

CITY OF VICTORVILLE DEVELOPMENT DEPARTMENT  
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MITIGATED NEGATIVE DECLARATION  
Preparation Date: September 2, 2021

Name or Title of Project: Vesting Tentative Tract Map Case No. PLAN21-00011 (TTM 20368).

Location: Southeast corner of Eucalyptus Street and Topaz Road (APN No. 0405-322-08 & 09)

Entity or Person Undertaking Project: Frank Tanner c/o United Engineering Group; 8885 Haven Avenue, Suite 195; Rancho Cucamonga, California 91730.

Description of Project: To allow for the recordation and development of a 65-lot single family residential subdivision (Vesting Tentative Tract Map 20368) with 7,200 sq. ft. minimum size lots, on an approximately 18.1 acre building site that is vacant and undeveloped with an approximate density of 3.6 units per acre.

Statement of Findings: The City of Victorville Planning Commission has reviewed the Initial Study for this proposed project and has found that there are no adverse environmental impacts to either the man-made or physical environmental setting if the following mitigation measures are implemented in conformance with the Mitigation Monitoring Policy, and does hereby direct staff to file a Notice of Determination, pursuant to the California Environmental Quality Act (CEQA).

A copy of the Initial Study and other applicable documents used to support the proposed Negative Declaration is available for review at the City of Victorville Planning Division.

Mitigation Measures:

**Biological Measures:**

- (BIO-1) Incidental Take Permit Required During Candidacy Period for Western Joshua Tree.** Any attempt to remove a western Joshua tree, dead or alive, from its current position will require an Incidental Take Permit (ITP) issued by the California Department of Fish and Wildlife (CDFW) until such time a final decision is made whether or not the species will be listed as threatened or endangered under the CESA. Should the CDFW determine that the western Joshua tree will be listed as threatened or endangered under the CESA and/or prior to their determination, an ITP will be required prior to any construction activities on the project site. Compensatory mitigation shall be per Mitigation Measure BIO-2.
- (BIO-2) Incidental Take Permit Compensatory Mitigation for Western Joshua Tree Removal.** If an Incidental Take Permit (ITP) is required before or after the candidacy period, the compensatory mitigation ratio for impacts to western Joshua tree shall be determined by the functional quality of the habitat based on the size and reproductive class of trees within the Project impact area as confirmed in the Department-approved tree census report. The compensatory mitigation ratio for impacts to western Joshua tree shall be at a ratio of 1:1 of the project impact area unless a lesser ratio is approved by the CDFW through the Incidental Take Permit application process. To satisfy the compensatory mitigation requirement, prior to commencing any project activities on the project site, the Project Proponent shall pay a mitigation fee to be established by the CDFW in conjunction with the ITP. The fee accounts for biological monitoring, infrastructure, short- and long-term habitat maintenance, and reporting activities.

3. **(BIO-3) Transplantation of Western Joshua Trees.** The following criteria will be utilized by the Project Proponent when conducting any future transplanting activities authorized by the CDFW in conjunction with an Incidental Take Permit, as required.
  - A. The Joshua trees will be retained in place or replanted somewhere on the site where they can remain in perpetuity or will be transplanted to an off-site area approved by the City where they can remain in perpetuity. Joshua trees which are deemed not suitable for transplanting will be cut-up and discarded as per City requirements.
  - B. Earthen berms will be created around each tree by the biologist prior to excavation and the trees will be watered approximately one week before transplanting. Watering the trees prior to excavation will help make excavation easier, ensure the root ball will hold together, and minimize stress to the tree.
  - C. Each tree will be moved to a City approved pre-selected location which has already been excavated and will be placed and oriented in the same direction as their original direction. The hole will be backfilled with native soil, and the transplanted tree will be immediately watered. The biologist will develop a watering regimen to ensure the survival of the transplanted trees. The watering regimen will be based upon the needs of the trees and the local precipitation.
4. **(BIO-4) Western Joshua Tree Protection During Construction/Operational Activities.** Any Western Joshua trees that are to remain located on-site shall be protected in place during all grading, construction and operational activities. A perimeter fence shall be constructed with a 25-to-50-foot minimum buffer around the trees in order to protect the trees, branches, roots, and the existing buffer around the trees and the existing established location. Additionally, any landscaping around the trees should be drought tolerant and native. No artificial irrigation will be needed and no runoff shall impact the trees.
5. **(BIO-5) Burrowing Owl Pre-Construction Surveys.** Prior to the issuance of a grading permit, pre-construction surveys for Burrowing Owls on the project site and in the surrounding area in accordance with California Department of Fish and Wildlife (CDFW) approved protocols shall be conducted no more than 30-days prior to ground disturbing activities in accordance with best practices identified by the California Department of Fish and Wildlife. If ground disturbing activities are delayed for more than 30-days (including the restarting of activities after project/ground disturbing delays of 30- days or more), additional surveys will be required. If burrowing owls are observed on the project site during future surveys the California Department of Fish and Wildlife shall be immediately notified and mitigation measures shall be required to reduce impacts to less than significant, as approved by the CDFW. Acceptable mitigation measures are described in the Staff Report on Burrowing Owl Mitigation State of California Natural Resources Agency, Department of Fish and Game, March 7, 2012.
6. **(BIO-6) Pre-Construction Desert Tortoise Surveys.** No more than 30 calendar days prior to start of Project Activities a qualified biologist shall conduct pre-construction surveys for desert tortoise. Pre-construction surveys shall be completed using perpendicular survey routes within the Project Area and 50-foot buffer zone. Pre-construction surveys cannot be combined with other surveys conducted for other species while using the same personnel. Project Activities cannot start until 2 negative results from consecutive surveys using perpendicular survey routes for desert tortoise are documented. Should desert tortoise presence be confirmed during the survey, all desert tortoises encountered during clearance surveys and subsequent monitoring efforts will be permanently removed from the project area and translocated to an off-site recipient site. The Project Proponent shall prepare a site-specific Desert Tortoise Translocation Plan that will provide details on the

proposed recipient site, desert tortoise clearance surveys and relocation, definitions for Authorized Biologists and qualified desert tortoise biologists, exclusion fencing guidelines, protocols for managing desert tortoise found during active versus inactive seasons, protocols for incidental tortoise death or injury, and will be consistent with project permits and current USFWS guidelines. The Plan will also include a requirement for communication and coordination with the BLM regarding the desert tortoise recipient site. Prior to construction and the removal of any Desert Tortoises, the Plan will be subject to the approval of the CDFW and the USFWS. Impacts shall be offset through acquisition of compensatory land within suitable and occupied desert tortoise habitat and/or monetary contributions to other recovery efforts in the West Mojave habitat mitigated for at a ratio of 1:1. Final mitigation acreage are subject to the approval of the applicable state and federal wildlife agencies.

7. **(BIO-7) Worker Awareness Program.** Prior to the start of construction, a Worker Environmental Awareness Program (WEAP) will be developed by the Project Proponent. A qualified biologist with experience with the sensitive biological resources in the region will present the WEAP to all personnel working in the project area (either temporarily or permanently) prior to the start of project activities. The WEAP may be videotaped and used to train newly hired workers or those not present for the initial WEAP. The WEAP could include, but will not be limited to discussions of the sensitive biological resources associated with the project, project-specific measures to avoid or eliminate impacts to these resources, consequences for not complying with project permits and agreements, and contact information for the lead biologist. Logs of personnel who have taken the training will be kept on the site at the construction or project office.
8. **(BIO-8) Qualified Biologist On-Site.** Unless determined to be unnecessary by the project biologist, the applicant/developer shall provide a qualified biologist on-site prior to and during all ground and habitat disturbing activities to move out of harm's way wildlife that would otherwise be injured or killed from related project activities. Movement of wildlife out of harm's way should be limited to only those individuals that would otherwise be injured or killed, and individuals should only be moved as far as necessary to ensure their safety. Measures to prevent wildlife from re-entering the site should also be taken. Only qualified biologists with authorization by CDFW may move CESA-listed species.
9. **(BIO-9) Expiration of Biological Resources Assessments.** The General Biological Resources Assessment, Victorville, San Bernardino County, California (Township 4 North, Range 5 West, Section 11) APN: 0405-322-08; 0405-322-09, RCA Associates, Inc., dated June 2, 2021 and the Protected Plant Preservation Plan, APN: 0405-322-08 and 09 City of Victorville, California, RCA Associates, Inc., dated May 27, 2021, are valid for one (1) year. Should ground disturbing activities commence after these dates, updated biological surveys shall be filed with the City of Victorville to determine the presence or absence of endangered species, threatened species, candidate species, Species of Special Concern, and fully protected species on the site and to ensure appropriate mitigation measures are maintained.
10. **(BIO-10) Nesting Bird Survey.** All Project activities on-site shall be conducted outside of nesting season {January 15 to August 31} to the maximum extent feasible. During the nesting bird season, a qualified biologist shall conduct pre-project nesting bird surveys, implement nest buffers, and conduct monitoring at all active nests within the work area and surrounding 300-foot buffer. Nesting bird surveys shall be conducted by a qualified biologist within 300 feet of all work areas, no more than 3 days prior to commencement of project activities. If active nests containing eggs or young are found, a qualified biologist shall establish an appropriate nest buffer. Nest buffers are species-specific and range from 15 to 100 feet for passerines and 50 to 300 feet for raptors, depending on the planned activity's level of disturbance, site conditions, and the observed bird behavior. Established buffers shall remain until a qualified biologist determines the young have fledged or the

nest is no longer active. Active nests shall be monitored until the biologist has determined the young have fledged or the project is finished. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance.

**Cultural Resource Measures:**

**11. (CR-1) Archaeological Inadvertent Discovery.** Prior to the issuance of a grading permit, the following note shall be placed on the grading plan: If archaeological resources are encountered during implementation of the Project, ground-disturbing activities will be temporarily redirected from the vicinity of the find. The Project Archaeologist shall be notified and will be allowed to temporarily divert or redirect grading or excavation activities in the vicinity to make an evaluation of the find. If the resource is significant, Mitigation Measure CR-2 shall apply.

**12. (CR-2) Archeological Treatment Plan.** Prior to the issuance of a grading permit, the following note shall be placed on the grading plan: If a significant archaeological resource(s) is discovered on the property, ground disturbing activities shall be suspended 100 feet around the resource(s). The Project Archaeologist, the Project Proponent, and the City Planning Department shall confer regarding mitigation of the discovered resource(s). A treatment plan shall be prepared and implemented by the archaeologist to protect the identified archaeological resource(s) from damage and destruction. The treatment plan shall contain a research design and data recovery program necessary to document the size and content of the discovery such that the resource(s) can be evaluated for significance under CEQA criteria. The research design shall list the sampling procedures appropriate to exhaust the research potential of the archaeological resource(s) in accordance with current professional archaeology standards (typically this sampling level is two (2) to five (5) percent of the volume of the cultural deposit). At the completion of the laboratory analysis, any recovered archaeological resources shall be processed and curated according to current professional repository standards. The collections and associated records shall be donated to an appropriate curation facility. A final report containing the significance and treatment findings shall be prepared by the archaeologist and submitted to the City of Victorville Planning Department and the South-Central Coastal Information Center.

**Geology and Soils Measures:**

**13. (GEO-1) Inadvertent Discovery of Paleontological Resources.** If paleontological resources are encountered during implementation of the Project, ground-disturbing activities will be temporarily redirected from the vicinity of the find. A qualified paleontologist (the "Project Paleontologist") shall be retained by the developer to make an evaluation of the find. If the resource is significant, Mitigation Measure GEO-2 shall apply.

**14. (GEO-2) Paleontological Treatment Plan.** If a significant paleontological resource(s) is discovered on the property, in consultation with the Project proponent and the City, the qualified paleontologist shall develop a plan of mitigation which shall include salvage excavation and removal of the find, removal of sediment from around the specimen (in the laboratory), research to identify and categorize the find, curation in the find a local qualified repository, and preparation of a report summarizing the find.

**Noise Measures:**

- 15. (NOI-1) Construction Noise Mitigation.** Prior to the issuance of a grading permit, the following notes shall be included on grading plans and building plans. Project contractors shall be required to ensure compliance with the notes and permit periodic inspection of the construction site by City of Victorville staff or its designee to confirm compliance as needed. These notes also shall be specified in bid documents issued to prospective construction contractors.
- a) Haul truck deliveries shall be limited daytime hours of 7:00am to 6:00pm.
  - b) Construction contractors shall equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers, consistent with manufacturers' standards.
  - c) All stationary construction equipment shall be placed in such a manner so that emitted noise is directed away from any sensitive receptors adjacent to the Project site.
  - d) Construction equipment staging areas shall be located the greatest distance between the staging area and the nearest sensitive receptors (e.g. single-family residences).

**Tribal Cultural Resources Measures:**

- 16. (TCR-1) Inadvertent Discovery.** In the event that cultural resources are discovered during project activities, all work in the immediate vicinity of the find (within a 60-foot buffer) shall cease and a qualified archaeologist meeting Secretary of Interior standards shall be hired to assess the find. Work on the other portions of the project outside of the buffered area may continue during this assessment period. Additionally, the San Manuel Band of Mission Indians Cultural Resources Department (SMBMI) shall be contacted, as detailed within TCR-4, regarding any pre-contact and/or historic-era finds and be provided information after the archaeologist makes his/her initial assessment of the nature of the find, so as to provide Tribal input with regards to significance and treatment.
- 17. (TCR-2) Monitoring and Treatment Plan.** If significant pre-contact and/or historic-era cultural resources, as defined by CEQA (as amended, 2015), are discovered and avoidance cannot be ensured, the archaeologist shall develop a Monitoring and Treatment Plan, the drafts of which shall be provided to SMBMI for review and comment, as detailed within TCR-4. The archaeologist shall monitor the remainder of the project and implement the Plan accordingly.
- 18. (TCR-3) Human Remains.** If human remains or funerary objects are encountered during any activities associated with the project, work in the immediate vicinity (within a 100-foot buffer of the find) shall cease and the County Coroner shall be contacted pursuant to State Health and Safety Code §7050.5 and that code enforced for the duration of the project.
- 19. (TCR-4) Pre-Contact Historic Cultural Resources.** The San Manuel Band of Mission Indians Cultural Resources Department (SMBMI) shall be contacted, as detailed in Mitigation Measure TCR-1 and TCR-2, of any pre-contact and/or historic-era cultural resources discovered during project implementation, and be provided information regarding the nature of the find, so as to provide Tribal input with regards to significance and treatment. Should the find be deemed significant, as defined by CEQA (as amended, 2015), a cultural resources Monitoring and Treatment Plan shall be created by the archaeologist, in coordination with SMBMI, and all subsequent finds shall be subject to this Plan. This Plan shall allow for a monitor to be present that represents SMBMI for the remainder of the project, should SMBMI elect to place a monitor on-site.

**20. (TCR-5) Documents.** Any and all archaeological/cultural documents created as a part of the project (isolate records, site records, survey reports, testing reports, etc.) shall be supplied to the applicant and Lead Agency for dissemination to SMBMI. The Lead Agency and/or applicant shall, in good faith, consult with SMBMI throughout the life of the project.

Public Review Period: September 3, 2021 through October 4, 2021.

Tentative Public Hearing Date: October 20, 2021