

CITY OF YUBA CITY  
STAFF REPORT

**Date:** February 16, 2021

**To:** Honorable Mayor & Members of the City Council

**From:** Public Works Department

**Presentation by:** Diana Langley, Interim City Manager

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**Summary**

**Subject:** Sutter Bike Path Gap Closure Design Award

**Recommendation:** Adopt a Resolution awarding a Professional Services Agreement to Dokken Engineering of Folsom, CA for the Sutter Bike Path Gap Closure – Preliminary Engineering Services in the amount of \$182,652.01 subject to material terms, with the finding that it is in the best interest of the City.

**Fiscal Impact:** \$182,652.01 – Total Contract Amount (Account No. 1266)  
                           \$153,000.00 – State Funds  
                           \$29,652.01 – Local Funds

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**Purpose:**

To extend the City's pedestrian and bicycle facilities, creating a more accessible and connected active transportation network.

**Background:**

The Public Works Department has been working to facilitate the extension of the existing Sutter Bike Path eastward. The scope of future improvements includes the eastward construction of a Class I shared-use path from the existing east end of the Sutter Bike Path at Hooper Road to Harter Parkway. The improvements also include the construction of a Class I shared use path along the west side of Harter Parkway from Butte House Road to State Route 20. The proposed improvements can be seen in Attachment 2.

The Sutter Bike Path Gap Closure Project (Project) will provide a direct path for pedestrians and bicyclists travelling from as far west as the Town of Sutter to the proposed park adjacent to Harter Parkway. The improvements along Harter Parkway will also provide a safe area for students that walk or bike to and from River Valley High School and Feather River Academy. This will create more opportunities for recreation, exercise, and shopping.

In June of 2019, the City entered into a Program Supplement Agreement with the California Department of Transportation (Caltrans) to receive preliminary engineering funds for the Project. The amount of funding allocated by the State for the Project design was \$153,000. The City will pay the remainder of costs associated with preliminary engineering services through local funds.

The City issued a Request for Proposals on October 29, 2020, with a deadline for submittals of December 4, 2020.

**Analysis:**

The City received three proposals. A review of each proposal was completed by a selection committee of Public Works Engineering staff. The proposals were ranked by using the following evaluation criteria:

Evaluation Criteria	Maximum Score
Understanding and Compliance with Request for Proposal	25 points
Capability and Experience of Consultant	30 points
Ability to Meet Project Timelines	20 points
Previous Client Satisfaction	10 points
Ability to Conform Design to City's Vision of Future Development	15 points
Total:	100 points

While all of the consultants were highly qualified, the selection committee unanimously ranked Dokken Engineering (Dokken) as the top-ranked, responsive proposer, with an average score of 91. Dokken's proposal transcended the other proposals due to their ability to work expeditiously with multiple divisions of Caltrans, as evidenced by the successful delivery of the 5<sup>th</sup> Street Bridge Replacement Project, thoughtful analysis of potential issues and proposed solutions including environmental compliance necessary to facilitate construction, and their ability to develop a project that is congruent with the Bicycle Master Plan.

Additionally, their Quality Control Officer for the design is a daily bike commuter and League Certified Cycling Instructor. He has prepared bicycle and pedestrian planning studies and master plans for many public agencies and is a regular consultant to the City of Folsom on bike and trail projects. Lastly, he is an Americans with Disabilities Act (ADA) and active transportation specialist, which brings expertise to the team that other consultants are not proposing.

Staff has met with Dokken to develop a detailed scope of work and fee in accordance with Caltrans Consultant Selection requirements and industry standards. Dokken Engineering has the professional qualifications for the services required, availability, and can provide the services at a fair and reasonable cost.

**Fiscal Impact:**

The total contract amount to be awarded is \$182,652.01, of which \$153,000 would consist of Active Transportation Program State funds, and \$29,652.01 would be local Transportation Development Act funds. There is sufficient funding in CIP Account No. 1266 to fund the Project preliminary engineering services in advance of reimbursement by the Caltrans, including staff time to manage the design.

**Environmental:**

A mitigated negative declaration was prepared for the Harter Park and Sutter Bike Path project which environmentally assessed the entire project as required by the California Environmental Quality Act (CEQA). There have not been any substantial information acquired nor changes to the project since it was evaluated, and no further evaluation for this portion of the project is required under CEQA.

**Alternatives:**

Do not award the contract to Dokken, and either negotiate with the next ranked consultant, or issue another request for proposals. This may result in delays that could create a loss of available funds for the design, and ultimately a loss in construction funds for the project.

**Recommendation:**

Adopt a Resolution awarding a Professional Services Agreement to Dokken Engineering of Folsom, CA for the Sutter Bike Path Gap Closure – Preliminary Engineering Services in the amount of \$182,652.01 subject to material terms, with the finding that it is in the best interest of the City.

**Attachments:**

1. Resolution
  - a. (Draft) Professional Services Agreement
2. Project Exhibit

**Prepared by:**

*/s/ Josh Wolffe*

Josh Wolffe  
Assistant Engineer

**Submitted by:**

*/s/ Diana Langley*

Diana Langley  
Interim City Manager

**Reviewed by:**

Finance

City Attorney

SM

SLC by email

# ATTACHMENT 1

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUBA CITY  
AWARDING A PROFESSIONAL SERVICES AGREEMENT TO DOKKEN ENGINEERING IN  
THE AMOUNT OF \$182,652.01 FOR THE SUTTER BIKE PATH GAP CLOSURE –  
PRELIMINARY ENGINEERING SERVICES**

WHEREAS, the California Department of Transportation, has allocated funding in the amount of \$153,000 for the Sutter Bike Path Gap Closure Project (Project) preliminary engineering services; and,

WHEREAS, staff issued a Request for Proposals on October 29, 2020 to find the most qualified consultant to provide preliminary engineering services for the Project and received three proposals by or on December 4, 2020; and,

WHEREAS, after careful analysis of the proposals based on the guidelines set forth by the California Department of Transportation, staff has determined Dokken Engineering to be the most qualified to provide the preliminary engineering services; and,

WHEREAS, staff recommends awarding a Professional Services Agreement to the top-ranked consultant, Dokken Engineering, for Preliminary Engineering Services for the Project.; and,

WHEREAS, it has been determined by the City Council that such provisions are in the public interest.

NOW, THEREFORE, the City Council of the City of Yuba City does resolve as follows:

Section 1. The City Council of Yuba City finds that Dokken Engineering is the top ranked, most qualified responsive bidder, and has demonstrated competence. The City Council finds that Dokken Engineering has the professional qualifications for the services required, availability, and can provide the services at a fair and reasonable cost. The City Council approves the "Professional Services Agreement" attached as Exhibit "A" with Dokken Engineering subject to its material terms. The City Manager is authorized to execute the same on behalf of the City and to make any non-material, technical, and clerical edits and corrections to the agreement subject to approval as to form by City Attorney.

Section 2. This Resolution shall take effect immediately.

The foregoing resolution was duly and regularly introduced, passed, and adopted by the City Council of the City of Yuba City at a regular meeting thereof held on the 16<sup>th</sup> day of February, 2021.

AYES:

NOES:

ABSENT:

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Marc Boomgaarden, Mayor

ATTEST:

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Ciara Wakefield, Deputy City Clerk

APPROVED AS TO FORM  
COUNSEL FOR YUBA CITY:

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Shannon Chaffin, City Attorney  
Aleshire & Wynder, LLP

Exhibit(s):

- A. (Draft) Professional Services Agreement

# EXHIBIT A

## PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into as of February 19, 2021 by and between the City of Yuba City, a municipal corporation ("City") and Dokken Engineering ("Consultant").

### RECITALS

- A. Consultant is specially trained, experienced and competent to perform the special services which will be required by this Agreement; and
- B. Consultant possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement on the terms and conditions described herein; and
- C. City desires to retain Consultant to render professional services as set forth in this Agreement.

### AGREEMENT

1. Scope of Services. The Consultant shall furnish the following services in a professional manner.

**See Attached Scope of Services  
(Exhibit A)**

2. Time of Performance. The services of Consultant are to commence upon execution of this Agreement and shall continue until all authorized work is completed and approved by the City. Finalization shall be completed at the direction of the City of Yuba City, but prior to April 30, 2021.
3. Compensation. Compensation to be paid to Consultant shall be in accordance with the Schedule of Charges set forth in Exhibit A, which is attached hereto and incorporated herein by reference. In no event shall Consultant's compensation exceed \$182,652.01 without additional written authorization from the City. Payment by City under this Agreement shall not be deemed a waiver of defects, even if such defects were known to the City at the time of payment.
4. Method of Payment.



- A. The method of payment for this AGREEMENT will be based on actual cost plus a fixed fee. LOCAL AGENCY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work. CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved CONSULTANT'S Cost Proposal, unless additional reimbursement is provided for by AGREEMENT amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds LOCAL AGENCY'S approved overhead rate set forth in the Cost Proposal. In the event, that LOCAL AGENCY determines that a change to the work from that specified in the Cost Proposal and AGREEMENT is required, the AGREEMENT time or actual costs reimbursable by LOCAL AGENCY shall be adjusted by AGREEMENT amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "I" of this Article shall not be exceeded, unless authorized by AGREEMENT amendment.
- B. The indirect cost rate established for this AGREEMENT is extended through the duration of this specific AGREEMENT. CONSULTANT's agreement to the extension of the 1-year applicable period shall not be a condition or qualification to be considered for the work or AGREEMENT award.
- C. In addition to the allowable incurred costs, LOCAL AGENCY will pay CONSULTANT a fixed fee of \$14,221.57. The fixed fee is nonadjustable for the term of the AGREEMENT, except in the event of a significant change in the scope of work and such adjustment is made by AGREEMENT amendment.
- D. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.
- E. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.
- F. Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of CONSULTANT's fixed fee will be included in the monthly progress payments. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in Article III Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this AGREEMENT.
- G. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this AGREEMENT.
- H. CONSULTANT will be reimbursed promptly according to California Regulations upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in duplicate. Invoices shall be submitted no later than thirty (30) calendar days after the

performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number and project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY including any equipment purchased under the provisions of Article XI Equipment Purchase. The final invoice should be submitted within sixty (60) calendar days after completion of CONSULTANT's work. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

Josh Wolffe  
Public Works Department  
City of Yuba City  
1201 Civic Center Blvd  
Yuba City, CA 95993  
(530) 822-3288

- I. The total amount payable by LOCAL AGENCY including the fixed fee shall not exceed \$182,652.01
  - J. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.
5. Extra Work. At any time during the term of this Agreement, City may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by City to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from City.
6. Termination.
- A. This AGREEMENT may be terminated by LOCAL AGENCY, provided that LOCAL AGENCY gives not less than thirty (30) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate. Upon termination, LOCAL AGENCY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not.
  - B. LOCAL AGENCY may temporarily suspend this AGREEMENT, at no additional cost to LOCAL AGENCY, provided that CONSULTANT is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If LOCAL AGENCY gives such notice of temporary suspension, CONSULTANT shall immediately suspend its activities under this AGREEMENT. A temporary suspension may be issued concurrent with the notice of termination.

- C. Notwithstanding any provisions of this AGREEMENT, CONSULTANT shall not be relieved of liability to LOCAL AGENCY for damages sustained by City by virtue of any breach of this AGREEMENT by CONSULTANT, and City may withhold any payments due to CONSULTANT until such time as the exact amount of damages, if any, due City from CONSULTANT is determined.
- D. In the event of termination, CONSULTANT shall be compensated as provided for in this AGREEMENT. Upon termination, LOCAL AGENCY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not.
7. Ownership of Documents. All plans, studies, documents and other writings prepared by and for Consultant, its officers, employees, agents and subcontractors in the course of implementing this Agreement, except working notes and internal documents, shall become the property of the City upon payment to Consultant for such work, and the City shall have the sole right to use such materials in its discretion without further compensation to Consultant or to any other party. Consultant shall, at Consultant's expense, provide such reports, plans, studies, documents and other writings to City upon request.
- \* Licensing of Intellectual Property. This Agreement creates a nonexclusive and perpetual license for City to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data"). Consultant shall require all subcontractors to agree in writing that City is granted a non-exclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regards to Documents & Data which were prepared by design professionals other than Consultant or provided to Consultant by the City. City shall not be limited in any way in its use of the Documents & Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at City's sole risk.

Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents & Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of City, be used by Consultant for any purposes other than the performance of the services under this Agreement. Nor shall such materials be disclosed to any person or entity not connected with the performance of the services under this Agreement. Nothing furnished to Consultant, which is otherwise known to Consultant or is generally known, or has become known, to the

related industry shall be deemed confidential. Consultant shall not use City's name or insignia, photographs relating to project for which Consultant's services are rendered, or any publicity pertaining to the Consultant's services under this Agreement in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of City.

8. Consultant's Books and Records:

- a. Consultant shall maintain any and all ledgers, books of accounts, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to City for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant to this Agreement.
- b. Consultant shall maintain all documents and records which demonstrated performance under this Agreement for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Agreement.
- c. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the City Administrator, City Attorney, City Auditor or a designated representative of these officers. Copies of such documents shall be provided to the City for inspection at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Consultant's address indicated for receipt of notices in this Agreement.
- d. Where City has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of Consultant's business, City may, by written request by any of the above named officers, require that custody of the records be given to the City and that the records and documents be maintained in City Hall. Access to such records and documents shall be granted to any party authorized by Consultant, Consultant's representatives, or Consultant's successor-in-interest.

9. Independent Contractor. It is understood that Consultant, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and shall not act as an agent or employee of the City. Consultant shall obtain no rights to retirement benefits or other benefits which accrue to City's employees, and Consultant hereby expressly waives any claim it may have to any such rights.

Consultant is not a designated employee within the meaning of the Political Reform Act because Consultant:

- a. Will conduct research and arrive at conclusions with respect to his/her rendition of information, advice, recommendation or counsel independent of the control and direction of the City or of any City official, other than normal agreement monitoring; and

b. Possesses no authority with respect to any City decision beyond rendition of information, advice, recommendation or counsel. (FPPC Reg. 18700(B)(2).)

10. Interest of Consultant. Consultant (including principals, associates and professional employees) covenants and represents that it does not now have any investment or interest in real property and shall not acquire any interest, direct or indirect, in the area covered by this Agreement or any other source of income, interest in real property or investment which would be affected in any manner or degree by the performance of Consultant's services hereunder. Consultant further covenants and represents that in the performance of its duties hereunder no person having any such interest shall perform any services under this Agreement.

11. Conflict of Interest.

- A. During the term of this AGREEMENT, the CONSULTANT shall disclose any financial, business, or other relationship with LOCAL AGENCY that may have an impact upon the outcome of this AGREEMENT or any ensuing LOCAL AGENCY construction project. The CONSULTANT shall also list current clients who may have a financial interest in the outcome of this AGREEMENT or any ensuing LOCAL AGENCY construction project which will follow.
- B. CONSULTANT certifies that it has disclosed to LOCAL AGENCY any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this AGREEMENT. CONSULTANT agrees to advise LOCAL AGENCY of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this AGREEMENT. CONSULTANT further agrees to complete any statements of economic interest if required by either LOCAL AGENCY ordinance or State law.
- C. The CONSULTANT hereby certifies that it does not now have nor shall it acquire any financial or business interest that would conflict with the performance of services under this AGREEMENT.
- D. The CONSULTANT hereby certifies that the CONSULTANT or subconsultant and any firm affiliated with the CONSULTANT or subconsultant that bids on any construction contract or on any Agreement to provide construction inspection for any construction project resulting from this AGREEMENT, has established necessary controls to ensure a conflict of interest does not exist. An affiliated firm is one, which is subject to the control of the same persons, through joint ownership or otherwise.

12. Professional Ability of Consultant. City has relied upon the professional training and ability of Consultant to perform the services hereunder as a material inducement to enter into this Agreement. Consultant shall therefore provide properly skilled professional and technical personnel to perform all services under this Agreement. All work performed by

Consultant under this Agreement shall be in accordance with applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Consultant's field of expertise.

13. Compliance with Laws. Consultant shall use the standard of care in its profession to comply with all applicable federal, state and local laws, codes, ordinances and regulations.

14. State Prevailing Wage Rates.

- A. No CONSULTANT or Subconsultant may be awarded an AGREEMENT containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of this AGREEMENT, including any subsequent amendments.
- B. The CONSULTANT shall comply with all of the applicable provisions of the California Labor Code requiring the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this AGREEMENT are available and on file with the Department of Transportation's Regional/District Labor Compliance Officer (<https://dot.ca.gov/programs/construction/labor-compliance>). These wage rates are made a specific part of this AGREEMENT by reference pursuant to Labor Code §1773.2 and will be applicable to work performed at a construction project site. Prevailing wages will be applicable to all inspection work performed at LOCAL AGENCY construction sites, at LOCAL AGENCY facilities and at off-site locations that are set up by the construction contractor or one of its subcontractors solely and specifically to serve LOCAL AGENCY projects. Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public.
- C. General Prevailing Wage Rate Determinations applicable to this project may also be obtained from the Department of Industrial Relations website at <http://www.dir.ca.gov>.
- D. Payroll Records
  - 1. Each CONSULTANT and Subconsultant shall keep accurate certified payroll records and supporting documents as mandated by Labor Code §1776 and as defined in 8 CCR §16000 showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the CONSULTANT or Subconsultant in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
    - a. The information contained in the payroll record is true and correct.

- b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any work performed by his or her employees on the public works project.
  2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the CONSULTANT under penalty of perjury. The payroll records and all supporting documents shall be made available for inspection and copying by LOCAL AGENCY representatives at all reasonable hours at the principal office of the CONSULTANT. The CONSULTANT shall provide copies of certified payrolls or permit inspection of its records as follows:
    - a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.
    - b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONSULTANT.
    - c. The public shall not be given access to certified payroll records by the CONSULTANT. The CONSULTANT is required to forward any requests for certified payrolls to the LOCAL AGENCY Contract Administrator by both email and regular mail on the business day following receipt of the request.
  3. Each CONSULTANT shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a written request.
  4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by LOCAL AGENCY shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of the CONSULTANT or Subconsultant performing the work shall not be marked or obliterated.
  5. The CONSULTANT shall inform LOCAL AGENCY of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.
  6. The CONSULTANT or Subconsultant shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the CONSULTANT or

Subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to LOCAL AGENCY, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by LOCAL AGENCY from payments then due. CONSULTANT is not subject to a penalty assessment pursuant to this section due to the failure of a Subconsultant to comply with this section.

E. When prevailing wage rates apply, the CONSULTANT is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by the LOCAL AGENCY Contract Administrator.

F. Penalty

1. The CONSULTANT and any of its Subconsultants shall comply with Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the CONSULTANT and any Subconsultant shall forfeit to the LOCAL AGENCY a penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the AGREEMENT by the CONSULTANT or by its Subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.
2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of the CONSULTANT or Subconsultant in failing to pay the correct rate of prevailing wages, or the previous record of the CONSULTANT or Subconsultant in meeting their respective prevailing wage obligations, or the willful failure by the CONSULTANT or Subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if the CONSULTANT or Subconsultant had knowledge of the obligations under the Labor Code. The CONSULTANT is responsible for paying the appropriate rate, including any escalations that take place during the term of the AGREEMENT.
3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the CONSULTANT or Subconsultant.
4. If a worker employed by a Subconsultant on a public works project is not paid the general prevailing per diem wages by the Subconsultant, the prime CONSULTANT of the project is not liable for the penalties described above unless the prime CONSULTANT had knowledge of that failure of the Subconsultant to pay the specified prevailing rate of wages to those workers or unless the prime CONSULTANT fails to comply with all of the following requirements:



- a. The AGREEMENT executed between the CONSULTANT and the Subconsultant for the performance of work on public works projects shall include a copy of the requirements in Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815.
  - b. The CONSULTANT shall monitor the payment of the specified general prevailing rate of per diem wages by the Subconsultant to the employees by periodic review of the certified payroll records of the Subconsultant.
  - c. Upon becoming aware of the Subconsultant's failure to pay the specified prevailing rate of wages to the Subconsultant's workers, the CONSULTANT shall diligently take corrective action to halt or rectify the failure, including but not limited to, retaining sufficient funds due the Subconsultant for work performed on the public works project.
  - d. Prior to making final payment to the Subconsultant for work performed on the public works project, the CONSULTANT shall obtain an affidavit signed under penalty of perjury from the Subconsultant that the Subconsultant had paid the specified general prevailing rate of per diem wages to the Subconsultant's employees on the public works project and any amounts due pursuant to Labor Code §1813.
5. Pursuant to Labor Code §1775, LOCAL AGENCY shall notify the CONSULTANT on a public works project within fifteen (15) calendar days of receipt of a complaint that a Subconsultant has failed to pay workers the general prevailing rate of per diem wages.
  6. If LOCAL AGENCY determines that employees of a Subconsultant were not paid the general prevailing rate of per diem wages and if LOCAL AGENCY did not retain sufficient money under the AGREEMENT to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, the CONSULTANT shall withhold an amount of moneys due the Subconsultant sufficient to pay those employees the general prevailing rate of per diem wages if requested by LOCAL AGENCY.
- G. Hours of Labor
- Eight (8) hours labor constitutes a legal day's work. The CONSULTANT shall forfeit, as a penalty to the LOCAL AGENCY, twenty-five dollars (\$25) for each worker employed in the execution of the AGREEMENT by the CONSULTANT or any of its Subconsultants for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of the Labor Code, and in particular §§1810 to 1815 thereof, inclusive, except that work performed by employees in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight

(8) hours per day and forty (40) hours in any week, at not less than one and one-half (1.5) times the basic rate of pay, as provided in §1815.

H. Employment of Apprentices

1. Where either the prime AGREEMENT or the subagreement exceeds thirty thousand dollars (\$30,000), the CONSULTANT and any subconsultants under him or her shall comply with all applicable requirements of Labor Code §§ 1777.5, 1777.6 and 1777.7 in the employment of apprentices.

2. CONSULTANTs and subconsultants are required to comply with all Labor Code requirements regarding the employment of apprentices, including mandatory ratios of journey level to apprentice workers. Prior to commencement of work, CONSULTANT and subconsultants are advised to contact the DIR Division of Apprenticeship Standards website at <https://www.dir.ca.gov/das/>, for additional information regarding the employment of apprentices and for the specific journey-to- apprentice ratios for the AGREEMENT work. The CONSULTANT is responsible for all subconsultants' compliance with these requirements. Penalties are specified in Labor Code §1777.7.

15. Licenses. Consultant represents and warrants to City that it has all licenses, permits, qualifications, insurance and approvals of whatsoever nature, which are legally required of Consultant to practice its profession. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, insurance and approvals which are legally required of Consultant to practice its profession. Consultant shall maintain a City of Yuba City business license.

14. Indemnity. Consultant agrees to defend, indemnify and hold harmless the City, its officers, officials, agents, employees and volunteers from and against any and all claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all costs, including attorney fees and expenses in connection therein), arising out of the performance of this Agreement in whole or in part by any negligent act or omission of the Consultant, or anyone directly or indirectly employed by the Consultant or anyone for whose acts the Consultant may be liable, or its failure to comply with any of its obligations contained in this Agreement, except for any such claim arising out of the sole negligence or willful misconduct of the City, its officers, agents, employees or volunteers.

15. Insurance Requirements. Consultant, at Consultant's own cost and expense, shall procure and maintain, for the duration of the contract, necessary insurance policies as described in Exhibit B.

16. Notices. Any notice required to be given under this Agreement shall be in writing and either served personally or sent prepaid, first class mail. Any such notice shall be addressed to the other party at the address set forth below. Notice shall be deemed

communicated within 48 hours from the time of mailing if mailed as provided in this section.

If to City  
Josh Wolffe  
Public Works Department  
City of Yuba City  
1201 Civic Center Blvd  
Yuba City, CA 95993  
(530) 822-3288

If to Consultant:  
Eric Espinoza  
Project Manager  
Dokken Engineering  
110 Blue Ravine Road, Suite 200  
Folsom, CA 95630  
(916) 858-0642

17. Entire Agreement. This Agreement constitutes the complete and exclusive statement of Agreement between the City and Consultant. All prior written and oral communications, including correspondence, drafts, memoranda, and representations, are superseded in total by this Agreement.
18. Amendments. This Agreement may be modified or amended only by a written document executed by both Consultant and City and approved as to form by the City Attorney.
19. Assignment and Subcontracting. The parties recognize that a substantial inducement to City for entering into this Agreement is the professional reputation, experience and competence of Consultant. Assignments of any or all rights, duties or obligations of the Consultant under this Agreement will be permitted only with the express consent of the City. Consultant shall not subcontract any portion of the work to be performed under the Agreement without the written authorization of the City. If City consents to such subcontract, Consultant shall be fully responsible to City for all acts or omissions of the subcontractor. Nothing in this Agreement shall create any contractual relationship between City and subcontractor nor shall it create any obligation on the part of the City to pay or to see to the payment of any monies due to any such subcontractor other than as otherwise is required by law.
20. Waiver. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision under this Agreement.
21. Severability. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

22. Controlling Law Venue. This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this Agreement shall be held exclusively in a state court in the County of Sutter.
23. Litigation Expenses and Attorneys' Fees. If either party to this Agreement commences any legal action against the other party arising out of this Agreement, the prevailing party shall be entitled to recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorneys' fees.
24. Disputes. Prior to either party commencing any legal action under this AGREEMENT, the parties agree to try in good faith, to settle any dispute amicably between them. If a dispute has not been settled after forty-five (45) days of good-faith negotiations and as may be otherwise provided herein, then either party may commence legal action against the other.
- A. Any dispute, other than audit, concerning a question of fact arising under this AGREEMENT that is not disposed of by agreement shall be decided by a committee consisting of LOCAL AGENCY's Contract Administrator and Public Works Director, who may consider written or verbal information submitted by CONSULTANT.
  - B. Not later than thirty (30) calendar days after completion of all work under the AGREEMENT, CONSULTANT may request review by LOCAL AGENCY Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.
  - C. Neither the pendency of a dispute, nor its consideration by the committee will excuse CONSULTANT from full and timely performance in accordance with the terms of this AGREEMENT.
25. Execution. This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.
26. Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind each respective party.
27. Prohibited Interest. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of



**Exhibit A**  
**Scope of Services**

## SCOPE OF WORK

Dokken propose the following Scope of Work for the gap closure project.

**ASSUMPTION:** The scope and schedule are based on the following list of assumptions.

- The City has secured the necessary right of way for the proposed bike path. No new right of way acquisition efforts will be performed as part of this project.

### TASK 1 PROJECT MANAGEMENT

Dokken’s project manager will plan, organize, direct and monitor project work activities and resources in accordance with the contract from Notice to Proceed to the end of Construction Support.

#### **1.1 Project Management**

Dokken’s Project Manager will plan, organize, direct and monitor project work activities and resources in accordance with contracted scope, schedule and budget and will report to the City’s Project Manager. This task includes performing on-going general project management with the client, subconsultants, and stakeholders, including preparing contract paperwork, memos, letters, and email, making phone calls, and maintaining project files. Dokken will prepare progress reports to record the progress of the project and as supporting data for invoices presented monthly to the City. The progress report will include recently accomplished tasks, anticipated progress for the next month, pending issues, and schedule completion target dates. The progress report will consist of a brief (1 page) summary of work, and a more detailed description of project status. The detailed project status will include progress status and budget status for each task. This activity initiates with receiving the Notice to Proceed, continues through submittal of the key final project deliverables, and concludes when the project is constructed.

#### **1.2 Agency Coordination**

In addition to coordinating with the City, Dokken will coordinate with other agencies involved in the project development.

- Coordination with Caltrans  
Dokken will prepare exhibits and forms necessary for project certification (Request for Authorization (RFA) for Construction).
- Coordination with Sutter County  
Dokken will prepare exhibits and forms necessary for coordination of work directly impacting the drainage canal adjacent to Jefferson Avenue.

#### **1.3 Coordination with Adjacent Property Owners**

Dokken will contact property owners that may be directly impacted by construction along Jefferson Avenue. Property owners will be contacted in advance of any modifications to driveways, mailboxes, or limited access during construction.

#### **1.4 Coordination with Yuba City Bike Advisory Commission**

Dokken will participate in up to two City organized meetings with the City’s Bike Advisory Commission. Participation will include a presentation of the proposed bike path improvements. Meetings are anticipated to be via Zoom or as deemed appropriate by the City.

## TASK 2 SURVEYS AND MAPPING

### **2.1 Topographic Survey**

UNICO will perform detailed (non-aerial) topographic surveys utilizing local National Geodetic Survey (NGS) NAD83 and local City NAVD88 benchmarks. UNICO will work with the design team to identify the desired topographic limits and details. Anticipated surveys include topographic survey cross-sections of the northerly portion of Jefferson Avenue from the Sutter Bike Path ending location at Hooper Road to Harter Parkway, approximately 3300 lineal feet. Items to locate include pavement centerline, striping, edge of pavement, shoulders, ditches, trees, signs, fencing, poles, and all visible utilities and appurtenances. UNICO will also provide topographic surveying along Harter Parkway from the northerly portion of Highway 20 to Butte House Road, totaling approximately 3500 lineal feet. UNICO will survey a 25' wide strip beginning at the northwesterly curb ramp at Highway 20 and Harter Parkway that will include top back of existing curb, ground, drainage, trees, poles, signals, lights, signs, valves, vaults, boxes, cabinets, and all visible utilities and appurtenances. UNICO will survey all existing curb ramps and features for ADA compliance along the segment. Where curb does not exist along the 25' wide strip, UNICO will locate the westerly edge of pavement, striping and first lane striping and all above mentioned topographic and utility features to a point 25' westerly from the westerly edge of pavement. Measure downs to relevant sewer and drain structures will be performed to include depth, approximate size, and flow direction. UNICO will map all topographic features in AutoCAD format to include full mapping, 1' contours and DTM 3D surface. UNICO will set durable project control at each project location for future surveys and construction control.

### **2.2 Right of Way Surveying and Mapping**

The City anticipates all work to be constructed within the public right of way. UNICO will perform boundary and right of way surveying and mapping along the northerly right of way of Jefferson Avenue from Hooper Road to Harter Parkway and along the westerly right of way of Harter Parkway from Highway 20 to Butte House Road. UNICO will research record mapping and deed documents for the determination of the existing right of way. This will require field surveying to locate and survey sufficient monuments of record to confirm the boundaries and right of way. It is assumed that no title reports will be provided or required at this time.

### **2.3 Record of Survey**

UNICO will prepare a Record of Survey in accordance with Section 8771 of the Professional Land Surveyors Act in the Business and Professions Code of the State of California. State law requires that survey monuments in roadways that may be compromised by construction be perpetuated, preserved and/or re-set. All monuments found within the project footprint, will be mapped and identified on the Preconstruction Record of Survey and sufficient information will allow for the re-setting of any monument that requires perpetuation. UNICO will process the map through Sutter County for review and recordation. It is assumed that all map check and recording fees will be waived by County.

## TASK 3 ENVIRONMENTAL

Dokken shall perform all required environmental research and analysis necessary for the project, pursuant to NEPA requirements. The following tasks have been identified to ensure all local, state, and federal environmental requirements are met:

### **3.1 Preliminary Environmental Study (PES)**

Dokken shall prepare the PES Form. This form is considered as a scoping document for the NEPA requirements from Caltrans Local Assistance. The PES Form will identify the recommended federal environmental documentation, technical studies, surveys, approvals, agency coordination, and permits required for the bridge and roadway work. An Area of Potential Effects (APE) boundary will be created for each project alternative that is pursued. During the preparation of the PES Form, the environmental team will work with the engineers to determine any potential impacts and identify the studies required for the project.



### **3.2 Natural Environmental Study – Minimal Impacts (NES-MI)**

Dokken will perform a literature search and records check for sensitive biological elements reported in the project vicinity, conduct field surveys, and prepare the NES-MI in accordance with Caltrans' Guidance. The NES will include an analysis of types and number of habitats present on site and the importance of these habitats in a regional context. The report will also assess cumulative impacts to these resources based on development in surrounding areas and address areas that may qualify as wetlands, waters of the U.S., or streambed(s). Impacts to wildlife movement will also be assessed. Dokken will recommend mitigation measures for the impacts identified during the study, including mitigation measures for impacts to sensitive biological elements. Due to the negative finding of sensitive species during preparation of the CEQA CE, Dokken does not anticipate substantial impacts to protected plants or wildlife, and a NES-MI is the appropriate level of documentation for this project.

### **3.3 Historic Property Survey Report and Archaeological Survey Report**

Dokken shall prepare documentation in accordance with Section 106 of the National Historic Preservation Act (NHPA). This work shall include the efforts to record archaeological and historical resources identified within the study area. A Historic Property Survey Report (HPSR) will be prepared to identify and evaluate any cultural resources in the project area and evaluate the potential for impacts this project could have on those resources.

All cultural resource efforts will be completed in compliance with Section 106 of the NHPA, and will follow the requirements set forth in the Caltrans Environmental Handbook Volume II, Cultural Resources and the Programmatic Agreement among the Federal Highway Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer (SHPO), and the Caltrans Regarding Compliance with Section 106 of the NHPA, as it pertains to the administration of the Federal-aid Highway Program in California.

### **3.4 Hazardous Waste (Initial Site Assessment)**

Dokken will prepare a Hazardous Waste Initial Site Assessment (ISA), including the tasks described below.

- Complete a governmental records search to update the listing of properties or known incidents shown on federal and State databases for hazardous waste sites within one-half mile of the project area included in the previous ISA.
- Conduct a site visit to identify any visible exterior areas of potential contamination that might impact the proposed project implementation.

If hazardous waste sites are identified within the project study area (via governmental records and/or the visual survey), Dokken will determine the potential impact to the project, and will identify subsequent procedures to determine the extent of contamination and remediation requirements.

### **3.5 NEPA (CE)**

Based on the environmental technical studies previously discussed a Categorical Exclusion (CE) will be prepared pursuant to NEPA. Dokken will prepare the CE/CE form (NEPA portion only) in compliance with the latest format identified on Caltrans Standard Environmental Reference website. As part of the CE a brief (two to three sentences) summary of the findings of each of the technical studies will be included. No separate environmental document is assumed to be prepared to support the CE and none is included in this scope and cost. The CE/CE form will include the Environmental Commitment Record (ECR) as an attachment.

## **TASK 4 GEOTECHNICAL INVESTIGATION**

### **4.1 Materials Recommendation**

Geocon will provide geotechnical services to evaluate the subsurface conditions along the project alignment and provide geotechnical design recommendations for new bike path pavement, sidewalk, curb and gutter (if/as required). No structures (bridges, retaining walls, culverts, etc.) are proposed as part of this project. Grading plans are not yet available; however, due to the relatively flat site topography, Geocon anticipates relatively minor grading

with cuts and fills on the order of 3 feet or less. Their investigation will include geologic/geotechnical literature reviews, field exploration, geotechnical laboratory testing, engineering analysis and report preparation.

**Geocon is committed to providing the following scope of services:**

- Perform a limited geologic/geotechnical literature review to aid in evaluating the geologic conditions present at the site.
- Perform a site reconnaissance to observe existing conditions and features of interest identified during literature review.
- No encroachment or environmental health permits are anticipated to be required for these shallow surface sampling activities in unpaved areas.
- Obtain five near surficial bulk samples to depths up to approximately 2 feet, based on conditions encountered. Bulk samples will be obtained using hand sampling methods (hand digging tools and/or hand auger). Sample locations are anticipated to be in existing public right of way (unpaved roadway shoulders) where the proposed bike paths will be located.
- No traffic control measures are anticipated to be required during fieldwork.
- Log samples in accordance with the Unified Soil Classification System (USCS).
- Upon completion, backfill the shallow sample locations with soil cuttings.
- Perform laboratory tests to evaluate pertinent geotechnical parameters. Geocon anticipates performing three R-Value tests for pavement design and index property testing (e.g. in-situ moisture, atterberg limits, grain size distribution) for classification purposes. Three corrosivity screening tests will also be performed.
- Prepare a summary letter report with Geocon's conclusions and recommendations. Their report will include the following:
  - Site Plan showing soil sample locations
  - Description of site geology
  - Laboratory test results and soil classifications (USCS) in tabular format in the report
  - Anticipated excavation characteristics
  - Site preparation, remedial grading, and earthwork recommendations
  - Suitability of onsite materials for use as engineered fill, import fill recommendations
  - Screening-level soil corrosion potential
  - Pavement structural section design recommendations
  - Concrete sidewalk, curb and gutter recommendations

Geocon will submit a draft report for design team review and will address any comments prior to finalizing the report.

## **TASK 5 PLANS, SPECIFICATIONS, & ESTIMATE**

### **5.1 Preliminary Design**

- i. Geometrics Approval  
Dokken will arrange a site meeting with the City to set an approximate alignment of the bike paths. Dokken will draw alignment in CAD and present to the City for approval before moving onto PS&E.
- ii. Drainage Design  
Dokken will assess existing conditions and prepare a Drainage Memorandum with recommendations for improvements with bike path project. The team will use the City's preferred recommendation to prepare PS&E.
- iii. Park Coordination  
Dokken will engage with Harter Park's designer soon after Notice to Proceed to begin coordination of connection points from the bike path to the park. Dokken will request park design electronic files as well as share any files that may be useful to the designer.

## **5.2 Electrical Design**

Dokken will obtain as-built plans of any affected traffic signal that may need modification for the design and construction of the project. Electrical design will coordinate with the civil design for any modifications needed including signal pole relocation, pedestrian push button installation or relocation of traffic signal pull boxes, and if necessary, replacing in-road loop detectors. Electrical PS&E will be developed and submitted with the same milestones as the rest of the PS&E.

## **5.3 60% Submittal, bid item list and square foot estimate**

Dokken will prepare 60% level plans, including title sheet, typical sections, layouts, construction details, grading and utilities. The team will prepare a list of anticipated bid items along with an estimated construction cost based on a square foot footprint.

## **5.4 90% PS&E**

After the City has provided comments on the 60% plans, Dokken will incorporate those comments into the 90% PS&E. All comments will be responded to in writing and provided to the City. Dokken will prepare project specifications to the current City and Caltrans standards.

## **5.5 Final Contract Documents**

After the City has provided comments on the 90% PS&E, Dokken will incorporate those comments into the 100% PS&E. All comments will be responded to in writing and provided to the City.

## **5.6 Caltrans Encroachment Permit**

Dokken shall prepare and submit a Caltrans encroachment permit for the improvements to the intersection of Highway 20 and Harter Parkway. Coordination between Dokken and District 3 Encroachment Permits will begin during the preliminary design phase and continue through final PS&E to obtain the encroachment permit.

# **TASK 6 UTILITY COORDINATION**

## **6.1 Utility Mapping**

Dokken shall gather information from utility owners in or near this project site. Dokken will prepare “A” letters to send to the utility owners identifying the project location and request their as-built drawings of their facilities in the project area. A meeting will be held to introduce the project to the affected utility companies and describe potential conflicts. Once Dokken receives as-built drawings, an electronic map of facilities verified will be prepared and conflicts will be identified.

## **6.2 Utility Coordination**

Dokken will prepare “B” letters to send to utility owners and request relocation plans. Dokken will be responsive to utility owners by continuing communication of the bike path project’s information and development. The team will work persistently with utility owners to finalize relocation plans in a timely manner.

## **6.3 Utility Certification**

Dokken will prepare and submit utility certification paperwork into Caltrans Local Assistance and will coordinate with Caltrans until Utility Certification is awarded.

# **TASK 7 QUALITY CONTROL AND QUALITY ASSURANCE**

Dokken will provide an independent review of the design and final contract documents to ensure the package meets agreed upon standards and that the City receives a high-quality product.

# **TASK 8 BIDDING SUPPORT**

Dokken will provide bid support to the City. Dokken will attend one pre-bid meeting and assist the City in any request for information received about the project. Dokken will provide bid analysis support to the City after bids have been opened and support the City in recommending award of the contract.

### **TASK 9 CONSTRUCTION SUPPORT**

During construction, Dokken will assist the City with any request for information and potential contract change orders that may arise. Dokken will also be available for field meetings during construction to discuss issues as they arise.

## Exhibit B

### Agreement for Professional Services

#### Insurance Requirements

- I. **Workers' Compensation Coverage.** Consultant shall maintain Workers' Compensation Insurance for his/her employees in accordance with the laws of the State of California and Employers Liability Insurance in an amount not less than one million dollars (\$1,000,000) per accident for bodily injury and/or disease. In addition, Consultant shall require each subcontractor to similarly maintain Workers' Compensation Insurance in accordance with the laws of the State of California and Employers Liability Insurance in an amount not less than one million dollars (\$1,000,000) per accident for bodily injury and/or disease. For all of the subcontractor's employees. Any notice of cancellation or non-renewal of all Workers' Compensation policies must be received by the City at least thirty (30) days prior to such change. The insurer shall agree to waive all rights of subrogation against City, its officers, agents, employees and volunteers for losses arising from work performed by Consultant for City. This provision shall not apply if Consultant has no employees performing work under this Agreement. If the Consultant has no employees for the purposes of this Agreement, Consultant shall sign the "Certificate of Exemption from Workers' Compensation Insurance" which is attached hereto as Exhibit C.
  
- II. **General Liability Coverage.** Consultant shall maintain commercial general liability insurance in an amount not less than one million dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If a commercial general liability insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit.
  
- III. **Automobile Liability Coverage.** Consultant shall maintain automobile liability insurance covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with the work to be performed under this Agreement, including coverage for owned, hired and non-owned vehicles, in an amount of not less than one million dollars (\$1,000,000) combined single limit for each occurrence.
  
- IV. **Professional Liability Coverage.** Consultant shall maintain professional errors and omissions liability insurance for protection against claims alleging negligent acts, errors or omissions which may arise from Consultant's operations under this Agreement, whether such operations are by the Consultant or by its employees,

subcontractors, or sub-consultants. The amount of this insurance shall not be less than one million dollars (\$1,000,000) on a claims-made annual aggregate basis, or a combined single-limit per occurrence basis.

**V. Endorsements.** Each general liability and automobile liability insurance policy shall be with insurers possessing a current A.M. Best's rating of no less than A:VII and shall be endorsed with the following specific language or equivalent:

A. The City, its elected or appointed officers, officials, employees, agents and volunteers are to be covered as additional insured with respect to liability arising out of work performed by or on behalf of the Consultant, including materials, parts or equipment furnished in connection with such work or operations. Conforms to ISO CG 2009 and CG 2037 10 01. Both are required.

B. This policy shall be considered primary insurance as respects to the City, its elected or appointed officers, officials, employees, agents and volunteers. Any insurance maintained by the City, including any self-insured retention the City may have, shall be considered excess insurance only and shall not contribute with it.

C. This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.

D. The insurer waives all rights of subrogation against the City, its elected or appointed officers, officials, employees or agents.

E. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its elected or appointed officers, officials, employees, agents or volunteers.

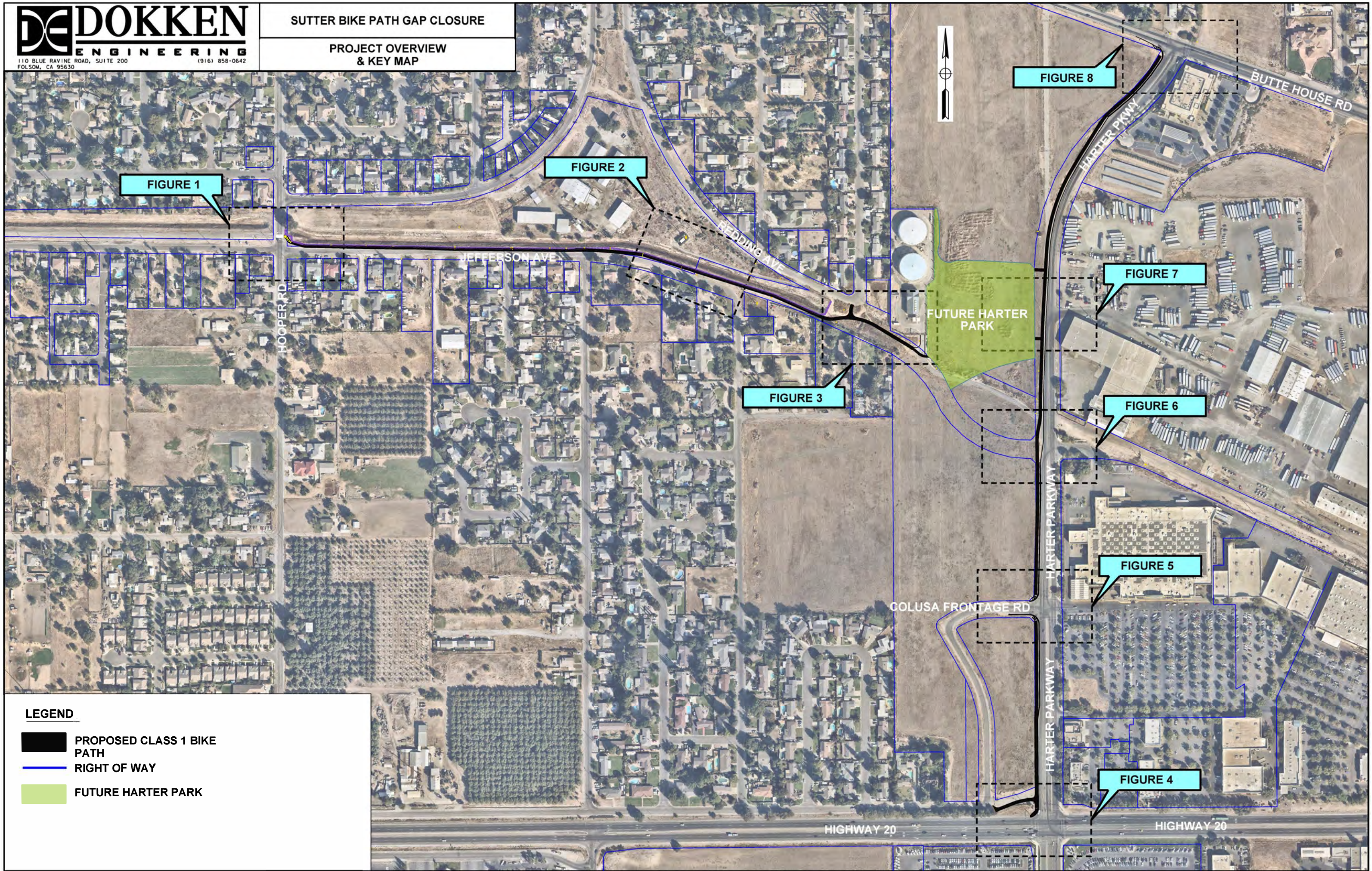
F. The insurance provided by this policy shall not be suspended, voided, canceled, or reduced in coverage except after thirty (30) days written notice has been received by the City.

**VI. Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions must be declared to and approved by the City. At the City's option, Consultant shall demonstrate financial capability for payment of such deductibles or self-insured retention's.




**VII. Certificates of Insurance.** Consultant shall provide certificates of insurance with original endorsements to City, as evidence of the insurance coverage required herein. Certificates of such insurance shall be filed with the City on or before commencement of performance of this agreement. Current certification of insurance shall be kept on file with the City at all times during the term of this Agreement.

## ATTACHMENT 2





**LEGEND**

-  PROPOSED CLASS 1 BIKE PATH
-  RIGHT OF WAY
-  FUTURE HARTER PARK