



December 11, 2017

George Schroeder, Senior Planner  
Community Development Department  
City of Sunnyvale  
via email: [gschroeder@sunnyvale.ca.gov](mailto:gschroeder@sunnyvale.ca.gov)

**Subject: Proposal for Planning and Environmental Services (Revised)  
Fortinet Precise Plan  
City of Sunnyvale**

Dear Mr. Schroeder:

The Fortinet Precise Plan provides a unique opportunity for the City of Sunnyvale to plan the intensification of industrial, office, and research and development uses in the area to meet the City's objectives rather than addressing development on a parcel-by-parcel basis. We have compiled a team of urban designs, economic, engineering, and environmental professionals to meet your needs in processing this project in 12 months under either Option A or B and reflects City comments on our previous submittal. Our team also includes staff with recent local experience in the project area associated with the Lawrence Station Area Plan, Intuitive Surgical, and Greystar projects.

We look forward to the opportunity to work with City and appreciate your consideration of our submittal. Pat Angell will be your primary point of contact for this effort. Please feel free to contact us regarding questions or suggested refinements to the scope of work.

Sincerely,

A blue ink signature of Patrick Angell, written in a cursive style.

Patrick Angell  
Senior Director  
e: [pat.angell@ascentenvironmental.com](mailto:pat.angell@ascentenvironmental.com)  
p: 916.732.3324

A blue ink signature of Allen Folks, written in a cursive style.

Allen Folks, RLA  
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Enclosures

- A Option A – Scope of Work and Schedule
- B Option B – Scope of Work and Schedule
- C Subconsultant Scopes of Work

[File No. 17010148.00]

## ATTACHMENT A

# FORTINET PRECISE PLAN AND CEQA REVIEW SCOPE OF WORK, SCHEDULE, AND PRICE [OPTION A]

## PROJECT UNDERSTANDING

Ascent is being requested to prepare a Precise Plan for the area in and around the parcels currently occupied by Fortinet, an IT Security company based in Sunnyvale California. Under Option A (i.e., the area recommended by staff for analysis), the study area includes 39 parcels on 35 acres including the existing Fortinet buildings and associated surface parking lots. The majority of the buildings are one-story, include surface parking on the parcels, and lack a cohesive landscape and sidewalk infrastructure. The study area is bounded by the Central Expressway to the north, Kifer Road to the south, a private park to the east, and Wolfe Road to the west. The General Plan designates the parcels as *Industrial* and zoned under the *Industrial and Service* district.

The intent of the Precise Plan is to analyze the area for land use intensification for office and R&D uses, while also allowing for retail and place of assembly type of uses. Given the magnitude of requested changes by Fortinet, examination of the larger area is prudent to holistically examine traffic and circulation patterns, ability to serve infrastructure, land use compatibility, and quality of the public realm.

## APPROACH

The Precise Plan and CEQA review will be led by Ascent staff, in collaboration with Economic and Planning Systems (EPS) for market and fiscal analysis, and BKF Engineers for civil infrastructure and water supply assessment. The scopes of work and fees for EPS and BKF Engineers are enclosed. Hexagon Transportation Consultants will provide traffic and circulation analysis and suggested improvements under separate contract to the City of Sunnyvale.

Ascent has developed an approach that merges planning, design, and environmental planning into a seamless practice under one roof. The inter-related issues of physical and policy planning and environmental constraint identification and mitigation are central to how we view planning, and ultimately leads to a more effective entitlement process. Another key element of our approach is our emphasis on realistic, implementable, project-based solutions. We look specifically at the needs of existing property owners and other stakeholders to ensure those needs and opportunities are carefully connected to a clear and coherent vision that benefits the greater City. When we understand the market potential of the area, we test building prototypes to determine an urban form and ensure what is being recommended will “fit” properly within the urban context.

Essentially, our approach to complete the Precise Plan would involve the following:

- ▶ Understand the physical and regulatory context of the area to understand what has led to the current built environment;
- ▶ Understand the specific market potential for office, retail, and industrial uses;

- ▶ Interview Fortinet to gain an understanding of their specific needs for expansion;
- ▶ Understand the circulation patterns, and how to coordinate new development to take advantage of existing street connections, and transit opportunities;
- ▶ Develop an Urban Design approach that examines community form and how best to integrate private parcels with the public realm;
- ▶ Mitigate transportation and infrastructure improvements through Plan recommendations; and
- ▶ Determine an appropriate goal and action-oriented implementation strategy that looks at increased intensities of development that are linked to the provision of community benefits.

## PROPOSED SCOPE OF WORK

### Precise Plan

This section describes the tasks undertaken by Ascent to complete the Precise Plan. In the process, Ascent will coordinate with all its subconsultants under the direction of the City.

#### **Task 1      Project Initiation**

We will convene a meeting at the City with all consultants to discuss the project schedule, roles, and responsibilities of all parties, and understanding of the larger City goals for the completion of the Precise Plan. City staff will describe and deliver to the Ascent team relevant data and files to complete the work including lot ownership and parcel information (e.g. sizes, densities, tax information, vacancies, etc.). Following the meeting, a brief site visit will be undertaken to walk the study area and discuss the issues that will need to be addressed. Following the meeting, Ascent will prepare a planning-level Base Map that can be utilized at varying scales as necessary. The Base Map will utilize the most recent aerial photography, and include boundary and topography if available.

##### Deliverable:

- ▶ Meeting Minutes
- ▶ Planning Base Map

#### **Task 2      Interview Key Stakeholders**

Early in the process, we will interview Fortinet and other landowners as suggested by the City, to understand their issues. It will be important to comprehend particularly for Fortinet, their long-term plans, how the project will be phased, how many employees are anticipated, what level of parking is being provided, and what amenities are being considered. We will also interview the City's Economic Development Manager, to introduce the goals and objectives established in Task 1 above, and gain additional inputs and perspectives with regard to the preparation of the Precise Plan.

##### Deliverable:

- ▶ Summary notes of major stakeholder input items discussed in meeting(s) in electronic submittal only

### Task 3 Existing Land Use and Public Policy

Proceeding apace of the market study, circulation analysis, and infrastructure conditions, Ascent will review all relevant regulatory policies and development standards and describe what is allowed under the current General Plan and Zoning documents policies. We will map and describe the current General Plan, Zoning, Land Uses, Floor Area Ratio (FAR), and other relevant planning information to accurately depict the current environment. Policies that allow for increased FAR due to attainment of LEED Gold or other considerations will be researched and noted. **While this task will only require a few weeks to complete, the longer time period assumes the work of the other team members to complete their analysis of market, traffic, and infrastructure conditions.**

#### Deliverable:

- ▶ Existing Regulatory Planning Maps (included in Task 4)
- ▶ Supporting text (included in Task 4)

### Task 4 Existing Conditions Background Memorandum

Ascent will compile the information from Task 3 above along with the market research data from EPS, infrastructure analysis from BKF, and circulation analysis from Hexagon. We will summarize the important issues to be addressed in the preparation of the Precise Plan moving forward. The information contained in the Memorandum will be a part of the Precise Plan.

#### Deliverable:

- ▶ Background Memorandum of Existing Condition Maps and Supporting Text in electronic submittal only

### Task 5 Community Outreach

Ascent will organize the background materials from Task 3 in Powerpoint format, for presentation at the community workshop. The purpose of this meeting will be to introduce the project to the community and garner input related to the overall vision of the Plan Area.

#### Deliverable:

- ▶ Community Meeting Minutes

### Task 6 Urban Design/Plan Analysis

Ascent's urban designers will examine the physical context and study different configurations for both land use and building form, as well as public open space. Under this task, it's important to understand and describe the future character and vision for the area. We will examine land use and total intensity to match proposed or existing FAR's, as well as develop simple 3D massing diagrams illustrating potential building heights, massing, and approach for how they will address the public street. Preliminary development standards and design guidelines will also be prepared. This work is necessary as the foundation for the diagrams and text generated in Task 7 below, and will correspond to the findings of the market analysis. As noted in the Project Description prepared by City staff, we will examine up to a FAR of 1.0 for the Fortinet Study Area to include office/industrial/ and R&D uses. For parcels outside of the Fortinet Study Area, we will examine the current FAR's of .35 for other uses such as retail, places of assembly, industrial, and office.

#### Deliverable:

- ▶ Land Use Plan, colored, with accompanying yield tables to describe total build-out (paper copy and electronic submittal).
- ▶ 3D massing of building forms

- ▶ Preliminary development standards and design guidelines

## Task 7 Administrative Draft Precise Plan Preparation

Ascent will prepare the Administrative Draft Fortinet Precise Plan based on the efforts conducted previous to this task. The Plan will be a concise graphically-oriented document that illustrates proposed land use changes and policy direction, and clearly describes development strategy, public and private improvements, circulation improvements, infrastructure improvements, and urban design recommendations including Design Guidelines and Development Standards. The intent of this document is to clearly illustrate the plans, policies, and particular programs and development strategies that are required to implement the goals and objectives. The Administrative Draft Precise Plan is likely to include the following content in chapters or sub-chapters; however, this format is suggestive only and may be further revised in consultation with City staff:

- ▶ Introduction – Precise Plan content, purpose, and intent; context and setting; existing zoning and General Plan designations and regulations; and, issues.
- ▶ Vision – Planning Goals and Objectives, Principles, and Illustrative Plan. Illustrative Plan will include the conceptual landscape approach. We will also prepare two (2) 3D artist illustrations of the proposed character of the Study Area.
- ▶ Circulation – Existing roadways and proposed modifications with illustrative sections; Pedestrian and Cycling improvements; Mass Transit stops if applicable; Circulation Policies (Note: input from Hexagon and BKF).
- ▶ Infrastructure and Public Safety – Capacity analysis for Sewer, Water, Drainage, Solid Waste; Energy; and Public Safety (Note: input from BKF)
- ▶ Development Standards and Design Guidelines – Standards to address land use, FAR, building height and setbacks, parking for vehicles and bicycles, etc. Guidelines to address building orientation, parcel access, site and landscape improvements, and wayfinding and signage. Standards and guidelines will be accompanied with simple graphic diagrams to help with the understanding.
- ▶ Implementation – General Plan Consistency; Administration Procedures; Timing of Development Infrastructure and Public Services which includes phasing and maintenance responsibilities of the project; Community Benefits Strategy; Financing Strategy; Fiscal Analysis (Note: input from EPS and BKF)

Renderings depicting the desired character of the Precise Plan will be included in the fee. We will provide two (2) low-oblique aerial views of the project. The renderings will be hand-drawn and colored. They will be important components of the public hearings to address the desired visual quality of the Study Area.

The Precise Plan will be prepared in an 8.5 x11 portrait format, consistent with City's other planning documents. Key maps will be utilized to assist the reader in identifying where recommendations/policies apply. The document will be prepared in InDesign format to allow for the creative use of graphics and text. A few placeholders may be left in the Administrative Draft copy for graphics or renderings.

As noted above, EPS will prepare the market and fiscal analysis, and BKF Engineers will prepare the civil infrastructure and water supply assessment (WSA) that will support the Precise Plan and EIR. The scopes of work for EPS and BKF Engineers are attached.

**Deliverable:**

- ▶ Administrative Draft Precise Plan. Four (4) color paper copies and digital electronic submittal.

**Task 8 Community Outreach**

Ascent will summarize the key materials from Task 7 above in Powerpoint format, for presentation at the second community workshop. During this meeting, Ascent will present the findings and recommendations for the project to the community, and gather their feedback.

**Deliverable:**

- ▶ Community Meeting Minutes

**Task 9 Pre-Final Public Draft Precise Plan Preparation**

Following City staff review and community input, Ascent will prepare the Pre-Final Public Draft Precise Plan. The graphics and text will be revised as appropriate based on comments received addressing the Administrative Draft.

**Deliverable:**

- ▶ Pre-Final Public Draft Precise Plan. One color paper copy and digital electronic submittal.

**Task 10 Public Draft Precise Plan Preparation**

Following City staff review, Ascent will prepare the Public Draft Precise Plan. The graphics and text will be revised as appropriate based on comments received addressing the Pre-Final Public Draft. In addition, we will prepare a brief power point presentation of the key features of the Plan for use in the public hearings.

**Deliverable:**

- ▶ Public Draft Precise Plan. Twenty (20) color paper copies and digital electronic submittal.
- ▶ Large format versions of the Illustrative Plan, Land Use Plan, and Character Renderings in color (electronic and hard copy).
- ▶ Power point presentation of the key features embedded in the Public Draft in electronic submittal only

**Task 11 Public Hearings**

Ascent will attend and assist City staff with presenting the Draft Precise Plan at a study session, committee meeting, and to the City Planning Commission and City Council project consideration hearings. Ascent assumes that one meeting each will be conducted with the Commission and Council.

**Deliverable:**

- ▶ Summary (paraphrased) notes of public comments in electronic submittal only

**Task 12 Final Precise Plan**

Following the public comment and input from the Commission and Council, Ascent will prepare the Final Precise Plan for submittal to the City of Sunnyvale. The Plan Chapters noted in Task 7 above will be revised as necessary.

**Deliverable:**

- ▶ Final Precise Plan. Twenty (20) color hard copies and digital electronic submittal.

**Task 13 Meetings and Project Management**

Ascent assumes that the project will include regular staff meetings as well as three stakeholder or community meetings. Hearings are noted under Task 11 above. Most of the staff meetings are assumed to be conference calls to avoid travel and cost. For the purposes of this assignment, we will assume 10 staff meetings over the duration of the project with two of those meetings held in person. This task also assumes coordination with sub-consultants on product delivery and billings.

**Deliverable:**

- ▶ Summary notes of meetings in electronic submittal.

## CEQA Review

### **Task 1 Notice of Preparation and Scoping Meeting**

Ascent will prepare a draft of the Notice of Preparation (NOP) for the project that will provide a description of the project and a summary of key environmental issues to be addressed in the EIR. The NOP will also identify environmental issues that are not expected to be affected by the project and will not be addressed in the EIR (agricultural and forestry resources, biological resources, geologic and seismic stability and hazards, conflicts with airport operations, wildland fire hazards, population and housing, mineral resources, and recreation). Upon receiving comments on the draft NOP from the City, we will prepare the public version of the NOP for City distribution. We will submit the NOP to the State Clearinghouse on behalf of the City with the Notice of Completion.

Ascent project management will participate in the NOP scoping meeting that will consist of preparation of a power point presentation and assistance in the presentation of the project and anticipated environmental issues at the meeting. Ascent will also take meeting notes and provide a summary of NOP and scoping meeting comments.

#### **Work Products**

- ▶ Four (4) printed copies of draft NOP and an electronic copy
- ▶ Twenty (20) printed copies of the public NOP for City distribution and an electronic copy
- ▶ Submittal of fifteen (15) copies of the NOP and the Notice of Completion to the State Clearinghouse on behalf of the City
- ▶ Participation in the NOP scoping meeting
- ▶ Electronic copy of the summary of NOP comments

### **Task 2 Administrative Draft EIR**

Ascent will prepare an administrative Draft EIR, in accordance with CEQA and the CEQA Guidelines, that will use the project applicant's technical studies and site plans. For those resources that would not be affected by the project, the EIR will provide the rationale as to why no impact would occur, and note that the issue is not discussed further in the EIR (agricultural and forestry resources, biological resources, geologic and seismic stability and hazards, conflicts with airport operations, wildland fire hazards, population and housing, mineral resources, and recreation). The EIR will address the full development of the site under the Precise Plan and the Fortinet site plan (including building demolition).

The EIR will adhere to all CEQA requirements and is anticipated to focus on resource categories for which significant impacts could occur. The EIR will include the following chapters:

#### **Introduction**

The Introduction will describe the purpose of the EIR and the outline of the EIR contents.

#### **Executive Summary**

The Executive Summary will provide an overview of the project, alternatives evaluated, areas of controversy and issues to be resolved, and project impacts and mitigation measures.

### Project Description

Ascent will prepare a detailed project description, including text and graphics, based on the Precise Plan. It will identify features that are analyzed in the EIR at a “project level” of detail (Fortinet site plan) and Precise Plan features analyzed at a “program level” of detail. The project description will include regional and local settings; objectives of the project; project characteristics, including all discretionary actions required by the City; important project features; off-site improvements; a list of responsible and other agencies; and a list of approvals.

### Environmental Setting, Impacts, and Mitigation Measures

Each environmental resource section will include a description of the environmental setting (i.e., the baseline environmental conditions), regulatory setting (i.e., federal, state, and local regulations), criteria used to determine the significance of impacts, analysis methodology and assumptions, and detailed discussion of the potential environmental effects of the project. Impact conclusions will be based on substantial evidence and mitigation measures will be recommended for significant or potentially significant impacts. References will be provided as necessary to the supporting technical studies, which will be included as appendices to the EIR.

The following environmental issues will be evaluated in the EIR:

*Aesthetics:* The analysis will include photographs of existing conditions of the Precise Plan area and the surround area and an evaluation of how the proposed project would alter the existing land use character of the area. The project will be compared with City policies and development regulations for compliance with City urban design standards. This analysis will be based on the project applicant’s site plans and proposed building elevations for the Fortinet site plan and the provisions of the Precise Plan. The analysis will also consider any changes in nighttime lighting and glare.

*Air Quality:* The analysis will include a description of existing air quality conditions in the Precise Plan area and in the nearby vicinity. This will include information on attainment designations with respect to the California and National Ambient Air Quality Standards, and natural factors that relate to the transport and dispersion of air pollutants in the region. Applicable federal, state, and local regulations will also be presented including rules for which compliance will be required. This will include applicable rules and thresholds of significance established by the Bay Area Air Quality Management District (BAAQMD). Ascent will conduct the air quality impact analysis pursuant to BAAQMD guidance and recommended thresholds.

The EIR will address the following air quality impact issue areas through air quality modeling (CalEEMod, AERMOD, and HARP2):

- ▶ Project construction criteria air pollutant emissions,
- ▶ Project operational criteria air pollutant emissions,
- ▶ Generation of substantial pollutant concentrations, naturally occurring asbestos, and toxic air contaminant exposure, and
- ▶ Generation of odors.

Ascent will identify mitigation measures for any significant air quality impacts identified.

*Greenhouse Gas:* The analysis will include a brief description of the applicable federal, State, and local regulations, regional and local conditions in the vicinity of the project site (e.g., California Assembly Bill 32 of 2006 and California Senate Bill 32 of 2016, Renewable Portfolio Standard, Plan Bay Area 2040, CARB’s Proposed 2017 Scoping Plan Update) and the current state of climate change science (e.g., Intergovernmental Panel on Climate Change Fifth Assessment Report). The LUTE update EIR includes an analysis of greenhouse gas

emissions (GHG) at City build-out as compared to the City's current Climate Action Plan (CAP) that included mitigation to update the CAP to match the LUTE update growth projections. Ascent will estimate construction- and operation-related GHG emissions associated with the proposed new land uses using CalEEMod. The change in vegetative forms of carbon sequestration will be estimated based on default sequestration rates in CalEEMod and any information provided by the City or applicant about the number and types of trees that would be removed from the site. The GHG analysis for the project would address its consistency with the City's CAP.

*Energy:* The EIR will estimate the project's energy demands and compare them with the existing energy demands of the project site (stationary and mobile energy use). The analysis will factor all required energy efficiency requirements of the City and state and will determine if the project would result in a wasteful, inefficient, and unnecessary consumption of energy consistent with Appendix F of the State CEQA Guidelines.

*Hazards and Hazardous Materials:* The analysis will identify any known sources of contamination and/or hazardous material use in the Precise Plan area and surrounding areas and identify mitigation measures to address these hazard impacts.

*Archaeological, Historical, and Tribal Cultural Resources:* While it is anticipated that no significant archaeological resources exist, there is potential for historic structures. Ascent's architectural historian will conduct constraints-level historic analysis for the Precise Plan area. The analysis begins with background research, including determining which buildings are historic-era age (over 45 years old). Ascent will conduct a California Historical Resources Information System records search within a one-quarter-mile radius of the project site at the Northwest Information Center (NWIC) for previous historic and archaeological information. Ascent will also contact the Sunnyvale Historical Society and Museum Association for additional historic information related to the project site. Fieldwork will include a site visit, photographing the structures, and the documentation of architectural resources over 45 years identified in the Fortinet site plan area. Architectural resources will be evaluated for California Register of Historical Resources (as defined in the California Code of Regulations Title 15, Chapter 11.5, Section 4850) and National Register of Historic Places eligibility according to 36CFR 60.4. It is assumed that the City will also evaluate historic resources during project design review. Ascent will contact the Native American Heritage Commission (NAHC) for a review of their Sacred Lands File and to request a list of individuals who may have knowledge of cultural resources in the project area. Ascent will contact the tribes identified by the NAHC to request project-area knowledge. The project would be subject to compliance with Assembly Bill (AB) 52 for California tribal consultant. We will assist the City with form letters to initiate the AB 52 consultation process.

*Land Use:* The EIR will identify current General Plan and zoning land use designations for the Precise Plan area and the current allowed extent of development. The impact analysis will focus on whether the FAR intensification would result in conflicts with the General Plan and City development standards that would result in physical impacts to the environment (e.g., conflicts with increased height and massing).

*Noise:* The analysis will include a brief discussion of the applicable regulations, including the City of Sunnyvale's noise exposure standards. Ascent will analyze construction-related noise and ground vibration using published reference noise and vibration levels for typical construction equipment. Ascent will estimate levels of noise and ground vibration exposure at nearby noise-sensitive receptors based on standard attenuation rates using calculation methods recommended by Caltrans and the Federal Transit Administration. For project-generated transportation-related noise, average daily traffic volumes and distribution characteristics from the traffic analysis, and prediction methods will be used to assess increases at noise-sensitive receptors. Traffic noise model runs will be performed for up to eight different roadway segments using average annual daily trip volumes provided by the traffic analysis. Traffic noise levels will be modeled for existing and cumulative conditions (both with and without the implementation of the Project) for the purposes of determining increases at existing noise-sensitive receptors and/or incompatibility with nearby land uses. The exposure of the proposed

land uses to noise generated by nearby land uses, particularly the existing commercial uses surrounding the project site, the park east of the Project site, and traffic on Central Expressway and Wolfe Road, will also be addressed.

*Public Services:* The EIR will identify whether the project would trigger the need for increased demand fire protection, law enforcement, and other services that would result in physical impacts to the environment (e.g., construction of new facilities to serve the project or other alteration of services). Mitigation measures will be identified for any significant environmental impacts identified.

*Transportation and Traffic:* The project's traffic analysis results (prepared by Hexagon) will be summarized in the EIR to determine whether new significant traffic operation impacts would occur under existing and cumulative conditions not considered in the LUTE update Final EIR.

*Utilities:* The EIR will utilize the infrastructure analyses and water supply assessment (WSA) prepared for the Precise Plan by BKF to evaluate to determine whether the project would trigger the need for new infrastructure improvements that could result significant environmental impacts.

### Other CEQA Sections

CEQA provides very specific requirements for the contents of an EIR. Ascent will provide the City with a complete EIR, containing all sections required by CEQA, including the following:

- ▶ Alternatives: Up to three alternatives, including the No-Project Alternative will be evaluated in the EIR. The alternatives will be analyzed at a comparative level of detail, less than that of the proposed project, but sufficient to allow a comparison of impacts.
- ▶ Significant Environmental Effects Which Cannot Be Avoided: This section will clearly and succinctly summarize significant and unavoidable environmental effects of the proposed project and alternatives as evaluated in the EIR.
- ▶ Growth-Inducing Impacts of the Proposed Project: This section will qualitatively evaluate the project's potential to induce growth and subsequent environmental impacts that would occur (pursuant to CEQA Guidelines Section 15126[d]).
- ▶ Cumulative Impacts: Ascent will evaluate the impacts of cumulative development and activities on all the resource issues evaluated in the EIR. Ascent will work closely with City staff to establish the cumulative setting, which involves identification of reasonably foreseeable projects and activities in the region and an accurate list of cumulative projects (proposed, approved, under construction).

The EIR will include visual aids, such as maps and diagrams, to clearly present the environmental analysis to decision makers, responsible agencies, and the public. The executive summary will include a summary table of all impacts and mitigation measures identified in the EIR. An impact comparison table of the alternatives will also be provided.

As part of preparation of the administrative Draft EIR, Ascent will compile an electronic copy of all cited literature, studies, personal communications, and reference materials used in the preparation of the EIR.

### Work Products

- ▶ Four (4) paper copies of Administrative Draft EIR (including WSA) and an electronic submittal

### Task 3 Print Check Draft EIR

Based on comments from City staff on the Administrative Draft EIR, Ascent will prepare a print check Draft EIR for City review. This scope of work assumes that comments will not require analysis of new issues or substantially revised analysis of issues already addressed in the administrative draft.

#### Work Products

- ▶ One (1) electronic submittal of print check Draft EIR (including WSA)

### Task 4 Public Draft EIR

Based on comments from City staff on the print check Draft EIR, Ascent will prepare a public Draft EIR for the City to release. This scope of work assumes that comments will not require analysis of new issues or substantially revised analysis of issues already addressed in the print check document. We will also prepare the Notice of Availability and will submit the Draft EIR to the State Clearinghouse on behalf of the City.

We will also attend the public meeting to receive comments on the Draft EIR.

#### Work Products

- ▶ Twenty (20) paper copies of the public Draft EIR (including WSA), 20 CDs, and an electronic submittal
- ▶ Notice of Availability and mailing of notice using City's distribution list
- ▶ Submittal of the Draft EIR to the State Clearinghouse with the Notice of Availability on behalf of the City

### Task 5 Response to Public Comments/Final EIR

Ascent will coordinate with the City, who will assemble public and agency comments received on the Final EIR. Responses to these comments will be prepared and presented in a format to accompany the document. The responses are assumed to require only clarification and/or explanation of the conclusions in the Draft EIR without the need to revise analysis, elaborate substantially, or add new issues or alternatives.

Upon receiving comments on the administrative Final EIR from the City, Ascent will generate a print check copy of the Final EIR for final City review. We will revise the document and generate the Final EIR for City distribution.

#### Work Products

- ▶ Four (4) paper copies and one (1) electronic copy of administrative draft Final EIR
- ▶ One (1) electronic submittal of print check Final EIR
- ▶ Twenty (20) paper copies and one (1) electronic submittal of the Final EIR

### Task 6 Findings and Statement of Overriding Considerations

In coordination with City staff, Ascent will prepare CEQA Findings of Fact (Findings) and, if necessary, a Statement of Overriding Considerations (SOC) for use by the City. The Findings will specify mitigation measures that have been incorporated into the project, and will explain why other measures, if any, have been found to be infeasible. If applicable, the Findings will also identify feasible project alternatives that could reduce adverse environmental effects but are not being implemented, with an explanation as to why they are considered to be infeasible. Ascent will prepare an administrative draft of the Findings and will submit (electronically) to the City

for review and comment. Once comments are received, Ascent will incorporate comments and deliver an electronic file of the final Findings to the City.

#### Work Products

- ▶ One (1) electronic submittal of draft Findings/SOC
- ▶ One (1) electronic submittal of final Findings/SOC

### Task 7 Mitigation Monitoring and Reporting Program

A draft and final MMRP will be provided. The MMRP will include all mitigation measures in the EIR and will identify timing, responsible party, timing, performance standards, etc.

#### Work Products

- ▶ One (1) electronic submittal of draft MMRP
- ▶ One (1) electronic submittal of final MMRP

### Task 8 Meetings and Project Management

Ascent will manage the preparation of the environmental document and maintain close communication with City. Ascent will consult with project applicant representatives only when directed by or with the permission of City staff. Ascent will participate in up to four (4) conference calls/meetings to discuss the status of the project. It is assumed that the project director will participate in these calls/meetings.

## PROPOSED PRICE AND ASSUMPTIONS

The proposed price for preparation of the Fortinet Precise Plan and CEQA Review – Option A is summarized in the table below. Detailed cost estimates can be provided to the City upon request.

TASK	PROPOSED PRICE
<b>Fortinet Precise Plan</b>	
Preparation of the Precise Plan (Ascent)	\$141,835
Utility Analysis and Water Supply Assessment (BKF) <sup>1</sup>	\$36,750
Marketing and Fiscal Analysis (EPS) <sup>1</sup>	\$59,850
<b>Subtotal, Precise Plan</b>	<b>\$238,435</b>
<b>CEQA Review</b>	
Preparation of the EIR and Associated Tasks (Ascent)	\$213,995
<b>Grand Total</b>	<b>\$452,430</b>
<b>Optional Task</b>	
Phase 1 Environmental Site Assessment <sup>1</sup>	\$10,500

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<sup>1</sup> The subconsultant cost includes a general and administrative management cost of 5%.

With the objective of promoting clarity about the proposed price, the following assumptions explain the basis of the price to implement the proposed scope of work. Please note that the price is estimated based on a good faith effort and current understanding of the project needs of the City. Variations in approach, issues, and deliverables can adjust the contract price. If selected, Ascent is very interested in listening to the City's needs and willing to revise the scope of work and price to meet the City's expectations.

- ▶ A total number of proposed meetings is specified. If the number of meetings or the required level of effort exceeds this total, a budget augment would be warranted. Ascent will advise the Client if this circumstance arises.
- ▶ Ascent will be the primary author for the Precise Plan assignment; however, others will provide engineering and utility phasing, transportation planning, and market and fiscal analysis. Transportation work is provided to the City under a separate contract.
- ▶ Boundary and topography information as well as parcel data will be supplied to Ascent by the City.
- ▶ A total number of document iterations for the Precise Plan has been provided; if additional iterations are requested, additional fees will be warranted.
- ▶ The City Project Manager will provide Ascent one set of consolidated comments to all project deliverables.
- ▶ All layouts of commercial, industrial, retail, or mixed-use sites is conceptual only, subject to change as more detailed planning follows, or later during the Tentative Map Stage.
- ▶ Schematic design, design development, and construction documentation of buildings and landscape are excluded from this scope of work.
- ▶ Three dimensional renderings depicting the character of the property are included as noted in the Scope of Work. Animations, physical design models, and marketing materials are excluded.
- ▶ Quantity surveying is excluded.
- ▶ The price assumes that an environmental document will be prepared in compliance with CEQA. Work related to National Environmental Policy Act (NEPA) compliance, Section 404 compliance, or other permitting processes is not included. These can be provided with a budget augment. Work concludes at the acceptance by the City staff of the final proposed deliverable.
- ▶ The price is based on the proposed schedule. Should significant delay occur (more than 60 days) for reasons beyond Ascent's control, a budget amendment may apply to the remaining work, based on labor rates in effect at that time. Ascent will consult with the City about a course of action, if a significant delay occurs.
- ▶ The proposed price has been allocated by tasks to determine the total budget. Ascent may reallocate budget among tasks, as needed, as long as the total budget is not exceeded.
- ▶ A total number of proposed meetings and conference calls is specified. If the number of meetings or conference calls or the required level of effort exceeds this total, a budget augment would be warranted. Ascent will advise the City, if this circumstance arises.
- ▶ The City will be responsible for the cost of newspaper publication of notices. These costs are not included in the proposed price.
- ▶ After the description of the project are approved by the City for use in the environmental document, it is assumed they will not change during the course of analysis and document

preparation. If changes are necessary, amendment of the budget will be warranted to the extent that already completed analysis and document preparation need to be revised or redone.

- ▶ The proposed price assumes that no new technical issues, alternatives, field surveys, modeling, or topical areas of research or analysis will be identified through the scoping process or by other affected agencies after contract execution.
- ▶ This proposed scope and budget assumes preparation of an environmental checklist, MND, and EIR only. Additional support for an additional document can be provided with a budget and scope augment.
- ▶ Review cycles for preliminary versions of the deliverables are specified in the enclosed scope of work. Additional review cycles or additional versions of administrative or other drafts, if desired, can be provided with a budget augment.
- ▶ The City will provide Ascent with one set of consolidated, non-conflicting comments on preliminary draft deliverables that are submitted for review to facilitate the overall schedule and promote efficiency.
- ▶ Ascent will maintain electronic copies of reference documents or portions of documents cited and will make the electronic files available during public review. Ascent will submit electronic copies of references to the City for project files upon completion of the authorized work.

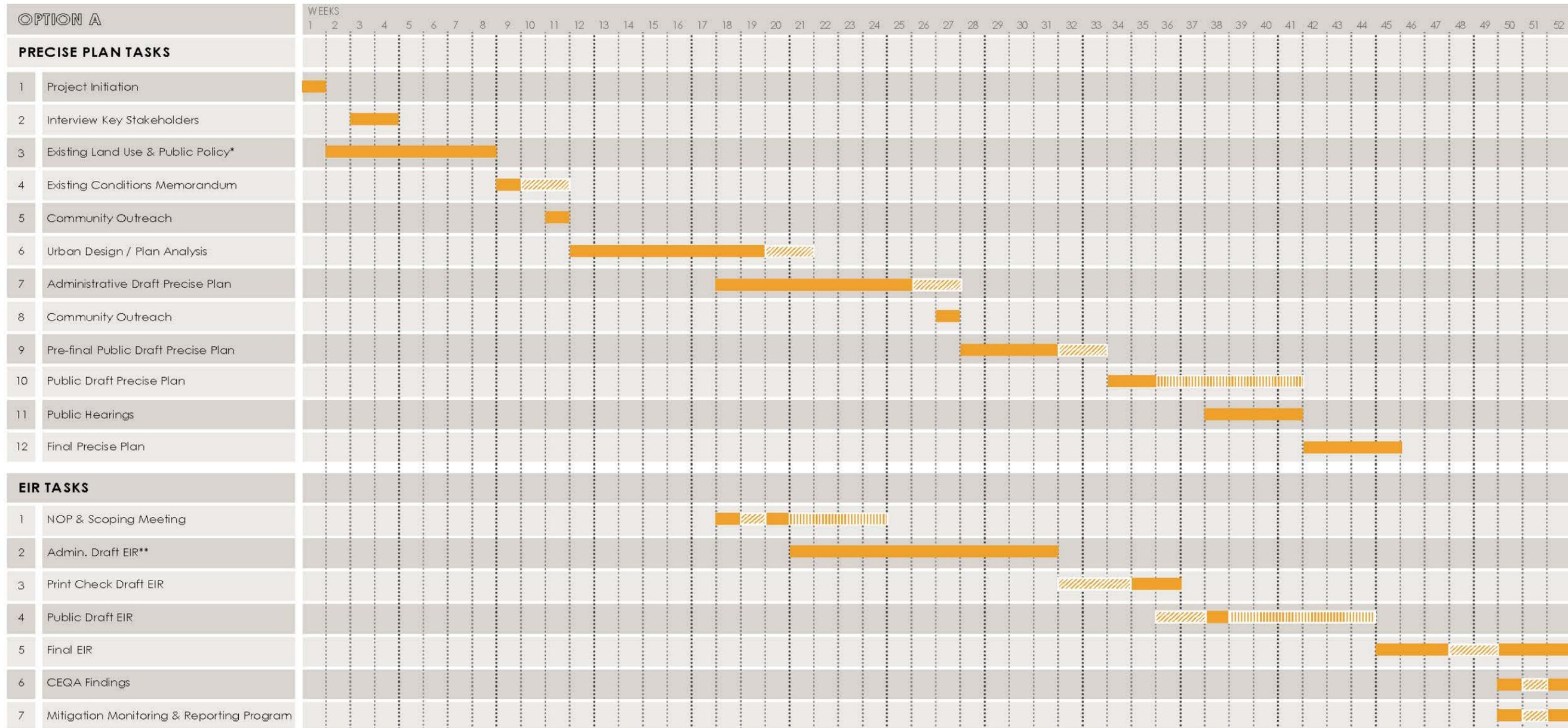
Ascent is available to assist in the lead agency's response to a lawsuit, subject to an amendment to the contract and budget. Except for electronic files of cited references, which will be provided as described above, assembly of an administrative record or project record, whether needed for litigation or other purposes, is not included in the budget, but can be provided with a budget augment.

## SCHEDULE

Ascent shall endeavor to complete the Precise Plan and CEQA review within an approximate 12-month timeframe, barring any work stoppages due to longer than anticipated City reviews and/or directives, holiday periods, or other circumstances beyond Ascent's control. Each task of the Precise Plan has been noted with the approximate time required by Ascent to perform the task. A graphic depiction of the Project Schedule for preparation of the Precise Plan with City and public review periods is depicted on the following page.



Fortinet Precise Plan and CEQA Review Schedule



\*Also includes time for market, transportation, and infrastructure analyses.

\*\*Schedule assumes traffic study is received at the end of the NOP comment period.

Note: The schedule does not account for holiday periods or potential longer review times which may cause a slightly longer process.

▨ = City Review  
 ▤ = Public Review

## ATTACHMENT B

# FORTINET SITE PLAN AND CEQA REVIEW SCOPE OF WORK, SCHEDULE, AND PRICE [OPTION B]

## PROJECT UNDERSTANDING

Option B consists of a site plan specific to the Fortinet site that consists of approximately 17 acres. The site plan proposes a 1.0 FAR that would allow up to 743,910 square feet of office campus development. This option does not need a Precise Plan. The City has requested technical assistance that includes preparation of fiscal, market, and utility evaluations and the preparation of an EIR.

## PROPOSED SCOPE OF WORK

### Task 1 Project Initiation

The initial task will be a meeting with senior management of Fortinet and City Staff to understand the goals and objectives for the expansion of the campus. This will include review of the proposed site plan and applicant technical studies. It is assumed that the applicant will provide details on building design, existing building demolition details, tree retention/removal, drainage improvements, on-site infrastructure improvements, and an evaluation of the potential for on-site contamination (Phase 1 Environmental Site Assessment). Refinements of the scope of work and schedule will be identified at this meeting.

#### Deliverable:

- ▶ Summary notes of meeting

### Task 2 Fiscal, Market, and Utility Evaluations

EPS will prepare the market and fiscal analysis, and BKF Engineers will prepare the civil infrastructure and water supply assessment (WSA) for the project to be used in the EIR. The scopes of work for EPS and BKF Engineers are attached.

#### Deliverable:

- ▶ Draft and final version of WSA
- ▶ Draft and final version of the utility (water, sewer, and drainage) evaluation
- ▶ Draft and final version of the fiscal analysis and market study

### Task 3 Notice of Preparation and Scoping Meeting

Ascent will prepare a draft of the Notice of Preparation (NOP) for the project that will provide a description of the project and a summary of key environmental issues to be addressed in the EIR. The NOP will also identify environmental issues that are not expected to be affected by the project and will not be addressed in the EIR

(agricultural and forestry resources, biological resources, geologic and seismic stability and hazards, conflicts with airport operations, wildland fire hazards, population and housing, mineral resources, and recreation). Upon receiving comments on the draft NOP from the City, we will prepare the public version of the NOP for City distribution. We will submit the NOP to the State Clearinghouse on behalf of the City with the Notice of Completion.

Ascent project management will participate in the NOP scoping meeting that will consist of preparation of a power point presentation and assistance in the presentation of the project and anticipated environmental issues at the meeting. Ascent will also take meeting notes and provide a summary of NOP and scoping meeting comments.

### Work Products

- ▶ Four (4) printed copies of draft NOP and an electronic copy
- ▶ Twenty (20) printed copies of the public NOP for City distribution and an electronic copy
- ▶ Submittal of fifteen (15) copies of the NOP and the Notice of Completion to the State Clearinghouse on behalf of the City
- ▶ Participation in the NOP scoping meeting
- ▶ Electronic copy of the summary of NOP comments

### Task 4 Administrative Draft EIR

Ascent will prepare an administrative Draft EIR, in accordance with CEQA and the CEQA Guidelines, that will use the project applicant's technical studies and site plans. For those resources that would not be affected by the project, the EIR will provide the rationale as to why no impact would occur, and note that the issue is not discussed further in the EIR (agricultural and forestry resources, biological resources, geologic and seismic stability and hazards, conflicts with airport operations, wildland fire hazards, population and housing, mineral resources, and recreation). The EIR will address the full development of the Fortinet site plan (including building demolition).

The EIR will adhere to all CEQA requirements and is anticipated to focus on resource categories for which significant impacts could occur. The EIR will include the following chapters:

#### Introduction

The Introduction will describe the purpose of the EIR and the outline of the EIR contents.

#### Executive Summary

The Executive Summary will provide an overview of the project, alternatives evaluated, areas of controversy and issues to be resolved, and project impacts and mitigation measures.

#### Project Description

Ascent will prepare a detailed project description, including text and graphics, based on the project application submitted to the City. The project description will include regional and local settings; objectives of the project; project characteristics, including all discretionary actions required by the City; important project features; off-site improvements; a list of responsible and other agencies; and a list of approvals.

### Environmental Setting, Impacts, and Mitigation Measures

Each environmental resource section will include a description of the environmental setting (i.e., the baseline environmental conditions), regulatory setting (i.e., federal, state, and local regulations), criteria used to determine the significance of impacts, analysis methodology and assumptions, and detailed discussion of the potential environmental effects of the project. Impact conclusions will be based on substantial evidence and mitigation measures will be recommended for significant or potentially significant impacts. References will be provided as necessary to the supporting technical studies, which will be included as appendices to the EIR.

The following environmental issues will be evaluated in the EIR:

*Aesthetics:* The analysis will include photographs of existing conditions of the project area and the surround area and an evaluation of how the proposed project would alter the existing land use character of the area. The project will be compared with City policies and development regulations for compliance with City urban design standards. This analysis will be based in part on the project applicant's site plans and proposed building elevations. The analysis will also consider any changes in nighttime lighting and glare.

*Air Quality:* The analysis will include a description of existing air quality conditions at the project area and in the nearby vicinity. This will include information on attainment designations with respect to the California and National Ambient Air Quality Standards, and natural factors that relate to the transport and dispersion of air pollutants in the region. Applicable federal, state, and local regulations will also be presented including rules for which compliance will be required. This will include applicable rules and thresholds of significance established by the Bay Area Air Quality Management District (BAAQMD). Ascent will conduct the air quality impact analysis pursuant to BAAQMD guidance and recommended thresholds.

The EIR will address the following air quality impact issue areas through air quality modeling (CalEEMod, AERMOD, and HARP2):

- ▶ Project construction criteria air pollutant emissions,
- ▶ Project operational criteria air pollutant emissions,
- ▶ Generation of substantial pollutant concentrations, naturally occurring asbestos, and toxic air contaminant exposure, and
- ▶ Generation of odors.

Ascent will identify mitigation measures for any significant air quality impacts identified.

*Greenhouse Gas:* The analysis will include a brief description of the applicable federal, State, and local regulations, regional and local conditions in the vicinity of the project site (e.g., California Assembly Bill 32 of 2006 and California Senate Bill 32 of 2016, Renewable Portfolio Standard, Plan Bay Area 2040, CARB's Proposed 2017 Scoping Plan Update) and the current state of climate change science (e.g., Intergovernmental Panel on Climate Change Fifth Assessment Report). The LUTE update EIR includes an analysis of greenhouse gas emissions (GHG) at City build-out as compared to the City's current Climate Action Plan (CAP) that included mitigation to update the CAP to match the LUTE update growth projections. Ascent will estimate construction- and operation-related GHG emissions associated with the proposed new land uses using CalEEMod. The change in vegetative forms of carbon sequestration will be estimated based on default sequestration rates in CalEEMod and any information provided by the City or applicant about the number and types of trees that would be removed from the site. The GHG analysis for the project would address its consistency with the City's CAP.

*Energy:* The EIR will estimate the project's energy demands and compare them with the existing energy demands of the project site (stationary and mobile energy use). The analysis will factor all required energy efficiency requirements of the City and state and will determine if the project would result in a wasteful, inefficient, and unnecessary consumption of energy consistent with Appendix F of the State CEQA Guidelines.

*Hazards and Hazardous Materials:* The analysis will identify any known sources of contamination and/or hazardous material use in the project area and surrounding areas and identify mitigation measures to address these hazard impacts. This will be based on the project applicant's technical studies. Should the applicant not provide an evaluation of the potential for on-site contamination and hazards, Ascent will provide a Phase 1 Environmental Site Assessment as an optional task to be approved by the City.

*Archaeological, Historical, and Tribal Cultural Resources:* While it is anticipated that no significant archaeological resources exist, there is potential for historic structures. Ascent's architectural historian will conduct constraints-level historic analysis for the project site. The analysis begins with background research, including determining which buildings are historic-era age (over 45 years old). Ascent will conduct a California Historical Resources Information System records search within a one-quarter-mile radius of the project site at the Northwest Information Center (NWIC) for previous historic and archaeological information. Ascent will also contact the Sunnyvale Historical Society and Museum Association for additional historic information related to the project site. Fieldwork will include a site visit, photographing the structures, and the documentation of architectural resources over 45 years identified in the project site. Architectural resources will be evaluated for California Register of Historical Resources (as defined in the California Code of Regulations Title 15, Chapter 11.5, Section 4850) and National Register of Historic Places eligibility according to 36CFR 60.4. It is assumed that the City will also evaluate historic resources during project design review. Ascent will contact the Native American Heritage Commission (NAHC) for a review of their Sacred Lands File and to request a list of individuals who may have knowledge of cultural resources in the project area. Ascent will contact the tribes identified by the NAHC to request project-area knowledge. The project would be subject to compliance with Assembly Bill (AB) 52 for California tribal consultant. We will assist the City with form letters to initiate the AB 52 consultation process.

*Land Use:* The EIR will identify current General Plan and zoning land use designations for the project site and the current allowed extent of development. The impact analysis will focus on whether the FAR intensification would result in conflicts with the General Plan and City development standards that would result in physical impacts to the environment (e.g., conflicts with increased height and massing).

*Noise:* The analysis will include a brief discussion of the applicable regulations, including the City of Sunnyvale's noise exposure standards. Ascent will analyze construction-related noise and ground vibration using published reference noise and vibration levels for typical construction equipment. Ascent will estimate levels of noise and ground vibration exposure at nearby noise-sensitive receptors based on standard attenuation rates using calculation methods recommended by Caltrans and the Federal Transit Administration. For project-generated transportation-related noise, average daily traffic volumes and distribution characteristics from the traffic analysis, and prediction methods will be used to assess increases at noise-sensitive receptors. Traffic noise model runs will be performed for up to eight different roadway segments using average annual daily trip volumes provided by the traffic analysis. Traffic noise levels will be modeled for existing and cumulative conditions (both with and without the implementation of the Project) for the purposes of determining increases at existing noise-sensitive receptors and/or incompatibility with nearby land uses. The exposure of the proposed land uses to noise generated by nearby land uses, particularly the existing commercial uses surrounding the project site, the park east of the Project site, and traffic on Central Expressway and Wolfe Road, will also be addressed.

*Public Services:* The EIR will identify whether the project would trigger the need for increased demand fire protection, law enforcement, and other services that would result in physical impacts to the environment (e.g.,

construction of new facilities to serve the project or other alteration of services). Mitigation measures will be identified for any significant environmental impacts identified.

*Transportation and Traffic:* The project's traffic analysis results (prepared by Hexagon) will be summarized in the EIR to determine whether new significant traffic operation impacts would occur under existing and cumulative conditions not considered in the LUTE update Final EIR.

*Utilities:* The EIR will utilize the infrastructure analyses and water supply assessment (WSA) prepared for the project under Task 2 above to evaluate to determine whether the project would trigger the need for new infrastructure improvements that could result significant environmental impacts.

### Other CEQA Sections

CEQA provides very specific requirements for the contents of an EIR. Ascent will provide the City with a complete EIR, containing all sections required by CEQA, including the following:

- ▶ Alternatives: Up to three alternatives, including the No-Project Alternative will be evaluated in the EIR. The alternatives will be analyzed at a comparative level of detail, less than that of the proposed project, but sufficient to allow a comparison of impacts.
- ▶ Significant Environmental Effects Which Cannot Be Avoided: This section will clearly and succinctly summarize significant and unavoidable environmental effects of the proposed project and alternatives as evaluated in the EIR.
- ▶ Growth-Inducing Impacts of the Proposed Project: This section will qualitatively evaluate the project's potential to induce growth and subsequent environmental impacts that would occur (pursuant to CEQA Guidelines Section 15126[d]).
- ▶ Cumulative Impacts: Ascent will evaluate the impacts of cumulative development and activities on all the resource issues evaluated in the EIR. Ascent will work closely with City staff to establish the cumulative setting, which involves identification of reasonably foreseeable projects and activities in the region and an accurate list of cumulative projects (proposed, approved, under construction).

The EIR will include visual aids, such as maps and diagrams, to clearly present the environmental analysis to decision makers, responsible agencies, and the public. The executive summary will include a summary table of all impacts and mitigation measures identified in the EIR. An impact comparison table of the alternatives will also be provided.

As part of preparation of the administrative Draft EIR, Ascent will compile an electronic copy of all cited literature, studies, personal communications, and reference materials used in the preparation of the EIR.

### Work Products

- ▶ Four (4) paper copies of Administrative Draft EIR (including WSA) and an electronic submittal

## Task 5 Print Check Draft EIR

Based on comments from City staff on the Administrative Draft EIR, Ascent will prepare a print check Draft EIR for City review. This scope of work assumes that comments will not require analysis of new issues or substantially revised analysis of issues already addressed in the administrative draft.

### Work Products

- ▶ One (1) electronic submittal of print check Draft EIR (including WSA)

## Task 6 Public Draft EIR

Based on comments from City staff on the print check Draft EIR, Ascent will prepare a public Draft EIR for the City to release. This scope of work assumes that comments will not require analysis of new issues or substantially revised analysis of issues already addressed in the print check document. We will also prepare the Notice of Availability and will submit the Draft EIR to the State Clearinghouse on behalf of the City.

We will also attend the public meeting to receive comments on the Draft EIR.

### Work Products

- ▶ Twenty (20) paper copies of the public Draft EIR (including WSA), 20 CDs, and an electronic submittal
- ▶ Notice of Availability and mailing of notice using City's distribution list
- ▶ Submittal of the Draft EIR to the State Clearinghouse with the Notice of Availability on behalf of the City

## Task 7 Response to Public Comments/Final EIR

Ascent will coordinate with the City, who will assemble public and agency comments received on the Final EIR. Responses to these comments will be prepared and presented in a format to accompany the document. The responses are assumed to require only clarification and/or explanation of the conclusions in the Draft EIR without the need to revise analysis, elaborate substantially, or add new issues or alternatives.

Upon receiving comments on the administrative Final EIR from the City, Ascent will generate a print check copy of the Final EIR for final City review. We will revise the document and generate the Final EIR for City distribution.

### Work Products

- ▶ Four (4) paper copies and one (1) electronic copy of administrative draft Final EIR
- ▶ One (1) electronic submittal of print check Final EIR
- ▶ Twenty (20) paper copies and one (1) electronic submittal of the Final EIR

## Task 8 Findings and Statement of Overriding Considerations

In coordination with City staff, Ascent will prepare CEQA Findings of Fact (Findings) and, if necessary, a Statement of Overriding Considerations (SOC) for use by the City. The Findings will specify mitigation measures that have been incorporated into the project, and will explain why other measures, if any, have been found to be infeasible. If applicable, the Findings will also identify feasible project alternatives that could reduce adverse environmental effects but are not being implemented, with an explanation as to why they are infeasible. Ascent will prepare an administrative draft of the Findings and will submit (electronically) to the City for review and comment. Once comments are received, Ascent will incorporate comments and deliver an electronic file of the final Findings to the City.

### Work Products

- ▶ One (1) electronic submittal of draft Findings/SOC
- ▶ One (1) electronic submittal of final Findings/SOC

### **Task 9 Mitigation Monitoring and Reporting Program**

A draft and final MMRP will be provided. The MMRP will include all mitigation measures in the EIR and will identify timing, responsible party, timing, performance standards, etc.

#### **Work Products**

- ▶ One (1) electronic submittal of draft MMRP
- ▶ One (1) electronic submittal of final MMRP

### **Task 10 Meetings and Project Management**

Ascent will manage the preparation of the environmental document and maintain close communication with City. Ascent will consult with project applicant representatives only when directed by or with the permission of City staff. Ascent will participate in up to four (4) conference calls/meetings to discuss the status of the project. It is assumed that the project director will participate in these calls/meetings.

## **URBAN DESIGN OPTIONAL TASKS**

### **Task 11 Optional Task: Review and Refine Site Plan(s)**

Following the meeting, Ascent urban design staff will refine the preliminary Site Plan and provide diagrams related to open space, parking, circulation, and access, and building form and character. This may include up to two (2) Options for Fortinet to consider that best meet their needs and goals. A 3D massing diagram to depict the layout(s) will be prepared for understanding the Site Plan organization. Any utility requirements that might affect the organization of the Site Plan(s) will be incorporated.

#### **Deliverable:**

- ▶ Refined Site Plan(s) colored and accompanied by a site yield table and urban design diagrams (paper copy and electronic submittal).

### **Task 12 Optional Task: Present the Refined Site Plan(s)**

The final effort will be to present the findings of our analysis to both Fortinet Senior Management and City of Sunnyvale staff.

#### **Deliverable:**

- ▶ See above.

## PROPOSED PRICE AND ASSUMPTIONS

The proposed price for Option B is summarized in the table below. Detailed cost estimates can be provided to the City upon request.

TASK	PROPOSED PRICE
Preparation of the EIR and Associated Tasks (Ascent)	\$196,945
Utility Analysis and Water Supply Assessment (BKF) <sup>1</sup>	\$28,035
Marketing and Fiscal Analysis (EPS) <sup>1</sup>	\$39,900
<b>Total</b>	<b>\$264,880</b>
Optional Tasks	
Phase 1 Environmental Site Assessment <sup>1</sup>	\$10,500
Preparation of the Urban Design Study (Ascent)	\$16,375

<sup>1</sup>The subconsultant cost includes a general and administrative management cost of 5%.

With the objective of promoting clarity about the proposed price, the following assumptions explain the basis of the price to implement the proposed scope of work. Please note that the price is estimated based on a good faith effort and current understanding of the project needs of the City. Variations in approach, issues, and deliverables can adjust the contract price. If selected, Ascent is very interested in listening to the City's needs and willing to revise the scope of work and price to meet the City's expectations.

- ▶ This effort is focused primarily on the Fortinet campus area and how it can be redesigned to fit within the Sunnyvale context. It does not include examination of other parcels.
- ▶ Ascent Planning and Design will prepare only an Urban Design Study that is graphic focused with minimal text; however, others will provide engineering and utility phasing, transportation planning, and market and fiscal analysis under the EIR scope or directly to the City of Sunnyvale.
- ▶ Boundary and topography information as well as previous Site Plans will be supplied to Ascent by the City and/or Fortinet.
- ▶ We will prepare up to two (2) Site Plans only.
- ▶ All layouts of buildings and parking structures are conceptual only, subject to change as more detailed planning follows, or later during the Tentative Map Stage.
- ▶ Schematic design, design development, and construction documentation of buildings and landscape are excluded from this scope of work.
- ▶ Three-dimensional massing depicting the scale of the Site Plan(s) are included as noted in the Scope of Work. Professional renderings including hand-drawn or computer simulations, animations, physical design models, and marketing materials are excluded.
- ▶ Quantity surveying is excluded.

- ▶ The price assumes that an environmental document will be prepared in compliance with CEQA. Work related to National Environmental Policy Act (NEPA) compliance, Section 404 compliance, or other permitting processes is not included. These can be provided with a budget augment. Work concludes at the acceptance by the City staff of the final proposed deliverable.
- ▶ The price is based on the proposed schedule. Should significant delay occur (more than 60 days) for reasons beyond Ascent’s control, a budget amendment may apply to the remaining work, based on labor rates in effect at that time. Ascent will consult with the City about a course of action, if a significant delay occurs.
- ▶ The proposed price has been allocated by tasks to determine the total budget. Ascent may reallocate budget among tasks, as needed, as long as the total budget is not exceeded.
- ▶ A total number of proposed meetings and conference calls is specified. If the number of meetings or conference calls or the required level of effort exceeds this total, a budget augment would be warranted. Ascent will advise the City, if this circumstance arises.
- ▶ The City will be responsible for the cost of newspaper publication of notices. These costs are not included in the proposed price.
- ▶ After the description of the project are approved by the City for use in the environmental document, it is assumed they will not change during the course of analysis and document preparation. If changes are necessary, amendment of the budget will be warranted to the extent that already completed analysis and document preparation need to be revised or redone.
- ▶ The proposed price assumes that no new technical issues, alternatives, field surveys, modeling, or topical areas of research or analysis will be identified through the scoping process or by other affected agencies after contract execution.
- ▶ This proposed scope and budget assumes preparation of an environmental checklist, MND, and EIR only. Additional support for an additional document can be provided with a budget and scope augment.
- ▶ Review cycles for preliminary versions of the deliverables are specified in the enclosed scope of work. Additional review cycles or additional versions of administrative or other drafts, if desired, can be provided with a budget augment.
- ▶ The City will provide Ascent with one set of consolidated, non-conflicting comments on preliminary draft deliverables that are submitted for review to facilitate the overall schedule and promote efficiency.
- ▶ Ascent will maintain electronic copies of reference documents or portions of documents cited and will make the electronic files available during public review. Ascent will submit electronic copies of references to the City for project files upon completion of the authorized work.
- ▶ Ascent is available to assist in the lead agency’s response to a lawsuit, subject to an amendment to the contract and budget. Except for electronic files of cited references, which will be provided as described above, assembly of an administrative record or project record, whether needed for litigation or other purposes, is not included in the budget, but can be provided with a budget augment.

## SCHEDULE

The following table summarizes the anticipated schedule to complete the technical work for the project.





ENGINEERS . SURVEYORS . PLANNERS *Delivering Inspired Infrastructure*

November 9, 2017

BKF Job No.: 20170410-P1

Mr. Allen Folks

Director of Design and Planning

Ascent

455 Capitol Mall, Suite 300

Sacramento, CA 95814

via email: [allen.folks@ascentenvironmental.com](mailto:allen.folks@ascentenvironmental.com)

Subject: Fortinet Precise Plan Study  
Proposal for Civil Engineering Assistance

Dear Allen:

BKF is pleased to provide you with this proposal for the Fortinet Precise Plan project in Sunnyvale. As described in the project description there is an Option A and Option B study that BKF Engineers will assist to provide civil engineering services.

#### Option A – City of Sunnyvale Study Area

The goal for Option A is for the City of Sunnyvale to understand the existing surrounding area of the proposed Fortinet site. BKF Engineers will prepare a report that will outline the findings of the existing and proposed utility demands of the surrounding areas. It is our understanding that the City will provide data on existing conditions including existing infrastructure, land uses and zoning designations to assist with the study. Below is an outline of BKF Engineering services to study Option A.

- Review existing utilities for water, sewer and storm drain.
- Review the land use areas for each of surrounding parcels outlined in Option A.
- Study 100% FAR utility demand for Office/industrial R&D uses in the Fortinet Study Area.
- Study utility demand uses for retail and land uses for parcels along Wolfe Road.
- Study the effect of utility demand uses for retaining the existing FAR allowances for parcels outside of the Fortinet Study Area.
- Prepare a checklist for CEQA analysis
- Assist with the providing documentation as needed for EIR review
- Prepare any Mitigation Monitoring and Report Plan based on the findings of the study area.
- Study the water assessment for the surrounding areas assuming that the City will provide the water usage for the area.
- Estimated budget for Option A study - \$35,000

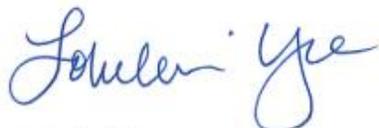
### Option B – Fortinet Study Area

The goal for Option B is to study up to 100% FAR for office/industrial R&D uses in the Fortinet Study Area and the compatibility within the surrounding land uses. BKF Engineers will prepare a report that will outline the findings of the existing and proposed utility demands for the Fortinet project site. We assume that the City will provide the existing utility infrastructure in the surrounding public streets. Fortinet will provide BKF Engineers any existing utility information within the project for the study. Below is an outline of BKF Engineering services to study Option B.

- Review existing utilities for water, sewer and storm drain.
- Review the surrounding parcels outlined in Option B.
- Study up to 100% FAR for office/industrial R&D uses in the Fortinet project site.
- Study utility demand uses for the project and analyze any issues, constraints and opportunities with the existing and proposed utility infrastructure.
- Study the water assessment for the surrounding areas assuming that the City will provide the water usage for the area.
- Attend any public outreach meetings and hearing as determined by staff.
- Prepare a checklist for CEQA analysis
- Assist with the providing documentation as needed for EIR review
- Prepare any Mitigation Monitoring and Report Plan based on the findings of the study area.
- Estimated budget for Option B study - \$26,700

Thank you for the opportunity to provide this proposal. We look forward to working with you and the rest of the project team. Please let us know if you have any questions on this proposal or need any additional information.

Sincerely,  
BKF Engineers



Project Manager

December 7, 2017

Allen Folks  
Director of Urban Design and Planning  
Ascent Environmental  
455 Capitol Mall, Suite 300  
Sacramento, CA 95814

Subject: Revised Fortinet Precise Plan Economic Analysis Scope;  
EPS #172143

Dear Allen:

Economic & Planning Systems, Inc. (EPS) would appreciate the opportunity to provide economic analysis pertaining to the proposed Fortinet Precise Plan, for either Option A or Option B, as described below.

*The Economics of Land Use*



## **Fortinet Precise Plan Economic Analysis: EPS Approach**

EPS will conduct market and fiscal analysis of the Fortinet site and the expanded area surrounding Fortinet under Option A, or a more limited analysis of the Fortinet site only under Option B. Market work will be conducted to establish key information for policy making and to establish working assumptions for the fiscal analyses.

For Option A, the site will be analyzed as a case study: what is the potential to diversify the surrounding area without increasing density or contributing to higher cost structure? Throughout the South Bay, industrial zones are quickly being converted to office. The Fortinet site provides a prime example of the dynamic: within the Fortinet campus, a higher standard of quality is emerging through the firm's plans for a build-to-suit campus. This development easily could serve as a catalyst for surrounding districts located to the north and south of the campus. However, there are concerns registered in the City of Sunnyvale (City) and the region that key elements of the surrounding industrial context should be preserved, or at least not overtly positioned, for rapid transformation. At the same time, the introduction of restaurants and other local amenities serving the district has been identified as a potential goal. To what extent can the district change over time to allow more amenities and contribute to a more eclectic overall district, without the use of density bonuses or other tools that potentially would eradicate the affordable industrial district that exists today?

*Economic & Planning Systems, Inc.  
400 Capitol Mall, 28th Floor  
Sacramento, CA 95814  
916 649 8010 tel  
916 649 2070 fax*

*Oakland  
Sacramento  
Denver  
Los Angeles*

**[www.epsys.com](http://www.epsys.com)**

In support of Ascent Environmental, EPS will conduct market and fiscal analysis in support of the Precise Plan. These two elements will be mutually reinforcing, with initial market work defining the parameters in which the fiscal analysis will be conducted, as detailed below in the scopes for each option. Related to the above-referenced discussion, the following key questions will be evaluated within the context of the market analysis for each Option:

- **Fortinet Site only, under both Options A and B.** EPS will work with the project team to collect salient facts underpinning the Fortinet proposal, including approximate assessed value, sales activity, number and type of employees for each sub land use, and other key elements driving the project's effect on the City's General Fund budget, under current conditions and with the proposed project. Under Option B, this will include an assessment of the re-use value of the site as-is versus the re-use value of the proposed project.
- **The larger Precise Plan Area, included in Option A.** Building on the above-referenced build-to-suit project, EPS will research the surrounding district, seeking to answer the following questions:
  - What is the composition of the district in terms of existing land uses and employment, and how is it changing? What is proposed? Are the existing uses contributing to the local economy or municipal General Fund revenues in a significant way, and how might the proposed uses differ in their contribution?
  - What is the larger economic back-drop for this district? Are there opportunities for relocation in the market area or elsewhere in the City for various uses, should new uses be added that displace current uses?
  - Which current or potential uses are most likely to produce significant economic value to the regional economy and to the City's annual budget, and what are the advantages and disadvantages of maintaining current conditions?
  - What types of uses could be introduced to the areas to provide a more eclectic and livable overall employment district in support of Fortinet?
  - Is there a "tipping point" at which the floor area ratio (FAR) should not be exceeded to preserve desired neighborhood character?
  - What are the overall pros and cons of improving neighborhood amenities, potentially intensifying the district and changing its industrial character?

Based on the above-referenced research, a project description for the expanded district will be posited and tested fiscally, comparing current state to the proposed uses, separate from and in addition to the Fortinet project.

## **Scope of Work—Option A: Site and Surrounding Area**

### **Task 1: Initiate Project**

EPS will attend the project kick-off meeting with the City and other consultants, will participate in a site visit of the area, and will tour the relevant surrounding areas to visually assess market conditions.

### **Task 2: Interview Key Stakeholders**

EPS will participate in interviews with Fortinet and key landowners identified by the City.

### **Task 3 (Ascent Task 4): Examine Existing Conditions**

To understand the context of the proposed development and the surrounding area, the examination of existing conditions will begin with an overall assessment of market conditions. EPS will summarize and analyze available information regarding major demographic and economic trends occurring in the commercial (office/industrial/flex and retail) markets in the North Sunnyvale area, as well as the larger Silicon Valley area.

EPS will collect/analyze data on market performance indicators for the office/industrial/flex and retail sectors, including existing inventory, vacancy rates, annual net absorption, average rental rates, and pipeline development projects. EPS will rely on readily available secondary data sources such as the U.S. Census Bureau, the California Board of Equalization (BOE), the Department of Finance (DOF), subscription-based data sources (e.g., CoStar and Environmental Systems Research Institute [ESRI]), and available brokerage reports for these data.

To drill down to the specific characteristics of the Precise Plan area, EPS will rely on a combination of available data sources and direct contacts with area businesses. EPS will identify the composition of the district in terms of land uses and employment and how those elements have been changing. EPS also will determine whether the uses are contributing to municipal General Fund revenues in a significant way.

Comparing the Precise Plan area with the larger market context, EPS will evaluate whether there are opportunities for relocation in the market area for various uses or whether new uses should be added that displace current uses.

### **Task 4 (Ascent Task 6): Conduct Opportunities Analysis and Prepare Fiscal Impact**

EPS will evaluate strategies for upgrading the urban environment of the Precise Plan, while preserving the area's role as a location for smaller, innovative firms.

These are the specific questions to be addressed:

1. Which uses are most likely to produce significant economic value to the regional economy and to the City's annual budget?
2. What types of uses could be introduced to the areas to provide a more eclectic and livable overall employment district in support of Fortinet?

3. EPS will make quantitative and qualitative contributions that inform whether there is a tipping point at which the FAR should not be exceeded to preserve desired neighborhood character?
4. What are the overall pros and cons of improving neighborhood amenities, potentially intensifying the district and changing its industrial character?

Based on the above-referenced research, a project description for the expanded district will be posited and tested fiscally, separate from and in addition to the Fortinet project.

The Fiscal Impact Analysis will compare forecasts of revenues generated through property tax, sales tax, and other General Fund revenue sources with the cost of providing services to the plan area. The specific subtasks EPS will complete to analyze the fiscal impacts of the new development include deriving baseline cost and revenue parameters for the analysis from the current City budget and from discussions with appropriate agency staff, estimating annual City costs to provide the public services required to serve incremental growth in the plan area using both average and marginal cost-estimating techniques, estimating the annual General Fund and operating revenues expected to be generated by new development using forecasting techniques appropriate to each revenue source, and analyzing net fiscal impacts.

#### **Task 5 (Ascent Tasks 7, 8, and 10): Revise Draft Text**

EPS will revise its portion of draft text as appropriate to address comments arising during City review.

#### **Task 6 (Ascent Task 9): Attend Public Hearings**

EPS will attend two public hearings to present findings and will attend two meetings with City staff.

### **Scope of Work—Option B: Site Only**

#### **Task 1: Initiate Project**

EPS will attend the project kick-off meeting with the City and other consultants.

#### **Task 2: Interview Key Stakeholders**

EPS will participate in interviews with Fortinet and key landowners identified by the City either by phone or concurrently with the project kick-off.

#### **Task 3 (Ascent Task 4): Identify Existing Conditions**

EPS will identify the composition of the district in terms of land uses and employment and how those elements have been changing. EPS also will determine whether the uses are contributing to municipal General Fund revenues in a significant way. Included in the existing conditions analysis will be an assessment of the re-use potential of the Fortinet site as it exists.

In particular, EPS will assess whether current state of the site provides any unique and desirable market niche in terms of maintaining key economic drivers in Sunnyvale.

#### **Task 4 (Ascent Task 6): Conduct Opportunities Analysis and Prepare Fiscal Impact**

For the Opportunities Analysis under Option B, EPS will assess the marketability of the site as proposed. Building on the re-use potential discussion above in Existing Conditions, EPS will assess the viability of the site for re-use by alternative tenants in the market, in light of proposed building uses, configurations, and any other pertinent site-specific details that may impact other potential users.

The Fiscal Impact Analysis will compare forecasts of revenues generated through property tax, sales tax, and other General Fund revenue sources with the cost of providing services to the plan area. The specific subtasks EPS will complete to analyze the fiscal impacts of the new development include deriving baseline cost and revenue parameters for the analysis from the current City budget and from discussions with appropriate agency staff, estimating annual City costs to provide the public services required to serve incremental growth in the plan area using both average and marginal cost-estimating techniques, estimating the annual General Fund and operating revenues expected to be generated by new development using forecasting techniques appropriate to each revenue source, and analyzing net fiscal impacts.

#### **Task 5 (Ascent Tasks 7, 8, and 10): Revise Draft Text**

EPS will revise its portion of draft text as appropriate to address comments arising during City review.

#### **Task 6 (Ascent Task 9): Attend Public Hearings**

EPS will attend two public hearings to present findings, in addition to two meetings with City staff.

### **Personnel, Budget, and Schedule**

The following personnel are proposed to work on the project, although EPS reserves the right to adjust team composition as necessary and appropriate, based on project needs:

- **Managing Principal David Zehnder** will oversee all aspects of EPS's involvement in the project, consisting of setting the analytic framework, monitoring progress, conducting interviews, managing team relations, and making presentations as needed.
- **Vice President Tom Martens** will provide day-to-day management of the project and is charged with developing EPS's work product in conjunction with other EPS staff.

EPS estimates a budget to complete the scope tasks outlined above of **\$57,000 for Option A: Site and Surrounding Area**, or **\$38,000 for Option B: Site Only**. The detailed estimates of hours for either option are shown on the attached **Table 1** and **Table 2**. EPS charges for its services on a direct-cost (hourly billing rates plus direct expenses), not-to-exceed basis; therefore, you will be billed only for the work completed up to the authorized budget amount.

Data or reproduction expenses will be billed at cost, and invoices are submitted monthly and are payable on receipt. If additional work or meetings are required, EPS will request authorization for additional budget with the understanding that terms will be negotiated in good faith. EPS's Hourly Billing Rates and Standard Terms and Conditions are attached as part of this letter agreement.

EPS is prepared to complete the initial draft of its findings within 16 weeks of kickoff, assuming timely stakeholder interviews, for Option A, and within 10 weeks of kickoff, assuming timely stakeholder interviews, for Option B. The remainder of EPS's tasks will align with the timeline for this project as detailed by Ascent Environment.

EPS appreciates the opportunity to provide this proposed scope of work. If you have questions or require changes to this amendment, please call me or Project Manager Tom Martens at (916) 649-8010.

Sincerely,

ECONOMIC & PLANNING SYSTEMS, INC.



David Zehnder  
Managing Principal

Attachments

**Table 1**  
**Fortinet Option A: Site and Surrounding Area**  
**EPS Cost Proposal**

Task/ Description	Principal	Vice President	Senior Associate	Research Analyst	Production Staff	EPS Staff Cost Subtotal	EPS Direct Costs	EPS Total
Task 1: Project Kick-off	10	10	4	0	0	\$5,530	\$200	\$5,730
Task 2: Stakeholder Interviews	2	10	0	0	0	\$2,570	\$200	\$2,770
Task 3: Existing Conditions	16	26	34	0	0	\$15,540	\$30	\$15,570
Task 4: Opportunities Analysis	20	34	18	0	2	\$15,720	\$30	\$15,750
Task 5: Revised Drafts	6	14	14	0	2	\$7,050	\$30	\$7,080
Task 6: Public Hearings	<u>15</u>	<u>20</u>	<u>10</u>	<u>0</u>	<u>2</u>	<u>\$10,135</u>	<u>\$200</u>	<u>\$10,335</u>
TOTAL HOURS	69	114	80	0	6			
Billing Rates	\$285	\$200	\$170	\$115	\$80			
<b>TOTAL PROJECT COSTS</b>	<b>\$19,665</b>	<b>\$22,800</b>	<b>\$13,600</b>	<b>\$0</b>	<b>\$480</b>	<b>\$56,545</b>	<b>\$690</b>	<b>\$57,235</b>
<b>TOTAL (ROUNDED)</b>								<b>\$57,000</b>

cost A

**Table 2**  
**Fortinet Option B: Site Only**  
**EPS Cost Proposal**

Task/ Description	Principal	Vice President	Senior Associate	Research Analyst	Production Staff	EPS Staff Cost Subtotal	EPS Direct Costs	EPS Total
Task 1: Project Kick-off	2	6	2	0	0	\$2,110	\$200	\$2,310
Task 2: Stakeholder Interviews	1	4	0	0	0	\$1,085	\$200	\$1,285
Task 3: Existing Conditions	6	20	15	0	0	\$8,260	\$30	\$8,290
Task 4: Opportunities and Fiscal Impact Analysis	10	28	24	0	2	\$12,690	\$30	\$12,720
Task 5: Revised Drafts	3	8	5	0	2	\$3,465	\$30	\$3,495
Task 6: Public Hearings	<u>15</u>	<u>20</u>	<u>10</u>	<u>0</u>	<u>2</u>	<u>\$10,135</u>	<u>\$200</u>	<u>\$10,335</u>
TOTAL HOURS	37	86	56	0	6			
Billing Rates	\$285	\$200	\$170	\$115	\$80			
<b>TOTAL PROJECT COSTS</b>	<b>\$10,545</b>	<b>\$17,200</b>	<b>\$9,520</b>	<b>\$0</b>	<b>\$480</b>	<b>\$37,745</b>	<b>\$690</b>	<b>\$38,435</b>
<b>TOTAL (ROUNDED)</b>								<b>\$38,000</b>

cost B

## *2017 HOURLY BILLING RATES*

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### Sacramento Office

Managing Principal	\$255-\$285
Senior Principal	\$300
Principal	\$230-\$245
Executive/Senior Vice President	\$225
Vice President	\$200
Senior Technical Associate	\$185
Senior Associate	\$170
Associate	\$155
Research Analyst II	\$115
Research Analyst I	\$85
Production and Administrative Staff	\$80

Billing rates updated annually.



**Economic & Planning Systems, Inc.**  
**Standard Terms and Conditions for Consulting Services**

**1. Authority**

Each party has full power and authority to enter into and perform this contract, and the person signing this contract on behalf of each has been properly authorized and empowered to enter into this contract. Each party further acknowledges that it has read this agreement, understands it, and agrees to be bound by it.

**2. Independent Contractor**

It is specifically understood and agreed that in the creation and performance of this Agreement, CONSULTANT is an independent contractor, and is not and shall not be construed to be an employee or agent of the CLIENT.

**3. Insurance**

CONSULTANT shall maintain the following insurance:

- 3.1. Workers Compensation as required by law.
- 3.2. General Liability insurance policy of \$1,000,000, \$3,000,000 in aggregate, for personal injury and property damage.
- 3.3. Auto Liability insurance of \$1,000,000, combined single limit for bodily injury and property damage covering non-owned and hired vehicles.
- 3.4. Errors and Omissions/Professional Services Liability and Personal and Advertising Injury insurance in the amount of \$2,000,000.
- 3.5. Excess/Umbrella Liability insurance in the amount of \$1,000,000.

**4. Personnel**

The CONSULTANT represents that it is an equal opportunity employer and has, or will secure at its expense, all personnel required in performing the services under this Agreement. All personnel engaged in the work shall be authorized or permitted under State and Local law to perform such services.

**5. Interest of CONSULTANT**

CONSULTANT covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement.

## **6. Publication, Reproduction, and Use of Material**

CLIENT may publish, distribute, or otherwise use any data, information, reports, or other materials prepared under this Agreement by CONSULTANT (EPS Work Product), in whole or in part, for purposes of this project. This authority does not apply to any computer models or software used or developed as a result of this contract, unless a separate agreement is signed concerning the disposition of such materials. CLIENT acknowledges that EPS Work Product was prepared by CONSULTANT solely for contemporaneous use by CLIENT for this Project and that it is not intended for use at any other time, location, purpose or by any other party. Accordingly, CLIENT shall not, without the prior written consent of CONSULTANT (which CONSULTANT may withhold in its sole discretion), (i) use EPS Work Product for purposes unrelated to the Project, (ii) modify EPS Work Product, or (iii) disclose or distribute any EPS Work Product to any other person, firm, or entity. CONSULTANT shall be entitled to indemnification by CLIENT, pursuant to paragraph 13 hereof, if CLIENT breaches this provision, in addition to all other available remedies at law or in equity.

## **7. Confidentiality**

Any reports, information, or data given to or prepared or assembled by the CONSULTANT under this Agreement shall not be made available to any individual or organization by the CONSULTANT without the prior written approval of the CLIENT. CONSULTANT is entitled to retain copies of all data, working papers, interim documents, memoranda, and reports produced under this Agreement. However, nothing contained herein shall prevent the disclosure of such information if compelled by legal process, and in the event thereof, only after notice to CLIENT.

## **8. Amendments to the Contract**

No amendment to this Agreement shall be effective unless it is in writing and signed by duly authorized representatives of both parties.

## **9. Disputed Invoices**

In the event that CLIENT disputes any item on an invoice, CLIENT shall notify the CONSULTANT of this disputed item within five working days of receipt of the invoice. CLIENT will approve payment of items on an invoice that are not in dispute and CLIENT and CONSULTANT will proceed to negotiate or arbitrate the disputed items as specified elsewhere in this Agreement.

## **10. Audits and Inspections**

On reasonable notice, CLIENT may inspect any books, records, or other materials that pertain directly to this Agreement.

## **11. Compensation for Testimony and Preparation Thereof**

If any legal action is brought in connection with the Agreement, other than an action that is solely the result of the incompetence or malfeasance by CONSULTANT, by or against a third party, and CLIENT requests that CONSULTANT or a SUBCONSULTANT, (or if CONSULTANT or a SUBCONSULTANT is otherwise required) to testify, provide information, produce materials, or otherwise spend time on such action, then CLIENT shall pay CONSULTANT or SUBCONSULTANT

for time expended at their standard rates then in effect, plus advance all related expenses and costs, including, but not limited to, reasonable attorneys' fees. Such compensation shall be in addition to the maximum charge for services defined in the Agreement.

## **12. Termination of Agreement**

The CLIENT may, at its option, elect to cancel the contract at any time, by notice to CONSULTANT, on completion of any task described in the scope of services. In such event the CLIENT will pay to the CONSULTANT the amount due by virtue of completion of the products therefore delivered. If such cancellation is not based on any claim of CONSULTANT default, such payment shall include any sums withheld pursuant to this Agreement. In addition, the CONSULTANT shall be reimbursed (in addition to the payment) for that portion of the actual out-of-pocket costs not otherwise reimbursed under this Agreement previously incurred by the CONSULTANT during the period of the Agreement, which are directly attributable to the incomplete portion of the services covered by this Agreement.

## **13. Indemnification/Limitation of Liability**

- 13.1. CLIENT agrees to release, indemnify, hold harmless, and defend CONSULTANT and all of its partners, employees, agents, and representatives of all types from and against all claims, liability, loss, cost, damage, expense, or obligation, including, but not limited to reasonable attorneys' and experts' fees and costs, which any of them may hereafter incur, suffer, or be required to pay by reason of any actions in connection with this Agreement or the performance thereof except as to claims which are finally adjudicated or arbitrated to have resulted from the sole negligence or willful misconduct of CONSULTANT.
- 13.2. CLIENT agrees that CONSULTANT is not responsible for the identification of hazardous or toxic substances, waste or materials, or petroleum products and/or petroleum components or constituents, and is not liable for any conditions that stem from contamination from hazardous or toxic substances, waste or materials, or petroleum products and/or petroleum components or constituents.

## **14. Nondiscrimination and Equal Opportunity**

CONSULTANT and its SUBCONSULTANTS shall not unlawfully discriminate against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by CONSULTANT under this Agreement because of race, religion, color, national origin, ancestry, physical disability, medical condition, marital status, age (over 40), gender, or gender orientation. CONSULTANT shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of CONSULTANT thereby.

## **15. Standard of Performance**

All work performed by CONSULTANT for CLIENT pursuant to this Agreement shall be performed by qualified persons, and shall be performed in accordance with standards of performance generally applicable to the work in the community in which the work is performed.

As in all projects of this type, the estimated results are based on the continued competent and efficient management by CLIENT. In addition, the conclusions reached by CONSULTANT are based on the assumption that no significant changes in project conditions will occur beyond those expressly discussed in EPS Work Product. CONSULTANT shall be able to rely on information provided to it by the CLIENT, and CONSULTANT shall have no responsibility to audit or otherwise verify such information.

## **16. Force Majeure**

Neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of such party. Such acts shall include, but not be limited to, acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, power failures, earthquakes, or other disasters.

## **17. Arbitration and Attorneys' Fees**

In the event of a dispute in any manner relating to or arising out of this Agreement, the parties shall meet, confer, and negotiate in good faith in an attempt to resolve the dispute. In the event the parties are unable to resolve the dispute themselves, the dispute shall be resolved through binding arbitration in Sacramento County, State of California, under the Construction Industry Arbitration Rules of the Judicial Arbitration and Mediation Services, Inc., (JAMS). In arbitrating any issue arising under this Agreement, the power and authority of the arbitrator shall include the power and authority to grant such equitable relief (including injunctive relief) as may be appropriate under the circumstances, in accordance with applicable law. The decision award of the arbitrator shall be binding on the parties and shall be enforceable by judgment entered in a court having jurisdiction. In the event the arbitrator determines there is a prevailing party in the arbitration, the prevailing party shall recover from the losing party all costs of arbitration, including all fees of the arbitrator and all attorneys' fees reasonably incurred by the prevailing party. The arbitrator shall have authority to order such limited discovery as the arbitrator shall deem relevant and appropriate.

## **18. Governing Law**

This contract will be governed by and construed in accordance with the laws of the State of California.

## **19. Notice**

Notice given under the terms of this Agreement shall be in writing and shall be effective the day it is mailed, properly addressed, to the party to receive such notice. Notice delivered other than by mail shall be effective when received. Any change of address of either of the parties shall be effective on receipt of notice of such change by the opposite party.