

Program EIR Checklist Pursuant to Guideline 15168

CEQA Guideline 15168(c)(4) recommends using a written checklist or similar device to confirm whether the environmental effects of a subsequent activity were adequately covered in a program EIR. This checklist confirms that the Harmony Project is within the scope of the Transit Area Specific Plan EIR (“TASP EIR”) and will have no new significant environmental impacts, and as such, no further environmental analysis is required. Pursuant to Public Resources Code section 21166 and CEQA Guideline 15168, it would be inappropriate for the City to conduct further environmental analysis.

ENVIRONMENTAL IMPACTS

I. AESTHETICS

Aesthetics	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No New Impact
Would the Project:				
1) Have a substantial adverse effect on a scenic vista?				X
2) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				X
3) Substantially degrade the existing visual character or quality of the site and its surroundings?				X
4) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?				X

Discussion: As a general matter, the TASP EIR found that the Specific Plan is aimed at improving the aesthetic value of the area. The primary potentially significant impact to scenic resources identified in the TASP EIR was the potential for 12 to 24 story buildings along Montague Expressway to block views of the foothills. The TASP EIR found, however, that the numerous design-related policies in the Specific Plan ensure that aesthetic impacts are less than significant.

The Specific Plan envisions this area to incorporate High Density Residential and Mixed Uses. The Harmony Project would demolish the existing buildings, grade and prepare the 12.3 acre site for 276 single family attached homes and condos. The townhomes and condos will stand between three and four stories high, not to exceed 50 feet in height, and have a mixed variety of styles that complement one another. The 50 foot height limit is significantly less than what was assumed in the TASP EIR and will not pose the same threat to views of the foothills. The style and materials proposed for the new homes are consistent with the Specific Plan and will be complementary to the approved project to the North and future development.

One change from what was assumed in the TASP EIR is that some trees will be removed that were not identified for removal in the TASP EIR. However, any tree removal will be conducted in compliance with City ordinance, including the on-site replacement of trees at a 3.66:1 ratio. Because the Harmon Project will result in a significant increase in the number of trees, this is not a significant impact on aesthetic resources.

The TASP EIR discusses the potential for significant impacts resulting from the introduction of new light and glare in the area. However, it concludes that the Specific Plan Development Standards relating to lighting minimize light and glare impacts. The Harmony Project is consistent with all Specific Plan Development Standards relating to light and glare and will not cause new light and glare impacts. To the contrary, due to the reduced size of the Project, the light and glare impacts will be less than what was analyzed in the TASP EIR.

Because the Harmony Project is generally consistent with the type of development analyzed in the TASP EIR, it reduces the height of the buildings from what was assumed in the TASP EIR, it is consistent with the various Specific Plan policies relating to aesthetics, and it will greatly increase the number of trees, there is **no new impact** on visual resources.

Conclusion: *The TASP EIR adequately covered the aesthetic impacts of the Harmony Project.*

II. AGRICULTURAL RESOURCES

Agricultural Resources	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No New Impact
Would the Project:				
1) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X

2) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
3) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?				X

Discussion: Converting industrial land to mixed-use residential has no impact on agricultural or forest resources. The Harmony Project has **no new impact** on agricultural resources.

Conclusion: *The TASP EIR adequately covered the agricultural impacts of the Harmony Project.*

III. AIR QUALITY

Air Quality	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No New Impact
Would the Project:				
1) Conflict with or obstruct implementation of the applicable air quality plan?				X
2) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?				X
3) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors?				X
4) Expose sensitive receptors to substantial pollutant concentrations?				X

5) Create objectionable odors affecting a substantial number of people?				X
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Discussion: The TASP EIR contained extensive analysis of the air quality impacts relating to the buildout of the Specific Plan. The TASP EIR summarizes the air quality impacts as follows:

Air quality impacts resulting from the implementation of the proposed Specific Plan fall into two categories: short-term impacts due to construction and long-term impacts due to operation. Construction activities pursuant to development under the Specific Plan would affect local particulate concentrations primarily due to fugitive dust sources and an increase in other criteria pollutant emissions from equipment exhaust.

Over the long-term, the full implementation of the proposed Specific Plan would result in an increase in criteria pollutant emissions primarily due to related motor vehicle trips. Stationary sources and area sources would result in lesser quantities of criteria pollutant emissions. These pollutant emissions would add to the regional pollution burden and conflict with the implementation of the 2005 Ozone Strategy. Stationary sources and diesel-fueled mobile sources would also generate emissions of TACs [toxic air emissions] including diesel particulate matter that could pose a health risk.

TASP EIR, at 3.6-14.

The TASP EIR analyzed whether the Specific Plan is consistent with the Bay Area Air Quality Management District’s Clean Air Plan. The TASP EIR notes that while the average vehicle miles traveled by future residents of the Specific Plan area will be lower than the rate of increase of population, because the population growth expected under the Specific Plan is greater than was assumed in the Clean Air Plan, the impact is significant and unavoidable. The TASP EIR identifies numerous policies in the General Plan and Specific Plan that will reduce the impact. Because the Harmony Project (1) reduces the density and intensity of use for the property when compared to what was assumed in the TASP EIR and (2) is consistent with the various air quality policies identified in the TASP EIR, it will have no new impact on any applicable air quality plan.

The TASP EIR found that the Specific Plan, as implemented through its various policies that promote transit-oriented, pedestrian-friendly development, is consistent with the Transportation Control Measures in the 2005 Bay Area Ozone strategy. The Harmony Project is consistent with the identified policies and the overall vision for high-density residential development in close proximity to existing and planned transit. As a result, the Harmony Project will have no new impact on Transportation Control Measures.

The Specific Plan addresses criteria pollutant emissions and toxic air contaminants (TACs) from construction and demolition activities by requiring implementation of control measures, as recommended by the Bay Area Air Quality Management District. The Specific Plan also

includes a policy to inform residents of the potential for exposure to TACs and their related health effects. The Harmony Project will be developed consistent with these policies.

The TASP EIR analyzed the Specific Plan's long-term impact on localized air quality from increases in traffic. The analysis projected no violations of State and federal ambient carbon monoxide standards, under various scenarios. Increases in traffic volume and congestion from development pursuant to the Specific Plan would be off-set in part by lower projected background carbon monoxide levels. The Harmony Project contemplates a reduced intensity and density of use compared to the levels analyzed in the TASP EIR, resulting in fewer vehicle miles traveled and less energy consumption. Therefore, the air quality impact from traffic will be less than projected in that analysis.

The TASP EIR analyzes the impact of TACs on sensitive receptors, such as future residents of the Harmony Project, and finds that compliance with Policy 5.25 will ensure that TAC related impacts are less than significant. Policy 5.25 requires that new residential development within 500 feet of active rail lines or heavily-used roadways prepare an analysis of TAC impacts, and implement measures as required, such as upgraded ventilation systems. ENVIRON prepared a Cancer Risk Analysis dated October 19, 2011 and found that TAC impacts are below the level of significance recommended by BAAQMD after implementing vegetative barriers along the perimeter of the site and installing MERV-13 or equivalent filters on both the air intake and recirculation for certain units. ENVIRON also noted that its analysis represents the worst case scenario and refined modeling to account for the shielding effect of buildings may show that fewer units require filtration. Further, ENVIRON noted that the analysis assumes occupancy in 2014, but that diesel exhaust emissions will be reduced in later years as more stringent regulations are implemented, so fewer units may require filtration if occupancy occurs at a later date.

Because the Harmony Project is consistent with the type of development analyzed in the TASP EIR, it reduces the density and intensity of development from what was assumed in the TASP EIR, and it is consistent with the various Specific Plan policies relating to air quality, there is **no new impact** on air quality.

Conclusion: *The TASP EIR adequately covered the air quality impacts of the Harmony Project.*

IV. BIOLOGICAL RESOURCES

Biological Resources	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No New Impact
Would the Project:				
1) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X
2) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X
3) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
4) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?				X
5) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X

Biological Resources	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No New Impact
6) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				X

Discussion: The TASP EIR found that the Specific Plan would generally have minimal impacts on biological resources because the vast majority of the planning area, including the area of the Harmony Project, is already developed. There are no identified sensitive habitats in the planning area. With the exception of one species, special status species recorded in the area have been extirpated. Building out the planning area in a manner consistent with the Specific Plan could result in filling wetlands, loss or degradation of riparian habitats, and loss of non-listed bird habitats by removing trees. However, numerous policies in the General Plan and Specific Plan ensure that the impact on biological resources is less than significant.

The only special status species recorded on the planning area is the burrowing owl, a California Species of Special Concern, protected under State law. The TASP EIR notes that development of vacant lots could result in a loss of burrowing owls or their nests. Because the Harmony Project site is fully developed and covered by buildings and a parking lot, it does not provide habitat for burrowing owls.

The TASP EIR addresses the impact of removing trees for buildout of the Specific Plan. Trees provide habitat for nesting birds and have biological value. The Tree and Planting Ordinance of the City of Milpitas protects significant trees, requiring a permit for their removal. The Harmony Project includes the removal of trees that were not identified for removal in the TASP EIR. There are approximately 187 trees on the development site, including 55 that are protected under the City’s Tree Ordinance, including a row of trees that line McCandless Drive. Specific Plan Policy 4.59 recommends retaining the trees that line McCandless Drive, if feasible. Maintenance of the current tree line is not feasible due to utilities and streetscape infrastructure requirements for the area and development characteristics. While the Harmony Project includes the removal of more trees than were contemplated in the TASP EIR, in conformance with the City’s Tree Ordinance, the Project includes the planting of 685 new trees onsite and an additional 52 trees along the City Trail, a 3.66:1 planting ratio. Tree removal will also comply with all City requirements to minimize impacts on biological resources during removal. This significant increase in the number of trees, both onsite and offsite, will ensure that there are no new significant impacts on biological resources, including to nesting birds.

The TASP EIR also addresses the impact that development could have on wetlands and other waters associated with the Penitencia and Berryessa Creeks. These impacts include direct impacts of temporary or permanent loss due to filling or indirect impacts from water quality

degradation, lighting, introduction and spread of invasive exotic species, and increased human activity. The General Plan requires all new development on or adjacent to the Penitencia and Berryessa to comply with City standards and obtain applicable permits. The Harmony Project will have no direct impact on Penitencia Creek and it meets setback requirements for all structures.

The Specific Plan includes a 25-foot setback requirement to help minimize and avoid direct impacts to wetlands and other waters. All structures within the Harmony Project meet this requirement. The shared bicycle pedestrian trail will be setback a minimum of 15 feet from the top of the Penitencia Creek bank. The TASP EIR assumed creek access trails would be located within the 25 foot setback area. *See* Specific Plan, Figure 5-23(G); TASP EIR, pg. 3.8-9 (noting that the 25 foot setback allows room “for creation of a public trail”). The Harmony Project will have no greater impact on Penitencia Creek than was analyzed in the TASP EIR.

Apart from the removal of trees along McCandless Drive, the Harmony Project is consistent with the type of development analyzed by the TASP EIR. Because tree removal will be conducted in conformance with the City’s Tree Ordinance and replace trees at a 3.66:1 planting ratio, there is **no new impact** on biological resources.

Conclusion: *The TASP EIR adequately covered the biological impacts of the Harmony Project.*

V. CULTURAL RESOURCES

Cultural Resources	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No New Impact
Would the Project:				
1) Cause a substantial adverse change in the significance of an historical resource as defined in §15064.5?				X
2) Cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5?				X
3) Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?				X
4) Disturb any human remains, including those interred outside of formal cemeteries?				X

Discussion: The TASP EIR found the potential impact of the development of the planning area on cultural resources, including historic, archeological, and paleontological resources and human remains, was less than significant. The primary impact that could occur would be disturbance of cultural resources during grading and development of the property. Based on an evaluation conducted by the Northwest Information Center at Sonoma State University, uncovering and identifying archaeological deposits in the planning area is a reasonable possibility. The TASP EIR concluded that national, state, local laws and policies in the General Plan, Midtown Plan, and Specific Plan would reduce the potential impacts on known or undiscovered cultural resources to less than significant levels.

There are no known historic or cultural resources associated with the Harmony Project. Further, the Harmony Project will be carried out consistent with the policies identified in the TASP EIR, which will ensure that impacts are reduced to a less than significant level in the event that construction uncovers cultural resources. Because the Harmony Project is consistent with the general type of development analyzed in the TASP EIR and be consistent with all policies, there are **no new impacts** on cultural resources.

Conclusion: *The TASP EIR adequately covered the cultural resource impacts of the Harmony Project.*

VI. GEOLOGY AND SOILS

Geology and Soils	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No New Impact
Would the Project:				
1) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving (a-d below):				X
a) Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.)				X

Geology and Soils	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No New Impact
b) Strong seismic ground shaking?				X
c) Seismic-related ground failure, including liquefaction?				X
d) Landslides?				X
2) Result in substantial soil erosion or the loss of topsoil?				X
3) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X
4) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?				X
5) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?				X

Discussion: The TASP EIR found that the primary potential geologic and soil impacts for proposed structures and infrastructure in the planning area are seismic activity and soil erosion. While Santa Clara County is a highly seismically-active area, the analysis notes that “seismic-related ground shaking is an unavoidable hazard in the San Francisco Bay Area.” The planning area is not located within an Earthquake Fault Hazard Zone. Therefore surface rupture is unlikely. Because the surface topography is relatively level, slope instability hazards are minimal.

The TASP EIR finds that potential impacts from seismic activity and soil erosion are reduced by state building codes and construction standards that require structures to be built to protect

against collapse and injury. The Harmony Project will be designed and constructed in accordance with these requirements.

The TASP EIR also considers the increased demand that buildout as contemplated by the Specific Plan would place on emergency service providers in the event of large seismic activity. The TASP EIR concludes that General Plan and Specific Plan policies ensure that there are adequate fire, police, and emergency services in such event. Further, because the Harmony Project plans fewer units and less development than contemplated by the Specific Plan, the potential vulnerability to seismic hazards and the need for emergency services are less than was addressed in the TASP EIR.

Because the Harmony Project is generally consistent with the type of development analyzed in the TASP EIR, it reduces the height and density of buildings from what was assumed in the TASP EIR, and is consistent with various General Plan and Specific Plan policies relating to building standards and emergency service needs, there is **no new impact** on geology and soil resources.

Conclusion: *The TASP EIR adequately covered the geology and soil impacts of the Harmony Project.*

VII. GREENHOUSE GAS EMISSIONS

Greenhouse Gas Emissions	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No New Impact
Would the Project:				
1) Does the project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?				X
2) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?				X

Discussion: The TASP EIR found that the primary sources of greenhouse gas emissions related to development of the planning area will be combustion of fossil fuels by motor vehicles and from electric power generation. Construction from buildout of the Specific Plan would also involve short-term increases in greenhouse gas emissions. However, the Specific Plan's high-density, transit-oriented land use creates development patterns that potentially reduce energy consumption, vehicle miles traveled, and therefore, greenhouse gas emissions.

The TASP EIR identifies numerous Specific Plan policies to reduce the impacts of greenhouse gas emissions associated with growth: establishing and implementing a travel demand management program to encourage alternate modes of transportation, providing pedestrian and bike routes, providing continuous bicycle circulation routes, requiring provision of bicycle and pedestrian facilities, and requiring new development to facilitate the use of alternate modes of transportation through various programs. Regarding electricity consumption, the TASP EIR found that the increase in total demand for electrical energy as a result of the Specific Plan will be reduced to less than significant levels by requiring compliance with various energy efficiency policies.

The Harmony Project conforms to the Specific Plan and promotes reductions in greenhouse gas emissions through high-density development in close proximity to transit. Additionally, while the project intends to remove existing trees, planting new trees at a 3.66:1 ratio will off-set greenhouse gas emissions. Further, the Harmony Project proposes less density and intensity of development than was assumed in the TASP EIR, resulting in fewer vehicle miles travelled and less energy consumption. Therefore, the Harmony Project has **no new impact** on greenhouse gas emissions and no further analysis is required.

Although the TASP EIR covers this issue and no further analysis is required pursuant to CEQA Guideline 15168, ENVIRON conducted an analysis of the Harmony Project’s construction-related and long-term greenhouse gas emissions to assess compliance with the latest thresholds of significance recommended by the Bay Area Air Quality Management District (“BAAQMD”). Using the most current methodologies and models, ENVIRON found that the Harmony Project’s operational greenhouse gas emissions will be 3.5 metric tons (MT) of CO₂e per service person (SP) per year, below BAAQMD’s threshold of 4.6 MT per SP per year. Therefore, not only does the Harmony Project have no new significant greenhouse gas related impacts pursuant to CEQA Guideline 15168, but also when viewed as a stand alone project using BAAQMD’s latest guidance, the impact is less than significant.

Conclusion: *The TASP EIR adequately covered the greenhouse gas emissions impacts of the Harmony Project.*

VIII. HAZARDS AND HAZARDOUS MATERIALS

Hazards and Hazardous Materials	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No New Impact
Would the Project:				
1) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				X

2) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				X
3) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
4) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X
6) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
7) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?				X
8) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				X

Discussion: The TASP EIR found that past and present land uses of the planning area, reported hazardous material releases and spills, and existing soil and groundwater contamination could lead to potential impacts during construction and afterward. The TASP EIR concluded that any impact from potential exposure during construction can be reduced to a level of less than significant through compliance with Specific Plan policies, including Policy 5.21, which requires applicants to submit information to the City regarding asbestos-containing building materials, PCBs, and lead-based paint in existing buildings proposed for demolition. The proposed project will comply with Policy 5.21. The potential for exposure to ACM and LBP has been adequately analyzed in the TASP EIR and is not new information.

The TASP EIR notes that the land uses proposed by the Specific Plan would likely reduce the quantities of hazardous materials in the planning area as compared to previous uses, reducing the risk to individuals. Transportation of hazardous materials would also have to comply with Department of Transportation regulations and programs and ordinances administered by the Milpitas Fire Department and Santa Clara County Department of Environmental Health. The Harmony Project is consistent with the overall vision of transforming the area from industrial uses to a new, transit-oriented, mixed-use neighborhood.

Tetra Tech performed a Phase I and Phase II report for the property and did not identify any issues. Analytical results from soil and groundwater samples collected from soil borings indicated that no chemicals of concern were detected at concentrations exceeding laboratory method detections limits or state action levels for residential land use.

A Hazardous Materials Survey performed by Tetra Tech for the proposed project site indicated that existing buildings contain some asbestos-containing building materials and lead-based paint. The TASP EIR found that compliance with Policy 5.21 reduces asbestos-containing materials and lead based paint impacts to a less than significant level. Because the Harmony Project will comply with Specific Plan policies, including Policy 5.21, there is **no new impact** on hazards and hazardous materials.

Conclusion: *The TASP EIR adequately covered the hazards and hazardous materials impacts of the Harmony Project.*

IX. HYDROLOGY AND WATER QUALITY

Hydrology and Water Quality	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No New Impact
Would the Project:				
1) Violate any water quality standards or waste discharge requirements?				X
2) Substantially deplete groundwater supplies or interfere				X

Hydrology and Water Quality	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No New Impact
substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?				
3) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?				X
4) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?				X
5) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?				X
6) Otherwise substantially degrade water quality?				X
7) Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				X

Hydrology and Water Quality	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No New Impact
8) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				X
9) Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?				X
10) Be subject to inundation by seiche, tsunami, or mudflow?				X

Discussion: The TASP EIR found that the Specific Plan will have a minimal impact on the hydrology and water quality of the planning area. The analysis identified potential impacts related to stormwater runoff, but concluded that they will be reduced to less than significant levels through the implementation of General Plan and Specific Plan policies.

Increased erosion and sedimentation from project construction could increase turbidity and decrease water quality in adjacent water courses. There is also a potential for the release of chemicals from construction sites into surface waterways and groundwater.

The TASP EIR found that the implementation of General Plan and Specific Plan policies would reduce these water quality impacts. Specifically, construction would be subject to National Pollutant Discharge Elimination System (NPDES) requirements, implemented through Chapter 16 of the City’s Zoning Ordinance. Also, construction projects would be required to prepare a Stormwater Pollution Prevention Plan (SWPPP), which would reduce or eliminate impacts on surface water quality during construction. Projects are also required to prepare a Stormwater Control Plan, which require implementing Best Management Practices (BMPs) to control stormwater peak flows and pollutant levels.

The TASP EIR notes that while the change in land use from industrial to residential and commercial uses will result in a larger number of residents and increased traffic, replacing impervious surfaces with landscaped areas and parks will actually reduce stormwater runoff. The TASP EIR concluded that none of the existing stormwater drainage pipelines will require expansion. The project site currently fully developed with industrial buildings and a parking lot. The Harmony Project includes greater landscaping elements and will comply with current C.3 requirements, including the use of vegetated bioswales. The use of state of the art stormwater management techniques and increased landscaping will minimize stormwater impacts when compared to existing conditions.

The TASP EIR found that the Specific Plan is not expected to affect groundwater level, in part because the planning area is almost fully developed. Nor will the Specific Plan substantially alter the course of a stream or river to cause substantial erosion or siltation. Drainage patterns will remain essentially unchanged. Because the Harmony Project conforms to the Specific Plan, there is **no new impact** on hydrology and water quality.

Conclusion: *The TASP EIR adequately addressed the hydrology and water quality impacts of the Harmony Project.*

X. LAND USE

Land Use	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No New Impact
Would the Project:				
1) Physically divide an established community?				X
2) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?				X
3) Conflict with any applicable habitat conservation plan or natural community conservation plan?				X

Discussion: The TASP EIR found that the Specific Plan’s change from primarily industrial and office uses to high-density, transit-oriented residential and commercial uses will generally improve community connectivity. Rather than dividing an established community, the Specific Plan will create street and trail connections and pedestrian bridges across major thoroughfares. No habitat conservation plans or natural community conservation plans exist with which the Specific Plan or the Harmony Project might conflict.

The proposed project contains two components: rezoning and development. The proposed rezoning includes General Plan, Zoning, and Specific Plan Amendments to rezone 13.16 acres from “Mixed Use Very High Density (MXD3)” to “Multi-Family High Density (R3),” update the

Parks Master Plan Area Map for location of the proposed park, and rezone 10.87 acres from “Multi-Family High Density (R3)” to “Parks and Open Space (POS).” The TASP EIR notes that the General Plan, Specific Plan, and Zoning Ordinance will need to be amended to ensure consistency. The TASP EIR also found that the proposed uses will be more compatible with the adjacent residential and commercial uses than are the existing uses. The Specific Plan includes streets, landscaped areas, parks, and linear parks that create buffers between different types of land uses, minimizing conflicts with established development. Additionally, the Specific Plan includes development standards for setbacks and building location and placement that will reduce the impact of interactions between adjacent potentially incompatible uses.

Because the land use impacts of the Harmony Project are consistent with the impacts addressed in the TASP EIR, there is **no new impact** on land use.

Conclusion: *The TASP EIR adequately covered the land use impacts of the Harmony Project.*

XI. MINERAL RESOURCES

Mineral Resources	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No New Impact
Would the Project:				
1) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
2) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X

Discussion: There are no known mineral resources in the planning area and no mineral excavation sites are within the planning area. Therefore, the Harmony Project has **no new impact** on mineral resources.

Conclusion: *The TASP EIR adequately covered the mineral resource impacts of the Harmony Project.*

XII. NOISE

Noise	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No New Impact
Would the Project:				
1) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?				X
2) Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?				X
3) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?				X
4) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?				X
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X
6) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X

Discussion: The TASP EIR analyzes (1) the temporary noise impacts associated with construction from buildout of the Specific Plan and (2) the long-term noise impacts from increases in roadside noise levels and the addition of land uses more sensitive to ambient noise

levels. Groundborne noise and vibration could also result from the trains and future BART activity. The TASP EIR concludes that noise-related policies in the General Plan and Specific Plan ensure that these impacts are less than significant.

General Plan Policy 6-I-2 requires that projects within “conditionally acceptable” or “normally unacceptable” exterior noise exposure areas prepare an acoustical analysis and implement measures to reduce noise to acceptable levels. According to the TASP EIR, compliance with this and other noise related policies reduces noise impacts to a less than significant level. In compliance with General Plan Policy 6-I-2, a Noise and Vibration Study was conducted in 2011 by Charles M. Salter Associates, Inc., analyzing noise from freight rail operations, light rail operations, and vehicle traffic near the project site. The Noise and Vibration Study found that by including sound rated assemblies at some exterior building facades, interior noise would be at acceptable levels. Pursuant to General Plan Policy 6-I-2, the project will include measures identified in the Noise and Vibration Study.

Construction activity would occur intermittently throughout the implementation period of the Specific Plan, resulting in temporary, localized adverse noise impacts. The TASP EIR concludes that construction would be less than significant through the implementation of several policies. For instance, General Plan Policy 6-1-13 restricts hours of operation for construction activities to minimize impacts. The Specific Plan includes a policy that applicants demonstrate that construction noise impacts have been mitigated to the extent feasible, pursuant to the City’s Noise Abatement Ordinance. Because the Harmony Project conforms to the Specific Plan, the project’s construction would result in no new noise impacts beyond those analyzed in the TASP EIR. In fact, the reduced size of the Harmony Project should result in less construction, and therefore fewer construction-related noise impacts.

Because the TASP EIR fully addressed noise impacts relating to development in this area and the proposed project is consistent with the policies and mitigation measures in the TASP EIR, the Harmony Project has **no new impact** on noise and no further analysis is required.

Conclusion: *The TASP EIR adequately covered the noise impacts of the Harmony Project.*

XIII. POPULATION AND HOUSING

Population and Housing	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No New Impact
Would the Project:				
1) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other				X

infrastructure)?				
2) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
3) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?				X

Discussion: The TASP EIR addresses the population and growth impacts of the Specific Plan. The proposed Specific Plan assumes that approximately 7,100 units of residential development will be built in multi-family structures, housing approximately 18,000 new residents near transit. At buildout, the TASP EIR estimates a population of up to 19,094. This represents a significant increase in the population of the City, the Midtown Plan area, and the planning area. Population increase from the buildout of the Specific Plan would account for roughly 69 percent of the citywide growth that is assumed under 2030 projections by the Association of Bay Area Governments (ABAG). The TASP EIR notes that the Midtown Plan area, which includes the Specific Plan planning area, is the primary growth area within the City, and thus it is reasonable to expect that citywide population growth would be concentrated here. Apart from the direct impact of population increases, job increases from development under the Specific Plan may impact housing and retail demand in other areas. The TASP EIR recognizes, however, that long-term changes in economic and population growth are often regional in scope, influenced by state, national, and global economic conditions. Thus, it is difficult to accurately assess the growth impacts of the proposed Specific Plan.

The TASP EIR found that the population and growth impacts associated with the Specific Plan are adequately addressed by programs of the City’s Housing Element, which has been certified by the State Department of Housing and Community Development. Housing Element policies can also be modified, extended, or supplements as needed to continue to respond to meet housing needs.

Because the Harmony Project proposes fewer residential units and fewer residents than the amount analyzed in the TASP EIR, the project will result in fewer population and housing impacts. Therefore, **no new impacts** are expected.

Conclusion: *The TASP EIR adequately covered the population and housing impacts of the Harmony Project.*

XIV. PUBLIC SERVICES

Public Services	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No New Impact
Would the Project:				
1) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services (a-e below):				
a) Fire Protection?				X
b) Police Protection?				X
c) Schools?				X
d) Parks?				X
e) Other Public Facilities?				X

Discussion: The TASP EIR addressed the impact of the Specific Plan on public service and safety resource needs in the city, including schools, fire protection, police services, and parks.

The planning area contains portions of three school districts: the Milpitas Unified School District (MUSD), Berryessa Union School District, and East Side Union School District. The TASP EIR estimated the impact that the Specific Plan’s anticipated addition of 18,000 new residents will have on the expected student population of the three school districts. The TASP EIR concluded that buildout of the Specific Plan will require at least one new elementary school and expansions of existing facilities.

Numerous General Plan and Specific Plan policies will reduce the impact on schools to less than significant levels, including coordination with the three school districts to update their comprehensive facilities plans, updating school fees for developers, and considering joint use agreements for potential shared facilities. The TASP EIR also notes that the Specific Plan

includes a policy that the applicants pay school impact fees pursuant to State Government Code 65995 to 65998, which is the exclusive means of offsetting development's school impacts. The TASP EIR finds that such fees fully mitigate school related impacts. The Harmony Project plans fewer residential units than the TASP EIR analyzed, and will therefore result in a smaller increase in expected student population. Its impacts on schools have been adequately addressed in the TASP EIR and no further analysis is needed.

Regarding fire protection, the TASP EIR concluded that the Milpitas Fire Department will need to expand an existing fire station or construct as many as two new facilities. The Specific Plan includes policies to analyze the impact on staffing, equipment, and facility needs through a "standards of cover" analysis, with the goal of maintaining a prompt response time for all service areas. The Harmony Project adheres to these policies and plans fewer residential units than analyzed in the TASP EIR, placing fewer demands on fire protection services.

Similarly, the TASP EIR addressed the impact of new residents on police staffing. The Specific Plan includes Policy 6.53 to hire additional police staff and purchase equipment to maintain an adequate level of service. The Harmony Project adheres to these policies and plans fewer residential units than analyzed in the TASP EIR, placing fewer demands on police services.

Regarding parks, the TASP EIR found that the Specific Plan intends to create a walkable series of neighborhoods, defined by public park space, including 16.5 acres of parks and plazas, 14.9 acres of linear parks, and 27.5 acres of landscape buffers. Parks are particularly important for the planning area because it is bounded by high volume arterial roadways, industrial land, and a railroad, and no public parks are located nearby. The TASP EIR notes that approximately seven acres designated as "Parks/Plazas/Community Facilities" may be developed as a public school, likely resulting in removing at least four acres of park land. However, the loss of park space would be addressed in a separate environmental impact analysis for the school. Overall, the TASP EIR concludes that the impact of the Specific Plan for parks would be less than significant because of various policies regarding open space requirements, park land dedication, and in-lieu fees for new development. The Harmony Project will comply with all applicable policies regarding the provision and design of parks, including the provision of three parks onsite and the creation of a new trail along Penitencia Creek. Therefore, no further analysis is needed.

Because the TASP EIR adequately addresses public service impacts and the proposed project's impacts are included in or less than the impacts analyzed by the TASP EIR, the Harmony Project has **no new impact** on public services and no further analysis is required.

Conclusion: *The TASP EIR adequately covered the public service impacts of the Harmony Project.*

XV. RECREATION

Recreation	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No New Impact
Would the Project:				
1) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
2) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X

Discussion: As discussed above, the TASP EIR analyzes the impact of the buildout of the Specific Plan on parks and recreational facilities. Part of the proposed project is to rezone 10.87 acres of land from “Multi-Family Residential High Density (R3)” to “Parks and Open Space,” which amounts to a different configuration of the same amount of area as considered in the Specific Plan. As with other potential developments within the planning area, the Harmony Project would be subject to an impact fee to ensure that public infrastructure and public parks are adequately provided. Because the TASP EIR adequately addresses the recreation impact of the Specific Plan and the Harmony Project is generally consistent with the Specific Plan, the Harmony Project has **no new impact** on recreation.

Conclusion: *The TASP EIR adequately covered the recreation impacts of the Harmony Project.*

XVI. TRANSPORTATION

Transportation	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No New Impact
Would the Project:				
1) Cause an increase in traffic which is substantial in relation to				X

Transportation	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No New Impact
the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio of roads, or congestion at intersections)?				
2) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?				X
3) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X
4) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?				X
5) Result in inadequate emergency access?				X
6) Result in inadequate parking capacity?				X
7) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?				X

Discussion: The TASP EIR includes an extensive evaluation of the impact of buildout of the Specific Plan on traffic. The Specific Plan fundamentally changes the land use of the planning area from primarily industrial to high-density, transit-oriented residential and commercial. This change will be accompanied by fundamental changes in transportation patterns and use; increased vehicle trips from the new residential units may be counteracted by increased transit

use. Overall, the TASP EIR concluded that the impacts to transportation were less than significant or significant but unavoidable.

The analysis found that the proposed development is estimated to have a significant near-term impact on 15 key intersections, four freeway segments, and existing bicycle, pedestrian, and transit facilities. In addition, the TASP EIR found Year 2030 impacts for a majority of the roadway segments within the planning area. While some Specific Plan policies would reduce traffic impacts to less-than-significant levels, the analysis concluded that there are significant and unavoidable impacts for key intersections, freeways and roadway segments. Because the Harmony Project proposes a reduced density and intensity of use, its traffic impacts are less than those projected in the Specific Plan and analyzed in the TASP EIR.

At intersections where additional traffic from the buildout will exceed existing standards, the TASP EIR found that a policy to assess a transportation impact fee adequately addresses the impacts. Other project impacts were determined to be significant and unavoidable, for instance, where right-of-way constraints prevent widening lanes.

The TASP EIR found that the Specific Plan would add traffic greater than one percent of the segment's capacity to four freeway segments and impact multiple roadway segments. The analysis noted that there are many ongoing and proposed freeway and roadway improvement projects and concluded that the buildout's impacts to the freeway and roadway systems are significant and unavoidable.

The TASP EIR found that Specific Plan addresses the increased demand for pedestrian and bicycle networks in the planning area from the proposed more-intense land uses. The Specific Plan includes two pedestrian bridges crossing Montague Expressway and a third crossing railroad tracks near Piper Drive to the Great Mall. Policies to review development applications for adequate street right-of-way, bicycle facilities, and landscaping, and to provide continuous bicycle circulation throughout the planning area will also ensure that the increased demand is adequately addressed.

The Specific Plan will create increased demands for the planning area's light-rail stations and future BART station. However, the TASP EIR notes that the increased transit demand will likely occur over several years, allowing the responsible agencies to adjust service accordingly.

While the Specific Plan will impact parking demand, under California law, unmet parking demand created by a project need not be considered a significant environmental under CEQA unless it would cause significant secondary effects. Additionally, the construction of new residential units close to transit and employment may reduce overall vehicle use and parking demand.

Because the Harmony Project involves fewer residential units and less-dense development than proposed in the Specific Plan, the impacts to transportation will be less than analyzed in the TASP EIR. Therefore, there are **no new impacts** to transportation.

Conclusion: *The TASP EIR adequately covered the transportation impacts of the Harmony Project.*

XVII. UTILITIES AND SERVICE SYSTEMS

Utilities and Service Systems	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No New Impact
Would the Project:				
1) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X
2) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
3) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?				X
4) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				X
5) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				X
6) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				X
7) Comply with federal, state, and local statutes and regulations				X

Utilities and Service Systems	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No New Impact
related to solid waste?				

Discussion: Overall, the TASP EIR found that the impact of buildout of the Specific Plan on utilities and service systems, including water supply, wastewater treatment, stormwater drainage, and solid waste disposal will be less than significant after Specific Plan policies are enacted. Implementation of the Specific Plan will create additional demand for water and sewage treatment capacity and the need for new water and sewer flow capacity and recycled water lines. The Specific Plan addresses these impacts by requiring the installation of pipes within existing roads and easements, water efficiency measures, and the purchase of water and sewer treatment capacity, as needed.

The TASP EIR notes that because the planning area is already largely developed, the Specific Plan will require upgrading existing infrastructure, rather than adding new infrastructure. The Specific Plan will also reduce some utility and service system needs. For instance, the change from predominantly industrial to high-density residential and commercial will decrease stormwater runoff, meaning that no additional storm drain improvements will be required as part of the Specific Plan.

The Specific Plan policy to upgrade and expand the water distribution system to serve new development adequately addresses the impact that buildout of the Specific Plan would exceed the water flow capacity planned for in the City’s Water Master Plan. Increases in water supply demand will be adequately offset by supplies available from the Santa Clara Valley Water District and implementation of policies to construct recycled water infrastructure for irrigation. While the Specific Plan would exceed the sewer flow capacity planned for in the City’s Sewer Master Plan, upgrading existing pipelines would offset the impacts. Regarding wastewater treatment capacity, the TASP EIR found that the City has policies in place to meet demands from potential development, including the purchase of additional treatment plant capacity from San Jose and Santa Clara. The Specific Plan also includes policies to reduce water consumption, install water saving devices, and use recycled water for irrigation. While use of recycled water for irrigation will require new water mains and pipelines, these will be constructed in existing or proposed roads, causing less than significant environmental impacts. The rezoning from primarily industrial uses to high-density residential and commercial uses will increase the amount of solid waste generated in the planning area. However, the TASP EIR concluded that policies to implement existing recycling programs, participate to the maximum extent practical in solid waste source reduction and diversion programs, and have the City negotiate new agreements to handle long-term solid waste disposal after the closure of the existing landfill adequately address the impacts from the Specific Plan buildout.

For purposes of the Harmony Project, the TASP EIR assumed an intensity and density of use greater than what is currently proposed. Further, the Harmony Project will comply with utility

related policies. Therefore, the Harmony Project has **no new impact** on utilities and service systems.

Conclusion: *The TASP EIR adequately covered the utilities and service system impacts of the Harmony Project.*