

Justification for a Non-Competitive Procurement Process

Implementation of Multi-Jurisdiction Allowance Auctions and Québec Allowance Reserve Sales

January 14, 2013

Introduction

In support of its purpose to “provide administrative and technical services” to its Participating Jurisdictions, WCI, Inc. proposes to procure Implementation of Multi-Jurisdiction Allowance Auctions and Québec Allowance Reserve Sales. The scope of work is based on and defined to meet the specifications and requirements of the two Participating Jurisdictions that are implementing cap-and-trade programs: California and Québec. This document summarizes the justification for procuring this work through a non-competitive procurement process.

Description of Services

The purpose of this work is to enable and conduct linked auctions of California and Québec greenhouse gas emission allowances, as well as allowance sales from the Québec allowance reserve. This work builds upon the substantial, competitively-procured effort by California to implement allowance auctions and reserve sales solely for its cap-and-trade program. Specifically, the services being procured in the proposed WCI, Inc. contract include:

[Specific dates are subject to change and have been removed from the public version of this document.]

- Québec stakeholder training on the auction process and use of the Markit Auction Platform (MAP). This training would be provided in Québec.
- A Québec-only practice auction based on the current MAP configuration for California while the MAP is being developed for a linked auction.
- Set-up for a CA-QC linked auction, including new MAP functionality, to support the requirements of both jurisdictions.
- Conduction of linked auctions.
- Translation from English to French of all public and administrative pages of the MAP.

An amendment to the contract is expected in 2013 to enable Québec allowance reserve sales, after the details and cost of that work are better understood.

Steps Taken to Procure the Services Using Competitive Procurement Procedures

The proposed contract would extend the capabilities of the California auction and reserve sale to include Québec within a linked auction, and to enable the sale of Québec reserve allowances. California developed its capabilities through a transparent, competitive procurement process. California issued a request for proposals on November 8, 2011 and issued on December 27, 2011 a notice of intent to award to Markit Group Limited. No additional steps were taken to competitively procure the proposed services for WCI, Inc.

Alternative Procurement Approach

To provide the services required by the Participating Jurisdictions implementing cap-and-trade programs, the following approach was taken:

- Timing: The procurement must result in a qualified contractor that can reliably implement and conduct a linked auction by August 2013.
- Scope: The scope of work is limited to the items essential for the Participating Jurisdictions' immediate needs to implement a linked cap-and-trade system.

WCI, Inc. and Participating Jurisdiction staff approached Markit to confirm its interest in and availability for this work. A gap analysis was conducted by Markit and presented to WCI, Inc. and Participating Jurisdiction staff to identify the subtasks, level of effort, and costs of meeting the objectives of the work. A draft contract was prepared by WCI, Inc., in consultation with Participating Jurisdiction staff, and sent to Markit. Through discussions with Markit, the draft contract, including the Scope of Work, Terms and Conditions, Insurance Requirements, Cost, and Schedule, was revised and a complete contract was finalized on January 24, 2013.

During the process of developing the contract with Markit, the draft contract Terms and Conditions were reviewed by WCI, Inc. counsel. The draft contract was also presented to Participating Jurisdiction staff and some members of the WCI, Inc. Board for review and discussion. The final proposed contract addresses the requirements of the Participating Jurisdictions' cap-and-trade programs, and responds to the direction from Participating Jurisdictions.

The cost proposal from Markit provides detail on expected costs necessary to perform the project. The detail and costs were reviewed and determined to be consistent with the requirements of the project. Overall, the Markit cost proposal was found to be reasonable and competitively priced.

Justification

Markit is uniquely qualified to meet the timing, contracting, and staffing resources necessary to achieve the project objectives. Markit singularly has the technical understanding of the auction process and platform that must be used in 2013 to enable linked auctions and Québec reserve sales.

WCI, Inc.'s Procurement Policy (approved January 12, 2012) provides for non-competitive procurement in certain instances. In this case, the non-competitive procurement is justified based on the following two allowable exemptions:

"Contracts for services provided by contractors that have been selected by a federal, state, city, county, provincial, or other regulatory entity, usually through a competitive process."

"Agreements where only one supplier is able to meet the requirements of a procurement to ensure compatibility with existing products."



CONTRACT

Implementation of Multi-Jurisdiction Allowance Auctions

January 14, 2013

STANDARD AGREEMENT ("Agreement")

	AGREEMENT NUMBER 2012-04
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1. This Agreement is entered into between Western Climate Initiative, Incorporated (WCI, Inc.) and the Contractor named below:

CONTRACTOR'S NAME
Markit Group Limited

2. The term of this Agreement is: **Twelve (12) months, beginning on January 1, 2013 and ending on December 31, 2013.**

3. The maximum amount of this Agreement is:

██████████

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 – Scope of Work ("Work" or "Work Schedule")
Attachment B – Budget Detail and Payment Provisions
Attachment C – General Terms and Conditions
Attachment D – Individual Conflict of Interest and Confidentiality
Attachment D1 – Organization Conflict of Interest and Confidentiality
Attachment E – Contract Insurance Requirements
Attachment F - Contractor's Technical and Cost Proposal

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) Markit Group Limited		
BY (Authorized Signature) <i>Rony Grushka signature on file</i>	DATE SIGNED 1-21-2013	
PRINTED NAME AND TITLE OF PERSON SIGNING Rony Grushka, Chief Financial Officer		
ADDRESS 5th Floor, 2 More London Riverside, London SE1 2AP, United Kingdom		
CONTRACTEE		
CONTRACTEE'S NAME Western Climate Initiative, Inc.		
BY (Authorized Signature) <i>Patrick Cummins signature on file</i>	DATE SIGNED 1-22-2013	
PRINTED NAME AND TITLE OF PERSON SIGNING Patrick Cummins, Executive Director		
ADDRESS 980 Ninth Street, Suite 1600, Sacramento, CA 95814		

Contractor agrees to provide to WCI, Inc. the services as described in Attachment A, Scope of Work, and in Attachment F, Contractor's Technical and Cost Proposal.

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: Markit Group Limited
Name: Patrick Cummins	Name: Marc Barrachin
Phone: 916-449-9966	Phone: +1 212 931 4917
Fax:	Fax: +1 212 221 9860
Email: pcummins@wci-inc.org	Email: Marc.barrachin@markit.com

Direct all administrative inquiries to:

Western Climate Initiative, Inc.	Contractor: Markit Group Limited
Attention: Patrick Cummins	Attention: Jane Lloyd
Phone: 916-449-9966	Phone: +1 212 931 4903
Fax:	Fax: +1 212 221 9860
Email: pcummins@wci-inc.org	Email: Jane.lloyd@markit.com

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PURPOSE / BACKGROUND / OVERVIEW

A. PURPOSE

The purpose of this work is to enable and conduct linked auctions of California and Quebec greenhouse gas emission allowances.

B. BACKGROUND

Under a competitively awarded contract with the California Air Resources Board (ARB), Markit is operating as the California cap-and-trade auction and reserve sale administrator. Markit has extensively configured its Markit Auction Platform (MAP) based on the California cap-and-trade regulation. California and Quebec are refining their regulations to fully harmonize their programs to enable linking of their carbon markets. Markit has been working with WCI, Inc., Quebec, and California to understand the regulations and requirements and how they may be implemented in MAP. This contract enables the additional work required to MAP to enable linked, multi-jurisdiction allowance auctions.

C. OVERVIEW

This contract provides for Quebec stakeholder training, a QC-only practice auction (to be based on the current configuration for California while the MAP is being developed for a linked auction), linked auction set-up, two linked auctions in 2013 (currently planned for August and November 2013), and French translation of public and administrative MAP pages.

ATTACHMENT A SCOPE OF WORK

This scope of work covers four tasks: Quebec stakeholder training, conduct Quebec only practice auction, Quebec and California linked auction set-up, conduct Quebec and California linked auctions.

Task 1 – Quebec Stakeholder Auction Training

This task will include a QC stakeholder auction training presentation and meeting in Quebec.

Task 2 – Quebec Only Practice Auction

This task is to provide Quebec stakeholders with a practice auction. This practice auction will use the current California Auction Platform configuration with no additional updates i.e. Quebec practice auction participants will access the platform in USD and in English only.

Task 3 – Quebec/California Linked Auction Set-up

This task for the establishment of Quebec/California linked auction configuration will be based on the version of MAP to be used in the February California auction and will include the following items:

- Analysis and design of the MAP configuration requirements for a linked auction
- Update of MAP web pages, user interfaces, functionality, and processing of MAP to Quebec's regulation requirements
- Development and testing by Markit, QC, CA, and WCI, Inc., and any other authorized WCI, Inc. contractors
- The following updates to MAP:
 - a. French version of the all public, private site pages and MAP system generated emails.
 - b. Give the ability to Quebec participants to choose primary language.
 - c. Display the currency for each users based on the currency of their bid guarantee.
 - d. Add ability to maintain reserve prices in CAD.
 - e. Add ability and process to publish/report on the latest Bank of Canada exchange rate available at noon EST on the day of the auction.
 - f. A process to convert all USD submissions (bid guarantees, bids) into a CAD equivalent based on FX rate mentioned in e).

- g. Ability to accept bids in multiple currencies (manually/one at a time, or via file upload). Build French version of all downloadable reports accessed only by Quebec participants. Update of 10 auction reports/downloadable files with currency and jurisdiction indicators. Default primary language based on location.
- h. Add ability for the algorithm to calculate one reserve price based on appropriate FX Rate to ensure no regulation is violated.
- i. Ensure that ARB participants can only bid in USD, and Quebec participant in USD and CAD.
- j. Create separate monitoring/administrative roles for Quebec and California for the same auction.
- k. Enhance approval workflow so that sign-off on auction setup, participant approval, and auction results takes into account both Quebec and California sign-offs.
- Scale the system's hardware and software resources to handle additional 200 organizations i.e. 1000 users. Conduct load and performance with higher volumes
- Support English and French in the content management system
- Produce reports on project status to WCI, Inc throughout the project lifecycle

Task 4 – Conduct Quebec/California Linked Auctions

- Create and deliver a French version of the communication materials i.e. presentations and training materials
- Add additional operational support resources for French MAP support

Processes related to MAP Software Development Life cycle

Processes related to the software development lifecycle will include:

- Formal kickoff and team introductions
- Agreeing to frequency of status updates. Review status updates with technical and business leads.
- Formalizing the process to facilitate issues management and quick turn around on questions.
- Design and analysis will include:
 - Working with project lead at WCI, Inc. and the jurisdictions' technical and business leads.

- Facilitating working session to gather requirements and process workflows.
- Obtaining approval from WCI, Inc, for the updated linked requirements document.
- Working with WCI, Inc., its Participating Jurisdictions, and authorized contractors to create updated workflows and updated timelines. Prepare and update project timelines as needed.
- Conduct thorough internal testing (i.e. unit, functional, quality assurance, internal user acceptance (UAT), performance and load, and smoke testing).
- Facilitating UAT testing by WCI, Inc., Participating Jurisdictions, and other authorized contractors.
- Facilitating formal sign off of UAT testing.
- Conducting training session for users including:
 - Administration users
 - All jurisdictional auction participants

Items that are not in the scope of work include

- Any items not listed in this Scope of Work
- Set-up and conduction of Quebec reserve sales
- Update of WCI, Inc. or Quebec websites
- Update of other contractor websites, applications, platforms or processes
- Work related to linkage among jurisdictions other than CA and QC
- Additional (i.e., more than one) practice auction sessions
- Testing sessions for stakeholders

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 Cost Proposal, which is incorporated as Attachment F. 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 for each month. 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 per <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 monthly in arrears. Each item in the invoice must correspond to costs identified in this attachment and Attachment F. 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 time and material budget for this agreement is [REDACTED] See Attachment F, Contractor's Cost and Technical Proposal, for invoice basis.

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 such written approval has been obtained. Contractor represents that the Agreement has been duly authorized by all necessary corporate action on the part of Contractor and that the officer signing the Agreement and any documents related thereto on behalf of Contractor possessed full authority to do so.

2. INSURANCE

Contractor shall, and shall cause any subcontractors to, carry and maintain in effect the insurance coverages set forth on Attachment E: Contract Insurance Requirements at all times while performing the work detailed in Attachment A ("Work"). Contractor shall provide WCI, Inc. with current insurance certificates evidencing these required coverages prior to commencing the Work, and shall give at least 30 days' advance written notice to WCI, Inc. of the cancellation or material alteration of such policies. At WCI, Inc.'s request, Contractor shall provide WCI, Inc. with evidence that the insurance coverages are being maintained. WCI, Inc. 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. Contractor shall comply with all financial responsibility standards required by applicable law.

3. SUBSTITUTION OF KEY PERSONNEL

Key Personnel includes Jane Lloyd and Marc Barrachin. Key Personnel may be changed with prior written approval of WCI, Inc., not to be unreasonably withheld.

4. PERFORMANCE

Contractor shall perform the Work safely, in accordance with the standard of care, skill, and diligence provided by a professional person or company competent and experienced in performance of work similar to the Work, and in accordance with prevailing industry standards. All Work shall be of excellent quality and shall conform in all respects to the requirements of the Agreement. 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, governmental regulation, or similar conditions, except as set forth in Section 5 of these General Terms and Conditions, no changes in the Work Schedule or Compensation 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 may be given or withheld at WCI, Inc.'s sole discretion.

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. The parties may agree to amend the Agreement to allow for additional time and/or additional funding for performance. No amendment or variation of the terms of the Agreement shall be valid unless made in writing and signed by both parties. 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. 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 stipulated. Contractor agrees to allow the auditor(s) designated by WCI, Inc., the funding entity, and/or any of their 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., the funding entity, and/or any of their duly authorized representatives to audit records and interview staff in any subcontract related to 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 judged by an audit conducted by any of the above to be not in compliance with the requirements

in this Agreement. Contractor shall include the provisions of this paragraph 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

To the fullest extent permitted by law, Contractor shall indemnify, defend and hold harmless the provinces of British Columbia and Quebec, the State of California (together, the "Participating Jurisdictions"), WCI, Inc., any funding entity, and their directors, officers, employees and agents (the "Indemnified Parties") from and against any and all debts, losses, claims, damages, costs, demands, fines, judgments, contracts (implied and expressed, written and unwritten), penalties, obligations, payments, liabilities of every type and nature (whether known or unknown, fixed or contingent) arising from a claim asserted against an Indemnified Party by a third party, including, without limitation, (a) those accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying services, materials, or supplies in connection with the performance of the Agreement and (b) those arising out of any lawsuit, action or proceeding (whether brought by a party to the Agreement or by any other person), together with any costs and expenses (including, without limitation, attorneys' fees, out-of-pocket expenses and other costs and expenses incurred in investigating, preparing or defending any pending or threatened lawsuit, action or proceeding) incurred in connection with the foregoing, suffered or sustained by any Indemnified Party by reason of any act, omission or alleged act or omission in violation or alleged violation of the Agreement by Contractor or any subcontractor, supplier or other person employed or alleged to be employed by any of the foregoing, or a breach or alleged breach of the Agreement, including but not limited to breaches or alleged breaches of representations, warranties, acknowledgements or covenants herein or in the Agreement.

11. TERMINATION FOR CAUSE

If Contractor fails to perform the requirements of this Agreement at the time and in the manner herein provided, WCI, Inc. may notify Contractor in writing. 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, if Contractor does not commence the cure within such 15-day period and promptly and diligently thereafter prosecute such cure to completion, 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. In the event of such termination, WCI, Inc. has the right to any remaining Work for which it has paid before the termination date. In the event of 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 remaining sums due Contractor under the Agreement.

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 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 funding entity or the collectivity of Participating Jurisdictions and any 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 WCI, Inc.'s policies and procedures 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 WCI, Inc.'s policies and procedures.

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., 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 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. 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. 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.

- 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.

17. POTENTIAL SUBCONTRACTORS

Contractor shall not subcontract any of its obligations under the Agreement without prior written approval of WCI, Inc., which approval shall not either directly or indirectly 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 subcontractors, 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 work in the event that a dispute should arise, or in the event that WCI, Inc. gives Contractor a notice that the Agreement will be terminated. The stop-work order will be in effect until WCI, Inc. sends a written order to resume work.

19. TERMINATION

- A. WCI, Inc. reserves the right to terminate the Agreement in its sole discretion at any time upon ninety (90) days prior written notice to Contractor.
- B. 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.
- C. 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 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 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 10 percent thereof, pending satisfactory completion of the entire 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

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 the Indemnified Parties 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 and neglect of the Indemnified Parties 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 copyright laws.

24. INTELLECTUAL PROPERTY

- D. Except as set forth in the Scope of Work, the right to use all material, software, firmware, compositions of matter, manufactures, apparatus, appliances or processes required in connection with 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 whether the same is patented, copyrighted or otherwise protected as an intellectual property right before, during or after the performance of the Agreement.
- E. Contractor shall defend, indemnify, and hold the Indemnified Parties harmless against all claims, losses, damages and expenses (including attorney fees) promptly upon the incurrence thereof resulting from any third party claim that the Contractor work product delivered under this Agreement infringes, misappropriates or otherwise violates a trademark, copyright or other third party's proprietary right. Notwithstanding the foregoing, Contractor shall have no obligation or liability with respect to any such claim or liability based upon (i) Contractor's 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 when such combination is part of any allegedly infringing process; or (iii) use of the Contractor work product(s) in a manner not authorized in the documentation when such claim or liability would have been avoided but for such unauthorized use. WCI, Inc. shall promptly notify Contractor of any such claim. In addition to the obligations above, if Contractor work product becomes the subject of any third party claim, demand or allegation that the Contractor work product(s) 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 this 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 subject to this Section.
- C. Except as set forth in the Scope of Work, Contractor agrees that all output developed or generated from work product directly related to WCI, Inc.'s products, services or business, or containing WCI, Inc.'s proprietary or sensitive information, created hereunder by Contractor, its employees or any subcontractors it engages to perform work for WCI, Inc., shall become the absolute and exclusive property of WCI, Inc. (hereinafter "WCI, Inc. Intellectual Property"). WCI, Inc. Intellectual Property shall automatically be deemed to become the property of WCI, Inc. immediately as soon as made. Contractor and its subcontractors agree to cooperate with and assist WCI, Inc. (at WCI, Inc.'s expense) to apply for and to execute any applications and/or assignments reasonably necessary to obtain any patent, copyright, trademark, or other statutory protection for WCI, Inc. Intellectual Property. Contractor shall, and

shall cause employees and contractors of Contractor to, promptly sign any and all lawful papers, take all lawful oaths and do all lawful acts, including giving testimony (at WCI, Inc.'s expense), 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 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 said copyrightable materials or other intellectual property related to the WCI, Inc. Intellectual Property.
- E. Contractor and its subcontractors shall not 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. (which shall not be unreasonably delayed or withheld where such disclosure is required for Contractor or its subcontractor to perform in accordance with the Agreement).
- 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. (which shall not be unreasonably delayed or withheld), subject to any license granted in writing to Contractor by WCI, Inc.

25. RIGHTS IN DOCUMENTS, MATERIALS, AND DATA PRODUCED

All WCI, Inc. Intellectual Property including reports, materials and results prepared by or for Contractor under the terms of the Agreement, shall be delivered to and shall become and remain the property of WCI, Inc. upon delivery to WCI, Inc. or termination or completion of the Work. WCI, Inc. shall have the right to use the same 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. All reports and other documents completed as a part of the Agreement shall bear on the title page of such report or document such legend as may be agreed upon by Contractor and WCI, Inc. The month and year in which the document was prepared shall also be shown.

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 other person any Confidential Information except to the extent expressly required by law or authorized in writing by WCI, Inc. For the purposes of the Agreement, "Confidential Information" shall include any information so described elsewhere in the Agreement, all data stored or made accessible through the Compliance Instrument Tracking System Service and/or Auction Platform, unless WCI, Inc. notifies Contractor in writing that such information is not confidential, 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, and any of WCI, Inc.'s confidential, proprietary or trade secret information 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; (iii) is independently developed by or for Contractor 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 the information; or (v) that the Parties mutually agree in writing to release from the terms of this Agreement. Contractor shall use best endeavors to prevent any disclosure of Confidential Information by Contractor, its subcontractors, or its or their agents and employees. Contractor further agrees to not deliver, "reverse engineer," reconstruct, reproduce or in any way allow such Confidential 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:

- F. 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 other than those authorized by this paragraph.
- G. Ensure that Contractor's and all subcontractors' senior management with operating knowledge of the Work, and all employees, agents, and representatives working directly under this Agreement sign and submit to Contractor Attachment D: Individual Conflict of Interest and Confidentiality Statement. Contractor will then certify to WCI, Inc. as to the submission of such statements by all such required individuals, and will in addition sign and submit to WCI, Inc. Attachment D1: Organization Conflict of Interest and Confidentiality Statement on its own behalf, and obtain and submit to WCI, Inc. Attachment D1:

Organization Conflict of Interest and Confidentiality Statement signed by each subcontractor.

- H. 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. Contractor and any subcontractor in connection with the performance of the Agreement must make available for WCI, Inc.'s inspection all requested background information on staff performing the Work employed by the Contractor and any subcontractor.
- I. Treat all Confidential Information, Deliverables (as defined in Attachment A), and work products as Confidential Information in accordance with this Agreement. No Confidential Information, Deliverables, Work or Work products may be disclosed in any form to any third party without the written consent of the Executive Director of WCI, Inc. or his or her authorized agent, except when 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, the following disclaimer must accompany all Confidential Information: *"Publication of this document shall not be construed as endorsement of the views expressed therein by the Western Climate Initiative, Western Climate Initiative, Inc. or any federal, state or provincial agency."*
- J. Not use, without WCI, Inc.'s written approval, any WCI, Inc. materials for any purpose other than performing the contracted services.
- K. 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.
- L. 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.'s Confidential Information at the conclusion of the engagement, upon termination of the Agreement, or upon the written request of WCI, Inc.
- M. Upon confirmation of loss or theft, immediately report to WCI, Inc. any lost or stolen hardware and/or transportable recorded media connected to the Work.
- N. 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.
- O. Make reasonable security arrangements to protect Confidential Information from unauthorized access, collection, use, disclosure, alteration or disposal.
- P. Not 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.

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. Complete copies of all such formal policies and procedures shall be provided to WCI, Inc. prior to Contractor's commencement of Work under the Agreement.
- D. Contractor and its subcontractors must not be subject to any laws or regulations specific to any GHG reporting or cap and trade program in any WCI, Inc. Participating Jurisdiction or any funding entity. Contractor and its subcontractors must 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 in any WCI, Inc. Participating Jurisdiction or any funding entity. In addition, the Contractor and its subcontractors must 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 in any WCI, Inc. Participating Jurisdiction or any funding entity.
- E. Contractor must ensure that its employees and subcontractors meet and comply with the requirements described in 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., such determination shall be grounds for termination of the Agreement immediately for cause.
- G. Contractor agrees to advise WCI, Inc. if performing services for other clients could potentially interfere with Contractor's duties pursuant to this Agreement.

28. PUBLICITY

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. or the Participating Jurisdictions or any funding entities 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.

29. NO CONFLICT

[Intentionally Left Blank]

30. COMPLIANCE WITH LAWS, SAFETY

Contractor shall give all necessary notices, secure all necessary permits, and comply with all applicable federal, state, provincial and local laws, ordinances, rules and regulations applicable to the Work including, without limitation, 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 other restrictive covenants, laws, rules or regulations applicable to Contractor related to its duties and obligations in connection with 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

WCI, Inc. shall not be liable for any indirect, incidental, or consequential damages arising out of or in connection with the Agreement or the performance of the Work.

35. THIRD PARTIES

The parties agree that the California Air Resources Board (CARB) and the Government of Quebec are intended third-party beneficiary of the Agreement. Other than CARB and the Government of Quebec, 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 the Agreement and for a period of one (1) year after the expiration or termination of the Agreement, neither party shall knowingly solicit for employment any person employed by the other working under the Agreement. This Article 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.

Each party agrees that it would be impossible or inadequate to measure and calculate the other's damages from a breach of the covenants of the Agreement. Accordingly, Each party agrees that if it breaches or threatens to breach any of such covenants in the Agreement, the other party 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 the Agreement. Each party further agrees that no bond or other security shall be required in obtaining such equitable relief, and 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 in writing and delivered personally 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, or on the delivery or refusal date as specified on the return receipt in the case of certified mail.

40. CONSTRUCTION; HEADINGS

The Agreement shall be construed neutrally and without regard to the party that drew it. Headings used in the Agreement are provided for convenience only and shall not be used to construe meaning or intent.

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.

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

Notwithstanding any provision to the contrary elsewhere in the Agreement or these General Terms and Conditions, nothing in the 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 its police power or any other sovereign powers.

43. RELIANCE

WCI, Inc. acknowledges that it has not relied upon any warranty, guarantee or representation (express or implied) made by Contractor or its affiliates or subcontractors except the warranties, guarantees and representations made by Contractor or its affiliates or subcontractors and specifically set forth in the Agreement or any submission made by Contractor or its affiliates or subcontractors in connection therewith.

44. SURVIVAL

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

ATTACHMENT D INDIVIDUAL CONFLICT OF INTEREST AND CONFIDENTIALITY STATEMENT

I certify that I and any member of my immediate family (parents, siblings, spouse, children, or domestic partner) are not a partner, director, officer, key employee, or 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 any of WCI, Inc. Participating Jurisdictions or any funding entities.

I certify that if I or any member of my immediate family becomes a partner, director, officer, or key employee or acquire 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 any of WCI, Inc. Participating Jurisdictions or any funding entities, I will immediately disclose this information to _____ who will disclose this information to WCI, Inc.

I certify that I and any member of my immediate family are not a beneficial owner and are not a partner, director, officer, key employee, or 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 provisions of the greenhouse gas (GHG) reporting or cap-and-trade programs implemented by any of WCI, Inc. Participating Jurisdictions or any funding entities.

I certify that if I or any member of my immediate family becomes a beneficial owner or a partner, director, officer, key employee, or 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 provisions of the greenhouse gas (GHG) reporting or cap-and-trade programs implemented by any of WCI, Inc. Participating Jurisdictions or any funding entities, I will immediately disclose this information to _____ who will disclose this information to WCI, Inc.

I certify that I will not accept any gift, benefit, gratuity or consideration from anyone other than my employer, based on any understanding that it would influence my performance under this Agreement.

I certify that I will keep confidential and secure and 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 (as defined in the Work Schedule) which I learn or acquire in the course of performing duties under this Agreement, and I will follow any instructions provided by WCI, Inc. Project Manager relating to the confidentiality of Project information. I understand that the information that must be kept confidential ("confidential information") includes, but is not limited to:

- A. All data, analyses, specifications, requirements, concepts and discussions received from WCI, Inc. in the course of performing requirements under the Project.
- B. Any personally identifying information, proprietary process or sensitive, non-public market data.
- C. Any third-party confidential information included with, or incorporated in, information provided by WCI, Inc., or otherwise obtained in the course of performing requirements under the Project.
- D. Communications with WCI, Inc. staff, related to any of the requirements under the Project, including oral discussions, telephone conversations, emails, attachments, letters and faxes.
- E. All notes, data, analyses, compilations or reports prepared by me that contain or are based upon confidential information.

I certify that I 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 the Project, without the prior written consent of WCI, Inc. I understand that Markit is authorized to disclose information pursuant to law or legal process.

I certify that if I leave this Project before it ends, or at the termination of the Project, I will return all confidential information and copies thereof in my possession or control to Markit, and I will not disclose such information or otherwise make it available, in any form or manner, to any other person or entity. I certify that I have read and understand this Conflict of Interest and Confidentiality Statement, including the requirements set forth therein related to conflict of interest, confidentiality and limitations on the use of confidential information.

I certify that I understand that any unauthorized disclosure of confidential information will be handled in accordance with Article 26 of this Agreement.

Date: _____
Signature: _____
Printed Name: _____
Title: _____
Organization: _____
Telephone No.: _____
Fax No.: _____
Email Address: _____

**ATTACHMENT D1
ORGANIZATION CONFLICT OF INTEREST AND CONFIDENTIALITY
STATEMENT**

I certify that Markit 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 any of WCI, Inc. Participating Jurisdictions or any funding entities.

I certify that if Markit 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 any of WCI, Inc. Participating Jurisdictions or any funding entities, I will immediately disclose this information to WCI, Inc.

I certify that Markit 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 provisions of the greenhouse gas (GHG) reporting or cap-and-trade programs implemented by any of WCI, Inc. Participating Jurisdictions or any funding entities.

I certify that if Markit 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 provisions of the greenhouse gas (GHG) reporting or cap-and-trade programs implemented by any of WCI, Inc. Participating Jurisdictions or any funding entities, I will immediately disclose this information to WCI, Inc.

I certify that Markit will not accept any gift, benefit, gratuity or consideration from anyone, based on any understanding that it would influence Markit's performance under this Agreement.

I certify that ICF will keep confidential and secure and 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 Markit learns or acquires in the course of performing duties under this Agreement, and will follow any instructions provided by WCI, Inc. Project Manager relating to the confidentiality of Project information. Markit understands that the information that must be kept confidential ("confidential information") includes, but is not limited to:

- A. All data, analyses, specifications, requirements, concepts and discussions received from WCI, Inc. in the course of performing requirements under the Project.
- B. Any personally identifying information, proprietary process or sensitive, non-public market data.

- C. Any third-party confidential information included with, or incorporated in, information provided by WCI, Inc., or otherwise obtained in the course of performing requirements under the Project.
- D. Communications with WCI, Inc. staff, related to any of the requirements under the Project, including oral discussions, telephone conversations, emails, attachments, letters and faxes.
- E. All notes, data, analyses, compilations or reports prepared by Markit that contain or are based upon confidential information.

I certify that Markit 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 the Project, without the prior written consent of WCI, Inc. I understand that Markit is authorized to disclose information pursuant to law or legal process.

I certify that Markit understands that any unauthorized disclosure of confidential information will be handled in accordance with Article 26 of this Agreement.

Date: _____

Signature: _____

Printed Name: _____

Title: _____

Organization: _____

Telephone No.: _____

Fax No.: _____

Email Address: _____

ATTACHMENT E

CONTRACT INSURANCE REQUIREMENTS

WCI, Inc. retains the right to increase insurance requirements when additional risk exposures are evident.

These requirements constitute the Contract Insurance requirements.

Throughout the life of this Contract, the Contractor shall pay for and maintain in full force and effect with an insurance company(s) (Company) rated not less than "A: VII" in Best Insurance Key Rating Guide, the following policies of insurance:

1. COMMERCIAL OR COMPREHENSIVE GENERAL LIABILITY insurance which shall include Contractual Liability, Products and Completed Operations coverages, Bodily Injury and Property Damage (including Fire Legal Liability) Liability insurance with combined single limits of not less than [REDACTED] per occurrence, and if written on an Aggregate basis, [REDACTED] Aggregate limit.
2. COMMERCIAL (BUSINESS) AUTOMOBILE LIABILITY insurance, for "any auto" with combined single limits of liability of not less than [REDACTED] each occurrence.
3. Professional Liability (Errors and Omissions): Insurance appropriate to the Contractor's profession, with limit no less than [REDACTED] per occurrence or claim, [REDACTED] aggregate
4. *[If the contract includes services or products related to on-line activity]* Cyber liability coverage: Insurance with limit no less than [REDACTED] per occurrence or claim, [REDACTED] aggregate that includes:
 - Security and privacy liability
 - Media liability
 - Business interruption and extra expense
 - Cyber extortion

The Policy(s) shall also provide the following:

1. The Commercial General Liability and Automobile Liability insurance shall be written on ISO approved occurrence form (see item 1 and 2 above) and name WCI, Inc., their officers, representatives, agents, employees and volunteers as additional insureds.
2. For any claims related to Contractor's negligence under this project, the Contractor's insurance coverage shall be primary insurance as respects WCI, Inc., their officers, representative, agents, employees and volunteers. Any coverage maintained by WCI, Inc. shall be excess of the Contractor's insurance and shall not contribute with it. Policy shall waive right of recovery (waiver of subrogation) against WCI, Inc.

3. Should any of the above-described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the provisions of Paragraph 2 of the General Terms and Conditions, Attachment C.
4. The Company shall furnish WCI, Inc. with the Certificates that include the blanket additional insured endorsement for all required insurance, within 10 days of commencing the Work.
5. Proper Address for Mailing Certificates, Endorsements and Notices shall be:

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

6. Upon notification of receipt by WCI, Inc., of a Notice of Cancellation, major change, modification, or reduction in coverage, the Contractor shall file with WCI, Inc. in accordance with the policy an original certificate of insurance for such policy.

If at any time during the life of the Contract or any extension, the Contractor fails to maintain the required insurance in full force and effect, all work under the Contract shall be discontinued immediately, and all payments due or that may become due to the Contractor shall be withheld until acceptable replacement coverage notice is received by WCI, Inc. Any failure to maintain the required insurance shall be sufficient cause for WCI, Inc. to terminate this Contract.

If the Contractor should subcontract all or any portion of the work to be performed in this contract, the Contractor shall require each subcontractor to adhere to all subparagraphs of this Insurance Requirements Attachment.

ATTACHMENT F
CONTRACTOR'S TECHNICAL AND COST PROPOSAL

Implementation of Multi-Jurisdiction Allowance Auctions

Technical and Cost Proposal

Submitted to Western Climate Initiative, Inc.

Monday, January 14, 2013

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Definitions

ARB	California Air Resources Board
ARS	Auction and Reserve Sales
ARS Authorities	WCI, Inc, ARS Financial Services Administrator, and ARS Market Monitor Contractor
CA	California
EU ETS	European Union Emissions Trading Scheme
FSA	Authorized Auction and Reserve Sale Financial Services Administrator
GHG	Greenhouse Gases
Landing Page	Auction and Reserve Sale Landing Page
KYC	Know Your Client
MAP	Markit Auction Platform
MM	Authorized Auction and Reserve Sale Market Monitor contractor
Participating Jurisdictions	California and Quebec
RS	Reserve Sales
QA Testing	Quality Assurance Testing
QC	Quebec Province
UAT	User Acceptance Testing
WCI	Western Climate Initiative
WCI, Inc.	Western Climate Initiative, Inc.

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Summary

The State of California and Province of Quebec are implementing their greenhouse gas cap-and-trade programs based on the WCI's design recommendations. Markit is operating under a competitively-awarded contract with the California Air Resources Board (ARB) to be the cap-and-trade auction and reserve sale administrator. Markit has extensively configured MAP (the Markit Auction Platform) to run the California ARB cap-and-trade program based on the cap-and-trade regulation's requirements.

WCI, Inc. was created to provide administrative and technical services to support the implementation of state and provincial greenhouse gas emissions trading programs. California ARB and Quebec are refining their regulations to fully harmonize their programs and enable linking of their carbon markets.

Markit has been working with WCI, Inc., Quebec, and California to understand the regulations and requirements and how they will be implemented in MAP. This document outlines additional work required to modify the Markit Auction Platform to enable multi-jurisdiction allowance auctions.

Markit will follow its Software Development Lifecycle process for this project based on the agreed scope between Markit, WCI, Inc., California, and Quebec (outlined below).

Scope of Work

This scope of work covers four tasks: Quebec stakeholder training, conduct Quebec only practice auction, Quebec and California linked auction set-up, conduct Quebec and California linked auctions.

Task 1 – Quebec Stakeholder Auction Training

This task will include a QC stakeholder auction training presentation and meeting in Quebec.

Task 2 – Quebec Only Practice Auction

This task is to provide Quebec stakeholders with a practice auction. This practice auction will use the current California Auction Platform configuration with no additional updates i.e. Quebec practice auction participants will access the platform in USD and in English only.

Task 3 – Quebec/California Linked Auction Set-up

This task for the establishment of Quebec/California linked auction configuration will be based on the version of MAP to be used in the February California auction and will include the following items:

- Analysis and design of the MAP configuration requirements for a linked auction
- Update of MAP web pages, user interfaces, functionality, and processing of MAP to Quebec's regulation requirements
- Development and testing by Markit, QC, CA, and WCI, Inc., and any other authorized WCI, Inc. contractors
- The following updates to MAP:
 - a. French version of the all public, private site pages and MAP system generated emails
 - b. Give the ability to Quebec participants to choose primary language
 - c. Display the currency for each users based on the currency of their bid guarantee
 - d. Add ability to maintain reserve prices in CAD
 - e. Add ability and process to publish/report on the latest Bank of Canada exchange rate available at noon EST on the day of the auction
 - f. A process to convert all USD submissions (bid guarantees, bids) into a CAD equivalent based on FX rate mentioned in e)
 - g. Ability to accept bids in multiple currencies (manually/one at a time, or via file upload). Build French version of all downloadable reports accessed only by Quebec participants. Update of 10 auction reports/downloadable files with currency and jurisdiction indicators. Default primary language based on location
 - h. Add ability for the algorithm to calculate one reserve price based on appropriate FX Rate to ensure no regulation is violated
 - i. Ensure that ARB participants can only bid in USD, and Quebec participant in USD and CAD
 - j. Create separate monitoring/administrative roles for Quebec and California for the same auction
 - k. Enhance approval workflow so that sign-off on auction setup, participant approval, and auction results takes into account both Quebec and California sign-offs
- Scale the system's hardware and software resources to handle additional 200 organizations i.e. 1000 users. Conduct load and performance with higher volumes
- Support English and French in the content management system
- Produce reports on project status to WCI, Inc throughout the project lifecycle

Task 4 – Conduct Quebec/California Linked Auctions

- Create and deliver a French version of the communication materials i.e. presentations and training materials
- Add additional operational support resources for French MAP support

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Processes related MAP Software Development Life cycle

Processes related to the software development lifecycle will include

- Formal kickoff and team introductions
- Agreeing to frequency of status updates. Review status updates with technical and business leads
- Formalizing the process to facilitate issues management and quick turn around on questions
- Design and analysis will include:
 - Working with project lead at WCI, Inc. and the jurisdictions' technical and business leads
 - Facilitating working session to gather requirements and process workflows.
- Obtaining approval from WCI, Inc. for the updated linked requirements document.
- Working with WCI, Inc., its Participating Jurisdictions, and authorized contractors to create updated workflows and updated timelines. Prepare and update project timelines as needed.
- Conduct thorough internal testing (i.e. unit, functional, quality assurance, internal user acceptance (UAT), performance and load, and smoke testing)
- Facilitating UAT testing by WCI, Inc., Participating Jurisdictions, and other authorized contractors.
- Facilitating formal sign off of UAT testing
- Conducting training session for users including
 - Administration users
 - All jurisdictional auction participants

Items that are not in the scope of work include

- Any items not listed in this Scope of Work
- Set-up and conduction of Quebec reserve sales
- Update of WCI, Inc. or Quebec websites
- Update of other contractor websites, applications, platforms or processes
- Work related to linkage among jurisdictions other than CA and QC
- Additional (i.e., more than one) practice auction sessions
- Testing sessions for stakeholders

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Timelines and milestones

[Specific dates are subject to change and have been removed from the public version of this document]

The work related to the linkages project falls into three categories:

- 1) Quebec stakeholder auctions training meeting in Quebec
- 2) Quebec only practice auction.
- 3) California-Quebec Linked Auctions

Additional information can be found in the project timelines outlined below.

California – Quebec Linked Auction Project Timelines and Milestones

	Description	Time
1	Requirements gathering and translation of MAP	Jan – Feb 2013
2	Development, Quality Assurance, UAT Testing for Auction Set-up, ARS Landing Pages and Application Process	Mar – May 2013
3	Development, Quality Assurance, UAT Testing for Algorithm, Reports, Bidding Window, Emails, Monitoring and Auction Approvals and Certification Pages	May – August 2013
4	First linked auction	August 2013

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Cost proposal summary

The cost for work under this contract will be billed on a time and materials basis up to the maximum total amount shown for each task in the tables below:

- 1) Quebec stakeholder auction training (Table 1: [REDACTED])
- 2) Quebec only practice auction (Table 2: [REDACTED])
- 3) California-Quebec linked auction set-up (Table 3: [REDACTED])
- 4) French translation (Table 4: estimated at [REDACTED]. To be billed at cost.)
- 5) California-Quebec linked costs per auction (Table 5: [REDACTED] total for two)
- 6) Cyber Insurance costs (Table 6: estimated at [REDACTED]. To be billed at cost)

The labor categories and hourly rates to be used for billing this work on a time and materials basis under this contract are outlined in Addendum 1.

Table 1: Quebec stakeholder auction training *[Rate details have been removed from the public document for business confidentiality and competitiveness reasons]*

	Description	Time (weeks)	Cost USD
Subtask			
1	Develop stakeholder training presentation Translate presentation to French Travel to and from Quebec Delivery of stakeholder training presentation Facilitation of stakeholder question and answer session		
Total			[REDACTED]

Table 2: Quebec only practice auction *[Rate details have been removed from the public document for business confidentiality and competitiveness reasons]*

	Description	Time (weeks)	Cost USD
Subtask			
1	Conduct Bidder Practice Auction Qualification Process		
2	Receive Bids for Practice Auction		
3	Conduct Quarterly GHG Practice Auction		
4	Determine Settlement Price per GHG allowance and reports		
5	Conduct Practice Auction Survey		
Total			[REDACTED]

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Table 3: California-Quebec linked auction set-up *[Rate details have been removed from the public document for business confidentiality and competitiveness reasons]*

	Description	Time (weeks)	Cost USD
Subtask			
1	Make design updates to the following pages in MAP to include currency and jurisdiction indicators. - Public and Private Landing page - Auction page - Auction monitoring page		
2	Update designs to fit French translation into web pages		
3	Build the ability to maintain reserve prices CAD		
4	Build the ability to publish the latest Bank of Canada exchange rate available at noon EST on the day of the auction.		
5	Add process to accept and convert submissions in both CAD and USD during the application process for bid guarantees, and for bid submissions based on FX rate in the previous step. Bid Guarantee files submitted by DB will have CAD and USD amounts, update the MAP parser that reads this file to identify amounts in different currencies and store them appropriately.		
6	Build the ability to support multiple auctions and reserve sales on the same day		
7	Scale the system's hardware and software resources to handle additional 200 organizations i.e. 1000 users.		
8	Update the following downloadable reports with currency and jurisdiction indicators - Organization Report - Participant Report - Auction Registration Report - Bids Report - Bids Audit Report - Financial Settlement Report - Auction Results Report - Organization Result Report - Allowances Delivery Report - Consignment Sources Report		
9	New HTML email templates with the WCI branding will need to be built with requirements (email addresses, WCI verbiage/copy within email). This will require design, web development and alert engineering.		
10	Build a French version of the all public and private site pages		
11	Build the ability to let participant choose preferred language.		
12	Support French in the Content Management System.		
13	French version of the MAP Training Video		
14	Build a French version of all above mentioned downloadable reports accessed only by Quebec participants.		
15	New HTML email templates in French language enhanced with requirements (email addresses and coding recognition of Quebec participants to receive French emails). This will require web development, programming and additional alert engineering.		
16	Default primary language based on location		
17	Add ability for the algorithm to calculate one reserve price based on appropriate FX rate to ensure no regulation is violated		

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	Description	Time (weeks)	Cost USD
18	Ensure that ARB participants can only bid in USD, and Quebec participant in USD and CAD		
19	Create separate monitoring/administrative roles for Quebec and California for the same auction		
20	Enhance approval workflow so that sign-off on auction setup, participant approval, auction results takes into account both Quebec and California sign-offs.		
Total			

Table 4: French translation costs

	Description	Costs USD
1	Translation from English to French of all MAP web pages (To be passed through by Markit and billed at-cost from translation service. Initial estimates are under [REDACTED].)	\$ [REDACTED]

Table 5: California-Quebec linked costs per auction *[Rate details have been removed from the public document for business confidentiality and competitiveness reasons]*

The work and costs described under this task cover up to two CA-QC linked auctions in 2013, currently planned for August and November 2013. Markit will bill WCI, Inc. under this contract for the costs of running up to two linked auctions in 2013 on a time and materials basis, up to a maximum of [REDACTED] per linked auction. Under this linked auction scenario, Markit will not bill for running a CA-only auction under their contract with ARB. If the first CA-QC linked auctions are delayed, Markit will continue to bill CA directly for all CA-only auctions that take place in 2013 and will not bill WCI, Inc. for any costs associated with CA-only auctions. If the linked auctions are delayed and QC elects to hold a QC-only auction in 2013, the schedule and work to be done to support any QC-only auctions in 2013 will be negotiated between WCI, Inc. and Markit and reflected in an amendment to this contract.

Subtask	Description	Time (weeks)	Cost USD
1	Conduct Bidder Auction Qualification Process		
2	Receive Bids for Auction		
3	Conduct Quarterly GHG Auctions		
4	Determine Settlement Price and/or successful and unsuccessful bids per GHG allowance and reports		
5	Rerun Auction (TBD)		
6	Communicate Value of Bids to ARB, QC, & Marketing Analytics		
Total Estimated Costs per Linked Auction			
Maximum Total Invoice Cost per Linked Auction for up to Two Linked Auctions			[REDACTED]

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Table 6: Cyber insurance costs

	Description	Costs USD
1	Provide cyber insurance for the duration of the contract. The insurance will be no less than [REDACTED] per occurrence or claim, and [REDACTED] aggregate. The insurance shall include security and privacy liability, media liability, and cyber extortion. The cost of this insurance will be billed to WCI, Inc. as a direct expense under this contract at Markit's actual cost with no mark-up. The initial estimate of this cost is [REDACTED]. If requested by WCI, Inc., Markit shall immediately request termination of this cyber insurance consistent with the terms of the policy and any refund for cancelled coverage shall be credited to WCI, Inc.	[REDACTED]

Assumptions

Additional requirements will be implemented on the existing MAP application and processes.

Quebec and the WCI, Inc asserts the existing MAP platform meets all functional requirements and only the additional items outlined here in the scope are in scope will be added. However QC will use the existing infrastructure designed and developed for Quebec.

The project timeline for linked auctions are dependent upon the project status of California February Auction and March Reserve Sale project status.

The project timelines assume two-working day turnaround time on information requiring clarification, and open issues outlined in the project status reports.

The timeline outlined is only for MAP integration with the existing California contractors' platforms for: Market Monitoring (Monitoring Analytics), Financial Services Administration (Deutsche Bank) and Compliance Instrument Tracking (SRA).

Addendum 1

Labor Categories and Billing Rates *[Rate details have been removed from the public document for business confidentiality and competitiveness reasons]*

Job Classification	Average Annual Salary	Hourly Rate
Developers		
Web Developers		
Web Designers		
Testers		
Business Analysts		
Project Manager		
Product Manager		
Account Manager		
Support and Operations		
Security		
Legal/Compliance		

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