# Request for Proposals to Develop Issue Papers for Prospective Offset Project Types

March 27, 2009

**Background**

The Climate Action Reserve ("Reserve") is a program launched by the California Climate Action Registry in April 2008 that develops quantification and verification standards for carbon offset projects throughout the United States and registers their emissions reductions. The Reserve seeks a deeper understanding of the feasibility and desirability of developing standards (a.k.a., protocols) for quantifying and crediting emissions reductions from several new potential types of projects. To this end, the Reserve is soliciting proposals to develop "issue papers" that would explore protocol development options for a number of project types.

**Project Overview**

The issue papers are meant to substantiate and add depth to the Reserve's own initial assessments of various project types and to serve as the basis for discussion about the project types with a variety of stakeholders. Respondents to this request for proposals may propose to develop an issue paper for one, several, or all of the project types below in Table 1.

Each issue paper should highlight and discuss potential methodological issues associated with developing a carbon offset protocol, such as evaluating potential approaches to GHG emissions quantification, exploring options for defining project activities, setting project boundaries, developing performance standards and standardized baselines, and identifying any potentially relevant regulations.

Table 1. Project Types to be Evaluated

| | Project Type | Description |
|---|---|---|
| 1 | Methane Avoidance from Composting | Diverting organic waste from a landfill to a compost facility where it degrades aerobically rather than anaerobically, thus reducing or eliminating methane emissions. |
| 2 | Operations and Maintenance of Natural Gas Transmission & Distribution Systems | Changing operation and maintenance practices on natural gas transmission and distribution systems to prevent and avoid fugitive emissions of methane. |
| 3 | Soil Carbon Sequestration – Biochar | Heating "waste" biomass in the absence of oxygen to create charcoal (or “biochar”) and energy, and adding the charcoal to surface soil to increase carbon stocks. |
| 4 | Truck Stop Electrification | Changing from the use of truck fossil fuel in primary engines or APUs when idling to the use of electricity while at truck stops. |

**Scope of Work**

Issue papers will reflect and summarize existing research, data, and quantification methodologies based on a review of current literature and consultation with sector experts. Little to no primary research should be undertaken for the issue papers. After completion, issue papers will be reviewed and further edited by the Reserve in anticipation of being publicly distributed. The paper may also be used to inform public stakeholder discussions in the development of an actual protocol for quantifying and crediting emission reductions.

Issue papers should include a discussion of the following topics for each project type:

1. **Literature review including a summary of existing quantification methodologies**

   If methodologies are available, specifically:
   - Are methodologies appropriate for use in the United States?
   - Are methodologies based on modeling, emission factors or direct measurement?
   - How much uncertainty exists in the existing quantification methodologies and what would be required to reduce that uncertainty?

2. **Quantifiability and scientific uncertainty**
   - Discuss the state of scientific understanding around methods for quantifying emissions reductions or sequestration levels associated with potential project activities.
   - How accurate are existing measurement or quantification methods?
   - What measurement options are available and what are their associated costs?
   - What are the likely ranges of uncertainty?

3. **Performance standard development**
   - Does the project type easily lend itself to a standardized, performance based approach for estimating baselines and/or determining additionality?
   - Evaluate technologies or practices for potential emission-reducing or sequestering project activities, and identify trends within specific regions and timeframes. What are the current drivers (if any) behind technologies or practices that may reduce or sequester emissions?

4. **Additionality**
   - Evaluate existing and pending state and national regulations related to potential project activities to determine if they are or may be required by regulation.
   - Evaluate financial, technical, institutional and/or other barriers and drivers for potential project activities that would affect project additionality.
   - How easy or hard might it be to distinguish between additional and non-additional projects?

5. **Baseline quantification**
   - Would it be feasible and accurate to apply standardized methods for estimating baseline emissions/sequestration?
   - Is there sufficient data and information available to develop a standardized baseline for this project type?

6. **Potential reduction opportunity and cost of reductions**
   - Assess the technical and economically feasible reduction/sequestration potential for project activities within the United States.
   - Estimate the typical cost of achieving reductions/sequestration for potential project activities ($/ton of $CO_2$-equivalent).

7. **Project boundary**
   - How would boundaries for this project type be defined? Discuss both in terms of the physical boundary of the project and the GHG sources and sinks that should be assessed to determine the net change in emissions attributed to the project activity.

8. **Ownership**
   - Can ownership of the emission reductions or removals (sequestration) be unambiguously established? If not, what are the key issues and how might a protocol address them?

9. **Leakage**
   - Assess the potential for project activities to cause unintended increases in GHG emissions (e.g., at sources or sinks outside the physical project boundary).
   - Discuss options for mitigating potential leakage.

10. **Permanence**
    - For project activities that sequester carbon, assess the risk that sequestered carbon could be re-released to the atmosphere (i.e., to what extent might sequestration be subject to “reversal”).

- Assess options for mitigating the risk of reversal.

**11. Other positive/negative environmental impacts**

- Assess the potential for environmental co-benefits from the project activity as well as possible negative consequences.

**12. Market interest**

- Identify parties interested in the development of a project protocol for the project activity.

**Timeline and Deliverables**

| | |
|---|---|
| Proposals due to the Climate Action Reserve | May 1, 2009 |
| Contracts awarded | June 1, 2009 |
| Completed issue papers delivered | September 1, 2009 |

**Evaluation Criteria**

The Reserve will evaluate proposals for this project based on the following factors:

- Knowledge of and experience working with the industry for which proposing to develop an issue paper
- Understanding of the Climate Action Reserve and other GHG/air emission programs.
- Comprehensive knowledge of GHG emissions, inventory, measurement, and reporting issues
- Quality of written materials and technical documents
- Communication and organizational skills
- Competitiveness/value of project budget
- Proven ability to deliver projects on time

**Application Process**

Interested contractors must submit proposals to the Reserve by 5:00 PM PDT on May 1, 2009. No late or incomplete proposals will be considered. All proposals must include the following information:

- Brief cover letter (maximum two pages)
- Short proposal (maximum five pages) for each project typology which must include:
    - Statement of qualifications
    - Proposed project approach
    - Proposed fixed priced budget
    - Proposed schedule
    - Client references (at least three)
- Sample work product (work products will not be returned)

Contractors are also expected to agree to the Reserve's Standardized Independent Contractor Services Agreement (see attached). This should be reviewed by interested contractors and their lawyers prior to submitting a proposal.

The Reserve may award one or multiple contracts. Proposers should indicate whether their proposals for multiple issues papers are severable, and provide per paper costs as well as package costs.

Proposals must be submitted via email, fax, or mail. Please submit proposals to:

Climate Action Reserve
Attn: Issue Paper for Prospective Offset Project Types
523 W. 6th Street, #428
Los Angeles, CA 90014
FAX: (213) 623-6716
or
EMAIL: policy@climateregistry.org
Include "Response to Issue Paper RFP" in subject line

**Questions?**
Please contact Rachel Tornek at rachel@climateregistry.org or 213-891-6930.

*INDEPENDENT CONTRACTOR SERVICES AGREEMENT*

This Independent Contractor Services Agreement (this "***Agreement***") is entered into as of _____, 20__ (the "***Effective Date***") by and between CALIFORNIA CLIMATE ACTION REGISTRY, a California nonprofit public benefit corporation (the "***Registry***") and [INSERT CONTRACTOR NAME ] ("***Contractor***") (each individually a "***Party***" and collectively, the ***"Parties***").

WHEREAS, Contractor represents itself as a provider of issues papers analyzing the viability of bus fleet upgrade and boiler efficiency as typologies for greenhouse gas reduction project protocols and desires to provide certain services to the Registry on an independent contractor basis, as more fully described below; and

WHEREAS, the Registry desires to engage the services of Contractor and Contractor desires to become so engaged.

NOW THEREFORE, the Parties do hereby agree as follows:

1. **Engagement**. The Registry hereby engages Contractor, and Contractor hereby accepts such engagement, to perform the duties, responsibilities and services ("***Services***") and to deliver the deliverables ("***Deliverables***") described in the statement of work attached hereto as Exhibit A and incorporated herein by reference (the "***Statement of Work***"), and to perform such other duties and responsibilities as may be determined from time to time by the Parties.

2. **Term**. This Agreement shall be effective as of the Effective Date, and shall continue in full force and effect until the Services and Deliverables have been completed to the criteria listed in the Contractor's proposal and Exhibit A, or until its termination pursuant to Section 10 hereof, whichever occurs first (the "***Term***").

3. **Compensation**. Contractor shall be paid in the amount set forth in the detailed budget and timeline attached hereto as Exhibit B and incorporated herein by reference (the "***Budget***"). The amount payable to Contractor as specifically set forth in the Budget ("***Fees***") shall be Contractor's sole and complete compensation for all Services and Deliverables provided by Contractor pursuant to the Statement of Work. No other fees will be owed to Contractor by the Registry under this Agreement. Payment to Contractor of such undisputed Fees shall be due thirty (30) days following the Registry's receipt of the invoice for such Fees, provided that all Services and/or Deliverables have been performed and/or delivered, as required hereunder to the reasonable satisfaction of the Registry.

3.1 **Expenses**. For the avoidance of doubt, Contractor will be solely responsible for all expenses incurred by Contractor in connection with performing the Services or otherwise performing its obligations under this Agreement. The Registry shall not reimburse Contractor for any expenses incurred in performing its obligations under this Agreement unless otherwise specified in Exhibit B.

4. **Independent Contractor Relationship**. The Registry has agreed to engage Contractor as set forth herein, based in part on the representation that Contractor is an independent

contractor. As such, Contractor understands and agrees that it is an independent contractor and not an employee of the Registry for the Term of this Agreement. Nothing contained herein or in any document executed by the Parties shall be deemed or construed by the Parties or by any third party as creating the relationship of principal and agent, employer-employee, joint enterprise or undertaking, partnership, fiduciary relationship, confidential relationship. Contractor shall only represent itself to be and shall only be considered to be by the Parties or any third party an independent contractor of the Registry.

4.1 **Contractor's Employees**. To the extent Contractor hires employees in order to assist Contractor in performing the Services or delivering the Deliverables called for by this Agreement, Contractor understands and agrees that all such employees shall be its employees only and that the Registry shall not be an employer of Contractor's employees. The Registry shall have no responsibility for providing, and shall not provide, directions, instructions or supervision to Contractor's employees, if any. Only Contractor shall provide such directions, instructions and supervision. In addition, all decisions with respect to the employment of Contractor's employees, if any, shall be made solely and exclusively by Contractor, including, without limitation, decisions regarding hiring, firing, wages, hours, training and working conditions. The Registry shall have no responsibility for or input into such decisions. Contractor agrees to indemnify, defend and hold the Registry harmless from and against any employment costs, employment benefits and/or payroll taxes.

4.2 **No Benefits**. Contractor understands and agrees that, because there is no employment relationship between it and the Registry, neither Contractor nor Contractor's employees, if any, shall be entitled to any benefits accorded to the Registry's employees, including without limitation worker's compensation, disability insurance, vacation or sick pay. Contractor shall be responsible for providing, at its sole expense, and in its name, disability, worker's compensation or other insurance as well as any and all licenses and permits as are usual or necessary for the performance of the Services contemplated hereunder.

4.3 **Tax Obligations**. Contractor understands and agrees that it is solely responsible for all income and/or other tax obligations, if any, including but not limited to, all reporting and payment obligations, which may arise as a consequence of any payment by the Registry to Contractor pursuant to this Agreement. This includes without limitation Contractor's full responsibility for payment of all Federal, State and local taxes or contributions imposed or required under Unemployment Insurance, Social Security and Federal and State Income and Franchise Tax laws. Contractor agrees to provide the Registry with proof of payment of all such taxes upon demand.

5. **Intellectual Property**.

5.1 **Ownership of Pre-Existing Materials**. All materials and other information furnished by one party to the other Party, including without limitation confidential and proprietary information, shall be the sole and exclusive property of the originating Party.

Registry and Contractor shall each retain ownership of, and all right, title and interest in and to, their respective pre-existing Intellectual Property, and no license therein, whether express or implied, is granted by this Agreement or as a result of the Services performed hereunder. To the

extent the parties wish to grant to the other rights or interests in pre-existing Intellectual Property, separate license agreements on mutually acceptable terms will be executed.

Contractor grants to Registry a royalty-free, paid up, worldwide, perpetual, non-exclusive, non-transferable license to use any Contractor Intellectual Property incorporated into any Deliverable, in whole or in part, solely for Customer's use of that Deliverable, including derivative works. Contractor shall retain ownership of and unrestricted right to use any Intellectual Property. The Services performed and any Deliverable produced pursuant to this Agreement are not "works for hire."

As used herein, "Intellectual Property" shall mean inventions (whether or not patentable), works of authorship, trade secrets, techniques, know-how, ideas, concepts, algorithms, and other intellectual property incorporated into any Deliverable and first created or developed by Contractor in providing the Services.

6. **Confidentiality**.

6.1 **Confidential Information**. For purposes of this Agreement, "***Confidential Information***" shall mean all information related to the Disclosing Party's business (including without limitation all trade secrets, information related to business systems, computer programs and all other technical and business information, financial data, client lists, protocols and proprietary information of third parties provided to the Disclosing Party in confidence) which the Disclosing Party considers to be confidential or proprietary or which the Disclosing Party has a duty to treat as confidential, provided the information is provided in writing and marked "Confidential Information" or is provided in a non-written form and is identified in writing at the time of disclosure as "Confidential Information", reduced to writing, marked as "Confidential Information" and provided to Recipient within 20 days of initial non-written disclosure.

6.2 **Use and Disclosure**. During the term of this Agreement and at all times thereafter, the Receiving Party will (a) hold all Confidential Information in strict trust and confidence, (b) refrain from using Confidential Information in any manner or for any purpose not expressly permitted or required by this Agreement, and (c) refrain from disclosing any Confidential Information to any third party without obtaining the Disclosing Party's express prior written consent. The Receiving Party will protect the Confidential Information from unauthorized use, access, or disclosure in the same manner as it protects its own confidential or proprietary information of a similar nature, and with no less than the greater of reasonable care or industry-standard care.

6.3 **Exceptions**. A Receiving Party's obligations under Section 6.2 will not apply to any particular information that the Receiving Party can prove, (a) the Receiving Party lawfully knew prior to the Disclosing Party's first disclosure to Receiving Party, (b) a third party rightfully disclosed to the Receiving Party free of any confidentiality obligations, or (c) is, or through no fault of Receiving Party has become, generally available to the public. Additionally, the Receiving Party will be permitted to disclose Confidential Information to the extent that such

disclosure is expressly approved in writing by the Disclosing Party, or is required by law or court order, provided that Receiving Party immediately notifies the Disclosing Party in writing of such required disclosure and cooperates with the Disclosing Party, at Disclosing Party's reasonable request and expense, in any lawful action to contest or limit the scope of such required disclosure, including filing motions and otherwise making appearances before a court.

6.4 **Removal; Return**. The Receiving Party will not remove any tangible embodiment of any Confidential Information from the Disclosing Party's facilities or premises without the Disclosing Party's express prior written consent. Upon the Disclosing Party's request and upon any termination or expiration of this Agreement, the Receiving Party will promptly (a) return to the Disclosing Party or, if so directed by the Disclosing Party, destroy all tangible embodiments of the Confidential Information, (b) permanently erase all electronic files containing or summarizing any Confidential Information, and (c) certify to the Disclosing Party in writing that the Receiving Party has fully complied with the foregoing obligations.

## 7. Contractor's Representations and Warranties.

7.1 **General**. Contractor represents and warrants that:

(a) it will perform the Services in a professional manner with the degree or skill and judgment normally exercised by recognized professional firms performing the same of similar services;

(b) in the course of performing the Services, it will not infringe or misappropriate, and neither the Work Product nor any element thereof will infringe or misappropriate, any patent, copyright or other intellectual property rights of any other person;

(c) has full right, power, and authority to enter into and perform this Agreement;

(d) it will comply with all laws, regulations, and ordinances applicable to Contractor's performance of the Services and Contractor's other obligations under this Agreement.

7.2 **Performance**. Contractor represents and warrants that the Work Product and the performance of all Services will fully conform to the standards, specifications, requirements, and other terms in the Statement of Work and this Agreement. In the event of a breach of this warranty, without limiting any other rights or remedies the Registry may have, Contractor will promptly re-perform the Services or correct the Work Product at no additional charge to the Registry.

## 8. Indemnification.

8.1 **Contractor's Indemnification**. Contractor shall indemnify and hold harmless the Registry and its affiliates, and the directors, officers, agents, representatives and employees of all such entities (each a "***Registry Indemnified Party***" and collectively "***Registry Indemnified Parties***") from and against any and all liabilities, losses, damages, costs, expenses, causes of action, claims, suits, legal proceedings and similar matters, including without limitation

reasonable attorneys' fees and expenses to the extent caused by any breach of any representation, warranty or obligation of Contractor in this Agreement or any intentional misconduct or negligence by Contractor or any of Contractor's employees, agents or subcontractors in performing the Services. In the event of any third party claim, demand, suit, or action (a "***Claim***") for which a Registry Indemnified Party is or may be entitled to indemnification hereunder, the Registry may, at its option, require Contractor to defend such Claim at Contractor's sole expense. Contractor may not agree to settle any such Claim without the Registry's express prior written consent.

8.2 **Registry's Indemnification**. The Registry shall indemnify and hold harmless Contractor and its affiliates, and the directors, officers, agents, representatives and employees of all such entities (each a "***Contractor Indemnified Party***" and collectively "***Contractor Indemnified Parties***") from and against any and all liabilities, losses, damages, costs, expenses, causes of action, claims, suits, legal proceedings and similar matters, including without limitation reasonable attorneys' fees and expenses arising from or relating to any intentional misconduct or negligence by the Registry or any of the Registry's employees in performing its obligations under this Agreement. In the event of any third party claim, demand, suit, or action (a "***Claim***") for which a Contractor Indemnified Party is or may be entitled to indemnification hereunder, Contractor may, at its option, require the Registry to defend such Claim at the Registry's sole expense. The Registry may not agree to settle any such Claim without Contractor's express prior written consent.

9. **Limitation of Liability**. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY LOSS OF PROFIT OR REVENUE OR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, SPECIAL, OR INCIDENTAL DAMAGES ARISING FROM OR RELATING TO THIS AGREEMENT, EVEN IF SUCH PARTY IS AWARE OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES. THE TOTAL CUMULATIVE LIABILITY OF EITHER PARTY IN CONNECTION WITH THIS AGREEMENT, WHETHER IN CONTRACT OR TORT OR OTHERWISE, SHALL BE LIMITED TO DIRECT MONEY DAMAGES NOT EXCEEDING THE AGGREGATE AMOUNT OF FEES AND EXPENSES OWED BY THE REGISTRY TO CONTRACTOR FOR SERVICES PERFORMED UNDER THIS AGREEMENT.

10. **Termination**.

10.1 **Termination by the Registry**. The Registry may terminate this Agreement at any time, with or without cause, for its convenience, effective upon thirty (30) days' notice to Contractor. In addition, the Registry may terminate this Agreement upon written notice to Contractor if Contractor breaches this Agreement or the Statement of Work, as the case may be, and fails to begin in good faith to fully cure such breach to the Registry's satisfaction within fifteen (15) days after the Registry gives notice of the breach to Contractor.

10.2 **Termination by Contractor**. Contractor may terminate this Agreement immediately upon written notice to the Registry if the Registry breaches any of its material obligations under this Agreement and fails to cure such breach within thirty (30) days after Contractor gives notice of the breach to the Registry.

10.3 **Effects of Termination**. Upon termination of this Agreement for any reason, or earlier as requested by the Registry, Contractor will deliver to the Registry any and Deliverables (in whatever stage of development or completion) or any other intellectual property provided by or on behalf of the Registry. The Registry will return any Confidential Information provided by Contractor. Upon termination of this Agreement by the Registry without cause for its convenience, unless the Statement of Work expressly provides otherwise, the Registry will pay Contractor Fees on a proportional basis as set forth in the Statement of Work for Services that are in progress or have been completed as of the effective date of such termination.

10.4 **Survival**. Sections 2, 4, 5, 6, 7, 8, 9, 10.3 and 11 will survive any termination or expiration of this Agreement.

11. **General Provisions**.

11.1 **Governing Law; Venue**. This Agreement shall be governed by and construed in accordance with the laws of the State of California without reference to any conflict of laws principles that would require the application of the laws of any other jurisdiction. Contractor irrevocably consents to the personal jurisdiction of the state and federal courts located in Los Angeles County, California for any suit or action arising from or related to this Agreement, and hereby waives any right Contractor may have to object to venue in such courts.

11.2 **Arbitration**. Any dispute regarding any aspect of this Agreement or any act which allegedly has or would violate any provision of this Agreement or any law (each a "***Dispute***") shall be submitted to arbitration in Los Angeles, California, before an experienced arbitrator selected in accordance with the rules of the American Arbitration Association or its successor, as the exclusive remedy for any such claim or Dispute. The decision of the arbitrator shall be final, conclusive and binding upon the Parties. The prevailing Party in such arbitration shall be entitled to recovery of its costs and expenses including reasonable attorneys' fees incurred as a result of such arbitration. Should any Party to this Agreement pursue any Dispute by any method other than said arbitration, the responding Party shall be entitled to recover from the initiating Party all damages, costs, expenses and attorneys' fees incurred as a result of such action.

11.3 **Other Remedies**. Both parties acknowledges that certain breaches of this Agreement by the other Party would cause irreparable injury to the injured Party for which monetary damages would not be an adequate remedy and therefore, notwithstanding anything to the contrary in Section 11.2, the injured party shall have the unrestricted right to seek equitable relief in any court of competent jurisdiction for any violation of Sections 5, 6 or 8.1 hereof,.

11.4 **No Assignment**. This Agreement and the Contractor's rights and obligations under this Agreement may not be assigned or transferred, in whole or in part, by operation of law or otherwise, by Contractor without the Registry's express prior written consent. Any attempted assignment, delegation, or transfer in violation of the foregoing will be null and void. The Registry may freely assign this Agreement or any of its rights under this Agreement to any third party upon written notice to Contractor.

11.5 **Waiver**. All waivers must be in writing and signed by the Party to be charged. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of such provision or of any other provision on any other occasion.

11.6 **Severability**. If any provision of this Agreement is, for any reason, held to be illegal, invalid or unenforceable, the remaining provisions of this Agreement will be unimpaired and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law.

11.7 **Headings**. The headings used in this Agreement are for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

11.8 **Rules of Construction**. The Parties hereto acknowledge and agree that they have participated fully in the preparation, review and execution of this Agreement and, therefore, waive the application of any law, regulation, holding or rule of construction providing that ambiguities in an agreement or other document will be construed against the party drafting such agreement or document.

11.9 **Notices**. Unless otherwise specified herein, any notice required or permitted by this Agreement shall be in writing and shall be deemed sufficient upon receipt, when delivered personally or by courier, overnight delivery service or confirmed facsimile, or seventy-two (72) hours after being deposited in the regular mail as certified or registered mail (airmail if sent internationally) with postage prepaid, if such notice is addressed to the Party to be notified at such Party's address or facsimile number as set forth below, or as subsequently modified by written notice:

(a) if to the Registry, to:

Gary Gero
President
California Climate Action Registry
523 W. 6th Street, Suite 428
Los Angeles, California 90014

(b) if to Contractor, to:

[Name]
[Title]
[Contractor]
[Address]
[City, State, Zip]

11.10 **Counterparts**. This Agreement may be executed in two or more counterparts (including by facsimile), each of which shall be deemed an original and all of which together shall constitute one instrument.

11.11 **Entire Agreement; Amendments**. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes and merges all prior or contemporaneous understanding, negotiations, discussions, communications and agreements (whether written or oral) between the Parties. This Agreement may not be amended, supplemented or modified unless such amendment, supplement or modification is in writing and signed by both Parties.

*{Remainder of this page intentionally left blank. Signature page follows.}*

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date first written above.

**“The Registry”**
**California Climate Action Registry**

By:_____

Name:_____

Title:_____

**“Contractor”**
**[INSERT CONTRACTOR NAME]**

By:_____

Name:_____

Title:_____