



SACOG Board of Directors

January 12, 2006

Issuance of a Request for Proposals for a Regional Goods Movement Study

Issue: SACOG is planning to undertake a regional goods movement study. It is anticipated that the study will be conducted in three phases. Staff has prepared the attached request for proposals (RFP) to conduct phase one of the study.

Recommendation: The Strategic Planning Committee recommends that the SACOG Board of Directors approve the release of the attached RFP for Phase 1 of the goods movement study.

Committee Action/Discussion: SACOG has been looking for ways to fund and implement a regional goods movement study that will eventually lead to a regional goods movement action plan. This phase (Phase 1) of the study will include a comprehensive analysis of existing conditions in the region, identify current goods movement related infrastructure, examine the economic influences that impact goods movement, and identify trends expected to have an effect on goods movement activities with a broader context that largely coincides with the “Norcal Megapolitan” region – with a specific focus on the SACOG portion of the region.

The study will:

- Provide current goods movement “volume and value” data for the region by mode
- Conduct an inventory of existing goods movement infrastructure in the region
- Identify regional goods movement stakeholders
- Analyze economic factors influencing goods movement
- Identify trends that will impact goods movement in the region
- Analyze regional business needs related to goods movement
- Review available data and determine what additional data is needed/desirable
- Evaluate the overall impacts of goods movement on the region, with a particular emphasis on air quality
- Provide a map showing the spatial distribution of freight-generating sites around the region

Attached is the draft RFP. Funding for the phase 1 study comes from the Caltrans Blueprint Planning grant, and the total cost is not to exceed \$150,000. It is anticipated that a contract for these services will be brought to the SACOG Board in February and that all work will be completed by June 30, 2006.

Approved by:

Mike McKeever
Executive Director

Key Staff: Pete Hathaway, Director of Transportation Planning, (916) 340-6235
Jason Crow, Senior Planner, (916) 340-6219

MM:JPC:gg
Attachments

REQUEST FOR PROPOSALS

SACOG Regional Goods Movement Study (Phase One)

Not to Exceed \$150,000

January 12, 2006



**SACRAMENTO AREA COUNCIL OF GOVERNMENTS
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SACRAMENTO, CALIFORNIA 95814
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SACRAMENTO AREA COUNCIL OF GOVERNMENTS

REQUEST FOR PROPOSALS

SACOG Regional Goods Movement Study (Phase One)

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PART A: AGREEMENT BETWEEN SACOG AND CONSULTANT

I. INTRODUCTION

The Sacramento Area Council of Governments (SACOG) is a voluntary association of governments. Member jurisdictions include: the County of Sacramento (including the cities of Citrus Heights, Elk Grove, Folsom, Galt, Isleton, Rancho Cordova and Sacramento); the County of Yolo (including the cities of Davis, West Sacramento, Winters, and Woodland); the County of Sutter (including the cities of Live Oak and Yuba City); the County of Yuba (including the cities of Marysville and Wheatland); Placer County (including the cities of Auburn, Colfax, Lincoln, Rocklin, Roseville and Town of Loomis) and El Dorado County (including the City of Placerville).

SACOG is the federally designated Metropolitan Planning Organization (MPO) for the Sacramento, Davis and Marysville/Yuba City urbanized areas. SACOG is also the state designated Regional Transportation Planning Agency (RTPA) for the counties of Sacramento, Yolo, Sutter and Yuba.

II. BACKGROUND

SACOG is intending to conduct a freight study which will subsequently lead to the development of a freight action plan. The study will be done in three parts. Part One, as outlined in this RFP, will begin by assessing current conditions and practices in the Sacramento area, reviewing the role each transportation mode plays, and identifying trends and economic influences affecting goods movement. This study will focus on the six-county SACOG region, but will examine the goods movement of our region as part of a broader context that largely coincides with that of the “Norcal Megapolitan” area (see Part B). It will seek to identify the primary stakeholders, the modes that they utilize and the paths taken as freight moves into, out of, within and through the region; and examine the volumes of freight moved, associated levels of traffic, the overall economic impacts of goods movement in our region, and the effects on the region’s air quality. Finally, and perhaps most importantly, the study will begin to assess how these issues impact SACOG’s adopted Blueprint land use strategy. Phase Two will explore various scenarios, explore a variety of approaches to improving goods movement and conducting some modeling on the resulting alternatives. Phase Three will propose a preferred alternative and detail needed capital projects, policies and funding. It is assumed that Phase One of this study will primarily bring together relevant information from a number of existing studies, documents and data sources.

III. PROJECT SUMMARY AND DESCRIPTION

The contract for the SACOG Regional Goods Movement Study – Phase One will be an agreement between SACOG and the consultant. SACOG will provide contract administration services. The consultant will invoice SACOG for services rendered and SACOG will compensate the consultant for these services as set forth in the agreement. Funding for the consultant services will be provided by SACOG (up to \$150,000). The SACOG Board of

Directors will award the contract and project deliverables will be reviewed by the SACOG Project Manager.

IV. SCOPE OF WORK/SERVICES

The scope of work is described below. The selected consultant or consulting team will be expected to perform all technical and other analyses necessary to complete the scope of work. The consultant will receive general direction from the SACOG Project Manager. Tasks will include the following:

Tasks:

1. Conduct an inventory of existing goods movement infrastructure in the region. This task will require assembling information on all of the freight and goods movement related facilities in the SACOG region. This would include, but not necessarily be limited to state highways, class 1 and shortline railroads, railyards, port facilities, intermodal facilities, air cargo facilities, major warehousing and distribution centers and truck stop facilities.
2. Provide current goods movement 'volume and value' data for the region by mode. This task will involve collecting available data for the region on truck movements, rail movements, air cargo shipments, marine shipments, and quantities and values of goods shipped into and out of the region. Data will be provided in the form of annual totals (at a minimum) and will compare the most recent 12 months available to the corresponding 12 month period 5, 10 and 20 years ago.
3. Identify regional goods movement stakeholders. For this task, the consultant will find contacts for appropriate representatives of marine, rail, truck and air cargo transportation providers, shippers, 3PLs, warehousing and distribution centers, highway enforcement, importers and exporters of agricultural and manufactured goods.
4. Analyze economic and other factors influencing current goods movement decisions in the region and the economic impacts of goods produced in the region.
5. Identify those trends likely to impact goods movement over the next 10-20 years, noting those with global, national, state and regional significance.
6. Review regional business needs as related to goods movement, such as farm to market transportation, transport of imported goods to the region from their port-of-entry, and facilitating the export of goods produced in the region.
7. Conduct a review of available data on goods movement and note what additional data is needed and what additional data would be desirable.
8. Outline the varying needs and impacts of goods movement into, out of, within and through the region.
9. Begin to identify the land use implications of goods movement activities in the region, and start to show how it will relate to the Blueprint planning process.

V. CONTRACT DELIVERABLES

1. Draft Regional Goods Movement Study (Phase One) Report - June 1, 2006
2. Presentation to SACOG Goods Movement Advisory Group - June 8, 2006
3. Presentation to SACOG Board of Directors meeting - June 15, 2006
4. Final Regional Goods Movement Study (Phase One) Report - June 30, 2006

VI. CONTACT PERSON

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VII. PROJECT TIMETABLE

January 19, 2006	Issue Request for Proposals
February 9, 2006	Closing date for receipt of proposals
February 13, 2006	Finalists contacted to schedule interviews
February 15, 2006	Conduct interviews; recommend consultant
February 16, 2006	Contract award, execute contract
February 17, 2006	Start of Project/Begin Work
June 30, 2006	Anticipated project completion

Proposals must be received by SACOG no later than 4:00 p.m. on February 9, 2006. If mail delivery is used, the proposer should mail the proposal early enough to provide for arrival by this deadline. Proposer uses mail or courier service at their own risk. SACOG will not be liable or responsible for any late delivery of proposals.

By submitting a proposal, the proposer certifies that his or her name or the consultant firm's name, as well as the name of proposer subcontractors, does not appear on the Comptroller General's list of ineligible contractors for federally assisted projects.

Until award of the contract, the proposals shall be held in confidence and shall not be available for public review. Upon award of a contract to the successful proposer, all proposals shall be public records. No proposal shall be returned after the date and time set for opening thereof.

VIII. GENERAL CONDITIONS

A. Limitations

This request for proposal (RFP) does not commit SACOG to award a contract, to pay any costs incurred in the preparation of proposals in response to this request, or to procure or contract for services or supplies. SACOG expressly reserves the right to reject any and all proposals or to waive any irregularity or informality in any proposal or in the RFP procedure and to be the sole judge of the responsibility of any proposer and of the suitability of the materials and/or services to be rendered. SACOG reserves the right to withdraw this RFP at any time without prior notice. Further SACOG reserves the right to modify the RFP schedule described above.

B. Award

SACOG may ask RFP finalists to present oral briefings of their proposals. All finalists may be required to participate in negotiations and submit such price, technical, or other revisions of their proposals as may result from negotiations. SACOG also reserves the right to award the contract without oral briefings or discussion, based upon the initial written proposals. Accordingly, each initial proposal should be submitted on the most favorable terms from a price and a technical viewpoint.

C. RFP Addendum

Any changes to the RFP requirements will be made by written addenda issued by SACOG and shall be considered part of the RFP. Upon issuance, such addenda shall be incorporated in the agreement documents, and shall prevail over inconsistent provisions of earlier issued documentation.

D. Verbal Agreement or Conversation

No prior, current, or post award verbal conversations or agreement(s) with any officer, agent, or employee of SACOG shall affect or modify any terms or obligations of the RFP, or any contract resulting from this RFP.

E. Precontractual Expense

Precontractual expenses include any expenses incurred by proposers and selected contractor in:

1. Preparing proposals in response to this RFP
2. Submitting proposals to SACOG
3. Negotiations with SACOG on any matter related to proposals.
4. Other expenses incurred by a contractor or proposer prior to the date of award of any agreement.

In any event, SACOG shall not be liable for any precontractual expenses incurred by any proposer or selected contractor. Proposers shall not include any such expenses as part of the price proposed in response to this RFP. SACOG shall be held harmless and free from any and all liability, claims, or expenses whatsoever incurred by, or on behalf of, any person or organization responding to this RFP.

F. Signature

The proposal will also provide the following information: name, title, address and telephone number of individual with authority to bind the consultant or consultant firm and also who may be contacted during the period of proposal evaluation. The proposal shall be signed by an official authorized to bind the consultant or consulting firm and shall contain a statement to the effect that the proposal is a firm offer for at least a sixty (60) day period. Execution of the contract is expected by February 16, 2006.

G. Contract Arrangements

The successful consultant is expected to execute a contract similar to SACOG's Standard Agreement, which meets the requirements of TEA 21. The most important provisions of the Standard Agreement are found in Part A. While \$1 million per occurrence in commercial general liability coverage is required, under special circumstances SACOG may consider a lesser amount of insurance coverage, but not an amount less than \$500,000 per occurrence.

1. Disadvantaged Business Enterprise (DBE) Policy: It is the policy of the U.S. Department of Transportation that minority-and women-owned business enterprises (hereby referred to as DBEs) as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds.
2. DBE Obligation: The recipient or its subcontractor agrees to ensure that DBEs have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all recipients or subcontractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that DBEs have the

maximum opportunity to compete for and perform contracts. Recipients and their subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

3. Title VI of the Civil Rights Act of 1964: The contractor agrees to comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (49 USC 2000d) and the regulations of the U.S. Department of Transportation issued thereunder in 49 CFR Part 21.
4. Equal Employment Opportunity: In connection with the performance of the contract, the contractor shall not discriminate against any employee or applicant for employment because of race, color, age, creed, sex or national original. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

Each proposal, to be considered responsive, must include the following:

- (1) A copy of the consultant's affirmative action policy (applicable for firms with 50 or more employees)
- (2) Discussion of the consultant's program for use of DBEs in the performance of this work, including the following:
 - The names and addresses of DBE firms that will participate
 - The description of the work each named firm will perform
 - The dollar amount of participation by each DBE firm

(3) Conflict of Interest

Consultants and consultant firms submitting proposals in response to this RFP must disclose to SACOG any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided under Agreement for consultant services to be awarded pursuant to this RFP.

If the consultant or firm has no conflict of interest, a statement to that effect shall be included in the proposal.

IX. PROPOSAL CONTENT AND ORGANIZATION

Proposals should be limited to specific discussion of the elements outlined in this RFP. The intent of this RFP is to encourage responses which meet the stated requirements, and which propose the best methods to accomplish the work within the stated budget.

The organization of the proposal should follow the general outline below. Each proposal should consist of a technical proposal (items 1-7 below) and a cost proposal (item 8).

1. Transmittal Letter

The transmittal letter should include the name, title, address, phone number, and original signature of an individual with authority to negotiate on behalf of and to contractually bind the consultant or consulting firm, and who may be contacted during the period of proposal evaluation. Only one transmittal letter need be prepared to accompany all copies of the technical and cost proposals.

2. Table of Contents

A listing of the major sections in the proposal and the associated page numbers.

3. Introduction

In this section, the proposer should demonstrate an adequate understanding of the role and relationships of SACOG.

4. Technical Approach

This should include:

- a. a summary of the proposed approach
- b. an explanation of the consultant's intended role as related to the role of SACOG
- c. a thorough explanation of the consultant's proposed course of action. References should be made to RFP requirements and the consultant's plans for meeting those requirements. If the consultant proposes major changes to the RFP approach, those changes should be specified clearly. The consultant should specify its technical approach, especially data elements to be sampled, staff to be interviewed, and documents to be reviewed, etc.
- d. an itemized description of the proposed project schedule (including visits, draft and final deliverables) and the deliverables to be produced

5. Project Management

The proposer must prepare an explanation of the project management system and practices to be used to assure that the project is completed within the scheduled time frame and that the quality of the required products will meet SACOG's requirements.

6. Consultant and Subcontractor Staff

The proposal must describe the qualifications and experience of each professional who will participate in the project, including a resume for each member of the project team. A project manager must be designated, and an organizational chart showing the manager and all project staff must be included. A matrix must be presented indicating the effort, either in percentage of the total project or in person-hours, which will be contributed by each professional, during each phase or task making up the project. If a subcontractor will be used, the proposer must include a letter from the subcontractor committing to perform at least the work shown for subcontractor professional in the above-described matrix.

7. Consultant Qualifications and References

The proposal must describe the nature and outcome of projects previously conducted by the consultant which are related to the work described within the RFP. Descriptions should include client contact names, address, phone numbers, descriptions of the type of work performed, approximate dates on which the work was completed, and professional staff who performed the work. If a subcontractor is proposed, two to three similar qualifications and references should be provided for the subcontractor. Up to two samples of the consultant's work on closely related projects can also be included with the proposal, if available.

8. Cost Proposal

The cost proposal shall describe both the total and the detailed price for which the consultant will commit to complete the total scope of work and end products. The cost proposal detail shall describe estimated costs (only the total amount is a binding offer) for each professional's time, for the completion of each proposed task, for travel and per-diem (if applicable), and for materials and supplies. Failure to provide adequate cost data will result in the proposal rejection as unresponsive.

X. PROPOSAL EVALUATION AND SELECTION

A proposal review panel made up of members of SACOG and local public agency staff will evaluate the proposals. Proposers may be telephoned and asked for further information, if necessary, and may be expected to appear for oral interviews. Previous clients may also be called. The panel will make recommendations to the SACOG Executive Director on the basis of the proposal, oral interview, and reference check. SACOG reserves the right to select a consultant based solely on written proposals and not convene oral interviews.

Upon receipt of the proposals, a technical evaluation will be performed. Each of the major sections of the proposal will be reviewed and evaluated with criteria designed to help judge the quality of the proposal. Evaluation criteria will include such considerations as:

- Understanding of the background and requirements of the project.
- The overall and technical approaches to be followed and the tasks to be performed, including detailed steps and resources required and proposed project schedule.
- The relative allocation of resources, in terms of quality and quantity, to key tasks including the time and skills of personnel assigned to the tasks and consultant's approach to managing resources and project output.
- Cost analysis and justification.
- Education and experience of proposed personnel

In addition, conformance with SACOG and DBE/WBE goals; and the participation of qualified disadvantaged and minority-owned firms in this project is strongly encouraged.

XI. PAYMENT SCHEDULE

The consultant will be paid based on work actually performed during the preceding month. The consultant should forward a copy of all invoices for payment for work performed and associated expenses by the 15th day of the following month. SACOG will withhold ten percent (10%) of the payments until the successful completion of the project and the delivery and acceptance of all final products.

**SACRAMENTO AREA COUNCIL OF GOVERNMENTS
STANDARD AGREEMENT**

THIS AGREEMENT, is made and entered into this _____ day of _____, 200____, at Sacramento, California, by and between the Sacramento Area Council of Governments, a joint powers agency (hereinafter "SACOG"), through its duly appointed Executive Director, and _____, a _____ (hereinafter "Contractor").

RECITALS:

1. Contractor represents that it is specially trained and/or has the experience and expertise necessary to competently perform the services set forth in this Agreement; and
2. Contractor is willing to perform the services and work described in this Agreement under the terms and conditions set forth in this Agreement; and
3. SACOG desires to contract with Contractor to perform the services and work described in this Agreement under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, the parties agree as follows:

1. Time of Performance: Contractor shall commence work upon execution of this Agreement and in accordance with the Scope of Work, attached hereto as Exhibit "A" and incorporated herein. Contractor shall complete work as expeditiously as is consistent with generally accepted standards of professional skill and care and the orderly progress of work. Work shall be completed and this Agreement shall expire on _____, unless otherwise terminated as provided for in this Agreement or extended by written agreement between the parties.

2. Scope of Work: Contractor agrees to fully perform the work described in Exhibit "A" - Scope of Work. In the event of any inconsistency between Exhibit "A" and other terms and conditions of this Agreement, Exhibit "A" shall control. SACOG reserves the right to review and approve all work to be performed by Contractor in relation to this Agreement. Any proposed amendment to the Scope of Work must be submitted by Contractor in writing for prior review and approval by SACOG's Executive Director. Approval shall not be presumed unless such approval is made by SACOG in writing.

3. Standard of Quality: All work performed by Contractor under this Agreement shall be in accordance with all applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Contractor's field of expertise.

4. Compliance with Laws: Contractor shall comply with all applicable federal, state, and local laws, codes, ordinances, regulations, orders and decrees. Contractor warrants and

represents to SACOG that Contractor shall, at its own cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, insurance and approvals that are legally required for Contractor to practice its profession or are necessary and incident to the performance of the services and work Contractor performs under this Agreement. Contractor shall provide written proof of such licenses, permits, insurance and approvals upon request by SACOG. SACOG is not responsible or liable for Contractor's failure to comply with any or all of the requirements contained in this paragraph.

5. Consideration: Payment to Contractor by SACOG shall be made as set forth in Exhibit "A". The amount to be paid to Contractor under this Agreement shall not exceed _____ dollars (\$_____), unless expressly authorized in writing by the SACOG Executive Director. In no instance shall SACOG be liable for any payments or costs for work in excess of this amount, nor for any unauthorized or ineligible costs. Contractor shall be paid at the times and in the manner set forth in this Agreement. The consideration to be paid Contractor, as provided in this Agreement, shall be in compensation for all of Contractor's expenses incurred in the performance of work under this Agreement, including travel and per diem, unless otherwise expressly so provided.

- a. Contractor agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq., (any subcontractors and subrecipients shall refer to the Office of Management and Budget Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments) shall be used to determine the allowability of individual items of cost.
- b. Contractor also agrees to comply with Federal procedures in accordance with 49 CFR, Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments."
- c. Any costs for which payment has been made to Contractor that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq.; Office of Management and Budget Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments; or 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, are subject to repayment by Contractor to SACOG.
- d. Any subcontract in excess of \$25,000 entered into as a result of this Agreement, shall contain all of the provisions of Sections 5 (a) through (c) above.

6. Reporting and Payment:

- a. Contractor shall submit monthly billings in arrears to SACOG no later than the 15th of each month and in accordance with the Scope of Work. Contractor shall be notified within fifteen (15) working days following receipt of its invoice by

SACOG of any circumstances or data identified by SACOG in Contractor's written billing which would cause withholding of approval and subsequent payment. Contractor shall be paid within thirty (30) days after SACOG approval of each billing. Said billings shall indicate the number of hours worked by each of Contractor's personnel and reimbursable costs incurred to the date of such billing since the date of the preceding billing, if any. The billings shall include documentation of reimbursable expenses and billed items sufficient for SACOG, in its opinion, to substantiate billings. SACOG reserves the right to withhold payment of disputed amounts.

Optional:

- b. SACOG shall reimburse Contractor for actual expenditures limited to costs for services or purchase of items identified in the line-item budget set forth in Exhibit "A" - Scope of Work, or approved in writing by SACOG.

7. Independent Contractor: The Contractor, and the agents and employees of the Contractor, in the performance of this Agreement, shall act as and be independent contractors and not officers or employees or agents of SACOG. Contractor, its officers, employees, agents, and subcontractors, if any, shall have no power to bind or commit SACOG to any decision or course of action, and shall not represent to any person or business that they have such power. Contractor has and shall retain the right to exercise full control of the supervision of the services and work and over the employment, direction, compensation and discharge of all persons assisting Contractor in the performance of services under this Agreement. Contractor shall be solely responsible for all matters relating to the payment of its employees, including but not limited to compliance with social security and income tax withholding, workers' compensation insurance and all regulations governing such matters.

8. Termination:

- a. SACOG shall have the right to terminate this Agreement for any reason, with or without cause, at any time, by giving Contractor fifteen (15) days written notice. The notice shall be deemed served and effective for all purposes on the date it is deposited in the U.S. mail, certified, return receipt requested, addressed to Contractor at the address indicated in Section 17.
- b. If SACOG issues a notice of termination:
 - (1) Contractor shall immediately cease rendering services pursuant to this Agreement.
 - (2) Contractor shall deliver to SACOG copies of all Writings, whether or not completed, which were prepared by Contractor, its employees or its subcontractors, if any, pursuant to this Agreement. The term "Writings" shall include, but not be limited to, handwriting, typesetting, computer

files and records, drawings, blueprints, printing, photostating, photographs, and every other means of recording upon any tangible thing, any form of communication or representation, including, letters, works, pictures, sounds, symbols computer data, or combinations thereof.

- (3) SACOG shall pay Contractor for work actually performed up to the effective date of the notice of termination, subject to the limitations in Section 5 less any compensation to SACOG for damages suffered as a result of Contractor's failure to comply with the terms of this Agreement. Such payment shall be in accordance with Section 6. However, if this Agreement is terminated because the work of Contractor does not meet the terms or standards specified in this Agreement, then SACOG shall be obligated to compensate Contractor only for that portion of Contractor's services which is of benefit to SACOG.

9. Assignment: The parties understand that SACOG entered into this Agreement based on the professional expertise and reputation of Contractor. Therefore, without the prior express written consent of SACOG, this Agreement is not assignable by the Contractor either in whole or in part.

10. Binding Agreement: This Agreement shall be binding on the parties hereto, their assigns, successors, administrators, executors, and other representatives.

11. Time: Time is of the essence in this Agreement.

12. Amendments: No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.

13. Contractors and Subcontractors: Contractor shall not subcontract any portion of the work without the prior express written authorization of SACOG. If SACOG consents to a subcontract, Contractor shall be fully responsible for all work performed by the subcontractor.

- a. SACOG reserves the right to review and approve any contract or agreement to be funded in whole or in part using funds provided under this Agreement.

- b. Any contract or sub-contract shall require the contractor and its subcontractors, if any, to:

- (1) Comply with applicable State and Federal requirements that pertain to, among other things, labor standards, non-discrimination, the Americans with Disabilities Act, Equal Employment Opportunity, and Drug-Free Workplace, and Office of Management and Budget Circular A-87, Cost Principles for State, Local and Indian Tribal Governments.

- (2) Maintain at least the minimum State-required Workers' Compensation Insurance for those employees who will perform the work or any part of it.
- (3) Maintain unemployment insurance and disability insurance as required by law, along with liability insurance in an amount to be determined by SACOG that is reasonable to compensate any person, firm, or corporation who may be injured or damaged by the Contractor or any subcontractor in performing work associated with this Agreement or any part of it.
- (4) Retain all books, records, accounts, documentation, and all other materials relevant to this Agreement for a period of three (3) years from the date of termination of this Agreement, or three (3) years from the conclusion or resolution of any and all audits or litigation relevant to this Agreement and any amendments, whichever is later.
- (5) Permit SACOG and/or its representatives, upon reasonable notice, unrestricted access to any or all books, records, accounts, documentation, and all other materials relevant to this Agreement for the purpose of monitoring, auditing, or otherwise examining said materials.
- (6) Comply with all applicable requirements of Title 49, Part 26 of the Code of Federal Regulations, as set forth in Section 29.

14. Indemnity: Contractor specifically agrees to indemnify, defend, and hold harmless SACOG, its directors, officers, agents, and employees (the "Indemnitees") from and against any and all actions, claims, demands, losses, expenses, including reasonable attorneys' fees and costs, damages, and liabilities resulting from injury or death to a person or injury to property arising out of or in any way connected with the performance of this Agreement, however caused, regardless of any negligent act of an Indemnatee, whether active or passive, excepting only such injury or death as may be caused by the sole, active negligence or willful misconduct of an Indemnatee. Contractor shall pay all costs that may be incurred by SACOG in enforcing this indemnity, including reasonable attorneys' fees. The provisions of this Section shall survive the expiration, termination, or assignment of this Agreement.

15. Insurance Requirements: Contractor hereby warrants that it carries and shall maintain, at its sole cost and expense, in full force and effect during the full term of this Agreement and any extensions to this Agreement, the following described insurance coverage:

POLICY	MINIMUM LIMITS OF LIABILITY
(1) Workers' Compensation; Employer's Liability.	Statutory requirements for Workers' Compensation; \$1,000,000 Employer's Liability.
(2) Comprehensive Automobile: Insurance Services Office, form #CA 0001 (Ed 1/87) covering Automobile Liability, code 1 (any auto).	Bodily Injury/Property Damage \$1,000,000 each accident.
(3) General Liability: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).	\$1,000,000 per occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit, such limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
(4) Errors and Omissions/Professional Liability (errors and omissions liability insurance appropriate to the Contractor's profession as defined by SACOG).	\$1,000,000 per claim.

- a. Deductibles and Self-insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by SACOG.
- b. Required Provisions: The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:
 - (1) For any claims related to this Agreement, the Contractor's insurance coverage shall be primary insurance as respects SACOG, its directors, officers, employees and agents. Any insurance or self-insurance maintained by SACOG, its directors, officers, employees or agents shall be in excess of the Contractor's insurance and shall not contribute to it.
 - (2) Any failure by Contractor to comply with reporting or other provisions of the policies including breaches of warrants shall not affect coverage provided to SACOG, its directors, officers, employees or agents.

- (3) Contractor'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.
 - (4) Each insurance policy required by this Agreement 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 SACOG.
 - c. 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 approved by SACOG.
 - d. Certificate of Insurance and Additional Insured Requirement: Contractor shall furnish to SACOG an original Certificate of Insurance on a standard ACORD form, or other form acceptable to SACOG, substantiating the required coverages and limits set forth above and also containing the following:
 - (1) Thirty (30) days prior written notice to SACOG of the cancellation, non-renewal, or reduction in coverage of any policy listed on the Certificate; and
 - (2) The following statement with respect to the Commercial General Liability policy: "SACOG and its directors, officers, employees and agents, are made additional insureds, but only insofar as the operations under this Agreement are concerned."
 - e. Certified Copies of Policies: Upon request by SACOG, Contractor shall immediately furnish a complete copy of any policy required hereunder, including all endorsements, with said copy certified by the insurance company to be a true and correct copy of the original policy.
 - f. Contractor's Responsibility: Nothing herein shall be construed as limiting in any way the extent to which Contractor may be held responsible for damages resulting from Contractor's operations, acts, omissions, or negligence. Insurance coverage obtained in the minimum amounts specified above shall not relieve Contractor of liability in excess of such minimum coverage, nor shall it preclude SACOG from taking other actions available to it under this Agreement or by law, including but not limited to, actions pursuant to Contractor's indemnity obligations.
16. Audit, Retention and Inspection of Records:
- a. SACOG or its designee shall have the right to review, obtain, and copy all books, records, computer records, accounts, documentation and any other materials (collectively "Records") pertaining to performance of this Agreement, including

any Records in the possession of any subcontractors. Contractor agrees to provide SACOG or its designee with any relevant information requested and shall permit SACOG or its designees access to its premises, upon reasonable notice, during normal business hours, for the purpose of interviewing employees and inspecting and copying such Records for the purpose of determining compliance with Public Contract Code § 10115 et seq., Government Code § 8546.7, 2 California Code of Regulations § 1896.60 et seq. and any applicable federal laws and regulations. Contractor further agrees to maintain such Records for a period of three (3) years after final payment under the Agreement.

- b. Contractor shall comply with the caveats and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in Public Utilities Code § 10115.10.
- c. An expenditure that is not authorized by this Agreement or that cannot be adequately documented shall be disallowed and must be reimbursed to SACOG within sixty (60) days of the discovery unless SACOG approves in writing an alternative repayment plan. Expenditures for work activities not described in the Scope of Work shall be deemed authorized if the performance of such activities is approved in writing by SACOG prior to the commencement of such activity.
- d. Absent fraud or mistake on the part of SACOG, the determination by SACOG of the allowability of any expenditure shall be final.
- e. If so directed by SACOG upon expiration of this Agreement, the Contractor shall cause all Records relevant to the Scope of Work to be delivered to SACOG as depository.

17. Project Managers: SACOG's project manager for this Agreement is _____ unless SACOG otherwise informs Contractor. Any notice, report, or other communication required by this Agreement shall be mailed by first-class mail to the SACOG Project Manager at the following address:

Name, Title
Sacramento Area Council of Governments
1415 L Street, Suite 300
Sacramento, California 95814

Contractor's project manager for this Agreement is _____. No substitution of Contractor's project manager is permitted without the prior written agreement by SACOG. With the exception of notice pursuant to Section 8 (a) above, any notice, report, or other communication to Contractor required by this Agreement shall be mailed by first-class mail to:

Name, Title
Contractor
Address
Address

18. Successors: This Agreement shall be binding on the parties hereto, their assigns, successors, administrators, executors, and other representatives.

19. Waivers: No waiver of any breach of this Agreement shall be held to be a waiver of any prior or subsequent breach. The failure of SACOG to enforce at any time the provisions of this Agreement or to require at any time performance by the Contractor of these provisions, shall in no way be construed to be a waiver of such provisions nor to affect the validity of this Agreement or the right of SACOG to enforce these provisions.

20. Litigation: Contractor shall notify SACOG immediately of any claim or action undertaken by it or against it that affects or may affect this Agreement or SACOG, and shall take such action with respect to the claim or action as is consistent with the terms of this Agreement and the interests of SACOG.

21. National Labor Relations Board Certification: Contractor, by signing this Agreement, does swear under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a federal court which orders Contractor to comply with an order of the National Labor Relations Board (Public Contract Code § 10296).

22. Americans with Disabilities Act (ADA) of 1990: By signing this Agreement, Contractor assures SACOG that it complies with the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. § 12101, et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

23. Non-discrimination Clause:

- a. During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religion, national origin, physical disability, mental disability, medical condition, age or marital status. Contractor and its subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and its subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code § 12900, et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, § 7285.0, et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code §§ 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this

Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

- b. Contractor shall include the non-discrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement.

24. Drug-Free Certification: By signing this Agreement, Contractor hereby certifies under penalty of perjury under the laws of the State of California that Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code § 8350, et seq.) and will provide a drug-free workplace by taking the following actions:

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited, and specifying actions to be taken against employees for violations.
- b. Establish a Drug-Free Awareness Program to inform employees about:
 - (1) The dangers of drug abuse in the workplace;
 - (2) The person's or the organization's policy of maintaining a drug-free workplace;
 - (3) Any available counseling, rehabilitation, and employee assistance programs; and
 - (4) Penalties that may be imposed upon employees for drug abuse violations.
- c. Every employee of Contractor who works under this Agreement shall:
 - (1) Receive a copy of Contractor's Drug-Free Workplace Policy Statement; and
 - (2) Agree to abide by the terms of Contractor's Statement as a condition of employment on this Agreement.

25. Union Organizing: By signing this Agreement, Contractor hereby acknowledges the applicability of Government Code § 16645 through § 16649 to this Agreement.

- a. Contractor will not assist, promote, or deter union organizing by employees performing work on this Agreement.
- b. No funds received from SACOG under this Agreement shall be used to assist, promote, or deter union organizing.

- c. Contractor will not, for any business conducted under this Agreement, use any public property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote, or deter union organizing, unless the public property is equally available to the general public for holding meetings.
 - d. If Contractor incurs costs, or makes expenditures to assist, promote, or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from SACOG funds has been sought for these costs, and Contractor shall provide those records to SACOG upon request.
26. Debarment, Suspension, and Other Responsibilities: Contractor warrants that it:
- a. Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.
 - b. Has not, within the three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
 - c. Is not presently indicted for or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commissions of any of the offenses enumerated in paragraph "b" above.
 - d. Has not, within a three-year period preceding this Agreement, had one or more public transactions or contracts (federal, state, or local) terminated for cause or default.
 - e. Conflicts of Interest: Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with SACOG's interest. During the term of this Agreement, Contractor shall not accept any employment or engage in any consulting work that would create a conflict of interest with SACOG or in any way compromise the services to be performed under this Agreement. Contractor shall immediately notify SACOG of any and all potential violations of this paragraph upon becoming aware of the potential violation.
 - f. Political Reform Act Compliance: Contractor is aware and acknowledges that certain contractors that perform work for governmental agencies are "consultants" under the Political Reform Act (the "Act") (Government Code § 81000, et seq.) and its implementing regulations (2 California Code of Regulations § 18110, et seq.). Contractor agrees that any of its officers or employees deemed to be

"consultants" under the Act by SACOG, as provided for in the Conflict of Interest Code for SACOG, shall promptly file economic disclosure statements for the disclosure categories determined by SACOG, to be relevant to the work to be performed under this Agreement and shall comply with the disclosure and disqualification requirement of the Act, as required by law.

27. Prohibition of Expending State or Federal Funds for Lobbying:

a. Contractor certifies, to the best of his or her knowledge or belief, that:

(1) No State or Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any State or Federal agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding of any State or Federal contract, the making of any State or Federal grant, the making of any State or Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any State or Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with this Federal Agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

b. This certification is a material representation of fact upon which reliance was placed when this Agreement was entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

c. Contractor also agrees by signing this Agreement that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly.

28. Federal Prevailing Wage. Federal prevailing wage requirements as required by Federal regulations are not required. **OR**

- a. The work herein proposed shall be financed in whole or in part with Federal funds; therefore, all of the statutes, rules, and regulations promulgated by the Federal government are applicable to work financed in whole or in part with Federal funds and will be applicable to work performed under this Agreement.
- b. Federal requirements for Federal-Aid Construction Projects provisions shall apply to this Agreement and are made a part of the Agreement as Attachment ____ **OR** The current Federal Prevailing Wage Determinations issued under the Davis-Bacon and Related Acts shall apply to this Agreement and are made a part of the Agreement as Attachment ____.
- c. The SACOG Project Manager shall notify Contractor when prevailing wages are required and, if applicable such notification shall be contained in each Task Order issued.
- d. Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this section.

29. Disadvantaged Business Enterprise (DBEs) Participation: This Agreement is subject to Title 49, Part 26 of the Code of Federal Regulations entitled “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.”

- a. Non-Discrimination: Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by Contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as SACOG may deem appropriate.
- b. Goals [if required]: The DBE participation goal for this Agreement is ____ percent. Participation by DBE Prime and Sub-consultants shall be in accordance with the information contained in the Bidder/Proposer DBE Information Form ADM 0227F, attached hereto and incorporated by reference into this Agreement.
 - (1) Contractor shall carry out applicable requirements of 49 CFR, Part 26, of the Code of Federal Regulations in the award and administration of federally assisted contracts. The regulations in their entirety are incorporated herein and by reference.
 - (2) Each subcontract signed by Contractor in the performance of this Agreement must include an assurance that Contractor and subcontractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this Agreement.

- c. Prompt Payments of Withheld Funds to DBE and Non-DBE Subcontractors: Contractor shall pay to subcontractor(s) all moneys withheld in retention from the subcontractor within thirty (30) days from receiving payment from SACOG for work satisfactorily completed, even if other work is not completed and has not been accepted in conformance with the terms of the contract. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to Contractor or subcontractor in the event of a dispute involving late payment or non-payment to the Contractor or deficient subcontract performance or noncompliance by a subcontractor.
- d. Records: Contractor shall maintain records of all subcontracts entered into with certified DBE subcontractors and records of materials purchased from certified DBE suppliers. The records shall show the name and business address of each DBE subcontractor or vendor and the total dollar amount actually paid each DBE subcontractor or vendor. The records shall show the date of payment and the total dollar figure paid to all firms. Upon completion of the contract, a summary of these records shall be prepared and submitted to SACOG.
- e. Termination of a DBE: In conformance with Federal DBE regulation Section 26.53(f)(1) and 26.53(f)(2), Part 26, 49 CFR, Contractor shall not:
 - (1) Terminate for convenience a listed DBE subcontractor and then perform that work with its own forces (personnel), or those of an affiliate, unless Contractor has received prior written authorization from the Project Manager of SACOG to perform the work with other forces (other than Contractor's own personnel) or to obtain materials from other sources; and
 - (2) If a DBE subcontractor is terminated or fails to complete its work for any reason, Contractor shall be required to make good faith efforts to replace the original DBE subcontractor with another DBE subcontractor to the extent needed to meet the contract goal.
 - (3) Noncompliance by Contractor with the requirements of this paragraph is considered a material breach of this Agreement and may result in termination of the Agreement or other such appropriate remedies for a breach of this Agreement as SACOG deems appropriate.
- f. DBE Certification and Decertification: If a DBE subcontractor is decertified during the life of the contract, the decertified subcontractor shall notify Contractor in writing with the date of decertification. If a subcontractor becomes a certified DBE during the life of the contract, the subcontractor shall notify Contractor in writing with the date of certification. Contractor shall then provide to the Project Manager of SACOG written documentation indicating the DBE's existing certification status.

30. Costs and Attorneys' Fees: If either party commences any legal action against the other party arising out of this Agreement or the performance thereof, the prevailing party in such action may recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and reasonable attorneys' fees.

31. Governing Law and Choice of Forum: This Agreement shall be administered and interpreted under California law as if written by both parties. Any litigation arising from this Agreement shall be brought in the Superior Court of Sacramento County.

32. Integration: This Agreement represents the entire understanding of SACOG and Contractor as to those matters contained herein and supersedes all prior negotiations, representations, or agreements, both written and oral. This Agreement may not be modified or altered except in accordance with Section 12.

33. Severability: If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law, unless the exclusion of such term or provision, or the application of such term or provision, would result in such a material change so as to cause completion of the obligations contemplated herein to be unreasonable.

34. Headings: The headings of the various sections of this Agreement are intended solely for convenience of reference and are not intended to explain, modify, or place any interpretation upon any of the provisions of this Agreement.

35. Authority: Each person signing this Agreement on behalf of a party hereby certifies, represents, and warrants that he or she has the authority to bind that party to the terms and conditions of this Agreement.

36. Ownership; Permission: Contractor represents and warrants that all materials used in the performance of this Agreement, including, without limitation, all computer software materials and all written materials, are either produced and owned by Contractor or that all required permissions and license agreements have been obtained and paid for by Contractor. Consultant shall defend, indemnify and hold harmless SACOG and its directors, officers, employees, and agents from any claim, loss, damage, cost, liability, or expense to the extent of any violation or falsity of the foregoing representation and warranty.

37. Counterparts: This Agreement may be executed in multiple counterparts, each of which shall constitute an original, and all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, THE PARTIES HAVE ENTERED INTO THIS AGREEMENT AS OF THE DATE HEREIN ABOVE APPEARING:

SACRAMENTO AREA COUNCIL OF GOVERNMENTS

MIKE MCKEEVER, Executive Director

APPROVED AS TO FORM:

Miller, Owen & Trost
Legal Counsel to SACOG

RECOMMENDED BY:

Director

CONTRACTOR COMPANY

Name, Title

EXHIBIT “A”

Scope of Work

(Include detailed description of tasks to be performed and timing)

(Include detailed description of terms of payment, e.g., specify fixed amount with no reimbursable costs, specify hourly rate with identified reimbursable costs up to a “not to exceed” figure)

Part B – NorCal Megapolitan Area

34,000 square miles

Includes 23 counties stretching from the Bay Area to Sacramento to Fresno.

The SACOG Regional Goods Movement Study (Phase One) will examine the impacts of goods movement on the six-county SACOG region within the context of the “NorCal” region with the inclusion of Sutter, Yuba and Colusa counties to the north.

