

ATTACHMENT D

Draft Mitigated Negative Declaration

CITY OF VICTORVILLE PLANNING DEPARTMENT
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MITIGATED NEGATIVE DECLARATION
Preparation Date: June 28, 2024

Name or Title of Project: Tentative Tract Map Case No. PLAN21-00033 (TTM 20454).

Location: Southwest corner of Nyack Road and Mesa View Drive (APN Nos. 3134-021-05, 06, & 07)

Entity or Person Undertaking Project: Bedford Opportunity Fund II, LLC; C/O Ms. Tiffany Yu and Mr. Greg Quan; 212 S. Palm Avenue, Suite 200; Alhambra, CA 91801.

Description of Project: A Tentative Tract Map with an Initial Study and a proposed Mitigated Negative Declaration to allow for the creation of 108 single-family residential lots from three existing undeveloped parcels zoned R-1 (Single Family Residential) on an approximately 30 acre project site.

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:

Air Quality Measures:

1. **(AQ-1) Fugitive Dust Control.** The following measures shall be incorporated into Project plans and specifications for implementation:
 - Apply soil stabilizers or moisten inactive areas.
 - Water exposed surfaces to avoid visible dust leaving the construction site (at least 2-3 times/day).
 - Cover all stock piles with tarps at the end of each day and as needed during the construction day.
 - Provide water spray during loading and unloading of earthen materials.
 - Require the contractor to minimize in-out traffic from construction zone to the extent feasible, and enforce a speed limit of 15 MPH on site to avoid dust migration from the site.
 - Cover all trucks hauling dirt, sand, or loose material and require all trucks to maintain at least two feet of freeboard.
 - Sweep streets daily if visible soil material is carried out from the construction site.
2. **(AQ-2) Exhaust Emission Control.** The following measures shall be incorporated into Project plans and specifications for implementation:
 - Utilize off-road construction equipment that has met or exceeded the maker's recommendations for vehicle/equipment maintenance schedule.
 - Contactors shall utilize Tier 4 or better heavy equipment.
 - Enforce 5-minute idling limits for both on-road trucks and off-road equipment.

3. **(AQ-3) Dust Mitigation Measures.** In accordance with Mojave Desert Air Quality Management District (MDAQMD) requirements and prior to commencement of earth moving activities, the Project Proponent shall: obtain MDAQMD permits for any miscellaneous process equipment that may not be exempt under District Rule 219 including, but not limited to internal combustion engines with a manufacturer's maximum continuous rating greater than 50 brake horsepower; and prepare and submit to the MDAQMD a dust control plan that describes all applicable dust control measures that will be implemented at the project. Additionally, the Project Proponent shall implement the following measures:
- Signage compliant with Rule 403 Attachment B shall be erected at each project entrance not later than the commencement of construction.
 - Use 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.
 - All perimeter fencing shall be wind fencing or the equivalent, to a minimum of four feet in 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 dropout. This wind fencing requirement may be superseded by local ordinance, rule or project-specific biological mitigation prohibiting wind fencing.
 - 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 trackout onto paved surfaces, and clean any project related trackout 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.

Biological Measures:

4. **(BIO-1) Worker Awareness Program.** A qualified biologist shall develop a Worker Education Awareness Program (WEAP) that would include information on general and special status species within the project area, identification of these species and their habitats, techniques being implemented during construction to avoid impacts to species, consequences of killing or injuring an individual of a listed species, and reporting procedures when encountering listed or sensitive species. All construction crews, foremen, and other project personnel potentially working on site should attend this education program prior to the first day of work.
5. **(BIO-2) Burrowing Owl Pre-Construction Surveys.** Burrowing Owl would be included as one of the species covered in the WEAP that all construction crews, foremen, and other project personnel potentially working on site should attend prior to the first day of work.

Preconstruction presence/absence surveys for burrowing owl shall be conducted no less than 14 days prior to any onsite ground disturbing activity by a qualified biologist, including prior to each phase of new ground disturbance. The burrowing owl surveys shall be conducted pursuant to the recommendations and guidelines established by the California Department of Fish and Wildlife in the "California Department of Fish and Wildlife 2012 Staff Report on Burrowing Owl Mitigation." In the event this species is not identified within the project limits, no further mitigation is required, and a letter shall be prepared by the qualified biologist documenting the results of the survey. The letter shall be submitted to CDFW prior to commencement of project activities. If during the preconstruction survey, the burrowing owl is found to occupy the site, Mitigation Measure BIO-3 shall be required.

6. (BIO-3) Burrowing Owl Protocols If Identified During Survey Period. If burrowing owls are identified during the survey period, the Developer shall take the following actions to offset impacts prior to ground disturbance:

The Developer, in conjunction with the City shall notify CDFW within three business days of determining that a burrowing owl is occupying the site to discuss the observed location, activities and behavior of the burrowing owl(s) and appropriate avoidance and minimization measures.

Active nests within the areas scheduled for disturbance or degradation shall be avoided until fledging has occurred, as confirmed by a qualified biologist. Following fledging, owls may be passively relocated by a qualified biologist, as described below.

If impacts on occupied burrows are unavoidable, onsite passive relocation techniques may be used if approved by the CDFW to encourage owls to move to alternative burrows provided by the Developer outside of the impact area.

If relocation of the owls is approved for the site by CDFW, CDFW shall require the City to hire a qualified biologist to prepare a plan for relocating the owls to a suitable site and conduct an impact assessment. A qualified biologist shall prepare and submit a passive relocation program in accordance with Appendix E (i.e., Example Components for Burrowing Owl Artificial Burrow and Exclusion Plans) of the 2012 Staff Report on Burrowing Owl Mitigation (CDFG 2012) to the CDFW for review/approval prior to the commencement of disturbance activities onsite.

The relocation plan must include all of the following and as indicated in Appendix E:

- The location of the nest and owls proposed for relocation.
- The location of the proposed relocation site.
- The number of owls involved and the time of year when the relocation is proposed to take place.
- The name and credentials of the biologist who will be retained to supervise the relocation.
- The proposed method of capture and transport for the owls to the new site.
- A description of site preparation at the relocation site (e.g., enhancement of existing burrows, creation of artificial burrows, one-time or long-term vegetation control).

The Developer shall conduct an impact assessment, in accordance with the Staff Report on Burrowing Owl Mitigation prior to commencing project activities to determine appropriate mitigation, including the acquisition and conservation of occupied replacement habitat at no less than a 2:1 ratio.

Prior to passive relocation, suitable replacement burrows site(s) shall be provided at a ratio of 2:1 and permanent conservation and management of burrowing owl habitat such that the habitat acreage, number of burrows and burrowing owl impacts are replaced consistent with the Staff Report on Burrowing Owl Mitigation including its Appendix A within designated adjacent conserved lands identified through coordination with CDFW and the City. A qualified biologist shall confirm the natural or artificial burrows on the conservation lands are suitable for use by the owls. Monitoring and management of the replacement burrow site(s) shall be conducted, and a reporting plan shall be prepared. The objective shall be to manage the replacement burrow sites for the benefit of burrowing owls (e.g., minimizing weed cover), with the specific goal of maintaining the functionality of the burrows for a minimum of 2 years.

A final letter report shall be prepared by the qualified biologist documenting the results of the passive relocation. The letter shall be submitted to CDFW.

7. **(BIO-4) Desert Tortoise Pre-Construction Survey.** Although no desert tortoises were detected during the site surveys, habitat within the project footprint is considered marginally suitable for this species. Therefore, a qualified biologist shall conduct a pre-construction clearance survey no more than 14 days prior to initiating construction in accordance with U.S. Fish and Wildlife Service's (2019) survey protocol; if the biologist detects a desert tortoise, the biologist or applicant will contact the U.S. Fish and Wildlife Service and California Department of Fish and Wildlife immediately. Regardless of the survey results, a biological monitor should be present at the site during all clearing and grubbing activities above grade. The biologist/monitor should remain on-call during construction activities to respond to a circumstance where a desert tortoise wanders into the construction area.
8. **(BIO-5) Western Joshua Tree Conservation Act Compliance.** Prior to construction a preconstruction survey shall be conducted by a qualified biologist to verify the location of any Joshua Trees in the site. The biologist shall prepare a report that shall be submitted to the County and the California Department of Fish and Wildlife (CDFW). This report shall determine whether the sole Joshua Tree on the property can be avoided, relocated onsite or mitigated under the WJTCA. The report shall include the findings and/or avoidance/mitigation recommendations in conformance with the WJTCA after consultation with the CDFW. The site developer shall fund the WJTCA mitigation recommendations to fully mitigate loss of the sole Joshua Tree located on the property.
9. **(BIO-6) Jurisdictional Boundaries.** The development shall not disturb any streambed jurisdictional area during construction. The streambed boundary shall be identified in the field prior to construction and the construction contract shall include prohibitions on any construction activities being carried out in the streambed channel. City field inspectors shall verify this measure is being implemented during site construction.
10. **(BIO-7) Streambed Alteration Agreement.** Prior to construction and issuance of any grading permit within the channel, the applicant/developer shall obtain written correspondence from the California Department of Fish and Wildlife (CDFW) stating that notification under section 1602 of the Fish and Game Code is not required for the Project, or the applicant/developer shall obtain a CDFW-executed Lake and Streambed Alteration Agreement, authorizing impacts to Fish and Game Code section 1602 resources associated with the Project.
11. **(BIO-8) Nesting Bird Surveys.** Nesting bird surveys shall be conducted by a qualified avian biologist no more than three (3) days prior to vegetation clearing or ground disturbance activities. Preconstruction surveys shall focus on both direct and indirect evidence of nesting, including nest locations and nesting behavior. The qualified avian biologist will make every effort to avoid potential nest predation as a result of survey and monitoring efforts. If active nests are found during the preconstruction nesting bird surveys, a Nesting Bird Plan (NBP) shall be prepared and implemented by the qualified avian biologist. At a minimum, the NBP shall include guidelines for addressing active nests, establishing buffers, ongoing monitoring, establishment of avoidance and minimization measures, and reporting. The size and location of all buffer zones, if required, shall be based on the nesting species, individual/pair's behavior, nesting stage, nest location, its sensitivity to disturbance, and intensity and duration of the disturbance activity. To avoid impacts to nesting birds, any grubbing or vegetation removal should occur outside peak breeding season (typically February 1 through September 1).

Cultural Resource Measures:

12. **(CUL-1) Inadvertent Discovery.** Should any cultural resources be encountered during construction of these facilities, earthmoving or grading activities in the immediate area of the finds shall be halted and an onsite inspection shall be performed immediately by a qualified archaeologist. Responsibility for making this determination shall be with the City's onsite inspector. The archaeological professional

shall assess the find, determine its significance, and make recommendations for appropriate mitigation measures within the guidelines of the California Environmental Quality Act.

- 13. (CUL-2) Inadvertent Discovery Tribal Consultation.** 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-1, 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.
- 14. (CUL-3) 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-1. The archaeologist shall monitor the remainder of the project and implement the Plan accordingly.

Geology and Soils Measures:

- 15. (GEO-1) Backfill Material.** Stored backfill material shall be covered with water resistant material during periods of heavy precipitation to reduce the potential for rainfall erosion of stored backfill material. Where covering is not possible, measures such as the use of straw bales or sand bags shall be used to capture and hold eroded material on the project site for future cleanup such that erosion does not occur.
- 16. (GEO-2) Excavated Areas.** Excavated areas shall be backfilled and compacted such that erosion does not occur. Paved areas disturbed by this project shall be repaved in such a manner that roadways and other disturbed areas are returned to the pre-project conditions or better.
- 17. (GEO-3) Exposed Dirt.** All exposed, disturbed soil (trenches, stored backfill, etc.) will be sprayed with water or soil binders twice a day or more frequently if fugitive dust is observed migrating from disturbed areas.
- 18. (GEO-4) Open Trenching.** The length of trench which can be left open at any given time will be limited to that needed to reasonably perform construction activities. This will serve to reduce the amount of backfill stored onsite at any given time.
- 19. (GEO-5) Paleontological Resources.** Should any paleontological resources be encountered during construction of these facilities, earthmoving or grading activities in the immediate area of the finds shall be halted and an onsite inspection should be performed immediately by a qualified paleontologist. Responsibility for making this determination shall be the project's qualified paleontologist as approved by the City Zoning Administrator. The paleontological professional shall assess the find, determine its significance, and determine appropriate mitigation measures within the guidelines of the California Environmental Quality Act that shall be implemented to minimize any impacts to a paleontological resource.

Greenhouse Gas Measures:

- 20. (GHG-1) Updated Screening Table.** Prior to the recordation of the final map, the applicant/developer shall complete a revised Greenhouse Gas Emissions Screening Table in accordance with the City's adopted version of the San Bernardino County Regional Greenhouse Gas Reduction Plan 2021, while achieving the minimum number of points necessary to comply with the City of Victorville Greenhouse Gas reductions goals.
- 21. (GHG-2) Compliance Verification.** To the extent feasible, the City of Victorville Planning Department shall verify incorporation of the identified Screening Table Measures within the Project building plans/site designs and/or verify compliance with an updated version of the City's Greenhouse Gas Screening Table prior to the issuance of building permit(s).

Hazards and Hazardous Materials Measures:

- 22. (HAZ-1) Accidental Spills.** All accidental spills or discharge of hazardous material during construction activities shall be reported to the Certified Unified Program Agency and shall be remediated in compliance with applicable state and local regulations regarding cleanup and disposal of the contaminant released. The contaminated waste will be collected and disposed of at an appropriately a licensed disposal or treatment facility. This measure shall be incorporated into the SWPPP prepared for the proposed project. Prior to accepting the site as remediated, the area contaminated shall be tested to verify that any residual concentrations meet the standard for future residential or public use of the site.

Noise Measures:

- 23. (NOI-1) Construction Equipment.** The City will require that all construction equipment be operated with mandated noise control equipment (mufflers or silencers). Enforcement will be accomplished by random field inspections by applicant personnel during construction activities.
- 24. (NOI-2) Hourly Noise Levels.** Noise minimizing measures shall be implemented to reduce noise levels to the greatest extent feasible at the nearest receptors, defined as at or below 55 dBA permitted between the hours of 10:00 PM and 7:00 AM; and at or below 65 dBA permitted between the hours of 7:00 AM and 10:00 PM. Measures shall include portable noise barriers and scheduling specific construction activities to avoid conflict with adjacent sensitive receptors.
- 25. (NOI-3) Equipment Shut Off.** Equipment not in use for five minutes shall be shut off.
- 26. (NOI-4) Equipment Maintenance.** Equipment shall be maintained and operated such that loads are secured from rattling or banging.
- 27. (NOI-5) Electric Power Equipment.** Where commercially available, electric-powered equipment shall be used rather than diesel equipment and hydraulic-powered equipment shall be used instead of pneumatic power.
- 28. (NOI-6) Employee Training.** Construction employees shall be trained in the proper operation and use of equipment consistent with these mitigation measures, including no unnecessary revving of equipment.
- 29. (NOI-7) Radios/Sound Equipment.** No radios or other sound equipment shall be used at this site unless required for emergency response by the contractor.

30. (NOI-8) Construction Staging. Construction staging areas shall be located as far from adjacent sensitive receptor locations as possible

31. (NOI-9) Temporary Signage. The developer shall post temporary signage to provide local residents with a phone number to contact if excessive noise is identified at the site. The notice shall identify the dates of construction and the name and phone number of a construction supervisor (contact person) in case of complaints. One contact person shall be assigned to the project. The posted notice shall encourage the adjacent residents to contact the phone number in the case of a complaint. The phone number contact shall be available 24/7 throughout construction, at a minimum by mobile phone. If a complaint is received, the contact person shall take all feasible steps to remove or attenuate the sound source causing the complaint.

32. (NOI-10) Contractor Implementation Measures. The City shall require the Applicant's construction contractor(s) to implement the following measures:

- Ensure that the operation of construction equipment that generates high levels of vibration including, but not limited to, large bulldozers, loaded trucks, pile-drivers, vibratory compactors, and drilling rigs, is minimized to below 72 vibration decibels (VdB), within 45 feet of existing residential structures and 35 feet of institutional structures (e.g., schools) during construction. Use of small rubber-tired bulldozers shall be enforced within these areas during grading operations to reduce vibration effects.
- The construction contractor shall provide signs along the roadway identifying a phone number for adjacent property owners to contact with any complaint. During future construction activities with heavy equipment within 300 feet of occupied residences, vibration field tests shall be conducted at the property line near the nearest occupied residences. If vibrations exceed 72 VdB, the construction activities shall be revised to reduce vibration below this threshold. These measures may include, but are not limited to the following: use different construction methods, slow down construction activity, or other mitigating measures to reduce vibration at the property from where the complaint was received.

Transportation Measures:

33. (TRAN-1) Fair Share. The project fair share calculation is based on the proportion of project peak hour intersection turning movement volumes contributed to the improvement location relative to the total new peak hour intersection turning movement volume forecast for Fugue Year (2033) With Project conditions. The developer shall pay the project's fair share percentage of the identified impacted intersection costs (Mesa View Drive at Bear Valley Road) estimated to be between 15.3% and 15.8% for the proposed project. Refer to Appendix 7a of the Initial Study for the detailed information on the cost estimate. This fee shall be paid prior to occupancy of the subdivision.

34. (TRAN-2) Traffic Control Plan. The City of Victorville shall mandate that the Applicant require their contractors prepare a construction traffic control plan. Elements of the plan should include, but are not necessarily limited to, the following:

- Develop circulation and detour plans, if necessary, to minimize impacts to local street circulation. Use haul routes minimizing truck traffic on local roadways to the extent possible.
- To the extent feasible, and as needed to avoid adverse impacts on traffic flow, schedule truck trips outside of peak morning and evening commute hours.
- Install traffic control devices as specified in Caltrans' Manual of Traffic Controls for Construction and Maintenance Work Zones where needed to maintain safe driving conditions. Use flaggers

and/or signage to safely direct traffic through construction work zones.

- For roadways requiring lane closures that would result in a single open lane, maintain alternate one way traffic flow and utilize flagger-controls.
- Coordinate with facility owners or administrators of sensitive land uses such as police and fire stations, hospitals, and schools. Provide advance notification to the facility owner or operator of the timing, location, and duration of construction activities.

35. (TRAN-3) Standard Specifications. The City of Victorville shall require that all disturbances to public roadways be repaired in a manner that complies with the Standard Specifications for Public Improvements or other applicable City of Victorville standard design requirements.

Tribal Cultural Resources Measures:

36. (TCR-1) Discovery of Cultural Resources. The San Manuel Band of Mission Indians Cultural Resources Department (SMBMI) and any other tribe noticed in accordance with AB 52 requirements shall be contacted, as detailed in CUL-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 any other tribe noticed in accordance with AB 52 requirements, and all subsequent finds shall be subject to this Plan. This Plan shall allow for a monitor to be present that represents SMBMI and any other tribe noticed in accordance with AB 52 requirements for the remainder of the project, should SMBMI and/or any other tribe noticed in accordance with AB 52 requirements elect to place a monitor on-site.

37. (TCR-2) Archaeological/Cultural 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 and any other tribe noticed in accordance with AB 52 requirements. The Lead Agency and/or applicant shall, in good faith, consult with SMBMI and any other tribe noticed in accordance with AB 52 requirements throughout the life of the project.

Public Review Period: June 28, 2024 through July 29, 2024.

Tentative Public Hearing Date: September 11, 2024