RESOLUTION NO. _____

A RESOLUTION OF THE CUPERTINO CITY COUNCIL ADOPTING A MITIGATED NEGATIVE DECLRATION, MITIGATION MEASURES, AND A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE DEVELOPMENT OF EIGHTEEN (18) RESIDENTIAL UNITS AND 4,500 SQ. FT. OF COMMERCIAL SPACE AT 10625 SOUTH FOOTHILL BOULEVARD (APN: 342-16-087 & 088)

SECTION I: PROJECT DESCRIPTION

Application No.:	EA-2018-06
Applicant:	Dan Shaw (SCR Enterprises)
Location:	10625 South Foothill Boulevard (APN#s 342-16-087 & 088)

SECTION II: ENVIRONMENTAL REVIEW PROCESS

WHEREAS, the City of Cupertino received an application on September 14, 2018 for a Zoning Map Amendment, Development Permit, Architectural and Site Approval, Use Permit, Tentative Map, and Tree Removal Permit, to allow the development of a new mixed-use development consisting eighteen (18) residential units and 4,500 sq. ft. of commercial with associated site and landscaping improvements, and associated environmental review ("Project"); and,

WHEREAS, pursuant to the provisions of the California Environmental Quality Act of 1970 (Public Resources Code Section 21000 *et seq*.) ("CEQA") and the State CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 *et seq*.) ("CEQA Guidelines"), the City prepared an Initial Study and proposed Mitigated Negative Declaration ("Project"); and

WHEREAS, the Project is described in the March 2021 "Public Draft Initial Study for Canyon Crossings Mixed-Use Project" ("Draft IS/MND"); and

WHEREAS, on March 25, 2021 the City issued a Notice of Intent to Adopt a Mitigated Negative Declaration; and

WHEREAS, on March 25, 2021, the IS/MND for the project was distributed to responsible agencies and the public for review and comment for a 20-day period that ended April 13, 2021; and

WHEREAS, the IS/MND concluded that significant environmental effects on Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Noise, Tribal and Cultural Resources, and Utilities and Service Systems would be avoided or reduced to less-than-significant levels by mitigation measures ("MM") identified in the IS/MND; and

WHEREAS, on October 28, 2021, the City of Cupertino's Environmental Review Committee held a duly noticed public hearing to receive public testimony and reviewed and considered the information contained in the Draft IS/MND, and voted 5-0-0 to recommend that the City Council adopt the Draft IS/MND (EA-2018-06) and mitigation measures; and

WHEREAS, the Planning Commission independently reviewed and considered the IS/MND together with the comments and the responses to those comments prior to taking action on the Project; and

WHEREAS, the comments received by the Planning Commission do not require major revisions to the IS/MND due to new or substantially more severe significant effects on the environment; and

WHEREAS, text revisions made after publication of the Draft IS/MND, which are found in the October 2021 Final Draft Initial Study, merely clarify, amplify or make insignificant modifications to the IS/MND, and recirculation of the IS/MND is not required.

WHEREAS, on November 23, 2021, the Planning Commission held a duly noticed public hearing to receive staff's presentation and public testimony, and to consider the information contained in the IS/MND along with all staff reports, other pertinent documents, and all written and oral statements received prior to and at the public hearing, and recommended on a 5-0-0 vote, based on substantial evidence in the record, that the City Council adopt the MND, adopt and incorporate into the Project and implement as conditions of approval all of the mitigation measures for the project that are identified in the IS/MND, and adopt the Mitigation Monitoring and Reporting Program for the Project; and

WHEREAS, the City Council has independently reviewed and considered the IS/MND together with the comments and the responses to those comments prior to taking action on the Project; and

WHEREAS, the comments received by the City Council do not require major revisions to the IS/MND due to new or substantially more severe significant effects on the environment; and

WHEREAS, on January 13, 2022 prior to taking action on the Project, the City Council held a duly noticed public hearing to receive staff's presentation and public testimony, and to further consider the information contained in the IS/MND, along with all staff

reports, other pertinent documents, and all written and oral statements received prior to and at the public hearing.

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of the IS/MND, comments on the IS/MND, maps, facts, exhibits, testimony, staff reports, public comments, and other evidence submitted in this matter, the City Council:

1. Finds that the IS/MND for the Project has been completed in compliance with CEQA and reflects the independent judgment and analysis of the City.
2. Finds that, on the basis of the whole record before it, there is no substantial evidence that the Project as proposed and mitigated will have a significant effect on the environment.
3. Finds that the text revisions to the IS/MND merely clarify, amplify or make insignificant modifications to the IS/MND; therefore, recirculation of the IS/MND is not required.
4. Adopts the Mitigated Negative Declaration for the Project.
5. Adopts and incorporates into the Project all of the mitigation measures identified in the IS/MND. The City Council further makes the mitigation measures, which are listed below, required conditions of approval of the Project to the extent they are within the responsibility and jurisdiction of the City:

    a. <u>AIR QUALITY</u>

    Mitigation Measure AQ-1: The project's construction contractor shall comply with the following best management practices for reducing construction emissions of fugitive dust (PM10 and PM2.5) as required by the Bay Area Air Quality Management District Revised California Environmental Quality Act Air Quality Guidelines:

    - Water all active construction areas at least twice daily, or as often as needed to control dust emissions. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever possible.
    - Pave, apply water twice daily or as often as necessary to control dust, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites.
    - Cover all trucks hauling soil, sand, and other loose materials.

- Sweep daily (with water sweepers using reclaimed water if possible) or as often as needed all paved access roads, parking areas and staging areas at the construction site to control dust.
- Sweep public streets daily (with water sweepers using reclaimed water if possible) in the vicinity of the project site, or as often as needed, to keep streets free of visible soil material.
- Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
- Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt/sand).
- Limit vehicle traffic speeds on unpaved roads to 15 miles per hour.
- Replant vegetation in disturbed areas as quickly as possible and water appropriately until vegetation is established.
- Install sandbags or other erosion control measures to prevent silt runoff from public roadways.
- All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.

Mitigation Measure AQ-2: During construction, the construction contractor(s) shall:

- Use construction equipment that have engines that meet either the United States Environmental Protection Agency (USEPA) or California Air Resources Board (CARB) Tier 4 Interim emissions standards for off-road diesel-powered construction equipment with more than 50 horsepower, unless it can be demonstrated to the City of Cupertino Building Division that such equipment is not available. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by Tier 4 Interim emissions standards for a similarly sized engine, as defined by the CARB's regulations.
- Prior to issuance of any construction permit, ensure that all construction plans submitted to the City of Cupertino Planning Department and/or Building Division clearly show the requirement for Tier 4 Interim emissions standards for construction equipment more than 50 horsepower.
- Maintain a list of all operating equipment in use on the project site for verification by the City of Cupertino Building Division official or their designee. The construction equipment list shall state the makes, models, and number of construction equipment on site.
- Ensure that all equipment shall be properly serviced and maintained in accordance with the manufacturer's recommendations.
- Communicate with all sub-contractors in contracts and construction documents that all nonessential idling of construction equipment is

restricted to 5 minutes or less in compliance with CARB Rule 2449 and is responsible for ensuring that this requirement is met.

b. BIOLOGICAL RESOURCES

Mitigation Measure BIO-1: Nests of raptors and other birds shall be protected when in active use, as required by the federal Migratory Bird Treaty Act and the California Fish and Game Code. The construction contractor shall indicate the following on all construction plans, if construction activities and any required tree removal occur during the breeding season (February 1 and August 31).

- Preconstruction surveys shall:
  - Be conducted by a qualified biologist prior to tree removal or grading, demolition, or construction activities. Note that preconstruction surveys are not required for tree removal or construction, grading, or demolition activities outside the nesting period.
  - Be conducted no more than 14 days prior to the start of tree removal or construction.
  - Be repeated at 14-day intervals until construction has been initiated in the area after which surveys can be stopped.
  - Document locations of active nests containing viable eggs or young birds.
- Protective measures for active nests containing viable eggs or young birds shall be implemented under the direction of the qualified biologist until the nests no longer contain eggs or young birds, and the young have left the nest and are foraging independently, or the nest is no longer active. Protective measures shall include:
  - Establishment of clearly delineated exclusion zones (i.e., demarcated by identifiable fencing, such as orange construction fencing or equivalent) around each nest location as determined by the qualified biologist, taking into account the species of birds nesting, their tolerance for disturbance and proximity to existing development. In general, exclusion zones shall be a minimum of 300 feet for raptors and 75 feet for passerines and other birds.
  - Monitoring active nests within an exclusion zone on a weekly basis throughout the nesting season to identify signs of disturbance and confirm nesting status.
  - An increase in the radius of an exclusion zone by the qualified biologist if project activities are determined to be adversely affecting the nesting birds. Exclusion zones may be reduced by the qualified biologist only in consultation with the California Department of Fish and Wildlife.

c. CULTURAL RESOURCES

Mitigation Measure CULT-1: A representative from the Tamien Nation shall be retained and permitted on-site at all times during ground disturbance (including grading, demolition and/or construction) to monitor for potential prehistoric or historic subsurface cultural resources. Notice shall be given to the Tamien Nation in a manner requested by the Tamien Nation at least five (5) days before any ground disturbing activity. Prior to ground disturbance activities, construction workers conducting the ground disturbing activities shall undergo cultural resource sensitivity training conducted by the on-site Tamien Nation representative.

If any prehistoric or historic subsurface cultural resources are discovered during ground-disturbing (including grading, demolition and/or construction) activities:

- All work within 50 feet of the resources shall be halted, the City shall be notified, and a qualified archaeologist and Tamien Nation representative shall be consulted. The contractor shall cooperate in the recovery of the materials. Work may proceed on other parts of the project site while mitigation for tribal cultural resources, historical resources or unique archaeological resources is being carried out.
- The qualified archaeologist shall prepare a report for the evaluation of the resource to the California Register of Historical Places and the City Building Department. The report shall also include appropriate recommendations in collaboration with a Tamien Nation representative regarding the significance of the find and appropriate mitigations as follows:
- If the resource is a non-tribal resource, the archaeologist shall assess the significance of the find according to CEQA Guidelines Section 15064.5.
- If the resource is a tribal resource – whether historic or prehistoric – the consulting archaeologist shall consult with the Tamien Nation to evaluate the significance of the resource and to recommend appropriate and feasible avoidance, testing, preservation, or mitigation measures, in light of factors such as the significance of the find, proposed project design, costs, and other considerations. If avoidance is infeasible, other appropriate measures (e.g., data recovery) may be implemented.
- All significant non-tribal cultural materials recovered shall be, as necessary, and at the discretion of the consulting archaeologist, subject to scientific analysis, professional museum curation, and documentation according to current professional standards.

d. GEOLOGY AND SOILS

Mitigation Measure GEO-1: The construction contractor shall incorporate the following in all grading, demolition, and construction plans:

- In the event that fossils or fossil-bearing deposits are discovered during grading, demolition, or building, excavations within 50 feet of the find shall be temporarily halted or diverted.
- The contractor shall notify the City of Cupertino Building Department and a City-approved qualified paleontologist to examine the discovery.
- The paleontologist shall document the discovery as needed, in accordance with Society of Vertebrate Paleontology standards (Society of Vertebrate Paleontology 1995), evaluate the potential resource, and assess the significance of the finding under the criteria set forth in CEQA Guidelines Section 15064.5.
- The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find.
- If the project applicant determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the proposed project based on the qualities that make the resource important. The excavation plan shall be submitted to the City for review and approval prior to implementation.

e. NOISE

Mitigation Measure NOISE-1: The following shall be incorporated in all activity phases and construction plans, as required by the Cupertino Municipal Code (CMC). Construction activities shall take place only during daytime hours of 7:00 a.m. and 8:00 p.m. on weekdays and due to the close proximity of the adjacent residential land use to the west, construction may occur on the weekends, holidays or nighttime only if a special exception has been granted by the City. In addition, the construction crew shall adhere to the following best management practices:

- At least 90 days prior to the start of any construction, demolition or grading activities, all off-site businesses and residents within 300 feet of the project site will be notified of the planned activities. The notification will include a brief description of the project, the activities that would occur, the hours when activity would occur, and the construction period's overall duration. The notification should include the telephone numbers of the contractor's authorized representatives that are assigned to respond in the event of a noise or vibration complaint.
- The project applicant and contractors shall prepare and submit a Construction Noise Control Plan to the City's Building Department and Code Enforcement for review and approval prior to issuance of any grading, demolition, and/or building permits. The Construction Noise Plan shall

demonstrate compliance with the 80-dBA limit in the CMC. The details of the Construction Noise Control Plan, including those details listed herein, shall be included as part of the permit application drawing set and as part of the construction drawing set, shall be implemented by the on-site Construction Manager, and shall include, but not be limited to, the following available controls to comply with the 80 dBA performance standard:

- At least 10 days prior to the start of construction activities, a sign will be posted at the entrance(s) to the job site, clearly visible to the public, which includes permitted construction days and hours, as well as the telephone numbers of the City's and contractor's authorized representatives that are assigned to respond in the event of a noise or vibration complaint. If the authorized contractor's representative receives a complaint, they will investigate, take appropriate corrective action, and report the action to the City.
- During the entire active construction period, equipment and trucks used for project construction will utilize the best available noise control techniques (e.g., improved mufflers, equipment re-design, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds), wherever feasible.
- Include noise control requirements for equipment and tools, including concrete saws, to the maximum extent feasible. Such requirements could include, but are not limited to, erecting temporary plywood noise barriers between construction areas and nearby sensitive receptors; performing work in a manner that minimizes noise; and undertaking the noisiest activities during times of least disturbance to nearby sensitive receptors.
- During the entire active construction period, stationary noise sources will be located as far from sensitive receptors as possible, and they will be muffled and enclosed within temporary sheds, or insulation barriers or other measures will be incorporated to the extent feasible.
- During the entire active construction period, noisy operations will be conducted simultaneously to the degree feasible in order to reduce the time periods of these operations.
- Select haul routes that avoid the greatest amount of sensitive use areas and submit to the City of Cupertino Public Works Department for approval prior to the start of the construction phase.
- Signs will be posted at the job site entrance(s), within the on-site construction zones, and along queueing lanes (if any) to reinforce the prohibition of unnecessary engine idling. All other equipment will be turned off if not in use for more than 5 minutes.

- During the entire active construction period and to the extent feasible, the use of noise producing signals, including horns, whistles, alarms, and bells will be for safety warning purposes only. The construction manager will 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 in compliance with all safety requirements and laws.

Mitigation Measure NOISE-2: Mechanical equipment shall be selected and designed to reduce impacts on surrounding uses to meet the Cupertino Municipal Code noise limits of 60 dBA and 50 dBA at residential uses during daytime and nighttime, respectively, and 65 dBA and 55 dBA at non-residential sensitive uses during daytime and nighttime, respectively. A qualified acoustical consultant shall be retained to review mechanical noise as these systems are selected to determine specific noise reduction measures necessary to reduce noise to comply with the City's noise level requirements. Mechanical equipment shall be selected and designed to reduce impacts on surrounding uses to meet the City's noise level requirements. Noise reduction measures could include, but are not limited to:

- Selection of equipment that emits low noise levels;
- Installation of noise dampening techniques, such as enclosures and parapet walls, to block the line-of-sight between the noise source and the nearest receptors; or
- Locating equipment in less noise-sensitive areas, where feasible.

Mitigation Measure NOISE-3: If paving activity during construction is required within 25 feet of nearby residential structures, the use of a static roller in lieu of a vibratory roller shall be employed. Grading and earthwork activities within 15 feet of adjacent residential structures shall be conducted with off-road equipment that is limited to 100 horsepower or less. This mitigation measure shall be identified on the permit application drawing set and as part of the construction drawing set, and shall be implemented by the on-site Construction Manager.

f. <u>TRIBAL CULUTRAL RESOURCES</u>
Mitigation Measure TCR-1: Implement Mitigation Measure CULT-1.

g. <u>UTILITIES AND SERVICE SYSTEMS</u>
Mitigation Measure UTIL-1: No building permits shall be issued by the City for the proposed Canyon Crossing Mixed-Use Project that would result in exceeding the permitted peak wet weather flow capacity of 13.8 mgd through the Santa Clara sanitary sewer system. The project applicant shall demonstrate, to the

satisfaction of the City of Cupertino and Cupertino Sanitary District (CSD), that the proposed project would not exceed the peak wet weather flow capacity of the Santa Clara sanitary sewer system by implementing one or more of the following methods:

1. Reduce inflow and infiltration in the CSD system to reduce peak wet weather flows; or
2. Increase on-site water reuse, such as increased grey water use, or reduce water consumption of the fixtures used within the proposed project, or other methods that are measurable and reduce sewer generation rates to acceptable levels, to the satisfaction of the CSD.

The proposed project's estimated wastewater generation shall be calculated using the generation rates used by the CSD in the *Flow Modeling Analysis for the Homestead Flume Outfall to the City of Santa Clara*, prepared by Mark Thomas & Co. Inc., dated December 6, 2019, unless alternative (i.e., lower) generation rates achieved by the proposed project are substantiated by the project applicant based on evidence to the satisfaction of the CSD. To calculate the peak wet weather flow for a 10-year storm event, the average daily flow rate shall be multiplied by a factor of 2.95 as required by CSD pursuant to their December 2019 flow modeling analysis.

6. Adopts the Mitigation Monitoring and Reporting Program for the Project, as amended, attached hereto as Exhibit EA-1, and incorporated herein by reference, which incorporates all the mitigation measures identified in the Final IS/MND.

PASSED AND ADOPTED at a special meeting of the City Council of the City of Cupertino this 13th day of January 2022 by the following vote:

Members of the City Council

AYES:
NOES:
ABSENT:
ABSTAIN:

SIGNED: _____ Darcy Paul, Mayor	 _____ Date

City of Cupertino	
ATTEST: _____ Kirsten Squarcia, City Clerk	 _____ Date

Mitigation Monitoring and Reporting Program

CANYON CROSSING

10625 S. FOOTHILL BLVD.
APN: 342-16-087 & 088
OCTOBER 2021

Mitigation Measure	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
AIR QUALITY **Mitigation Measure AQ-1**: The project's construction contractor shall comply with the following best management practices for reducing construction emissions of fugitive dust (PM10 and PM2.5) as required by the Bay Area Air Quality Management District Revised California Environmental Quality Act Air Quality Guidelines: • Water all active construction areas at least twice daily, or as often as needed to control dust emissions. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever possible. • Pave, apply water twice daily or as often as necessary to control dust, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites. • Cover all trucks hauling soil, sand, and other loose materials. • Sweep daily (with water sweepers using reclaimed water if possible) or as often as needed all paved access roads, parking areas and staging areas at the construction site to control dust. • Sweep public streets daily (with water sweepers using reclaimed water if possible) in the vicinity of the project site, or as often as needed, to keep streets free of visible soil material. • Hydroseed or apply non-toxic soil stabilizers to inactive construction areas. • Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt/sand). • Limit vehicle traffic speeds on unpaved roads to 15 miles per hour. • Replant vegetation in disturbed areas as quickly as possible and water appropriately until vegetation is established. • Install sandbags or other erosion control measures to prevent silt runoff from public roadways.	During the construction and post-construction phases, the project proponent shall be responsible for implementing these measures, including improvements.	Improvements related to these measures shall be printed on all construction documents, contracts, and project plans and shall be reviewed by the Director of Community Development and the Director of Public Work prior to the issuance of grading and/or building permits.	City of Cupertino Public Works and Building Departments

Mitigation Measure	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
• All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.			
Mitigation Measure AQ-2: During construction, the construction contractor(s) shall: • Use construction equipment that have engines that meet either the United States Environmental Protection Agency (USEPA) or California Air Resources Board (CARB) Tier 4 Interim emissions standards for off-road diesel-powered construction equipment with more than 50 horsepower, unless it can be demonstrated to the City of Cupertino Building Division that such equipment is not available. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by Tier 4 Interim emissions standards for a similarly sized engine, as defined by the CARB's regulations. • Prior to issuance of any construction permit, ensure that all construction plans submitted to the City of Cupertino Planning Department and/or Building Division clearly show the requirement for Tier 4 Interim emissions standards for construction equipment more than 50 horsepower. • Maintain a list of all operating equipment in use on the project site for verification by the City of Cupertino Building Division official or their designee. The construction equipment list shall state the makes, models, and number of construction equipment on site. • Ensure that all equipment shall be properly serviced and maintained in accordance with the manufacturer's recommendations. • Communicate with all sub-contractors in contracts and construction documents that all nonessential idling of construction equipment is restricted to 5 minutes or less in compliance with CARB Rule 2449 and is responsible for ensuring that this requirement is met.	Project proponent to ensure inclusion of these requirements in all contracts and permit documents. Prior to the issuance of any construction permit.	Provide documentation demonstrating compliance (i.e. specifications of vehicles and equipment) and on the construction drawings clearly show the requirement for Level 3 Diesel Particulate Filters emissions standards for construction equipment over 50 horsepower.	City of Cupertino Public Works, Planning, and Building Departments

Mitigation Measure	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation

Mitigation Measure BIO-1: Nests of raptors and other birds shall be protected when in active use, as required by the federal Migratory Bird Treaty Act and the California Fish and Game Code. The construction contractor shall indicate the following on all construction plans, if construction activities and any required tree removal occur during the breeding season (February 1 and August 31).
• Preconstruction surveys shall:
  • Be conducted by a qualified biologist prior to tree removal or grading, demolition, or construction activities. Note that preconstruction surveys are not required for tree removal or construction, grading, or demolition activities outside the nesting period.
  • Be conducted no more than 14 days prior to the start of tree removal or construction.
  • Be repeated at 14-day intervals until construction has been initiated in the area after which surveys can be stopped.
  • Document locations of active nests containing viable eggs or young birds.
• Protective measures for active nests containing viable eggs or young birds shall be implemented under the direction of the qualified biologist until the nests no longer contain eggs or young birds, and the young have left the nest and are foraging independently, or the nest is no longer active. Protective measures shall include:
  • Establishment of clearly delineated exclusion zones (i.e., demarcated by identifiable fencing, such as orange construction fencing or equivalent) around each nest location as determined by the qualified biologist, taking into account the species of birds nesting, their tolerance for disturbance and proximity to existing development. In general, exclusion
	Project proponent to add this to all construction plans and contracts to ensure biologist conducts pre-construction surveys as required.	If grading and/or tree removal begins during the stated dates in the mitigation measure, A final report of nesting birds, including any protection measures, shallbe submitted tothe Director of Community Development prior to the start of demolition.	City of Cupertino Planning Department

Mitigation Measure	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
zones shall be a minimum of 300 feet for raptors and 75 feet for passerines and other birds. • Monitoring active nests within an exclusion zone on a weekly basis throughout the nesting season to identify signs of disturbance and confirm nesting status. • An increase in the radius of an exclusion zone by the qualified biologist if project activities are determined to be adversely affecting the nesting birds. Exclusion zones may be reduced by the qualified biologist only in consultation with the California Department of Fish and Wildlife. • Monitoring active nests within an exclusion zone on a weekly basis throughout the nesting season to identify signs of disturbance and confirm nesting status. • An increase in the radius of an exclusion zone by the qualified biologist if project activities are determined to be adversely affecting the nesting birds. Exclusion zones may be reduced by the qualified biologist only in consultation with California Department of Fish and Wildlife. • The protection measures shall remain in effect until the young have left the nest and are foraging independently or the nest is no longer active.			
Mitigation Measure CULT-1: A tribal representative shall be permitted on-site at all times during ground disturbance (including grading, demolition and/or construction) to monitor for potential prehistoric or historic subsurface cultural resources. Notice shall be given to the Tribe in a manner requested by the Tribe at least 48 hours before any ground disturbing activity. Prior to ground disturbance activities, construction workers conducting the ground disturbing activities shall undergo cultural resource sensitivity training conducted by the on-site tribal representative.	During site excavation, the project proponent shall be responsible for implementation ofArchaeological monitoring. Monitoring shall be conducted during earthmoving activities by a qualified archaeologist.	All archaeological monitoring and reporting measures shall be included inall construction documents, and construction management plans, contracts, andproject plans and shall be reviewed by the	Community Development Public Works & Building Department

Mitigation Measure	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
If any prehistoric or historic subsurface cultural resources are discovered during ground-disturbing (including grading, demolition and/or construction) activities: • All work within 50 feet of the resources shall be halted, the City shall be notified, and a qualified archaeologist and tribal representative shall be consulted. The contractor shall cooperate in the recovery of the materials. Work may proceed on other parts of the project site while mitigation for tribal cultural resources, historical resources or unique archaeological resources is being carried out. • The qualified archaeologist shall prepare a report for the evaluation of the resource to the California Register of Historical Places and the City Building Department. The report shall also include appropriate recommendations in collaboration with a tribal representative regarding the significance of the find and appropriate mitigations as follows: • If the resource is a non-tribal resource, the archaeologist shall assess the significance of the find according to CEQA Guidelines Section 15064.5. • If the resource is a tribal resource – whether historic or prehistoric – the consulting archaeologist shall consult with the appropriate tribe(s) to evaluate the significance of the resource and to recommend appropriate and feasible avoidance, testing, preservation, or mitigation measures, in light of factors such as the significance of the find, proposed project design, costs, and other considerations. If avoidance is infeasible, other appropriate measures (e.g., data recovery) may be implemented. • All significant non-tribal cultural materials recovered shall be, as necessary, and at the discretion of the consulting archaeologist, subject to scientific analysis, professional museum curation, and documentation according to current professional standards.	During construction, the project proponent and contractor shall beresponsible for notification of anydiscoveries.	Community Development Department	

Mitigation Measure	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
Mitigation Measure TCR-1: Implement Mitigation Measure CULT-1.	During site excavation, the project proponent shall be responsible for implementation of Archaeological monitoring. Monitoring shall be conducted during earthmoving activities by a qualified archaeologist. During construction, the project proponent and contractor shall be responsible for notification of any discoveries.	All archaeological monitoring and reporting measures shall be printed on all construction documents, contracts, and project plans and shall be reviewed by the Director of Community Development	Director of Community Development, Public Works & Building Department
Mitigation Measure GEO-1: The construction contractor shall incorporate the following in all grading, demolition, and construction plans: • In the event that fossils or fossil-bearing deposits are discovered during grading, demolition, or building, excavations within 50 feet of the find shall be temporarily halted or diverted. • The contractor shall notify the City of Cupertino Building Department and a City-approved qualified paleontologist to examine the discovery. • The paleontologist shall document the discovery as needed, in accordance with Society of Vertebrate Paleontology standards (Society of Vertebrate Paleontology 1995), evaluate the potential resource, and assess the significance of the finding under the criteria set forth in CEQA Guidelines Section 15064.5. • The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find.	At the construction phase, the project proponent and contractor shall be responsible for completing all improvements.	All attenuation measures shall be printed on construction documents, contracts, construction management plan, and project plans and reviewed by the Director of Public Works prior to issuance of grading and/or building permits.	City of Cupertino Public Works & Building Department

Mitigation Measure	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
• If the project applicant determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the proposed project based on the qualities that make the resource important. The excavation plan shall be submitted to the City for review and approval prior to implementation.			
Mitigation Measure NOISE-1: The following shall be incorporated in all activity phases and construction plans, as required by the Cupertino Municipal Code (CMC). Construction activities shall take place only during daytime hours of 7:00 a.m. and 8:00 p.m. on weekdays and due to the close proximity of the adjacent residential land use to the west, construction may occur on the weekends, holidays or nighttime only if a special exception has been granted by the City. In addition, the construction crew shall adhere to the following best management practices: • At least 90 days prior to the start of any construction, demolition or grading activities, all off-site businesses and residents within 300 feet of the project site will be notified of the planned activities. The notification will include a brief description of the project, the activities that would occur, the hours when activity would occur, and the construction period's overall duration. The notification should include the telephone numbers of the contractor's authorized representatives that are assigned to respond in the event of a noise or vibration complaint. • The project applicant and contractors shall prepare and submit a Construction Noise Control Plan to the City's Building Department and Code Enforcement for review and approval prior to issuance of any grading, demolition, and/or building permits. The Construction Noise Plan shall demonstrate compliance with the 80-dBA limit in the CMC. The details of the Construction Noise Control Plan, including those details listed herein, shall be	At the construction phase, the project proponent and contractor shall be responsible for completing all improvements.	All attenuation measures shall be printed on construction documents, contracts, construction management plan, andproject plans and reviewed by the Director of Public Works prior to issuance of grading and/or building permits.	City of Cupertino Public Works, and Planning and Building Department

Mitigation Measure	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
included as part of the permit application drawing set and as part of the construction drawing set, shall be implemented by the on-site Construction Manager, and shall include, but not be limited to, the following available controls to comply with the 80 dBA performance standard: • At least 10 days prior to the start of construction activities, a sign will be posted at the entrance(s) to the job site, clearly visible to the public, which includes permitted construction days and hours, as well as the telephone numbers of the City's and contractor's authorized representatives that are assigned to respond in the event of a noise or vibration complaint. If the authorized contractor's representative receives a complaint, they will investigate, take appropriate corrective action, and report the action to the City. • During the entire active construction period, equipment and trucks used for project construction will utilize the best available noise control techniques (e.g., improved mufflers, equipment re-design, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds), wherever feasible. • Include noise control requirements for equipment and tools, including concrete saws, to the maximum extent feasible. Such requirements could include, but are not limited to, erecting temporary plywood noise barriers between construction areas and nearby sensitive receptors; performing work in a manner that minimizes noise; and undertaking the noisiest activities during times of least disturbance to nearby sensitive receptors. • During the entire active construction period, stationary noise sources will be located as far from sensitive receptors as possible, and they will be muffled and enclosed within temporary sheds, or insulation barriers or other measures will be incorporated to the extent feasible.			

Mitigation Measure	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
• During the entire active construction period, noisy operations will be conducted simultaneously to the degree feasible in order to reduce the time periods of these operations. • Select haul routes that avoid the greatest amount of sensitive use areas and submit to the City of Cupertino Public Works Department for approval prior to the start of the construction phase. • Signs will be posted at the job site entrance(s), within the on-site construction zones, and along queueing lanes (if any) to reinforce the prohibition of unnecessary engine idling. All other equipment will be turned off if not in use for more than 5 minutes. • During the entire active construction period and to the extent feasible, the use of noise producing signals, including horns, whistles, alarms, and bells will be for safety warning purposes only. The construction manager will 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 in compliance with all safety requirements and laws.			
Mitigation Measure NOISE-2: Mechanical equipment shall be selected and designed to reduce impacts on surrounding uses to meet the Cupertino Municipal Code noise limits of 60 dBA and 50 dBA at residential uses during daytime and nighttime, respectively, and 65 dBA and 55 dBA at non-residential sensitive uses (i.e., the Cupertino Hotel) during daytime and nighttime, respectively. A qualified acoustical consultant shall be retained to review mechanical noise as these systems are selected to determine specific noise reduction measures necessary to reduce noise to comply with the City's noise level requirements. Mechanical equipment shall be selected and designed to reduce impacts	At the construction phase, the project proponent and contractor shall be responsible for completing all improvements.	At the construction phase, the project proponent and contractor shall be responsible for completing all improvements.	City of Cupertino Public Works, and Planning and Building Department

Mitigation Measure	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
on surrounding uses to meet the City's noise level requirements. Noise reduction measures could include, but are not limited to: • Selection of equipment that emits low noise levels; • Installation of noise dampening techniques, such as enclosures and parapet walls, to block the line-of-sight between the noise source and the nearest receptors; • Locating equipment in less noise-sensitive areas, where feasible.			
Mitigation Measure NOISE-3: If paving activity during construction is required within 25 feet of nearby residential structures, the use of a static roller in lieu of a vibratory roller shall be employed. Grading and earthwork activities within 15 feet of adjacent residential structures shall be conducted with off-road equipment that is limited to 100 horsepower or less. This mitigation measure shall be identified on the permit application drawing set and as part of the construction drawing set, and shall be implemented by the on-site Construction Manager.	At the construction phase, the projectproponent andcontractor shall beresponsible forcompleting allimprovements.	All attenuation measures shall be printed on constructiondocuments, contracts, construction management plan, andproject plans and reviewed by the Director of PublicWorks prior toissuance of grading and/or building permits.	City of Cupertino Public Works, and Planning and Building Department
Mitigation Measure UTIL-1: No building permits shall be issued by the City for the proposed Canyon Crossing Mixed-Use Project that would result in exceeding the permitted peak wet weather flow capacity of 13.8 mgd through the Santa Clara sanitary sewer system. The project applicant shall demonstrate, to the satisfaction of the City of Cupertino and Cupertino Sanitary District (CSD), that the proposed project would not exceed the peak wet weather flow capacity of the Santa Clara sanitary sewer system by implementing one or more of the following methods: 1. Reduce inflow and infiltration in the CSD system to reduce peak wet weather flows; or 2. Increase on-site water reuse, such as increased grey water use, or reduce water consumption of the fixtures used within the proposed	Prior to the issuance of any construction permit.	Demonstrate that the proposed hotel would not exceed the peak weather flow capacity of the Santa Clara sanitary sewer.	Department of Public Works and Cupertino Sanitary District

Mitigation Measure	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
project, or other methods that are measurable and reduce sewer generation rates to acceptable levels, to the satisfaction of the CSD. The proposed project's estimated wastewater generation shall be calculated using the generation rates used by the CSD in the *Flow Modeling Analysis for the Homestead Flume Outfall to the City of Santa Clara*, prepared by Mark Thomas & Co. Inc., dated December 6, 2019, unless alternative (i.e., lower) generation rates achieved by the proposed project are substantiated by the project applicant based on evidence to the satisfaction of the CSD. To calculate the peak wet weather flow for a 10-year storm event, the average daily flow rate shall be multiplied by a factor of 2.95 as required by CSD pursuant to their December 2019 flow modeling analysis.			