of private land to City, as set forth in **Exhibit N**, which when combined with City BLM Lands, would create the

Eagle Regional Park totaling 2,715 acres. Those 800 acres contain important wildlife habitat and vegetative communities and are located adjacent to that portion of the Project planned for low-density residential neighborhoods and Open Space. The two portions of the Park (that is the 1,915 acres and the 800 acres) would be connected by Open Space at least 100 feet in width. In addition, Developer will create a tract to be maintained by the Owners' Association of approximately 80 acres of private land as part of the Willow Creek Open Space Corridor. Developer will work with and assist City on City's planning of the Park and Open Space Corridor with such improvements as trailheads, trails, lookouts and fencing along this boundary, including providing, at no expense to City, underlying topographical data, planning data and biological and wildlife studies.

(d) **BLM Exchange.** In an attempt to consolidate lands and prevent fragmentation of Open Space, Developer has filed a request with BLM to exchange approximately 800 acres of Developer's lands for 815 acres of BLM Lands. The exchange would be subject to BLM designating the M3 Eagle 800 acres as Open Space. The Parties acknowledge the appraised value of the Developer-owned 800 acres may be less than the appraised value of the BLM-owned 815 acres. In the event the BLM-owned 815 acres is appraised at a higher value than the Developer-owned 800 acres, Developer shall include additional, contiguous acres of Developer-owned land with such 800 acres to bring the appraised value of the Developer-owned lands to roughly the appraised value of the BLM-owned 815 acres. In the event that the exchange is completed, the 815 acres presently owned by BLM would become Additional Property as defined herein and become a part of the Highway Mixed-Use/Business Park Planning Area upon receiving the appropriate approvals from City. In the event that the exchange does occur Developer shall not receive any Bonus Density for such 800 acre parcel. In the event that the BLM exchange is not completed within 10 years from the date of this Agreement, Developer will donate the 800 acres to City for use as a regional park. The M3 Eagle 800 acres will be available for public use during the pending exchange as if it were a part of the Eagle Regional Park. City agrees that it will reasonably cooperate as necessary to accommodate this transaction.

(e) **Reimbursement.** If Developer, at Developer's cost and expense, develops and/or constructs and dedicates to City any portion of Developer's land for community or regional public park(s), Regional Open Space regional trails or publicly dedicated regional equestrian center or contributes to the improvements to the Eagle Regional Park, City, upon approval of the improvement costs ("**Approved Park Costs**"), shall either credit or reimburse Developer from park impact fees collected at the time of a building permit (or similar funding mechanisms) from each home that is permitted within the Project ("**M3 Eagle Park Impact Fees**"). City and Developer shall work to mutually track such Approved Park Costs and receipt and repayment of the M3 Eagle Park Impact Fees on a quarterly basis ("**Park Reimbursement Agreement**"). Such Park Reimbursement Agreement shall have a duration that ends the earlier of: (i) 10 years following completion of the portion of the applicable Park System for which reimbursement is sought; or (ii) when Developer has been fully reimbursed for costs in connection with development of any portion of the applicable Park System that benefits properties other than the Project. As an alternative to the reimbursement of Approved Park Costs, City and Developer may enter into an agreement whereby Developer is credited for park impact fees if Developer develops any of the park, Open Space or trail improvements listed above within a timeframe acceptable to City. Reimbursement shall be consistent with the Eagle Park Impact Fee Ordinance.

(f) **Maintenance of Regional Open Space.** Developer acknowledges the significance of the public Regional Open Space being created in the foothills and agrees to cooperate with City to establish an ongoing funding mechanism which is applicable to all residential and Non-Residential Use lands, homes or buildings within the North Eagle Foothills Planning Area and/or City limits. This funding mechanism shall be solely for the Regional Open Space Associated with this Project and identified in Exhibit K of this Agreement.

(g) **Mutual Cooperation.** City and Developer shall each use all good faith efforts to support each and every exchange of lands between Developer and BLM and/or City and BLM.

2.7 Planning Unit Master Environmental Design Plan.

(a) **Landscape.** All development of the Property shall be landscaped and meet or exceed the landscape requirements in the PUD Standards and/or Design Guidelines and shall, if necessary, include a threatened or endangered plant relocation program and revegetation guidelines. A landscape plant list shall be included in the Design Guidelines. Developer shall identify an Owners' Association or other entity to accept the ownership and maintenance of landscaping and irrigation systems. All Landscape guidelines shall be reviewed and approved by the Eagle Design Review Board prior to adoption by the City of Eagle.

(b) **Signage.** Signage shall be coordinated throughout the entire Property, with different areas within a Planning Unit potentially having particular signage themes. These areas may include urban, mixed-use entertainment areas, employment and commercial areas, parks and recreation areas, residential villages, residential hillsides, resort areas, pathways and trails, public and private roadways, and areas for temporary directional signage. Although there may be individual signage themes within different areas of the Property, continuity in appearance shall be recognizable through the use of color, material, form and character. All signage design shall conform to the regulations and procedures contained in the PUD Standards and/or the Design Guidelines. All Sign Standards shall be reviewed and approved by the Eagle Design Review Board prior to adoption by the City of Eagle.

(c) **Lighting.** A Lighting Plan shall incorporate "Dark Sky" design principles to reduce excessive light levels, light trespass and glare and to promote dark skies, to the extent possible. Lighting criteria will be established through the Design Guidelines. All lighting standards shall be reviewed and approved by the Eagle Design Review Board prior to adoption by the City of Eagle.

(d) **Habitat Mitigation Plan.** A Habitat Mitigation Plan that addresses development within Constrained Lands, as generally identified on Exhibit M as Habitat Areas of Special Concern, shall be prepared by Developer in cooperation with City. The Habitat Mitigation Plan shall identify areas where Mitigation is required, the type of Mitigation actions, if any, required, and the rationale for such actions. City and Developer may coordinate, cooperate, and consult with other agencies in the development and review of the Habitat Mitigation Plan, but approval authority for the Habitat Mitigation Plan shall rest solely with City based on standards commensurate with such Habitat Mitigation Plan(s) and based on findings that demonstrate a rational nexus. Nothing in the Habitat Mitigation Plan may be construed as either incorporating state and/or federal standards and/or regulations that are not applicable to the Property or otherwise conferring any approval authority for the Habitat Mitigation Plan to any state or federal agency. The Habitat Mitigation Plan shall be submitted to City prior to Developer's submission to City of the first Planning Unit Master Plan. Implementation of such Habitat Mitigation Plan shall be on a Planning Unit by Planning Unit basis. The Pre-Mitigation Density for any Planning Area shall not be increased until such Mitigation Plans are approved.

2.8 Construction. To the extent Developer develops the Property, the Parties shall have the right and the obligation, at any time after the commencement of the Extension Term, to dedicate land, subject to City's or other applicable governmental jurisdiction's acceptance, and/or construct or cause to be constructed and installed any or all portions of the Public Infrastructure that relates to the segments of the Property developed by Developer. All such construction performed by Developer shall be performed to minimize disturbance to native and existing plant cover outside of areas being developed. Developer shall comply with all applicable requirements, standards, codes, rules, or regulations of City and in compliance with all applicable permit requirements, standards, codes, rules or regulations of: (a) the State of Idaho; (b) the United States of America; and (c) other applicable governmental agencies. Developer shall have the right, upon receipt from City (or other applicable governmental jurisdiction, as may be applicable) of an appropriate encroachment permit, to enter and remain upon and cross over any City-held (or other applicable governmental jurisdiction, as may be applicable) easements or rights-of-way to the extent reasonably necessary to facilitate such construction, or to perform necessary maintenance or repairs of such Public Infrastructure, provided that Developer's use of such easements and rights-of-way shall not impede or adversely affect City's use and enjoyment thereof and provided that Developer shall substantially restore such easements and rights-of-way to their condition prior to Developer's entry

upon and completion of such construction, repair or maintenance. To the extent permitted by law and subject to obtaining an encroachment permit from City (or other applicable governmental jurisdiction), the prior dedication of any easements or rights-of-way shall not affect or proscribe Developer's right to construct, install, and/or provide Public Infrastructure thereon or thereover. City, as necessary to implement the installation of Public Infrastructure, shall cooperate reasonably with and assist in: (a) the abandonment of any unnecessary public rights-of-way or easements currently located on the Property and not otherwise used or required by other members of the public; (b) the acquisition of any necessary public rights-of-way or easements not currently located on the Property and required to be consistent with the Planning Unit Master Plans or provide access to the Property pursuant to the Planning Unit Master Plans except on lands currently filed with and under review by the City of Eagle for development approvals; and (c) submitting requests or filing applications, or entering into intergovernmental agreements with appropriate governmental entities regarding the abandonment or acquisition of public rights-of-way or easements necessary to develop the Property.

2.9 Infrastructure Assurance. It shall be a condition to the issuance of a building permit or permits that City shall have been provided with bonds or letters of credit sufficient to ensure completion of Public Infrastructure in connection with the applicable Planning Unit, in accordance with City's existing policies or ordinances for the amount of such bonds or letters of credit. The Infrastructure Assurance(s) shall be reduced accordingly as construction of the infrastructure subject to such assurance is completed. Within 30 days from City's approval of the particular completed Public Infrastructure for which City has required and Developer has provided Infrastructure Assurance, City shall release (or, in the case of a letter of credit, accept a substitute letter of credit) such assurance, in whole or in part as may be appropriate under the circumstances.

2.10 Public Infrastructure Development Fee Credit; Reimbursement. Notwithstanding anything to the contrary herein, the Public Infrastructure to be provided by Developer shall confer a benefit on the Property and, in certain instances, may confer a benefit on land areas outside the Property. In recognition of such benefits to the Property, in connection only with the Public Infrastructure under the jurisdiction of City, City shall take into account and credit and/or reimburse Developer against the sum total of all applicable public infrastructure development fees, under City's jurisdiction and control, now existing or adopted by City in the future, owed by Developer or anticipated builders/residents on the Property. In recognition of such benefits to land areas outside of the Property, City shall take into account and reimburse Developer against the sum total of all of Developer's costs and expenses associated with constructing, acquiring, and/or installing such Public Infrastructure benefiting such other land areas. This paragraph shall survive the termination of this Agreement.

3. REGULATION OF DEVELOPMENT.

3.1 Regulation of Development.

(a) **Applicable Rules.** The ordinances, rules, regulations, permit requirements, development fees, other infrastructure fees, exactions, other requirements, and/or official policies however denominated, applicable to and governing the development of the Property shall be those that are existing and in force as of the Date of Application, as may be mutually amended by amendment to this Agreement. City shall not amend this Agreement without written approval of Developer as set forth herein.

(b) **Permissible Additions to the Applicable Rules.** Except as otherwise provided in this Agreement City may enact the following provisions, and take the following actions, which shall be applicable to and binding on the development of the Property provided, however, City shall provide Developer with an opportunity to suggest methods of enacting and implementing such provisions to the Property:

(i) future land use ordinances, rules, regulations, permit requirements, other requirements and official policies of City that are consistent with the express provisions of this Agreement, and not contrary to the existing land use regulations applicable to and governing the development of the Property, provided that such land use ordinances,

rules, regulations, permit requirements, other requirements, and official policies shall, to the extent applicable, not involve the modification of any factual determinations of City memorialized in this Agreement and shall not materially impair Developer's ability to develop the Property in the manner provided in this Agreement. In the event of conflict between this Agreement and such future land use ordinances, rules, regulations, permit requirements, other requirements and policies of City, this Agreement shall control;

(ii) other future land use ordinances, rules, regulations, permit requirements, development fees, other requirements, and/or official policies that Developer may agree, in writing apply to the development of the Property;

(iii) future land use ordinances, rules, regulations, permit requirements, other requirements and official policies of City enacted as necessary to comply with this Agreement or mandatory requirements imposed on City by state or federal laws and regulations, court decisions, and other similar superior external authorities beyond the control of City; provided, however, that in the event any such mandatory requirement prevents or precludes compliance with this Agreement, such affected provisions of this Agreement shall be modified as may be necessary to achieve the minimum permissible variance from the terms of this Agreement in order to achieve compliance with such mandatory requirement. To the extent such compliance requires any discretionary factual determination by City, such determinations shall be consistent with City's findings memorialized in this Agreement;

(iv) future land use and other ordinances, rules, regulations, permit requirements, other requirements and official policies of City of uniform application throughout City and reasonably necessary to alleviate legitimate threats to public health and safety, provided that such land use ordinances, rules, regulations, permit requirements, other requirements and official policies shall, to the extent applicable, not involve the modification of any material factual determinations of City memorialized in this Agreement; and

(v) future updates of, and amendments to, existing building, fire, plumbing, mechanical, electrical, dangerous buildings, drainage, and similar construction and safety related codes, such as the International Building Code, which updates and amendments are generated by a nationally recognized construction/safety organization, such as the International Conference of Building Officials, or by the state or federal governments.

3.2 Amendment. City and Developer acknowledge that amendments to this Agreement may be necessary or appropriate from time to time. When the Parties agree that an amendment is necessary or appropriate, the Parties shall, unless otherwise required by applicable law as established in this Agreement or by state or federal statute, effectuate minor amendments administratively approved by the Zoning Administrator which include: (i) Any minor alteration to the list of permitted uses of the Property set forth in the PUD Standards and/or this Agreement; and (ii) Any reallocation of residential density or Non-Residential Use acreage between Planning Areas so long as the Maximum Planning Area Density or Maximum Density allowed per this Agreement is not exceeded. The approval of such minor amendments shall not necessitate formal amendment of this Agreement, but shall be retained in City's official file for the Property. All amendments to this Agreement shall be reviewed and approved by City Council in accord with the notice and public hearing procedures of Eagle City Code. The Parties shall cooperate in good faith to agree upon and use reasonable efforts to process any amendments to this Agreement.

For the Extension Term of this Agreement, no moratorium, future ordinance, resolution or other land use rule or regulation imposing a limitation on the development or the rate, timing or sequencing of the development, of the Property or any portion thereof shall apply to or govern the development of the Property whether affecting land use permits, subdivision plats, building permits, occupancy permits or other entitlements to use issued or granted by City, except as otherwise provided in this Agreement. Nothing in this paragraph shall prohibit City from withholding the issuance of Certificates of Occupancy for

a structure to be occupied if the Public Infrastructure improvements set forth in this Agreement, Planning Unit Master Plans, and Final Development Plans required to serve the applicable portion of the Property on which a structure to be occupied is to be located are not in place prior to occupation of such structure.

3.3 Changes to Zoning, PUD Standards and Development Program. For the Extension Term of this Agreement, any requests for changes or modifications to the PUD Standards, this Agreement or the zoning designations applicable to the Property shall be processed in the manner then set forth by Eagle City Code and/or this Agreement and/or other applicable law. Any such requests that are initiated by City shall become effective only upon Developer's written consent. Nothing in this paragraph shall be deemed to require City approval of requested changes to the zoning or land use designations applicable to this Property after annexation. The approval of any Planning Unit Master Plan(s) or Final Development Plan(s) which contain less density than is allocated to that Planning Unit Master Plan shall not have the effect of reducing the Project's overall Maximum Density but Developer shall be able to reallocate such density in accordance with this Agreement.

3.4 Vested Rights. As set forth in this Agreement, Developer shall have a vested right to develop the Property in accordance herewith. This section shall survive termination of this Agreement. The determinations of the Parties memorialized in this Agreement, together with the assurances provided to the Parties in this Agreement, including this section, are bargained for and in consideration for the undertakings of the Parties set forth herein and contemplated by this Agreement, and are intended to be and have been relied upon by the Parties to the Parties' detriment in undertaking the obligations of the Parties under this Agreement.

4. PROJECT GOVERNANCE.

4.1 Governance Entities. Developer shall create appropriate entities including, without limitation, a non-profit Owners' Association, and record CC&Rs consistent with this Agreement which bind all present and future owners within the Project and provide for the perpetual support and maintenance of the Project's governance entities, processes and common areas and to establish quality control throughout the Property both during development and during maturing of the community after the last house is built. A conceptual outline of the CC&Rs for the Project is attached as **Exhibit O**. Developer shall provide City with a draft set of CC&Rs concurrently with the submittal of the Final Development Plan for the first Planning Unit or portion thereof.

4.2 PUD Standards. Enforceable planning standards shall be applicable to all development within the Property, including both new construction and later modifications. The general elements to be addressed in the PUD Standards for the Project are described in **Exhibit D**. The PUD Standards shall be distinct to the foothills area that comprises the Project, and shall meet and enhance the PUD standards set forth in City Code, Chapter 6. Developer shall provide City with a draft set of PUD Standards within 18 months of the Effective Date of this Agreement, which PUD Standards shall be reviewed by the P & Z Commission and approved by the City Council in accord with the notice and hearing procedures of Eagle City Code. Such PUD Standards may be reviewed and approved separately or in connection with the Final Development Plan for the first Planning Unit or portion thereof. Upon approval, this Agreement shall be amended to include the PUD Standards, as approved. In the event of any conflicts between the PUD Standards and the City Code, Chapter 6, the PUD Standards shall prevail. In the event that City fails to approve the PUD Standards then Developer shall have the right to develop the Property in accordance with the adopted City Code, Chapter 6, as may be amended from time to time.

4.3 Design Guidelines. Enforceable planning, engineering, architectural and landscape design guidelines, including, without limitation, mass grading guidelines and water and native plant conservation techniques, shall be applicable to all development within the foothills area that comprises the Property, including both new construction and later modifications. The general elements to be addressed in the Design Guidelines for the Project are described in **Exhibit P**. The Design Guidelines shall be distinct to the Project, but shall meet and enhance the design standards set forth in the EASD and City Code, Section 8-2A-5. Developer shall provide City with a draft set of Design Guidelines within 18 months of the Effective Date of this Agreement, which Design Guidelines shall be reviewed by the

Design Review Board prior to review by the P & Z Commission and approved by the City Council in accord with the notice and hearing procedures of Eagle City Code. Such Design Guidelines may be reviewed and approved separately or in connection with the Final Development Plan for the first Planning Unit or portion thereof. Upon approval, this Agreement shall be amended to include the Design Guidelines, as approved. In the event of any conflicts between the Design Guidelines and the EASD and/or City Code, Section 8-2A-5, the Design Guidelines shall prevail. In the event that City fails to approve the Design Guidelines then Developer shall have the right to develop the Property in accordance with the adopted EASD or City Code, Section 8-2A-5, as may be amended from time to time.

5. COOPERATION AND ALTERNATIVE DISPUTE RESOLUTION.

5.1 Compliance Reviews. As long as Developer owns any of the Property, Developer's Representative shall meet with City's Representative at least once per year during the Term, to review development completed in the prior year and the development anticipated to be commenced or completed in the ensuing year. Developer shall be required to provide City with such information as may reasonably be requested including: acreage of the Property sold in the prior year; acreage of the Property under contract; the number of certificates of occupancy issued in the prior year; the number of certificates of occupancy anticipated to be issued in the ensuing year; and Development Rights allocated in the prior year and anticipated to be allocated in the ensuing year.

5.2 Agreement to Cooperate. In the event of any legal or equitable action or other proceeding instituted by a third-party or other governmental entity or official challenging the validity of any provision of this Agreement, the Parties hereby agree to cooperate in defending such action or proceeding. City and Developer may agree to select mutually agreeable legal counsel to defend such action or proceeding with the parties sharing equally in the cost of such joint counsel, or each party may select its own legal counsel at each party's expense. All other costs of such defense(s) shall be shared equally by the parties. Each party shall retain the right to pursue its own independent legal defense.

5.3 Default. Failure or unreasonable delay by either Party to perform or otherwise act in accordance with any term or provision of this Agreement for a period of 30 days following written notice thereof from the other Party (the "**Cure Period**"), shall constitute a default under this Agreement; provided, however, that if the failure or delay is such that more than 30 days would reasonably be required to perform such action or comply with any term or provision hereof, then such Party shall have such additional time as may be reasonably necessary to perform or comply so long as such Party commences performance or compliance within such 30-day period and diligently proceeds to complete such performance or fulfill such obligation (the "**Extended Cure Period**"). The written notice provided for above shall specify the nature of the alleged default and the manner in which said default may be satisfactorily cured, if possible. In the event a default of Developer is not cured within the Cure Period or the Extended Cure Period, if applicable, the zoning of that portion of the Property related to such default shall convert to the A-R (Agricultural-Residential) zoning designation. In the event a default of City is not cured within the Cure Period or the Extended Cure Period, if applicable, upon written notice from Developer, City shall take all steps to immediately de-annex the Property and this Agreement shall automatically terminate.

5.4 Dispute Resolution/Remedies.

(a) Process. Notwithstanding anything to the contrary herein, if an event of default is not cured within the Cure Period or the Extended Cure Period, if applicable, the non-defaulting Party may initiate the process by providing written notice initiating the process to the alleged defaulting Party. Within 15 days after delivery of such notice, each Party shall appoint one person to act as mediator on behalf of such Party and notify the other Party. Within 15 days after delivery of such notice, the persons appointed shall themselves appoint one person to serve as the sole mediator. The mediator shall set the time and place of the mediation hearing and shall give reasonable notice of the hearing to the Parties. The Parties may agree to hold the hearing by telephone.

(b) **Hearing.** The Parties have structured this dispute resolution process with the goal of providing for the prompt and efficient resolution of all disputes falling within the purview of this process. The hearing of any dispute shall commence as soon as practicable, but in no event later than 30 days after selection of the mediator. This deadline can be extended only with the consent of both Parties. Proceedings shall be under the control of the mediator and as informal as practicable. In order to effectuate the Parties' goals, the mediation, once commenced, shall proceed from business day to business day until concluded, absent a showing of unforeseen or emergency circumstances. If those receiving a request for mediation fail to appoint a mediator within the time above specified, or if the result of such mediation is unsatisfactory to one or more Parties, then any Party may avail itself of any legal or equitable remedy available under Idaho law.

(c) **Fees.** Each Party shall pay one-half of all fees and costs associated with the mediation process.

(d) **Condemnation.** The process and remedies set forth herein shall not apply to an action to condemn or acquire by inverse condemnation all or any portion of the Property, and in the event of any such action, Developer shall have all rights and remedies available to it at law or in equity.

5.5 Prevailing Party. In the event that either party to this Agreement shall file suit or action at law or equity to interpret or enforce this Agreement, the unsuccessful party to such litigation agrees to pay to the prevailing party all costs and expenses including reasonable attorneys' fees incurred by the prevailing party. Similarly, all fees and costs associated with an appeal to any appellate court thereafter, including, without limitation, the prevailing Party's attorneys' fees, shall be paid by the non-prevailing party.

6. NOTICES AND FILINGS.

6.1 Manner of Serving. All notices, filings, consents, approvals and other communications provided for herein or delivered in connection herewith shall be validly delivered, filed, made, or served if in writing and delivered personally or delivered by a nationally recognized overnight courier or sent by certified United States Mail, postage prepaid, return receipt requested, if to:

City:

City Clerk
City of Eagle
660 E. Civic Lane
P.O. Box 1520
Eagle, ID 83616

with a copy to:

Susan E. Buxton
Moore Smith Buxton & Turcke, Chtd.
950 W. Bannock, Suite 520
Boise, ID 83702

Developer:

M3 Eagle L.L.C.
4222 E. Camelback Road, #H100
Phoenix, AZ 85018
Attn: William Brownlee

with a copy to:

Dana Stagg Belknap
Gallagher & Kennedy
2575 E. Camelback Road, Suite 1100
Phoenix, AZ 85016

and a copy to:

JoAnn C. Butler
Spink Butler, LLP
251 E. Front Street, Suite 200
PO Box 639
Boise, ID 83701

or to such other addresses as either Party hereto may from time to time designate in writing and delivery in a like manner.

6.2 Mailing Effective. Notices, filings, consents, approvals and communication given by mail shall be deemed delivered immediately if personally delivered, 24 hours following deposit with a nationally recognized courier, or 72 hours following deposit in the U.S. mail, postage prepaid and addressed as set forth above.

7. MISCELLANEOUS.

7.1 Operations During Construction. Developer intends to, and hereby does, reserve mineral and/or royalty rights on minerals located on or under the Property. Mining (for purposes of on-site material usage), blasting and batch plant operations shall be allowed on-site during construction of the Project in accordance with Eagle City Code and this Agreement. The location of such operations shall be subject to reasonable regulation and approval by the appropriate governmental agencies that have jurisdiction over such operations. Portions of the Property not currently under development may be used for agricultural purposes.

7.2 Termination Upon Sale to Public. Except as otherwise provided herein, this Agreement is not intended to and shall not create conditions or exceptions to title or covenants running with the Property beyond the development of the Property. Therefore, in order to alleviate any concern as to the effect of this Agreement on the status of title to any portion of the Property, this Agreement shall terminate without the necessity of any notice, agreement or recording by and/or between the Parties in connection with any lot that has been finally subdivided and individually (and not in "bulk") leased (for a period of longer than one year) or sold to the end-purchasers or users thereof (a "Public Lot") and thereupon such Public Lot shall be released from and no longer be subject to or burdened by the provisions of this Agreement.

7.3 Termination Upon Completion of Development. City shall, upon written request of Developer, execute appropriate and recordable evidence of termination of this Agreement if City has determined reasonably that Developer has fully performed Developer's obligations under this Agreement in connection with all or a portion of the Property. Upon final approval of any detailed phase of the Property, or portion thereof, by City, and the recordation of the final plat in connection therewith, City shall, as soon as practicable, execute and record an appropriate instrument of release of the Agreement in connection with such phase of development of the Property.

7.4 Status Statements. Any Party may, at any time, and from time to time, deliver written statement to any other Party requesting that such other Party provide in writing that, to the knowledge of such other Party: (a) this Agreement is in full force and effect and a binding obligation of the Parties; (b) this Agreement has not been amended or modified, and if so amended, identifying the amendments; (c) the requesting Party is not in default in the performance of its obligations under this Agreement, or if in

default, to describe therein the nature and amount of any such defaults. A Party receiving a request hereunder shall execute and return such statement within a reasonable time following the receipt thereof. City acknowledges that such statement hereunder may be relied upon by transferees and mortgagees. City shall have no liability for monetary damages to Developer, and transferee or mortgagee, or any other person in connection with, resulting from or based upon the issuance of any statement hereunder.

7.5 Mortgage Provisions.

(a) **Mortgagee Protection.** This Agreement shall be superior and senior to any future lien placed upon the Property, or any portion thereof, including the lien of any Mortgage. However, no breach hereof shall invalidate or impair the lien of any Mortgage made in good faith and for value, and any acquisition or acceptance of title or any right or interest in or with respect to the Property, or any portion thereof, by a mortgagee (herein defined to include a beneficiary under a deed of trust), whether under or pursuant to a mortgage foreclosure, trustee's sale or deed in lieu of foreclosure or trustee's sale, or otherwise, shall be subject to all of the terms and conditions contained in this Agreement. No mortgagee shall have an obligation or duty under this Agreement to perform Developer's obligations or other affirmative covenants of Developer hereunder, or to guarantee such performance; except that to the extent that any covenant to be performed by Developer is a condition to the performance of a covenant by City, the performance thereof shall continue to be a condition precedent to City's performance hereunder.

(b) **Bankruptcy.** If any mortgagee is prohibited from commencing or prosecuting foreclosure or other appropriate proceedings in the nature thereof by any process or injunction issued by any court of competent jurisdiction or by reason of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving Developer, the times specified above for commencing or prosecuting foreclosure or other proceedings shall be extended for the period of the prohibition, provided that such mortgagee is proceeding expeditiously to terminate such prohibition and in no event for a period longer than 2 years.

8. GENERAL.

8.1 **Waiver.** No delay in exercising any right or remedy shall constitute a waiver by either Party thereof, and no waiver by City or Developer of the breach of any covenant or condition of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

8.2 **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single document so that the signatures of all Parties may be physically attached to a single document.

8.3 **Headings.** This Agreement shall be construed according to its fair meaning and as if prepared by both Parties hereto. Titles and captions are for convenience only and shall not constitute a portion of this Agreement. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates.

8.4 **Exhibits and Recitals.** Any exhibit attached hereto shall be deemed to have been incorporated herein with the same force and effect as if fully set forth in the body hereof. The Recitals set forth above shall be deemed to have been incorporated herein with the same force and effect as if fully set forth in the body hereof. The Definitions set forth prior to the Recitals shall be deemed to have been incorporated herein with the same force and effect as if fully set forth in the body hereof.

8.5 **Further Acts.** Each of the Parties shall promptly execute and deliver all such documents and perform all such acts as reasonably necessary, from time to time, to carry out the matters contemplated by this Agreement.

8.6 Time of Essence. Time is of the essence in implementing the terms of this Agreement.

8.7 Successors and Assigns. The burdens of this Agreement are binding upon, and the benefits inure to, all successors in interest of the Parties to this Agreement and constitute covenants that run with the land. Developer's rights and obligations hereunder shall only be assigned to a person or entity that has acquired the Property, or a portion thereof, and shall be assigned by a written instrument, recorded in the official records of Ada County, Idaho, expressly assigning such rights and obligations. In the event of a complete or partial assignment of Developer's rights and obligations hereunder, except an assignment for collateral purposes only, Developer's liability under this Agreement shall terminate. Nothing in this Agreement shall operate to restrict Developer's ability to assign less than all of Developer's rights and obligations under this Agreement to those persons or entities that acquire any portion of the Property. Notwithstanding the foregoing, the ongoing ownership, operation and maintenance obligations in connection with this Agreement may be assigned to an Owners' Association. Developer shall provide City with written notice of any assignment of Developer's rights or obligations to such Owners' Association within a reasonable period of time following such assignment. Notwithstanding any other provisions of this Agreement, Developer may assign all or part of Developer's rights and duties under this Agreement as collateral to any financial institution from which Developer has borrowed funds for use in developing the Property.

8.8 No Partnership; Third Parties. It is hereby specifically understood, acknowledged and agreed that neither City nor Developer shall be deemed to be an agent of the other for any purpose whatsoever. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between Developer and City. No term or provision of this Agreement is intended to, or shall, be for the benefit of any third-party, person, firm, organization or legal entity not a party hereto, and no such other third-party, person, firm, organization or legal entity shall have any right to cause of action hereunder.

8.9 Entire Agreement. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations and understandings of the Parties, oral or written, are hereby superseded and merged herein. No modification or amendment to this Agreement of any kind whatsoever shall be made or claimed by Developer or City shall have any force or effect whatsoever unless the same shall be endorsed in writing and signed by the Party against which the enforcement of such modification or amendment is sought, and then only to the extent set forth in such instrument. Such approved amendment shall be recorded in the Official Records of Ada County, Idaho. Any alteration or change to this Agreement shall be made only after complying with the notice and hearing provisions of Idaho Code Section 67-6509, as required by City Code Section 8-10-1.

8.10 Construction. All Parties hereto have either been represented by separate legal counsel or have had the opportunity to be so represented. Thus, in all cases, the language herein shall be constructed simply in accord with its fair meaning and not strictly for or against a Party, regardless of whether such Party prepared or caused the preparation of this Agreement.

8.11 Names and Plans. Developer shall be the sole owner of all names, titles, plans, drawings, specifications, ideas, programs, designs and work products of every nature at any time developed, formulated or prepared by or at the request of Developer in connection with the Property and the Project; provided, however, that in connection with any conveyance of portions of the Property to City, such rights pertaining to the portions of the Property so conveyed shall be assigned to City to the extent that such rights are assignable.

8.12 Severability. If any provision of this Agreement is declared void or unenforceable, such provision shall be severed from this Agreement, which shall otherwise remain in full force and effect. If any applicable law or court of competent jurisdiction prohibits or excuses one Party from undertaking any contract commitment to perform any act hereunder, then the other Party may, at such other Party's sole discretion, terminate this Agreement or proceed with that portion of the Agreement not prohibited by law. It is the Parties' express intention that the terms and conditions be construed and applied as provided

herein, to the fullest extent possible. It is the Parties' further intention that, to the extent any such term or condition is found to constitute an impermissible restriction of the police power of City, such term or condition shall be construed and applied in such lesser fashion as may be necessary to not restrict the police power of City.

8.13 Choice of Law. This Agreement shall be construed in accordance with the laws of the State of Idaho in effect on the Date of Application. Any action brought in connection with this Agreement shall be brought in a court of competent jurisdiction located in Ada County, Idaho.

8.14 Recordation. After its execution, this Agreement shall be recorded in the office of the Ada County, Idaho Recorder at the expense of Developer. Each commitment and restriction on the Project shall be a burden on the Property, shall be appurtenant to and for the benefit of the Property and shall run with the land. This Agreement shall be binding on Developer and owners, and their respective heirs, administrators, executors, agents, legal representatives, successors, and assigns; provided, however, that if all or any portion of the Project is sold, the sellers shall thereupon be released and discharged from any and all obligations arising under this Agreement in connection with the portion of the Property sold. The new owner of the Property or any portion thereof (including, without limitation, any owner who acquires its interest by foreclosure, trustee's sale or otherwise) shall be liable for all commitments and other obligations arising under this Agreement with respect to the Property or portion thereof.

8.15 No Developer Representations. Nothing contained herein shall be deemed to obligate Developer to complete any part or all of the development of the Property in accordance with this Agreement, the Development Plan or any other plan, and this Agreement shall not be deemed a representation or warranty by Developer of any kind whatsoever.

8.16 Good Standing; Authority. Each of the Parties represents to the other that: (a) Developer is a Texas limited liability company duly qualified to do business in Idaho; (b) City is a municipal corporation duly qualified to do business in the State of Idaho; and (c) the individual(s) executing this Agreement on behalf of the Parties are authorized and empowered to bind the Party on whose behalf each such individual is signing.

IN WITNESS WHEREOF, the Parties hereto, having been duly authorized, have executed this Pre-Annexation and Development Agreement to be effective on the Effective Date.

CITY:

CITY OF EAGLE, IDAHO, a municipal corporation organized and existing under the laws of the State of Idaho

By: _____

Nancy C. Merrill, Mayor

Attest: _____

Sharon K. Bergmann, City Clerk



M3 EAGLE:

M3 Eagle L.L.C., a Texas limited liability company

By: M3 BUILDERS, L.L.C., an Arizona limited liability company, its Manager

By: The M3 Companies, L.L.C., an Arizona limited liability company, its sole member

By: _____

William I. Brownlee, Member

STATE OF IDAHO)
) ss.
County of Ada)

On this 27 day of December, 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared Nancy C. Merrill, known or identified to me to be the Mayor of the City of Eagle, the municipal corporation that executed the instrument or the person who executed the instrument on behalf of said municipal corporation, and acknowledged to me that such municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Tacey E. Osborn

Notary Public for Idaho
Residing at Sumner, Id
My commission expires: 12/22/08



ARIZONA
STATE OF IDAHO)
) ss.
County of Ada Yavapai

On this 19 day of December, 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared William I. Brownlee, member of The M3 Companies, L.L.C., an Arizona limited liability company, known or identified to me to be the Manager of M3 Eagle L.L.C., the limited liability company that executed the instrument, or the person who executed the instrument on behalf of said limited liability company, and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Audith E. Drummet-Bowme

Notary Public for Idaho ARIZONA
Residing at PRESCOTT, AZ
My commission expires: 1/22/2011



AD

**EXHIBIT A
LEGAL DESCRIPTION AND DEPICTION OF THE PROPERTY**

**DESCRIPTION FOR
M3 PROPERTIES**

September 13, 2007

PARCEL 1

A PARCEL OF LAND BEING A PORTIONS OF SECTIONS 10, 11, 12, 13, 14, 15, 22, 23, 24, 26, 27, 28 AND 33, TOWNSHIP 5 NORTH, RANGE 1 WEST, B.M. AND SECTIONS 7, 17, 18, 19 AND 20, TOWNSHIP 5 NORTH, RANGE 1 EAST, B.M., ADA COUNTY, IDAHO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 33, T.5 N., R.1 W., B.M., THE **REAL POINT OF BEGINNING** OF THIS DESCRIPTION;

THENCE S 51°51'16" W 1038.72 FEET TO A POINT;

THENCE S 08°04'51" E 54.22 FEET TO A POINT;

THENCE S 63°02'18" W 382.31 FEET TO A POINT;

THENCE S 67°11'38" W 254.57 FEET TO A POINT;

THENCE S 52°16'06" W 535.08 FEET TO A POINT;

THENCE S 38°40'25" W 715.30 FEET TO A POINT;

THENCE S 21°05'40" W 84.42 FEET TO A POINT;

THENCE N 88°57'16" W 182.70 FEET TO A POINT ON A CURVE ON THE EAST RIGHT OF WAY OF HIGHWAY 16;

ALONG THE EAST RIGHT OF WAY OF HIGHWAY 16 THE FOLLOWING:

THENCE 283.91 FEET ALONG A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 1859.86 FEET, A DELTA ANGLE OF 8°44'47", A TANGENT OF 142.23 FEET AND A CHORD BEARING N 13°10'27" W 283.63 FEET TO A POINT OF SPIRAL CURVATURE;

THENCE 355.29 FEET ALONG A SPIRAL CURVE, HAVING A RADIUS OF 1897.44 FEET, A THETA ANGLE OF 5°21'51" AND A CHORD BEARING N 05°11'06" W 355.15 FEET TO A POINT OF TANGNECY;

THENCE N 03°23'51" W 455.37 FEET TO A POINT;

LEAVING THE EAST RIGHT OF WAY OF HIGHWAY 16:

THENCE S 89°01'44" E 1121.29 FEET TO A POINT;

THENCE N 00°00'35" W 1132.12 FEET TO A POINT;

THENCE S 50°24'32" W 361.44 FEET TO A POINT;



THENCE N 88°44'12" W 75.41 FEET TO A POINT;

THENCE S 58°25'55" W 467.45 FEET TO A POINT;

THENCE N 00°37'49" E 303.23 FEET TO A POINT;

THENCE S 67°20'45" E 25.66 FEET TO A POINT OF CURVATURE;

THENCE 167.31 FEET ALONG A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 140.00 FEET, A DELTA ANGLE OF 68°28'28", A TANGENT OF 95.28 FEET, A CHORD BEARING N 78°25'01" E 157.53 FEET TO A POINT OF TANGENCY;

THENCE N 44°10'47" E 140.31 FEET TO A POINT OF CURVATURE;

THENCE 25.96 FEET ALONG A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 250.00 FEET, A DELTA ANGLE OF 05°57'01", A TANGENT OF 12.99 FEET, A CHORD BEARING N 41°12'17" E 25.95 FEET TO A POINT ON A CURVE;

THENCE N 81°23'04" E 27.32 FEET TO A POINT;

THENCE S 68°29'37" E 45.40 FEET TO A POINT;

THENCE N 65°02'00" E 50.04 FEET TO A POINT;

THENCE N 23°32'44" E 64.53 FEET TO A POINT;

THENCE N 20°06'56" E 67.97 FEET TO A POINT;

THENCE N 48°34'57" E 51.57 FEET TO A POINT;

THENCE N 78°24'30" E 51.93 FEET TO A POINT;

THENCE S 86°36'10" E 58.11 FEET TO A POINT;

THENCE S 79°22'07" E 63.34 FEET TO A POINT;

THENCE N 68°30'06" E 48.40 FEET TO A POINT;

THENCE N 55°37'43" E 50.14 FEET TO A POINT;

THENCE N 03°55'40" W 113.44 FEET TO A POINT;

THENCE N 55°04'43" E 50.18 FEET TO A POINT;

THENCE S 60°15'33" E 99.46 FEET TO A POINT;

THENCE N 80°09'11" E 33.37 FEET TO A POINT;

THENCE N 56°26'36" E 395.71 FEET TO A POINT;

THENCE S 01°06'40" E 119.64 FEET TO A POINT;

THENCE N 75°37'00" E 356.02 FEET TO A POINT;

THENCE N 01°07'57" W 597.00 FEET TO A POINT;

THENCE S 88°42'53" E 660.70 FEET TO THE NORTHEAST CORNER OF THE SE ¼ OF THE SE ¼, SECTION 28;

THENCE N 00°30'21" E 1315.63 FEET TO THE NORTHWEST CORNER OF THE SW ¼, SECTION 27;

THENCE S 89°21'49" E 1316.18 FEET THE SOUTHWEST CORNER OF THE SE ¼ OF THE NW ¼, SECTION 27;

THENCE N 00°28'47" E 1316.75 FEET TO THE NORTHWEST CORNER OF THE SE ¼ OF THE NW ¼, SECTION 27;

THENCE S 89°24'56" E 1315.09 FEET TO THE NORTHEAST CORNER OF THE SE ¼ OF THE NW ¼, SECTION 27;

THENCE S 89°24'55" E 1321.60 FEET TO THE NORTHEAST CORNER OF THE SW 1/4 OF THE NE 1/4; SECTION 27;

THENCE N 00°06'10" E 1319.18 FEET TO THE SOUTHWEST CORNER OF THE NE ¼ OF THE NE ¼, SECTION 27;

THENCE S 89°28'02" E 1314.00 FEET TO THE SECTION CORNER COMMON TO SECTIONS 22, 23, 26 AND 27;

THENCE N 01°29'36" E 1317.12 FEET TO THE NORTHWEST CORNER OF THE SW ¼ OF THE SW ¼, SECTION 23;

THENCE N 89°24'31" W 1319.64 FEET TO THE SOUTHWEST CORNER OF THE NE ¼ OF THE SE ¼, SECTION 22;

THENCE N 01°14'51" E 1318.39 FEET TO THE NORTHWEST CORNER OF THE NE ¼ OF THE SE ¼, SECTION 22;

THENCE N 01°14'53" E 2631.45 FEET TO THE NORTHWEST CORNER OF THE NE ¼ OF THE NE ¼, SECTION 22;

THENCE N 89°27'52" W 1336.59 FEET TO THE SOUTHWEST CORNER OF THE SE 1/4, SECTION 15;

THENCE N 89°12'37" W 2642.31 FEET TO THE SECTION CORNER COMMON TO THE SECTION 15, 16, 21 AND 22;

THENCE N 00°27'13" E 2630.95 FEET TO THE NORTHWEST CORNER OF THE SW 1/4 OF SECTION 15;

THENCE S 89°29'08" E 3967.38 FEET TO THE SOUTHWEST CORNER OF THE SE 1/4 OF THE NE 1/4 SECTION 15;

THENCE N 00°09'50" E 2626.90 FEET TO THE NORTHWEST CORNER OF THE NE 1/4 OF THE NE 1/4, SECTION 15;

THENCE N 00°16'02" E 2629.59 FEET TO THE NORTHWEST CORNER OF THE NE 1/4 OF THE SE 1/4 OF SECTION 10;

THENCE S 89°18'05" E 1306.55 FEET TO THE NORTHEAST CORNER OF THE NE 1/4 OF THE SE 1/4 OF SECTION 10;

THENCE N 00°43'51" E 1313.10 FEET TO THE NORTHWEST CORNER OF THE SW 1/4 OF THE NW 1/4 OF SECTION 11;

THENCE S 88°48'23" E 2640.93 FEET TO THE NORTHWEST CORNER OF THE SW 1/4 OF THE NE 1/4 OF SECTION 11;

THENCE S 88°48'22" E 1322.75 FEET TO THE NORTHEAST CORNER OF THE SW ¼ OF THE NE ¼, SECTION 11;

THENCE S 00°08'01" W 1315.07 FEET TO THE SOUTHEAST CORNER OF THE SW 1/4 OF THE NE 1/4 OF SECTION 11;

THENCE S 88°46'53" E 1328.84 FEET TO THE NORTHEAST CORNER OF THE SE 1/4 OF SECTION 11;

THENCE S 88°41'55" E 1300.16 FEET TO THE SOUTHWEST CORNER OF THE SE 1/4 OF THE NW 1/4 OF SECTION 12;

THENCE N 00°14'37" E 1310.85 FEET TO THE NORTHWEST CORNER OF THE SE 1/4 OF THE NW 1/4 OF SECTION 12;

THENCE S 88°29'38" E 1308.82 FEET TO THE NORTHEAST CORNER OF THE SE 1/4 OF THE NW 1/4 OF SECTION 12;

THENCE S 88°54'05" E 2618.91 FEET TO THE NORTHEAST CORNER OF THE SE 1/4 OF THE NE 1/4 OF SECTION 12;

THENCE S 00°38'47" W 2630.61 FEET TO THE NORTHWEST CORNER OF THE SW 1/4 OF THE SW 1/4 OF SECTION 7, T.5N., R.1E., OF THE B.M.;

THENCE N 89°27'42" E 1320.99 FEET ALONG THE NORTH LINE OF THE SW 1/4 OF THE SW 1/4 TO A POINT ON THE CENTERLINE OF WILLOW CREEK ROAD;

ALONG THE CENTERLINE OF WILLOW CREEK ROAD THE FOLLOWING;

THENCE S 17°08'49" E 211.69 FEET TO AN ANGLE POINT;

THENCE S 21°38'20" E 468.10 FEET TO A POINT OF CURVATURE;

THENCE 170.12 FEET ALONG A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 365.00 FEET, A DELTA ANGLE OF 26°42'14", A TANGENT OF 86.63 FEET, A CHORD BEARING S 08°17'13" E 168.58 FEET TO A POINT OF TANGENCY;

THENCE S 05°03'53" W 109.20 FEET TO A POINT OF CURVATURE;

THENCE 190.35 FEET ALONG A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 310.00 FEET, A DELTA ANGLE OF 35°10'52", A TANGENT OF 98.28 FEET, A CHORD BEARING S 12°31'32" E 187.37 FEET TO A POINT OF TANGENCY;

THENCE S 30°06'58" E 168.08 FEET TO AN ANGLE POINT;

THENCE S 34°03'01" E 298.62 FEET TO AN ANGLE POINT;

THENCE S 10°42'30" E 414.87 FEET TO A POINT OF CURVATURE;

THENCE 220.70 FEET ALONG A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 225.00, A DELTA ANGLE OF 56°12'00", A TANGENT OF 120.14 FEET, A CHORD BEARING S 38°48'30" E 211.96 FEET TO A POINT OF TANGENCY;

THENCE S 66°54'30" E 1186.00 FEET TO A POINT OF CURVATURE;

THENCE 243.68 FEET ALONG A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 1000.00 FEET, A DELTA ANGLE OF 13°57'43", A TANGENT OF 122.45 FEET, A CHORD BEARING S 59°55'39" E 243.08 FEET TO A POINT OF TANGENCY;

THENCE S 52°56'47" E 351.88 FEET TO A POINT OF CURVATURE;

THENCE 214.22 FEET ALONG A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 635.00 FEET, A DELTA ANGLE OF 19°19'45", A TANGENT OF 108.14 FEET, A CHORD BEARING S 44°01'28" E 213.21 FEET TO A POINT OF TANGENCY;

THENCE S 34°21'35" E 166.76 FEET TO A POINT OF CURVATURE;

THENCE 205.28 FEET ALONG A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 480.00 FEET, A DELTA ANGLE OF 24°30'13", A TANGENT OF 104.23 FEET, A CHORD BEARING S 24°11'03" E 203.72 FEET TO A POINT OF TANGENCY;

THENCE S 11°55'56" E 513.68 FEET TO A POINT OF CURVATURE;

THENCE 177.05 FEET ALONG A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 395.00 FEET, A DELTA ANGLE OF 25°40'56", A TANGENT OF 90.04 FEET, A CHORD BEARING S 24°46'24" E 175.58 FEET TO A POINT OF TANGENCY;

THENCE S 37°36'51" E 2385.77 FEET TO A POINT OF CURVATURE;

THENCE 470.67 FEET ALONG A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 720.00 FEET, A DELTA ANGLE 37°27'17", A TANGENT OF 244.09 FEET, A CHORD BEARING S 18°53'13" E 462.33 FEET TO A POINT OF TANGENCY;

THENCE S 00°09'34" E 210.78 FEET TO A POINT ON THE NORTH LINE OF SAID SECTION 20;

LEAVING SAID CENTERLINE:

THENCE N 89°58'31" E 4450.01 FEET TO THE SECTION CORNER COMMON TO SECTION 16, 17, 20 AND 21;

THENCE S 00°15'26" E 1316.05 FEET TO THE SOUTHEAST CORNER OF THE NE ¼ OF THE NE ¼, SECTION 20;

THENCE S 00°13'25" E 1316.49 FEET TO THE SOUTHEAST CORNER OF THE NE ¼, SECTION 20;

THENCE N 89°57'10" W 1326.37 FEET TO SOUTHWEST CORNER OF THE SE ¼ OF THE NE ¼ OF SECTION 20;

THENCE S 00°18'35" E 1314.75 FEET TO SOUTHEAST CORNER OF THE NW ¼ OF THE SE ¼ OF SECTION 20;

THENCE N 89°57'26" W 827.46 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY OF WILLOW CREEK ROAD;

ALONG THE WESTERLY RIGHT OF WAY OF WILLOW CREEK ROAD THE FOLLOWING:

THENCE N 41°13'22" W 186.71 FEET TO A POINT OF CURVATURE;

THENCE 208.60 FEET ALONG A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 949.44 FEET, A DELTA ANGLE OF 12°35'19", A TANGENT OF 104.72 FEET, A CHORD BEARING N 47°31'02" W 208.18 FEET TO A POINT OF A REVERSED CURVATURE;

THENCE 204.80 FEET ALONG A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 1297.79 FEET, A DELTA ANGLE OF 9°02'30", A TANGENT OF 102.61 FEET, A CHORD BEARING N 49°17'26" W 204.59 FEET TO A POINT OF TANGENCY;

THENCE N 44°46'11" W 411.88 FEET TO AN ANGLE POINT;

THENCE N 42°05'07" W 231.38 FEET TO A POINT OF CURVATURE;

THENCE 331.68 FEET ALONG A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 1899.41 FEET, A DELTA ANGLE OF 10°00'18", A TANGENT OF 166.26 FEET, A CHORD BEARING N 37°04'58" W 331.25 FEET TO A POINT OF TANGENCY;

THENCE N 32°04'49" W 223.05 FEET TO A POINT OF CURVATURE;

THENCE 234.81 FEET ALONG A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 1040.80 FEET, A DELTA ANGLE OF 12°55'34", A TANGENT OF 117.90 FEET, A CHORD BEARING N 25°37'02" W 234.31 FEET TO A POINT OF REVERSE CURVATURE;

THENCE 200.60 FEET TO A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 573.50 FEET, A DELTA ANGLE OF 20°02'27", A TANGENT OF 101.33 FEET, A CHORD BEARING N 29°10'29" W 199.58 FEET TO A POINT OF TANGENCY;

THENCE N 39°11'42" W 233.00 FEET TO A POINT OF CURVATURE;

THENCE 476.94 FEET ALONG A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 970.55 FEET, A DELTA ANGLE OF 28°09'20", A TANGENT OF 243.39 FEET, A CHORD BEARING N 25°07'02" W 472.15 FEET TO A POINT OF TANGENCY;

THENCE N 11°02'22" W 144.76 FEET TO A POINT OF CURVATURE;

THENCE 113.94 FEET ALONG A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 400.40 FEET, A DELTA ANGLE OF 16°18'14", A TANGENT OF 57.36 FEET, A CHORD BEARING N 19°11'29" W 113.55 FEET TO A POINT OF TANGENCY;

THENCE N 27°20'36" W 62.21 FEET TO A POINT ON THE NORTH LINE OF THE SE ¼ OF THE NW ¼, SECTION 20;

LEAVING THE WESTERLY RIGHT OF WAY OF WILLOW CREEK ROAD:

THENCE N 89°59'20" W 9.92 FEET TO THE NORTHEAST CORNER OF THE SW ¼ OF THE NW ¼ OF SECTION 20;

THENCE S 00°32'40" E 3941.70 FEET TO THE SOUTHEAST CORNER OF THE SW ¼ OF THE SW ¼ OF SECTION 20;

THENCE N 89°52'12" W 1321.63 FEET TO THE SECTION CORNER COMMON TO SECTIONS 19, 20, 29 AND 30;

THENCE S 89°36'15" W 2663.86 FEET TO THE SOUTHWEST CORNER OF THE SE ¼ OF SECTION 19;

THENCE N 00°25'12" W 2625.76 FEET TO THE NORTHWEST CORNER OF THE SE ¼ OF SECTION 19;

THENCE S 89°33'40" W 2335.42 FEET TO THE SOUTHEAST CORNER OF THE NE ¼ OF SECTION 24;

THENCE S 00°22'27" W 1312.13 FEET TO THE SOUTHEAST CORNER OF THE NE ¼ OF THE SE ¼ OF SECTION 24;

THENCE N 89°08'33" W 3934.61 FEET TO THE SOUTHWEST CORNER OF THE NE ¼ OF THE SW ¼ OF SECTION 24;

THENCE N 00°43'27" E 1309.91 FEET TO THE SOUTHEAST CORNER OF THE SW ¼ OF THE NW ¼ OF SECTION 24;

THENCE N 89°10'27" W 1309.03 FEET TO THE SOUTHWEST CORNER OF THE NW ¼ OF SECTION 24;

THENCE S 00°50'15" W 1309.18 FEET TO THE SOUTHEAST CORNER OF THE NE ¼ OF THE SE ¼ OF SECTION 23;

THENCE N 88°41'36" W 1322.58 FEET TO THE SOUTHWEST CORNER OF THE NE ¼ OF THE SE ¼ OF SECTION 23;

THENCE S 01°00'18" W 1311.15 FEET TO THE SOUTHEAST CORNER OF THE SW ¼ OF THE SE ¼ OF SECTION 23;

THENCE N 88°46'46" W 2652.80 FEET TO THE SOUTHEAST CORNER OF THE SW ¼ OF THE SW ¼ OF SECTION 23;

THENCE S 00°08'13" W 1318.99 FEET TO THE SOUTHEAST CORNER OF THE NW ¼ OF THE NW ¼ OF SECTION 26;

THENCE N 88°50'07" W 1318.00 FEET TO THE SOUTHWEST CORNER OF THE NW ¼ OF THE NW ¼ OF SECTION 26;

THENCE S 00°13'35" E 1320.46 FEET TO THE SOUTHEAST CORNER OF THE SE ¼ OF THE NE ¼ OF SECTION 27;

THENCE N 89°21'49" W 1329.19 FEET TO THE SOUTHWEST CORNER OF THE SE ¼ OF THE NE ¼ OF SECTION 27;

THENCE S 00°43'20" W 1316.23 FEET TO THE SOUTHEAST CORNER OF THE NW ¼ OF THE SE ¼ OF SECTION 27;

THENCE N 89°24'53" W 1322.53 FEET TO THE SOUTHEAST CORNER OF THE NE ¼ OF THE SW ¼ OF SECTION 27;

THENCE N 89°19'29" W 1317.26 FEET TO THE SOUTHWEST CORNER OF THE NE ¼ OF THE SW ¼ OF SECTION 27;

THENCE S 00°28'44" W 1316.52 FEET TO THE SOUTHEAST CORNER OF THE SW ¼ OF THE SW ¼ OF SECTION 27;

THENCE N 89°17'09" W 1317.43 FEET TO THE **REAL POINT OF BEGINNING** OF THIS DESCRIPTION.

EXCEPT THE FOLLOWING PARCEL:

A PARCEL OF LAND BEING THE SE ¼ OF THE SE ¼ OF SECTION 14, TOWNSHIP 5 NORTH, RANGE 1 WEST OF THE BOISE MERIDIAN, ADA COUNTY, IDAHO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 14, T.5N., R.1W., B.M., THE **REAL POINT OF BEGINNING** OF THIS DESCRIPTION;

THENCE N 88°25'48" W 1311.65 FEET TO THE SOUTHWEST CORNER OF THE SE ¼ OF THE SE ¼;

THENCE N 00°11'03" W 1312.45 FEET TO THE NORTHWEST CORNER OF THE SE ¼ OF THE SE ¼;

THENCE S 88°17'02" E 1305.96 FEET TO THE NORTHEAST CORNER OF THE SE ¼ OF THE SE ¼;

THENCE S 00°26'15" E 1309.31 FEET TO THE **REAL POINT OF BEGINNING** OF THIS DESCRIPTION.

PARCEL 2

A PARCEL OF LAND LOCATED IN THE SE ¼ OF SECTION 21 AND THE NE ¼ OF SECTION 28, TOWNSHIP 5 NORTH, RANGE 1 WEST OF THE BOISE MERIDIAN, ADA COUNTY, IDAHO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 21, T.5N., R.1W., B.M., THE **REAL POINT OF BEGINNING** OF THIS DESCRIPTION;

THENCE N 88°39'16" W 1325.31 ALONG THE SOUTH LINE TO THE SOUTHWEST CORNER OF THE SE ¼ OF THE SE ¼ OF SAID SECTION 21;

THENCE S 00°26'35" W 2632.13 FEET TO THE SOUTHEAST CORNER OF THE SW ¼ OF THE NE ¼ OF SECTION 28;

THENCE N 88°41'42" W 933.28 ALONG THE SOUTH LINE OF SAID SW ¼ OF THE NE ¼ TO A POINT ON THE RIGHT-OF-WAY OF HIGHWAY 16;

ALONG THE RIGHT-OF-WAY OF HIGHWAY 16 THE FOLLOWING:

THENCE N 12°48'04" E 1004.84 FEET TO A POINT;

THENCE N 13°45'48" W 22.36 FEET TO A POINT;

THENCE N 12°48'04" E 1748.40 FEET TO A POINT OF SPIRAL CURVATURE;

THENCE 208.46 FEET ALONG A SPIRAL CURVE HAVING A RADIUS OF 3342.70, A THETA ANGLE OF 1°47'12" AND A CHORD BEARING N 12°12'20" E 208.45 FEET TO A POINT;

THENCE N 37°30'45" E 108.57' FEET TO A POINT OF TANGENCY;

THENCE 946.18 FEET ALONG A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 2401.85 FEET, A DELTA ANGLE OF 22°34'16", A TANGENT OF 479.31 FEET AND A CHORD BEARING N 02°14'04" W 940.08 FEET TO A POINT ON A CURVE ON THE NORTH LINE OF THE SOUTH 1/2 OF THE SE 1/4 OF SAID SECTION 21;

LEAVING THE RIGHT-OF-WAY OF HIGHWAY 16;

THENCE S 88°48'04" E 1619.66 FEET TO THE NORTHEAST CORNER OF THE SOUTH 1/2 OF THE SE 1/4 OF SAID SECTION 21;

THENCE S 00°49'56" W 1322.34 FEET TO THE **REAL POINT OF BEGINNING** OF THIS DESCRIPTION.

PARCEL 3

A PARCEL OF LAND LOCATED IN THE SW ¼ OF SECTION 15, THE NORTH ½ OF SECTION 21 AND THE NW ¼ OF THE NW ¼ OF SECTION 22, TOWNSHIP 5 NORTH, RANGE 1 EAST OF THE BOISE MERIDIAN, ADA COUNTY, IDAHO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CORNER COMMON TO SECTIONS 15, 16, 21 AND 22, T.5N., R.1E., B.M., THE **REAL POINT OF BEGINNING** OF THIS DESCRIPTION;

THENCE N 00°26'10" E 2637.96 FEET TO THE NORTHWEST CORNER OF THE SW ¼; SECTION 15;

THENCE S 89°13'00" E 2637.98 FEET TO THE NORTHEAST CORNER OF THE SW ¼; SECTION 15;

THENCE S 00°04'45" W 2611.85 FEET TO THE SOUTHEAST CORNER OF THE SW ¼; SECTION 15;

THENCE N 89°47'01" W 1326.69 FEET TO THE NORTHEAST CORNER OF THE NW ¼ OF THE NW ¼; SECTION 22;

THENCE S 00°11'26" E 1318.17 FEET TO THE SOUTHEAST CORNER OF THE NW ¼ OF THE NW ¼ OF SECTION 22;

THENCE N 89°49'56" W 1324.65 FEET TO THE SOUTHWEST CORNER OF THE NW ¼ OF THE NW ¼; SECTION 22;

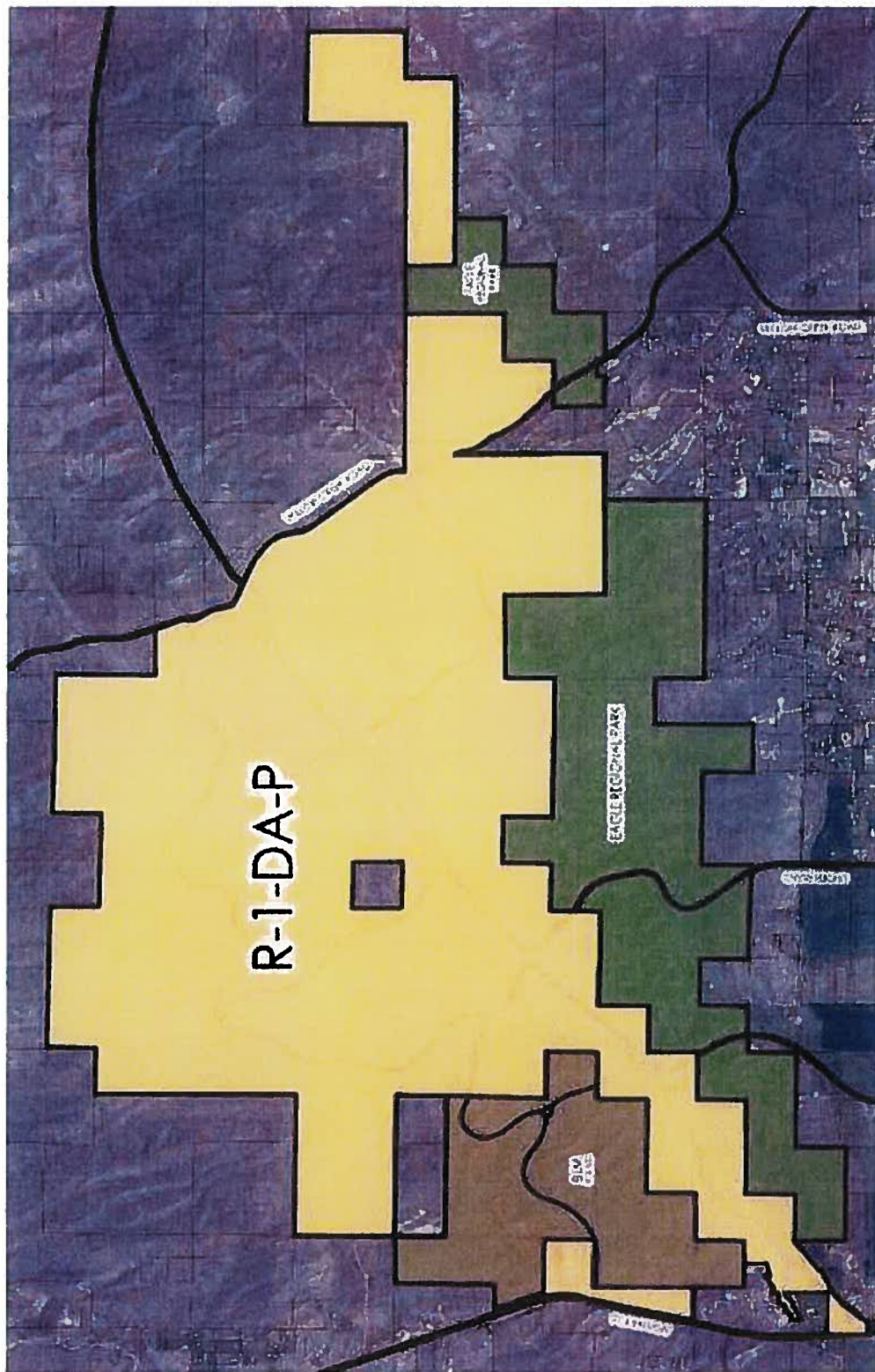
THENCE N 89°52'48" W 3978.22 THE SOUTHWEST CORNER OF THE NE ¼ OF THE NW ¼; SECTION 22;

THENCE N 00°17'22" W 1318.61 FEET TO THE NORTHWEST CORNER OF THE NE ¼ OF THE NW ¼; SECTION 21;

THENCE S 89°53'23" E 3977.62 FEET TO THE **REAL POINT OF BEGINNING** OF THIS DESCRIPTION.

**EXHIBIT C
M3 EAGLE ZONING MAP**

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**EXHIBIT D
CONCEPTUAL OUTLINE OF PUD STANDARDS**

[Conceptual outline only; draft will be drafted by City and applicant in connection with the first phase.]

SECTION 1: INTRODUCTION

- 1.1 PURPOSE.....
- 1.2 RELATIONSHIP TO THE CITY'S ZONING ORDINANCE
- 1.3 RELATIONSHIP TO M3 EAGLE DESIGN GUIDELINES & CC&RS.....
- 1.4 DEFINITIONS

SECTION 2: LAND USE STANDARDS

- 2.1 LAND USE DISTRICTS
- 2.2 LAND USE REGULATIONS
- 2.3 USES NOT PERMITTED.....
- 2.4 SPECIFIC LAND USE STANDARDS
- 2.5 PROPERTY DEVELOPMENT STANDARDS.....
- 2.6 SINGLE FAMILY SPECIAL LOT DEVELOPMENT (SFSD) STANDARDS AND CRITERIA ...

SECTION 3: PARKING STANDARDS

- 3.1 GENERAL STANDARDS.....
- 3.2 COMPUTING ON-SITE PARKING REQUIREMENTS
- 3.3 HANDICAPPED PARKING REQUIREMENTS.....
- 3.4 PARKING ALTERNATIVES
- 3.5 HOTEL/RESORT MIXED-USE PARKING REQUIREMENTS.....
- 3.6 DESIGN OF PARKING AREAS.....
- 3.7 ON-SITE LOADING STANDARDS

SECTION 4: SIGNAGE STANDARDS

- 4.1 PURPOSE.....
- 4.2 M3 EAGLE APPROVAL.....
- 4.3 PERMIT APPLICATION.....
- 4.4 SIGNS NOT REQUIRING A BUILDING PERMIT AND SIGN CERTIFICATE
- 4.5 PROHIBITED SIGNS
- 4.6 GENERAL PROVISIONS

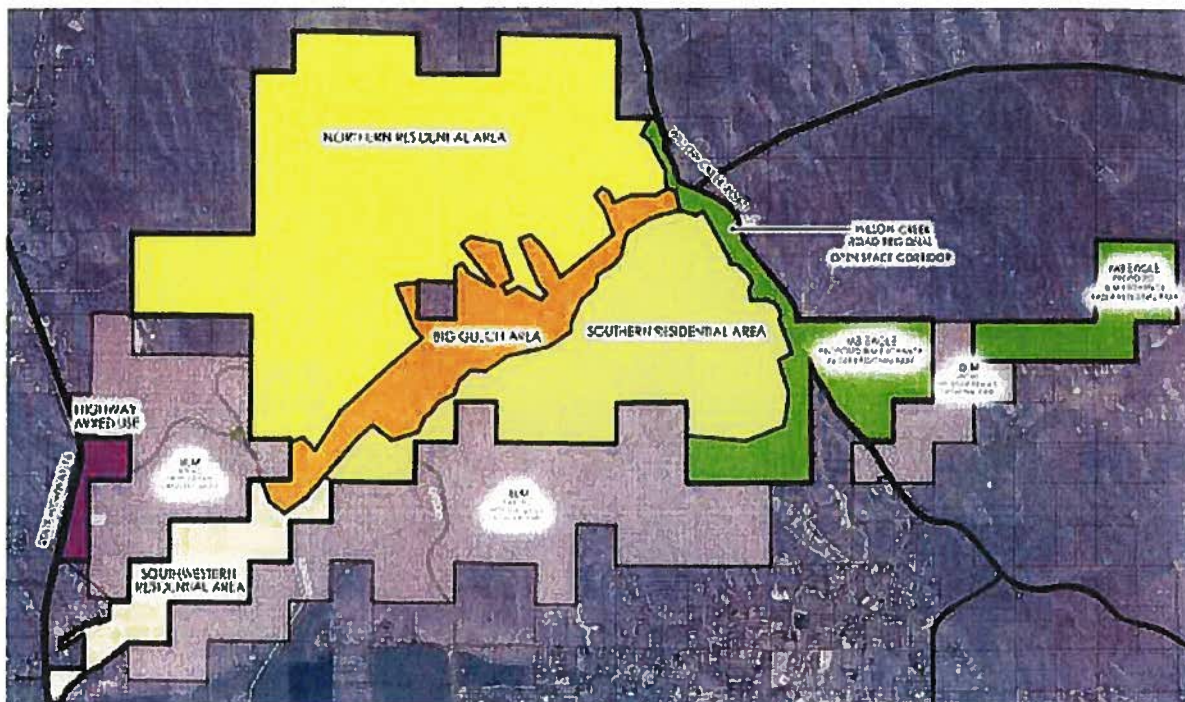
SECTION 5: REVIEW PROCESS

- 5.1 ADMINISTRATION
- 5.2 DEVELOPMENT PLAN REVIEW
- 5.3 PLANNING UNIT MASTER PLANS
- 5.4 FINAL DEVELOPMENT PLANS.....
- 5.5 SITE PLAN REVIEW REQUIREMENTS
- 5.6 PLANNED COMMUNITY PROGRAM MODIFICATIONS
- 5.7 DEVIATIONS TO THE DEVELOPMENT STANDARDS

EXHIBIT E
[INTENTIONALLY DELETED]

MS

**EXHIBIT F
M3 EAGLE MASTER PLAN**



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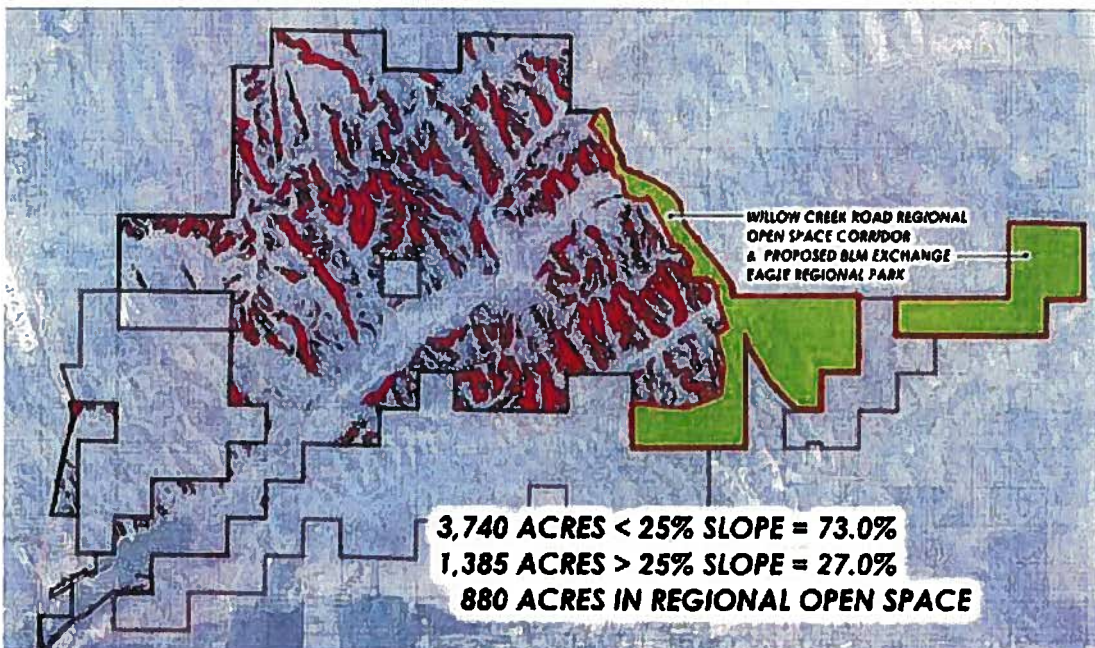
M3 EAGLE

M3 Eagle is located north of Beacon Light Road, between State Highway 16 and Willow Creek Road, and within the North Eagle Foothills Planning Area, comprised of approximately 49,000 acres. M3 Eagle (the "Property") contains 6,005 acres, which represents approximately 12% of the foothills area. M3 Eagle will reflect the planning principles, regional roadway network, regional utility corridors, and regional open space and trail network of the Eagle Comprehensive Plan Amendment for the North Eagle Foothills Planning Area.

TOPOGRAPHY

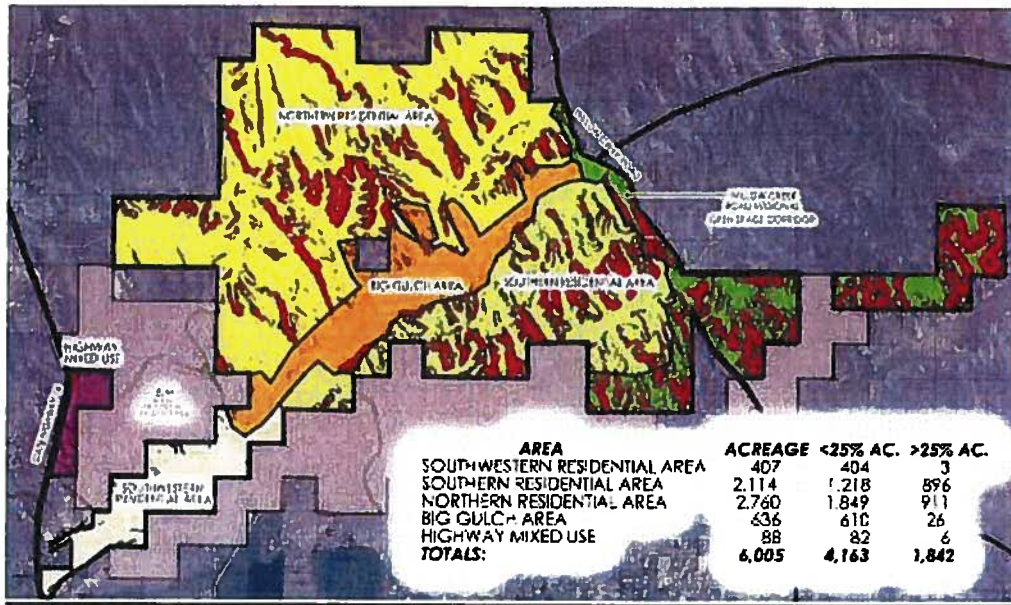
M3 Eagle has a wide variation of topography. Approximately 31% of the Property contains slopes 25% or steeper. The M3 Eagle Master Plan is designed to work with the land, placing highest intensity of development in areas of the property which can best accommodate it, either by using existing gradients or with sensitive grading techniques. Over 73% of M3 Eagle will have less than 25% slope, excluding the 880 acres for the Eagle Regional Park and the Willow Creek Road Regional Open Space Corridor.

M3 Eagle will use special design standards to accommodate development on hillsides. Design and placement of homes and other structures shall be carefully integrated into the topography and sensitive hillside grading techniques shall be used as appropriate.



M3 Eagle Planning Area with Topography.

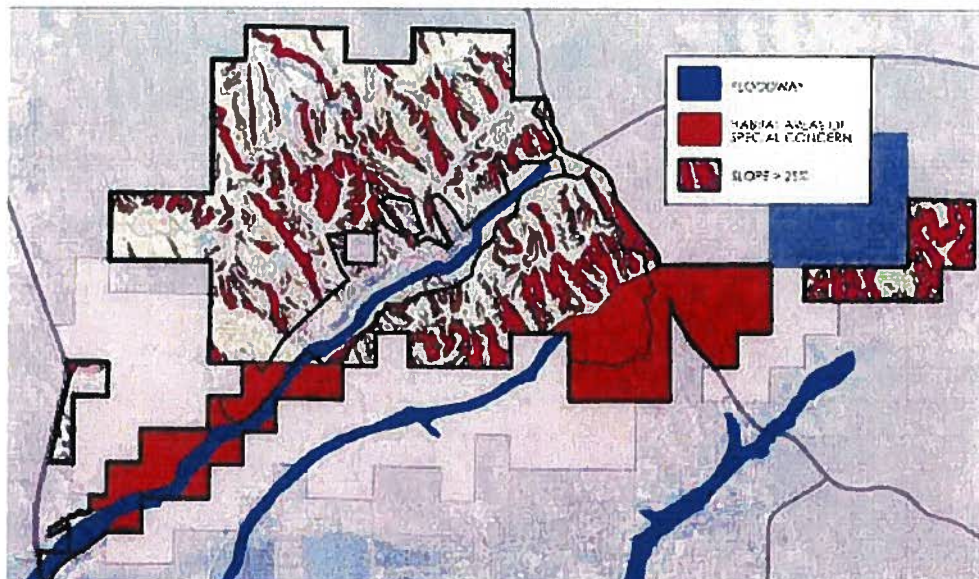
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Topography over the five Planning Areas within M3 Eagle including the 880 acres of lands designated as regional open space.

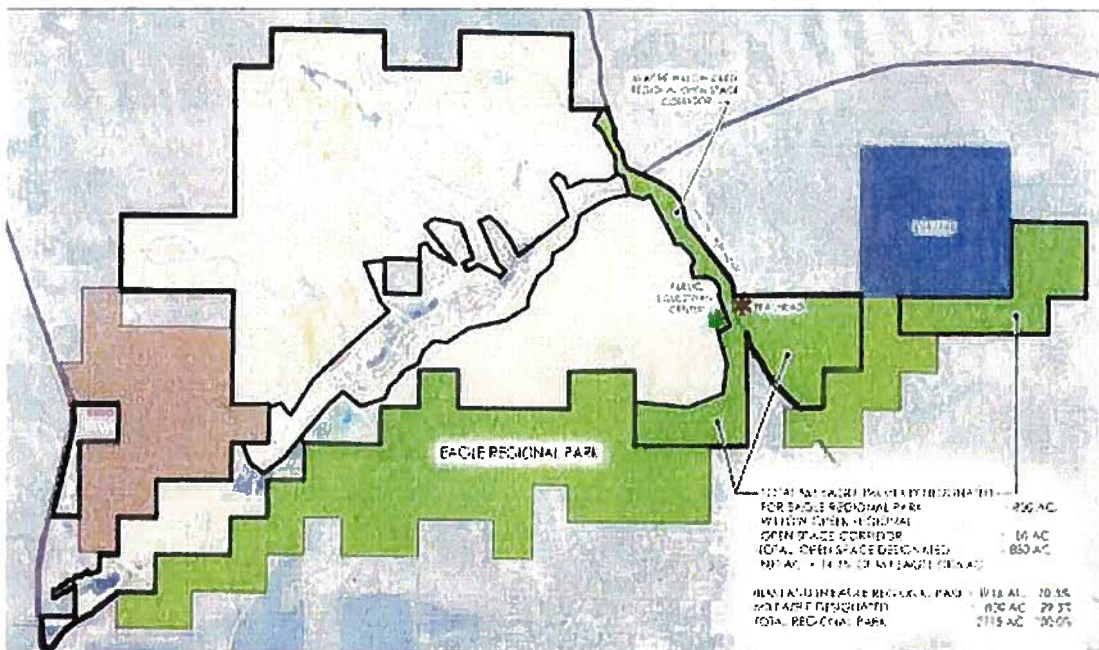
AREAS OF CRITICAL CONCERN

Eagle City Code 9-5-8 designates the North Eagle Foothills as an Area of Critical Concern for topographic, ecological and scenic significance. M3 Eagle will submit grading guidelines and hillside development standards to the City for approval prior to project development. M3 Eagle contains approximately 264 acres that are designated within a floodplain. M3 Eagle will obtain a CLOMR and construct drainage improvements to remove areas proposed for residential and commercial development from the floodplain. M3 Eagle also contains two habitat areas of special concern (as identified by URS and IDFG) located in the Southern Planning Area (predominately southeasterly of the Little Gulch Area), and the Southwestern Planning Area west of the proposed Palmer Lane alignment. M3 Eagle will submit a habitat mitigation plan for both areas to the City prior to M3 Eagle's submission of the first Planning Unit Master Plan.



REGIONAL OPEN SPACE

The Eagle Comprehensive Plan Amendment for the North Eagle Foothills proposes a regional open space network for recreation and preservation of wildlife and other biological resources. The cornerstone of this network will be the proposed Eagle Regional Park on 1,915 acres of existing BLM land south of the Property. M3 Eagle proposes to convey 800 acres of its land for regional open space either through 1) exchange with the BLM for the 815-acre BLM parcel located adjacent to State Highway 16 and then BLM working with the City of Eagle for inclusion into the Eagle Regional Park or 2) M3 Eagle's donation of the land to the City for the Eagle Regional Park. M3 Eagle proposes to convey an additional 80 acres of land as regional open space along Willow Creek Road for the Willow Creek Road Regional Open Space Corridor. The Regional Open Space Plan for the foothills will build upon the framework created by the planned Eagle Regional Park and the proposed conveyances. Open space dedications from private landowners should be encouraged (through contributions of land for tax credits, density bonuses, or reassignment of dwelling units and concentration of development in suitable areas) and appropriate public lands should be acquired through public financing to create a regional open space plan that is a hallmark for planning in the region. The conveyance of regional open space by M3 Eagle to the City shall be in accordance with the Development Agreement and is subject to (i) completion of the annexation of the M3 Eagle lands to the City, and (ii) City approval of zoning and entitlements for M3 Eagle by a binding ordinance which is acceptable to both parties.



CIRCULATION

The Eagle Comprehensive Plan Amendment for the North Eagle Foothills contains a regional circulation plan which generally defines corridors and roadway types (e.g. arterial or collector streets). This plan is designed to move traffic efficiently throughout the Planning Area, provide a connection between State Highway 16 and State Highway 55, extend planned arterial and collector streets, minimize the impact on existing neighborhoods to the south, and minimize the impacts to the regional open space network.

Roadways developed within M3 Eagle will incorporate appropriate design standards and amenities, such as medians, traffic calming devices, bike paths, sidewalks and landscaping, to accommodate projected traffic flow at community build-out. A primary goal of the foothills

EXHIBIT F - 4

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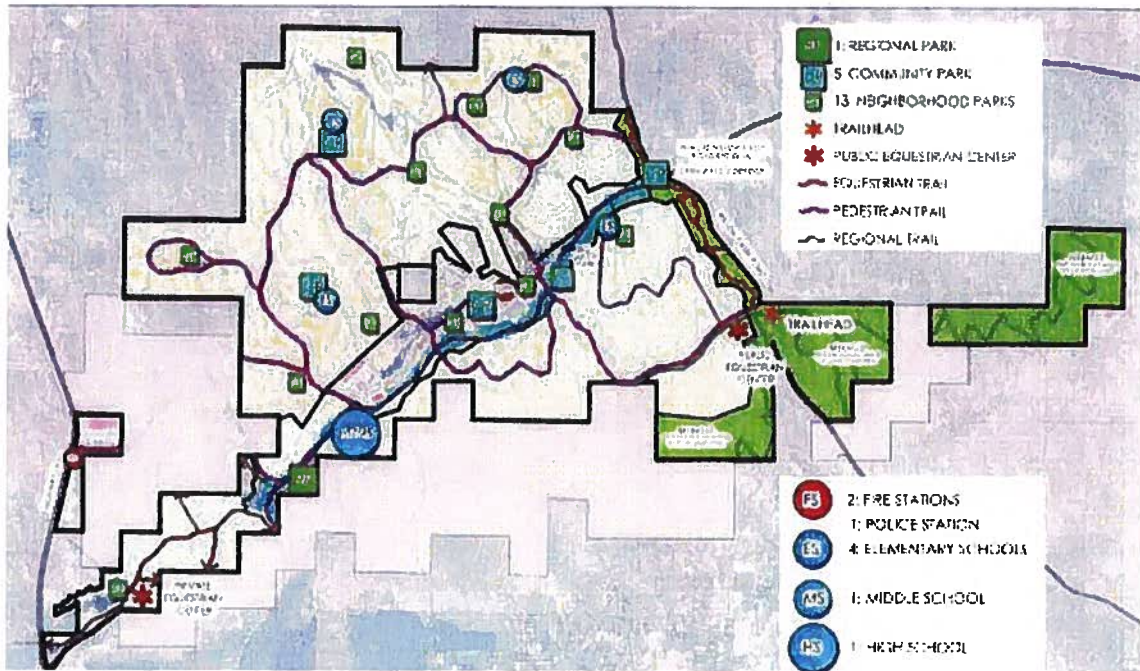
development is to create effective activity centers to capture as many vehicle trips as possible within the foothills area for office, retail, schools and civic uses to lessen the impact on existing roadways to the south and State Highway 16 and State Highway 55. M3 Eagle is planned with a goal of capturing a minimum of 25% of the daily vehicle trips generated by the community. In addition, the M3 Eagle activity centers will capture vehicle trips from surrounding developments within the North Eagle Foothills Planning Area thereby reducing downstream traffic impacts into Eagle.

M3 EAGLE PARKS, TRAILS, AND PUBLIC FACILITIES

M3 Eagle is planned to provide a mix of regional, community and neighborhood parks and trails and other community open space and recreation areas. The overall goal is to provide a variety of recreational opportunities and a network of open space and non-motorized pedestrian, cycling and equestrian trails in appropriate locations throughout the community. In addition, the parks and trails system will be connected to the regional open space and trails network being developed within the North Eagle Foothills Planning Area. The parks and trails system shown on the map immediately below are planned as public parks and trails. Community open space within M3 Eagle, including parks, golf courses, trails, and other open spaces, will total 1,522 acres or 25.3% of the property. The 800 acres for the proposed Eagle Regional Park and the 80 acres for the Willow Creek Road Regional Open Space Corridor represent another 14.7% of the property designated as regional open space. Collectively, these account for 2,402 acres of open space, or 40% of the M3 Eagle Master Plan.

A public equestrian center and trailhead are proposed on Willow Creek Road and Little Gulch. The equestrian facility is envisioned to be a full-service, 80-160-stall facility with covered riding arenas, training facilities, paddocks and boarding facilities. This facility would be owned and operated by the M3 Eagle Owners' Association or other entity. The proposed location would accommodate trail access at the center of the planned Eagle Regional Park.

The Master Plan contains 2 fire stations and 1 police station, 4 elementary schools, 1 middle school and 1 high school, the numbers of which are subject to change depending on demand.



M3 Eagle Parks, Trails, and Public Facilities Plan.

M3 EAGLE PLANNING AREAS

M3 Eagle is divided into five distinct but interrelated Planning Areas. These reflect the variation in topography across the property, sensitivity to regional open space planning, and the transition of uses and land use intensities from the south to the north. These Planning Areas provide for a diversity of housing types, employment, office, retail, lodging, viticulture, recreational, civic and educational uses. The densities and intensity of uses transition from highest in the Big Gulch Planning Area at the center of the property to lowest at the boundaries of the community.

BASE PROJECT DENSITY AND MAXIMUM DENSITY

M3 Eagle will have a Base Project Density of 0.5 dwelling units per gross acre or 3,003 dwelling units. The density may incrementally increase to a Maximum Density of 1.19 dwelling units per gross acre or 7,153 dwelling units, upon City approval of the following: 1) a habitat mitigation plan for habitat areas of special concern located in the Southern and Southwestern Planning Areas; 2) a reduction of the existing floodplain by obtaining a CLOMR; 3) approval of a grading plan and hillside design guidelines; and 4) bonus provisions for community and neighborhood centers, providing open space over and above the City's PUD requirement of 20%, and providing a funding mechanism for maintenance of regional open space. M3 Eagle is also planned for 245 acres of commercial and mixed-use development, which uses are further set forth in the M3 Eagle PUD. Each Planning Area will also have a Base and Maximum Density. M3 Eagle shall be allowed to reassign dwelling units between Planning Areas so long as the Maximum Density for any Planning Area, as set forth on the Planning Area Master Plan, and the Property are not exceeded.

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The Planning Areas contain several guiding principles:

1. An integrated, harmonious community will create a sense of place and high quality of life.
2. Development will be based on land suitability and topography.
3. Land use intensities will generally decrease as development moves away from the Big Gulch Planning Area at the center of the community. Low densities adjacent to existing development and planned Regional Open Space will maintain a rural feel that complements the City.
4. Roadway and pathway systems will provide efficiency of movement and interconnect neighborhoods and activity areas.
5. A hierarchy of non-motorized public trails will serve equestrians, pedestrians, hikers and cyclists. Trails and Open Space corridors will tie planned Regional Open Space with Community Open Space.
6. The Property will contain a minimum of 40% Open Space. Community Open Space (25.3% minimum) will be comprised of active recreational areas such as neighborhood, community, and regional parks and golf courses, natural Open Space and improved Open Space. Regional Open Space (14.7% minimum) will be comprised of the 800 acres for the Eagle Regional Park and 80 acres for the Willow Creek Road Regional Open Space Corridor. The 800 acres is subject to an exchange proposal with BLM. If the exchange is completed, BLM would set aside the lands as Open Space. At no time will the cumulative Open Space (community and regional) be less than 25% of the total M3 Eagle land area which is approved for development.
7. Development abutting Regional Open Space will be designed as cluster housing or larger lot single-family housing.
8. An Open Space corridor along Willow Creek Road will protect the viewshed from the road and provide a regional corridor for equestrian and pedestrian trail connections to lands north of M3 Eagle. This corridor (the "Willow Creek Road Regional Open Space Corridor") will be approximately 1.6 miles long and contain 80 acres as it runs through M3 Eagle. The Willow Creek Road Regional Open Space Corridor is designed to work with the existing topography and will provide generous setbacks (a minimum of 100 feet up to 1,000 feet), landscaping and context sensitive design to minimize viewshed intrusion and provide useable Open Space.
9. Hillside development will be based on City-approved guidelines and standards that respect existing topography and preserve sensitive viewsheds toward the City and Regional Open Space.
10. The Property is located in the Western Snake River Plain Viticultural District, which District was created by the U.S. Alcohol and Tobacco Tax and Trade Bureau in March 2007. The City, through the adoption of Resolution 07-14, has created the Eagle Wine District Overlay, which overlay extends over the Property and includes all south facing slopes. The City recognizes that the creation of the overlay complements and supports the unique qualities and economic vitality of the City, and promotes viticulture industries including crushing, distilling and associated hospitality



uses and tourism within the City and the Property. Viticulture uses may be developed in any Planning Area on the Property.

11. A mixed-use community will provide for employment and shopping opportunities and capture up to 25% of the vehicle trips generated by the community and reduce external traffic.
12. The Big Gulch Planning Area is best suited to accommodate the development of a mixed-use village given its central location within M3 Eagle, its accessibility from other development within the foothills, and its relatively flat topography. The Big Gulch Planning Area will provide a concentrated employment, shopping, civic and activities area for the entire North Eagle Foothills Planning Area.
13. Mixed-use development will reduce trip generation, spread peak hour flows on arterial roads and allow more people the option of living closer to their work. The concentration of higher density development along the planned arterial roadway connecting State Highway 16 to State Highway 55 (portions of which are planned as a six or seven lane roadway) will be compatible with traffic patterns in the area.
14. A wide variety of housing options will create a diverse community with a wide array of housing options and pricing.
15. Creation of multiple gathering places and recreational opportunities will enhance the social fabric of the community.
16. Landscape design will incorporate environmentally sensitive and drought tolerant plants and use reuse water to the fullest extent for common area irrigation to enhance the nature of the foothills and promote water conservation. The community will adopt water conservation standards which will be enforced through its Owners' Association and CC&Rs.
17. Contribution, dedication and enhancement of Regional and Community Open Space will improve wildlife habitat and create recreation opportunities.
18. Eradication of non-native and invasive plants will help protect native vegetative communities.

For the purposes of this document the following definitions shall apply:

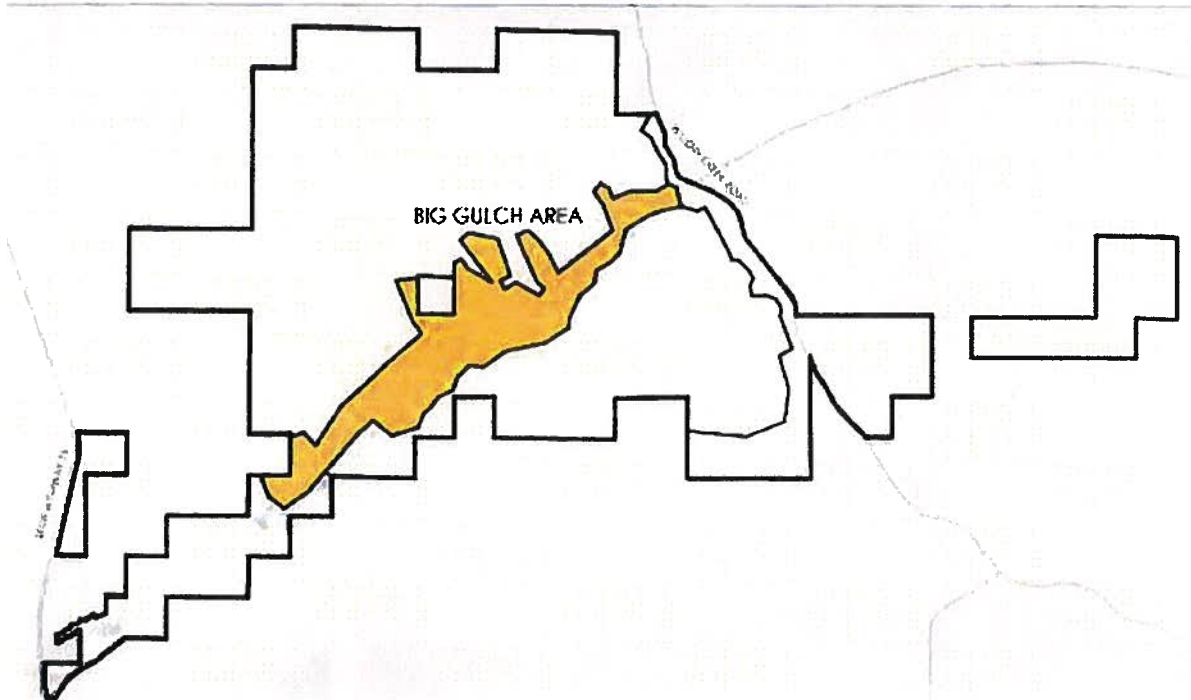
- Neighborhood Commercial sites will contain up to 150,000 square feet of commercial space. Neighborhood Commercial sites are planned to accommodate local retail and office uses.
- Community Center sites will contain up to 350,000 square feet of commercial space. Community Center sites are planned to accommodate community employment uses and large square footage major tenants for larger retail uses.
- Regional Parks contain 20+ acres and will contain ball fields and other active areas to serve the entire North Eagle Foothills Planning Area and the City of Eagle.
- Community Parks contain 8+ acres and will contain some active and passive areas and are designed to serve the M3 Eagle Community.

- Neighborhood Parks contain 3+ acres and will contain some active or passive areas and are designed to serve individual neighborhoods or a combination of neighborhoods within M3 Eagle.
- Regional Trails are public trails that will serve the entire north foothills area and beyond and connect to public lands.
- Community Trails are public trails that are designed to serve the M3 Eagle Property. Some community trails will connect to regional trails and open space.
- Neighborhood Trails are trails that will serve individual neighborhoods and may connect to regional trails and open space. Neighborhood Trails will be public or private.
- Hotel and hospitality rooms are not considered residential dwelling units within the context of the Maximum Density allowed on the property, which is 7,153 units. Currently, the master plan calls for 500 hotel rooms in the Big Gulch Planning Area.

EXHIBIT F1 BIG GULCH PLANNING AREA

Big Gulch Planning Area

The Big Gulch Planning Area contains 636 acres and is located along a gently sloping valley known as Big Gulch, which runs through the center of the M3-owned Property. The Big Gulch Planning Area will be built in several phases. Topographically, over 95% of this area is less than 25% slope. This Planning Area is the heart of the community and will contain the highest intensity of uses of all of the M3-owned property. The area is planned for a mix of residential and commercial uses with a Planning Area Density of 2.97 dwelling units per gross acre, or 1,891 dwelling units, and 100 acres of commercial uses, and a Maximum Planning Area Density of 5.24 dwelling units per gross acre, or 3,335 units.



Uses

Land uses will include offices and businesses, civic uses, commercial uses, schools, and residential neighborhoods. Two Neighborhood Commercial sites totaling 100 acres are located in the Planning Area with the highest intensity of mixed-use development located in the center. The central Neighborhood Commercial site may be increased to up to 95 acres of commercial, office and business uses to promote and recruit additional employment opportunities that will allow Eagle residents to live and work within the City. This Planning Area may also contain hotel or resort uses and a medical office campus with a clinic or hospital.

Residential neighborhoods will contain single and multi-family homes with densities ranging from 2-20 units/acre. Housing options will include apartments, townhouses, condominiums, patio homes, and high-density single-family detached and attached homes.

The Big Gulch Planning Area creates a mix of commercial uses that will provide effective trip capture for employment, retail and civic-related uses. The goal is to capture 25% of all vehicle trips generated within M3 Eagle to activity centers within the community. In addition, the most affordable housing within the M3

Eagle community will be located within the Planning Area to meet the housing demands of employees who work there. This housing location will encourage walking to and from work, as well as shorter vehicle trips, further reducing traffic.

Design

The Big Gulch Planning Area will have an urban feel at the neighborhood centers with appropriate landscape, monumentation, signage and place-making features integrated into the design of the area. Housing, commercial/office uses, roadways and landscape will tend to be arranged in formal patterns with tree-lined boulevards and pedestrian scale amenities. Buildings along the main arterial roadway may be close to the roadways to create pedestrian-friendly areas with sidewalks, street trees and benches. Shared surface parking areas and parking garages will be encouraged at the sides and rear of buildings or within building clusters, to reduce large areas of paving. On-street parking will be provided where sufficient right-of-way exists. The architectural character will create an interesting visual experience as one travels through the community.

The central neighborhood center will be designed using a main street concept, with an 8-acre community park around which the highest density of commercial and residential development will be located. This area will have businesses, restaurants, civic uses and possibly residential lofts fronting out onto the central park. Parking will be located at the interior of the parcels to create a pedestrian-friendly environment. The central boulevard will split into 2 two-lane roadways through this area.

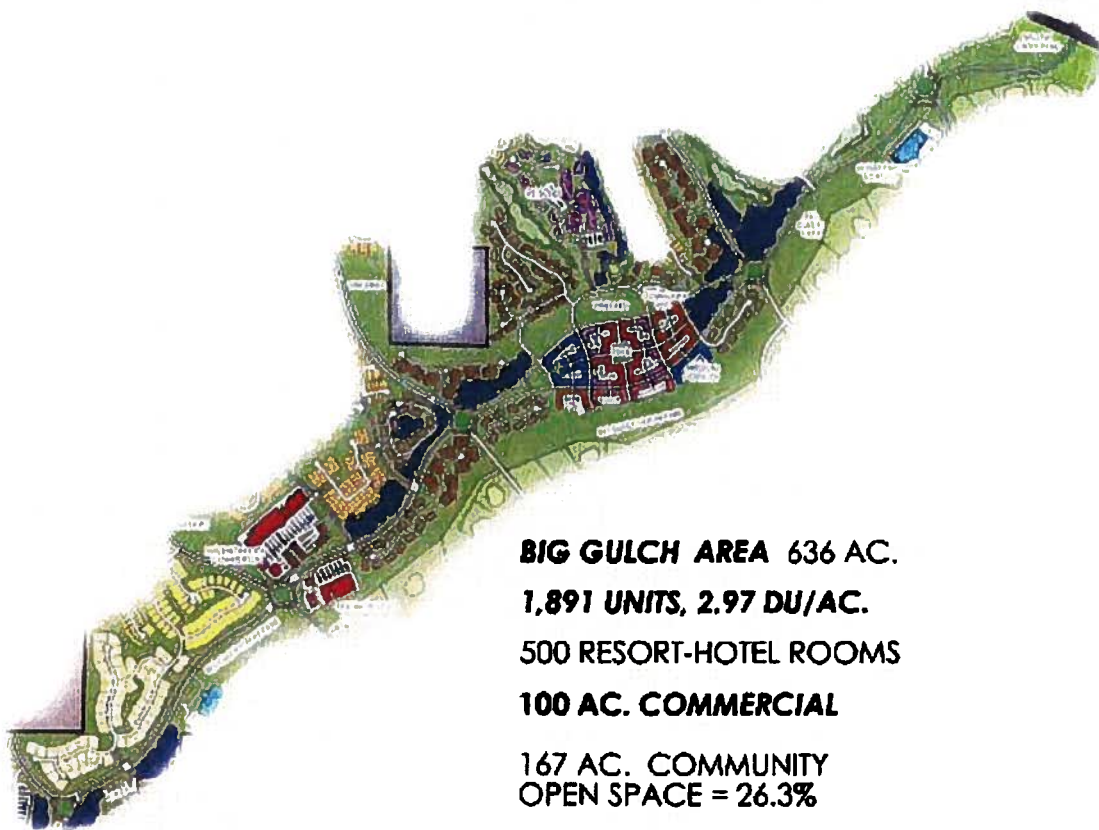


Illustration of the planned uses within the Big Gulch Planning Area. This area will serve not only M3 Eagle but other areas within the greater foothills and help reduce vehicle trips leaving the area.

This area is one of the few areas within the foothills area that can accommodate higher intensity development.

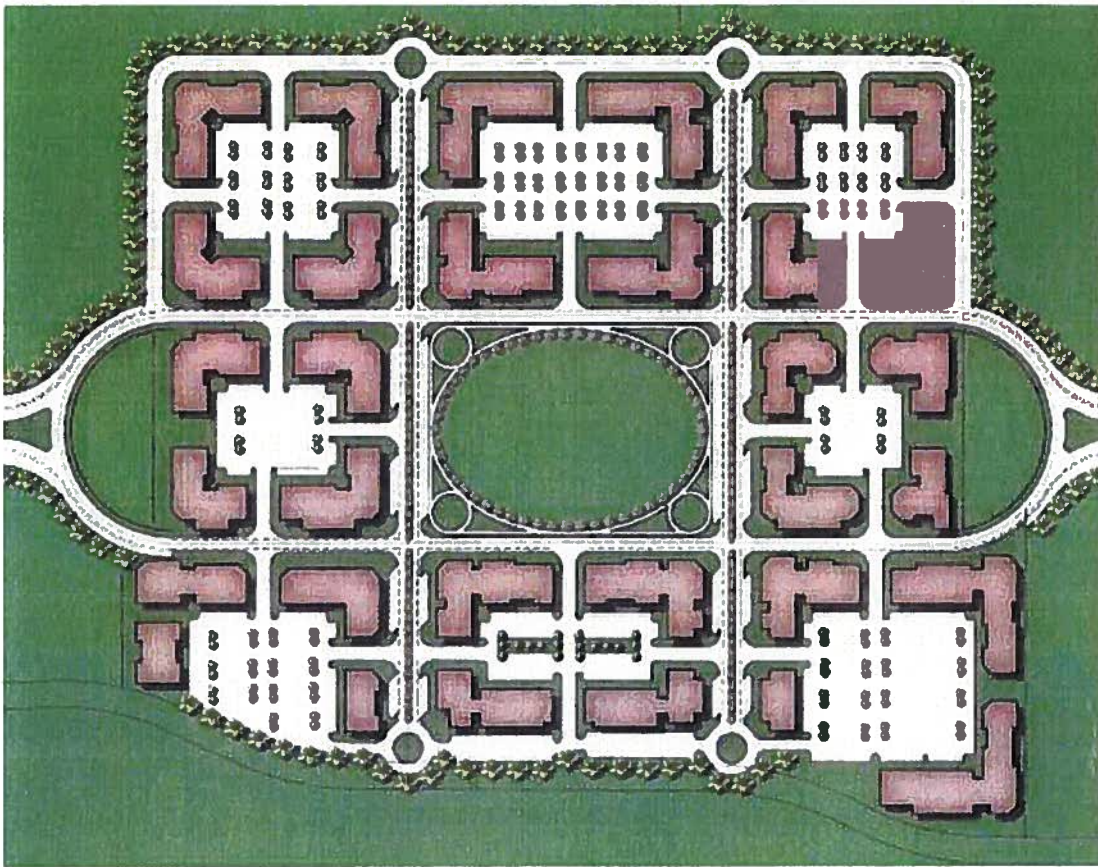


Illustration of the central Big Gulch Neighborhood Center and central park area. This will be designed to create pedestrian activity areas with interesting spaces. The intensity of commercial and residential uses increase as development moves toward the Neighborhood Center. The Neighborhood Center is envisioned to be a mix of retail, office, hotel, residential and civic uses.

Special consideration will be given to the design and placement of land uses next to Willow Creek Road, within the Willow Creek Road Regional Open Space Corridor, to promote the sense of open space. Significant setbacks from the roadway, landscape screening and context sensitive design, will all reduce visual intrusion. Assuming Willow Creek Road is used as a minor access, a community park will span the central boulevard at the intersection of Willow Creek Road to enhance that Open Space Corridor. Building setbacks within this Corridor will be a minimum of 100 feet from the edge of the right-of-way.

Parks, Trails, Schools and Public Services

The Big Gulch Planning Area is planned to have four community parks as well as regional, community and neighborhood trails. Two of the community parks will be located at the intersection of Central Boulevard and Willow Creek Road as part of the Willow Creek Road Regional Open Space Corridor. This area is also anticipated to contain an elementary school, a branch library, and a police and fire station.

The Big Gulch floodplain is the primary drainage area within the M3 Eagle community. Big Gulch will be reshaped and redesigned based upon an approved LOMR which will be the precursor to creating a flood management system as well as a 55-acre linear park through the center of M3 Eagle. The Big Gulch

floodplain will become the Big Gulch Community Park, containing both improved and native areas, lakes and ponds with wetlands, play and picnic areas, and a regional trail.

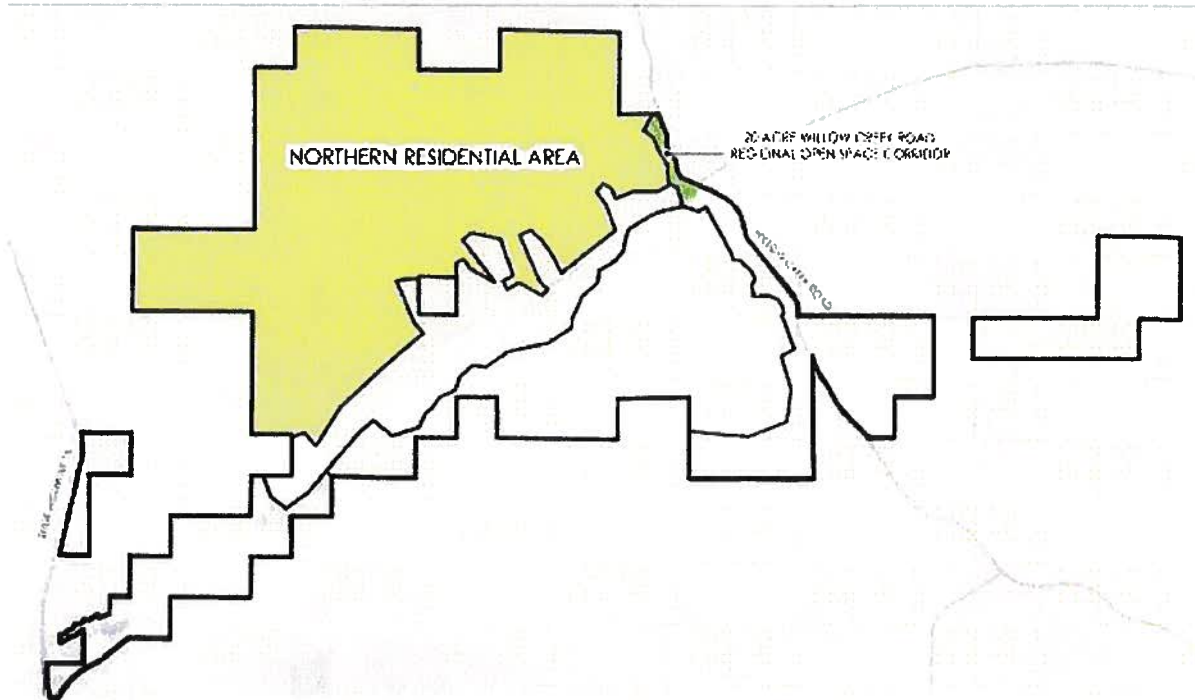
Access and Circulation

The Big Gulch Planning Area will be served by a pedestrian-friendly central boulevard that runs through the middle of the community and splits into 2 two-way couplets at the center. This boulevard is an arterial roadway that will ultimately connect State Highway 16 and State Highway 55 as additional developments to the east of M3 Eagle occur. The intersection of the boulevard and Willow Creek Road may provide a minor access to M3 Eagle. This boulevard is planned as a five-lane arterial street. Roundabouts are being proposed as traffic control devices at intersections requiring traffic control.

**EXHIBIT F2
NORTHERN RESIDENTIAL PLANNING AREA**

Northern Residential Planning Area

The Northern Residential Planning Area contains 2,760 acres and is located between the Big Gulch Planning Area and the northern boundary of the property. This area is planned for a Planning Area Density of 1.65 dwelling units per gross acre, or 4,547 dwelling units, and 40 acres of Neighborhood Commercial uses. The Maximum Planning Area Density is 2.14 units per gross acres, or 5,917 units. Topographically, 67% of this Planning Area, or 1,849 acres, is less than 25% slope. The Northern Residential Planning Area is designed to incorporate approximately 36% of its total acres as community open space.



The Northern Residential Planning Area contains the most homes within M3 Eagle. The overall density averages 1.65 dwelling units per acre; the commercial development is targeted for neighborhood uses.

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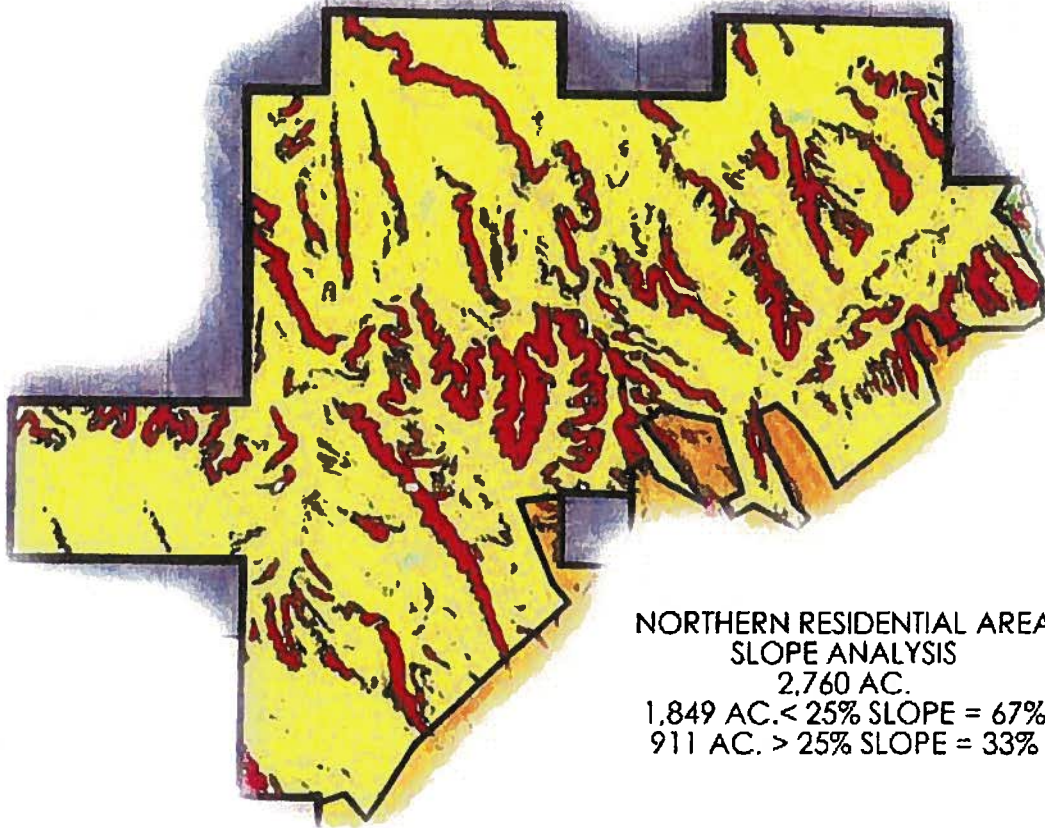


Illustration of the Northern Residential Planning Area topography. The red on the map illustrates those areas which exceed 25% slope which account for 33% of the site. The open space within the Planning Area is planned at 36%. Design of the Planning Area will incorporate hillside standards, sensitivity to viewshed, and placement of a minimum of 50% of the homes next to some form of open space.

Uses/Design

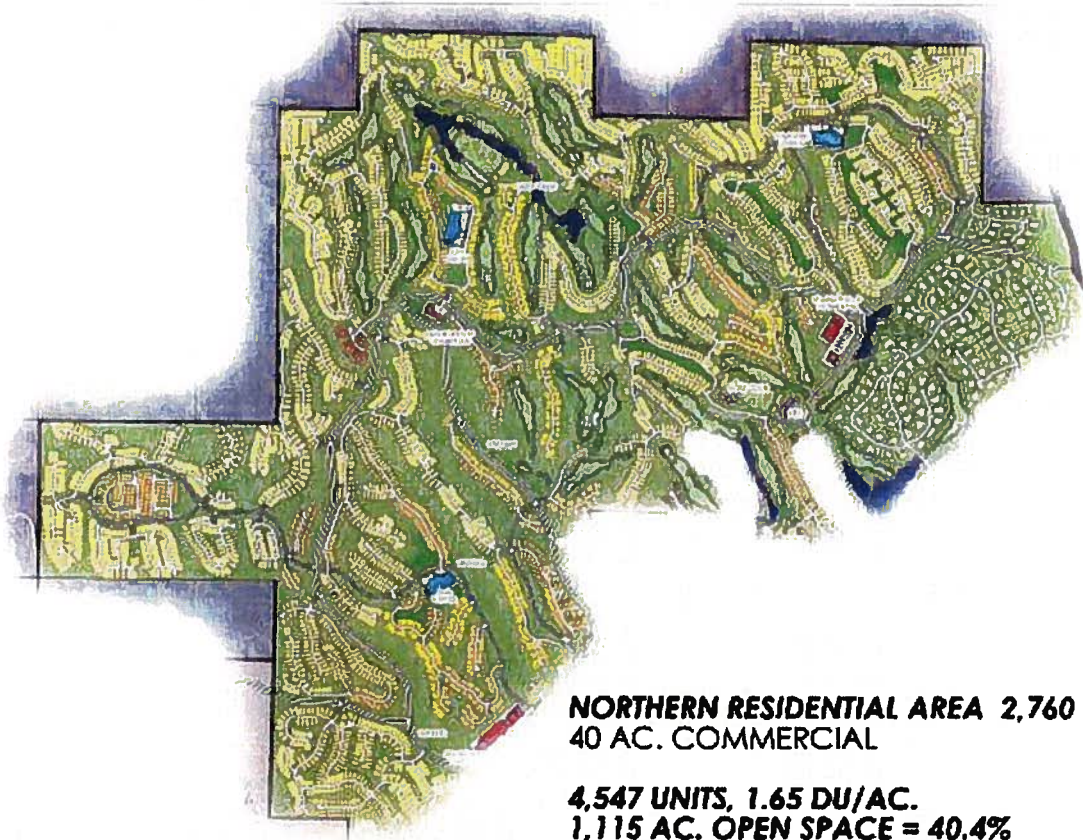
The Northern Residential Planning Area will primarily consist of single family neighborhoods with densities ranging from 1-10 units/acre, and multi-family neighborhoods with densities of 4-20 dwelling units/acre. The multi-family neighborhoods will be located adjacent to the main collector roads serving the Planning Area. Approximately 97.5% of the homes will be single-family detached or attached and approximately 2.5% of the homes will be multi-family. Two Neighborhood Commercial sites totaling 40 acres are located at the intersection of collector roadways and are planned for grocery stores, neighborhood services, restaurants, automotive services, dry goods, and neighborhood offices for professional, medical and dental services. Commercial buildings will be placed in appropriate locations and will provide for buffering to residential uses.

Land use intensity will generally decrease from south to north as development moves away from the Big Gulch Planning Area toward the northern, eastern and western boundaries of the Planning Area. Custom lots or lower-density neighborhoods with an average density of 1 unit per acre, which may be achieved through clustering, will be located in a transitional zone at the perimeter of the Planning Area. This zone will provide a transition between the low-density neighborhoods within the Planning Area and the even

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lower-density adjacent lands outside of the M3 Eagle property. This transition generally occurs within 300 to 1,000 feet of the boundary of the M3 Eagle property.

Clustered housing designs and placement of homes and other structures on individual lots will be carefully integrated into the topography, and sensitive hillside grading techniques will be used as appropriate. Homes will be located on moderate slopes with many steeper, non-graded slopes left as open space. Design guidelines will be enforced through the Owners' Association and recorded Covenants, Conditions and Restrictions, as well as the City of Eagle, to ensure compliance with hillside development standards. M3 Eagle shall provide grading guidelines and hillside development standards to the City for review and approval prior to receiving approval of any plats within this Planning Area.



Preliminary Lot and Community Concept for the Northern Residential Planning Area. At least 50% of the homes will be adjacent to open space.

Utilizing clustered housing and grade adaptive design techniques, this Planning Area is planned for an overall density of 1.65 dwelling units per gross acre with 36.8% acres, or 1,015 acres, of community open space. The design of the Northern Residential Planning Area creates a wide array of housing types, which adds to the affordability range of M3 Eagle and the socio-economic diversity of the community.

Special consideration will be given to the design and placement of homes next to Willow Creek Road, within the Willow Creek Road Regional Open Space Corridor. Such design and placement will promote the sense of open space and, with the use of significant setbacks from the roadway, landscape screening and context-sensitive design, will reduce visual intrusion. Building setbacks within this corridor will be a minimum of 100 feet from the edge of the right-of-way.

Parks, Trails and Schools

The Northern Residential Planning Area is designed to have two community parks and nine neighborhood parks. Two golf courses may also be located within the Planning Area. If the golf courses are located in this Planning Area, the golf courses will be placed in appropriate locations to create open space corridors that work well with native open space. The golf courses will be irrigated using treated effluent (re-use water) when available.

This Planning Area will also be served by non-motorized multi-use trails (separated or combined) that will link neighborhoods within this Planning Area, with the rest of the community, and with planned regional open space. These will also provide looping opportunities with other community and regional trails. Trails through neighborhoods not adjacent to public right-of-ways or connecting to public parks may be private.

Three elementary schools are planned for this area. These schools will be placed in locations that provide pedestrian access from adjacent neighborhoods with trails and sidewalk systems designed to accommodate walking to school by children.

Access and Circulation

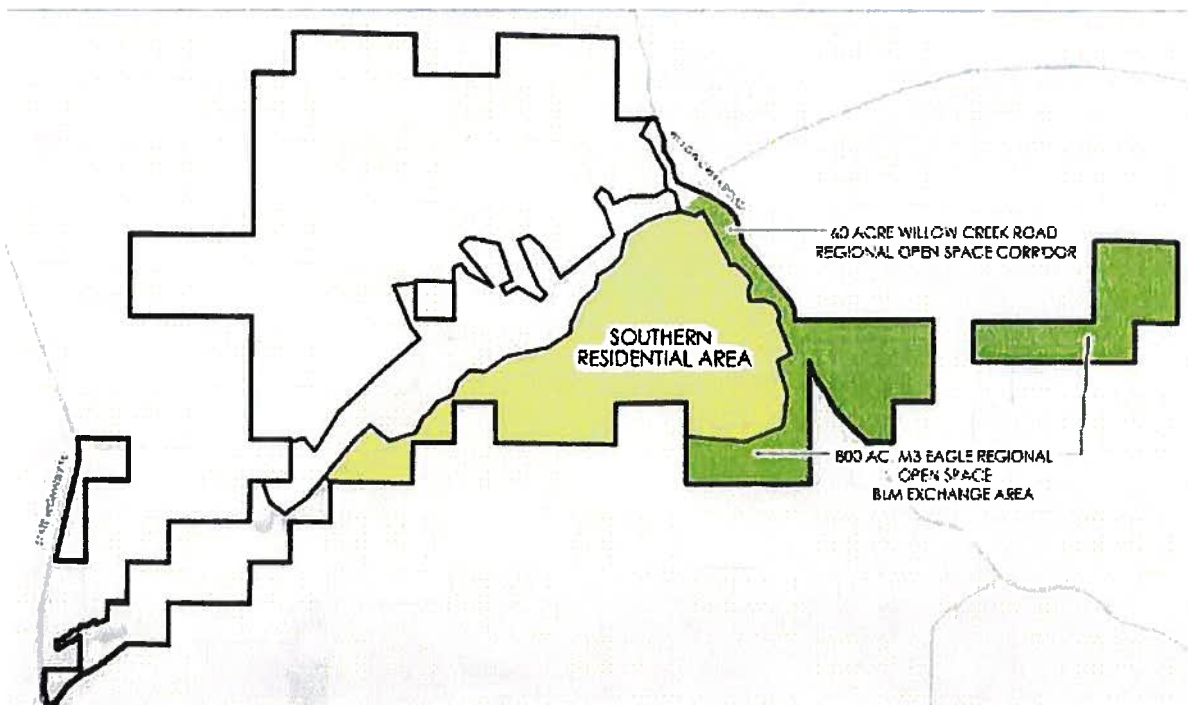
This Planning Area will be served by a series of neighborhood collector streets that radiate from the central boulevard running through the Big Gulch Planning Area. A minor access may be located on Willow Creek Road. Roads will generally curve to follow topography and provide interest. Intersections requiring traffic control will utilize roundabouts as traffic control devices.



**EXHIBIT F3
SOUTHERN RESIDENTIAL PLANNING AREA**

The Southern Residential Planning Area

The Southern Residential Planning Area contains 2,114 acres and is located between the Big Gulch Planning Area and the southern border of the property, which abuts the proposed Eagle Regional Park. The Southern Residential Planning Area will have a Maximum Planning Area Density of 0.06 dwelling units per gross acre or 126 homes. Topographically, 61% of this Planning Area is less than 25% slope. Areas of steeper topography will contain low-density residential neighborhoods that nestle into the hillsides. Homes will generally be located along flat-to-moderate slopes while steeper, non-graded slopes will remain as open space. Subject to appropriate annexation, entitlement and/or exchange approvals with the local and federal governments, the 800 acres (shown below) in this Planning Area will either (i) be exchanged for 815 acres of BLM-owned lands located near State Highway 16 or, if the BLM exchange does not occur, (ii) be donated by M3 Eagle to the City of Eagle. The 800 acres would then become part of the Eagle Regional Park. In addition, 80 acres located along Willow Creek Road will be set aside as open space for the Willow Creek Road Regional Open Space Corridor with the management of the 80 acres being the responsibility of the M3 Eagle Owners' Association or other entity.



The Southern Residential Planning Area. The lighter green area represents the development area and the darker green represents the regional open space within the Planning Area.

Slope and Habitat

The Southern Residential Planning Area has the highest concentration of steep slopes of any of the five Planning Areas. Topographically, 39% of the Planning Area exceeds 25% slope. In addition, this Planning Area contains some of the highest concentration of suitable habitat (based upon environmental surveys by URS and as identified by IDFG) on the Property. Much of this habitat is located in the 800 acres which are being designated for regional open space use. M3 Eagle shall submit a mitigation plan to the City for approval to address this habitat.

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**SOUTHERN RESIDENTIAL AREA
SLOPE ANALYSIS
2,114 AC.
1,218 AC. < 25% SLOPE = 58%
896 AC. > 25% SLOPE = 42%**



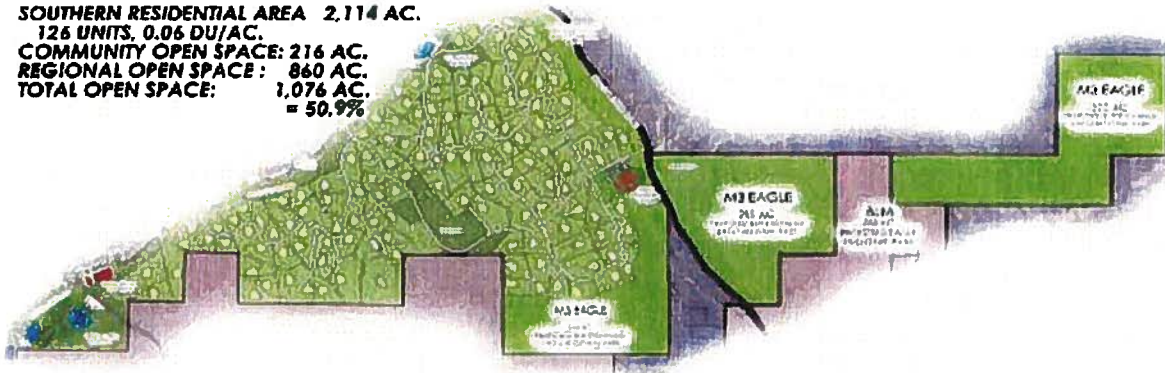
Southern Residential Planning Area illustrated with topography. The red indicates slopes which exceed 25% which comprise 482 acres or 39% of the Planning Area. This Planning Area contains the highest percentage of slopes exceeding 25% of the entire M3 Eagle master plan.

Uses/Design

The Southern Residential Planning Area will consist primarily of open space and residential clusters with custom home neighborhoods with densities averaging 0.2 units/acre. Low-density, single-family detached homes and single-family attached homes with densities up to 3 units/acre may also exist where topography allows. Residential units and ancillary improvements will be restricted to development within designated building envelopes.

The majority of the Southern Residential Planning Area will be planned as custom home lots. Each lot will have a defined building envelope, fencing restrictions and, if an equestrian lot, a pasture and barn zone. The building envelopes will increase the amount of open space within the community, protect valuable habitat which has been identified in this Planning Area, and control viewsheds for adjacent properties inside and outside the community. Privacy walls will be minimized in favor of open or no fencing to preserve vistas and allow wildlife movement. The community design guidelines will dictate special standards to minimize disturbance to the environment. Design guidelines will be enforced through the Owners' Association and recorded Covenants, Conditions and Restrictions (CC&Rs), as well as the City of Eagle, to ensure compliance with hillside development standards.

**SOUTHERN RESIDENTIAL AREA 2,114 AC.
126 UNITS, 0.06 DU/AC.
COMMUNITY OPEN SPACE: 216 AC.
REGIONAL OPEN SPACE: 860 AC.
TOTAL OPEN SPACE:
1,076 AC.
= 50.9%**



Preliminary lot and community concept for the Southern Residential Planning Area. This illustration shows the 800 acres of M3 Eagle lands as part of the Eagle Regional Park along with the 80 acres within the Willow Creek Road Regional Open Space Corridor.

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This illustration shows the Willow Creek Road Regional Open Space Corridor in the Southern Residential Planning Area and Big Gulch Planning Area. Note the setbacks range from 260' to 1430' from the centerline of Willow Creek Road providing an excellent corridor for viewshed protection and trails.

Parks, Trails and Schools

Amenities will include four neighborhood parks, community and regional open space (subject to the conditions set forth herein above), regional equestrian and pedestrian trails, and a public equestrian center on the west side of Willow Creek Road. The combination of community and regional open space will total at least 1,006 acres, or 47.6%, of the Southern Residential Planning Area.

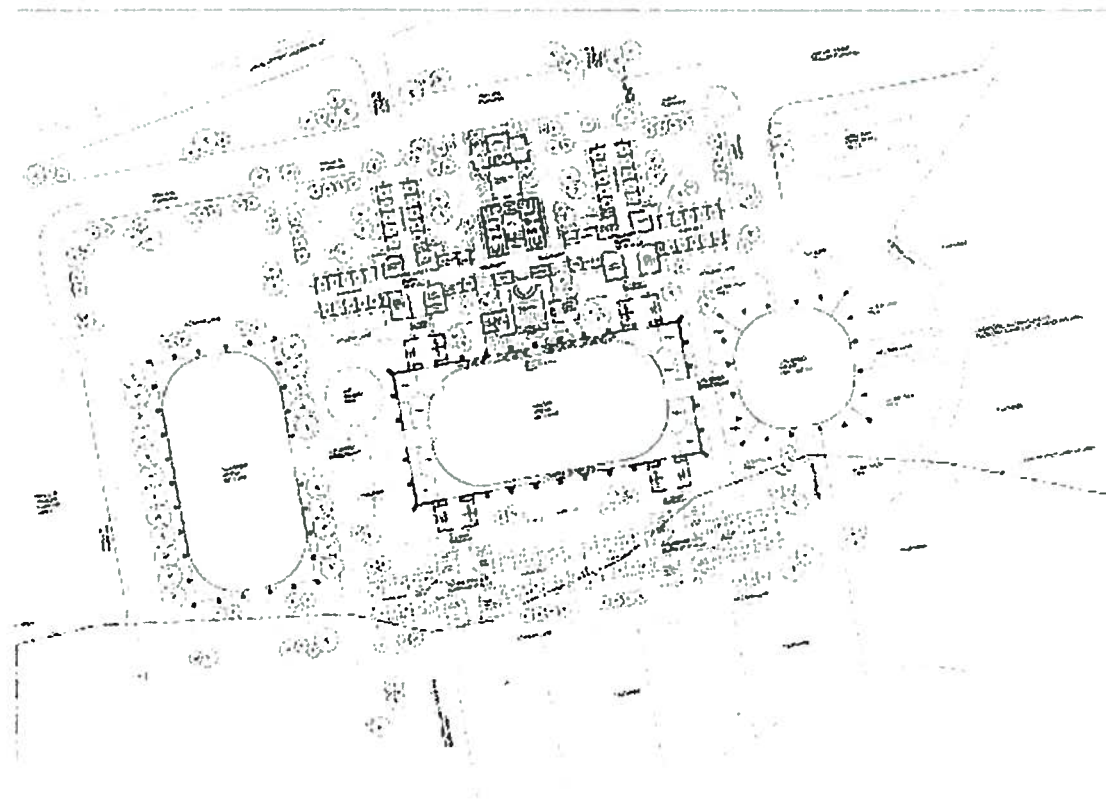
EXHIBIT F3 - 4

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This area will be served by non-motorized multi-use trails (separate or combined) that will link neighborhoods within this Planning Area and with the rest of the community. In turn, this will provide looping opportunities with other community trails and regional trails within the Eagle Regional Park. A public trailhead will be located on the east side of Willow Creek Road. Trails through neighborhoods not adjacent to public right-of-way or connecting to public parks may be private. Trails through low-density neighborhoods may be on one side of the street.

Equestrian Center

It is envisioned that an equestrian center would be built as part of the Southern Residential Planning Area that would provide for resident and non-resident boarding facilities. The facility would be a full-service training facility with professional management and training services. The public equestrian center will be on approximately 30 to 40 acres and is envisioned to contain a covered riding arena, turn-outs, and boarding facilities for 80-160 horses. This center would be owned and operated by the M3 Eagle Owners' Association or other entity.



Example of another M3 equestrian center which M3 is developing at its Sandstone Ranch project in Colorado. This is an 80-stall facility with a climate controlled arena, covered round pen and covered outdoor riding arena, with turnouts and paddocks.

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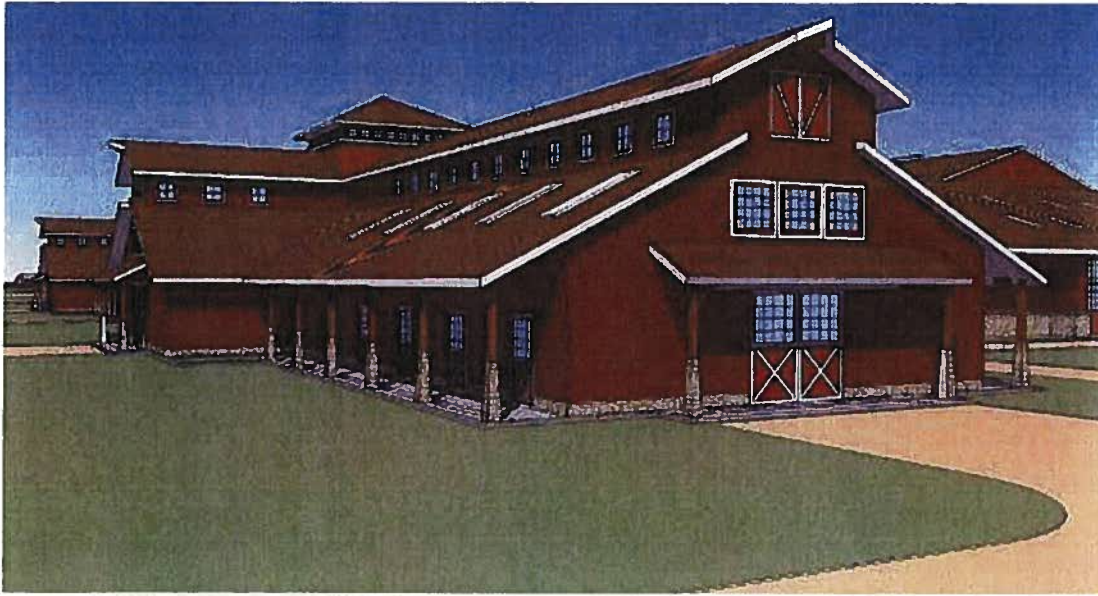


Image of Sandstone Ranch Equestrian Center

Access and Circulation

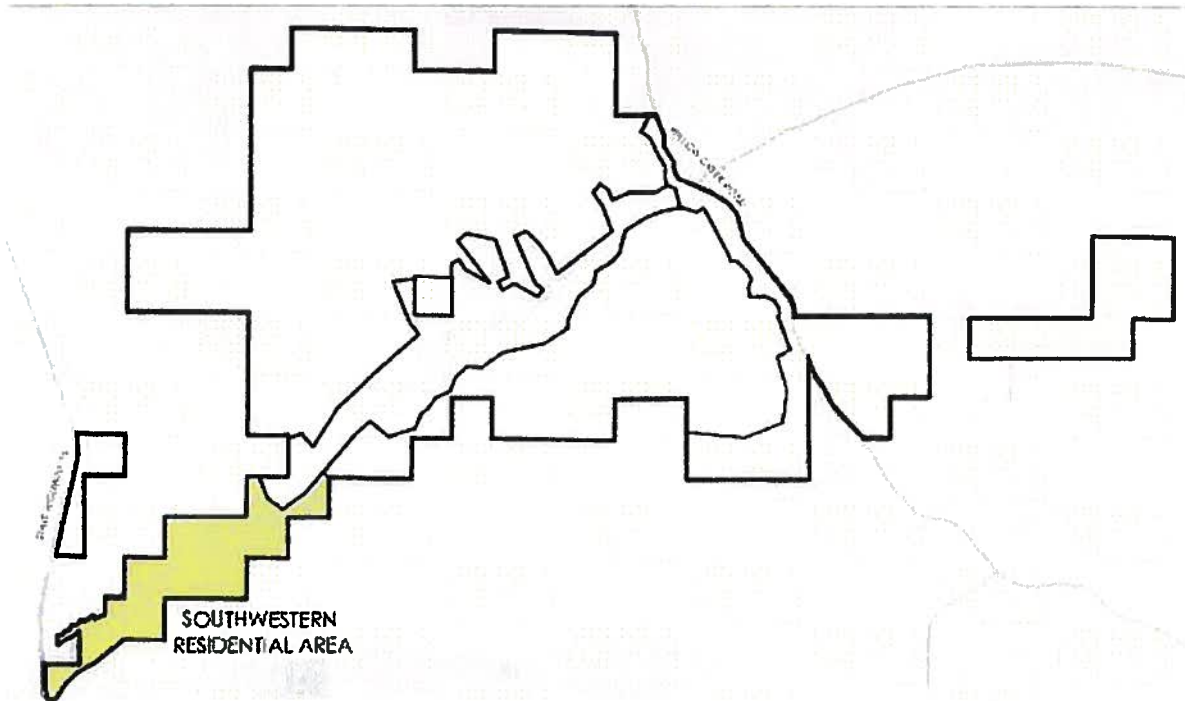
This Planning Area will be served by a series of neighborhood collector streets that radiate from the central boulevard running through the Big Gulch Planning Area. A minor access may be located on Willow Creek Road. Upon development of this phase, the connection between Willow Creek Road and State Highway 55 will need to be completed. Roads will generally curve to follow topography and be designed to provide interest. Intersections requiring control will utilize roundabouts as traffic control devices.

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**EXHIBIT F4
SOUTHWESTERN RESIDENTIAL PLANNING AREA**

Southwestern Residential Planning Area

The Southwestern Residential Planning Area is planned as the first phase of M3 Eagle. The Planning Area consists of 407 acres and is located in a flat corridor within Big Gulch between State Highway 16 and the Big Gulch Planning Area. The Maximum Planning Area Density is 0.74 dwelling units per gross acre or 300 dwelling units. The area will also contain 17 acres of Neighborhood Commercial uses. Topographically, 99% percent of this Planning Area is less than 25% slope.



The Southwestern Residential Planning Area is located adjacent to State Highway 16 and will have access from the planned improvements to State Highway 16, Palmer/Hartley and Linder Road. This Planning Area will be in phase one of the development.

Uses/Design

This Planning Area will contain rural and estate-type custom homes on 1 to 10-acre lots, single-family detached homes for a density of 4-6 units/acre, and a 17-acre neighborhood commercial site. Homes will be clustered in areas that are closer to the Big Gulch Planning Area. The equestrian lots will have irrigated pastures and open fencing to give the area a rural feel. Irrigation will be provided by M3 Eagle's surface water irrigation rights and re-use water. Re-use water will be stored subject to receipt of a permit from IDEQ within the ponds designated on the plan. Development adjacent to the planned Eagle Regional Park will provide for larger setbacks.

The development plan for this Planning Area is geared toward an equestrian-themed community. The community design would incorporate common fencing, riding trails, irrigated pastures, restrictive building envelopes (as shown in the examples of other M3-developed communities, below), equestrian and non-equestrian trails with access to the Eagle Regional Park approved by the City. Design guidelines will include architectural, fencing, building envelopes and pasture requirements.

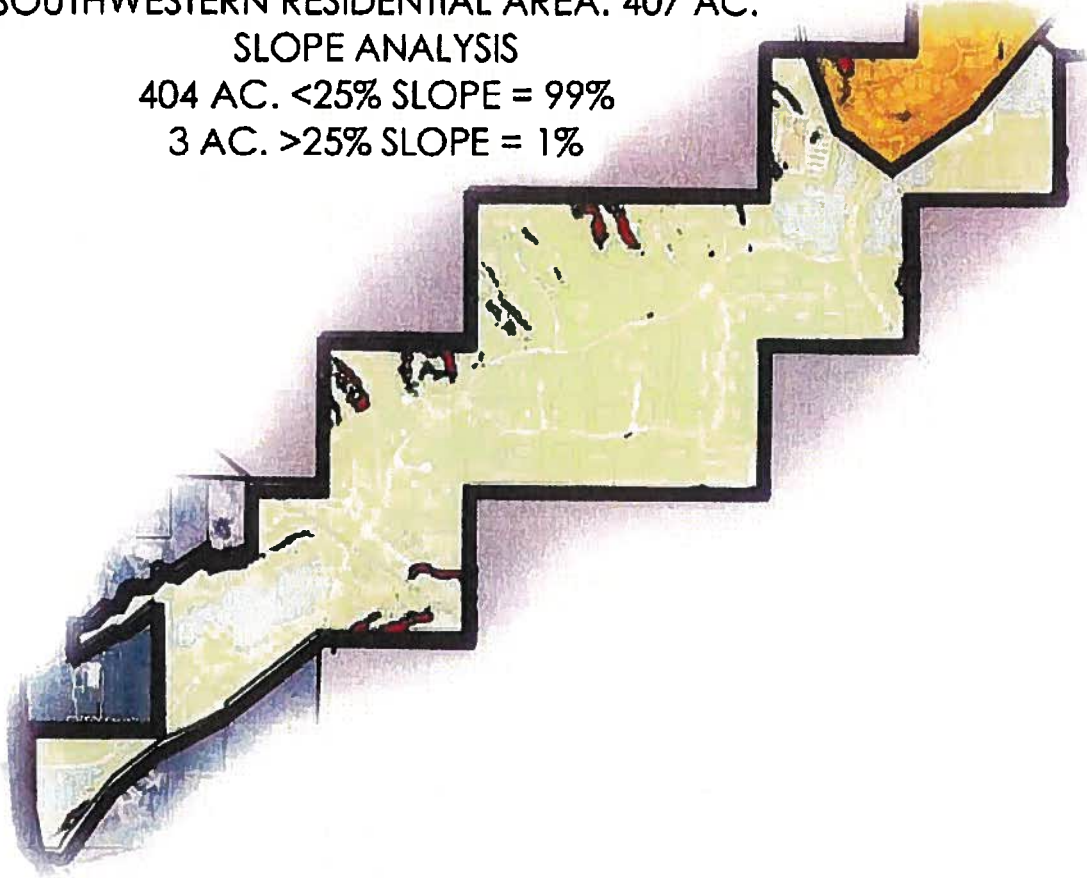
This Planning Area contains a significant stand of sagebrush as identified by URS and IDFG. Some of these shrubs will be preserved through site-specific planning and creation of restrictive building envelopes on large lots. A mitigation plan will also be prepared to determine what other actions, if any, would be appropriate. Until such approval is obtained, the Base Project Density for this Planning Area shall be one unit per 5 acres, or 81 residential lots.

SOUTHWESTERN RESIDENTIAL AREA: 407 AC.

SLOPE ANALYSIS

404 AC. <25% SLOPE = 99%

3 AC. >25% SLOPE = 1%



The Southwestern Residential Planning Area is relatively flat and will incorporate an equestrian theme and larger custom residential lots. The rectangular tan shapes represent equestrian lot building envelopes and the polygon shape represents non-equestrian custom lot building envelopes.

**SOUTHWESTERN RESIDENTIAL AREA 407 AC.
300 UNITS, 0.74 DU/AC.
17 AC. COMMERCIAL
44 AC. OPEN SPACE = 10.8%**

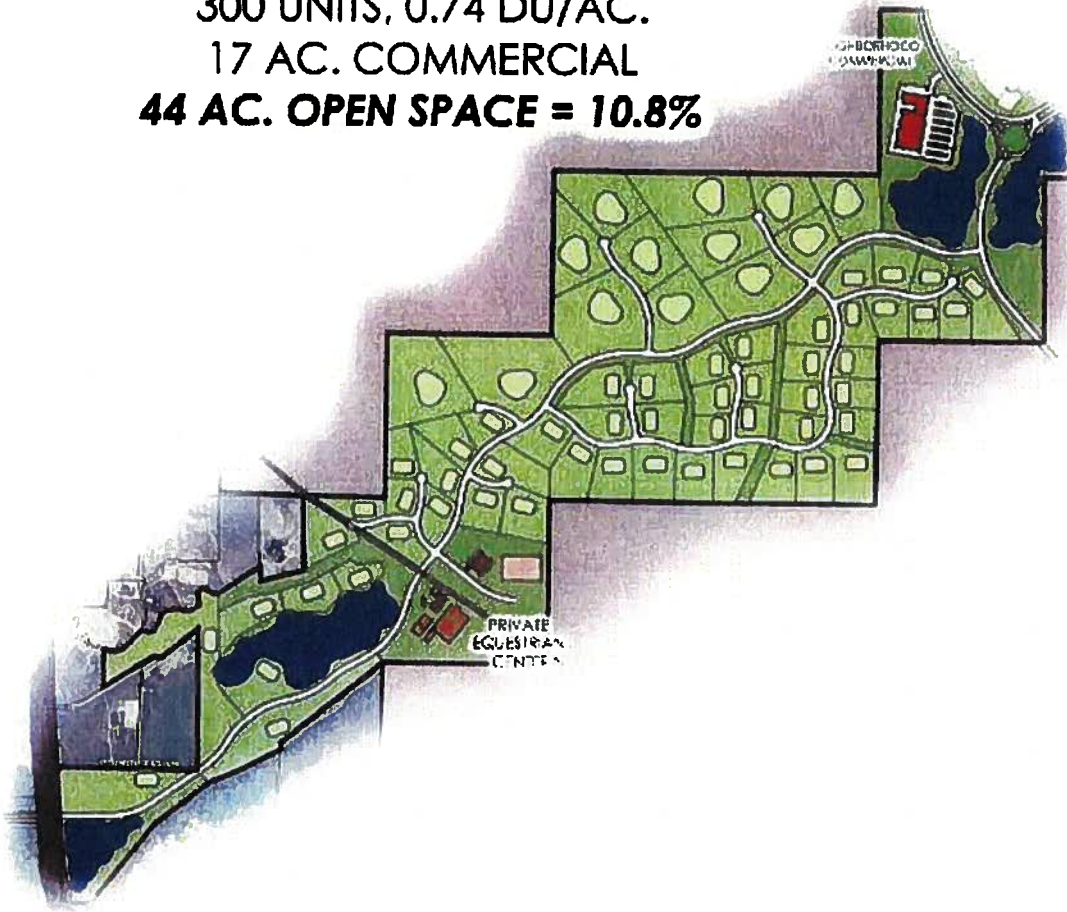
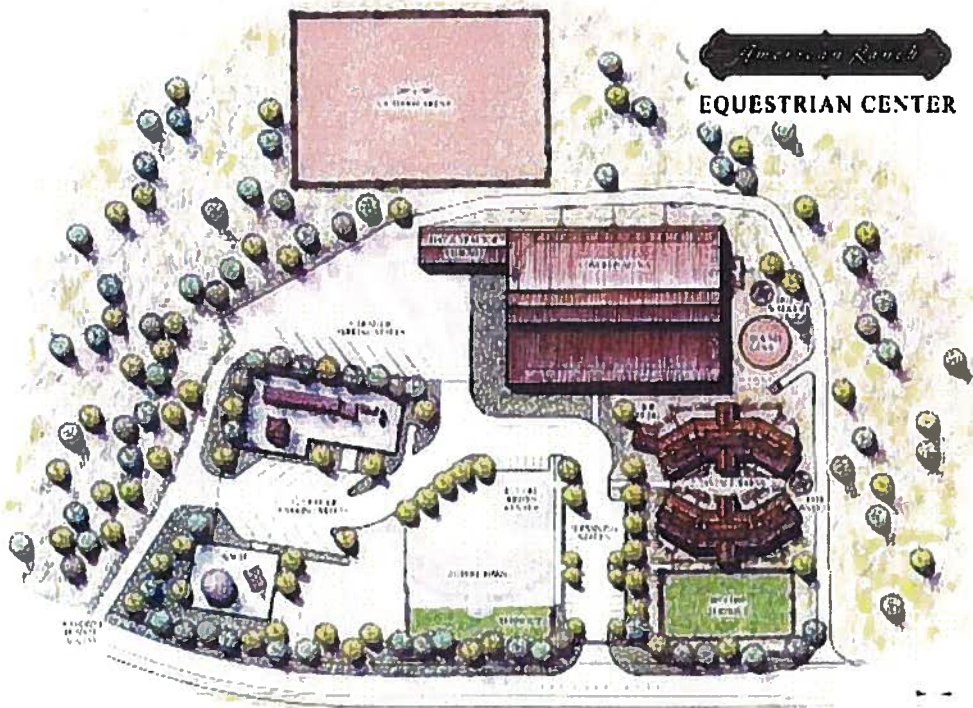


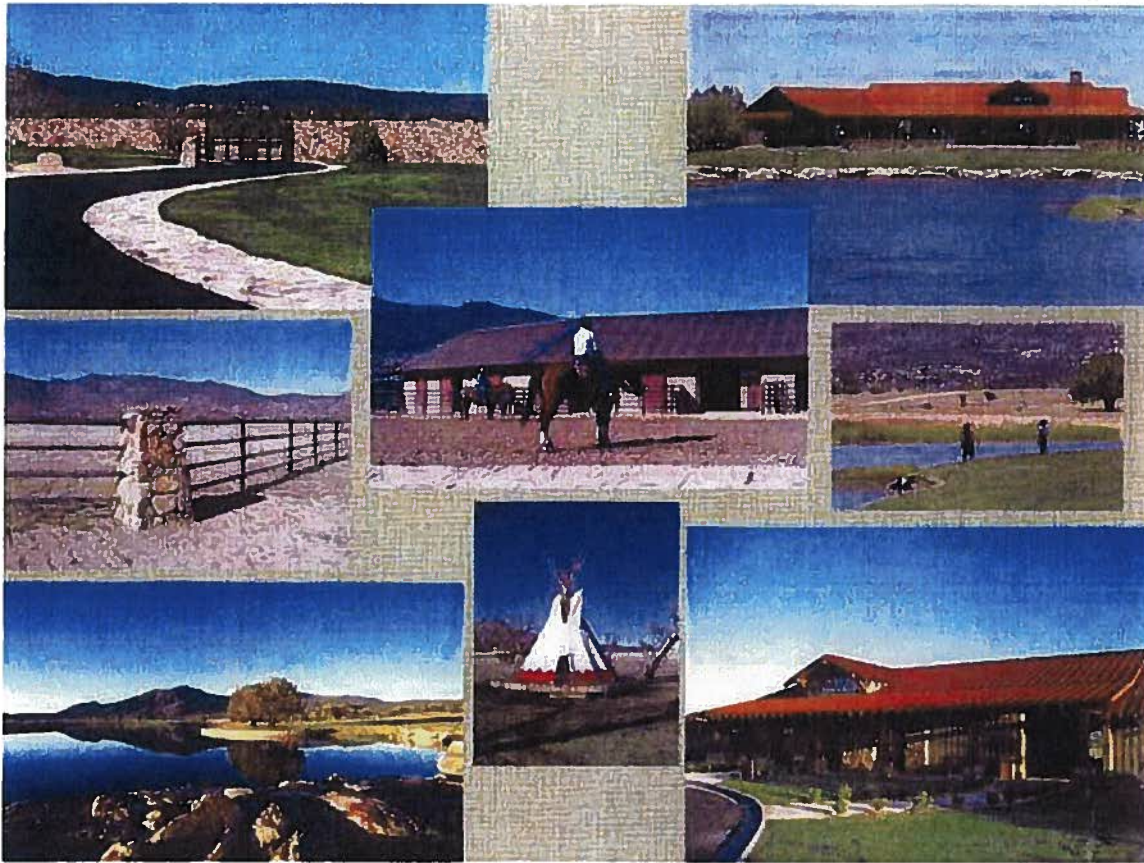
Illustration of the Southwestern Residential Planning Area. The community open space is 10.8% but a significant portion of this Planning Area will have on-lot open space which is the area on private lots outside of the building envelopes. M3 Eagle will always maintain a minimum of 25% open space inclusive of the regional and community open space.

Equestrian Center

A private equestrian center (with resident and limited outside boarding) will be part of this community along with a ranch camp. The equestrian center will be planned for covered and uncovered riding arenas, paddocks and 80 to 100 stalls. The "ranch camp" will be a park-like setting with recreational amenities such as; outdoor play equipment with a western theme, camp sites for residents, tree forts and tree swings and community play fields. All costs associated with the maintenance and operations of these areas will be borne through the M3 Eagle Owners' Association.



Example of an Equestrian Center on approximately 25 acres which includes sewer and water facilities. M3 built this facility at its American Ranch Prescott master planned community and it serves as a community amenity and gathering spot for equestrian functions and daily riding and training. The facility contains 58 stalls and is professionally managed.



American Ranch Prescott provides examples of the character and proposed feel for the Southwestern Residential Planning Area.

Parks and Trails

This Planning Area will be served by a regional park, a neighborhood park, and the private equestrian center. The Big Gulch Community Park, located mainly in the Big Gulch Planning Area will also occupy a portion of this Planning Area. In addition, ponds and small lakes holding treated effluent water will be located throughout this Planning Area with some located along Big Gulch Community Park. These water bodies will serve as irrigation reservoirs, community amenities, and wildlife habitat. This Planning Area will contain a minimum 44 acres of community open space representing almost 11% of the Planning Area. In addition, there will be extensive open space on lots. "On-lot open space" is open space which is on a private lot and remains as open space due to restrictions on development outside the building envelopes. These restrictions are enforced through the Design Guidelines and the Covenants, Conditions and Restrictions for M3 Eagle.

This Planning Area will also include non-motorized multi-use trails that will link the neighborhoods within this Planning Area and with the rest of the community, and that will provide looping opportunities, as appropriate, with community trails and regional trails within the Eagle Regional Park. Trails through neighborhoods not adjacent to public right-of-way or connecting to public parks may be located on only one side of the street and may be private.

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Access and Circulation

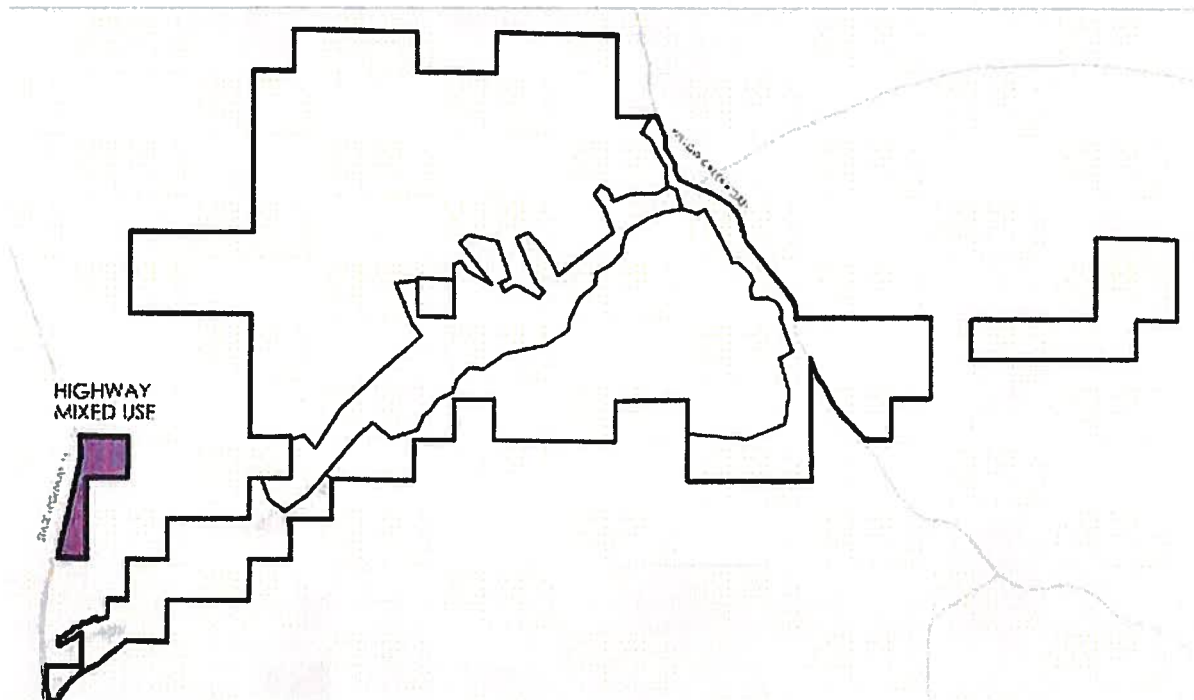
Initial access to this Planning Area will be from an extension of the Palmer Lane/Hartley Road alignment and/or the extension of Linder Road. When State Highway 16 is improved, as expected, to a limited access expressway, a new connection will be made along the highway frontage road. The provision of several north/south roadways into the project will distribute traffic to these roadways thereby reducing daily vehicle trips on a single-access roadway.



**EXHIBIT F5
HIGHWAY MIXED-USE/BUSINESS PARK PLANNING AREA**

Highway Mixed-Use/Business Park

The Highway Mixed-Use/Business Park contains 88 acres along State Highway 16 and is planned to be developed as a Community Center site with retail and mixed-use office, a fire station, and an existing cellular tower site. 290 residential units may also be developed into this Planning Area as well as a hotel. The Maximum Planning Area Density is 5.68 units/acre or 500 dwelling units. This area may be expanded in the future to include the adjacent 815-acre BLM parcel. This would create a commercial and employment center at the primary entry to the community and provide easy access and visibility from the highway corridor. Topographically, over 93% of the Planning Area is less than 25% slope. Uses planned for this area will require the support of a larger population base in the foothills, higher traffic on State Highway 16 and the development of a substantial residential base in M3 Eagle.



Highway Mixed-Use/Business Park is located along State Highway 16 on the western boundary of M3 Eagle.

Uses/Design

This area will combine highway-oriented commercial, retail, office and business park uses to capitalize on its adjacency and visibility from the regional transportation corridor, the planned interchange on State Highway 16, and the State Highway 16 to State Highway 55 arterial roadway. The site may also include a maximum of 290 high density single- and multi-family homes as well as hotel uses. Eventually, this area will be the gateway to M3 Eagle with appropriate landscape, entry and place-making features integrated into the design of the area.

This area may be expanded in the future to include the adjacent 815-acre BLM parcel provided the land exchange between M3 Eagle and BLM occurs. This parcel is envisioned to contain mixed-use

development (up to 50% of the land area), civic and educational uses, parks, and residential uses (at 2 units per gross acre).

HIGHWAY MIXED USE 88 AC.

290 UNITS
3.30 DU/AC.



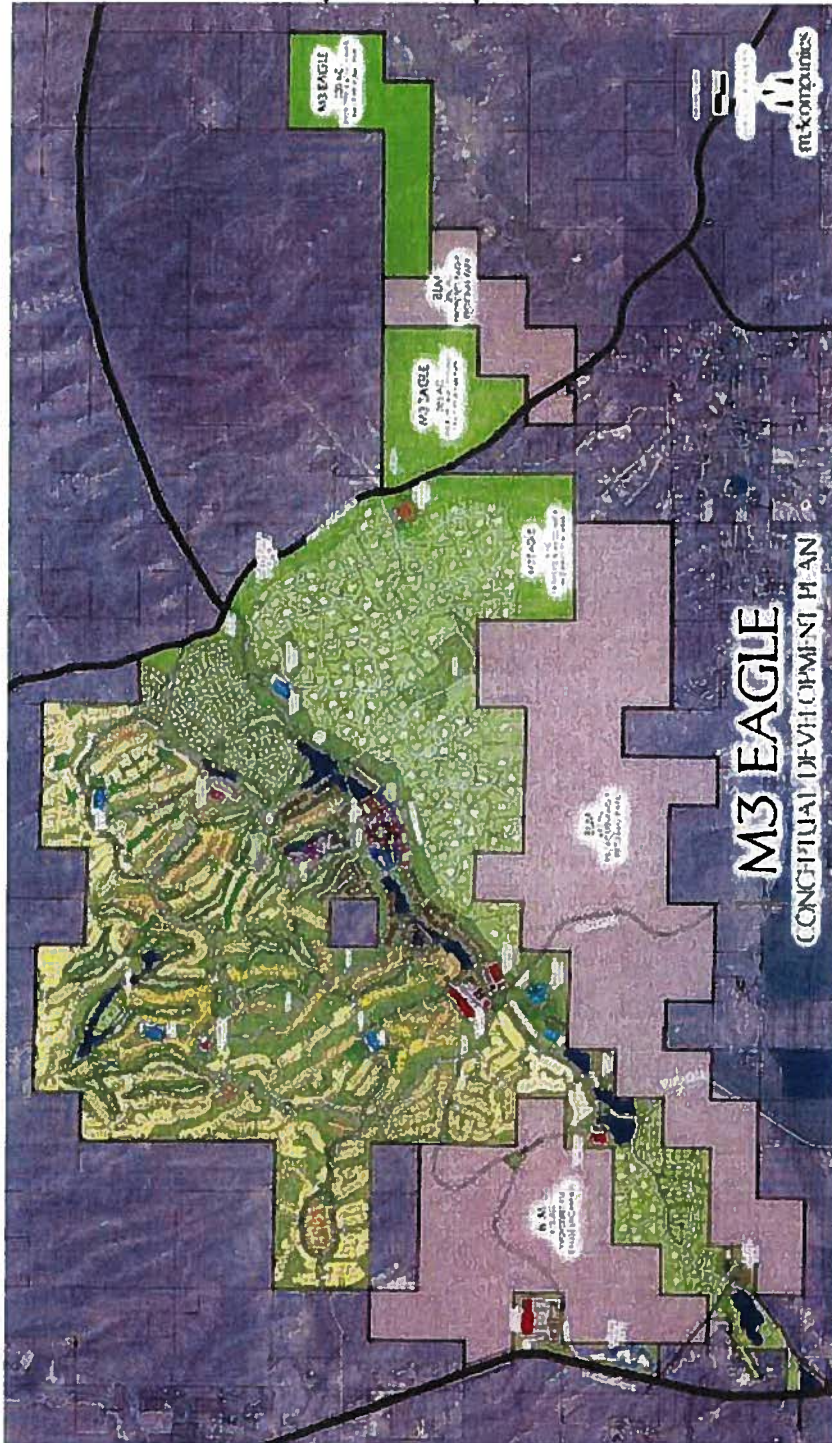
Highway Mixed-Use/Business Park.



Access and Circulation

Access to this area will be by a future grade-separated interchange on State Highway 16 which will be two miles north of a future interchange on State Highway 16 and Beacon Light Road. This access will also serve as a primary entry into the community as well as connect to the primary five-lane arterial that is proposed to serve as a connection between State Highway 16 and State Highway 55.

EXHIBIT G
Conceptual Development Plan



**EXHIBIT H
Master Phasing Plan**

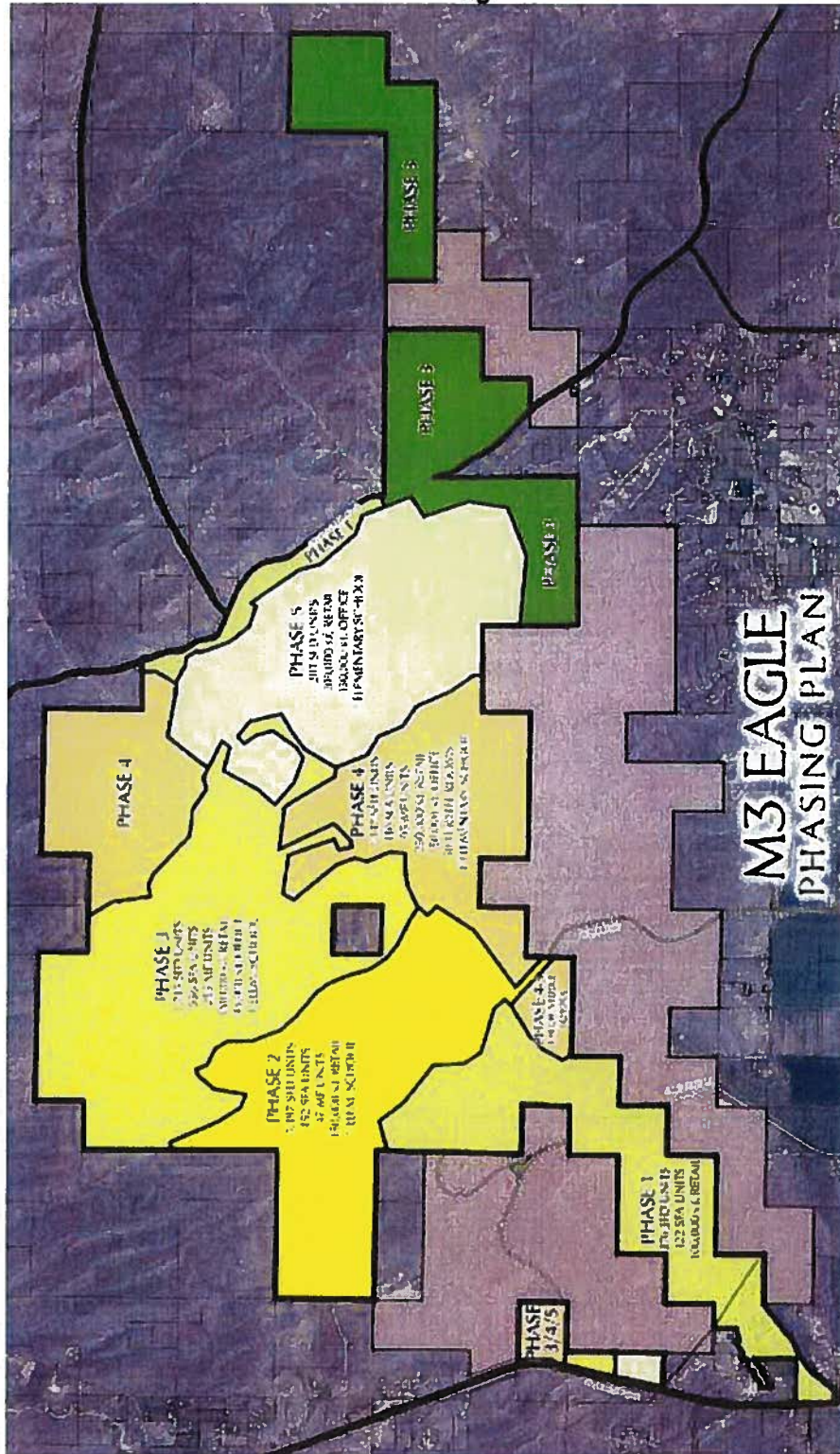
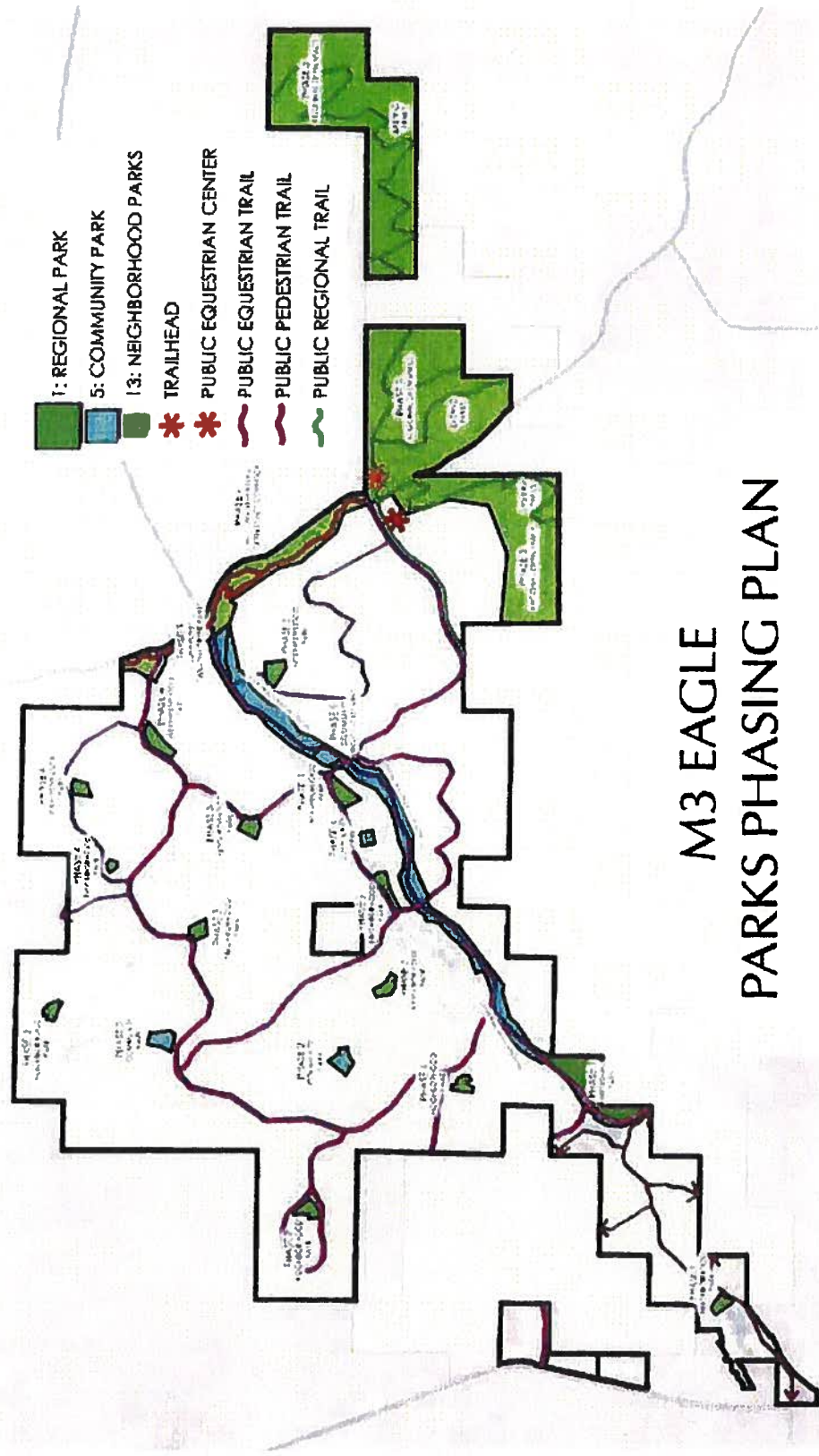


EXHIBIT H - 1

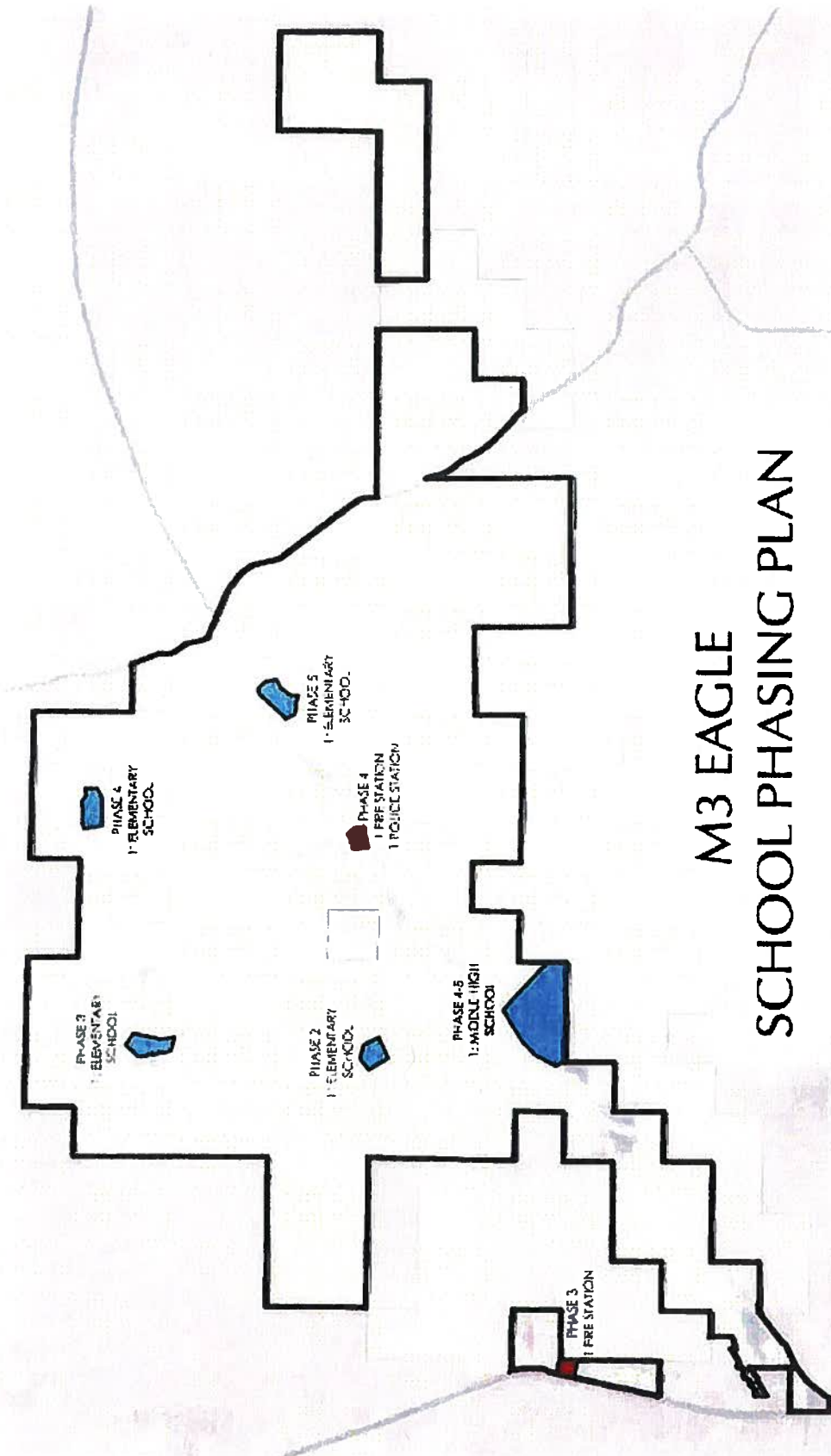
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M3 EAGLE PARKS PHASING PLAN

EXHIBIT H - 2

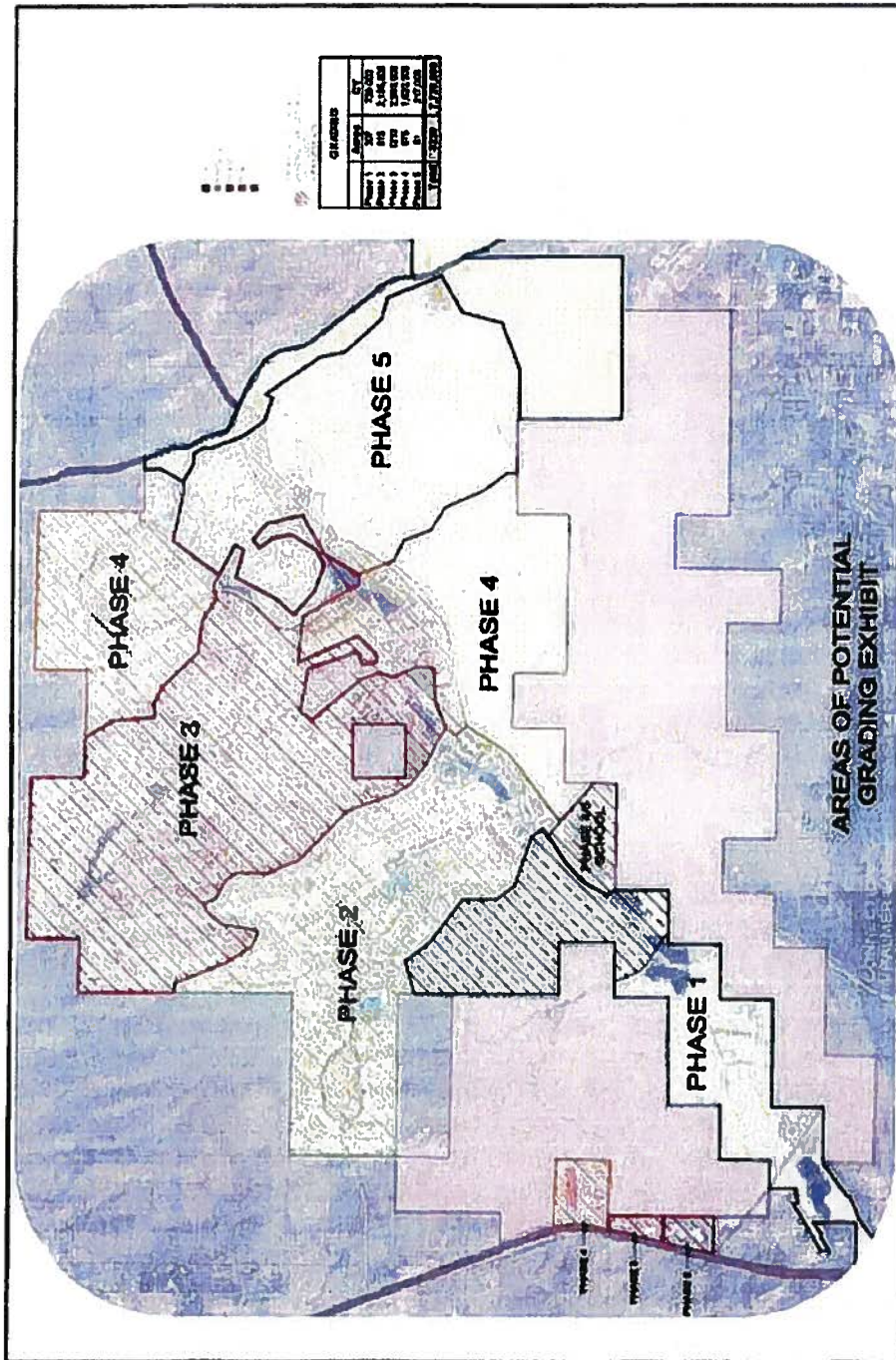
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M3 EAGLE SCHOOL PHASING PLAN

EXHIBIT H - 3

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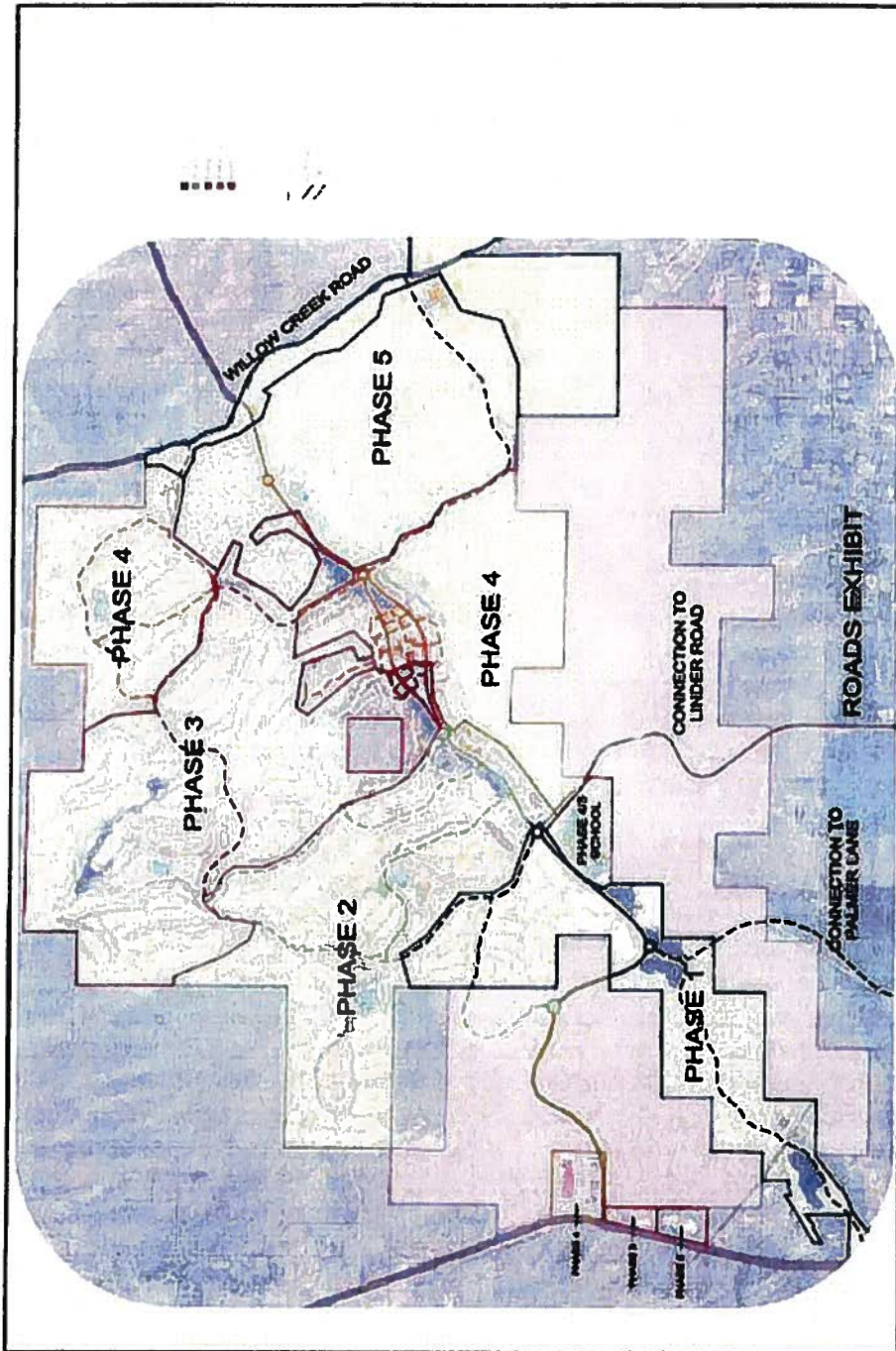


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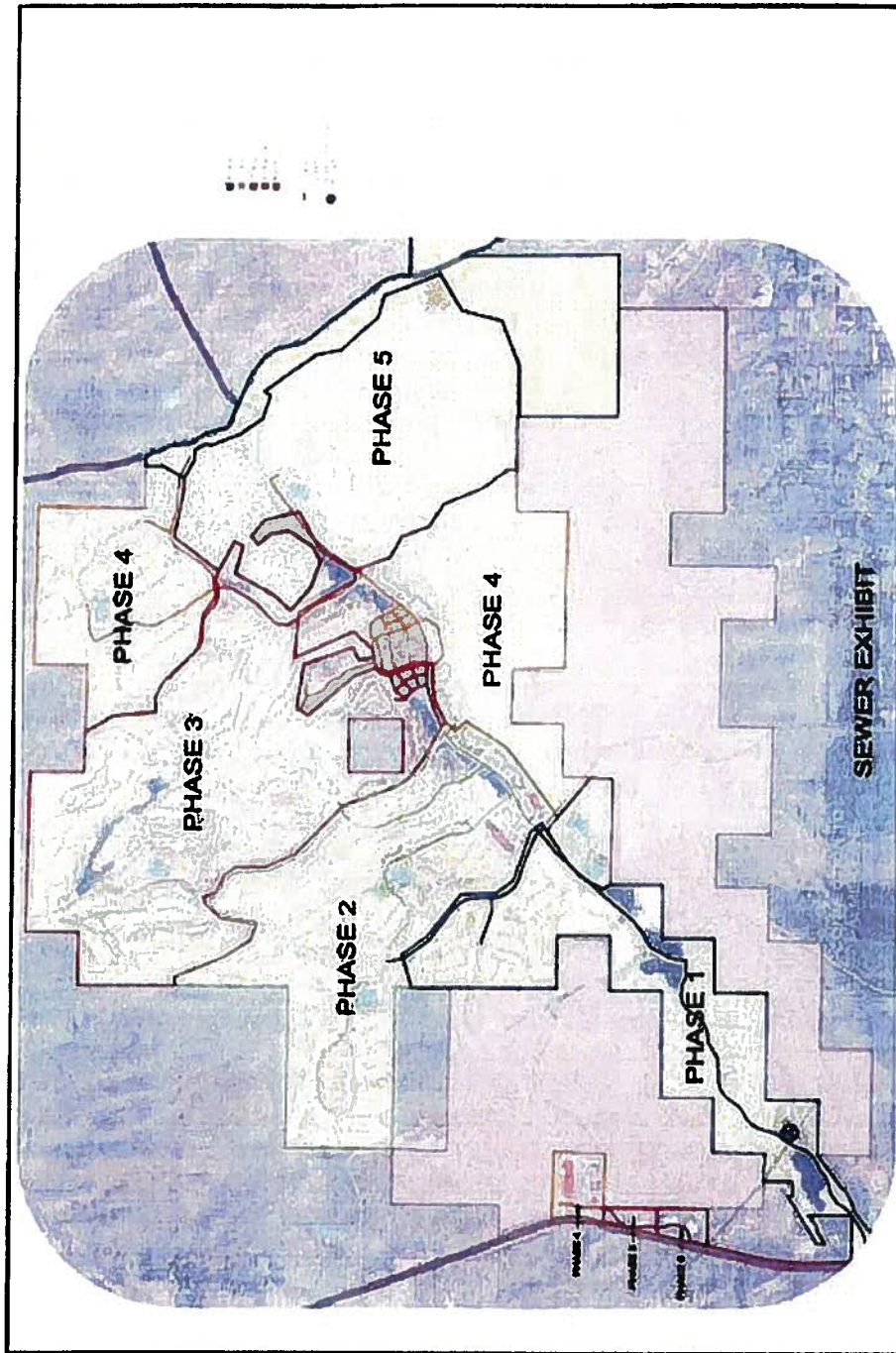


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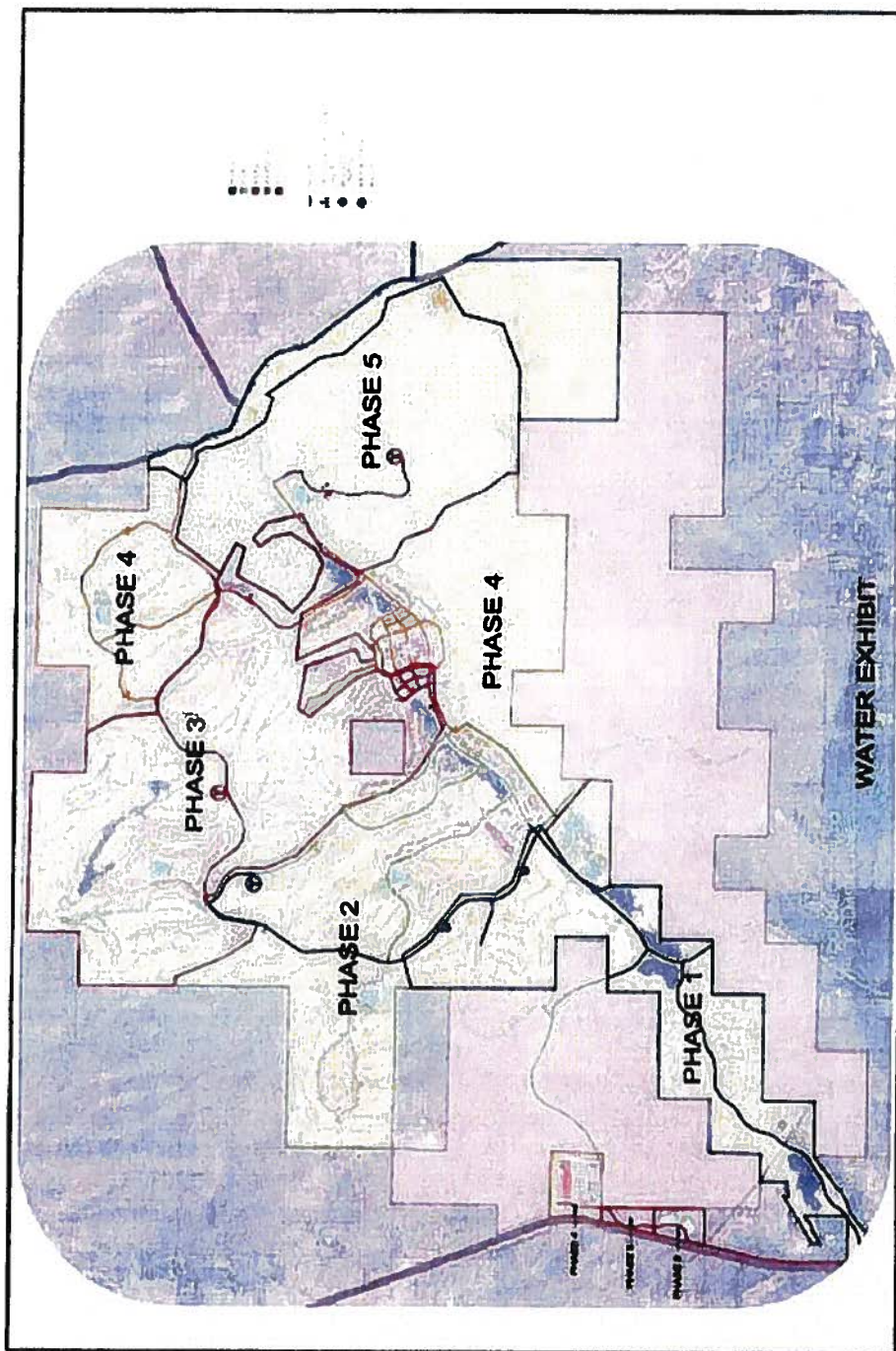


EXHIBIT H - 7

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PHASE 1 (896 AC.)

376 SFD UNITS

122 SFA UNITS

100,000 s.f. COMMERCIAL

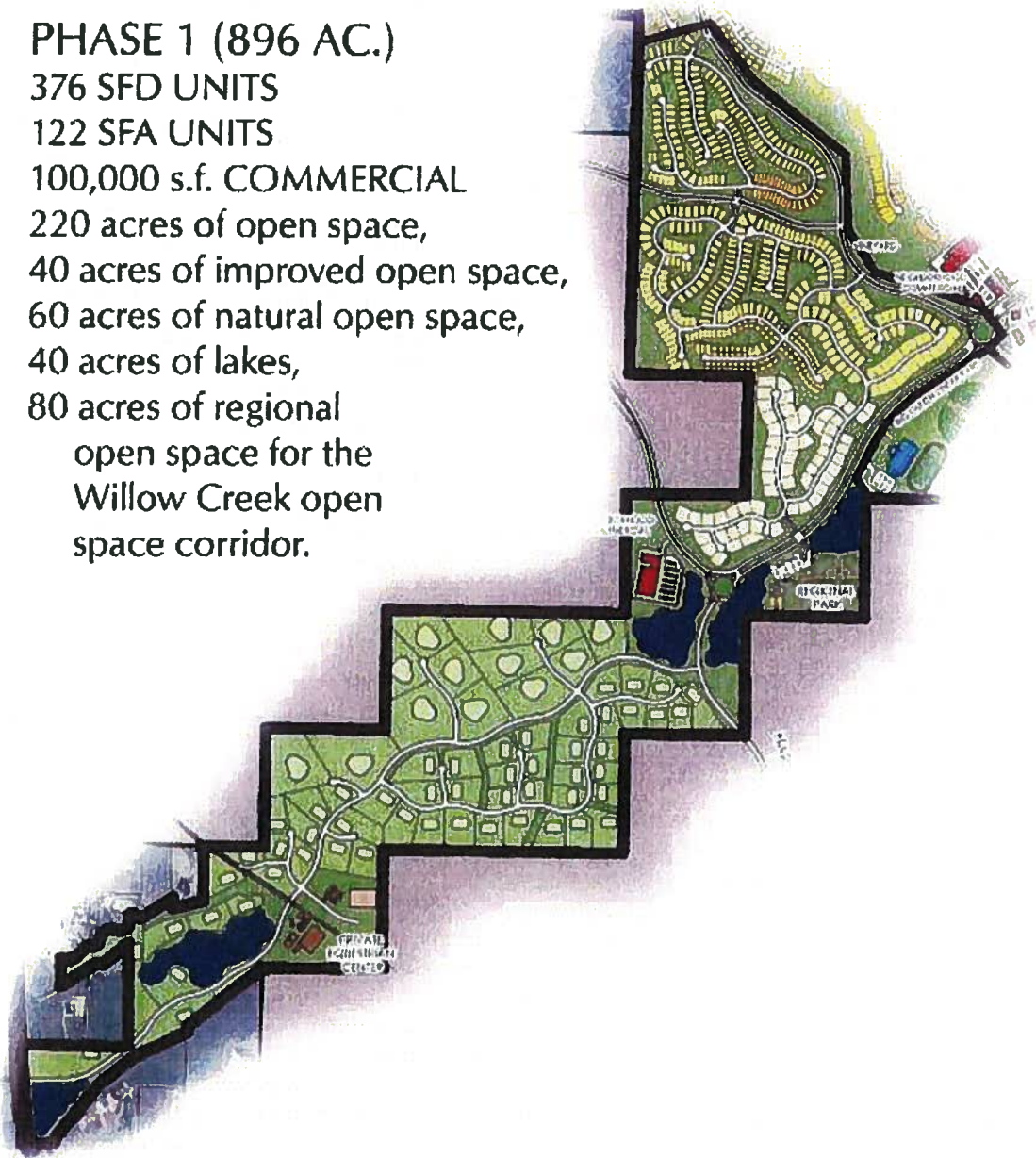
220 acres of open space,

40 acres of improved open space,

60 acres of natural open space,

40 acres of lakes,

**80 acres of regional
open space for the
Willow Creek open
space corridor.**



**M3 EAGLE – PHASE 1
Years 1-2**

Summary Narrative

Phase 1 encompasses all of the Southwestern Residential Planning Area and portions of the Big Gulch Planning Area and Northern Residential Planning Areas. Most of the Units in the Southwestern Planning Area will be rural and estate type custom Units with an equestrian theme. This Planning Area will also contain a small Neighborhood Commercial site. Infrastructure improvements will include the first arterial and collector roadways on the property, the first two municipal water wells, and the first phase of a sewage treatment plant that will also provide reuse water for irrigation. Amenities will include a private equestrian center, 140 acres of community open space (natural and improved) and 80 acres of regional open space along Willow Creek Road as part of the Willow Creek Road open space corridor. M3 will also set aside 800 acres at the eastern side of property, which is part of the M3 Eagle/BLM land exchange, for public use as part of the Eagle Regional Park.

Land Uses

| | |
|-------------------------------|---|
| Total Acreage: | 896 |
| Single Family Detached Units: | 376 |
| Single Family Attached Units: | 122 |
| Multi-Family Units: | 0 |
| Total Units: | 498 |
| Retail Space: | 100,000 s.f. |
| Office Space: | 0 |
| Total Commercial | 100,000 s.f. |
| Schools: | 0 |
| Parks/Open Space: | 220 acres of open space consisting of 40 acres of improved open space (including 1 regional park, 2 neighborhood parks, 1 private equestrian center, and trails), 60 acres of natural open space, 40 acres of lakes, and 80 acres of regional open space for the Willow Creek open space corridor.. |

BLM EXCHANGE PARCEL

M3 Eagle will make available for public use the 800 acres of land designated as part of the BLM exchange in Phase 1 as regional open space as if it were a part of the Eagle Regional Park in accordance with section 2.6 (d) of the Development Agreement.

| | |
|-------------------------------|---------------------|
| <i>Cumulative Area:</i> | <i>896 acres</i> |
| <i>Cumulative Units:</i> | <i>492 units</i> |
| <i>Cumulative Commercial</i> | <i>100,000 s.f.</i> |
| <i>Cumulative Open Space:</i> | <i>220 acres</i> |

Cumulative Open Space as a % of Total Area: 25% (excludes the BLM Exchange Parcel)

On-Site Improvements

(Note: All descriptions of on-site improvements are preliminary and subject to change based on the final approved design.)

Roadways:

- A 2-lane collector roadway from State Highway 16 to the intersection of the central spine road (Big Gulch arterial) with a temporary improved and signalized intersection at State Highway 16
Or
- The extension of Palmer/Hartley as a 2-lane collector from the Corinthian property to the central spine road
- The central spine road as a 5-lane arterial from the Palmer/Hartley terminus to the Phase 2 boundary
- A 2-lane arterial from the central spine road to the 815-acre BLM parcel
- Two 2-lane collector roads to serve residential neighborhoods
- Roundabouts at intersections that would otherwise be signalized

Water:

- Two municipal production wells
- A 1 million gallon storage tank (to be located in the Phase 2 area)
- Two booster pump stations and two pressure reducing valves
- 12" main lines under collector and arterial roadways

Sewer:

- A minimum 0.5 mgd treatment plant, expandable in future phases to 2.4 mgd
- 8"-30" main lines under collector and arterial roadways

Drainage:

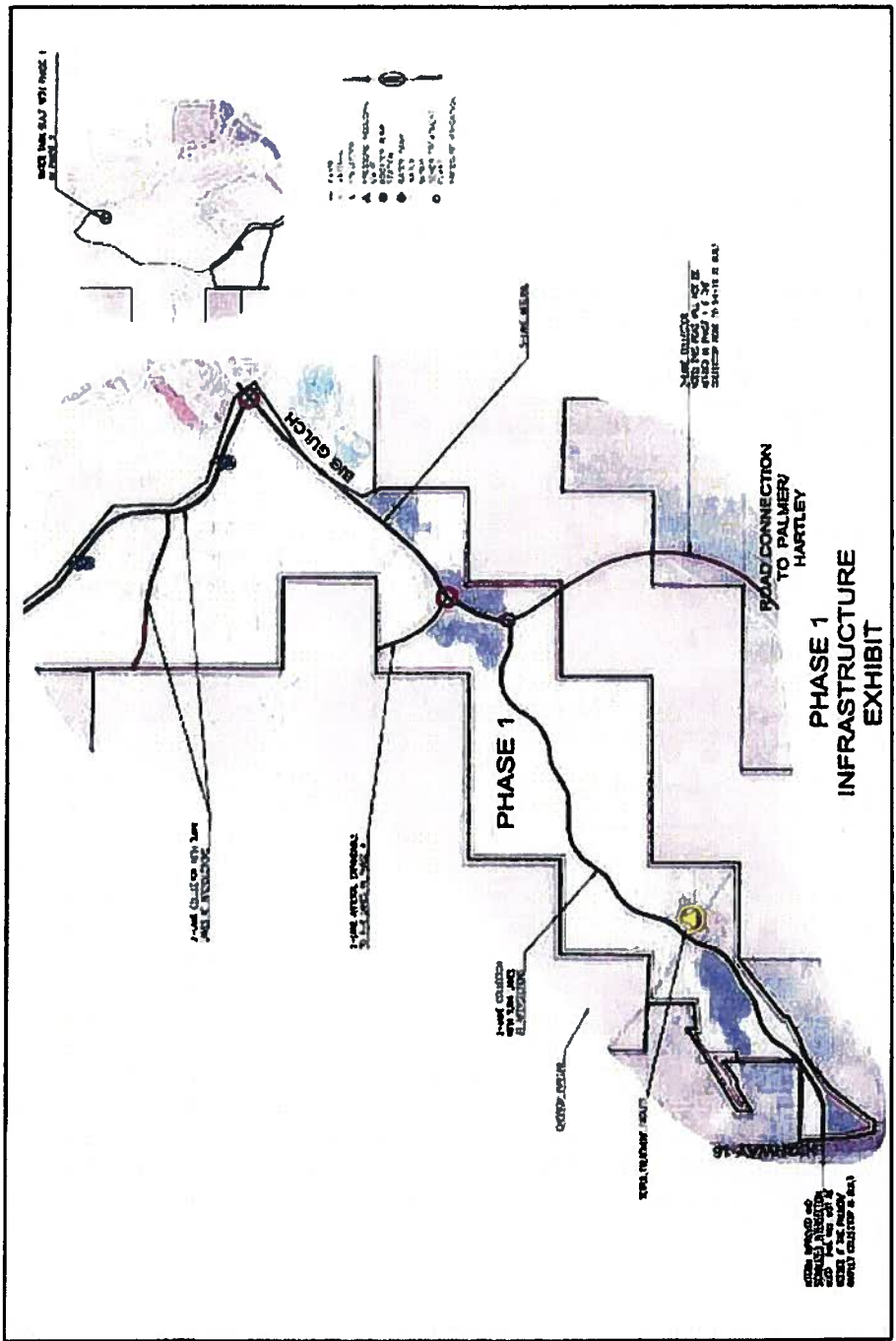
- Improvements to Big Gulch to contain flood waters and provide erosion protection
- Drainage culverts under roadways as required

Utilities:

- Pressure irrigation system along all roadways
- Power, gas, phone and CATV lines

Off-Site Improvements

Refer to the traffic study pages 29 to 31.



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M3 EAGLE – PHASE 2
Years 3-7

Summary Narrative

Phase 2 encompasses the southern third of the Northern Residential Planning Area and a portion of the Big Gulch Planning Area. Phase 2 will contain 2 Neighborhood Commercial sites in the Big Gulch Planning Area and the community's first school, an elementary school subject to review and approval of the School District. This phase will also contain the community's first fire station. Infrastructure improvements will include the extension of Linder Rd. and Palmer/Hartley Rd. (if not provided in Phase1) into the property, an entry arterial off of State Highway 16 into the property (if the Palmer/Hartley connection doesn't go in), extensions of existing arterial and collector roads and two new municipal water wells. Amenities consist of 380 acres of community open space including community and neighborhood parks, the start of the Big Gulch linear open space, and other improved and natural open space.

Land Uses

| | |
|--|---|
| Total Acreage: | 937 |
| Single Family Detached Units: | 1,497 |
| Single Family Attached Units: | 452 |
| Multi-Family Units: | 47 |
| Total Units: | 1,996 |
| Retail Space: | 150,000 s.f. |
| Office Space: | 0 |
| Total Commercial: | 150,000 s.f. |
| Schools: | 1 elementary school |
| Parks/Open Space: | 380 acres of community open space consisting of 100 acres of improved open space (including 1 community park, 2 neighborhood parks, Big Gulch linear open space, and trails), 270 acres of natural open space, and 10 acres of lakes. |
| <i>Cumulative Area:</i> | <i>1,833 acres</i> |
| <i>Cumulative Units:</i> | <i>2,494 units</i> |
| <i>Cumulative Commercial:</i> | <i>250,000 s.f.</i> |
| <i>Cumulative Open Space:</i> | <i>600 acres</i> |
| <i>Cumulative Open Space as a % of Total Area:</i> | <i>33%</i> |

On-Site Improvements

(Note: All descriptions of on-site improvements are preliminary and subject to change based on the final approved design.)

Roadways:

- Extension of Palmer/Hartley Rd. (if not constructed in Phase 1) as a 2-lane arterial from Corinthian property boundary to central spine road
Or
- A 2-lane arterial from State Highway 16 through the BLM 815 acres to connect to the Phase 1 two-lane arterial and intersection improvements on State Highway 16 to meet ITD requirements and a 2-lane collector within the BLM 815 acres to a Phase 1 2-lane collector
- Extension of Linder Rd. as a 2-lane arterial from Beacon Light to the central spine road
- Continuation of the central spine road through Big Gulch as a 5-lane arterial
- 2-lane collector roadways to serve residential neighborhoods
- Roundabouts at intersections that would otherwise be signalized

Water:

- Two municipal production wells (to be located in Phase 1)
- Two pressure reducing valves
- 10" and 12" main lines under collector and arterial roadways

Sewer:

- 8"-24" main lines under collector and arterial roadways

Drainage:

- Continuation of improvements to Big Gulch to contain flood waters and provide erosion protection and creation of Big Gulch linear open space
- Drainage culverts under roadways as required

Utilities:

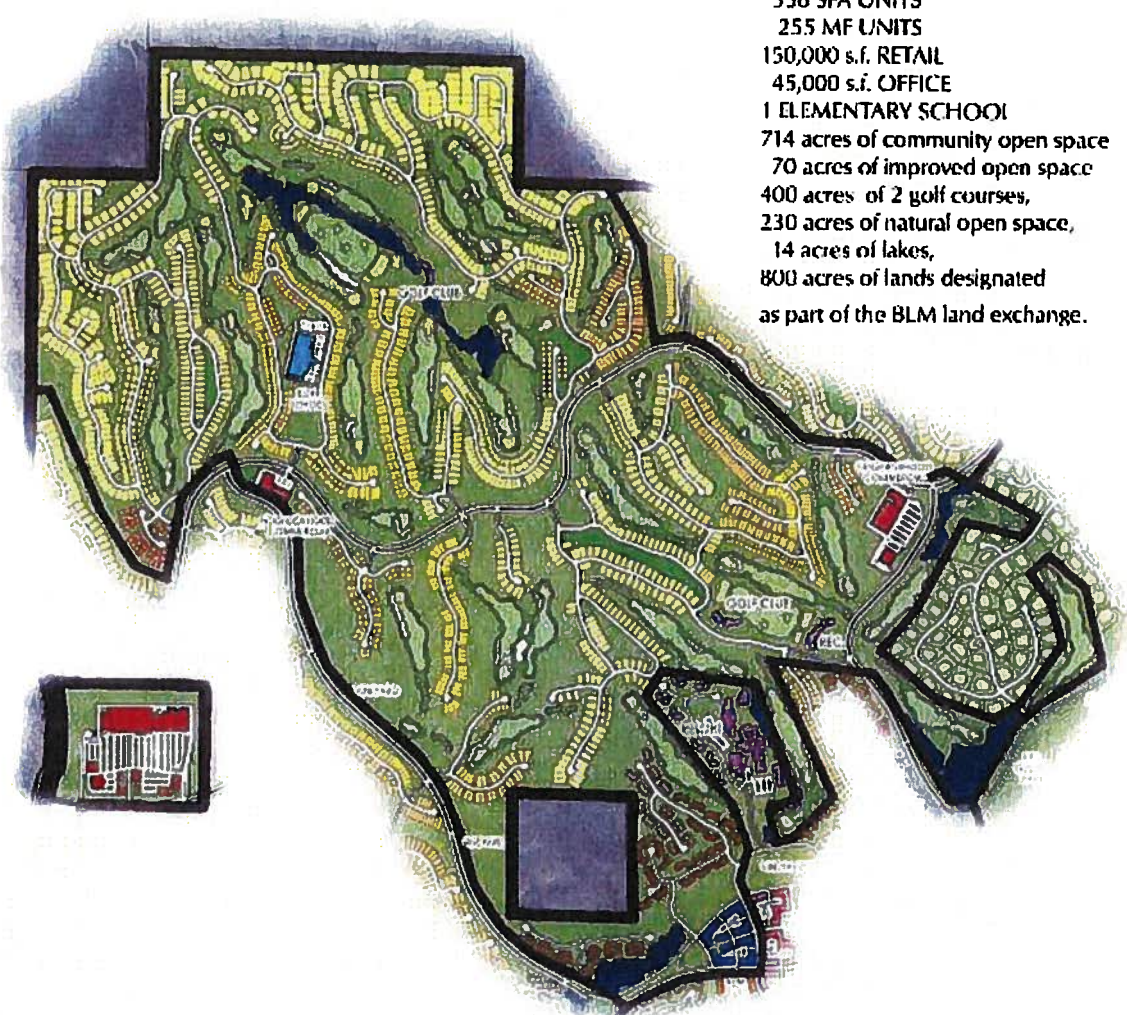
- Pressure irrigation system along all roadways
- Power, gas, phone and CATV lines

Off-Site Improvements

See the Traffic Study pages 32 to 34.

PHASE 3 (2,110 AC.)

- 1,715 SFD UNITS
- 556 SFA UNITS
- 255 MF UNITS
- 150,000 s.f. RETAIL
- 45,000 s.f. OFFICE
- 1 ELEMENTARY SCHOOL
- 714 acres of community open space
- 70 acres of improved open space
- 400 acres of 2 golf courses,
- 230 acres of natural open space,
- 14 acres of lakes,
- 800 acres of lands designated as part of the BLM land exchange.



M3 EAGLE – PHASE 3
Years 8-12

Summary Narrative

Phase 3 encompasses the middle third of the Northern Residential Planning Area and a portion of the Big Gulch Planning Area. Two Neighborhood Commercial sites are part of the Northern Residential Planning Area. This phase will also contain the middle third of the Highway/Mixed Use Planning Area, which is planned for an office park, and a primary entry to the community off of State Highway 16. One elementary school will be needed as part of this phase, subject to review and approval of the School District. Infrastructure improvements include the expansion of Linder Rd., an entry arterial off of State Highway 16 (if the Palmer/Hartley extension goes in Phase 2), the start of the village center roadway network, the extension of existing arterial and collector roads, and one new municipal water well. Amenities consist of 714 acres of Community Open Space including community and neighborhood parks, the continuation of the Big Gulch linear Open Space, two golf courses, lakes, and other improved and natural Open Space.

NOTE: During this phase, M3 has to have completed the BLM land exchange. For purposes of this phasing plan, M3 is assuming that the exchange does not occur and the 800 acres is added to Open Space and the total acreage.

Land Uses

| | |
|-------------------------------|--|
| Total Acreage: | 2,110 inclusive of the 800 acres designated as part of the BLM land exchange; see section 2.6 (d) of the Development Agreement. |
| Single Family Detached Units: | 1,715 |
| Single Family Attached Units: | 556 |
| Multi-Family Units: | 255 |
| Total Units: | 2,526 |
| Retail Space: | 150,000 s.f. |
| Office Space: | 45,000 s.f. |
| Total Commercial: | 195,000 s.f. |
| Schools: | 1 elementary school |
| Parks/Open Space: | 714 acres of community open space consisting of 70 acres of improved open space (including 1 community park, 5 neighborhood parks, the Big Gulch linear open space, and trails, 2 golf courses totaling 400 acres, 230 acres of natural open space, and 14 acres of lakes) and 800 acres of lands designated as part of the BLM land exchange. |
| Other: | 1 fire station (in the Highway/Mixed Use Planning Area) |
| Cumulative Area: | 3,943 acres (including the M3 Eagle 800-acre BLM exchange parcel) |

| | |
|---|---------------------|
| <i>Cumulative Units:</i> | <i>5,020 units</i> |
| <i>Cumulative Commercial:</i> | <i>445,000 s.f.</i> |
| <i>Cumulative Open Space:</i> | <i>2,114 acres</i> |
| <i>Cumulative Open Space as a % of Total Acres:</i> | <i>54%</i> |

On-Site Improvements

(Note: All descriptions of on-site improvements are preliminary and subject to change based on the final approved design.)

Roadways:

- Expansion of Linder Rd. to 4 lanes from Beacon Light Rd. to the central spine road
- A 2-lane arterial from State Highway 16 through the BLM 815 acres to connect to the Phase 1 two-lane arterial and intersection improvements on State Highway 16 to meet ITD requirements (if not needed/constructed in Phase 2)
- Continuation of the central spine road through Big Gulch splitting into two 3-lane one-way couplets through the village center
- 2-lane local streets through the village center
- 2-lane collector roads servicing the residential neighborhoods

Water:

- One municipal production well (to be located in the Phase 1 area)
- One 1.5 million gallon water tank
- Two pressure reducing valves
- 10" and 12" main lines under roadways

Sewer:

- Expansion of treatment plant in Phase 1 by 0.5 - 1 mgd
- 8"-21" main lines under collector and arterial roadways

Drainage:

- Drainage culverts under roadways as required

Utilities:

- Pressure irrigation system along all roadways
- Power, gas, phone and CATV lines

Off-Site Improvements

See the Traffic Study pages 35 to 37.



PHASE 4 (1,073 AC.)

1,347 SFD UNITS

410 SFA UNITS

95 MF UNITS

250,000 s.f. RETAIL

150,000 s.f. OFFICE

500 HOTEL ROOMS

1 ELEMENTARY SCHOOLS

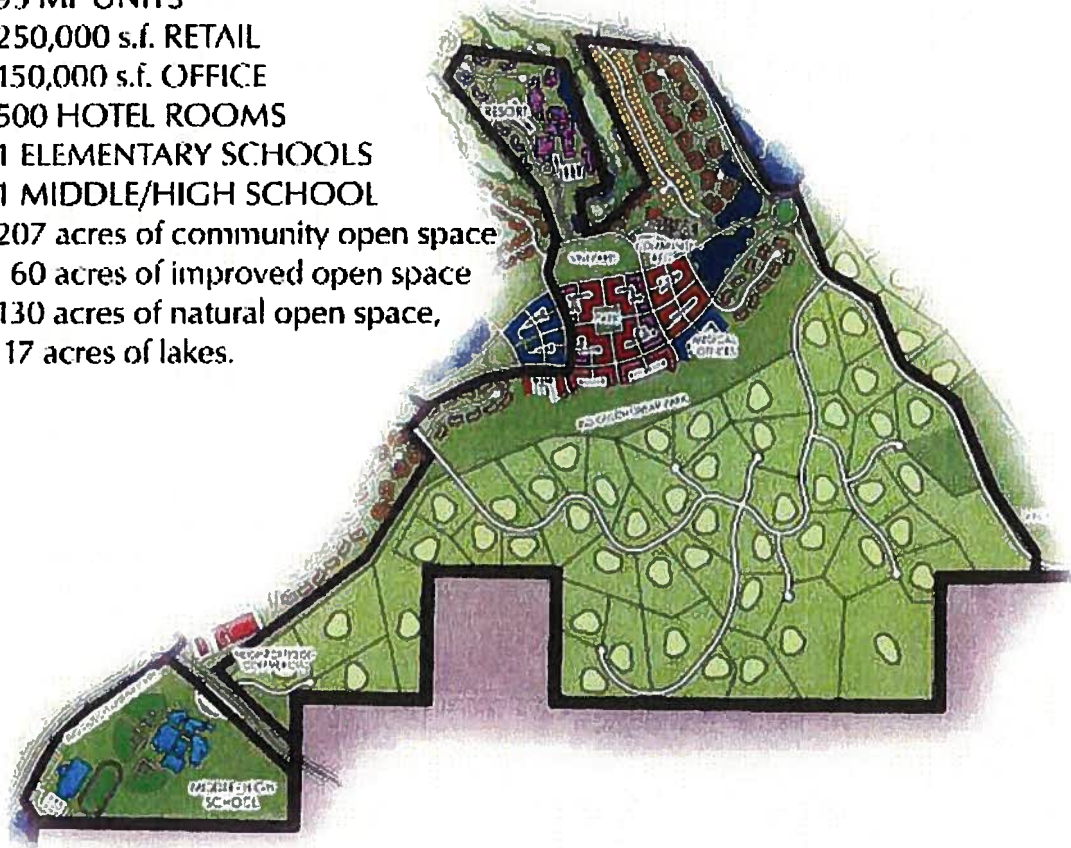
1 MIDDLE/HIGH SCHOOL

207 acres of community open space

60 acres of improved open space

130 acres of natural open space,

17 acres of lakes.



**M3 EAGLE – PHASE 4
Years 13-17**

Summary Narrative

Phase 4 encompasses the western half of the Southern Residential Planning Area, the western quarter of the Northern Residential Planning Area, and the central portion of the Big Gulch Planning Area, which contains the central Neighborhood Commercial center, medical offices, a combined fire/police station, and a 500-room resort hotel. This phase will also contain the northern third of the Highway/Mixed Use Planning Area which is planned for a Community Center. Residential development in the Southern Planning Area will consist of estate type custom lots. One elementary school and one middle school will be needed in this phase with locations subject to the review and approval of the school district. Infrastructure improvements include the widening of the main entry arterial into the property off of State Highway 16 and construction of an interchange, extension of the central spine road through the village center to Willow Creek Rd and the improvement of Willow Creek Rd. through the property, and one new municipal water well. Amenities consist of 207 acres of community open space including community and neighborhood parks, continuation of the Big Gulch linear open space, and other improved and natural open space.

Land Uses

| | |
|--|--|
| Total Acreage: | 1,073 |
| Single Family Detached Units: | 1,347 |
| Single Family Attached Units: | 410 |
| Multi-Family Units: | 95 |
| Total Units: | 1,852 |
| Retail Space: | 250,000 s.f. |
| Office Space: | 150,000 s.f. |
| Total Commercial: | 400,000 s.f. |
| Schools: | 1 elementary school and 1 middle school |
| Parks/Open Space: | 207 acres of community open space consisting of 60 acres of improved open space (including 1 community park, 3 neighborhood parks, the Big Gulch linear open space, and trails), 130 acres of natural open space, and 17 acres of lakes. |
| Other: | 500 hotel rooms and 1 combined fire/police station (in the Big Gulch Planning Area) |
| <i>Cumulative Area:</i> | <i>5,016 acres</i> |
| <i>Cumulative Units:</i> | <i>6,872 units</i> |
| <i>Cumulative Commercial:</i> | <i>845,000 s.f.</i> |
| <i>Cumulative Open Space:</i> | <i>2,321 acres</i> |
| <i>Cumulative Open Space as a % of Total Area:</i> | <i>46%</i> |

On-Site Improvements

(Note: All descriptions of on-site improvements are preliminary and subject to change based on the final approved design.)

Roadways:

- Expansion of 2-lane arterial from State Highway 16 through BLM 815 acres to central spine road to 4-6 lanes
- Interchange on State Highway 16
- Continuation of central spine road as two 3-lane couplets through the village center to the Phase 5 border and then as a 2-lane arterial to Willow Creek Rd.
- Intersection improvement at Willow Creek Rd. and the central spine road
- Improvement of Willow Creek Rd. as a 2-lane arterial adjacent to the property
- 2-lane local streets through the village center
- 2-lane collector and local roads servicing the residential neighborhoods and the hotel/resort
- Roundabouts at intersections that would otherwise be signalized

Water:

- One municipal production well (to be located in the Phase 1 area)
- One booster station
- One pressure reducing valve
- 10" and 12" main lines under roadways

Sewer:

- Expansion of treatment plant in Phase 1 to ultimate capacity of 2.4 mgd
- 8"-24" main lines under roadways

Drainage:

- Continuation of improvements to Big Gulch to contain flood waters and provide erosion protection and creation of Big Gulch linear open space
- Drainage culverts under roadways as required

Utilities:

- Pressure irrigation system along all roadways
- Power, gas, phone and CATV lines

Off-Site Improvements

See the Traffic Study pages 38 to 40.

PHASE 5 (989 AC.)

- 281 SFD UNITS
- 200,000 s.f. RETAIL
- 150,000 s.f. OFFICE
- 1 ELEMENTARY SCHOOL
- 1 HIGH SCHOOL
- 81 acres of community open space
- 71 acres of improved open space
- 10 acres of natural open space



EAGLE -- PHASE 5
Years 18-20

Summary Narrative

Phase 5 encompasses a small portion of the Northern Residential Planning Area, the eastern half of the Southern Residential Planning Area and the easternmost portion of the Big Gulch Planning Area. This phase also contains the southern third of the Highway/Mixed Use Planning Area which is planned for an office park. This phase is planned to contain all single family units with the Southern Planning Area comprised of estate type custom lot neighborhoods. One elementary school and one high school will be needed in this phase with the location subject to the review and approval of the School District. The high school will share the same site as the middle school built in Phase 4. Infrastructure improvements include collector roads and a municipal water well. Amenities consist of 60 acres of Community Open Space including community and neighborhood parks, the completion of the Big Gulch linear Open Space, and other natural and improved Open Space. This phase will also contain the site for a public equestrian center along Willow Creek Road.

Land Uses

| | |
|--|---|
| Total Acreage: | 989 |
| Single Family Detached Units: | 281 |
| Single Family Attached Units: | 0 |
| Multi-Family Units: | 0 |
| Total Units: | 281 |
| Retail Space: | 200,000 s.f. |
| Office Space: | 150,000 s.f. |
| Total Commercial: | 350,000 s.f. |
| Schools: | 1 elementary school and 1 high school (high school to be located with the middle school in the Phase 4 area) |
| Parks/Open Space: | 60 acres of community open space consisting of 50 acres of improved open space (2 community parks, 1 neighborhood park, the Big Gulch linear open space, and trails) and 10 acres of natural open space |
| Other: | A public equestrian center site |
| <i>Cumulative Area:</i> | <i>6,005 acres</i> |
| <i>Cumulative Units:</i> | <i>7,153 units</i> |
| <i>Cumulative Commercial:</i> | <i>1,195,000 s.f.</i> |
| <i>Cumulative Open Space:</i> | <i>2,402 acres</i> |
| <i>Cumulative Open Space as a % of Total Area:</i> | <i>40%</i> |



On-Site Improvements

(Note: All descriptions of on-site improvements are preliminary and subject to change based on the final approved design.)

Roadways:

- 2-lane collector road servicing the residential neighborhoods

Water:

- One well (to be located in Phase 1 area)
- One 0.5 million gallon water tank
- One booster pump station
- One pressure reducing valve
- 10" and 12' main lines under collector roadway

Sewer:

- 8" main line under collector roadway

Drainage:

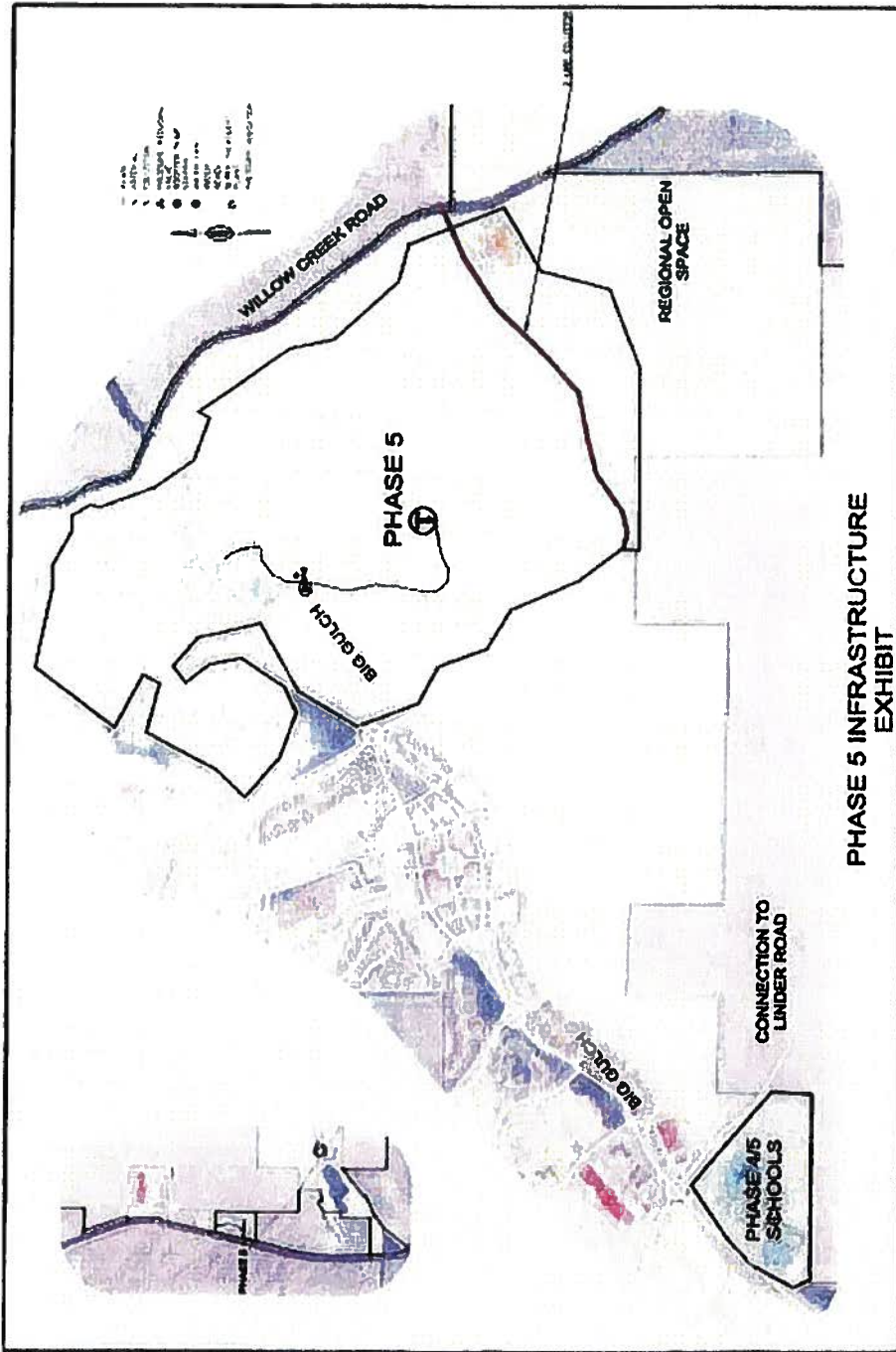
- Completion of improvements to Big Gulch to contain flood waters and provide erosion protection and creation of Big Gulch linear open space
- Drainage culverts under roadways as required

Utilities:

- Pressure irrigation system along all roadways
- Power, gas, phone and CATV lines

Off-Site Improvements

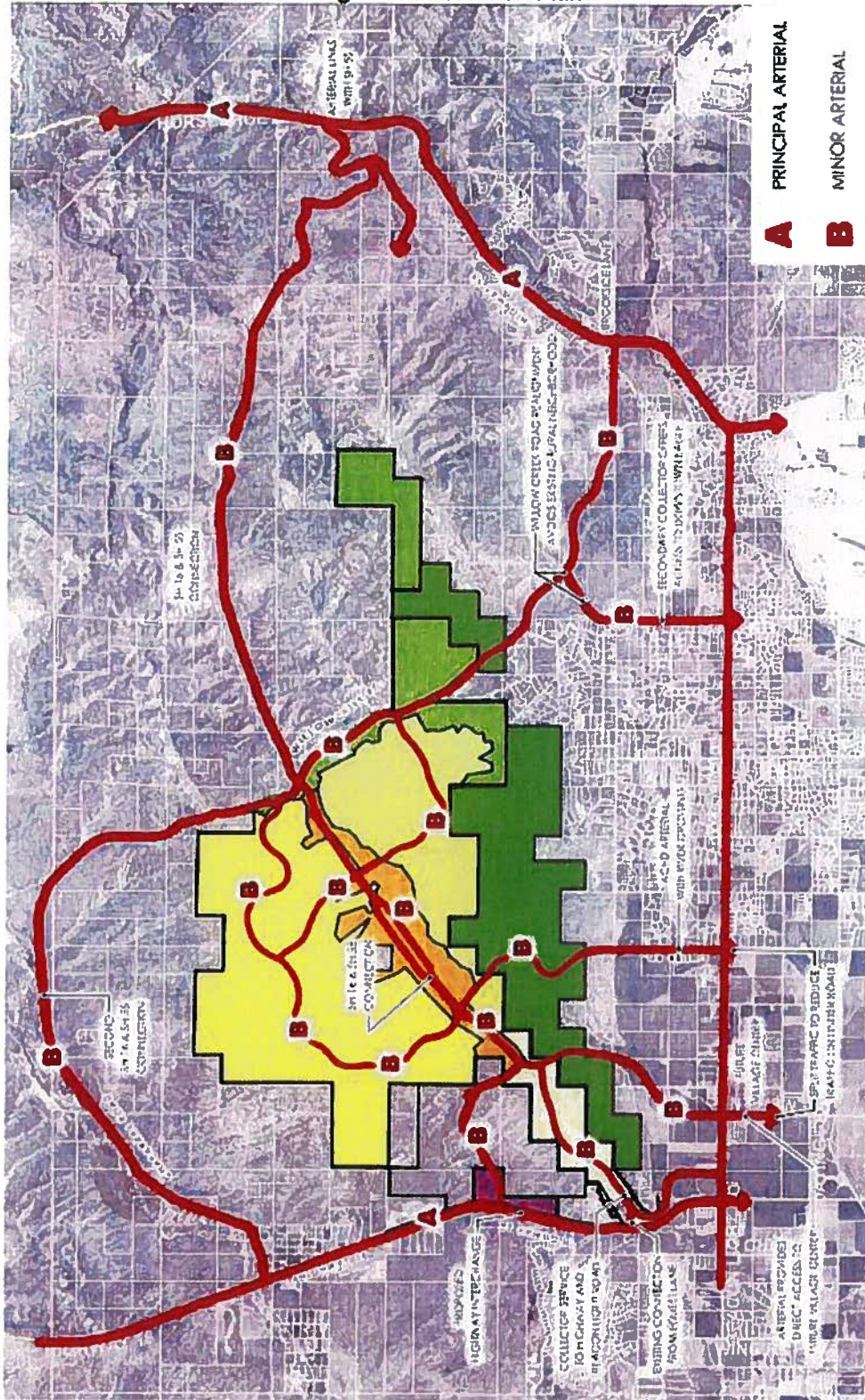
See the Traffic Study pages 41 to 45.



PHASE 5 INFRASTRUCTURE EXHIBIT

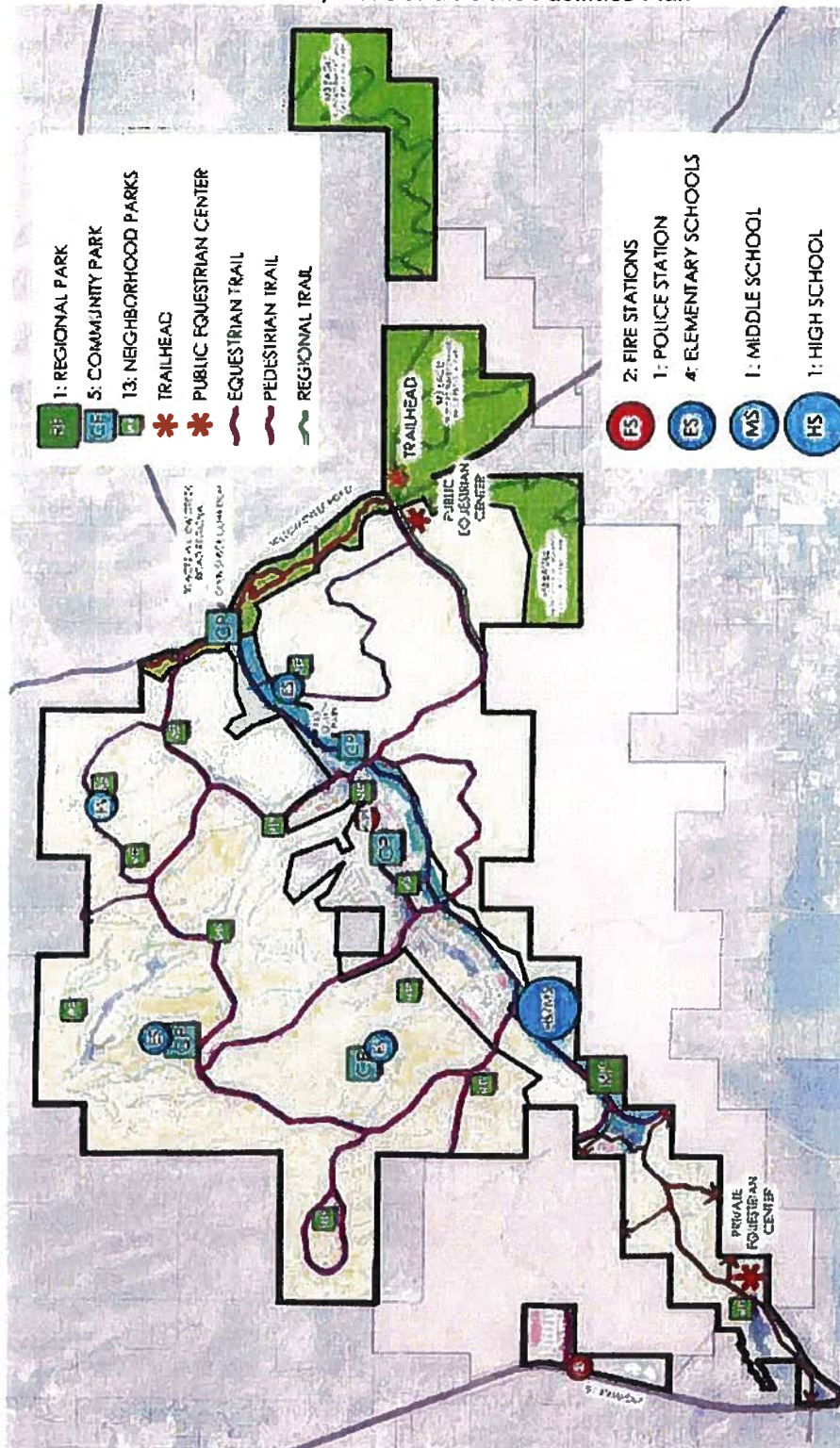
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EXHIBIT I Regional Circulation Plan



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EXHIBIT K Master Parks, Trails and Public Facilities Plan



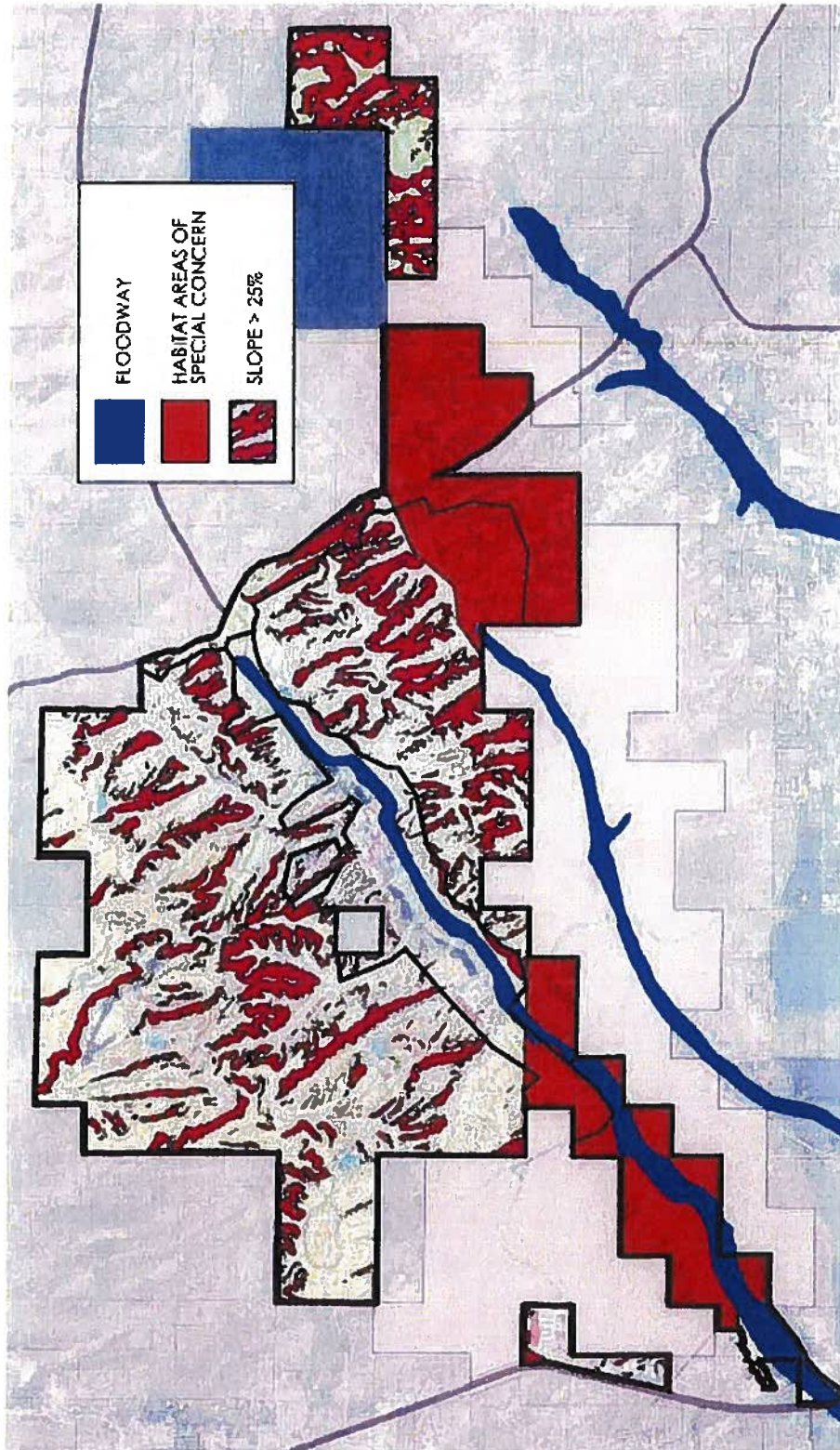
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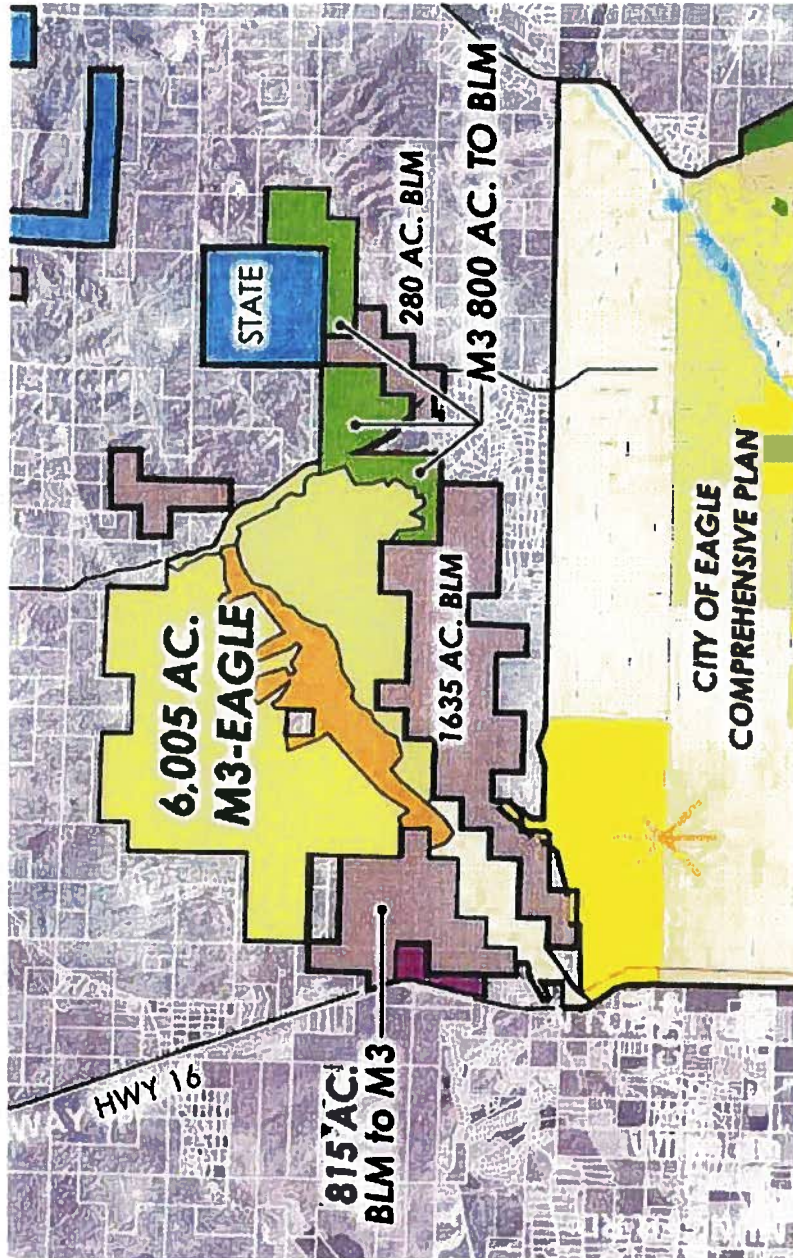


**EXHIBIT M
Constrained Lands**



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EXHIBIT N
BLM LAND EXCHANGE MAP



M3 EAGLE/BLM LAND EXCHANGE

EXHIBIT O
Conceptual Outline of Restrictive Covenants (CC&Rs)

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- 6.8. Time and Manner of Payment; Late Charges and Interest
 - 6.9. No Offsets
 - 6.10. Reserves
 - 6.11. Subordination of Lien
 - 6.12. Certificate of Payment
 - 6.13. Enforcement of Lien
 - 6.14. Pledge of Assessment Rights as Security
 - 6.15. Exemption of Unsold Lots
- 7. INSURANCE**
- 7.1. Authority to Purchase
 - 7.2. Member's Responsibility
 - 7.3. Coverage
 - 7.4. Required Provisions
 - 7.5. Non-Liability of Association/Board/President
 - 7.6. Premiums
 - 7.7. Insurance Claims
 - 7.8. Benefit
- 8. DAMAGE AND DESTRUCTION OF COMMON AREAS**
- 8.1. Duty of Association
 - 8.2. Automatic Reconstruction
 - 8.3. Vote of Members
 - 8.4. Excess Insurance Proceeds
 - 8.5. Use of Reconstruction Assessments
 - 8.6. Contract for Reconstruction
 - 8.7. Insurance Proceeds Trust
- 9. EMINENT DOMAIN**
- 9.1. Definition Taking
 - 9.2. Representation in Condemnation Proceedings
 - 9.3. Award for Common Areas
- 10. MAINTENANCE, REPAIRS, AND REPLACEMENT**
- 10.1. Owner's Responsibility
 - 10.2. Maintenance of Common Areas
 - 10.3. Right of Access
- 11. ARCHITECTURAL AND LANDSCAPE CONTROL**
- 11.1. Appointment of Design Review Committee
 - 11.2. Development Standards
 - 11.3. General Provisions
 - 11.4. Approval and Conformity of Plans
 - 11.5. Non-Liability for Approval of Plans
 - 11.6. Inspection and Recording of Approval
 - 11.7. Reconstruction of Common Areas
 - 11.8. Additional Powers of the Board
 - 11.9. Varying Standards
- 12. USE AND OCCUPANCY RESTRICTIONS**
- 12.1. Residential Use
 - 12.2. Violation of Law or Insurance
 - 12.3. Signs
 - 12.4. Animals
 - 12.5. Nuisances

- 12.6. Motor Vehicles
- 12.7. Lights
- 12.8. Antennas
- 12.9. Garbage
- 12.10. Mining
- 12.11. Safe Condition
- 12.12. Fires
- 12.13. No Further Subdivision
- 12.14. No Obstructions to Drainage
- 12.15. Entrance Gates
- 12.16. Rental Lots
- 12.17. Enforcement
- 12.18. Modification

- 13. RIGHTS OF FIRST MORTGAGEES**
 - 13.1. General Provisions
 - 13.2. Liability for Assessments
 - 13.3. No Personal Liability
 - 13.4. Enforcement After Foreclosure Sale
 - 13.5. Exercise of Owner's Rights
 - 13.6. Subject to Declaration

- 14. ANNEXATION OF ADDITIONAL PROPERTY**
 - 14.1. Development of the Project
 - 14.2. Supplemental Declarations
 - 14.3. Annexation Without Approval of Association
 - 14.4. Annexation After Transition Date

- 15. EXEMPTION OF THE DEVELOPER FROM RESTRICTIONS**

- 16. USE AND MANAGEMENT AGREEMENT; TRANSITION DATE; CONVEYANCE OF COMMON AREAS**
 - 16.1. Use and Management Agreement
 - 16.2. Transition Date
 - 16.3. Conveyance of Common Areas

- 17. COMMUNITY ASSOCIATIONS**
 - 17.1. General Provisions

- 18. REMEDIES**
 - 18.1. General Remedies
 - 18.2. Expenses of Enforcement
 - 18.3. Legal Action
 - 18.4. Effect on Mortgage
 - 18.5. Limitation on the Developer's Liability

- 19. AMENDMENT**
 - 19.1. Amendment to Declaration
 - 19.2. Effect of Amendment
 - 19.3. Amendment of Plat
 - 19.4. Required Approvals
 - 19.5. Developer's Right to Amend

20. GENERAL PROVISIONS

- 20.1. Notices
- 20.2. Captions and Exhibits; Construction
- 20.3. Severability
- 20.4. Mortgage of Lots
- 20.5. Fire Protection
- 20.6. Power of Attorney

21. RIGHTS AND OBLIGATIONS

SIGNATURE OF DEVELOPER

EXHIBITS

CONSENT AND RATIFICATION

- 3.2.1 Required Thematic Elements
- 3.2.2 Elevations
- 3.2.3 Non-Architectural Elements

3.3 SINGLE FAMILY ATTACHED DEVELOPMENT

3.4 MULTI-FAMILY DEVELOPMENT

- 3.4.1 Required Thematic Elements
- 3.4.2 Building Elevations
- 3.4.3 Accessory Elements
- 3.4.4 Non-Architectural Elements

SECTION 4. LANDSCAPE

4.1 GENERAL LANDSCAPE

- 4.1.1 Landscape Concept
- 4.1.2 Plant Materials List
- 4.1.3 Rock Mulch
- 4.1.4 Irrigation

4.2 NEIGHBORHOOD ENTRIES

4.3 SINGLE FAMILY NEIGHBORHOODS

- 4.3.1 Residential Street and Front Yard Landscape
- 4.3.2 Amenity/Open Space Landscape
- 4.3.3 Model Home Complexes

4.4 MULTI-FAMILY NEIGHBORHOODS

- 4.4.1 Parking Lot Landscape
- 4.4.2 Amenity/Open Space Landscape
- 4.4.3 Lighting

SECTION 5. WALLS AND FENCES

5.1 WALL PROGRAM

- 5.1.1 Village Walls
- 5.1.2 Product Walls
- 5.1.3 Retaining Walls

SECTION 6. COLOR

6.1 DESIGN REVIEW

- 6.1.1 Village Color Palette
- 6.1.2 Color Palette Design Kit

6.2 COLOR AND MATERIALS SELECTION & APPLICATION

- 6.2.1 General Color and Material Use
- 6.2.2 Specific Color and Material Selection and Application Guidelines

6.3 PROJECT COLOR REQUIREMENTS

- 6.3.1 Color Package Design
- 6.3.2 Color Plotting Criteria
- 6.3.3 Color Package Evaluation
- 6.3.4 Color Package Submittal

SECTION 7. CONSTRUCTION CRITERIA

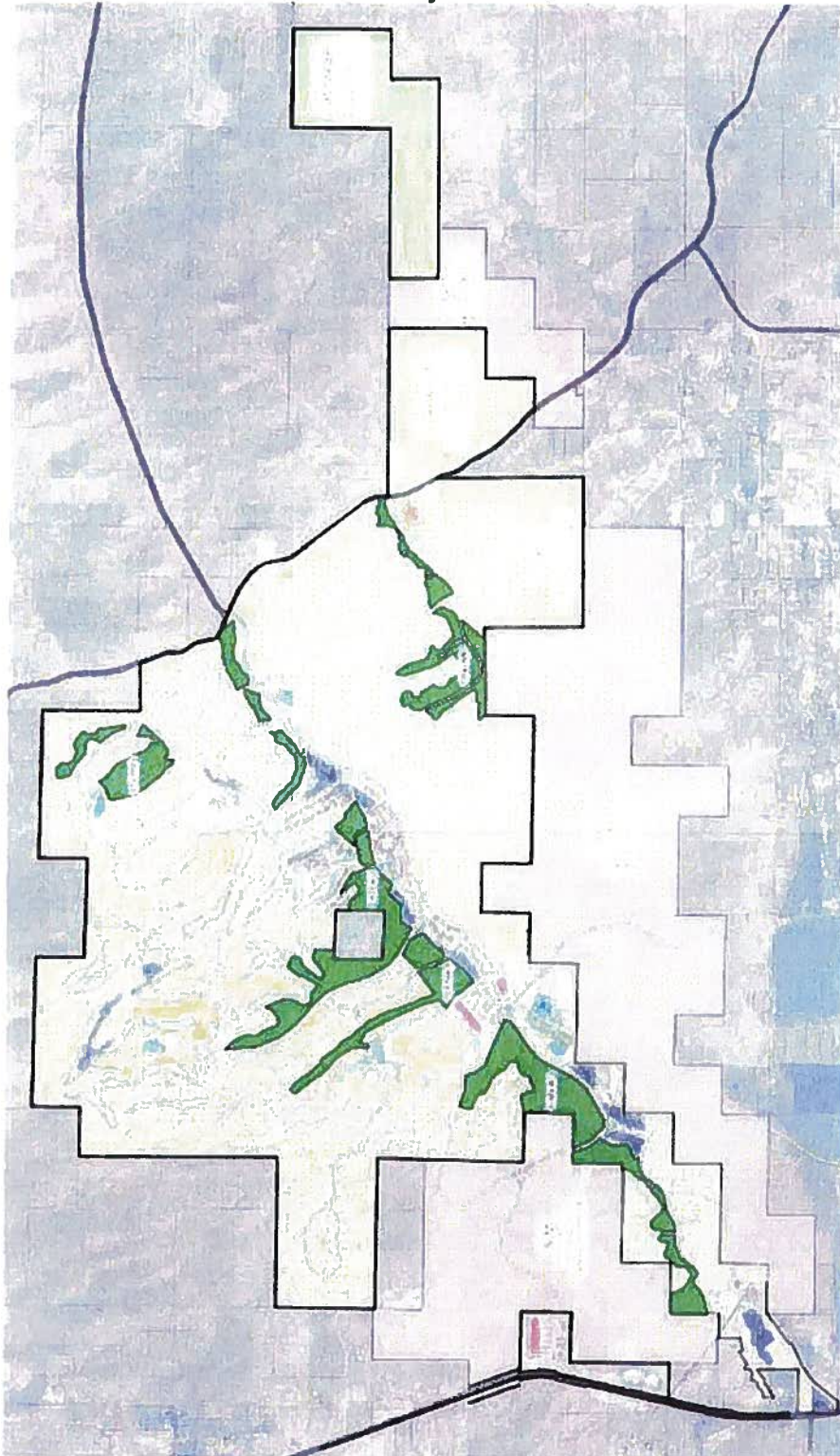
SECTION 8. DESIGN REVIEW

8.1 DESIGN REVIEW

- 8.1.1 Improvements Requiring Review
- 8.1.2 Pre-Design Conference
- 8.1.3 Courtesy Review
- 8.1.4 Submittal Requirements
- 8.1.5 Plan Preparation
- 8.1.6 Applicable Standards
- 8.1.7 Submittal Response Time
- 8.1.8 Approvals and Re-Submittals



EXHIBIT Q
Potential Vineyard Locations



[Handwritten signature]

ATTACHMENT 6



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1410 North Hilton • Boise, Idaho 83706 • (208) 373-0502

C.L. "Butch" Otter, Governor
Toni Hardesty, Director

TSP&S-70/2008

April 17, 2008

The Honorable Phil Bandy
Mayor, City of Eagle
P.O. Box 1520
Eagle, Idaho 83616

RE: City of Eagle - Update #1 to Amended Master Plan (*Ada County*)
Public Drinking Water System

Dear Mayor Bandy:

Update #1 to the Amended Master Plan (revised November 2005), hereafter referred to as the Master Plan Update, appears to meet state of Idaho standards, and is approved, based on the conditions listed below. This approval is only for the Master Plan Update and does not include project-specific preliminary engineering reports, any construction projects (including water mains) or any wastewater activities or submittals.

- A. City of Eagle Fire Department fire flow requirements for the area covered by the Master Plan Update shall be as set forth in the 2006 International Fire Code unless the fire department specifically approves otherwise. This condition is based on information provided in the Eagle Fire Department letter to Mr. Echeita dated April 16, 2008 and subsequent discussions with the letter's author.
- B. Within six (6) months of the date of this letter, the City of Eagle shall retest Wells #4 and #5 to establish the correct rated capacity for each well. The results of that testing along with any required revisions to the Master Plan Update resulting from the results shall be submitted to DEQ for review and approval.
- C. Unless additional information is presented, the conditions of this letter apply to project reviews of either the Department of Environmental Quality (DEQ) or Qualified Licensed Professional Engineers.
- D. The release of Sanitary Restrictions will generally follow the attached "Release of Sanitary Restriction General Guideline Idaho DEQ - Boise Regional Office January 2008."
- E. A Preliminary Engineering Report (PER) for a specific project must be submitted to DEQ for review and approval before DEQ will accept the project's detailed plans and specifications for review and approval. No construction can begin until the detailed plans and specifications have been reviewed and approved by DEQ.
- F. The Operations and Maintenance Manual (OMM) for a public drinking water system covered by the Master Plan Update must be reviewed and approved by DEQ prior to the system's initial use as a source of public drinking water. An OMM must be updated if a significant change occurs to the system itself (e.g., addition of a new well) or its service community (e.g., addition of a new subdivision). However, as long as the manual is kept reasonably current, any pending updates do not have to be completed as a requirement for Sanitary Restrictions to be lifted for a specific project.
- G. The Master Plan Update contains two (2) Declining Balance Reports (DBR) for the water system serving the western expansion area, one based on historical water usage and the other based on expected water

**Release of Sanitary Restriction and Project Approval
General Guideline
Idaho DEQ - Boise Regional Office
April 2008**

In the interest of protecting public health, the Boise Regional Office will not recommend lifting sanitary restrictions for developments unless the following are in place. This list is not all-inclusive, but does cover the general case. Specific cases may involve additional requirements.

Planning and Operational Documents – These items must be approved but they do not directly result in construction or the construction is not required to be completed prior to release of sanitary restrictions.

- Facility Plans for wastewater and drinking water as needed
- PERs for wastewater and drinking water system components as needed
- Technical Financial and Managerial Documentation
- Operation and Maintenance Manual(s)
- Wastewater disposal permits (Subsurface, Reuse, NPDES)
- Approved plans and specs for onsite water and sewer lines

System Components – These items are generally identified in an approved facility plan or may be items not identified in a facility plan, but that are necessary to serve one or more developments that are covered by the facility plan. System components must be constructed, tested and operational.

- Offsite water and sewer mains needed to connect to the municipal system.
- Drinking water wells with full system capacity in place
- Drinking water booster stations.
- Drinking water storage reservoirs constructed
- Drinking water pressure reducing stations
- Drinking water treatment plants or equipment
- Wastewater lift stations and force mains
- Wastewater treatment facilities
- Wastewater disposal facilities
- Any standby power facilities as required by rule

All of the above system components must be at the capacities shown in an approved facilities plan. An example is if a new development needs a lift station, force main and WWTP capacity from a city: All those capacities must be in place prior to lifting restrictions.

Please note:

In the general case, plans and specifications for the system components listed above must be approved by DEQ prior to the approval of plans and specifications for onsite water and sewer mains extension projects that are dependant on the system components that are listed above. However, on a case by case basis (as determined by the Boise Regional Office), and provided that sanitary restrictions remain in force, plans and specifications for water and sewer main extension projects may be approved prior to the approval of plans and specifications for the required system component(s). However, no water mains will be approved until drinking water well quantity and quality is proven and approved by DEQ.

Please contact the Boise Regional Office Engineering Manager at 373-0550 with any questions or for additional information.

