

## **Mitigation Monitoring and Reporting Program**

### **PLAN24-00005 – The Court 99 Unit Townhome Project**

#### **A.1 STATUTORY REQUIREMENTS**

The purpose of this program is to identify the changes to the project, which the Lead Agency has adopted or made a condition of a project approval, in order to mitigate or avoid significant effects on the environment. The City of Victorville is the Lead Agency that must adopt the mitigation monitoring and reporting program. Section 21069 of the California Environmental Quality Act (CEQA) statute defines Responsible Agency as a public agency, other than the Lead Agency, which has the responsibility for carrying out or approving a project.

CEQA statutes and Guidelines provide direction for clarifying and managing the complex relationships between a Lead Agency and other agencies with respect to implementing and monitoring mitigation measures. In accordance with CEQA Guidelines Section 15091(d) “when making the findings required in subdivision (a)(1) of CEQA, the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.”

Furthermore, Section 15097.d states “each agency has the discretion to choose its own approach to monitoring or reporting; and each agency has its own special expertise.” This discretion will be exercised by implementing agencies at the time they undertake any of the individual improvement projects identified in the Draft IS/MND.

The following mitigation measures have been identified for PLAN24-00005 – The Court 99 Unit Townhome Project: The Project proposes to construct and operate a new multiple-family residential development that would consist of 99-townhouse units with recreational amenities including a club house, pool area, game courts, and walkways on a 8.52-acre project site. The corresponding Assessor Parcel Numbers (APN) are 3091-161-02 and -04.

A completed and signed checklist for each measure indicates that a measure has been implemented and fulfills the City’s monitoring requirements with respect to Public Resources Code Section 21081.6.

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Mitigation Measures	Responsible Party	Timing of Compliance	Signature and Date of Compliance
<b><i>AESTHETICS MEASURES</i></b>			
<b>AES Mitigation #1.</b> All light fixtures (including portable fixtures) shall be oriented downward and away from adjacent properties in conformance with municipal code Section 16-3.08.100. A lighting plan shall be submitted to the City of Victorville Planning Department for review.	Project Developer	Prior to Permit Issuance	
<b><i>AIR QUALITY MEASURES</i></b>			
<b>AIR Mitigation #1.</b> The Applicant shall prepare and submit to the MDAQMD, prior to commencing earth-moving activity, a dust control plan that describes all applicable dust control measures that will be implemented at the project.	Project Developer	Prior to Project Grading or Construction Activities	
<b>AIR Mitigation #2.</b> The Applicant shall ensure that signage, compliant with Rule 403 Attachment B, is erected at each project site entrance not later than the commencement of construction.	Project Developer	Prior to Project Grading or Construction Activities	
<b>AIR Mitigation #3.</b> The Applicant shall ensure the use of a water truck to maintain moist disturbed surfaces and actively spread water during visible dusting episodes to minimize visible fugitive dust emissions. For projects with exposed sand or fines deposits (and for projects that expose such soils through earthmoving), chemical stabilization or covering with a stabilizing layer of gravel will be required to eliminate visible dust/sand from sand/fines deposits.	Project Developer	During to Project Grading or Construction Activities	
<b>AIR Mitigation #4.</b> All perimeter fencing shall be wind fencing or the equivalent, to a minimum of four feet of height or the top of all perimeter fencing. The owner/operator shall maintain the wind fencing as needed to keep it intact and remove windblown fugitive dust. This wind fencing requirement may be superseded by local ordinance, rule or project-specific biological mitigation prohibiting wind fencing.	Project Developer	Prior to Project Grading or Construction Activities	
<b>AIR Mitigation #5.</b> All maintenance and access vehicular roads and parking areas shall be stabilized with chemical, gravel or asphaltic pavement sufficient to eliminate visible fugitive dust from vehicular travel and wind erosion. Take actions to prevent project-related track out onto paved surfaces and clean any project-related track out within 24 hours. All other earthen surfaces within the project area shall be stabilized by natural or irrigated vegetation, compaction, chemical or other means sufficient to prohibit visible fugitive dust from wind erosion.	Project Developer	During to Project Grading or Construction Activities	

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<b><i>BIOLOGICAL RESOURCE MEASURES</i></b>			
<p><b>BIO Mitigation #1.</b> Pre-construction surveys for burrowing owls, desert tortoise, and nesting birds protected under the Migratory Bird Treaty Act and Section 3503 of the California Fish and Wildlife Code shall be conducted prior to the commencement of Project-related ground disturbance. Appropriate survey methods and timeframes shall be established, to ensure that chances of detecting the target species are maximized. In the event that listed species, such as the desert tortoise, are encountered, authorization from the USFWS and CDFW must be obtained. If nesting birds are detected, avoidance measures shall be implemented to ensure that nests are not disturbed until after young have fledged. Pre-construction surveys shall encompass all areas within the potential footprint of disturbance for the project, as well as a reasonable buffer around these areas.</p>	<p>Project Developer Qualified Biologist</p>	<p>Prior to Project Grading or Construction Activities</p>	
<p><b>BIO Mitigation #2.</b> Fourteen days prior to the onset of site disturbance/construction activities (e.g., grading, grubbing, construction), a qualified biologist shall survey the construction limits of the project site, the surveys shall include 100 percent coverage and a 500-foot buffer for the presence of burrowing owls and occupied nest burrows. The survey shall be conducted in accordance with the most current California Department of Fish and Wildlife (CDFW) survey methods (2012 CDFW’s Staff Report on Burrowing Owl Mitigation). Burrowing owls may re-colonize a site after only a few days. Time lapses between Project activities trigger subsequent take avoidance surveys. Another survey shall be conducted no less than 24 hours prior to the start of construction. If burrowing owls or suitable burrowing owl burrows with sign (e.g., whitewash, pellets, feathers, prey remains) are not observed during the clearance survey, no additional conditions are required to avoid impacts on burrowing owl. If burrowing owl or signs thereof, is documented on the site, either during pre-construction clearance surveys or during construction, project activities shall be halted immediately. The Project Proponent shall consult with CDFW on the next steps, which might include obtaining an Incidental Take Permit (ITP) under California Endangered Species Act (CESA) Section 2081 if take of burrowing owl cannot be avoided.</p>	<p>Project Developer Qualified Biologist</p>	<p>Prior to Project Grading or Construction Activities</p>	

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<p><b>BIO Mitigation #3</b> To ensure compliance with California Fish and Game Code Sections 3503, 3503.5, and 3513 and to avoid potential impacts to nesting birds, vegetation clearing and ground-disturbing activities shall be conducted outside of the bird nesting season (generally February through August). Regardless of the time of year, a pre-construction survey shall be performed to verify absence of nesting birds. A qualified biologist shall conduct the pre-activity survey within the Project areas (including access routes) and a 500-foot buffer surrounding the Project areas, no more than three (3) days prior to the initiation of Project activities, including, but not limited to clearing, grubbing, and/or rough grading to prevent impacts to birds and their nests. Pre-construction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified biologist shall make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If active nests or nesting bird activity are identified within the work area or the Project’s zone of influence (generally 100- 300 feet), a no disturbance buffer zone shall be established by the qualified biologist to be marked on the ground around each nest. The buffer shall be a minimum of 500 feet for raptors and 300 feet for songbirds, unless a smaller buffer is specifically determined by a qualified biologist familiar with the nesting phenology of the nesting species. The buffer areas shall be avoided until the nests are no longer occupied and the juvenile birds can survive independently from the nests. Active nest(s) and an established buffer distance(s) shall be monitored daily by the qualified biologist until the qualified biologist has determined the young have fledged or the Project has been completed. The qualified biologist has the authority to stop work if nesting pairs exhibit signs of disturbance. If there is no nesting activity, then no further action is needed for this measure. If an active nest is encountered during the Project construction, construction shall stop immediately until a qualified biologist can determine (1) the status of the nest, and (2) when work can proceed without risking violation to state or federal laws.</p>	<p>Project Developer Qualified Biologist</p>	<p>Prior to Project Grading or Construction Activities</p>	

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<p><b>BIO Mitigation #4</b> Per ELMT Consulting, the applicant has been recommended to confirm the absence of United States Army Corps of Engineers (Corps) jurisdiction with the Corps to waive the requirement of an Approved Jurisdictional Determination. The applicant is required to obtain a Report of Waste Discharge Certification from the Regional Water Quality Control Board and to obtain a Section 1602 Streambed Alternation Agreement from CDFW prior to project implementation. The Section 1602 permit will need to be submitted and reviewed by CDFW.</p>	Project Developer	Prior to Project Grading or Construction Activities	
<b>CULTURAL RESOURCE MEASURES</b>			
<p><b>CUL Mitigation #1.</b> A Monitoring and Treatment Plan that is reflective of the project mitigation (“Cultural Resources” and “Tribal Cultural Resources”) shall be completed by the archaeologist and submitted to the Lead Agency for dissemination to the Yuhaaviatam of San Manuel Nation Cultural Resources Management Department (YSMN, also known as San Manuel Band of Mission Indians). Once all parties review and approve the plan, it shall be adopted by the Lead Agency – the plan must be adopted prior to permitting for the project. This plan shall allow for a monitor to be present that represents YSMN for the remainder of the project, should YSMN elect to place a monitor on-site. Any and all findings will be subject to the protocol detailed within the Monitoring and Treatment Plan.</p>	Project Developer	Prior to Project Grading or Construction Activities	
<p><b>CUL Mitigation #2.</b> Due to the heightened cultural sensitivity of the proposed project area, an archaeological monitor with at least 3 years of regional experience in archaeology shall be present for all ground-disturbing activities that occur within the proposed project area (which includes, but is not limited to, tree/shrub removal and planting, clearing/grubbing, grading, excavation, trenching, compaction, fence/gate removal and installation, drainage and irrigation removal and installation, hardscape installation [benches, signage, boulders, walls, seat walls, fountains, etc.], and archaeological work). A sufficient number of archaeological monitors shall be present each work day to ensure that simultaneously occurring ground disturbing activities receive thorough levels of monitoring coverage.</p>	Project Developer	During to Project Grading or Construction Activities	

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<b><i>GEOLOGY &amp; SOILS MEASURES</i></b>			
<b>GEO Mitigation #1.</b> Prior to the issuance of a grading permit, the Applicant shall provide evidence to the City of Victorville that a qualified archaeologist/paleontologist has been retained by the Project Applicant to conduct monitoring of excavation activities and has the authority to halt and redirect earthmoving activities in the event that suspected paleontological resources are unearthed.	Project Developer	Prior to Project Grading or Construction Activities	
<b>GEO Mitigation #2.</b> The archaeologist/paleontologist monitor shall conduct full-time monitoring during grading and excavation operations in undisturbed, very old alluvial fan sediments at or below four (4) feet below ground surface and shall be equipped to salvage fossils if they are unearthed to avoid construction delays and to remove samples of sediments that are likely to contain the remains of small fossil invertebrates and vertebrates. The archaeologist/paleontologist monitor shall be empowered to temporarily halt or divert equipment to allow of removal of abundant and large specimens in a timely manner. Monitoring may be reduced if the potentially fossiliferous units are not present in the subsurface, or if present, are determined upon exposure and examination by qualified archaeologist/paleontologist personnel to have a low potential to contain or yield fossil resources.	Project Developer	Prior to Project Grading or Construction Activities	
<b><i>NOISE MEASURES</i></b>			
<b>NOI Mitigation #1.</b> <i>The Applicant must ensure that the contractors use construction equipment that includes working mufflers and other sound suppression equipment as a means to reduce machinery noise.</i>	Project Developer	During Project Grading or Construction Activities	
<b>NOI Mitigation #2.</b> Construction vehicles will be prohibited from travelling on local streets in the residential areas to the extent possible.	Project Developer	During Project Grading or Construction Activities	
<b><i>TRIBAL CULTURAL RESOURCE MEASURES</i></b>			

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<p><b>TRI Mitigation #1.</b> If a pre-contact cultural resource is discovered during project implementation, ground-disturbing activities shall be suspended 60 feet around the resource(s), and an Environmentally Sensitive Area (ESA) physical demarcation/barrier constructed. The Project Archaeologist shall develop a research design that shall include a plan to evaluate the resource for significance under CEQA criteria. Representatives from YSMN, the Archaeologist, and the Lead Agency shall confer regarding the research design, as well as any testing stakes needed to delineate the resource boundary. Following the completion of evaluation reports, all parties shall confer regarding the resource's archaeological significance, its potential as a Tribal Cultural Resource (TCR), and avoidance (or other appropriate treatment) of the discovered resource. Removal of any cultural resource(s) shall be conducted with the presence of a Tribal monitor representing the Tribe, unless otherwise decided by YSMN. All plans for analysis shall be reviewed and approved by the applicant and YSMN prior to implementation, and all removed material shall be temporarily curated on-site.</p> <p>It is the preference of YSMN that removed cultural material be reburied as close to the original find location as possible. However, should reburial within/near the original find location during project implementation not be feasible, then a reburial location for future reburial shall be decided upon by YSMN, the landowner, and the Lead Agency, and all finds shall be reburied within this location. Additionally, in this case, reburial shall not occur until all ground-disturbing activities associated with the project have been completed, all monitoring has ceased, all cataloguing and basic recordation of cultural resources have been completed, and a final monitoring report has been issued to Lead Agency, CHRIS, and YSMN. All reburials are subject to a reburial agreement that shall be developed between the landowner and YSMN outlining the determined reburial process/location and shall include measures and provisions to protect the reburial area from any future impacts. Should it occur that avoidance, preservation in place, and on-site reburial are not an option for treatment, the landowner shall relinquish all ownership and rights to this material and confer with YSMN to identify an American Association of Museums (AAM)-accredited facility within the County that can accession the materials into their permanent collections and provide for the proper care of these objects in accordance with the 1993 CA Curation Guidelines. A curation agreement with an appropriate qualified repository shall be developed between the landowner and museum that legally and physically transfers the collections and associated records to the facility. This agreement shall stipulate the payment of fees necessary for permanent curation of the collections and associated records and the obligation of the Project developer/applicant to pay for those fees. All draft records/reports containing the significance and treatment findings and data recovery results shall be prepared by the archaeologist and submitted to the Lead Agency and YSMN for their review and comment. After approval from all parties, the final reports and site/isolate records are to be submitted to the local CHRIS Information Center, the Lead Agency, and YSMN.</p>	<p>Project Developer</p> <p>Qualified Archaeologist/ Paleontologist</p>	<p>Prior to Project Grading or Construction Activities</p>	
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<p><b>TRI Mitigation #2.</b> 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.</p>	<p>Project Developer  Qualified Archaeologist/ Paleontologist</p>	<p>Prior to Project Grading or Construction Activities</p>	