

June 2019 | Mitigation Monitoring and Reporting Program
State Clearinghouse No. 2016021023

VIVANTE SENIOR LIVING PROJECT

City of Newport Beach

Prepared for:

City of Newport Beach

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1. Mitigation Monitoring and Reporting Program

1.1 PURPOSE OF MITIGATION MONITORING AND REPORTING PROGRAM

This Mitigation Monitoring and Reporting Program has been developed to provide a vehicle by which to monitor mitigation measures and conditions of approval outlined in the Vivante Senior Living Project EIR Addendum, State Clearinghouse No. 2016021023. The Mitigation Monitoring and Reporting Program (MMRP) has been prepared in conformance with Section 21081.6 of the Public Resources Code and City of Newport Beach Monitoring Requirements. Section 21081.6 states:

- (a) When making findings required by paragraph (1) of subdivision (a) of Section 21081 or when adopting a mitigated negative declaration pursuant to paragraph (2) of subdivision (c) of Section 21080, the following requirements shall apply:
 - (1) The public agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation. For those changes which have been required or incorporated into the project at the request of a responsible agency or a public agency having jurisdiction by law over natural resources affected by the project, that agency shall, if so requested by the lead or responsible agency, prepare and submit a proposed reporting or monitoring program.
 - (2) The lead agency shall specify the location and custodian of the documents or other material which constitute the record of proceedings upon which its decision is based.

The State CEQA Guidelines Section 15097 provides clarification of mitigation monitoring and reporting requirements and guidance to local lead agencies on implementing strategies. The reporting or monitoring program must be designed to ensure compliance during project implementation. The City of Newport Beach is the lead agency for the Vivante Senior Living Project and is therefore responsible for implementing the MMRP. The MMRP has been drafted to meet the requirements of Public Resources Code Section 21081.6 as a fully enforceable monitoring program.

The MMRP consists of the mitigation program and the measures to implement and monitor the mitigation program. The MMRP defines the following for the mitigation measure outlined in Table 1, *Mitigation Monitoring Requirements*:

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- **Definition of Mitigation.** The mitigation measure contains the criteria for mitigation, either in the form of adherence to certain adopted regulations or identification of the steps to be taken in mitigation.
- **Responsible Party or Designated Representative.** Unless otherwise indicated, the project applicant is the responsible party for implementing the mitigation, and the City of Newport Beach or a designated representative is responsible for monitoring the performance and implementation of the mitigation measures. To guarantee that the mitigation measure will not be inadvertently overlooked, a supervising public official acting as the Designated Representative is the official who grants the permit or authorization called for in the performance. Where more than one official is identified, permits or authorization from all officials shall be required.
- **Time Frame.** In each case, a time frame is provided for performance of the mitigation measure or review of evidence that mitigation has taken place. The performance points selected are designed to ensure that impact-related components of project implementation do not proceed without establishing that the mitigation is implemented or ensured. All activities are subject to the approval of all required permits from local, state, and federal agencies with permitting authority over the specific activity.

The numbering system in Table 1 corresponds with the numbering system used in the EIR Addendum. The last column of the MMRP table will be used by the parties responsible for documenting when implementation of the mitigation measure has been completed. The ongoing documentation and monitoring of mitigation compliance will be completed by the City of Newport Beach. The completed MMRP and supplemental documents will be kept on file at the City of Newport Beach Community Development Department Planning Division.

1.2 PROJECT LOCATION

The project site is in the south-central portion of the City of Newport Beach (City), which is in the western part of Orange County in southern California. The City is bordered by Huntington Beach to the northwest, Costa Mesa to the north, Irvine to the northeast, unincorporated areas (Crystal Cove State Park) of Orange County to the southeast, and the Pacific Ocean to the south. Regional access to the project site is provided via Interstate 405 (I-405), State Route 55 (SR-55), SR-73 (San Joaquin Hills Transportation Corridor), and Highway 1 (Pacific Coast Highway).

The project site is in Newport Center, an area of the City that includes a mix of high- and low-rise office, residential, and hospitality buildings surrounding the Fashion Island regional mall. The site is approximately 2.9 acres and is at 850 and 856 San Clemente Drive (Assessor's Parcel Numbers 442-261-05 and 442-261-17, respectively). The project site is generally bounded by Santa Cruz Drive to the east, Santa Barbara Drive to the west, San Joaquin Hills Road to the north, and San Clemente Drive to the south.

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1.3 PROJECT SUMMARY

The proposed project consists of redeveloping the project site with the Vivante Senior Living Project, which is a multistory luxury senior living project that would provide assisted living units, a memory care unit, and various resident amenities and services.

The project site sits on two parcels that are approximately 2.9 acres. The proposed project would demolish the 23,632-square-foot, single-story OCMA building and the 14,556-square-foot single-story office building, remove the surface parking lots, grub onsite vegetation, and remove all ornamental trees onsite. The project site would be developed with the proposed luxury senior living project which includes a six-story plus basement, 183,500-square-foot, L-shaped, building which would be centrally located within the project site.

The proposed building would be constructed up to 69 feet in height and would house assisted living units and a memory care unit, and congregate care services, via a state-licensed residential care facility for the elderly, would be provided to residents in both the assisted living and memory care units. The proposed project would include 54 one-bed units (studios) and 36 two-bed units in the assisted living portion, and 27 beds are proposed in the nine memory care units. There would be a total of 153 beds within the 99 units proposed. Unit sizes would range from 530 square feet for one-bed units and up to 2,500 square feet for two-bed units. All units would be provided on the second to sixth floors of the building, with the exception of a couple of units on the ground level.

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Table 1 Mitigation Monitoring Requirements

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
5.1 AIR QUALITY				
AQ-1	During construction, the construction contractor(s) shall require the use of interior paint with 0 grams per liter (g/L) of volatile organic compounds (VOC) (i.e., zero VOC paint). Paints that emit less than the low-VOC limits of South Coast Air Quality Management District (SCAQMD) Rule 1113 are known as "super-compliant paints." A list of super-compliant VOC coating manufacturers is available at SCAQMD's website (http://www.aqmd.gov/prdas/brochures/paintguide.html). Use of super-compliant interior paints shall be noted on building plans.	Project Applicant; Construction Contractor	During building plan check and construction	City of Newport Beach Community Development Department – Building Division
AQ-2	The construction contractor(s) shall limit the daily amount of debris haul trips during the project's Orange County Museum of Art (OCMA) building demolition and asphalt demolition phase to a maximum of 32 truckloads per day (64 truck trips per day). Additionally, except for the building demolition activity, no other construction activities (onsite building debris reprocessing, administrative office building demolition, grading, building construction, etc.) shall commence until completion of the OCMA building debris hauling. These requirements shall be noted on all construction management plans and truck trips and mileage shall be documented.	Project Applicant; Construction Contractor	During grading and construction	City of Newport Beach Community Development Department – Building Division
5.2 CULTURAL RESOURCES				
CUL-1	Prior to the issuance of grading permits, the project applicant shall demonstrate to the Community Development Department that an Orange County–certified professional archaeologist has been retained to monitor any potential impacts to archaeological resources throughout the duration of any ground-disturbing activities at the project site. The qualified archeologist shall be present at the pregrade meeting to discuss the monitoring, collection, and safety procedures of cultural resources, if any are found.	Project Applicant; Certified Archaeologist; Construction Contractor	Prior to issuance of grading permits	City of Newport Beach Community Development Department – Planning Division

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Table 1 Mitigation Monitoring Requirements

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
If subsurface cultural resources are discovered during ground-disturbing activities, the construction contractor shall ensure that all work stops within 25 feet of the find until the qualified archeologist can assess the significance of the find and, if necessary, develop appropriate treatment or disposition of the resources in consultation with the City of Newport Beach and a representative of the affected Native American tribe (Gabrieleno or Juaneno). The archeological monitor shall have the authority to halt any project-related activities that may adversely impact potentially significant archaeological resources. Suspension of ground disturbances in the vicinity of the discoveries shall not be lifted until an archeological monitor has evaluated the discoveries to assess whether they are classified as significant cultural resources, pursuant to the California Environmental Quality Act and, if determined to be significant, to develop an appropriate treatment or disposition plan. As required by General Plan Policy HR 2.4, any scientifically valuable materials will be donated to a responsible public or private institution with a suitable repository, located within Newport Beach or Orange County, whenever possible.				
CUL-2	Prior to issuance of any grading permit, the Applicant shall provide satisfactory evidence that a Native American monitor (i.e., Gabrieleno Band of Mission Indians-Kizh Nation), has been retained to observe ground disturbance activities during grading and excavation activities. In the event that tribal cultural resources are discovered, the Native American monitor shall be included in the consultation on the recommended next steps.	Project Applicant	During grading and construction	City of Newport Beach Community Development Department – Planning Division

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Table 1 Mitigation Monitoring Requirements

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
5.3 GEOLOGY AND SOILS				
GEO-1	<p>Based on the provided plans, sufficient space should be available for deep excavations to be accomplished using open cuts. If site access is limited, temporary shoring may be required for supporting the vertical sides of the required excavations. If shoring is required, it will conform to the Geotechnical Report and following requirements:</p> <p>Prior to issuance of grading permits, the City of Newport Beach Building Division shall confirm that the grading plans include the shoring requirements detailed in the project's geotechnical study. Cantilever, tied-back or internally braced shoring systems can be used for the subterranean excavation. Cantilever shoring systems are typically limited to a maximum retained height of 15 feet. Tied-back shoring walls will require a temporary or permanent easement from the adjacent property owners and the City of Newport Beach. The shoring system shall be designed to resist a lateral earth pressure equivalent to a fluid weighing 35 pounds per cubic foot. An allowable passive earth pressure of 275 psf per foot of depth below the bottom of the excavation shall be used for design of the shoring system. An allowable passive earth pressure of 550 psf per foot can be used for isolated soldier piles.</p> <p>If sufficient distance from the property line is available, it may be possible to excavate to the subgrade elevation without the use of shoring. Temporary slope in the marine terrace deposit may be excavated at slopes where the proportion of the height of the rise is less than or equal to the length of the slope (1H:1V). Alternatively, sloped excavations may be used to reduce the height of the shored excavation. In the case, the earth pressures above may be increased and will be handled on a case by case basis when the height of the sloped excavation is known.</p>	Project Applicant	Prior to issuance of grading permits	City of Newport Beach Community Development Department – Building Division

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Table 1 Mitigation Monitoring Requirements

Mitigation Measure		Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
	All shoring and excavation shall comply with current Occupational Safety and Health Administration regulations and observed by the designated competent person on site.				
GEO-2	The bedding zone is defined as the area containing the material specified that is supporting, surrounding, and extending to one foot above the top of any proposed utility pipes. During grading and construction plan reviews, the City of Newport Beach Building Divisions shall confirm that the project's proposed bedding satisfies the requirements of the Standard Specifications for Public Works Construction (SSPWC) Section 306-1.2.1. There shall be a 4-inch minimum of bedding below the pipe and 1-inch minimum clearance below a projecting bell. There shall be a minimum side clearance of 6 inches on each side of the pipe. Bedding material shall be sand, gravel, crushed aggregate, or native free-draining material having a sand equivalent of not less than 30, or other material approved by the engineer. Materials used for the bedding zone shall be placed and compacted with light mechanical means to reduce the potential of damaging the pipe; jetting shall not be allowed.	Project Applicant	Prior to issuance of grading permits	City of Newport Beach Community Development Department – Building Division	
GEO-3	Backfill shall be considered as starting 12 inches above the pipe. On-site excavated materials are suitable as backfill. During construction activities, any boulders or cobbles larger than three inches in any dimension shall be removed before backfilling. All backfill shall be placed in loose lifts not exceeding the thickness specified in the Geotechnical Report and be compacted to at least 90 percent relative compaction. The upper 12 inches below pavement shall be compacted at least to 95 percent relative compaction. Mechanical compaction will be required to accomplish compaction above the bedding along the entire pipeline alignments. In backfill areas, where mechanical compaction of soil backfill is impractical due to space constraints, sand-cement slurry may be substituted for compacted backfill. The slurry shall contain one	Project Applicant; Construction Contractor	Prior to issuance of grading permits and during construction	City of Newport Beach Community Development Department – Building Division	

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Table 1 Mitigation Monitoring Requirements

Mitigation Measure		Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
	<p>and one-half sacks of cement per cubic yard and have a maximum slump of 5 inches. When set, such a mix typically has the consistency of hard compacted soil and allows for future excavation.</p> <p>A lean non-shrink concrete plug with a minimum width length of 3 feet shall be placed in the utility trenches at the location where off-site utilities enter the project boundaries to minimize the potential for off-site water flow onsite.</p>				
GEO-4	<p>All foundation excavations shall be observed and/or tested by the project applicant's geotechnical consultant before placement of concrete to verify that the foundations would be supported in competent soils. If soft or loose soils are encountered at the subgrade level, the soils shall be removed or brought to a near-optimum moisture content (± 2 percent), recompacted, and tested to a minimum of 95 percent relative compaction prior to placement of fill or footing or floor slab construction. Only granular soils shall be used for compacted fill.</p> <p>Mat foundations, if used in the project, may also derive lateral load resistance from passive resistance along the vertical sides of the foundations. Therefore, an ultimate passive fluid pressure of 275 pounds per cubic foot (pcf) shall be used. It is recommended that an ultimate sliding friction coefficient of 0.35 to be used for design. Passive and sliding resistance may be used in combination without reduction. The required factor of safety is 1.5 for static loads and 1.1 for wind or seismic loads.</p>	Project Applicant; Geotechnical Consultant	During grading and construction	City of Newport Beach Community Development Department – Building Division	
GEO-5	Prior to the issuance of grading permits, the project applicant shall demonstrate to the Community Development Department that an Orange County–certified professional paleontologist has been retained to monitor any potential impacts to paleontological resources throughout the duration of any ground-disturbing activities at the project site. The paleontologist shall develop and implement a Paleontological Mitigation Plan, which shall include	Project Applicant; Certified Paleontologist	Prior to issuance of grading permits	City of Newport Beach Community Development Department – Planning Division	

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<p>the following minimum elements:</p> <ul style="list-style-type: none">▪ All earthmoving activities eight feet or more below the current surface shall be monitored full-time by a qualified paleontological monitor.▪ If fossils are discovered, the paleontological monitor has the authority to temporarily divert work within 25 feet of the find to allow recovery of the fossils and evaluation of the fossil locality.▪ Fossil localities shall require documentation, including stratigraphic columns and samples for micropaleontological analyses and for dating.▪ Fossils shall be prepared to the point of identification and evaluated for significance.▪ Significant fossils shall be cataloged and identified prior to being donated to an appropriate repository.▪ The final report shall interpret any paleontological resources discovered in the regional context and provide the catalog and all specialists' reports as appendices. <p>An executed curation agreement shall be part of the plan, and the project proponent shall bear all expenses of the mitigation program, including curation of materials meeting significance criteria.</p>				

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Mitigation Measure		Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
4 NOISE					
NOI-1	At least 30 days prior to commencement of demolition or any other construction activities, notification shall be given to all residents or businesses within 500 feet of the project site regarding the planned construction activities. The notification shall include a brief description of the project, the activities that would occur, the duration and hours when construction would occur. The notification shall also include the telephone number of the construction contractor's authorized representative to respond in the event of a vibration or noise complaint.	Project Applicant; Construction Contractor	At least 30 days prior to demolition or construction	City of Newport Beach Community Development Department – Building Division	
NOI-2	Prior to the beginning of construction activities, a sign shall be posted at the entrance to the job site, clearly visible to the public, that contains a contact name and telephone number of the construction contractor's authorized representative to respond in the event of a vibration or noise complaint. If the authorized representative receives a complaint, he/she shall investigate, take appropriate corrective action, and report the action to the City of Newport Beach's Community Development Director.	Project Applicant; Construction Contractor	Prior to construction	City of Newport Beach Community Development Department – Building Division	
NOI-3	Route all construction-related trips (including worker commuting, material deliveries, and debris/soil hauling) so as to minimize pass-bys or residential areas around the project site.	Project Applicant; Construction Contractor	During grading and construction	City of Newport Beach Community Development Department – Building Division	
NOI-4	All heavy construction equipment used on the proposed project shall be maintained in good operating condition, with all internal combustion, engine-driven equipment fitted with intake and exhaust muffles, air intake silencers, and engine shrouds no less effective than as originally equipped by the manufacturer.	Project Applicant; Construction Contractor	During grading and construction	City of Newport Beach Community Development Department – Building Division	
NOI-5	Electrically powered equipment instead of pneumatic or internal combustion powered equipment shall be used to the extent possible.	Project Applicant; Construction Contractor	During grading and construction	City of Newport Beach Community Development Department – Building Division	

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Table 1 Mitigation Monitoring Requirements

Mitigation Measure		Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
NOI-6	All stationary noise-generating equipment shall be located as far away as possible from neighboring property lines; with particular attention paid to the residential complex (currently under construction) to the north of the project site.	Project Applicant; Construction Contractor	During grading and construction	City of Newport Beach Community Development Department – Building Division	
NOI-7	Limit all internal combustion engine idling both on the site and at nearby queuing areas to no more than five (5) minutes for any given vehicle or machine. Signs shall be posted at the job site and along queueing lanes to reinforce the prohibition of unnecessary engine idling.	Project Applicant; Construction Contractor	During grading and construction	City of Newport Beach Community Development Department – Building Division	
NOI-8	The use of noise producing signals, including horns, whistles, alarms, and bells will be for safety warning purposes only. Use smart back-up alarms, which automatically adjust the alarm level based on the background noise level, or switch off back-up alarms and replace with human spotters.	Project Applicant; Construction Contractor	During grading and construction	City of Newport Beach Community Development Department – Building Division	
NOI-9	A temporary noise barrier/curtain shall be erected between the construction zone and adjacent residential receptors to the north of the project site boundary. The temporary sound barrier shall have a minimum height of 16 feet and be free of gaps and holes and must achieve a Sound Transmission Class (STC) of 35 or greater. The barrier can be (a) a ¾-inch-thick plywood wall OR (b) a hanging blanket/curtain with a surface density of at least 2 pounds per square foot. For either configuration, the construction side of the barrier shall have an exterior lining of sound absorption material with a Noise Reduction Coefficient (NRC) rating of at least 0.7.	Project Applicant; Construction Contractor	During building plan check and grading and construction	City of Newport Beach Community Development Department – Building Division	

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Table 1 Mitigation Monitoring Requirements

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)	
5.5 TRIBAL CULTURAL RESOURCES					
CUL-1	<p>Prior to the issuance of grading permits, the project applicant shall demonstrate to the Community Development Department that an Orange County–certified professional archaeologist has been retained to monitor any potential impacts to archaeological resources throughout the duration of any ground-disturbing activities at the project site. The qualified archeologist shall be present at the pregrade meeting to discuss the monitoring, collection, and safety procedures of cultural resources, if any are found.</p> <p>If subsurface cultural resources are discovered during ground-disturbing activities, the construction contractor shall ensure that all work stops within 25 feet of the find until the qualified archeologist can assess the significance of the find and, if necessary, develop appropriate treatment or disposition of the resources in consultation with the City of Newport Beach and a representative of the affected Native American tribe (Gabrieleno or Juaneno). The archeological monitor shall have the authority to halt any project-related activities that may adversely impact potentially significant archaeological resources. Suspension of ground disturbances in the vicinity of the discoveries shall not be lifted until an archeological monitor has evaluated the discoveries to assess whether they are classified as significant cultural resources, pursuant to the California Environmental Quality Act and, if determined to be significant, to develop an appropriate treatment or disposition plan. As required by General Plan Policy HR 2.4, any scientifically valuable materials will be donated to a responsible public or private institution with a suitable repository, located within Newport Beach or Orange County, whenever possible.</p>	<p>Project Applicant; Certified Archaeologist; Construction Contractor</p>	<p>Prior to issuance of grading permits</p>	<p>City of Newport Beach Community Development Department – Planning Division</p>	

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Table 1 Mitigation Monitoring Requirements

Mitigation Measure	Responsibility for Implementation	Timing	Responsibility for Monitoring	Monitor (Signature Required) (Date of Compliance)
CUL-2 Prior to issuance of any grading permit, the Applicant shall provide satisfactory evidence that a Native American monitor (i.e., Gabrieleno Band of Mission Indians-Kizh Nation), has been retained to observe ground disturbance activities during grading and excavation. In the event that tribal cultural resources are discovered, the Native American monitor shall be included in the consultation on the recommended next steps.	Project Applicant	During grading and construction	City of Newport Beach Community Development Department – Planning Division	