

**Justification of Competitive Procurement Process
Financial Services for Auctions and Reserve Sales
October 18, 2016**

Introduction

In support of WCI, Inc.'s mission to provide "technical and administrative services" to support the cap-and-trade program of its Participating Jurisdictions, WCI, Inc. proposes to procure Financial Services for Auctions and Reserve Sales. This document summarizes the justification for procuring this service through a competitive procurement process.

In accordance with the WCI, Inc. Procurement Policy, WCI, Inc. staff, with the assistance and involvement of Participating Jurisdictions, developed and executed an open competitive process for procuring Financial Services for Auctions and Reserve Sales. The result of the procurement process is a unanimous recommendation to award the contract to Deutsche Bank.

Description of Financial Services for Auctions and Reserve Sales

The purpose of this work is to provide financial and transactional escrow services to WCI, Inc. Participating Jurisdictions that are implementing cap-and-trade programs. The services being procured in the proposed WCI, Inc. contract include:

- Develop Final Work Plan and Schedule
- Develop Processes and Procedures for Financial Services for Auction and Reserve Sale Services
- Pre-Auction/Reserve Sale Escrow Services
- Post-Auction/Reserve Escrow Sale Services
- Consigning Entity Setup and Payments
- System Security Report
- New Jurisdictions
- Transition Out
- Other Activities as Directed

Process for Procuring the Services Using a Competitive Procurement Process

The process for soliciting and recommending a contractor was done in accordance with the WCI, Inc. Procurement Policy. For reference, the key solicitation and evaluation requirements of the policy are provided below:

To obtain the best value for the Corporation, the procurement process shall ensure open and effective opportunities for competition, including but not limited to the following:

- A. Conduct procurement in a transparent and fair manner.
- B. Provide equal access and timely and accurate procurement information to potential suppliers prior to and during the procurement process.
- C. Make procurement documents and related materials electronically and publicly available in a timely manner, with sufficient time prior to a bid or proposal due date, taking into consideration the complexity of the procurement.

- D. Ensure all bid documents contain the necessary information for proposers to prepare a bid.
- E. Ensure that procurement is conducted in a geographically neutral manner.
- F. Provide flexibility to ensure goods and services are obtained in a timely manner.

To further support obtaining best value and providing a stable procurement environment, the procurement evaluation process will include but is not limited to the following:

- A. Define administrative bidding requirements that are clear and fair, and applying the requirements consistently to all bidders.
- B. Tailor technical evaluation criteria and scoring methods to each procurement to obtain best value for the Corporation.
- C. Involve the evaluation team with personnel that have the requisite technical expertise to evaluate the proposals effectively.
- D. Confirm that the evaluation process is free of conflicts of interest.

Rationale for Recommending Deutsche Bank

As a result of there being no responsive service provider for the Canadian financial services, it is recommended at this time that the Financial Services for Auctions and Reserve Sales contract be awarded to Deutsche Bank to provide escrow services for both the U.S. and Canadian jurisdictions. Deutsche Bank will not be able to support Canadian participants in French nor have a Canadian branch as specified in the REI. In order to maintain the continuity of service required by WCI, Inc.'s Participating Jurisdictions, it is recommended that this deviation from the requirements specified in the REI be accepted.



STANDARD AGREEMENT
Financial Services for Auctions and Reserve Sales

October 19, 2016

STANDARD AGREEMENT ("Agreement")

AGREEMENT NUMBER

2016-02

1. This Agreement is entered into between Western Climate Initiative, Inc. (WCI, Inc.) and the Contractor named below:

CONTRACTOR'S NAME

Deutsche Bank National Trust Company

2. The term of this Agreement is:

Thirty Eight (38) months to begin October 19, 2016 to January 31, 2020

With one (1) one (1) year option to extend contract thru January 31, 2021

3. The maximum amount of this Agreement is:

\$3,072,000.00 (USD)

4. The parties agree to comply with the terms and conditions of the following attachments, which are by this reference made a part of the Agreement. WCI, Inc. is not an agent of the WCI, Inc. Participating Jurisdictions or any of its funding entities.

- Attachment A – Statement of Work
- Attachment B – Budget Detail and Payment Provisions
- Attachment C – General Terms and Conditions
- Attachment D – Organization Conflict of Interest and Confidentiality
- Attachment E – Contractor's Presentation and Cost Proposal

[Signature Page Follows]

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR		WCI, Inc. Use Only
CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.) Deutsche Bank National Trust Company		
BY (Authorized Signature) Signature on file	DATE SIGNED (Do not type) 10/19/2016	
PRINTED NAME AND TITLE OF PERSON SIGNING Andrew Ball, Vice President		
ADDRESS 1761 E. Saint Andrew Place, Santa Ana, CA 92705		
BY (Authorized Signature) Signature on file	DATE SIGNED (Do not type) 10/19/2016	
PRINTED NAME AND TITLE OF PERSON SIGNING David McGuire, Assistant Vice President		
ADDRESS 1761 E. Saint Andrew Place, Santa Ana, CA 92705		
CONTRACTEE		
CONTRACTEE'S NAME Western Climate initiative, Inc.		
BY (Authorized Signature) Signature on file	DATE SIGNED (Do not type) 10/19/2016	
PRINTED NAME AND TITLE OF PERSON SIGNING Greg Tamblin, Executive Director		
ADDRESS 980 Ninth Street, Suite 1600, Sacramento, CA 95814		

[Signature Page to Standard Agreement]

Contractor agrees, as part of the Agreement, to provide to WCI, Inc. the services described in the Agreement and the Attachments to the Agreement, including the services described in Attachment A, Statement of Work, and Attachment E, Contractor’s Presentation and Cost Proposal, (all such services, collectively, the “Work” or the “Work Schedule”).

Agreement may be extended for one additional twelve (12) month period at the option of WCI, Inc. Such option must be exercised by WCI, Inc. prior to the end of the original term of the Agreement. The effectiveness of the extension period is subject to: (i), if WCI, Inc. wishes to change the Work to be performed during the extension period, the mutual agreement of the parties to any such changes to the Work; and (ii) the mutual agreement of the parties regarding the costs to be charged for Contractor’s services during the extension period.

The parties agree that the Contract for Cap-and-Trade Financial Services for Auctions and Reserve Sales between the parties, dated September 19, 2013, as amended by amendment number 001, effective as of January 1, 2014, and amendment number 002, effective as of June 1, 2015, (the “Old Agreement”) is hereby terminated as of the first day of the term of the Agreement notwithstanding any provision to the contrary in the Old Agreement.

Project representatives (“Project Representatives”) are responsible for administrative and financial oversight and accountability. The Contractor Project Representative has the authority to make executive level administrative decisions for the Contractor and any subcontractor(s). The Project Representatives during the term of this Agreement will be:

Western Climate Initiative, Inc.	Contractor: Deutsche Bank National Trust Company
Name: Greg Tamblyn	Name: Andrew Ball
Phone 916-449-9966	Phone: 714-247-6052
Email: gtamblyn@wci-inc.org with a copy to operations@wci-inc.org	Email: andrew.ball@db.com with a copy to db.wcisupport@db.com

Direct all administrative inquiries to:

Western Climate Initiative, Inc.	Contractor: Deutsche Bank National Trust Company
Attention: Greg Tamblyn	Attention: Andrew Ball
Phone: 916-449-9966	Phone: 714-247-6052
Email: gtamblyn@wci-inc.org	Email: andrew.ball@db.com

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PURPOSE / BACKGROUND / OVERVIEW

A. PURPOSE

The purpose of this work is to provide financial and transactional escrow services to WCI, Inc. Participating Jurisdictions that are implementing cap-and-trade programs.

B. BACKGROUND

WCI, Inc. supports the Participating Jurisdictions in executing coordinated auctions and reserve sales of greenhouse gas emission allowances that conform to the Participating Jurisdictions' requirements.

C. OVERVIEW

This Agreement provides financial services for jurisdiction-specific and multi-jurisdiction greenhouse gas allowance auctions, as well as jurisdiction-specific allowance sales. The scope of work in this Agreement includes: Develop Final Work Plan and Schedule, Develop Processes and Procedures for Financial Services for Auction and Reserve Sale Services, Pre-Auction/Reserve Sale Escrow Services, Post-Auction/Reserve Escrow Sale Services, Consigning Entity Setup and Payments, System Security Report, New Jurisdictions, Transition Out, and Other Activities as Directed. The authority of the Contractor Project Representative to take actions to provide financial services for auctions and reserve sales is subject to the direction of the Participating Jurisdictions based upon their approved procedures.

ATTACHMENT A. STATEMENT OF WORK

This Statement of Work describes the financial and transactional escrow agency services for greenhouse gas (GHG) allowance auctions and reserve sales (hereafter referred to as “Financial Services”) to be provided by Contractor for WCI, Inc. and its Participating Jurisdictions. These Financial Services will cover multi-jurisdiction joint and jurisdiction-specific GHG allowance auctions, as well as jurisdiction-specific allowance sales (e.g., California Reserve Sales and Québec Sale by Mutual Agreement). For simplicity, throughout this Statement of Work, a California Reserve Sale, a Québec Sale by Mutual Agreement and Ontario’s Sales of reserve allowances will be referred to as a reserve sale.

All Contractor services are to be conducted in accordance with the Agreement. If any instruction from WCI, Inc. or the Participating Jurisdictions is unclear, incomplete, or inconsistent with program regulations, other data, or instructions provided to Contractor, the Contractor shall seek clarification from WCI, Inc. and Participating Jurisdictions prior to carrying out the instruction.

For all Statement of Work tasks, the Contractor shall provide services and consolidate data for all Participating Jurisdictions escrow accounts and all entity escrow accounts for entities registered under the Participating Jurisdiction programs. All accounts opened and maintained by Contractor pursuant to this Statement of Work shall be escrow accounts, including any accounts opened and maintained for WCI, Inc., any Participating Jurisdiction and any entity registered under any Participating Jurisdiction’s programs. All amounts held in any escrow account shall be held by Contractor for the benefit of the beneficiaries of such escrow account, and neither Contractor nor any of its affiliates shall have any rights, including any rights of ownership or use, to the amounts held in such escrow accounts.

Contractor (in cooperation with any subcontractors) shall provide all required Financial Services in accordance with the Agreement.

WCI, Inc. and the Participating Jurisdictions will work with Contractor to develop processes and procedures and reports to be as consistent as possible to reduce the impact of joint auction operations on Participating Jurisdictions.

To the extent Contractor has previously provided, and continues to provide, processes, procedures and systems required to be developed or provided under this Statement of Work, Contractor shall be deemed to have satisfied its obligations to develop or provide such processes, procedures and systems.

Systems and procedures related to the below tasks will be maintained and updated by Contractor as needed to be compatible with updates to other service providers’ systems and procedures.

The scope of work consists of nine tasks as described below.

Task 1: Develop Final Work Plan and Schedule

The Contractor shall develop a draft work plan (“Work Plan”) that indicates how the Contractor intends to execute each task and how the Contractor will interact with WCI, Inc. and Participating Jurisdictions. The schedule for completing each task element must be provided with an explanation of the appropriateness of the timeframes for each subtask. Upon receipt of the draft Work Plan, WCI, Inc. and the Participating Jurisdictions shall review the Work Plan and provide comments to the Contractor on the strengths and weaknesses of the draft Work Plan in terms of meeting the requirements laid out in this Statement of Work. Upon receipt of the comments, the Contractor will finalize the Work Plan for approval by WCI, Inc.

The Contractor shall provide the following deliverables for this task:

Draft Work Plan: Two weeks after contract initiation

Final Work Plan: One week after receipt of comments on draft

Task 2: Develop Processes and Procedures for Financial Services for Auctions and Reserve Sales The purpose of Task 2 is to develop all of the services needed to provide Financial Services, including developing processes and procedures, systems, reports, and outreach and training materials as required.

Under this task the Contractor shall provide processes and procedures documents that describe the steps and requirements needed to provide Financial Services for multi-jurisdiction joint and jurisdiction-specific auctions and jurisdiction-specific reserve sales. Processes and procedures should include all aspects of Financial Services, including pre- and post-auction and reserve sale escrow services, currency exchange, proceeds distribution, and consigning entity account set up and payments. Currently, Participating Jurisdictions conducting auctions and reserve sales include California and Québec. Ontario is targeting its first auction for March 2017. Currently, each auction held includes a current auction and advance auction that occur simultaneously. Financial Services will require the ability to allow for financial settlement of auctions in addition to current and advance auctions, as there may be a need to auction allowances of vintages other than the Current and Future vintage. In general, financial settlement involves the combined costs for all auctions simultaneously conducted in a single auction event.

To set up and manage financial services accounts, an account structure must be proposed that provides the Contractor with the ability to manage the submittal of cash and physical bid guarantees and payments submitted by all auction and reserve sale participants as well as the management of Participating Jurisdiction funds. Information required from potential auction applicants and the Participating Jurisdictions in Financial Services may be impacted by the proposed account structure due to several factors, including which jurisdictions are participating, data required for compliance with banking regulations, the type of event scheduled, and the reporting structure, among other factors.

The account structure proposed for the escrow services must be in full compliance with all U.S. federal and state regulations.

In all cases, the Contractor's account structure must permit the management of multiple currencies consistently, while also reducing the impact to the potential auction applicants and Participating Jurisdictions and auction and reserve sale applicants to the greatest degree possible.

These processes and procedures must be developed to fully describe:

- a) Pre-auction and reserve sale escrow services including:
 - a. Set up and management of financial services accounts
 - i. Process to receive, manage, and update entity and representative information for potential applicants and actual applicants for each event
 - ii. Process to complete financial qualification process, as required by applicable banking regulations, including requesting and receiving required entity information and completing any required due diligence review to comply with U.S. banking regulations (e.g., know-your-customer ("KYC") requirements)
 - b. Receipt, management, and reporting of cash and physical bid guarantees specific to each Participating Jurisdiction's regulatory provisions
 - c. Receipt and management of bid guarantee return instructions
 - d. Provide secure process to update bid guarantee return instructions as needed
 - e. Receipt and management of entity data and proceeds distribution instructions for consigning entities for each auction
 - f. Transmitting entity financial services account and bid guarantee type and amount data to the auction and reserve sale services contractor, hereafter called the "Auction Administrator"
 - g. Reporting of pre-auction financial services account information, including bid guarantee type and amount data for auction applicants to Participating Jurisdictions

- b) Post-auction and reserve sale escrow services, currency exchange, and reporting/reconciliation services including:
 - a. **Receipt of Bid Guarantees**
 - i. Receiving and recording results information for each event from the Auction Administrator
 - ii. Calculating amounts owed and/or due to be returned from results information received
 - iii. Receiving and recording cash payment for amounts owed
 - iv. Returning unused cash bid guarantees or funds received in excess of amounts due
 - v. Drawing on physical bid guarantee documents for bidders that fail to make payment to receive funds within three business days of the payment due date
 - vi. Returning physical bid guarantee instruments through secure delivery

 - b. **Currency Exchange**
 - i. Provide currency exchange services including alternatives for

exchange of funds (U.S. dollars (USD) to Canadian dollars (CAD) and/or CAD to USD) through multiple transaction types.

- ii. Currency exchange services should be designed to meet the following goals:
 1. Allow exchange based on a known exchange rate to allow distribution to each Participating Jurisdiction in the appropriate currency that shares any losses or gains
- iii. Currency exchange services should include the following:
 1. Receiving and completing currency exchange requests based on, at minimum, 1) a specific currency exchange direction, amount, and time frame without a known exchange rate (spot transaction), and 2) a specific currency exchange direction, amount, and a known exchange rate available for a set time frame(s)
 2. Recording all amounts deducted and received in appropriate Participating Jurisdiction accounts
 3. Confirming exchange rate currency and amount sold, exchange rate achieved, currency and amount purchased, and date and time of transaction, and value date for delivery of funds.
 4. The Contractor must provide a currency exchange plan describing how exchange rate quotes will be provided and accepted, as well as any basis of exchange rate quotes. For example, will exchange rate quotes be received for various ranges in amounts (i.e., up to \$1M, \$1M to \$2.5M, \$2,5M to \$5M, \$5M to \$10M, and >\$10M), will exchange rate quotes include any transaction fee, and will the basis of an exchange rate quote be the Contractor purchase price plus a set margin or a set margin based on the amount.
 5. If any USD payments received into an account under the control of Contractor are to be converted into a foreign specified currency, Contractor may, subject to applicable laws, convert the transfer amount to the currency of that instruction using its own internal FX conversion rates and at Contractor's then prevailing rate, which such conversion shall be conducted in a commercially reasonable manner, similar to that which is effected for its other customers. In no event shall Contractor be liable to any party for the conversion rate so obtained.

c. Distribution of Proceeds

- i. Accepting direction to distribute proceeds
- ii. Distributing proceeds to Participating Jurisdictions and consigning entities

d. Reconciliation/Reporting

- i. Reporting of pre-auction financial services account information, including bid guarantee type and amount data for auction

- applicants to Participating Jurisdictions
- ii. Reporting of the post-auction financial services account information including entity payments received, bid guarantees returned, and all currency exchange requests completed to Participating Jurisdictions
- iii. Reconciling and reporting all funds received, all currency exchange requests completed, and all bid guarantees returned

e. Process and Procedure Updates

- i. In the event any processes and procedures developed in Task 2 are not meeting the agreed-upon objectives, the processes and procedures will be modified accordingly.

Financial Services support processes and materials must be provided by the Contractor, including:

- a. Developing systems including databases and/or reports (or provide and adapt any existing systems the Contractor already owns) required to support the approved processes and procedures, escrow services, and reporting requirements.
- b. Providing support to auction and reserve sale potential applicants, applicants, and qualified bidders and consigning entities and responding to questions submitted by phone or email specific to financial services.
 - i. Providing contacts, phone and email, for the Contractor to support questions from entities during standard business hours within all Participating Jurisdictions in the Contractor's country of service.
 - ii. Providing contact information including phone and email contact to support questions in English.
 - iii. Creating documents to collect information (e.g., form to collect information required from General Market Participant, Individual) and outreach material to explain example physical bid guarantee requirements (e.g., example letter of credit, bond, surety bond).
 - iv. The primary documents used for outreach include the Auction Notice and Attachments available on Participating Jurisdiction webpages. The Contractor will assist in developing language included in these documents specific to Financial Services and review and comment on Participating Jurisdiction changes to these documents.
 - v. Auction and reserve sale participants are encouraged to confirm receipt of bid guarantee and financial settlement payment. As a result, phone and email inquiries can be expected to equal up to one hundred percent of the number of applicants for each event.
- c. If requested by WCI, Inc., cooperating with the Participating Jurisdictions and Auction Administrator to participate in a practice joint auction(s) for CA and QC or CA, QC and ON participants and/or practice jurisdiction-specific reserve sale to demonstrate and exercise the procedures and capabilities for Financial Services.
- d. Providing support services in English.
- e. Providing all participant materials in English to WCI, Inc., the

- Participating Jurisdictions, and Auction Administrator.
- f. Reviewing public notices and training materials developed by WCI, Inc., the Participating Jurisdictions, and Auction Administrator as needed. Current auction and reserve sale notices, including the “Detailed Requirements and Instructions” and the “Auction Examples” as well as auction and reserve sale training presentations are available from Participating Jurisdiction web pages.
For California entities, auction and reserve sale notices can be found at: <http://www.arb.ca.gov/cc/capandtrade/auction/auction.htm>.
For Québec entities, auction and reserve sale notices can be found at: <http://www.mddelcc.gouv.qc.ca/changements/carbone/Ventes-encheres.htm>.
 - g. In the event any processes and procedures developed in this task cannot meet the agreed-upon objectives, including KYC, once the processes and procedures are put into operation in subsequent tasks, the processes and procedures will be modified accordingly.

As described previously, there are specific auction and reserve sale specialized reports required. Descriptions of required reports by category are provided below:

- a. Financial Services reports are required to transmit entity financial services account and bid guarantee data to the Participating Jurisdictions and the Auction Administrator, including, but not limited to, entity name, financial services account number, and form(s) and amounts of bid guarantees submitted.
- b. Pre-auction and reserve sale reports are required to provide Financial Services information for auction and reserve sale applicants to Participating Jurisdictions, including, but not limited to, the entity name, financial services account number, and form(s) and amounts of bid guarantees submitted.
- c. Post-auction reconciliation reports are required to provide financial settlement information for auction and reserve sale applicants and qualified bidders, including, but not limited to: 1) entity account information including total amount due, funds received, and bid guarantees returned; and 2) Participating Jurisdiction account information including total funds received from entity accounts, total amount of currency sold and purchased in completed currency exchanges, and proceeds distribution. The purpose of post-auction reconciliation reports is to document reconciliation of all funds received, bid guarantees returned, currency exchange completed, and proceeds distributed.
- d. Consignment reports are required to track information for consigning entities in each auction. Additionally, reports are required to transmit entity financial services account and bid guarantee data to the Participating Jurisdictions and the Auction Administrator.

Reports may be developed to be specialized by topic and phase of an event (pre or post) or may be developed to include several topics or phases of an event with data populated as data becomes available. Final report titles and formats will be developed through discussions with WCI, Inc., Participating Jurisdictions, and the Contractor.

General data categories reported based on the topics and phases of an event are outlined below:

Pre-Auction and Reserve Sale

- Summary Data
- Entity Data
- Entity Application Data
- Entity Financial Services Account Data
- Entity Consignment Data

Post-Auction and Reserve Sale

- Summary Data
- Entity Data
- Entity Application Data
- Entity Financial Services Account Data
- Summary Financial Settlement Data
- Entity Financial Settlement Data

Interim and Final Reconciliation

- Summary Data
- Entity Data
- Entity Application Data
- Entity Financial Services Account Data
- Summary Financial Settlement Data
- Entity Financial Settlement Data
- Currency Exchange Data (Joint Auctions Only)
- Proceeds Distribution Data (Proceeds Data)
- Entity Consignment Data

Contracts will need to be able to report with both USD and CAD data.

Additionally, specific data may differ for an auction or reserve sale. As an example, an auction will report a settlement price, while for a reserve sale a tier or category price will be reported. A description of the specific data reported in each data category listed above is provided below:

Summary Data

- Report Date
- Report Name
- Auction Name (Reserve Sale Name)
- Date Report Generated

Entity Data

- CITSS Entity ID Number
- Entity Legal Name
- Entity Operating Name

Entity Application Data

- Expected Bid Guarantee Type(s) (Cash, Letter of Credit ("LOC"), Letter of Guarantee ("LOG"), Bond, Surety Bond)

- Currency
- Bid Guarantee Return Instructions
 - Return Mailing Address
 - Return Wire Instruction

Entity Financial Services Account Data

- Financial Services Account Number
- Form(s) of Bid Guarantee Submitted
- Bid Guarantee Submittal Data
 - Cash Bid Guarantee Amount
 - Physical Bid Guarantee Type(s) (LOC, LOG, Bond, Surety Bond)
 - Physical Bid Guarantee Amount(s)
 - Bid Guarantee Amount Total
 - Bid Guarantee Deposit Date(s)
 - Bid Guarantee Amount Total Update Date
 - Physical Bid Guarantee Expiration Date

Summary Financial Settlement Data

- Total USD Cash Available in Joint Auction Settlement Account
- Total CAD Cash Available in Joint Auction Settlement Account
- Total Cash Transferred to Participating Jurisdiction Accounts (CAD)
- Total Cash Transferred to Participating Jurisdiction Accounts (USD)

Entity Financial Settlement Data

- For Auctions
 - Current Auction Successful Bid Quantity
 - Future Auction Successful Bid Quantity
 - Settlement Price (Current)
 - Settlement Price (Advance)
- For reserve sales:
 - Successful Bid Quantity (Tier 1/Category A)
 - Successful Bid Quantity (Tier 2/Category B)
 - Successful Bid Quantity (Tier 3/Category C)
 - Tier/Category Price (Tier 1/Category A)
 - Tier/Category Price (Tier 2/Category B)
 - Tier/Category Price (Tier 3/Category C)
- Total Successful Bid Cost (distinguished by currency for joint auctions)
- Amount Owed by FSA
- Amount Owed by Participant
- Cash Payment Received (distinguished by currency for joint auctions)
- Cash Payment Received Date
- Physical Bid Guarantee Draw Date
- Total Payment Received
- Cash Returned to Bidder
- Cash Return Date
- Bid Guarantee Return Email Notification Date
- Physical Bid Guarantee Return Date
- Cash Transferred to Participating Jurisdiction Accounts (CAD)

- Cash Transferred to Participating Jurisdiction Accounts (USD)
- Cash Transferred to Participating Jurisdiction Accounts Date

Currency Exchange Data (Joint Auctions Only)

- FSA Exchange Rate (Multiple)
- Currency Amount Sold
- Currency Sold (CAD or USD)
- Currency Amount Purchased
- Currency Amount Purchased (CAD or USD)
- Exchange Transaction Date
- Exchange Transaction Time
- Cash Transferred from Participating Jurisdiction Accounts (CAD)
- Cash Transferred from Participating Jurisdiction Accounts (USD)
- Cash Transferred from Participating Jurisdiction Accounts Date
- Cash Transferred to Participating Jurisdiction Accounts (CAD)
- Cash Transferred to Participating Jurisdiction Accounts (USD)
- Cash Transferred to Participating Jurisdiction Accounts Date

Proceeds Distribution Data (Proceeds Data)

- Total Allowances Sold ARB (Current)
- Total Allowances Sold ARB (Advance)
- Total Allowances Sold QC (Current)
- Total Allowances Sold QC (Advance)
- Total Allowances Sold ON (Current)
- Total Allowances Sold ON (Advance)
- Settlement Price (Current)
- Settlement Price (Advance)
- Auction Exchange Rate
- Total CAD Paid to Québec
- Total CAD Paid to Ontario
- Total USD Paid to ARB
- Total USD Paid to Consigning Entities
- Currency Proceeds Paid (CAD or USD)
- Total Allowances Sold (Current)
- Total Allowances Sold (Advance)
- Total Auction Proceeds Paid to Consigning Entities
- Total CAD Paid to Québec
- Total CAD Paid to Ontario
- Total USD Paid to ARB
- Total USD Paid to Consigning Entities

Entity Consignment Data (Currently U.S.-based services only)

- Consigning Entity CITSS ID
- Consigning Entity Legal Name
- Consigning Entity Operating Name
- Allowances Consigned
- Consigned Allowances Sold

- Settlement Price (Current)
- Consignment Payment Email Notification Date
- Total USD Paid
- Consigning Entity Instructions for Proceeds Payment (Wire Instructions)
- Consignment Payment Date

The Contractor must ensure financial and transaction services work with other cap-and-trade services (e.g., Auction Administrator) and develop a procedure to ensure confidentiality of data and that data security meets all of the Participating Jurisdictions' data security requirements. Sharing of data may require the use of specific software and encryption requirements. As an example, access to CITSS data requires software that can open encrypted files based on AES-256 encryption.

Finally, the Contractor will coordinate with WCI, Inc. and Participating Jurisdictions to manage the project and ensure all deliverables are met in a timely manner.

The Contractor shall provide the following deliverables for this task. The schedule for completing the deliverables shall be defined in the Task 1 Work Plan.

Draft Process and Procedures

- Pre-auction
- Post-auction
- Consigning Entity
- Financial services support processes
- Financial services training and outreach materials (materials are expected to be minimal and will be designed to complement or be integrated into materials provided by the Auction Administrator and by the Participating Jurisdictions, total pages of materials to be developed are anticipated to be no more than 10 total pages)

Final Process and Procedures

- Pre-auction
- Post-auction
- Consigning Entity
- Financial services support processes and training and outreach materials

Revised Processes/Procedures Documents, if necessary

Draft System Configuration/Specialized Reports

Final System Configuration/Specialized Reports

Participation in Practice Auction(s)

Task 3: Pre-Auction/Reserve Sale Escrow Services

The application process currently begins in the Compliance Instrument Tracking System Service ("CITSS") with services provided by another contractor. The Contractor will have access to data from CITSS required to conduct Financial Services. Auction services in CITSS are currently being updated, so final file formats are not known. Files in general are provided either as an XML or Excel file. Additional data on corporate structure can be provided by the staff of the Participating

Jurisdictions if required for the account establishment process.¹ Entity data available² will consist of the following:

- A. Entity information such as Entity Legal Name, Entity Operating Name, Entity Type, CITSS Account Number, physical and mailing addresses, and jurisdiction of registration.
- B. Representative information including the first and last name, phone number, and email address of account representatives.

The potential applicant information is provided to inform the Contractor of entity data and the account representatives for potential applicants and consigning entities.

The Contractor will additionally have access to applicant information. Applicant information provides information on applicants, i.e., entities that have submitted an auction or reserve sale application through the Auction Administrator. The applicant information³ will consist of the following:

- A. Introductory fields, including Report Date, Event Name, and Event Date.
- B. Applicant information such as Entity Legal Name, Entity Operating Name, Entity Type, CITSS Account Number, physical and mailing addresses, and jurisdiction of incorporation.
- C. Representative information including the first and last name, phone number, and email address of Participant User submitting the application on behalf of the entity.
- D. Application information including bid guarantee type(s), currency, and amount(s); bid guarantee return instructions; application status; application submission date and time; and application approval/rejection date.

The account structure proposed for the escrow services must be in full compliance with all applicable regulations based on the services under contract.

Separate management of funds will be required for joint auctions, jurisdiction-specific auctions and reserve sales as these events can overlap. The Contractor will work with the Participating Jurisdictions to ensure systems and processes can support the acceptable mechanisms for payment guarantees allowed by the Participating Jurisdictions' regulations and that all required terms and conditions for bid guarantees and payments are met. This work shall include:

1 Additional registration data including data specific to corporate structure is reported to Participating Jurisdictions in hardcopy form and may be made available to the Contractor as needed for procedures to establish accounts. The data collected is outlined on the Corporate Associations and Structure Form available from Participating Jurisdiction web pages. The primary data made available includes: Name and Addresses of Your Entity's Directors and Officers, Names and Address of Persons with Voting Rights, and Parent and Subsidiary Companies.

2 Detailed information on the present XML file available through CITSS is available in RFP No. 2015-01, Auction and Reserve Sale Administrator Services, available on the WCI, Inc. web page at <http://www.wci-inc.org>.

3 Detailed information on the applicant information available from the auction and reserve sale application process is available in RFP No. 2015-01, Auction and Reserve Sale Administrator Services, available on the WCI, Inc. web page at <http://www.wci-inc.org>.

- a) Set up and management of financial services accounts
- The Contractor will work in coordination with WCI, Inc., the Participating Jurisdictions, and the Auction Administrator to conduct the process to establish accounts for participants to complete Financial Services. The Contractor will have access to download entity registration details from CITSS from the potential applicant information. Where needed, Participating Jurisdictions will provide the Contractor with additional entity registration details not available in CITSS, including the name and address of each auction and reserve sale applicant's directors and officers, and a list of persons controlling over 10% of the voting rights attached to all the outstanding voting securities of the registering entity. The Contractor may contact the auction and reserve sale applicants directly if questions arise in review of the entity's ownership and list of controlling persons in order to maintain compliance with U.S. and/or Canadian banking regulations. The jurisdiction of registration is to be informed of requests submitted directly to its entities.
 - For General Market Participant - Individual applicants, the Contractor will obtain supplemental information directly from the applicant, as needed for procedures to establish accounts.
 - Account Set Up. The first time an entity submits an auction or reserve sale application, the Contractor will complete the process to establish a financial services account on behalf of the auction or reserve sale applicant. If an entity participates in both auctions and reserve sales, subaccounts or separate accounts may be required.
 - Account Verification. When the entity submits an auction or reserve sale application for participation in subsequent auctions or reserve sales, the Contractor will verify that there is a financial services account(s) associated with the entity based on the CITSS ID and Entity Legal Name.
 - Account Management. Financial services accounts must be structured to allow updates in case of a change in an entity profile in CITSS (e.g., a change in the Entity Legal Name).
 - Accounts must be established with the ability to separately manage multiple concurrent events as activities for up to two auctions and one reserve sale may be occurring concurrently for each Participating Jurisdiction and, at any given time, a total of five events may occur for all current Participating Jurisdictions.
- b) Receipt and management of bid guarantees
- c) Receipt and management of bid guarantee return instructions
- Return instructions for excess funds or physical bid guarantee instruments should be available through reports available during and after the auction and reserve sale application process.
 - Entities may need to be provided with additional or amended instructions. Processes and procedures will need to ensure that entities are notified if bid guarantee return instructions are amended or revised for any reason.
 - Bid guarantee return instructions, including a Bank Routing Number (ABA Routing Number of Canadian Transit Number) and account number, must be securely transmitted. Contractor must provide a secure means of receiving information from authorized entity representatives.
- d) Receipt and management of consigning entity proceeds distribution instructions

- Consigning entities may provide instructions through CITSS for the receipt of proceeds or may need a secure manner in which to provide these directly to the Contractor. Systems and processes should be developed to address both potentials and allow for confirmation and updates as needed.
 - Consigning entity proceeds distribution instructions must be securely transmitted. Contractor must provide a secure means of receiving information from consigning entities.
- e) Transmitting entity financial services account and bid guarantee amount data to the Participating Jurisdictions through secure FTP or other secure systems.
- Auction applicant pre-auction financial services information including financial services account numbers and bid guarantee amount(s) and type(s) received must be reported to the Auction Administrator and the Participating Jurisdictions through secure FTP or other secure systems.
 - Systems and procedures should support tracking and reporting updates on established accounts to the Auction Administrator and Participating Jurisdictions through secure FTP or other secure systems.
 - The Contractor will work with the approved participants to have any unacceptable form of financial guarantee amended prior to the financial guarantee submission deadline. In the event that an unacceptable form cannot be amended by the submission deadline, the Contractor will notify the Participating Jurisdictions as appropriate, and will return the guarantee directly to the party identified in the auction application for return of bid guarantees per the instructions of the appropriate Participating Jurisdiction.
- f) The number of potential applicants for which pre-auction/reserve sale escrow services are provided may be greater than the actual number of qualified bidders if any applicants are not approved to participate in an auction or reserve sale event. As a result, Contractors are advised that the number of entities needing pre-auction or reserve sale escrow services under Task 3 may be greater than the number of entities needing post-auction or reserve sale escrow services under Task 4.
- g) Providing support to auction and reserve sale potential applicants, applicants, and qualified bidders and consigning entities and responding to questions submitted by phone or email as needed.

Financial guarantees submitted by entities are specific to the Participating Jurisdiction in which the entity is registered and must be in one or a combination of the forms allowed by the regulations of the Participating Jurisdictions.

For CA entities, a bid guarantee submitted for an auction or reserve sale must be in one or a combination of the following forms:

- Cash in the form of wire transfer;
- An irrevocable letter of credit (LOC) from a financial institution with an United States (U.S.) banking license;
- A bond issued by a financial institution with an U.S. banking license;
- A Surety Bond issued by an institution named in the current list of “Surety Companies Acceptable in Federal Bonds” as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Department.

For QC entities, a bid guarantee submitted for an auction or reserve sale must be in one or a combination of the following forms:

- Cash in the form of a wire transfer;
- An irrevocable letter of credit (LOC) issued by a bank constituted under the Bank Act or by a financial services cooperative constituted under the Act respecting financial services cooperatives;
- A letter of guarantee (LOG) issued by a bank constituted under the Bank Act or by a financial services cooperative constituted under the Act respecting financial services cooperatives.

Forms of bid guarantee for ON entities are yet to be determined.

Based on the form(s) of bid guarantee selected, the applicant will also complete instructions for the return of any unused bid guarantee amounts or physical bid guarantee instruments after the auction is completed.

The Contractor will restrict participation to Canadian dollars during a jurisdiction-specific reserve sale or auction for a Canadian Province. For joint auctions, the Contractor will allow participation from entities registered under a Canadian provincial program in USD or CAD. Any Canadian-registered entity must select the currency for joint auction participation at the time the application for the auction is submitted and may not change this selection at any time. Upon receipt and review of bid guarantees, bid guarantees will be placed on account and, if applicable, held in the Contractor's vault with the value of the holdings reflected on the account. A bid guarantee submitted in any form other than cash must be payable within three business days of payment request. All other required terms and conditions for physical bid guarantees are to be developed by the Contractor in coordination with the Participating Jurisdictions. Specific deadlines apply to the receipt of all bid guarantees. The Contractor's systems and procedures must provide for identification of the date and time of receipt for all bid guarantees.

From the start of an auction or reserve sale application period and continuing until all properly received bid guarantees are reflected, the Contractor will provide the Auction Administrator and Participating Jurisdictions through secure FTP or other secure systems, with a daily electronic report of auction and reserve sale applicants, which includes the financial services account information. Upon receipt and deposit of the applicant's bid guarantee(s), a daily report(s) will be provided to the Auction Administrator and the Participating Jurisdictions through secure FTP or other secure systems to indicate the amount(s) and type(s) of bid guarantee(s) received and, for joint auctions, the currency of participation. For participants registered under a Canadian provincial program in a joint auction, the Contractor will reconcile the currency in which the bid guarantee is submitted to the currency selected during the application process. The Contractor will provide the final report of all applicants indicating established financial services accounts and all bid guarantees received no later than (2) business days after the applicable bid guarantee submission deadline.

The Contractor shall provide the following deliverables for this task. The schedule for completing the deliverables shall be defined in the Task 1 Work Plan.

Draft Post Auction/Reserve Sale Reconciliation Report
Final Post Auction/Reserve Sale Reconciliation Report

Task 4: Post Auction/Reserve Sale Escrow Services

After each quarterly auction and reserve sale, the Contractor shall process payments from successful bidders, return excess funds or unused bid guarantee instruments, conduct currency exchange transactions as directed by the Participating Jurisdictions, distribute auction or reserve sale proceeds to the Participating Jurisdictions and/or consigning entities, provide daily reconciliation status reports, and complete a full reconciliation of accounts.

After an auction or reserve sale is certified by the Participating Jurisdictions, generally within five business days after an event is conducted, the Contractor will securely access a list of successful bidders (including the quantity and price of allowances purchased) by the Participating Jurisdictions, or the Auction Administrator. The Auction Administrator will be responsible for reporting to the Participating Jurisdictions the results of the auction or reserve sale (awards and prices) and, after the Participating Jurisdictions' approval, and after notification of results has been provided to participants, the Auction Administrator will make available awards and financial settlement instructions to the Contractor through a financial settlement report. For auction events, bidders may have been successful in the current auction or advance auction or both, and financial settlement must allow for settlement of all amounts due in one transaction.

California entities participate in joint auctions, California only auctions and California reserve sales in USD. Québec only auction and reserve sale participants are required to settle all successful allowance bids in CAD. Ontario only auction and reserve sale participants are required to settle all successful allowance bids in CAD. Québec and Ontario participants in a joint auction will submit payment in the same currency as the bid guarantee provided for the auction.

Cash settlement from successful bidders is required to be completed within 7 calendar days after certification of the auction or reserve sale. For those entities that provided cash bid guarantees, the funds on deposit will be applied to any amounts owed. Entities that provided physical bid guarantees and are successful in an auction or reserve sale are required to submit cash payment by wire transfer within 7 days of certification of the auction or reserve sale. If cash is not received by the deadline date and time, the physical bid guarantee must be drawn down to settle any amounts owed.

Following certification of the auction or reserve sale, until final payment of proceeds, the Contractor will provide a daily report to Participating Jurisdictions of the status of settlement of the auction or reserve sale. The report will include a complete list of approved applicants (qualified bidders), the amount due from each qualified bidder, the total amount of the bid guarantee submitted, the funds received from each bidder to pay for the allowances purchased in the auction, the status of the return of excess funds or physical bid guarantee instrument(s), and the currency of the funds used for settlement. The sum of all payments received in CAD will reflect the sum of all total

successful bid costs for CAD participants as provided in the financial settlement report from the Auction Administrator. The sum of all payments received in USD will reflect the sum of all total successful bid costs for USD participants as provided in the financial settlement report provided from the Auction Administrator. If excess funds are received for payment, the Contractor will return funds to the submitting entity and record all transactions in reports for purposes of reconciliation.

The Participating Jurisdictions will request one or more currency exchange(s) or quotes consistent with established currency exchange procedures to process any foreign exchange required to complete the distribution of proceeds from the auction.

Within three business days after the deadline for receipt of payment, and upon settlement of all currency exchange required, the Contractor will provide an interim reconciliation report indicating payment has been received for all amounts due, all bid guarantees have been returned, and all currency exchange requests completed.

Upon settlement of all currency exchange required, and documentation of final funds available for distribution, the Participating Jurisdictions will provide direction to the Contractor to disburse the proceeds of the auction to the Participating Jurisdictions. The direction will include the amount of USD to be distributed to CA and the amount of CAD to be distributed to QC and ON based on previously confirmed wire instructions. California will separately authorize the distribution of proceeds to consigning entities. After completing the distribution of proceeds, the Contractor will provide the final reconciliation report to the Participating Jurisdictions by secure FTP. The Participating Jurisdictions will then close the auction or reserve sale.

The specific activities the Contractor will undertake, at a minimum, include:

- a) Conduct financial settlement (including confirmation and statements), complete currency exchange, and process distribution of proceeds.
 - **Auctions**
 - After each auction is certified, the Contractor will receive and process payments from auction participants.
 - Upon payment for amounts owed, the Contractor will return any excess funds or physical bid guarantee instrument(s).
 - The Contractor will provide electronic reconciliation reports to the Participating Jurisdictions by secure FTP from the business day after the auction is certified through the date of the interim final reconciliation report, which must be no later than six business days after the payment due date. The interim reconciliation reports will confirm all entity payments received, bid guarantees returned, currency exchange requests completed, and funds available for proceeds distribution. The Contractor will provide a final reconciliation report additionally confirming all proceeds distributed showing complete financial settlement reconciliation of the event.
 - For jurisdiction-specific auctions, the Contractor will provide documents and reports to the appropriate Participating Jurisdiction only.
 - Reporting of the post-auction financial services account information

including entity payments received, bid guarantees returned, and all currency exchange requests completed to Participating Jurisdictions.

- Reconciling and reporting all funds received, all currency exchange requests completed, and all bid guarantees returned.

- **Reserve Sales**

- After each jurisdiction-specific reserve sale is certified, the Contractor will receive and process payments from successful reserve sale participants.
- Upon payment for amounts owed, the Contractor will return any excess funds or physical bid guarantee instrument(s).
- The Contractor will provide electronic reconciliation reports to the Participating Jurisdictions by secure FTP from the business day after the auction is certified through the date of the interim final reconciliation report, which must be no later than three business days after the payment due date. The interim reconciliation reports will confirm all entity payments received, bid guarantees returned, currency exchange requests completed, and funds available for proceeds distribution. The Contractor will provide a final reconciliation report additionally confirming all proceeds distributed showing complete financial settlement reconciliation of the event.

- **Processing Distribution of Proceeds**

- The Contractor will be provided with instructions for the distribution of auction/reserve sale proceeds by the Participating Jurisdiction(s) conducting the auction/reserve sale.
- Upon completion of all the required payments, the Contractor must provide a final reconciliation report by secure FTP to Participating Jurisdiction(s) conducting the auction/reserve sale.

- **Financial Services Operation Report**

For each event supported by the Contractor, a Financial Services Operations Report will be submitted by secure FTP, including a narrative description and event-specific information. At minimum, the following items shall be included in the written summary for each event:

- A description of any issues encountered with Financial Services, date and time of occurrence, diagnosis of the cause of occurrence, actions taken for resolution, and date and time of resolution.
- Financial Services for Auctions and Reserve Sales Data, including:
 - Event applications processed
 - Number of total auction and reserve sale applicants
 - Number of new financial services accounts established
 - Range and average number of days to establish new accounts
 - Number on prior financial services accounts verified
 - Number on prior financial services accounts requiring updated account assessment due to change in entity data

- Any Financial Services Account Data adjustments made to any entity(ies) accounts (e.g., changes in Bid Cash Bid Guarantee Amount, Physical Bid Guarantee Amount, Bid Guarantee Amount Total) to reflect data entry errors, or other data adjustments
 - Bid Guarantees returned
 - Cash
 - Physical bid guarantee instruments
 - Letter of Credit
 - Letter of Guarantee
 - Bond
 - Surety Bond
 - Range and average number of days required for bid guarantee return from date of event certification
 - Cash
 - Physical bid guarantee instruments
 - Total consigning entity payments completed
 - Date and time of submittal of initial and final reconciliation report
- Providing support to auction and reserve sale potential applicants, applicants, and qualified bidders and consigning entities and responding to questions submitted by phone or email as needed.

The Contractor shall provide the following deliverables for this task. The schedule for completing the deliverables shall be defined in the Task 1 Work Plan.

Draft Post Auction/Reserve Sale Reconciliation Report
 Final Post Auction/Reserve Sale Reconciliation Report
 Draft Report Detailing Return of Financial Guarantees
 Final Report Detailing Return of Financial Guarantees
 Draft Report Detailing Cash Payments/Distribution of Proceeds
 Final Report Detailing Cash Payments/Distribution of Proceeds
 Draft Financial Services Operation Report
 Final Financial Services Operation Report

Task 5: Consigning Entity Setup and Payments

When the application period opens for a joint auction, California will provide the Contractor with a list of entities who have consigned allowances in the applicable auction. Québec and Ontario do not allow consigned allowances so this task applies only to California.⁴ The Contractor must have a process to request that consigning entities provide new or confirm existing wire instructions for delivery of payment of proceeds from the sale of allowances successfully sold in the given auction. The Contractor must provide a secure process for consigning entities to provide or update wiring instructions. No more than 70 consigning entities consign in any given auction, and typically there are between 40 and 50 consigning entities. Following the release

⁴ Note: If a new jurisdiction becomes a Participating Jurisdiction in order to receive administrative services to support cap-and-trade program implementation, or program changes occur, there may be consignment allowed in a Canadian jurisdiction.

of results for each auction, California will provide the Contractor with an auction proceeds report detailing the number of allowances sold and the proceeds payable to each consigning entity. The Contractor will generate a statement detailing this information and provide it via email to each of the consigning entities and California. Upon direction from California, the Contractor will pay the proceeds to each of the consigning entities as detailed in the auction proceeds report. Information on consigning entities is only ever provided to California and not to be shared with other Participating Jurisdictions or WCI, Inc.

The Contractor shall provide the following deliverables for this task. The schedule for completing the deliverables shall be defined in the Task 1 Work Plan.

Draft Guidance and Form to request consigning entity to provide new or confirm existing wire instructions

Final Guidance and Form to request consigning entity to provide new or confirm existing wire instructions

Draft Consigning Entity Statement

Final Consigning Entity Statement

Task 6: System Security Report

The purpose of this task is to provide Participating Jurisdictions with the confirmation that the Contractor follows system security best practices to protect the confidentiality and maintain the security of all data obtained, created, and managed as part of the Financial Services. The Contractor shall prepare a system security report describing the security arrangements it maintains to protect confidential information.

The system security report must be submitted within sixty days of the effective date of the Agreement.

Task 7: New Jurisdictions

The purpose of this task is to add new jurisdictions during the performance of the Work if additional states or provinces join the current Participating Jurisdictions and require Financial Services support. It is the responsibility of the Contractor to update the tools, materials, and procedures to accommodate the addition of new Participating Jurisdictions. All Financial Services should be designed such that new Participating Jurisdictions can be efficiently added in a cost-efficient manner, and without requiring extensive redesign or changes to existing services. If redesign or changes to existing services are required due to unique services needed by a new Participating Jurisdiction, these additional services will be discussed and budgeted for at that future time.

Under this task the Contractor is to provide a description of activities to be conducted, including proposed design plans and anticipated dates for completing design and development activities. Contractors must specify all materials needed to address the addition of new Participating Jurisdictions, including additional support resources needed and potential costs estimated with the addition of one or more new Participating jurisdictions.

If new Participating Jurisdictions are added to the Financial Services, the Contractor

shall update the design documentation and the processes and procedures documents.

Contractor should assume that any new Participating Jurisdiction follows the same format and approach used for California, Québec, and Ontario. For bidding purposes, the Contractor should assume only one new Participating Jurisdiction is being added to Financial Services in the short term (first 2 years of contract). Any modifications required from this assumption at the time of adding a new Participation Jurisdiction(s) will be discussed with the Contractor at that time.

The Contractor shall provide the following deliverables for this task. The schedule for completing the deliverables shall be defined when a new jurisdiction is added.

Draft Plan to Add New Jurisdiction

Final Plan to Add New Jurisdiction

Task 8: Transition Out

The purpose of this task is to address the need for a smooth transition of services at the end of the period of performance of the contract. The Contractor shall work with WCI, Inc. and another Contractor selected by WCI, Inc., if applicable, at the conclusion of the Contract to transition the services. Task 8 shall be initiated upon the direction of WCI, Inc., but no later than four months prior to the end of the Contractor's contract term. Task 8 activities shall include:

1. Assist in WCI, Inc.'s preparation of a Transition Plan that describes the activities and materials used to provide Financial Services, the methods used to put them in place, and the plan for transitioning the service to a new provider.
2. Participate in a conference call and webinar regarding the Transition Plan with WCI, Inc. and the new service provider.
3. Hand-off transition assistance during the transfer of Financial Services to the new service provider.
4. Cooperate with WCI, Inc. to provide electronic, editable copies of all materials developed to provide Financial Services, including any process and procedure documentation, training materials, scripts, reference materials, related materials, and Support Procedures Manual. The electronic format for the materials shall be specified by WCI, Inc. to ensure compatibility with standard business software such as Microsoft Office. These materials shall be provided at a minimum of one month prior to the end of the Contractor's contract term.
5. Cooperate with WCI, Inc. to provide data from the Financial Services management and tracking system that enables the logs and summaries of the support services, including support staff assistance provided under the contract, to be accessed using standard business software such as Microsoft Office. These materials shall be provided at the end of the Contractor's contract term.

The schedule for completing the deliverables shall be determined during the planning of the transition.

Task 9: Other Activities as Directed

The purpose of this task is to address the potential need by WCI, Inc. during the course of the Agreement to provide additional support directly related to this Statement of Work. The Contractor will undertake additional activities only when directed in writing by WCI, Inc. and agreed to in writing by Contractor. Upon receipt of any additional technical direction from WCI, Inc., the Contractor will prepare a memorandum providing its approach to the requested work and an estimate of the level of effort and budget it will need to execute the work. The Contractor will not initiate any work until authorized by WCI, Inc. to do so.

The deliverables for this task will be determined when the work is specified.

* * * *

ATTACHMENT B BUDGET DETAIL AND PAYMENT PROVISIONS

A. Invoicing and Payment

1. For services satisfactorily rendered, and upon receipt and approval of the invoice, WCI, Inc. agrees to compensate the Contractor in accordance with the Contractor's Presentation and Cost Proposal, which is incorporated as Attachment E. The maximum payable will not exceed the value identified in the Standard Agreement. Compensation refers to the consideration to be paid to Contractor for all of Contractor's services provided and costs incurred to fulfill its duties and obligations in connection with the Agreement.

All tasks shall be payable in arrears. Payment terms are NET 30.

Costs for travel will be incurred and charged for on a cost-reimbursable basis, at cost, and only if duly authorized in writing by the WCI, Inc. Project Manager. When traveling within the U.S., travel cost reimbursement must abide by U.S. Federal travel regulations and per diem rates published by the U.S. General Services Administration (<http://www.gsa.gov/portal/category/21287>). When traveling outside of the U.S., travel cost reimbursement must abide by the per diem rates used by the State Department (http://aoprals.state.gov/web920/per_diem.asp).

Invoices shall include the Agreement Number and summary of services performed for the amount invoiced. Invoices shall be submitted in arrears. Each item in the invoice must correspond to costs identified in this attachment and Attachment E. Invoices shall be submitted to the following address:

**Western Climate Initiative, Inc.
980 Ninth Street, Suite 1600
Sacramento, CA 95814**

B. Budget Detail

Not-to-exceed budget for the Agreement is \$3,072,000.00 (USD). See Attachment E, Contractor's Presentation and Cost Proposal.

ATTACHMENT C GENERAL TERMS AND CONDITIONS

1. APPROVAL; AUTHORIZATION

The Agreement shall be of no force or effect until signed by both parties and approved by the Board of Directors of WCI, Inc., if required. Contractor may not commence performance until any such approval in writing has been obtained. Contractor represents that the Agreement has been duly authorized by all necessary corporate or other action on the part of Contractor and that the officer or other person signing the Agreement and any documents related thereto on behalf of Contractor possessed full authority to do so.

2. INSURANCE

Contractor shall carry and maintain in effect such insurance coverages as are required for Contractor to act in its capacity as a bank and to provide the services required of Contractor under the Agreement. Contractor represents that the types and amounts of such insurance coverages are customary for the industry in which Contractor operates and are, in any event, commercially reasonable for the services to be provided by Contractor under the Agreement. Contractor shall cause each of its subcontractors to carry and maintain in effect such insurance coverages as are commercially reasonable for the services to be provided by each such subcontractor in connection with the Agreement. Contractor shall provide WCI, Inc. with current insurance certificates evidencing such insurance coverages prior to commencing the Work, and, upon WCI, Inc.'s request, Contractor shall, but no more than twice every twelve month period during the term of the Agreement, provide WCI, Inc. with new insurance certificates evidencing such insurance coverages. WCI, Inc. and each Participating Jurisdiction (as defined in Section 10 of these General Terms and Conditions) shall be named as an additional insured and certificate holder on all such insurance policies, and subrogation against WCI, Inc. shall be waived. Contractor shall pay any deductibles, and all insurance shall be primary, without right of contribution by any insurance carried by WCI, Inc.

3. SUBSTITUTION OF KEY PERSONNEL

Key personnel includes [REDACTED]
[REDACTED] Contractor shall promptly notify WCI, Inc. of any change in key personnel.

4. PERFORMANCE

Contractor shall perform the Work safely, in accordance with the highest standard of care, skill, and diligence provided by a professional person or company in performance of work similar to the Work, and all Work shall be of good quality and free from material faults and defects. Time is of the essence for the Agreement, and

Contractor shall perform the Work in accordance with the Work Schedule. Although the Work may be interrupted, altered, delayed, or accelerated due to a *force majeure* event as listed in Section 41 of these General Terms and Conditions, the conduct of WCI, Inc.'s business operations, governmental regulation or similar conditions, except as set forth in Sections 5 or 6 of these General Terms and Conditions, no changes in the Work Schedule or any compensation or reimbursement to be paid to Contractor shall be made as a result thereof.

5. CHANGE ORDERS

If either party proposes that changes be made in the scope of Work or the Work Schedule, Contractor shall submit a written change order request with the complete description of the proposed change, a statement of cost, revised Work Schedule impact, and any other information requested by WCI, Inc. Contractor bears all risks of performing, and WCI, Inc. shall be under no obligation to pay for, any changed Work without prior written approval of WCI, Inc. of the changes, which approval shall not be unreasonably withheld by WCI, Inc.

6. FULL UNDERSTANDING; AMENDMENT

The Agreement contains the full and complete understanding of the parties and supersedes all prior understandings or agreements on the subject matter hereof. The language contained in the Agreement shall prevail over any other language, including that of any proposal submitted by Contractor. No amendment or variation of the terms of the Agreement shall be valid unless made in writing and signed by WCI, Inc. and Contractor. No oral understanding or agreement outside of the Agreement is binding on any of the parties.

7. ASSIGNMENT

Neither the Agreement nor any interest in the Agreement is assignable by Contractor, either in whole or in part, without the prior written consent of, and on such terms as may be approved by, WCI, Inc. in the form of a formal written amendment signed by Contractor, WCI, Inc. and Contractor's assignee.

8. AUDITS

A. Financial Audit. If the Agreement allows for Contractor to be paid fees at a daily or an hourly rate or for Contractor to be paid or reimbursed for expenses, Contractor shall maintain time records and books of account, invoices, receipts and vouchers of expenses in support of these payments, in form and content reasonably satisfactory to WCI, Inc. Contractor agrees that WCI, Inc. or its

designated representative shall have the right to review and to copy any of Contractor's records and supporting documentation pertaining to the performance of tasks that are paid on the basis of a daily or an hourly rate or reimbursed as expenses. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is requested by WCI, Inc. Contractor agrees to allow the auditor(s) designated by WCI, Inc. or any Participating Jurisdiction or any of their respective duly authorized representatives, access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of WCI, Inc. or any Participating Jurisdiction or any of their respective duly authorized representatives, to audit records and interview staff in any subcontract related to the performance of tasks that are paid on the basis of a daily or hourly rate or reimbursed as expenses. Contractor shall promptly reimburse WCI, Inc. for any expenditures charged to, and collected by Contractor from, WCI, Inc. which are judged by an audit conducted by any of the above to be not in compliance with the requirements of the Agreement. Contractor shall include the provisions of this Section 8.A in any subcontract executed in connection with the Agreement.

- B. Programmatic Audit. Contractor agrees that WCI, Inc. or its designated representative shall have the right to review and to copy any of Contractor's records and supporting documentation pertaining to the performance of tasks that are paid through the Agreement to ensure compliance with the Agreement and with regulations governing the greenhouse gas (GHG) reporting or cap-and-trade programs implemented by WCI, Inc., any Participating Jurisdiction or any funding entity.

Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is requested by WCI, Inc. Contractor agrees to allow the auditor(s) designated by WCI, Inc. or any Participating Jurisdiction or any of their respective duly authorized representatives, access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of WCI, Inc. or any Participating Jurisdiction or any of their respective duly authorized representatives, to audit records and interview staff in any subcontract related to the performance of tasks that are paid through the Agreement. Contractor shall include the provisions of this Section 8.B in any subcontract executed in connection with the Agreement.

9. GRATUITIES

If WCI, Inc. finds that Contractor or any of Contractor's employees, agents, or subcontractors offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any director, officer, employee or agent of WCI, Inc. or of any Participating Jurisdiction or of any funding entity in any attempt to secure the

Agreement or favorable treatment in awarding, amending or making any determinations related to the performance of the Agreement, WCI, Inc. may, by written notice to Contractor, terminate the Agreement, and pursue such other rights and remedies that the law or the Agreement provides.

10. INDEMNIFICATION

- A. To the fullest extent permitted by law, Contractor shall indemnify, defend and hold harmless (i) the provinces of British Columbia, Quebec and Ontario, the State of California and any other governmental jurisdiction participating in the greenhouse gas (GHG) reporting or cap-and-trade programs administered by WCI, Inc. (together, the "Participating Jurisdictions"), (ii) WCI, Inc. and (iii) the directors, officers, employees and agents of each of the foregoing (clauses (i) through (iii) together, the ("Contractor Indemnified Parties") from and against any and all debts, losses, claims, damages, costs, expenses, demands, fines, judgments, contracts, penalties, obligations, payments and liabilities, including those arising from any pending or threatened claim, action, suit or proceeding, whether brought by a party to the Agreement or by any other person, and including any costs and expenses of any such pending or threatened claim, action, suit or proceeding (including attorneys' fees, out-of-pocket expenses and other costs and expenses incurred in investigating, preparing or defending any such pending or threatened claim, action, suit or proceeding), (collectively, the "Losses") incurred, suffered or sustained by any Contractor Indemnified Party by reason of or in connection with any act or omission constituting negligence or willful misconduct (including any breach of the Agreement resulting from any such negligence or willful misconduct) by Contractor or any of its subcontractor or any of their respective direct or indirect employees, contractors, subcontractors, suppliers or laborers or by any other person, firm or entity furnishing or supplying services, materials or supplies to, for or on behalf of Contractor or any of its subcontractors in connection with the Agreement. Notwithstanding the foregoing, Contractor shall not be liable to a Contractor Indemnified Party for any such Losses to the extent such Losses arose from the gross negligence, willful misconduct or bad faith of, or the material breach of this Agreement by, such Contractor Indemnified Party, as determined pursuant to Section 16 of these General Terms and Conditions or by a court of competent jurisdiction in a final, non-appealable judgment.
- B. To the fullest extent permitted by law, WCI, Inc. shall indemnify, defend and hold harmless (i) the Contractor and (ii) the directors, officers, employees and agents of the Contractor (clauses (i) and (ii) together, the "WCI, Inc. Indemnified Parties") from and against any and all Losses incurred, suffered or sustained by any WCI, Inc. Indemnified Party by reason of or in connection with (i) any third party claim, action, suit or proceeding brought against any such WCI, Inc. Indemnified Party in connection with this Agreement or the services provided by Contractor under this Agreement or (ii) any act or omission constituting negligence or willful misconduct (including any breach of the Agreement resulting from any such negligence or willful misconduct) by WCI, Inc. or any of its

employees. Notwithstanding the foregoing, WCI, Inc. shall not be liable to a WCI, Inc. Indemnified Party for any such Losses to the extent such Losses arose from the gross negligence, willful misconduct or bad faith of, or the material breach of this Agreement by, such WCI, Inc. Indemnified Party, as determined pursuant to Section 16 of these General Terms and Conditions or by a court or competent jurisdiction in a final, non-appealable judgment.

- C. Within a reasonable time after an indemnified party obtains actual knowledge of any claim, action, suit or proceeding by a third party (an “Action”) as to which recovery may be sought against the indemnifying party pursuant to this Section 10, the indemnified party shall give written notice of such Action to the indemnifying party, which written notice with respect to the Contractor Indemnified Parties may be provided by WCI, Inc. on its behalf and on behalf of all other Contractor Indemnified Parties. Notwithstanding the foregoing, the right to indemnification under this Section 10 shall not be affected by any failure or delay in giving such notice unless, and then only to the extent that, the rights and remedies of the indemnifying party have been materially prejudiced as a result of such failure or delay. If, within fifteen (15) days after such notice has been given, the indemnifying party notifies the indemnified party of its election to defend any Action, then, except as described below, the indemnifying party may control the defense of such Action at its own expense through counsel reasonably satisfactory to the indemnified party, provided that the indemnified party may participate in such defense at its own expense but, in any event, the indemnifying party will have the right to control such defense as long as it is actively defending such Action. In connection with the defense any such Action by the indemnifying party, (i) the indemnified party shall reasonably cooperate with the indemnifying party upon the indemnifying party’s request and at the indemnifying party’s expense and (ii) the indemnified party shall have the right to consult with the indemnifying party, from time to time, with respect to the strategy for such defense (but shall have no right to control such defense). Failure by the indemnifying party to so notify the indemnified party shall be deemed a waiver by the indemnifying party of its rights to defend such Action. In such event, the indemnified party may tender the defense to the indemnifying party or, at the indemnified party’s option, select counsel of its own choosing.
- D. The indemnified party can take over and assume control of the defense of an Action, or seek a settlement of any Action, if (i) the indemnifying party has failed to accept the defense of, or to actively defend, the Action, (ii) in the indemnified party’s reasonable judgment there is a conflict of interest between the indemnifying party and the indemnified party in conducting the defense, (iii) the Action relates to or arises in connection with any criminal proceeding, action, indictment, allegation or investigation against the indemnifying party, (iv) the Action seeks an injunction or equitable relief against an indemnified party or (v) the indemnifying party fails to provide reasonable assurance to the indemnified party that it has the financial capacity to defend such Action. In connection with the defense any such Action by the indemnified party, (i) the indemnifying party shall reasonably cooperate with the indemnified party upon the indemnified

party's request and at the indemnifying party's expense and (ii), except in the circumstances described in clause (i) of the preceding sentence, the indemnifying party shall have the right to consult with the indemnified party, from time to time, with respect to the strategy for such defense (but shall have no right to control such defense). In any of the foregoing cases, the indemnifying party will pay the fees and expenses of one counsel and any special counsel, as may be required, to all indemnified parties.

- E. Except with the prior written consent of the indemnified party (which consent may not be unreasonably withheld), the indemnifying party shall not, in the defense of any Action, consent to the entry of any judgment or enter into any settlement which does not include as an unconditional term thereof the giving by the claimant or the plaintiff to the indemnified party of a release from all Losses in respect of such Action.
- F. The indemnifying party shall not be responsible for any settlement entered into by the indemnified party without the prior written consent of the indemnifying party, which consent shall not be unreasonably withheld.
- G. Within ten (10) days of the indemnified party's written request, the indemnifying party shall reimburse the indemnified party for the amount of any judgment or settlement rendered with respect to any Action and for all Losses incurred by the indemnified party relating to such Action.

11. TERMINATION FOR CAUSE

If Contractor fails to perform any of the requirements of this Agreement at the time and in the manner herein provided, including any failure to meet the performance standards set forth in Section 4 of these General Terms and Conditions, WCI, Inc. may notify Contractor in writing of such failure. If Contractor does not cure the failure within 15 days from the notice date, or if such failure is of such a nature that it cannot be cured within such 15-day period, and Contractor does not commence the cure within such 15-day period and complete such cure within an additional 15-day period, WCI, Inc. may, upon an additional 5 days' written notice, terminate this Agreement and be relieved of any further obligation to make payments for Work performed after the termination date. Additionally, WCI, Inc. shall not be responsible for any additional fees, costs or expenses incurred by Contractor in connection with its efforts to cure any such failure unless WCI, Inc. has agreed to be so responsible in writing. In the event of any such termination, WCI, Inc. has the right to any remaining Work for which it has paid before the termination date. In the event of any such termination, the cost incurred by WCI, Inc. to take over and complete the Work on its own behalf, over and above the payments that would have been made to Contractor to complete the Work had there been no termination for cause, shall be deducted from any sums due Contractor under the Agreement, and the balance, if any, shall be paid to WCI, Inc. by Contractor upon demand.

12. INDEPENDENT CONTRACTOR

Contractor, and the agents and employees of Contractor, in the performance of the Agreement, shall act in an independent capacity and not as directors, officers, employees or agents of WCI, Inc. or the Participating Jurisdictions or any funding entity. Contractor is not entitled to receive employee benefits or insurance coverage including worker's compensation, disability insurance, Social Security, unemployment compensation coverage, or any other statutory benefit. Contractor will maintain control over its employees and its subcontractors and will comply with all tax withholding or contribution requirements, whether federal, state, local or foreign, applicable to its employees and subcontractors. Contractor will have the ability to obtain and maintain the required paperwork appropriate to perform the services required by the Agreement. Contractor will pay all the appropriate taxes on its compensation by WCI, Inc. and will indemnify WCI, Inc. for any unpaid tax obligations on fees paid to Contractor.

13. ACKNOWLEDGEMENT

The parties acknowledge that WCI, Inc. is not an agent of any Participating Jurisdiction or any of its funding entities or of any combination of Participating Jurisdictions or its funding entities.

14. COMPENSATION

The consideration to be paid to Contractor, as provided in the Agreement, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly provided to the contrary elsewhere in the Agreement. All compensation shall be paid in accordance with the Agreement with respect to the compensation and payment of contractor business expenses. WCI, Inc. shall not be responsible for any expense incurred by Contractor that is not in accordance with the Agreement.

15. UNENFORCEABLE PROVISIONS

If any provision of the Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then the remaining provisions of the Agreement will remain in full force and effect as if such invalid or unenforceable provision had never been included.

16. SETTLEMENT OF DISPUTES

A. In the event a dispute shall arise between Contractor and WCI, Inc. and the parties have not been able to resolve the dispute in good faith within thirty (30) days of the existence of the dispute, the dispute shall be arbitrated before three arbitrators, one to be selected by each party and the third to be selected by the other two selected arbitrators. Any such arbitration shall be held in Sacramento,

California, and notwithstanding anything to the contrary set forth elsewhere in these General Terms and Conditions, this agreement to arbitrate shall be enforceable through a proceeding brought in any court of competent jurisdiction within the State of California. The arbitrators shall apply the substantive law of the State of California, without regard to its Conflicts of Laws provisions. Arbitration may be conducted in accordance with the standard rules of the AAA Commercial Arbitration except that the arbitrators may not make any award not strictly in conformance with this Agreement. The decision of the arbitrators shall be final and conclusive upon the parties and may, notwithstanding anything to the contrary set forth elsewhere in these General Terms and Conditions, be entered and enforced in any court of competent jurisdiction within the State of California or elsewhere. In connection with any proceeding brought in accordance with this Section 16 in the State of California, Contractor and WCI, Inc. waive any objection to such jurisdiction on the grounds of venue or forum non conveniens and any similar grounds, consent to service of process by mail or in any other manner permitted by law, and agree to be bound by any judgment rendered by any such court in connection with the Agreement. Each party shall bear its own costs and expenses related to any arbitration, and the parties shall equally share the fees and expenses of the arbitrators and the arbitral body.

- B. The existence of a dispute not fully resolved shall not delay Contractor in its performance of the Agreement. Contractor shall continue with its responsibilities under the Agreement, which shall not be affected by the dispute.
- C. Each of WCI, Inc. and Contractor hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to the Agreement or the transactions contemplated hereby.

17. POTENTIAL SUBCONTRACTORS

Contractor shall not subcontract or delegate any of its obligations under the Agreement without prior written approval of WCI, Inc. which shall not be unreasonably withheld. Contractor shall require all subcontractors to comply with the obligations of Contractor in these General Terms and Conditions by incorporating the terms of these General Terms and Conditions into all subcontracts.

Nothing contained in the Agreement or otherwise shall create any contractual relation between WCI, Inc., any Participating Jurisdiction or any funding entity, on the one hand, and any subcontractor, on the other, and no subcontract shall relieve Contractor of its responsibilities and obligations under the Agreement. Contractor agrees to be as fully responsible to WCI, Inc. for the acts and omissions of its subcontractors and of persons employed by any of them in their performance of the subcontract as it is for the acts and omissions of persons directly employed by Contractor. Contractor's obligation to pay its subcontractors is an obligation independent from WCI, Inc.'s obligation to make payments to Contractor. As a

result, WCI, Inc. shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

18. STOP WORK ORDER

WCI, Inc. reserves the right to issue a written order to stop any or all Work from time to time for any reason, including in the event that a dispute should arise or in the event WCI, Inc. gives Contractor a notice that the Agreement will be terminated. The order to stop any or all Work will be in effect until WCI, Inc. sends a written order to resume the stopped Work.

19. TERMINATION

- A. WCI, Inc. reserves the right to terminate the Agreement in its sole discretion at any time upon thirty (30) days' prior written notice to Contractor.
- B. Contractor shall have the right to resign hereunder at any time upon one hundred eighty (180) days' prior written notice to WCI, Inc., such resignation to be effective at the end of such 180 day period.
- C. In the case of early termination, Contractor shall submit an invoice and a report covering services to the termination date, following the invoice and progress report requirements of the Agreement. A copy and description of any data collected up to the termination date shall also be provided to WCI, Inc., along with all other materials required by the Agreement.
- D. Upon receipt of such invoice, progress report, data and other materials, a final payment will be made to Contractor. This payment shall be for all WCI, Inc.- approved, actually incurred costs that in the reasonable opinion of WCI, Inc. are justified and conform to the requirements of the Agreement, and shall include labor and materials purchased or utilized (including all non-cancellable commitments) prior to the termination date, and any pro rata indirect costs as specified in the Agreement.

20. COUNTERPARTS

The Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

21. PROGRESS PAYMENTS

To the extent not provided otherwise elsewhere in the Agreement, in computing the amount of any progress payment, WCI, Inc. shall determine what Contractor has earned during the period for which payment is being made on the basis of the Agreement terms, but shall retain out of such earnings an amount equal to ten

percent (10%) thereof, pending satisfactory completion of the entire task required under the Agreement. However, if the Agreement consists of the performance of separate and distinct tasks, then at the discretion of WCI, Inc., any funds so withheld with regard to a particular task may be paid upon completion of that task. A final invoice must be submitted by Contractor to WCI, Inc. and approved by WCI, Inc. to release the withheld funds.

22. FINAL PAYMENT

Except as otherwise may be provided in Section 10 of these General Terms and Conditions, the acceptance by Contractor, or by anyone claiming by or through it, of final payment shall be and shall operate as a full and final release of WCI, Inc. as to all claims by and all liability to Contractor for all things done or furnished in connection with the Agreement and for every act or neglect of WCI, Inc. and others relating to or arising out of the Agreement, including claims arising out of breach of contract and claims based on claims of third persons.

23. COMPUTER SOFTWARE

Contractor certifies that it has appropriate systems and controls in place to ensure that WCI, Inc. funds will not be used in the performance of the Agreement for the acquisition, operation or maintenance of computer software in violation of patent or copyright laws or other intellectual property rights of any kind.

24. INTELLECTUAL PROPERTY

- A. Except as set forth in the Work Schedule, the right of Contractor to use all material, software, firmware, compositions of matter, manufactures, apparatus, appliances or processes required to perform the services under the Agreement and to which a patent, copyright or other intellectual property right applies or may apply shall be obtained by Contractor without separate or additional compensation from WCI, Inc. whether the same is patented, copyrighted or otherwise protected as an intellectual property right before, during or after the performance of the Agreement.
- B. Contractor hereby represents and warrants that WCI, Inc.'s use of the work delivered under the Agreement by Contractor or provided under the Agreement by Contractor, its employees or its subcontractors, including any documentation associated with any work product, (the "Contractor Work Product") will not infringe, misappropriate or otherwise violate a trademark, copyright or other third party's proprietary right. Should a third party claim be made against the Contractor Indemnified Parties alleging a breach of the foregoing representation and warranty, Contractor shall not be required to indemnify the Contractor Indemnified Parties in accordance with Section 10 of these General Terms and Conditions. Additionally, Contractor shall have no obligation or liability with respect to any such claim based upon: (i) Contractor Work Product that has been altered, modified or revised by anyone other than Contractor and such claim or

liability would have been avoided but for the alteration, modification or revision; (ii) the combination, operation or use of Contractor Work Product with products not furnished by Contractor or set forth in the documentation accompanying the Contractor Work Product when such combination, operation or use is part of any allegedly infringing process; or (iii) use of the Contractor Work Product in a manner not authorized in the documentation accompanying the Contractor Work Product when such claim or liability would have been avoided but for such unauthorized use. Either party will promptly notify the other party of any such claim which comes to the attention of such party. If any Contractor Work Product becomes the subject of any third party claim, demand or allegation that the Contractor Work Product infringes, misappropriates or otherwise violates any third party's patent, trademark, copyright or other proprietary right, then Contractor, at its sole option, shall: (i) promptly obtain, at no expense to WCI, Inc., the right for WCI, Inc. to continue exercising all rights and licenses in such Contractor Work Product in accordance with the terms of the Agreement; or (ii) replace the subject Contractor Work Product with non-infringing and substantially equivalent work. The foregoing states the entire liability of Contractor with respect to any claims which are the subject of this Section 24.B.

- C. Except as set forth in the Work Schedule, Contractor agrees that all Contractor Work Product created during the term of the Agreement by Contractor, its employees or any of its subcontractors it engages to perform work for WCI, Inc. and directly related to WCI, Inc.'s existing products, services or business, or containing WCI, Inc.'s proprietary or sensitive information, shall become the absolute and exclusive property of WCI, Inc., including (i) concepts, trademarks, slogans, works, ideas, designs, discoveries, inventions, improvements, advances, methods, practices, techniques, and developments, (ii) reports, drawings, studies, specifications, estimates, maps, computations and other data and correspondence and (iii) materials, including books, magazines and periodicals and office material, purchased under the Agreement for WCI Inc., (collectively, the "WCI, Inc. Intellectual Property"). All WCI, Inc. Intellectual Property shall automatically be deemed to become the property of WCI, Inc. immediately when made or conceived. WCI, Inc. Intellectual Property shall not include any pre-existing materials, including software, firmware, compositions of matter, manufactures, apparatus, appliances or processes and any concepts, works, ideas, designs, discoveries, inventions, improvements, advances, methods, practices, techniques, or developments embodied therein, or any materials purchased from non-subcontracting third parties. Contractor and its subcontractors agree to cooperate with and assist WCI, Inc. to apply for and to execute any applications and/or assignments reasonably necessary to obtain any patent, copyright, trademark, or other statutory protection for any WCI, Inc. Intellectual Property. Contractor shall, and shall cause employees and subcontractors of Contractor to, promptly sign any and all lawful papers, take all lawful oaths and do all lawful acts, including giving testimony, upon request by WCI, Inc., in connection with any patent, trade name, trademark, service mark or copyright application or issued patent, or registered copyright or trademark and/or any divisions, continuations, renewals, re-examinations, reissues or the

like of any of them. Such lawful papers include, but are not limited to, any and all declarations, powers, assignments, and other papers reasonably deemed by WCI, Inc. to be necessary or advisable in connection with the filing or prosecution of any patent, trademark, service mark or copyright application or in connection with the grant of any letters patent, trademark or service mark registration, or copyright registration, or in connection with the transfer of any rights to any invention, trademark, trade name, service mark, or copyright. Contractor agrees to keep and maintain adequate and current written records of the foregoing described in this paragraph and promptly to disclose to WCI, Inc. all WCI, Inc. Intellectual Property.

- D. WCI, Inc., at its discretion, may grant a nonexclusive and paid-up license to Contractor and its subcontractors to use any copyrightable materials or other intellectual property related to the WCI, Inc. Intellectual Property.
- E. Contractor and its subcontractors shall not, except as required by law, a court order or any relevant regulatory body and provided that contractor shall promptly notify WCI, Inc. and afford WCI, Inc. an opportunity, to the extent reasonably practicable, to challenge any such requirement, disclose any of the WCI, Inc. Intellectual Property, or any portion thereof, to any other organization or person without the prior written consent of WCI, Inc., provided that the foregoing obligation shall not prevent Contractor, its employees or any subcontractors it engages from using any residual knowledge (i.e., ideas, concepts, know-how or techniques developed by and retained in the unaided memories of parties not subject to an existing WCI, Inc. application for, or a grant to WCI, Inc. of, a statutory intellectual property right).
- F. Contractor and its subcontractors shall not use the WCI, Inc. Intellectual Property, or any portion thereof, in any other work without the prior written consent of WCI, Inc., subject to any license granted in writing to Contractor by WCI, Inc.

25. RIGHTS IN DOCUMENTS, MATERIALS, AND DATA PRODUCED

WCI, Inc. shall have the right to use the WCI, Inc. Intellectual Property without restriction or limitation and without compensation to Contractor other than that provided for in the Agreement. Any document produced in whole or in part under the Agreement shall not be the subject of an application for copyright by or on behalf of Contractor or its subcontractors.

26. CONFIDENTIALITY

Contractor acknowledges that the Confidential Information (as hereinafter defined) of WCI, Inc. has independent economic value, is not known to other persons who might profit from its use and is the subject of efforts by WCI, Inc. to maintain its secrecy that are reasonable under the circumstances. Contractor agrees to use such Confidential Information solely for the purposes permitted by the Agreement and

further agrees not to, directly or indirectly, disclose to any person any Confidential Information except to the extent expressly permitted under the Agreement or required by law or legal process or by a regulatory, self-regulatory or supervisory authority having appropriate jurisdiction, or authorized in writing by WCI, Inc. For the purposes of the Agreement, "Confidential Information" shall include (i) any information so described elsewhere in the Agreement, (ii) all data stored or made accessible through the Compliance Instrument Tracking System Service or any additional or successor tracking system service, unless WCI, Inc. notifies Contractor in writing that such information is not confidential, (iii) any information identified as confidential in agreements entered into by WCI, Inc. with Participating Jurisdictions or any funding entity and identified elsewhere in the Agreement, (iv) any personally identifying information, proprietary processes or sensitive, non-public market data, (v) any third-party confidential information included with, or incorporated in, information provided to Contractor by WCI, Inc., any Participating Jurisdiction or any funding entity or otherwise obtained in the course of performing the Work, (vi) communications with WCI, Inc. staff and/or Participating Jurisdictions' staff related to any of the Work, including oral discussions, telephone conversations, emails, attachments, letters and faxes, and any data, analyses, specifications, requirements and concepts received by Contractor from WCI, Inc., any Participating Jurisdiction or any funding entity, (vii) all notes, data, analyses, compilations or reports prepared by Contractor that contain or are based upon Confidential Information and (viii) any confidential, proprietary or trade secret information of WCI, Inc., any Participating Jurisdiction and any funding entity that is disclosed to Contractor or Contractor otherwise obtains in the course of its performance of the Agreement such as, but not limited to, information related to articles, electronic data, recordings, papers, bulletins, reports or other material reporting the plans, progress, analysis or results and findings of the Work, business plans, party lists, benefit plans, designs, pricing offered to or agreed upon by parties, commissions or commission structures, financial statements, software diagrams, flow charts, product plans and other items and information belonging to WCI, Inc., its personnel, customers and affiliates. Confidential Information shall not include any information: (i) that as of the time of receipt by Contractor is in the public domain or subsequently enters the public domain without breach of the Agreement by Contractor; (ii) that as of the time of receipt by Contractor, is already known to or in Contractor's possession other than as a result of an improper disclosure to Contractor; (iii) is independently developed by or for Contractor without the use of any Confidential Information as evidenced by Contractor's own files and records; (iv) is received in good faith by Contractor from a third party that was lawfully in possession of, and entitled to disclose, the information; or (v) that the parties mutually agree in writing to release from the terms of the Agreement. Contractor shall use commercially reasonable efforts to prevent any disclosure of Confidential Information by Contractor, its subcontractors, or its or their agents and employees. Contractor may disclose Confidential Information to those of its affiliates and its and their respective directors, officers, employees, subcontractors, attorneys and agents (collectively, "Contractor Parties") who need access to the Confidential Information in order for Contractor to carry out its obligations under the Agreement, but shall use commercially reasonable measures to prevent any disclosure of Confidential Information by any Contractor Parties.

Contractor further agrees to not deliver, “reverse engineer,” reconstruct, reproduce or in any way allow such Confidential Information, knowledge, data or other information, or any documentation relating thereto to be delivered or used by any third party without specific direction or consent of WCI, Inc. In addition, Contractor shall:

- A. Notify WCI, Inc. promptly and in writing of the circumstances surrounding any possession, use or knowledge of Confidential Information or any part thereof by any person in a manner other than as authorized by this Section 26.
- B. Contractor will sign and submit to WCI, Inc. Attachment D: Organization Conflict of Interest and Confidentiality Statement on its own behalf, and obtain and submit to WCI, Inc. Attachment D: Organization Conflict of Interest and Confidentiality Statement signed by each subcontractor. Additionally, upon WCI, Inc.’s request, Contractor shall, but no more than once every twelve month period during the term of the Agreement, sign and submit to WCI, Inc. a new Attachment D: Organization Conflict of Interest and Confidentiality Statement on its own behalf, and obtain and submit to WCI, Inc. a new Attachment D: Organization Conflict of Interest and Confidentiality Statement signed by each subcontractor.
- C. Adhere to all WCI, Inc. confidentiality and disclosure policies disclosed to Contractor in writing and, if directed by WCI, Inc., enter into agreements with Participating Jurisdictions and funding entities related to the management, sharing, and disclosure of information.
- D. Treat all Confidential Information, Work and Contractor Work Product as Confidential Information in accordance with this Agreement. No Confidential Information, Work or Contractor Work product may be disclosed in any form to any person without the written consent of WCI, Inc. except when expressly permitted under the Agreement or required by law or legal process. Contractor is authorized to maintain a copy of all information necessary to comply with its contractual obligations and applicable professional standards. If WCI, Inc.’s Executive Director or his or her authorized agent so requires and notifies Contractor in writing, the following disclaimer must accompany all Confidential Information prepared by Contractor or prepared or provided by WCI, Inc. and copied or reproduced in any form by Contractor: *“Publication of this document shall not be construed as endorsement of the views expressed therein by Western Climate Initiative, Inc. or any federal, state or provincial agency.”*
- E. Not remove any WCI, Inc. or Participating Jurisdiction or any funding entity equipment and/or data on any activities from WCI, Inc.’s secured environment without advance written approval from WCI, Inc.
- F. Upon full payment to Contractor, surrender all documents, property (whether in written or electronic form) and transportable recorded media of any kind belonging to WCI, Inc. or containing WCI, Inc. Confidential Information at the conclusion of the engagement, upon termination of the Agreement, or upon the

written request of WCI, Inc., provided, however, that to the extent required for legal or regulatory purposes or to satisfy internal compliance policies or procedures, Contractor may retain Confidential Information, but Contractor shall be required to maintain such Confidential Information in confidence in accordance with the requirements of the Agreement until such Confidential Information is transferred or returned to WCI, Inc. or, upon WCI, Inc.'s written consent, destroyed.

- G. Upon confirmation of loss or theft of Confidential Information in any form, immediately report to WCI, Inc. the occurrence of such loss or theft.
- H. Provide WCI, Inc. all pass phrases/passwords used as private keys to encrypt data used, produced or acquired in the course of performing duties under the Agreement.
- I. Make reasonable security arrangements consistent with the highest standard of the financial industry to protect Confidential Information from unauthorized access, collection, use, disclosure, alteration or disposal. Upon WCI, Inc.'s written request, Contractor shall provide a description of security arrangements it maintains to protect Confidential Information.
- J. Not intentionally damage or harm WCI, Inc.'s reputation, goodwill and business relations with any person or entity, including but not limited to customers, official bodies, governmental agencies and WCI, Inc. employees.

WCI, Inc. will not intentionally damage or harm Contractor's reputation, goodwill and business relations with any person or entity, including but not limited to customers, official bodies, governmental agencies and Contractor's employees.

27. CONFLICTS OF INTEREST

- A. Contractor must ensure that no conflicts of interest exist between the services required under the Agreement and services provided by Contractor to other clients or Contractor's other business operations.
- B. Contractor must not have any financial interests in the outcome of any services it provides under the Agreement except for fees for service under the Agreement.
- C. Contractor must have in place formal policies and procedures to identify and mitigate conflicts of interest and ensure that Contractor's organization, management and employees avoid financial interests and activities that potentially create conflicts of interest.
- D. Contractor will in good faith not participate in any greenhouse gas (GHG) reporting or cap-and-trade program implemented by WCI, Inc., any Participating Jurisdiction or any funding entity. If WCI, Inc. obtains conclusive information that Contractor is nevertheless participating in any greenhouse gas (GHG) reporting

or cap-and-trade program implemented by WCI, Inc., any Participating Jurisdiction or any funding entity, WCI, Inc. will notify Contractor in writing of such participation as soon as practical and, in any event, in not less than fifteen (15) days after obtaining conclusive information. In the event the Contractor is found to be participating in any greenhouse gas (GHG) reporting or cap-and-trade program implemented by WCI, Inc. or any Participating Jurisdiction, it shall not constitute willful misconduct or negligence or a breach of this Agreement on the part of Contractor; however WCI, Inc. may terminate the Contractor pursuant to Section 19 or WCI, Inc. shall notify Contractor of its decision to retain Contractor. Contractor will use its commercially reasonable efforts to, and to cause its subcontractors to, not be a beneficial owner of more than 5% of the voting interests of any entity subject to any of the provisions of any GHG reporting or cap-and-trade program implemented by WCI, Inc., any Participating Jurisdiction or any funding entity. In addition, Contractor will use its commercially reasonable efforts to, and to cause its subcontractors to, not be a beneficial owner of more than 5% of the voting interests of any direct parent company, direct subsidiary or sister company of an entity subject to any of the provisions of any GHG reporting or cap-and-trade program implemented by WCI, Inc., any Participating Jurisdiction or any funding entity. WCI, Inc. will, at the three (3) month anniversary of the date of the Agreement, and every three (3) months thereafter, update the list of entities covered by this Section 27.D and by Attachment D: Organization Conflict of Interest and Confidentiality Statement and make that list available to Contractor. Contractor shall be entitled to rely conclusively and exclusively on such list for purposes of (i) meeting its obligations under this Section 27.D and (ii), subject, as applicable, to the commitment to exercise reasonable inquiry, providing the certifications regarding beneficial ownership in Attachment D: Organization Conflict of Interest and Confidentiality Statement.

- E. Contractor must ensure that its employees and subcontractors meet and comply with the requirements described in Sections 27.A through 27.C above.
- F. Notwithstanding the foregoing, WCI, Inc. reserves the right to determine, at its sole discretion, whether information received from any source indicates the existence of an actual or potential conflict of interest. If WCI, Inc. determines that a conflict of interest exists, or that there is an unavoidable appearance of a conflict of interest that cannot be resolved to the satisfaction of WCI, Inc., WCI, Inc. may terminate the Agreement immediately upon written notice to Contractor.
- G. Contractor will advise WCI, Inc. if performing services for other clients could potentially interfere with Contractor's duties pursuant to this Agreement.
- H. Contractor will not accept any gift, benefit, gratuity or consideration from anyone, if it would influence Contractor's performance under the Agreement.

28. PUBLICITY

- A. Except as may be required by law, neither Contractor nor any of its subcontractors shall issue or permit to be issued any press release, advertisement, or literature of any kind that refers to WCI, Inc., any Participating Jurisdiction or any funding entity or the Work performed in connection with the Agreement without first obtaining the written approval of WCI, Inc. Such approval may be withheld for any reason.
- B. Except as may be required by law, WCI, Inc. shall not issue or permit to be issued any press release, advertisement or literature of any kind that refers to the Contractor or any of its affiliates without the prior written consent of the Contractor, provided that, notwithstanding the foregoing, WCI, Inc. may provide public notice of its entering into the Agreement with Contractor and any subsequent amendment or termination of the Agreement.
- C. WCI, Inc. may provide each Participating Jurisdiction or funding entity with a complete copy of the Agreement. In order for WCI, Inc. to meet its transparency goals, Contractor shall work with WCI, Inc. to produce a redacted copy of the Agreement which WCI, Inc. shall post on its website.

29. NO CONFLICT

[Intentionally Left Blank]

30. COMPLIANCE WITH LAWS, SAFETY

Contractor shall give all necessary notices required by law to be given by it, secure all necessary permits required by law to be obtained by it, and comply with all applicable federal, state, provincial and local laws, ordinances, rules and regulations applicable to the Work, including all nondiscrimination in employment, safety, health, and environmental laws, rules, and regulations.

31. NO VIOLATION OF OTHER AGREEMENTS OR COVENANTS

Contractor has not signed any other agreement, and has not accepted any obligation, that would interfere or conflict with its ability to fulfill its duties and obligations in connection with the Agreement. Contractor has not entered into and is not bound by any covenants, laws, rules or regulations that would restrict, impair or prevent the performance of its duties and obligations under the Agreement.

32. STATUS

Contractor has the power and authority to enter into and perform its obligations under this Agreement. To the best of Contractor's knowledge after due inquiry, Contractor's performance pursuant to this Agreement will not violate the legal or

equitable rights of any third party.

33. RIGHTS AND REMEDIES

Contractor has no recourse against the Participating Jurisdictions or any funding entities, elected officials, commissioners, employees or agents of any Participating Jurisdiction or funding entity for any claim, right or demand arising out of or related to the Agreement.

34. LIMITATION OF DAMAGES

Neither WCI, Inc. nor Contractor, nor their respective directors, officers, employees and agents, shall be liable for any special, indirect, incidental, or consequential damages, including economic damages such as lost profits, arising out of or in connection with the Agreement or the performance of Work, regardless of whether any such person or entity has been told, has reason to know or, in fact, knows of the possibility of any such damages or whether any related claim sounds in tort, contract, breach of warranty or any other theory.

35. THIRD PARTIES

The parties agree that the Participating Jurisdictions and any funding entity are intended third-party beneficiaries of the Agreement. Other than the Participating Jurisdictions and any funding entity, there are no other third party beneficiaries with any rights under the Agreement.

36. RESTRICTIONS ON CONTACT WITH WCI, INC. EMPLOYEES AND CONSULTANTS

Unless otherwise agreed to in writing, the parties hereto agree that during the term of this Agreement and for a period of one (1) year after the expiration or termination of this Agreement, neither party shall knowingly solicit for employment any person employed by the other working under this Agreement. This Section 36 shall not restrict in any way the right of either party to solicit or recruit generally in the media, and shall not prohibit either party from hiring an employee of the other who answers any advertisement or who otherwise voluntarily applies for hire without having been personally solicited by the hiring party.

37. REMEDIES OF WCI, INC.

Contractor agrees that it would be impossible or inadequate to measure and calculate WCI, Inc.'s damages from a breach of the covenants of the Agreement. Accordingly, Contractor agrees that if Contractor breaches or threatens to breach any of such covenants in the Agreement, WCI, Inc. will have available in addition to any other right or remedy available to it at law or in equity, the right to seek an injunction from a court of competent jurisdiction restraining such breach or

threatened breach and ordering specific performance of any such provision of this Agreement. Contractor further agrees that no bond or other security shall be required in obtaining such equitable relief, and Contractor hereby consents to the issuance of such injunction and to the ordering of specific performance.

38. GOVERNING LAW; FORUM

This Agreement shall be governed by, and construed in accordance with, the laws of the State of California without reference to its conflict-of-law principles. Subject to the requirements of Section 16 of these General Terms and Conditions, Contractor and WCI, Inc. consent to the exclusive jurisdiction of the federal and state courts of California, in connection with any action or proceeding arising out of the Agreement, or any document or instrument delivered in connection with the Agreement. Contractor and WCI, Inc. waive any objection to such jurisdiction on the grounds of venue or forum non conveniens and any similar grounds, consent to service of process by mail or in any other manner permitted by law, and agree to be bound by any judgment rendered by any such court in connection with the Agreement.

39. NOTICES

All notices or other communications required or to be given under the Agreement shall be given using the contact information set forth in the Standard Agreement (or such other contact information as a party shall specify to the other party by notice given in accordance with this Section 39) and shall be in writing and delivered personally or given by e-mail (no transmission failure notice received), by nationally recognized overnight courier or by certified mail, postage prepaid, return receipt requested, to the receiving party at the address set forth in the Agreement. Notice shall be deemed given on the date of delivery in the case of personal delivery, on the date of receipt in the case of e-mail, on the date of delivery or refusal of delivery in the case of delivery by overnight courier or on the delivery or refusal date as specified on the return receipt in the case of certified mail.

40. CONSTRUCTION

The Agreement shall be construed neutrally and without regard to the party that drew it, and any ambiguity shall not be interpreted against the drafting party. Headings used in the Agreement are provided for convenience only and shall not be used to construe meaning or intent. Where the context allows, the word "including" shall mean "including without limitation." The word "or" not exclusive and is deemed to have the meaning "and/or".

41. FORCE MAJEURE

Neither Contractor nor WCI, Inc. shall be responsible or liable for any failure or delay in the performance of its obligations under the Agreement arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including without limitation, acts of God, earthquakes, fires, floods, wars, civil or military

disturbances, sabotage, epidemics, riots, loss or malfunctions of utilities, computer (hardware or software) or communications service disruptions, labor disputes, acts of civil or military authority, or governmental, judicial or regulatory actions, or the unavailability of the Federal Reserve Bank wire or telex or other wire or communication facility that are beyond the party's reasonable control and that prevent the party from performing its obligations under the Agreement. Each party shall notify the other of the occurrence of a *force majeure* event as soon as possible after learning of same, and any notifying party shall resume or begin the performance of any delayed or unperformed obligations as soon as reasonably practicable after the end of the *force majeure* event.

42. PARTICIPATING JURISDICTIONS' AND FUNDING ENTITIES' POLICE POWER AND OTHER SOVEREIGN POWERS UNIMPAIRED

Notwithstanding any provision to the contrary elsewhere in this Agreement or these General Terms and Conditions, nothing in this Agreement or these General Terms and Conditions shall limit or otherwise impair in any respect any Participating Jurisdiction's or any funding entity's future exercise of their police power or any other sovereign powers.

43. WAIVER

Each party may extend or waive compliance with any of the agreements of the other party or conditions to such other party's obligations contained in the Agreement. Any such extension or waiver shall be valid only if set forth in a writing signed by the party to be bound thereby. Any waiver of any term or condition of the Agreement shall not be construed as a subsequent waiver of the same term or condition or a waiver of any other term or condition of this Agreement. The delay or failure of any party to assert any of its rights under the Agreement shall not constitute a waiver of any such rights or in any way affect the validity of such rights. All rights and remedies existing under this Agreement are cumulative to, and not exclusive of, any rights or remedies otherwise available.

44. SURVIVAL

The provisions of Sections 8, 10, 14, 15, 16, 24, 25, 26, 28, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45 and 48 hereof shall survive the expiration or termination of the Agreement.

45. U.S.A PATRIOT ACT

In order to comply with the laws, rules, regulations and executive orders in effect from time to time applicable to banking institutions, including, without limitation, those relating to the funding of terrorist activities and money laundering, including Section 326 of the USA PATRIOT Act of the United States ("Applicable Law"), Contractor is required to obtain, verify, record and update certain information relating to individuals and entities which maintain a business relationship with the Contractor. Accordingly,

each of the beneficial parties to the Agreement agrees to provide to Contractor, upon its request from time to time, such identifying information and documentation as may be reasonably available to such beneficial parties in order to enable Contractor to comply with Applicable Law.

46. RIGHTS OF CONTRACTOR

- A. Contractor may conclusively rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, indebtedness or other paper or document reasonably believed by it to be genuine and to have been signed or presented by the proper party or parties.
- B. The duties, responsibilities and obligations of Contractor shall be limited to those expressly set forth herein and Contractor shall not be deemed to be a trustee for WCI, Inc. or any third party beneficiary hereunder.
- C. Except as provided herein, Contractor shall not be required to expend or risk any of its own funds or otherwise incur any liability, financial or otherwise in the performance of any of its duties hereunder.
- D. Contractor may consult with legal counsel of its own choosing as to any matter relating to the Agreement, and Contractor shall not incur any liability in acting reasonably and in good faith in accordance with any advice from such counsel when fully apprised of the facts and circumstances relevant to such advice.

47. NOTIFICATION OF CERTAIN MATTERS

Contractor will promptly provide a written notice to WCI, Inc. upon Contractor becoming aware of any of the following: (i) any material concern or complaint by an auction participant about any of the services provided by Contractor under the Agreement and (ii) the occurrence of any event or other matter which is reasonably likely to result in Contractor's breach of the Agreement or the commencement or the threat of commencement of any legal action, suit or proceeding against Contractor, WCI, Inc., any Participating Jurisdiction or any funding entity. Any such written notice shall include a reasonably detailed description of Contractor's proposed response to any such concern or complaint or such occurrence.

48. DEFINED TERMS

The following capitalized terms, which may be used in one or more sections of the Agreement, are defined in the below identified sections of the Agreement. Unless otherwise indicated, section references refer to sections of these General Terms and Condition.

<u>Term</u>	<u>Location</u>
Action.....	10.C
Agreement	Standard Agreement
Applicable Law.....	45
Auction Administrator.....	Attachment A-Task 2
CITSS	Attachment A-Task 3
Confidential Information	26
Contractor	Standard Agreement
Contractor Indemnified Parties	10.A
Contractor Parties.....	26
Contractor Work Product	24.B
Financial Services.....	Attachment A-Introduction
KYC	Attachment A-Task 2
LOC	Attachment A-Task 2
LOG	Attachment A-Task 2
Losses	10.A
Participating Jurisdictions	10.A
Project	Attachment D
Project Representative	Standard Agreement
WCI, Inc.....	Standard Agreement
WCI, Inc. Indemnified Parties	10.B
WCI, Inc. Intellectual Property	24.C
Work	Standard Agreement
Work Plan	Agreement A-Task 1
Work Schedule	Standard Agreement

ATTACHMENT D ORGANIZATION CONFLICT OF INTEREST AND CONFIDENTIALITY STATEMENT

I certify that, to the best of my knowledge after reasonable inquiry, **Deutsche Bank National Trust Company** is not a beneficial owner of more than 5% of the voting interests of any entity that is subject to any of the provisions of the greenhouse gas (GHG) reporting or cap-and-trade programs implemented by WCI, Inc., any Participating Jurisdiction or any funding entity. The above certification is made in reliance on the list of entities provided by WCI, Inc. to Deutsche Bank National Trust Company pursuant to Section 27D of the Agreement.

I certify that if **Deutsche Bank National Trust Company** acquires beneficial ownership of more than 5% of the voting interests of any entity that is subject to any of the provisions of the GHG reporting or cap-and-trade programs implemented by WCI, Inc., any Participating Jurisdiction or any funding entity, I will, upon becoming aware of such acquisition, immediately disclose this information to WCI, Inc. The above certification is made in reliance on the list of entities provided by WCI, Inc. to Deutsche Bank National Trust Company pursuant to Section 27D of the Agreement.

I certify that, to the best of my knowledge after reasonable inquiry, **Deutsche Bank National Trust Company** is not a beneficial owner of more than 5% of the voting interests of any entity that owns, trades, facilitates trades, or advises on trades in instruments (such as derivatives) that derive their value in whole or in part from the greenhouse gas (GHG) reporting or cap-and-trade programs implemented by WCI, Inc., any Participating Jurisdiction or any funding entity. The above certification is made in reliance on the list of entities provided by WCI, Inc. to Deutsche Bank National Trust Company pursuant to Section 27D of the Agreement.

I certify that if **Deutsche Bank National Trust Company** acquires beneficial ownership of more than 5% of the voting interests of any entity that owns, trades, facilitates trades, or advises on trades in instruments (such as derivatives) that derive their value in whole or in part from the greenhouse gas (GHG) reporting or cap-and-trade programs implemented by WCI, Inc., any Participating Jurisdiction or any funding entity, I will, upon becoming aware of such acquisition, immediately disclose this information to WCI, Inc. The above certification is made in reliance on the list of entities provided by WCI, Inc. to Deutsche Bank National Trust Company pursuant to Section 27D of the Agreement.

I certify that **Deutsche Bank National Trust Company** will not accept any gift, benefit, gratuity or consideration from anyone, if it would influence **Deutsche Bank National Trust Company's** performance under the Agreement.

I certify that Deutsche Bank National Trust Company has in place formal policies and procedures to identify and mitigate conflicts of interest and ensure that Deutsche Bank National Trust Company and its management and employees avoid financial interests and activities that potentially create conflicts of interest.

Subject to Section 26 of the Agreement, I certify that **Deutsche Bank National Trust Company** will keep confidential and secure and, except as expressly permitted under the Agreement, will not copy, give, or otherwise disclose to any other person or entity who has not signed a copy of this Conflict of Interest and Confidentiality Statement, all appropriately marked or verbally deemed confidential information concerning the project which is governed by the Agreement (the “Project”) and any other confidential or proprietary information which **Deutsche Bank National Trust Company** learns or acquires in the course of performing duties under the Agreement, and will follow any instructions provided by the WCI, Inc. Project Manager relating to the confidentiality of Project information.

I certify that **Deutsche Bank National Trust Company** will use its commercially reasonable efforts (i) to ensure that its employees who will receive appropriately marked or verbally deemed confidential information concerning the Project or who will learn or acquire any other confidential or proprietary information in the course of performing duties in connection with the Agreement do not have a conflict of interest as described in this Conflict of Interest and Confidentiality Statement and (ii) to cause its employees to keep confidential and secure, and, except as expressly permitted under the Agreement, not to copy, give, or otherwise disclose to any other person or entity who has not signed a copy of this Conflict of Interest and Confidentiality Statement, any such information.

Deutsche Bank National Trust Company understands that the information that must be kept confidential includes any information identified, described or defined as “Confidential Information” in Section 26 of the General Terms and Conditions of the Agreement.

I certify that **Deutsche Bank National Trust Company** will not use Confidential Information, or any part thereof, in the performance of services or for the benefit of any person or entity, in any form, whether gratuitously or for valuable consideration, except as provided under Agreement, without the prior written consent of WCI, Inc. I understand that **Deutsche Bank National Trust Company** is authorized to disclose information pursuant to law or legal process.

I certify that **Deutsche Bank National Trust Company** understands that any unauthorized disclosure of Confidential Information will be handled in accordance with Section 26 of the General Terms and Conditions of the Agreement.

Date: _____
Signature: _____
Printed Name: _____
Title: _____
Organization: _____

Telephone No.: _____

Fax No.: _____

Email Address: _____

All certifications made in this Conflict of Interest and Confidentiality Statement are made as of the date set forth above the signature of the individual signing this Conflict of Interest and Confidentiality Statement.

Capitalized terms used but not defined in this Conflict of Interest and Confidentiality Statement shall have the meanings assigned to such terms in the Standard Agreement, dated _____, between WCI, Inc. and **Deutsche Bank National Trust Company**.

**ATTACHMENT E
CONTRACTOR'S PRESENTATION AND COST PROPOSAL**

[This attachment has been removed from the public document for business confidentiality reasons.]