



Request for Proposal
Enterprise Architecture Services

RFP No. 2018-02

This RFP is available on the Western Climate Initiative, Inc. (WCI, Inc.)
website at www.wci-inc.org/rfp-enterprise-architect.php

Release Date:
08/03/2018

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Request for Proposal - Enterprise Architecture Services

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Request for Proposal

Enterprise Architecture Services

1. Purpose and Objectives

The Western Climate Initiative, Inc. (WCI, Inc.) is requesting proposals from qualified firms to perform independent comprehensive Enterprise Architecture Services (EAS). The purpose of the EAS is to achieve greater alignment between information technology and business strategies and to guide the process of planning and designing the Information Technology (IT)/Information Systems (IS) capabilities of WCI, Inc. to meet desired organizational objectives and goals.

WCI, Inc. has recently finished an IT technical assessment of one of the systems that is currently utilized in the cap-and-trade program. During this assessment, opportunities for improving the processes and systems that support registration, tracking and compliance functions of the cap-and-trade program were identified. WCI, Inc. is interested in expanding on this technical assessment to evaluate the entire portfolio, functions and related services supporting the cap-and-trade program.

The Contractor will assist WCI, Inc. to transform the current technology infrastructure and systems for the cap-and-trade program into a more cost-effective, scalable and sustainable solution. The Contractor is expected to find mechanisms to improve our technology service provider functions so WCI, Inc. can support the future goals of the cap-and-trade program.

The Contractor will work with stakeholders, both leadership and subject matter experts, to build a holistic view of the organization's strategy, processes, information and information technology assets.

The Contractor will link the mission, strategy, and processes of the organization to its IT strategy and document this using various architectural models or views that show how the current and future needs of the organization will be met in an efficient, sustainable, agile and adaptable manner.

The comprehensive EAS shall meet the following WCI, Inc. objectives:

- Develop a comprehensive understanding of the current processes related to application design, architecture, software development, IT infrastructure, hosting and maintenance, database management, IT security, controls, document management, system performance and other applied business operations, practices and procedures of the organization applications.
- Determine the ability of the applications to scale successfully to accommodate a range of future expansions to support WCI, Inc. and the Participating Jurisdictions, including an estimate of escalating costs as expansion occurs.
- Evaluate the efficiency and sustainability of the current business and IT processes, procedures, controls, and methodologies.
- Identify gaps, risks, issues and opportunities to meet WCI, Inc.'s and the Participating Jurisdictions' needs.
- Develop recommendations to ensure scalability and sustainability of the applications, eliminate or reduce software and process inefficiencies, increase productivity, and create new functionalities that benefit the cap-and-trade program.

The Contractor shall document comprehensive findings of the EAS based on documentation review, as well as interviews with WCI, Inc., contractor personnel and Participating Jurisdiction staff. The selected Contractor will propose a plan to provide services consistent with industry standards and best practices evaluating and making recommendations in the following areas listed below:

- **Business Value:** Assess the business value of functionality needed to support the cap-and-trade portfolio versus what is currently available today. This will be accomplished by recommending scope, prioritization, gaps and alignment strategies across the multiple portfolio systems.
- **Cross-Program Governance:** Ensure the use of an enterprise architecture framework and Governance program that intertwines with and supports the WCI, Inc. Project Management Office (WCI, Inc. PMO). This will be based on industry standard enterprise architecture frameworks but will be tailored to suit the needs and best fit for WCI, Inc.
- **Cross-Program Compliance:** assess development of the cap-and-trade systems by different vendors which have an impact across the enterprise. This will include the recommendations for introducing standards, practices and principles whereby vendors will be evaluated, selected and managed.
- **Technology Selection:** analysis and recommendations related to the selection of various technologies that will support the future needs of the cap-and-trade program and its various functions.
- **Enterprise Organizational Change Management:** related to the future state of the organization and the system impacts and business process changes needed.
- **Program Management & Execution:** a Project Management Governance structure is in the process of being established to support and manage the projects that impact the cap-and-trade systems. The WCI, Inc. PMO supports the following functions: manage the overall projects and system development to include dependencies between various systems and vendors, establish consistent project management processes and tools, facilitate interaction throughout governance. The Contractor will conduct analysis, reinforce and make recommendations related to the implementation of the WCI, Inc. PMO, roles and responsibilities, issues where there are, or may be cross program impacts or conflicting views presented by participating Jurisdictions, effectiveness of decision making within projects, prioritization techniques within the programs and teams and across the portfolio.
- **Cross-Program Risk management:** cross program impacts of risks identified within individual projects and programs
- **Procurement/Vendor/Contract Management:** definition of future solicitation content, including milestone dates, deliverables and key performance indicators.

2. Background

The Western Climate Initiative (WCI) **partnership**¹ represent the largest carbon market in North America, and the only one developed and managed by governments from two different countries. The WCI partnership covers a population of more than 60 million people and about 3 trillion USD / 4 trillion CAD in gross domestic product (GDP).

Western Climate Initiative, Inc. (WCI, Inc.) is a **non-profit corporation** formed in 2011 to support the implementation of state and provincial greenhouse gas (GHG) emissions trading programs. California, Ontario, Québec², and Nova Scotia (Participating Jurisdictions) participate in the WCI carbon market, building on their common, continuous and collaborative efforts to tackle climate change and reduce GHG emissions from multiple sources in the most cost-effective way possible. The administrative and technical support provided by WCI, Inc. can be expanded to support jurisdictions that join in the future. Each Participating Jurisdiction specifies its regulatory and administrative requirements, and WCI, Inc. provides administrative and technical support that meets these specifications.

Most of the support provided by WCI, Inc. is highly technical and has been developed through the use of specialized contractors:

- The development and administration of the Compliance Instrument Tracking System Service (CITSS) serves as a single registry for all Participating Jurisdictions;
- The development and administration of the GHG allowance auction and reserve sale platform, used by each jurisdiction to auction emission allowances under their cap-and-trade programs and to conduct reserve sales;
- The performance of analyses by an independent market monitor to support market monitoring performed by each jurisdiction; and
- Financial administrative services for auctions and reserve sales, which includes evaluation and management of bid guarantees submitted by applicants, financial settlement for sold allowances and the distribution of auction proceeds to the jurisdictions and consigning entities.

The selected Contractor for this RFP will work closely with WCI, Inc. who shall facilitate and establish necessary communication channels with vendors and the Participating Jurisdictions to conduct the EAS. The Contractor will need to conduct interviews with Participating Jurisdiction and WCI Inc. contractor personnel and evaluate a variety of documents. These documents include contract agreements, business processes, technical documents, and other relevant material.

3. Statement of Work Summary

This section summarizes the Statement of Work (SOW) that describes the EAS that WCI, Inc. is seeking from a qualified Contractor and will be incorporated into the definitive Agreement between WCI, Inc. and the Contractor. The services consist of five main tasks:

¹ A collaboration among Western states and Canadian provinces to tackle climate change at a regional level which developed the [2008 Design Recommendations for the WCI Regional Cap and Trade Program](#) and the [2010 Design for the WCI Regional Program](#). For more details, see the [WCI website](#).

² California: www.arb.ca.gov/cc/capandtrade/capandtrade.htm, Québec: www.mddelcc.gouv.qc.ca/changes/carbone/Systeme-plafonnement-droits-GES-en.htm, Ontario: www.ontario.ca/page/cap-and-trade

Task 1: Enterprise Architect Services Plan and Work Schedule

The Contractor shall prepare an EAS Plan (“Plan”) and Work Schedule that will meet the project objectives and the timeframe outlined in Section 4 of this RFP.

The Contractor will attend a kick-off meeting with WCI, Inc. and Participating Jurisdiction staff to discuss the project. The Contractor shall develop and submit a Draft and Final Plan and Work Schedule outlining how the Contractor will conduct the EAS and when tasks will be completed. The Contractor must adequately plan and document the work necessary to address the EAS objectives. The Contractor must plan to obtain reasonable assurance that the evidence and information available is sufficient and appropriate to support the Contractor’s findings and recommendations.

The Plan must include a clear description of the following:

- EAS objectives and scope.
- Information and materials that the Contractor will need to collect to perform the EAS.
- Industry best practices and performance standards that are applicable and will be utilized to deliver the EAS.
- Methods and procedures for conducting the assessment.
- Metrics to support findings and criteria used for determination and development of recommendations.
- A proposed Final Report format template (See Task 5 for more detail).

Deliverables:

- **Draft Plan and Work Schedule:** The Contractor shall deliver a Draft Plan and Work Schedule two weeks after the kick-off meeting, or as otherwise agreed upon by the parties . The Draft Plan and Work Schedule shall cover all details as specified in the contract. WCI, Inc. shall provide comments to the Contractor for incorporation into the Final Plan and Work Schedule.
- **Final Plan and Work Schedule:** The Contractor shall deliver the Final Plan and Work Schedule two weeks after receipt of comments from WCI, Inc.

Task 2: Enterprise Architecture Governance Program

The Contractor will work with WCI, Inc. and Participating Jurisdiction staff to define and implement an organizational enterprise architecture program incorporated within the WCI, Inc. governance model.

- Evaluate and determine the current enterprise architecture capability and current maturity level
- Develop and conduct enterprise risk, change management and readiness assessment for implementation of the enterprise architecture program
- Define and recommend a tailored enterprise architecture framework for the cap-and-trade program based on industry best standard practices
- Define the education, training, roles, responsibilities and resources needed for the WCI, Inc. Governance program
- Develop measures and processes to evaluate the success of the enterprise architect program

Deliverables:

- **Draft Enterprise Architecture Governance Report I** presenting comprehensive findings, next steps, implementation plan, timeline and work schedule to deploy the enterprise architecture governance program within the organization

- **Final Enterprise Architecture Governance Report I.** The Contractor shall deliver the Final Enterprise Architecture Governance Report I two weeks after receipt of comments from WCI, Inc.
- **Presentation to WCI, Inc. and Participating Jurisdiction staff**

Task 3: Implement an organizational enterprise architecture program incorporated within the WCI, Inc. governance model.

- Establish and implement IT enterprise architecture governance processes and procedures, roles and responsibilities, education, training and change management of the organization for the enterprise architecture program
- Identify key team members needed for the enterprise architecture program and train members on responsibilities
- Implement learning sessions on governance subjects, education and training needs of the organization for the enterprise architecture program
- Implement measurements, key performance indicators and metrics that will reinforce and show the value of the enterprise architecture program

Deliverables:

- **Draft Enterprise Architecture Governance Report II** presenting governance processes and procedures, roles and responsibilities, education, training, measurements, key performance indicators and metrics, and change management of the organization for the enterprise architecture program and next steps
- **Final Enterprise Architecture Governance Report II.** The Contractor shall deliver the Final Enterprise Architecture Governance Report II two weeks after receipt of comments from WCI, Inc.
- **Governance training materials**
- **Presentation to WCI, Inc. and Participating Jurisdiction staff**

Task 4. Current and Future State Analyses

Task 4.1: Conduct Current State Analysis

The Contractor will perform current state analysis of WCI, Inc.'s IT infrastructure and systems, organization to IT alignment, IT operations, methodologies, tools, standards, and reference models for the organization. Working with the WCI, Inc. team the Contractor will complete the following:

- Document current system designs including enterprise core diagrams, models and views that describe the current state of the organization such as: functional, integration, information security and other views as needed
- Conduct gap analysis to identify technical and functional gaps, including but not limited to: security, data content, data storage, interfaces, disaster recovery, etc. to identify risks and mitigation measures.
- Participate in meetings with stakeholders to understand the future vision of the cap-and-trade program

Deliverables:

- **Draft Current State Analysis Document**
- **Final Current State Analysis Document.** The Contractor shall deliver the Final Current State Analysis Document two weeks after receipt of comments from WCI, Inc.

Task 4.2: Conduct Future State Analysis

The Contractor will perform future state analysis of WCI, Inc.'s IT infrastructure and systems, organization to IT alignment, IT operations, methodologies, tools, standards, and reference models for the organization.

- Identify current and emerging technologies applicable to the cap-and-trade program.
- Produce end-state definition, including target portfolio, technologies, infrastructure, system architecture, sourcing and staffing models.
- Develop standards and procedures for information technology acquisition and utilization
- Establish information technology best practices and standards for WCI, Inc.

Deliverables:

- **Draft Future State Analysis Document**, which will include documenting the cap-and-trade program technology options, timelines and costs
- **Final Future State Analysis Document.** The Contractor shall deliver the Final Future State Analysis Document two weeks after receipt of comments from WCI, Inc.

Task 5: Roadmap and Enterprise Architecture Services Final Report

Upon completion of Task 4 the Contractor will provide the Enterprise Architecture Services Final Report, which includes creating a multi-year roadmap to visualize how WCI, Inc. will evolve from the present-day architecture to the future architecture. The roadmap should outline the steps WCI, Inc. will take to evolve in the coming years.

The technology roadmap will be used to set the strategy and timeline for all product efforts across the entire group and set of products in the organization. The roadmap will outline the plan across multiple products understanding the overall direction and strategy across the organization and how they are associated with one another. The roadmap will provide a visualization linking all the complex relationships that exist across the different products and how each product relates to the overall organizational strategy and key initiatives and will assist the stakeholders in a better understanding of decisions pursued across the suite of products and solutions. The roadmap will provide clarity and objectivity at the macro and micro levels as well as new product opportunities and will map strategic goals and objectively show where there is not yet a market product that works toward a specific goal.

The roadmap will ensure that each product in the portfolio is working on building the right features and focused on the key initiatives that roll up to initiatives at the product line levels and assist the organization in identifying risks of building the wrong things and working on initiatives that are inconsistent with the organization's goals. The roadmap will help WCI, Inc. better understand the overall direction as well as the success metrics that WCI, Inc. wants to achieve and identify large, strategic and tactical projects which can be implemented to reach the organizational goals. Additionally, the roadmap will present a prioritization regarding which initiatives will have the biggest impact on the organization's goals utilizing a prioritization scorecard for the most important factors for ranking initiatives and data-driven scores to identify which strategic initiatives matter most for achieving the vision and goals.

Below is the preliminary outline for the Enterprise Architect Services Final Report. This outline is provided to illustrate a minimum expected level of organization and content. In reporting

findings, observations, and recommendations, additional sections may be included based on the proposed methods and the results of the assessment.

1. Executive Summary
2. Overview and Enterprise Architect Services Objectives
3. Scope and Methodology
4. Observations and Analysis
5. Recommendations
6. Implementation Plan with timeline (the multi-year “Enterprise Architect Services Roadmap”)
7. Cost Estimates
8. Appendices (All findings from the Enterprise Architect Services)

Supporting Documentation shall include:

- The basis for each finding,
- How findings relate to the objectives and requirements of the Enterprise Architect Services,
- Prioritized recommendations for improvements while documenting the pros and cons,
- An Implementation Plan (Roadmap) to address the recommendations that identifies the timeline and estimated costs for implementation.

Deliverables:

- **Draft Enterprise Architect Services Final Report**, including without limitation, the Enterprise Architect Services Roadmap
- **Final Enterprise Architect Services Final Report**. The Contractor shall deliver the Final Enterprise Architect Services Final Report two weeks after receipt of comments from WCI, Inc.

4. General Proposal Requirements and Information

This section contains instructions for the submission of a proposal. It is the responsibility of the Offeror to carefully read and follow all proposal requirements within this RFP. Compliance with the RFP instructions is mandatory for a proposal to be considered for award. Failure to comply with the RFP instructions may cause a proposal to be deemed non-compliant or non-responsive, and thus ineligible for award.

Interested parties are encouraged to visit the WCI, Inc. website for more information and potential updates to the solicitation, and to subscribe to the electronic mailing list.

4.1 Key Dates

The following table outlines the time schedule for this RFP. WCI, Inc. reserves the right to modify the RFP and/or change dates and times at its sole discretion, prior to the date fixed for submission of proposals, by posting a notice on the WCI, Inc. website at: www.wci-inc.org/rfp-enterprise-architect.php. Any clarifications to the solicitation will be issued prior to the due date and shall be provided as a notice posted on the website. WCI, Inc. reserves the right to modify or cancel this RFP in whole or in part.

Key Action	Date	Time*
RFP Available to Prospective Offerors	August 3, 2018	N/A
Offerors' Written Questions Submittal Deadline	August 10, 2018	5:00 p.m.
Question Responses Due from WCI, Inc.	August 20, 2018	5:00 p.m.
Final Date for RFP Electronic Submission/Receipt by WCI, Inc.	August 29, 2018	5:00 p.m.
Anticipated Period of Performance	September–December 2018	N/A
* All Times are Pacific Daylight Time (Pacific Time or PT).		

All questions related to the RFP requirements must be submitted in writing via e-mail to: rfp@wci-inc.org

All questions submitted via e-mail will be posted with responses on the WCI, Inc. website at: www.wci-inc.org/rfp-enterprise-architect.php on or about the date indicated above. Only information issued in writing by WCI, Inc. as an official notice should be relied upon.

4.2 General Proposal Requirements

The proposal must contain the information outlined below. The proposal must be submitted in a clear, organized manner that facilitates evaluation. Each requirement's location must be listed in the Proposal's Table of Contents.

1. The proposal should provide straightforward and concise descriptions of the Offeror's ability to satisfy all the requirements of this RFP. The proposal must be complete and accurate. Omissions, inaccuracies, or misstatements will be sufficient cause for rejection of a proposal. RFPs must state the Offeror's interest, ability, and commitment to complete the requested Enterprise Architect Services listed in the RFP.

2. Offerors must use Times New Roman 11 or similar font, single spacing, and one-inch margins.
3. The Offeror understands this RFP is issued by WCI, Inc. and the contract awarded will be entered into with WCI, Inc. The Offeror understands that it has no right to protest or challenge any evaluation or contract awarded under this RFP. The Offeror further understands and agrees that WCI, Inc., the Participating Jurisdictions, and any of their respective funding sources, shall have no liability to Offeror for any damages of any kind, including indirect, consequential, or special damages or lost profits which arise from, relate to, or is connected with this RFP, including the RFP's competitive process, the evaluation of proposals, the selection of a successful Offeror, and any failure to enter into an Agreement with an Offeror.

The contract award, if any, shall be made to a qualified and responsible Offeror whose bid is responsive to this RFP. A responsible Offeror is one whose financial, technical, and other resources indicate an ability to perform the services required by this RFP.

4. The proposal must contain all the components, information, and documents as outlined below:

Required Proposal Sections	
a.	Title Page
b.	Cover Letter
c.	Table of Contents
d.	Executive Summary
e.	Technical Proposal (See RFP Section 5) <ul style="list-style-type: none"> • Experience on Similar Projects • Key Personnel's Qualifications and Relevant Experience <ul style="list-style-type: none"> o Résumés • Technical Approach • Proposed Management Plan • Potential Conflicts of Interest
f.	Cost Proposal (See Section 6), including Price and Payment Criteria
g.	Offeror's Requested Revisions to the General Terms and Conditions (See the General Terms and Conditions in Attachment B)
h.	Offeror's Reference Form (See the template in Attachment F)

a. Title Page.

- Title: Enterprise Architect Services
- RFP No. 2018-02
- Date of Bid Submission
- Company Name

- b. Cover Letter.** The cover letter must not be more than two (2) pages and must include the following paragraph and the signature of the representative authorized to make the proposal on behalf of the Offeror:

“The enclosed proposal is submitted in response to the above-referenced RFP #2018-02, including any addenda. Through submission of this proposal, we agree to all the terms and conditions of the RFP, and agree that any inconsistent provisions in our proposal may result in a lower score, up to and including disqualification. We have carefully read and examined the RFP, and have conducted such other investigations as were prudent and reasonable in preparing the proposal. We agree to be bound by statements and representations made in our proposal.”

The cover letter must be provided on the company’s letterhead and include the following information:

- The name and address of the company (Note: A Post Office box may be used, but the company’s street address must be provided for records).
- The name, title, and signature of a company official. Only an individual who is authorized to bid on behalf of the proposing firm contractually shall sign the required Cover Letter for the proposal. The signature must indicate the title or position that the individual holds in the firm. An unsigned proposal may be rejected.
- A statement to the effect that the proposal is an irrevocable offer good for 180 working days after submission.

c. Table of Contents.

d. Executive Summary. The summary of the proposal shall not be longer than one (1) page.

e. Technical Proposal. The details to be included in the Technical Proposal can be found in Section 5 of this RFP, Technical Proposal Requirements.

f. Cost Proposal. The details to be included in the Cost Proposal can be found in Section 6 of this RFP, Cost Proposal Requirements.

g. Offeror’s Requested Revisions to the General Terms and Conditions. This section includes the Offeror’s requested revisions to WCI, Inc.’s General Terms and Conditions (See Attachment B) for performing the work.

h. Offeror’s Reference Form. Three (3) references illustrating previous work experience (See Attachment C).

4.3 Proposal Submission

1. The proposals must be submitted in English.
2. Proposals must be received electronically as a single Portable Document Format (PDF) file at rfp@wci-inc.org by the deadline noted in Section 4.1, Key Dates. The format must be text-searchable and not a scanned or “image only” document. Proposals received after the final date and time for submission/receipt by WCI, Inc. may be considered at WCI, Inc.’s discretion.
3. Each proposal will be audited to determine if it meets the proposal requirements contained in Section 5, Technical Proposal Requirements and Section 6, Cost Proposal Requirements. Failure to meet the requirements for the RFP may be a cause for rejection of the proposal.
4. A proposal may be rejected if it is incomplete, conditional, or if it contains any alterations of form or other irregularities of any kind. WCI, Inc. may reject any or all

proposals and may waive any immaterial deviation in a proposal. The waiver of immaterial defect shall in no way modify the RFP document or excuse the Offeror from full compliance with all requirements if the Offeror is awarded the Agreement.

5. WCI, Inc. may modify the RFP up until the final date for proposal submission/receipt by WCI, Inc., identified in Section 4.1, Key Dates by the issuance of a notice posted on the WCI, Inc. website.
6. WCI, Inc. reserves the right to reject all proposals.
7. More than one proposal from an individual, firm, partnership, corporation, or association under the same or different names will not be considered. Reasonable grounds for believing that any Offeror has submitted more than one proposal for the work contemplated herein may cause the rejection of all proposals submitted by that Offeror. If there is reason to believe that collusion exists among the Offerors, none of the participants in such collusion will be considered in this procurement.

4.4 Modification and/or Withdrawal of Proposals

1. An Offeror may modify a proposal after its submission by withdrawing its original proposal and resubmitting a new complete proposal as described in Submission of Proposals above, prior to the final date for proposal submission, defined in Section 4.1, Key Dates. Modifications offered in any other manner, oral or written, will not be considered.
2. An Offeror may withdraw its proposal by submitting a written withdrawal request to WCI, Inc. signed by the Offeror or an agent authorized in accordance with Section 4.6, Signature. An Offeror may thereafter submit a new complete proposal as described in Submission of Proposals above, prior to the final proposal submission deadline defined in Section 4.1, Key Dates. Proposals may not be withdrawn without cause after proposal submission deadline.

4.5 Offeror's Responsibilities

1. Offerors should carefully examine the entire RFP, with special attention to the tasks and deliverables and proposal requirements. Offerors shall investigate obstacles that might be encountered while planning and in performance of the agreed tasks. No additions or increases to the Agreement amount will be made due to a lack of careful examination of the requirements.
2. Before submitting a response to this solicitation, Offerors should review their response, correct all errors, and confirm compliance with the RFP requirements.
3. All costs and expenses incurred by the Offeror in connection with this RFP, including costs incurred for developing proposals in anticipation of award of the Agreement and prior to any execution of the Agreement, are entirely the responsibility of the Offeror and shall not be charged to WCI, Inc.
4. It is the Offeror's responsibility to promptly notify WCI, Inc. by e-mail if the Offeror believes that the RFP is unfairly restrictive, contains errors or discrepancies, or is otherwise unclear. Notification must be made immediately upon receipt of the RFP so that the matter may be fully considered, and appropriate action taken by WCI, Inc.
5. Each proposal constitutes an irrevocable offer for a period of one-hundred-and-eighty (180) working days after proposal submission.

6. If awarded the contract, the Contractor must be in good standing and must be qualified to do business in any jurisdiction where services will be performed at the time the contract is executed and during the entire term of the contract.

4.6 Signature

1. All documents requiring signatures contained in the original proposal package must have the Offeror's authorized personnel signatures.
2. Only an individual who is authorized to bind the Offeror contractually shall sign the required Cover Letter for the proposal. The signature must indicate the title or position that the individual holds in the firm. An unsigned proposal may be rejected.

4.7 Disposition of Proposals

1. Upon proposal opening, all materials submitted in response to this RFP will become the property of WCI, Inc. and shall not be returned to the Offeror. An Offeror has no right to audit any proposal made by any other Offeror. All submitted materials will be held in confidence subject to applicable laws.
2. The successful Offeror's entire proposal, except for confidential business information (to be determined by joint agreement between WCI, Inc. and the Contractor) shall be a public document following execution of a contract with WCI, Inc.

5. Technical Proposal Requirements

The General Proposal requirements are set forth above in Section 4.2. All pages of the proposal, including cover pages, table of contents, references, and résumés, shall have the following header and page numbering format in the upper right-hand corner:

Offeror Name
RFP No. 2018-02
Page ## of ##

There is no page limit to the Technical Proposal, but Offerors are requested to be as succinct as possible in their responses.

5.1 Key Personnel's Qualifications and Relevant Experience

The Offeror shall provide brief summaries and resumes of all personnel proposed to conduct the Enterprise Architect Services outlined in the Statement of Work, including:

- Current titles, tasks, roles, and responsibilities
- Participation in similar projects
- Roles and authorities of each professional to be performed in the Enterprise Architect Services
- Identifying which personnel are considered “key personnel” who will have a significant role in providing the services.

WCI, Inc. recognizes that a professional may qualify for more than one profile/skill and shall consider other relevant experiences as deemed essential for the job.

If subcontractors are to be used, the Offeror must include in the Technical Proposal a description of each person or firm and the work to be done by each subcontractor. All subcontracts must be approved by WCI, Inc., and no work shall be subcontracted without the prior written approval of WCI, Inc. The Contractor shall not substitute key personnel or subcontractors without prior written approval of WCI, Inc.

The Offeror's personnel will be evaluated on the extent to which they possess the appropriate technical knowledge, experience, and expertise to perform the tasks described in this RFP. The qualifications and experience of key personnel shall be evaluated through information provided in the Technical Proposal and their résumés.

The Offeror shall ensure to the greatest degree possible that the agreed-upon levels of services are provided. The Offeror must be available to provide support to WCI, Inc. during normal business hours (8:00 a.m. to 5:00 p.m.), Monday through Friday, excluding holidays recognized by both the U.S. and Canada). At the discretion of WCI, Inc., normal business hours may be adjusted as needed to better serve the needs of the Participating Jurisdictions' programs.

It is the responsibility of the Contractor to maintain adequate and qualified staffing to perform the Enterprise Architect Services. If necessary, the Contractor may replace or add Key Personnel to provide the services with prior written notice to WCI, Inc. The Contractor shall ensure that all staff assigned within thirty (30) days following the effective date of the Agreement and all future staff added to perform Work for the Agreement are sufficiently trained, qualified to perform activities, and properly identified and evaluated for security purposes, including meeting the regulatory specifications for access to any and all cap-and-trade applications. All conflict-of-interest and

confidentiality forms for personnel must be signed and submitted to WCI, Inc. within five (5) days of assignment to the project and prior to gaining access to any data.

5.2 Summary of Technical Approach to the Services

The Offeror shall provide a brief (five pages or less) outline demonstrating a solid grasp of the subject area, as well as a sound, feasible, and achievable technical approach to the project (“Technical Approach”). The outline should include processes, procedures, and specific techniques that will be used, as well as administrative and operational management controls to ensure timely delivery and high-quality performance of each task required in this RFP.

The Offeror shall indicate how its knowledge and skills developed in previous work will be applied to the RFP’s tasks. Offerors may use sample deliverables and examples from other projects to describe how the tasks will be performed.

The summary should outline an approach and plan to provide services that demonstrates understanding of the services desired and the method the Offeror proposes to complete these services.

The description shall outline the approach for performing each of the tasks for the EAS discussing the following:

- Current services or programs offered that will be used to meet the objectives of the EAS.
- Administrative and operational management controls that will be used to ensure timely delivery and high-quality performance of each task.
- A timeline for all assessment activities to be performed, as needed, to meet the objectives of the EAS.
- Any key anticipated risks, issues, or potential technical barriers to successful performance of each task within the timeline presented, as well as methods to resolve these risks.
- Alternatives and options leading to effective solutions to achieve the purpose of this project and to ensure that each task is successfully completed within the indicated schedule.

5.3 Proposed Management Plan

The Offeror shall provide a proposed Management Plan, including a management structure and project organization that can provide effective project control. A major consideration in the evaluation of the Management Plan will be the Offeror’s strategy to ensure effective communication and coordination with WCI, Inc. The proposal must list the hours and overall percentage of time of the key personnel will spend on each work area/topic they intend to perform in delivering the services outlined in the RFP. The Management Plan shall address the following points:

- Clear delineation of all project management responsibilities, processes, and coordination with WCI, Inc. necessary to ensure successful completion of required tasks.
- A description explaining what processes, tools, and/or techniques the Contractor will utilize to manage the workflow to stay on schedule.
- Steps that will be taken to remedy any unplanned deviations from the schedule.
- Specific performance metrics that may be used to gauge progress of the implementation of task requirements, including the format for monthly progress reports that can be used to monitor performance and progress of each task. The monthly progress reports should include, among other factors, activities undertaken during the month; hours worked during the month by each of the Key Personnel, along with total hours; activities anticipated for the following month; any issues encountered with resolution plans; and key deliverables.

- Demonstrate understanding of the major risks involved with the Enterprise Architect Services, as well as a clear, workable plan to mitigate the identified risks.

5.4 Potential Conflicts of Interest

The Contractor and its agents, representatives, and subcontractors must mitigate conflicts of interest between the Enterprise Architect Services required under this Agreement and services provided by the Contractor to other clients or the Contractor's other business operations.

Each Offeror must also disclose any potential real or perceived conflicts of interest and outline how such conflicts will be mitigated. The Offeror must also describe any formal policies or procedures that will identify and mitigate potential future conflicts of interest, and ensure that the Offeror's organization, management, and employees avoid financial interests and activities that create potential and actual conflicts of interest.

6. Cost Proposal Requirements

The cost proposal shall include an estimated number of hours, per person, for each deliverable of each Task and each technology component (if any) to provide the Enterprise Architect Services, as well as a proposed total cost for each deliverable and Task. For each deliverable and Task, the proposed cost shall be calculated based on the proposed number of hours it will take to complete each Task within the overall proposed timeline.

An Offeror shall provide its best estimate of the price for providing the work outlined in the RFP and shall include all costs associated with the services. For deliverables that require a draft and final deliverable, the cost proposal should include a price for the final deliverable only, and that price must be inclusive of all costs to produce the draft and final deliverable. The winning Offeror is required to provide the services at the proposed price set forth in the Offeror’s Cost Proposal unless both parties agree to a modification. A ten percent (10%) holdback will be applied to each invoice for services rendered by the Contractor so that ten-percent (10%) of each invoice is withheld by WCI, Inc. Upon WCI, Inc.’s acceptance of all deliverables for each Task, the holdback amount will be remitted to the Contractor.

The Offeror’s best estimate of total costs shall represent the total maximum consideration to be paid to the Contractor in compensation for all the Contractor’s expenses incurred in the performance of the Work. The Cost Proposal should be consistent with the project schedule proposed in the Technical Approach. Any cost/schedule trade-offs should be clearly explained; for example, if an accelerated schedule would entail higher costs, these costs should be fully disclosed.

An example Cost Proposal is provided below in a format to provide sufficient detail for WCI, Inc.’s review. Price, payment and invoicing criteria based on the Cost Proposal are discussed below in Section 6.1, Price and Payment Criteria, and in Attachment A, Invoicing and Payment Provisions.

Offerors are not required to use the exact format of the example cost proposal table below, but the level of detail for the cost proposal must be consistent with the table.

Task Description	Hours	Rate (\$/hr)	Not-to-Exceed Total Per Task
Task 1. Enterprise Architect Services Plan and Work Schedule <u>Deliverable:</u> Final Plan and Work Schedule (list individual personnel if applicable.) For example: Project Manager Analyst	80 total hours 75 hours 25 hours 50 hours (these amounts are only examples)	<i>Note each individual’s rate</i>	Include: -Total Amount Per Task -Total Amount Per Deliverable -Total Amount Per Person
Task 2. Enterprise Governance Program <u>Deliverable:</u> Enterprise Architecture Governance Report I (list individual personnel if applicable.) <u>Deliverable:</u> Presentation to WCI, Inc. and Participating Jurisdiction Staff (list individual personnel if applicable.)			
Task 3. Implement Enterprise Architect Governance Program <u>Deliverable:</u> Enterprise Architecture Governance Report II (list individual personnel if applicable.) Deliverable: Governance Training Materials (list individual personnel if applicable.)			

<u>Deliverable</u> : Presentation to WCI, Inc. and Participating Jurisdiction Staff <i>(list individual personnel if applicable.)</i>			
Task 4. Current and Future State Analyses			
Task 4.1 Current State Analysis <u>Deliverable</u> : Current State Analysis Document <i>(list individual personnel if applicable.)</i>			
Task 4.2 Future State Analysis <u>Deliverable</u> : Future State Analysis Document <i>(list individual personnel if applicable.)</i>			
Task 5. Roadmap and Enterprise Architect Services Report <u>Deliverable</u> : Enterprise Architect Services Final Report <i>(list individual personnel if applicable.)</i>			
Not-to-Exceed Total for All Tasks			

6.1 Price and Payment Criteria

1. Payments made by WCI, Inc. shall be on a time and materials basis for each deliverable set forth in this RFP. Acceptance of a deliverable is at the sole discretion of WCI, Inc. and that acceptance will be provided in writing only after it is confirmed that the deliverable meets all requirements in the SOW and all WCI, Inc. comments are addressed. Requirements for invoicing for payments are described in Attachment A: Invoicing and Payment Provisions.
2. Monthly Progress Reports and deliverables shall be submitted electronically to WCI, Inc.
3. Contractor understands and agrees that this is a firm fixed-price contract and that there shall be no allowances or reimbursement for any additional costs except as otherwise explicitly provided in this Agreement or as agreed upon by the parties.
4. Contractor agrees to fulfill its obligations under this Agreement, regardless of cost, for the sole and sufficient compensation stated in its Cost Proposal (or as otherwise agreed by the parties), with no expectation of additional compensation. WCI, Inc. will not be obligated to pay the Contractor any amount more than the Cost Proposal submitted by the Offeror (or as otherwise agreed by the parties) as specified in this section.
5. Payment will be in U.S. dollars.

7. WCI, Inc. Evaluation Process

WCI, Inc. may elect to enter into a contract with the qualified Offeror offering the highest overall value, considering both the Technical Evaluation and Cost Evaluation.

If a written contract cannot be negotiated, approved, and executed with the selected Offeror, WCI, Inc. may, at its sole discretion at any time, terminate negotiations with that Offeror and either negotiate a contract with the Offeror with the next highest value or choose to terminate the solicitation and not enter into a contract with any of the Offerors.

7.1 Technical Evaluation

WCI, Inc. will conduct an evaluation of the Offeror’s proposal to provide the services outlined in RFP. WCI, Inc. will score the Offeror’s proposal using the following criteria for a maximum of 100 points:

- Personnel and Relevant Experience: 45 points
- Technical Approach: 45 points
- Management Plan: 10 points

In evaluating the Technical Approach, WCI, Inc. will consider submitted proposals and evaluate each Offeror's offering for services focusing on the following elements:

- Demonstration of sound, feasible, and achievable technical approaches to accomplishing the project, clearly describing the project's objectives and the proposed approaches to meet the requirements defined in the RFP
- Demonstration of a solid grasp of the subject area, including familiarity with best industry practices related to the configuration and the operation of hosting environment, application development, and business continuity practices
- Demonstration of any technical barriers, anticipated major difficulties, and recommendations for their resolution

7.2 Cost Evaluation

Cost proposals will be evaluated by WCI, Inc. based on the following for a maximum of 50 points:

1. Cost Reasonableness: WCI, Inc. will assess the clarity, reasonableness, and potential risks of the cost estimate provided by the Offeror. WCI, Inc. will consider the basis for the cost estimate provided by the Offeror, including the combination of factors that make up the cost estimate. The cost reasonableness will evaluate how well the Cost Proposal aligns with the work proposed in the Technical Proposal. This first part of the cost evaluation will be based on a determination that the Offeror's cost estimate is reasonable for further evaluation. Any bid determined to have unreasonable cost estimates will not be evaluated further.
2. Cost Estimate: The technically qualified proposal that has the lowest final price shall be given a maximum cost score of 50 points. All other technically qualified proposals will receive a cost score calculated as the ratio of the lowest price proposal to the Offeror's price, multiplied by the maximum cost estimate points available (50).

WCI, Inc. will select the Offeror that offers the highest overall value, after thorough consideration of the Technical Evaluation and Cost Evaluation for providing Enterprise Architect Services, along with other factors as reasonably determined by WCI, Inc (e.g., conflicts of interest, revisions requested to the proposed agreement).

ATTACHMENT A: INVOICING AND PAYMENT PROVISIONS

These invoicing and payment provisions will be included in the Agreement between WCI, Inc. and the Contractor, as Attachment B subject to revisions as agreed upon by the parties.

- a) **Fixed Price.** For services satisfactorily rendered on a time and materials basis, and upon receipt and approval of the invoice for such services satisfactorily rendered, WCI, Inc. agrees to compensate the Contractor at the pricing set forth in this Attachment [B]. The maximum amount payable for each deliverable and Task, and total contract value, shall not exceed the value identified in [Attachment B] of the Standard Agreement, unless otherwise agreed by the parties in writing. Compensation refers to the consideration set forth in [Attachment B] to be paid to Contractor for all of Contractor's services provided and costs incurred to fulfill its duties and obligations about the Agreement.
- b) **Hourly Rates.** The hourly rates for the duration of this Agreement are inclusive of all taxes, fees, and any other non-travel expenses.
- c) **Holdback.** Ten percent (10%) of the amount of each invoice for services satisfactorily provided by Contractor under this Agreement, and invoiced in accordance with subsection (e) below, will be deducted as a holdback from each payment by WCI, Inc. to Contractor. Upon acceptance of the final deliverable for each Task and after receiving an invoice from Contractor, WCI, Inc. shall within 45 days remit to Contractor the holdback amount withheld for such Task.
- d) **Travel.** Costs for travel will be incurred and charged for on a cost-reimbursable basis, at cost, and only if authorized in writing by the WCI, Inc. Executive Director. When traveling within the United States, travel cost reimbursement must abide by U.S. Federal travel regulations and per diem rates per <https://www.gsa.gov/travel/plan-book/per-diem-rates>. When traveling outside the United States, travel cost reimbursement must abide by the per diem rates used by the U.S. State Department: https://aoprals.state.gov/web920/per_diem.asp.
- e) **Invoicing.** All services satisfactorily performed shall be payable in arrears for services rendered. Payment terms are NET 45 after receipt of undisputed invoices for completed services. 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 the budget identified in Attachment [B]. Invoices shall be emailed to operations@wci-inc.org and mailed to the following address:

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

Budget Detail. [Budget detail to be included based on the Contractor's Cost Proposal.]

ATTACHMENT B: GENERAL TERMS AND CONDITIONS

Offerors should submit any requested revisions to the General Terms and Conditions as part of their proposal. Offerors should be sure to note the applicable Attachment and section number and requested revisions.

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 required written approval 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, 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. 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 (i) evidence that the insurance coverages are being maintained and (ii) copies of the policies providing for such insurance coverages. WCI, Inc., each Participating Jurisdiction (as defined in Section 10 of these General Terms and Conditions), each funding entity and their respective directors, officers, representatives, agents, employees and volunteers 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 WCI, Inc., each of the Participating Jurisdictions and applicable law.

3. SUBSTITUTION OF KEY PERSONNEL

A. Personnel and Key Personnel. Individuals providing Services that are employed by Contractor or any approved subcontractor are referred to herein as "**Personnel.**" "**Key Personnel**" (or individually, a "**Key Person**") means those individuals employed by Contractor (or who are approved subcontractors) who will play a significant consulting role in providing the Services. Key Personnel includes _____.

B. Personnel and Key Personnel Screening. Prior to assigning any Personnel and Key Personnel to provide Services, Contractor shall complete all the background check and other employee screening processes required by WCI, Inc. or by law, plus any other requirements as may be specified in Attachment [A].

C. Replacement of Personnel and Key Personnel. (i) If WCI, Inc. believes that the performance or conduct of any Personnel or Key Personnel is unsatisfactory for any reason or is not in compliance with the provisions of this Agreement, WCI, Inc. shall so notify Contractor and Contractor shall promptly address the performance or conduct of such person, or, at WCI, Inc.'s request, immediately replace such person with another person acceptable to WCI, Inc. with sufficient knowledge and expertise to perform the Services in accordance with this Agreement. (ii) Key Personnel shall not be replaced by Contractor without providing WCI, Inc. at least ten (10) days' notice and obtaining WCI, Inc.'s prior written approval, which approval shall not be unreasonably withheld; provided, however,

that any such replacement shall have equivalent skills, expertise, qualifications, certifications and knowledge of the Key Person being replaced. (iii) Contractor shall act promptly and diligently to fill any vacancies of Key Personnel. Key Personnel shall be identified in Attachments [A and B], and Attachments [A and B] shall be modified to reflect changes in Key Personnel during the Term of this Agreement.

4. PERFORMANCE; DELIVERY, ACCEPTANCE, AND REJECTION OF DELIVERABLES

A. 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 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.

B. Delivery of Deliverables. Upon completion of each Deliverable, Contractor shall deliver to WCI, Inc. the Deliverable in accordance with the delivery criteria set forth in Attachment [A].

C. Deliverable Acceptance and Rejection. Upon WCI, Inc.'s receipt of each Deliverable, WCI, Inc. will review such Deliverable to ensure that it conforms to the requirements set forth in Attachment [A]. If WCI, Inc. determines any Deliverable does not conform to the requirements of Attachment [A], WCI, Inc. shall notify Contractor in writing of such non-conformity(-ies) ("Non-Acceptance Notice"). Following receipt of a Non-Acceptance Notice, Contractor, at Contractor's sole cost and expense, shall remedy all non-conformities and re-deliver the Deliverable in accordance with the delivery criteria set forth in Attachment [A], as promptly as commercially possible and, in any case, within fourteen (14) days or such other timeframe as otherwise agreed by the parties. The parties shall repeat this process until the Deliverable has been accepted; provided, however, that if Contractor fails to re-deliver the Deliverable within the time period specified, or fails more than once to remedy a non-conformity, WCI, Inc. will have the right, at its option, to treat such failure as a material breach incapable of cure and terminate this Agreement in accordance with [Section] of the Agreement. In such event, the applicable fees shall be reduced equitably to reflect the value of the Deliverable as received relative to the value of the Deliverable had it conformed to the requirements of Attachment [A]. WCI, Inc. shall give Contractor notice of its acceptance of any Deliverable in writing.

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. WCI, Inc. may amend or vary the terms of the Agreement unilaterally, without the need for a change order under Section 5 of these General Terms and Conditions, to allow for additional time or additional funding for performance by providing Contractor with a copy of the applicable amendment or variation signed by WCI, Inc. No other 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 required by WCI, Inc. Contractor agrees to allow the auditor(s) designated by WCI, Inc., any Participating Jurisdiction or any funding entity, and/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., any Participating Jurisdiction or any funding entity, and/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 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 required by WCI, Inc. Contractor agrees to allow the auditor(s) designated by WCI, Inc., any Participating Jurisdiction or any funding entity, and/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., any Participating Jurisdiction or any funding entity, and/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 and Quebec, 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., (iii) any funding entity and (iv) the directors, officers, employees and agents of each of the foregoing (clauses (i) through (iv) together, the “Indemnified Parties”) from and against any and all debts, losses, claims, damages, costs, expenses, demands, fines, judgments, contracts (implied and expressed, written and unwritten), penalties, obligations, payments and liabilities of every type and nature (whether known or unknown, fixed or contingent), including any costs and expenses of any pending or threatened lawsuit, action 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 lawsuit, action or proceeding, whether brought by a party to the Agreement or by any other person), (collectively, the “Losses”) incurred, suffered or sustained by any Indemnified Party by reason of or in connection with (y) any act or omission or alleged act or omission 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 or (z) any breach or alleged breach of the Agreement by Contractor or any of its subcontractors, including any breach or alleged breach of any representation, warranty, acknowledgement or covenant contained in these General Terms and Conditions or otherwise in the Agreement.
- B. 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 Contractor pursuant to this Section 10 or Section 24 of these General Terms and Conditions, the Indemnified Party shall give written notice of such Action to the Contractor, which written notice may be provided by WCI, Inc. on its behalf and on behalf of all other Indemnified Parties. Notwithstanding the foregoing, the right to indemnification under this Section 10 or Section 24 of these General Terms and Conditions 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 Contractor have been materially prejudiced as a result of such failure or delay. If, within fifteen (15) days after such notice has been given, Contractor notifies the Indemnified Party of its election to defend any Action, then, except as described below, the Contractor 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, Contractor will have the right to control such defense as long as it is actively defending such Action. Failure by Contractor to so notify the Indemnified Party shall be deemed a waiver by Contractor of its rights to defend such Action. In such event, the Indemnified Party may tender the defense to Contractor or, at the Indemnified Party’s option, select counsel of its own choosing.
- C. The Indemnified Party can take over and assume control of the defense of an Action, or seek a settlement of any Action, if (i) Contractor 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 Contractor 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 Contractor, (iv) the Action seeks an injunction or equitable relief against an Indemnified Party or (v) Contractor fails to provide reasonable assurance to the Indemnified Party

that it has the financial capacity to defend such Action. In any of the foregoing cases, Contractor will pay the fees and expenses of one (but no more than one) counsel to all Indemnified Parties.

- D. Except with the prior written consent of the Indemnified Party, Contractor shall not, in the defense of any Action, consent to the entry of any judgment (other than a judgment of dismissal on the merits without costs) 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.
- E. Contractor shall not be responsible for any settlement entered into by the Indemnified Party without the prior written consent of Contractor, which consent shall not be unreasonably withheld.
- F. Within ten (10) days of the Indemnified Party's written request, Contractor 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 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.

Notwithstanding the foregoing, if such invalid or unenforceable provision could be more narrowly drawn so as not to be invalid or unenforceable in such jurisdiction, it shall, as to such jurisdiction, be so narrowly drawn, without invalidating the remaining provisions of the Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

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.

17. POTENTIAL SUBCONTRACTORS

Contractor shall not subcontract or delegate any of its obligations under the Agreement without prior written approval of WCI, Inc. 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 in the event that a dispute should arise, WCI, Inc. receives a request to issue such an order from any Participating Jurisdiction or any funding entity or 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. 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 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

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 or

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 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 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.
- B. Contractor shall defend, indemnify and hold the Indemnified Parties harmless against all Losses promptly upon the incurrence thereof resulting from any third party claim that work product produced, used, created or delivered by Contractor, its employees or its subcontractors, including any documentation associated with any work product and any work product which includes any third party content, under the Agreement (the "Contractor Work Product") 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 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. Contractor will promptly notify the Indemnified Parties of any such claim. In addition to the obligations above, 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.
- C. Except as set forth in the Work Schedule, Contractor agrees that all Contractor Work Product created, developed, conceived, made, invented or suggested during the term of the Agreement by or for Contractor, its employees or any of its subcontractors it engages to perform work for WCI, Inc. and relating generally to any matter or thing that may be connected with the Agreement or in any way with WCI, Inc.'s existing or contemplated 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 and relationships with customers and prospective customers, (ii) reports, drawings, studies, specifications, estimates, maps, computations and other data and correspondence, (iii) software, computer programs and similar processes and (iv) 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. 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 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 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.
- 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

Contractor shall deliver or cause the delivery to WCI, Inc. of all WCI, Inc. Intellectual Property as soon as practical and in any event no later than the termination or completion of the Work. 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. All reports, maps and other documents completed by Contractor as a part of the Agreement shall bear on the title page of such report, map, or document, the following legend: *“Prepared by (Insert name of Contractor) for submission under Agreement with Western Climate Initiative, Inc. The preparation of this (insert report, map or document, as appropriate) was financed in part by funds provided by (insert name of the funding agency, if applicable).”* 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 or any additional or successor tracking system service, 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 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 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, 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. Ensure that Contractor's and all subcontractors' senior management with operating knowledge of the Work, and all of their respective employees, agents, and representatives working directly on the tasks provided for in the 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.
- 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. 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.
- D. Treat all Confidential Information, Deliverables (as defined in Attachment A), and Contractor Work Product as Confidential Information in accordance with this Agreement. No Confidential Information, Deliverables, Work or Contractor Work product 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 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 use, without WCI, Inc.'s written approval, any WCI, Inc. materials for any purpose other than performing the contracted services.
- F. 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.
- G. 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.
- H. Upon confirmation of loss or theft of Confidential Information in any form, immediately report to WCI, Inc. the occurrence of such loss or theft.
- I. 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.
- J. Use best practices to make security arrangements to protect Confidential Information from unauthorized access, collection, use, disclosure, alteration or disposal. Upon WCI, Inc.'s written request, Contractor shall provide a reasonably detailed report of the security arrangements it maintains to protect Confidential Information. WCI, Inc. or its representatives may conduct security inspections of such security arrangements upon reasonable notice to Contractor during normal business hours.
- K. 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 greenhouse gas (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 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.

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., 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.

29. REPRESENTATIONS AND WARRANTIES

Contractor represents and warrants that:

- A. it is duly organized, validly existing and in good standing as a corporation or other entity as represented herein under the laws and regulations of its jurisdiction of incorporation or organization;
- B. it has the full right, power, and authority to enter into this Agreement and to perform its obligations under this Agreement;
- C. the execution of this Agreement by its representative whose signature is set forth herein is authorized by Contractor;
- D. it will perform the services using personnel with the required specialized skill, experience, and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and will devote adequate resources to meet its obligations under this Agreement; and
- E. the services, including any deliverables provided hereunder, as delivered by Contractor and used in accordance with this Agreement, will not infringe, misappropriate, or otherwise violate any intellectual property rights or other rights of any third party, and will comply with all applicable laws and regulations.

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 covenants, laws, rules or regulations that would restrict, impair or prevent the performance of its duties and obligations under the Agreement.

32. STATUS

Contractor's performance pursuant to this Agreement will not violate the legal or equitable rights of any third party.

33. RIGHTS AND REMEDIES

Contractor expressly acknowledges that this Agreement is not effective to bind any party other than WCI, Inc. 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., its directors, officers, employees and agents and any other Indemnified Party shall not 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 the 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 in writing and delivered personally or 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 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.

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, 15, 16, 24, 25, 26, 28, 29, 33, 34, 35, 36, 37, 38, 39, 40, 42, 43, 44 and 45 hereof shall survive the expiration or termination of the Agreement.

45. ORDER OF PRECEDENCE

To the extent any inconsistencies or ambiguities arise among the terms of the Agreement and incorporated documents, the following order of precedence shall be used: (1) Applicable laws and regulations; (2) The terms and conditions of the Agreement; (3) The RFP including any addenda thereto; and (4) Contractor’s response to the RFP. To the extent any inconsistencies or ambiguities arise between the exhibits of the Agreement, the following order of precedence shall be used: (1) Attachment [C] General Terms and Conditions; (2) Attachment [B] Invoicing and Payment Provisions; (3) Attachment [A] Scope of Work; (4) Attachment [D] Individual Conflict of Interest and Confidentiality; (5)

Attachment [D1] Organization Conflict of Interest and Confidentiality; (6) Attachment [E] Contractor Insurance Requirements; (7) Attachment [F] Contractor's Technical Proposal; and (8) Attachment [G] Contractor's Cost Proposal.

ATTACHMENT C: OFFEROR REFERENCES FORM

RFP# 2018-02

Enterprise Architecture Services

Submission of this attachment is *mandatory*. Failure to complete and return this attachment with your proposal may cause your proposal to be deemed non-responsive and be rejected.

Complete the table below listing information for three (3) references illustrating previous work experience. The references should be for services previously provided commensurate to the scope, complexity, and level of services required for the EAS.

REFERENCE 1	
Name of Organization	
Street Address	City
State/Province	ZIP/Postal Code
Contact Person	Telephone Number
Dates of Service	Value or Cost of Service
Brief Description of Service Provided	

REFERENCE 2	
Name of Organization	
Street Address	City
State/Province	ZIP/Postal Code
Contact Person	Telephone Number
Dates of Service	Value or Cost of Service
Brief Description of Service Provided	

REFERENCE 3	
Name of Organization	
Street Address	City
State/Province	ZIP/Postal Code
Contact Person	Telephone Number
Dates of Service	Value or Cost of Service
Brief Description of Service Provided	