RESOLUTION NO. _____

A RESOLUTION OF THE CUPERTINO CITY COUNCIL ADOPTING A MITIGATED NEGATIVE DECLARATION, MITIGATION MEASURES, AND A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE DEVELOPMENT OF A NEW SEVEN (7) STORY, 155 ROOM HOTEL WITH ASSOCIATED IMPROVEMENTS LOCATED AT 10931 NORTH DE ANZA BLVD. (APN: 326-10-061)

SECTION I: PROJECT DESCRIPTION

Application No.:	EA-2018-03
Applicant:	De Anza Properties (Sherly Kwok)
Property Owner:	Northwest Properties, LP
Location:	10931 N De Anza Blvd. (APN #326-10-061)

SECTION II: ENVIRONMENTAL REVIEW PROCESS

WHEREAS, the City of Cupertino received an application on March 20, 2018 for a General Plan Amendment, Development Permit, Development Agreement, Architectural and Site Approval Permit, and Use Permit, to allow the development of a new 7-story, 155 room hotel 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 (State Clearinghouse No. 2019079010) ("IS/MND") for the De Anza Hotel Project ("Project"); and

WHEREAS, the Project is described in the July 2, 2019 "Public Draft Initial Study for The De Anza Hotel Project ("Draft IS/MND"); and

WHEREAS, on June 28, 2019 the City issued a Notice of Intent to Adopt a Mitigated Negative Declaration; and

WHEREAS, on June 28, 2019 the IS/MND for the project was distributed to responsible agencies and the public for review and comment for a 30-day period that ended July 29, 2019; and

WHEREAS, the IS/MND concluded that significant environmental effects on Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Greenhouse Gas Emissions,

Noise, Tribal 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 August 1, 2019, 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-2018-03) 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, on December 10, 2019, 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 4-0 vote (Saxena Absent), 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, following the close of the comment period on the IS/MND the City received 10 letters and emails containing comments on the Draft IS/MND; and

WHEREAS, text revisions made after publication of the Draft IS/MND, which are found in the December 5, 2019 and February 20, 2020 Cupertino De Anza Hotel Project Initial Study and Mitigated Negative Declaration Responses to Comments Memos, merely clarify, amplify or make insignificant modifications to the IS/MND, and recirculation of the IS/MND is not required; 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 March 3, 2020 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 Bay Area Air Quality Management District best management practices for reducing construction emissions of fugitive dust (PM_{10} and $PM_{2.5}$):

    - 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 or require all trucks to maintain at least 2 feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).
- 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.
- Install sandbags or other erosion control measures to prevent silt runoff from public roadways.

Mitigation Measure AQ-2: Prior to issuance of any grading, demolition and/or building permits, the construction contractor(s) shall demonstrate the following, during construction, on all plans:

- The use of construction equipment fitted with Level 3 Diesel Particulate Filters for all equipment of 50 horsepower or more.
- Maintain a list of all operating equipment in use on the project site for verification by the City of Cupertino Building Division official or his/her 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 manufacturer recommendations.
- Ensure that all construction plans submitted to the City of Cupertino Planning Department and/or Building Division clearly show the requirement for Level 3 Diesel Particulate Filters emissions standards for construction equipment over 50 horsepower.
- 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 California Air Resources Board Rule 2449 and is responsible for ensuring that this requirement is met.

b. <u>BIOLOGICAL RESOURCES</u>

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 of 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. 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 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.

c. CULTURAL RESOURCES

Mitigation Measure CULT-1: 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 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 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.

d. TRIBAL CULTURAL RESOURCES

Mitigation Measure TCR-1: Implement Mitigation Measure CULT-1.

e. 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

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.

f. GREENHOUSE GAS EMISSIONS

Mitigation Measure GHG-1: The project applicant shall offset a minimum of 173 metric tons metric tons of carbon dioxide-equivalent (MTCO2e) emissions per year for a period of 30 years (5,190 MTCO2e) through the purchase of voluntary carbon offsets (i.e., not compliance offsets) from the California Air Resources Board (CARB) approved Offset Project Registries (i.e., Climate Action Reserve, Verra, American Carbon Registry) or forecasted mitigation units (FMUs) (GHG Mitigation Credits) from the Climate Action Reserve's Climate Forward program. The voluntary carbon offsets or FMUs must be real, additional, permanent, confirmable, and enforceable. The order of preference for purchase of voluntary carbon offsets or FMUs shall be as follows: 1) within the City; 2) within the San Francisco Bay Area Air Basin; 3) within the State of California; then 4) elsewhere in the United States. Evidence of payments, and funding of an escrow-type account or endowment fund shall be submitted to the City by the project applicant. Prior to issuance of the certificate of occupancy, the project applicant shall submit to the City of Cupertino Building Division official or his/her designee, the necessary documentation to verify the agreement to purchase the necessary voluntary carbon offsets or FMUs to offset project emissions to below 1,100 MTCO2e per year.

g. NOISE

Mitigation Measure NOISE-1: The following shall be incorporated in all demolition, grading, and construction plans, as required by the CMC, Construction activities shall take place only during daytime hours of 7:00 a.m. and 8:00 p.m. on weekdays, and 9:00 a.m. to 6:00 p.m. on weekends. In addition, the construction crew shall adhere to the following best management practices shall be observed:

- At least 90 days prior to the start of construction activities, all offsite businesses and residents within 300 feet of the project site will be notified of the planned construction activities. The notification will include a brief description of the project, the activities that would occur, the hours when construction would occur, and the construction period's overall duration. The notification should include 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.

- 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, he/she 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 areas where concrete saws will be used 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.

h. UTILITIES AND SERVICES MITIGATION MEASURE

Mitigation Measure UTIL-1: No building permits shall be issued by the City for the proposed De Anza Hotel 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 may demonstrate, to the satisfaction of the City of Cupertino and Cupertino Sanitary District (CSD), that the proposed hotel 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.
3. 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 this 3rd day of March 2020, at a Regular Meeting of the City Council of the City of Cupertino, State of California, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

SIGNED: _____ Steven Scharf, Mayor City of Cupertino	_____ Date
ATTEST: _____ Kirsten Squarcia, City Clerk	_____ Date

Mitigation Monitoring and Reporting Program

De Anza Hotel

10931 North De Anza Blvd.,
APN: 326-10-061
January 2020

Mitigation Measure	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
Mitigation Measure AQ-1: The project's construction contractor shall comply with the following Bay Area Air Quality Management District best management practices for reducing construction emissions of fugitive dust (PM10 and PM2.5): • 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 or require all trucks to maintain at least 2 feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer). • 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. • 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
Mitigation Measure AQ-2: Prior to issuance of any grading, demolition and/or building permits, the construction contractor(s) shall demonstrate the following, during construction, on all plans: • The use of construction equipment fitted with Level 3 Diesel Particulate Filters for all equipment of 50 horsepower or more. • Maintain a list of all operating equipment in use on the project site for verification by the City of Cupertino Building Division official or his/her 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 manufacturer recommendations. • Ensure that all construction plans submitted to the City of Cupertino Planning Department and/or Building Division clearly show the requirement for Level 3 Diesel Particulate Filters emissions standards for construction equipment over 50 horsepower. • 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 California Air Resources Board 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 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 of 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	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.	Community Development Department

Mitigation Measure	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
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. 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 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	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
Mitigation Measure CULT-1: 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 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 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 site excavation, the project proponent shall be responsible for implementation ofArchaeological monitoring. Monitoring shall be conducted during earthmoving activities by a qualified archaeologist. During construction, the project proponent and contractor shall beresponsible for notification of anydiscoveries.	All archaeologicalmonitoring andreporting measures shallbe included inall construction documents, and construction management plans, contracts, andproject plans and shall be reviewed by the CommunityDevelopment Department	Community Development Public Works & Building Department
Mitigation Measure TCR-1: Implement Mitigation Measure CULT-1.	During site excavation, the project proponent shall be	All archaeologicalmonitorin	Director of CommunityDevelopm

Mitigation Measure	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
	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.	g andreporting measures shallbe printed onall construction documents, contracts, andproject plans and shall be reviewed by the Director ofCommunityDevelopment	ent, 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. • If the project applicant determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project based on the qualities that make the resource	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
important. The excavation plan shall be submitted to the City for review and approval prior to implementation.			
Mitigation Measure GHG-1: The project applicant shall offset a minimum of 173 metric tons metric tons of carbon dioxide-equivalent (MTCO2e) emissions per year for a period of 30 years (5,190 MTCO2e) through the purchase of voluntary carbon offsets (i.e., not compliance offsets) from the California Air Resources Board (CARB) approved Offset Project Registries (i.e., Climate Action Reserve, Verra, American Carbon Registry) or forecasted mitigation units (FMUs) (GHG Mitigation Credits) from the Climate Action Reserve's Climate Forward program. The voluntary carbon offsets or FMUs must be real, additional, permanent, confirmable, and enforceable. The order of preference for purchase of voluntary carbon offsets or FMUs shall be as follows: 1) within the City; 2) within the San Francisco Bay Area Air Basin; 3) within the State of California; then 4) elsewhere in the United States. Evidence of payments, and funding of an escrow-type account or endowment fund shall be submitted to the City by the project applicant. Prior to issuance of the certificate of occupancy, the project applicant shall submit to the City of Cupertino Building Division official or his/her designee, the necessary documentation to verify the agreement to purchase the necessary voluntary carbon offsets or FMUs to offset project emissions to below 1,100 MTCO2e per year.	Project proponent is responsible during construction of the project to purchase the voluntary carbon offsets.	Provide to City Staff proof of purchase of said offsets.	City of Cupertino Planning and Building Department
Mitigation Measure NOISE-1: The following shall be incorporated in all demolition, grading, and construction plans. Construction activities shall take place in compliance with CMC Chapter 10.48. In addition, the construction crew shall adhere to the following best management practices shall be observed: • At least 90 days prior to the start of construction activities, all offsite businesses and residents within 300 feet of the project site will be notified of the planned construction activities. The notification will include a brief description of the project, the activities that would occur, the hours when construction would occur, and the	At the constructionphase, the projectproponent andcontractor shall beresponsible forcompleting allimprovements.	All attenuation measures shallbe printed on constructiondocuments, contracts, construction management plan, andproject plans and reviewed by the Director of PublicWorks prior	City of Cupertino Public Works, and Planning and Building Department

Mitigation Measure	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
construction period's overall duration. The notification should include 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. • The project applicant and contractors will prepare a Construction Noise Control Plan prior to issuance of any grading, demolition, and/or building permits. The details of the Construction Noise Control Plan, including those details listed herein, will be included as part of the permit application drawing set and as part of the construction drawing set. • 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, he/she 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 areas where concrete saws will be used 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.		toissuance of grading and/or building permits.	

Mitigation Measure	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
• 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 UTIL-1: No building permits shall be issued by the City for the proposed De Anza Hotel 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 may demonstrate, to the satisfaction of the City of Cupertino and Cupertino Sanitary District (CSD), that the proposed hotel 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:	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
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. 3. 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.			