

City of Piedmont COUNCIL AGENDA REPORT

DATE:	October 15, 2012
FROM:	Kate Black, City Planner
SUBJECT:	Approval of a Consulting Agreement with Eisen Letunic in the amount of \$2,100 related to the preparation of a Complete Streets Policy

RECOMMENDATION:

Approve the attached agreement (Attachment I, page 3) in an amount not to exceed \$2,100 for consulting services between the City of Piedmont and Eisen Letunic, a transportation and planning consulting firm, related to the preparation of a Complete Streets Policy.

BACKGROUND:

On March 19, 2012, the City Council entered into a new 10-year Master Programs Funding Agreement (MPFA) with the Alameda County Transportation Commission (ACTC). This agreement enables the City to continue to receive its annual allotment of Measure B funds¹, which is a significant amount of money the City uses to repair and resurface streets, construct handicap improvements (such as wheelchair ramp curb-cuts), and to construct and repair sidewalks. For reference, Attachment II, page 11 is the audited Measure B Statement of Revenue, Expenses and Change in Fund Balances for the year ending June 30, 2011.

As part of our Master Programs Funding Agreement, the City must adopt a Complete Streets Policy, that spells out the City's "multi-modal" vision to accommodate the needs of pedestrians, bicyclists, private and commercial vehicles, emergency responders and transit systems. The Policy communicates the City's goals of accommodating users of all ages and abilities, for both retrofit and new projects. It should be noted that an adopted Complete Streets Policy is also a requirement of a General Plan amendment in accordance with the California Complete Streets Act of 2008 (also known as AB 1358), if the City wishes to apply for grant funds from the Metropolitan Transportation Commission (MTC). The deadline for adoption is January 31, 2013.

At the September 18, 2012 Joint Meeting of the City Council and the Planning Commission, staff presented an initial scope of work and budget for the Complete Streets Policy from Niko Letunic of Eisen Letunic. Mr. Letunic is a Transportation and Planning Consultant who recently prepared the Alameda Countywide Bicycle and Pedestrian Plans². The initial estimated cost of preparation of the policy was \$4,000, and staff confirmed with the ACTC staff that consulting services for the Complete Streets Policy can be paid for from the annual Measure B ACTIA Bike and Pedestrian fund balance. However, recently, both the ACTC and MTC have prepared model policies that cities can use as templates for their Complete

1 In 1986, Alameda County voters approved Measure B, a ½ cent sales tax to fund transportation improvements and programs throughout Alameda County. In November 2000, county voters approved an extension of the first sales tax through 2022 to fund a new set of project and program investments.

2 In collaboration with Barry Miller, the City's consultant on the General Plan and Housing Element, Mr. Letunic has also submitted an initial scope and budget for the preparation of the City's Bicycle, Pedestrian and Safe Routes to School Plan, which will begin in July of 2013 if grant funding is obtained for the project.

Streets Policies. Because staff can adapt and tailor the model policies for Piedmont, staff met with Mr. Letunic to reduce the scope of work and budget for this project. The scope of work has been reduced to provide a professional peer review of staff's draft policy in lieu of preparing the policy, and to eliminate other minor aspects of the scope of work that can be accomplished by staff. However, staff wishes to have the professional services of Mr. Letunic for reviewing and communicating the more technical aspects of the Policy, especially as the Complete Streets Policy lays the groundwork for, and precedes the City's proposed Bicycle/Pedestrian/Safe Routes to School Plan, and the related grant funding application. The changes to the scope of work have resulted in a reduced not-to-exceed budget from \$4,000 to \$2,100. The revised scope and budget are attached as Exhibit A of the Consulting Services Agreement (page 10).

The attached consulting services agreement between the City and Mr. Letunic (Attachment I, page 3) was prepared and reviewed by the City Attorney. Should the Council approve it, the draft policy will be prepared and presented at a question and answer open-house meeting for the public prior to the November 13th Planning Commission meeting, immediately followed by a Planning Commission hearing at which the Commission will develop a recommendation to be forwarded to the City Council. It is expected that the policy will be presented for City Council consideration at the November 19th Council meeting. Staff wishes to keep to this tight schedule in order to be able to return to discussions concerning the Zoning Code amendments and to begin the scoping, budget and grant preparation activities for the Bicycle, Pedestrian and Safe Routes to School Plan.

ATTACHMENTS:

Attachment I	Page 3	Consulting Services Agreement
Exhibit A	Page 10	Revised Scope of Work and Budget – Eisen Letunic
Attachment II	Page 11	Measure B Statement of Revenue, Expenses and Change in Fund Balances FY10/11

AGREEMENT FOR CONSULTING SERVICES

THIS AGREEMENT is between the City of Piedmont, a municipal corporation of the State of California ("CITY") and Eisen Letunic, a Transportation, Environmental and Planning Consultant ("CONSULTANT").

RECITALS

A. CITY requires the services of a consultant to assist and advise CITY on technical aspects of a Complete Streets Plan, provide peer review of certain documents, prepare public information and presentation materials, and attend public meetings as further specified in the Work Scope for Piedmont Complete Streets Policy, attached as Exhibit A.

B. CONSULTANT possesses distinct professional skills necessary to perform the services described in this Agreement.

NOW, THEREFORE, CITY and CONSULTANT agree as follows:

1. Independent Contractor Status: CONSULTANT is an independent contractor and has control over the means and methods of performing the services contemplated by this Agreement. CONSULTANT understands that its services are being offered as an independent contractor. Nothing in the agreement shall in any way be construed to mean that CONSULTANT or any of its agents or employees are agents, employees or representatives of CITY.

2. Services to be Provided: CONSULTANT shall provide the following services:

A. CONSULTANT shall advise CITY on technical aspects of a Complete Streets Policy during its preparation. CONSULTANT'S responsibilities shall include, but shall not be limited to, peer review of certain documents, preparation of public information and presentation materials, and presentations and attendance at public meetings as further specified in the Work Scope for Piedmont Complete Streets Policy, attached as Exhibit A.

B. CONSULTANT shall make a reasonable effort to complete the tasks described above in a timely manner.

C. In addition, CONSULTANT shall be responsible and shall be readily available to the Piedmont Planning Commission and Piedmont City Council for the handling and answering of any and all questions, inquiries, and correspondence from interested persons referred to CONSULTANT by the City Planner (or designee) regarding the services CONSULTANT has performed under this Agreement.

D. CONSULTANT shall be ready and able to begin to perform services required by this Agreement immediately upon its execution and shall perform such services diligently until this Agreement terminates.

E. Upon written request of CITY, CONSULTANT shall submit to CITY a report listing work in progress, charges incurred to date, and anticipated estimated completion costs.

F. CONSULTANT shall maintain adequate records and documentation to substantiate all charges for services provided in the performance of this Agreement, including, but not limited to, hours worked, materials used, and expenses incurred. CONSULTANT shall provide copies of these records and documentation if they are requested by CITY.

G. CONSULTANT shall maintain records and documents related to the performance of this Agreement, and shall allow CITY access to such records, upon request, for a period of three (3) years from the date of this Agreement's termination. CONSULTANT shall provide copies of these records and documents if they are requested by the CITY.

3. Assignment: CONSULTANT shall not assign this contract or any portion of it without the express written approval of the CITY.

4. Term: The term of this Agreement shall commence upon the date approved by the City Council and shall terminate at the conclusion of the project as determined by the CITY.

5. Termination: CITY and CONSULTANT agree that CITY may terminate this Agreement at any time before the normal expiration of the term by giving thirty (30) days' written notice. Upon termination of the agreement before completion of the project, CONSULTANT shall surrender all documents, drawings, and other pertinent information on the

project to CITY and CITY shall compensate CONSULTANT for all services provided before termination.

6. Confidentiality: CONSULTANT shall not disclose or make use of confidential or proprietary information or knowledge which may be disclosed to him, directly or indirectly, in the course of any performance under this Agreement. This Section survives termination of this Agreement.

7. Payment and Expenses:

A. CITY shall pay CONSULTANT for services performed under this Agreement in an amount not to exceed \$2,100 per the Work Scope for Piedmont Complete Streets Policy, attached as Exhibit A.

B. Payments prescribed in this Agreement shall constitute all compensation to CONSULTANT for all costs of its services, including, but not limited to, direct costs of labor of employees engaged by CONSULTANT, including CONSULTANT, travel expenses, telephone charges, typing, duplication, computer time, and any and all other costs, expenses, and charges incurred by CONSULTANT, his agents and employees in carrying out its duties under this Agreement. CONSULTANT shall be solely responsible for payment of its taxes, social security, and all expenses incurred in connection with the project.

C. CONSULTANT shall invoice CITY monthly for services rendered in the previous month. CITY shall pay CONSULTANT in an expedient manner in accordance with CITY'S normal payment procedures.

8. Hold Harmless: CONSULTANT agrees to and shall defend, indemnify and hold the CITY, its officials, directors, employees and agents harmless from and against any and all loss, liability, expense, claim, costs (including reasonable attorneys' fees), suits and damages of every kind, nature and description, directly or indirectly arising from the negligent acts, errors and omissions of the CONSULTANT, its agents and employees.

9. Consultant's Responsibility: It is understood and agreed that CONSULTANT has the professional skills necessary to perform the work agreed to be performed and that CITY

relies upon the professional skills of CONSULTANT to do and perform its work in a skillful and professional manner and CONSULTANT agrees to so perform its work.

Acceptance by CITY of the work performed under this Agreement does not operate as a release of CONSULTANT from such professional responsibility. It is further understood and agreed that the CONSULTANT has reviewed in detail the scope of work to be performed and that CONSULTANT agrees in its professional judgment said work can and shall be completed at the rate set forth in this Agreement.

10. Insurance: CONSULTANT shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the CONSULTANT, his agents, representatives, or employees.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office commercial General Liability coverage (occurrence form CG 0001).
2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Errors and Omissions Liability Insurance appropriate to the CONSULTANT'S profession.

Minimum Limits of Insurance

CONSULTANT shall maintain limits no less than:

1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.
4. Errors and Omissions Liability: \$1,000,000 per occurrence.

Deductible and Self-Insured Retentions

Any deductible or self-insured retentions must be declared to and approved by the CITY. At the option of the CITY, either: the insurer shall reduce or eliminate such deductible or self-insured retentions as respects the CITY, its officers, officials, employees and volunteers; or the CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Other Insurance Provisions

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The CITY, its officers, officials, employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the CONSULTANT; products and completed operations of the CONSULTANT; premises owned, occupied or used by the CONSULTANT; or automobiles owned, leased, hired or borrowed by the CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to the CITY, its officers, officials, employees or volunteers.
2. For any claims related to this project, the CONSULTANT's insurance coverage shall be primary insurance as respects the CITY, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees or volunteers shall be excess of the CONSULTANT's insurance and shall not contribute with it.
3. Any failure to comply with reporting or other provisions of the policy including breaches of warranties shall not affect coverage provided to the CITY, its officers, officials, employees or volunteers.

4. The CONSULTANT's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the CITY.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the CITY.

Verification of Coverage

CONSULTANT shall furnish to the CONSULTANT's insurance agent a copy of this agreement to verify the CONSULTANT's insurance meets or exceeds the minimum insurance requirements. Upon verification, the CONSULTANT shall direct the insurance agent to send a certificate of insurance(s) and endorsement(s) affecting coverage to the CITY for approval. If there is any question about coverage, at the CITY's sole discretion, certified copies of all required insurance policies may be requested. No work shall commence until all insurance and endorsements are approved.

11. Notices: Any notice required or permitted under the terms of this Agreement shall be effective upon receipt in writing either by personal service upon the authorized agent of CITY or upon CONSULTANT, respectively, or by mailing the notice via U.S. Mail to CITY at:

City of Piedmont
City Hall
120 Vista Avenue
Piedmont, California 94611

and to CONSULTANT at:

Eisen Letunic
46 Shattuck Sq., Ste. 18
Berkeley, CA 94704

or to another address designated by either party by notice given in the manner set forth in this Agreement.

"CITY OF PIEDMONT"
a Municipal Corporation

Dated: _____

"CONSULTANT"

Dated: _____

APPROVED AS TO FORM:

City Attorney

**EISEN | LETUNIC**

TRANSPORTATION, ENVIRONMENTAL AND URBAN PLANNING

Work Scope for Piedmont Complete Streets Policy

Background

The Metropolitan Transportation Commission (MTC) requires that jurisdictions adopt a Complete Streets (CS) policy by January 31, 2013 in order to be eligible for funding from MTC. To help jurisdictions comply with this requirement, MTC will provide technical assistance on policy development during October and November 2012, and on policy implementation through June 2013. The City of Piedmont intends to develop its CS policy as a resolution to be adopted by the City Council.

Task 1: Review draft resolution (3 hours; \$450)

Peer-review the draft resolution and related materials prepared by City staff for compliance with requirements of MTC and the Alameda County Transportation Commission and for consistency with guidance of the National Complete Streets Coalition (including the ten elements of an ideal CS policy).

Task 2: Public outreach (2 hours; \$300)

Develop content related to the CS policy for the City's website as a way to inform the public and solicit feedback.

Task 3: Public workshop (6 hours; \$900)

Develop presentation materials and facilitate an "open house" and presentation on the CS policy as part of a Planning Commission meeting.

Task 4: City Council meeting (3 hours; \$450)

Help City staff present the CS policy and answer questions at a meeting of the City Council.

Total proposed budget: \$2,100

CITY OF PIEDMONT
ALAMEDA COUNTY TRANSPORTATION IMPROVEMENT
AUTHORITY - MEASURE B FUNDS
STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCES
FOR THE YEAR ENDED JUNE 30, 2011

	<u>Measure B 2000 Programs & Projects</u>			<u>Total</u>
	<u>ACTA Measure B</u>	<u>ACTIA Streets and Roads</u>	<u>ACTIA Bike and Pedestrian</u>	
REVENUES				
Taxes		\$336,986	\$27,072	\$364,058
EXPENDITURES				
Public works		26,559	127,815	154,374
Excess (Deficiency) of Revenues Over (Under) Expenditures		310,427	(100,743)	209,684
OTHER FINANCING SOURCES (USES)				
Transfer from the City of Piedmont (Note 3)		26,559	127,815	154,374
Net Change in Fund Balances		336,986	27,072	364,058
Fund Balance, Beginning of Year	\$2,374	240,205	74,307	316,886
Fund Balance, End of Year	<u>\$2,374</u>	<u>\$577,191</u>	<u>\$101,379</u>	<u>\$680,944</u>

See accompanying notes to financial statements