

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

**STANDARD AGREEMENT**

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER

21ISD009

PURCHASING AUTHORITY NUMBER (If Applicable)

ARB-3900

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

California Air Resources Board (CARB or State)

CONTRACTOR NAME

Western Climate Initiative, Inc. (WCI, Inc. or Contractor)

2. The term of this Agreement is:

START DATE

January 1, 2022

THROUGH END DATE

June 30, 2024

3. The maximum amount of this Agreement is:

\$15,820,594.50 (Fifteen Million Eight Hundred Twenty Thousand Five Hundred Ninety Four Dollars and Fifty Cents)

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

Exhibits	Title	Pages
Exhibit A	Scope of Work	2
Exhibit B	Budget Detail and Payment Provisions	2
Exhibit C *	General Terms and Conditions (GTC 04/2017)	Online
+ - Exhibit D	Special Terms and Conditions	6

*Items shown with an asterisk (\*), are hereby incorporated by reference and made part of this agreement as if attached hereto.**These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>***IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.****CONTRACTOR**

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

Western Climate Initiative, Inc.

CONTRACTOR BUSINESS ADDRESS

1107 9th Street, Suite 1070

CITY

Sacramento

STATE

CA

ZIP

95814

PRINTED NAME OF PERSON SIGNING

TITLE

CONTRACTOR AUTHORIZED SIGNATURE

DATE SIGNED

**STATE OF CALIFORNIA**

CONTRACTING AGENCY NAME

California Air Resources Board

CONTRACTING AGENCY ADDRESS

1001 I Street, 19th Floor

CITY

Sacramento

STATE

CA

ZIP

95814

PRINTED NAME OF PERSON SIGNING

Brandy Hunt

TITLE

Branch Chief

CONTRACTING AGENCY AUTHORIZED SIGNATURE

DATE SIGNED

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

## **EXHIBIT A**

### **SCOPE OF WORK**

#### **1. Background**

Assembly Bill (AB) 32 The Global Warming Solutions Action of 2006 charges the California Air Resources Board (CARB) with designing emission reduction measures to meet statewide emission limits for greenhouse gases (GHG). AB 32 directed CARB to design and implement measures that achieve real, quantifiable, cost-effective reductions of GHG emissions to return California to 1990 emissions levels by 2020. CARB was authorized to consider using market-based compliance mechanisms, such as a cap-and-trade program, to achieve the necessary emission reductions. Additional information on AB 32 and the CARB climate change program is available at: <http://www.arb.ca.gov/cc/cc.htm>.

Western Climate Initiative, Inc. (WCI, Inc. or Contractor) was formed as a nonprofit organization to provide coordinated administrative and technical support to California and other states and provinces implementing emissions trading programs to reduce GHG emissions. By coordinating support across jurisdictions, WCI, Inc. enables cap-and-trade programs to be administered at a lower cost than would be possible with independent administration by each jurisdiction. Coordinated administrative support ensures that all the programs maintain the highest level of security, enhances market oversight, reducing the potential for fraud and malfeasance, and provides a framework that can be expanded as more jurisdictions implement their respective programs.

As a participating jurisdiction, and as required in Senate Bill 1018 (California Government Code Section 12894), California holds two (2) voting positions and two (2) nonvoting positions on the WCI, Inc. Board of Directors. Quebec and Nova Scotia are also participating jurisdictions (more information regarding the WCI, Inc. Board of Directors and bylaws is available at: <http://www.wci-inc.-org/>). The funding contributions to WCI, Inc. differ among jurisdictions based upon covered GHG emissions in each jurisdiction.

#### **2. Scope of Work**

WCI, Inc. agrees to provide CARB with participation in WCI, Inc. with access to administrative systems being developed and administered to support the implementation of state and provincial GHG trading programs. CARB will be provided access to administrative systems including development and administration of a WCI, Inc. centralized market registry and allowance auction platform; coordinated auction financial administration; and analyses supporting market monitoring performed by each jurisdiction of allowance auctions and allowance and offset credit trading.

### 3. Contract Representatives

The Project Managers during the term of this Agreement shall be:

<b>State Agency:</b> California Air Resources Board	<b>Contractor:</b> Western Climate Initiative, Inc.
Name: Rajmir Rai	Name: Emily Espinosa
Address: 1001 I Street Sacramento, CA 95814	Address: 1107 Ninth Street, Suite 1070 Sacramento, CA 95814
Phone: (916) 327-5614	Phone: (916) 942-9327
Email: <a href="mailto:rajmir.rai@arb.ca.gov">rajmir.rai@arb.ca.gov</a>	Email: <a href="mailto:operations@wci-inc.org">operations@wci-inc.org</a>

The parties may change their Contract Representative(s) upon providing ten (10) days written notice to the other party's Contract Representative(s). The notifying party shall provide complete contact information for the replacement Contract Representative(s) to include the information provided

**EXHIBIT B**  
**BUDGET DETAIL AND PAYMENT PROVISIONS**

**1. Invoicing and Payment**

- A. Upon receipt and approval of the itemized invoice(s), the State agrees to compensate the Contractor for annual membership dues in which 25% will be paid at the beginning of each quarter and the remaining 75% will be paid quarterly in arrears. Please refer to the table below for breakdown of quarterly payments. The total amount payable to the Contractor for the duration of the contract shall not exceed \$15,820,594.50.

Quarter	25% Payment Amount	75% Payment Amount	Total
January- March 2022 Invoice Date January 1, 2022	\$440,074.31		\$1,760,297.25
January-March 2022 Invoice Date April 1, 2022		\$1,320,222.94	
April-June 2022 Invoice Date April 1, 2022	\$440,074.31		\$1,760,297.25
April-June 2022 Invoice Date July 1, 2022		\$1,320,222.94	
July-September 2022 Invoice Date July 1, 2022	\$437,500.00		\$1,750,000.00
July-September 2022 Invoice Date October 1, 2022		\$1,312,500.00	
October- December 2022 Invoice Date October 1, 2022	\$437,500.00		\$1,750,000.00
October- December 2022 Invoice Date January 1, 2023		\$1,312,500.00	
		<b>2022 Total</b>	<b>\$7,020,594.50</b>
January- March 2023 Invoice Date January 1, 2023	\$437,500.00		\$1,750,000.00
January-March 2023 Invoice Date April 1, 2023		\$1,312,500.00	
April-June 2023 Invoice Date April 1, 2023	\$437,500.00		\$1,750,000.00
April-June 2023 Invoice Date July 1, 2023		\$1,312,500.00	
July-September 2023 Invoice Date July 1, 2023	\$331,250.00		\$1,325,000.00
July-September 2023 Invoice Date October 1, 2023		\$993,750.00	
October- December 2023 Invoice Date October 1, 2023	\$331,250.00		\$1,325,000.00
October- December 2023 Invoice Date January 1, 2024		\$993,750.00	

		<b>2023 Total</b>	<b>\$6,150,000.00</b>
January- March 2024 Invoice Date January 1, 2024	\$331,250.00		\$1,325,000.00
January-March 2024 Invoice Date April 1, 2024		\$993,750.00	
April-June 2024 Invoice Date April 1, 2024	\$331,250.00		\$1,325,000.00
April-June 2024 Invoice Date July 1, 2024		\$993,750.00	
		<b>2024 Total</b>	<b>\$2,650,000.00</b>
		<b>Contract Total</b>	<b>\$15,820,594.50</b>

- B. Contractor shall submit one (1) original and one (1) copy of each invoice. Invoice(s) must include the Agreement Number and shall be submitted electronically not more frequently than quarterly in arrears to:

[AccountsPayable@arb.ca.gov](mailto:AccountsPayable@arb.ca.gov)

and

Air Pollution Specialist - Rai Rajmir: [Rajmir.Rai@arb.ca.gov](mailto:Rajmir.Rai@arb.ca.gov)

- C. Government Code Section 12894(c) requires CARB to provide 30-day notice to the Joint Legislative Budget Committee prior to any funds over \$150,000 being provided to WCI, Inc. from CARB.

## 2. Budget Contingency Clause

- A. It is mutually agreed that if the Budget Act of the current year does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement. The State will promptly notify Contractor if the Budget Act does not appropriate sufficient funds for the program.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.

## 3. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

## **EXHIBIT D SPECIAL TERMS AND CONDITIONS**

### **1. Excise Tax**

The State of California is exempt from federal excise taxes, and no payment will be made for any taxes levied on employees' wages. The State will pay for any applicable State of California, local sales, or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement. California may pay any applicable sales and use tax imposed by another state.

### **2. Settlement of Disputes**

- A. In the event of a dispute, Contractor shall file a "Notice of Dispute" with CARB within ten (10) business days of discovery of the problem. Within ten (10) business days, CARB shall meet with the Contractor and Project Manager for purposes of resolving the dispute.
- B. Any dispute concerning a question of fact arising under the terms of this Agreement which is not disposed of within a reasonable period of time by agency and Contractor and State employees normally responsible for the administration of this Agreement shall be brought to the attention of the Executive Officer or designated representative of each organization for resolution.
- C. In the event of a dispute, the language contained within the Agreement shall prevail over any other language.
- D. The existence of a dispute not fully resolved shall not delay Contractor to continue with the responsibilities under this Agreement which is not affected by the dispute.

### **3. Potential Subcontractors**

Nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of his responsibilities and obligations hereunder. The Contractor agrees to be responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

### **4. Stop Work Order**

State reserves the right to issue an order to stop work in the event that a dispute should arise, or in the event that State gives Contractor a notice that the Agreement will be terminated. The stop work order will be in effect until the dispute has been resolved or the Agreement has been terminated.

## **5. Termination**

- A. This Agreement may be terminated and cancelled by the State prior to the end of the Term (as set forth in Section 2 of this Agreement) upon the State complying with the requirements of the withdrawal procedures set forth in Section 11 below.
- B. This Agreement may be terminated and cancelled by WCI, Inc. upon the State's material breach of the Agreement and such breach is not cured by the State within [thirty (30)] days of WCI, Inc. providing State with written notice of such breach. The termination and withdrawal procedures set forth in Section 11 below, including without limitation the ninety (90) day notice period set forth in Section 11(a) below, shall apply to a termination for cause by the State under this paragraph.

## **6. Amendments**

- A. No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties, and approved as required. No oral understanding or agreement not incorporated in this Agreement is binding on any of the parties.
- B. CARB reserves the right to amend this Agreement through a formal written amendment, signed by the parties, for additional time and/or funding.

## **7. Insurance Requirements**

### **A. Commercial General Liability**

Contractor must furnish to the State a certificate of insurance to remain in effect at all times during the term of this Agreement. Contractor shall maintain general liability on an occurrence form with limits not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined with a \$2,000,000 annual policy aggregate. The policy must include coverage for liabilities arising out of premises operations, independent

contractors, products, completed operations, personal & advertising injury, and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the Contractor's limit of liability. The policy must include:

**California Environmental Protection Agency/California Air Resources Board, State of California, its officers, agents, and employees are included as additional insured, but only with respect to work performed under this Agreement.**

This endorsement must be supplied under a form acceptable to the Office of Risk and Insurance Management.

In the case of Contractor's utilization of subcontractors to complete the contracted scope of work, Contractors shall include all subcontractors as insured under Contractor's insurance or supply evidence of insurance to the State equal to policies, coverage and limits required of Contractor.

**B. General Provisions Applying to all Policies**

- a. Coverage Term: Coverage needs to be in force for the complete term of the Agreement. If insurance expires during the term of the Agreement, a new certificate must be received by the State at least ten (10) days prior to the expiration of this insurance. Any new insurance must still comply with the original terms of the Agreement. The Contractor agrees to provide a new certificate of insurance to:

California Air Resource Board  
[purchasing@arb.ca.gov](mailto:purchasing@arb.ca.gov)  
Subject Line – 21ISD009– Insurance Certificate

- b. Policy Cancellation or Termination and Notice of Non-Renewal: Contractor shall provide to the State within five (5) business days following receipt by Contractor a copy of any cancellation or non-renewal of insurance required by this Agreement. In the event Contractor fails to keep in effect at all times the specified insurance coverage, the State may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event, subject to the provisions of this Agreement.
- c. Deductible: Contractor is responsible for any deductible or self-insured retention contained within their insurance program.
- d. Primary Clause: Any required insurance contained in the Agreement shall be primary, and not excess or contributory to any other insurance carried by the State.
- e. Insurance Carrier Required Rating: All insurance companies must carry a rating acceptable to the Office of Risk and Insurance Management. If the Contractor is self-insured for a portion or all of its insurance, review of financial information including a letter of credit may be required.
- f. Endorsements: Any required endorsement must be physically attached to all requested certificates of insurance and not substituted by referring to such coverage on the certificate of insurance.



- g. Inadequate Insurance: Inadequate or lack of insurance does not negate the Contractor's obligations under the Agreement.

## **8. Force Majeure**

Neither CARB nor the Contractor shall be liable for or deemed to be in default for any delay or failure in performance under this Contract or interruption of services resulting from acts beyond the control of the affected party. This includes acts of God, enemy or hostile governmental action, civil commotion, strikes, government orders, national or state declared pandemics, lockouts, labor disputes, nuclear accident, freight embargo, fire, flood, earthquakes or other physical natural disaster, or governmental statutes or regulations superimposed after the fact. If either party intends to invoke this clause to excuse or delay performance, the party invoking the clause must provide written notice to the other party immediately but no later than fifteen (15) calendar days of when the force majeure event occurs and reasons that the force majeure event is preventing that party from or delaying that party in performing its obligations under this contract.

Upon completion of the event of force majeure, the parties must as soon as reasonably practicable recommence the performance of their obligations under this Agreement. The party invoking the clause must also provide a revised schedule to minimize the effects of the delay caused by the event of force majeure. An event of force majeure does not relieve a party from liability for an obligation which arose before the occurrence of that event.

If a delay or failure in performance by the Contractor arises out of a default of its subcontractor, and if such default of its subcontractor, arises out of causes beyond the control of both the Contractor and subcontractor pursuant to this force majeure clause, and without the fault or negligence of either of them, the Contractor shall not be liable for damages of such delay or failure, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required performance schedule.

## **9. Registration With State And Local Jurisdictions**

All business entities doing business within the State must be registered with the appropriate State and local jurisdictions and maintain applicable licenses as required by law. All businesses who do not possess active licenses required to perform the contract services in the scope of work, or who are not registered with the appropriate jurisdictions as required by law during the Agreement term may have their Agreement terminated at the discretion of CARB.

## **10. Tax Delinquencies**

Public Contract Code Section 10295.4 provides that a State agency shall not enter into any contract for goods or services with a contractor whose name appears on either list of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code. FTB and BOE will post and periodically update lists of the 500 largest tax delinquencies on their websites as required by law. If CARB determines that the Contractor or any of its subcontractors are on either the FTB or BOE list at any time before or during the contract term, this will be grounds for termination of the Agreement.

## 11. Termination and Withdrawal Procedures

### Section 1. Notice of Termination and Withdrawal.

Subject to the terms of Section 5 of Exhibit D, the State must provide WCI, Inc. and each of the other Participating Jurisdictions, as that term is used in the WCI, Inc. Bylaws, with ninety (90) days prior written notice of its intent to terminate this Agreement prior to the end of the term ("**Notice of Termination**"). The parties acknowledge and agree that WCI, Inc.'s receipt of the Notice of Termination shall trigger the withdrawal procedures set forth in Article X, Section 10.1 of the WCI, Inc. Bylaws which provide for the termination of California as a Participating Jurisdiction of WCI, Inc.

### Section 2. Effect of Providing Notice of Termination.

WCI, Inc.'s receipt of the Notice of Termination shall have the following effects:

- a. Within fifteen (15) business days of WCI, Inc.'s receipt of the Notice of Termination, WCI, Inc. shall provide to the State a draft plan of withdrawal ("**Withdrawal Plan**"). A copy of the Withdrawal Plan shall also be provided to all other Participating Jurisdictions.
- b. The Withdrawal Plan shall include, at a minimum, the following items:
  1. List of specific actions and tasks required on the part of WCI, Inc. to withdraw California as a Participating Jurisdiction including, but not limited to: removing California from all IT and related platforms, closing all escrow accounts, collecting and returning all California confidential, personal and proprietary information that is in the actual or constructive possession of WCI, Inc. (collectively, "**Withdrawal Services**");
  2. Describe the phasing out of California's participation in WCI, Inc.'s programs and activities during the period prior to the Termination Date (as defined below);
  3. Provide a list of all actions required of the State to withdraw as a Participating Jurisdiction and a timeline for the execution of Withdrawal Services, which shall include the estimated date upon which the Withdrawal Services shall be complete ("**Termination Date**");
  4. WCI, Inc.'s cost to provide the Withdrawal Services ("**Withdrawal Cost**") as described further in Section 3 below; and
  5. An accounting of the fees paid to WCI, Inc. under this Agreement by California and application of the Withdrawal Costs.
- c. The State shall have ten (10) business days to provide WCI, Inc., with a copy to all other Participating Jurisdictions, with its written comments on the draft Withdrawal Plan. WCI, Inc. and State, in consultation with the other Participating Jurisdictions to the extent possible, shall work in good faith and in a diligent

manner to finalize the terms of a mutually agreeable Withdrawal Plan (**"Final Plan"**) as soon as reasonably possible.

### Section 3. Withdrawal Costs.

Withdrawal Cost shall include all costs directly incurred by WCI, Inc. in providing the Withdrawal Services plus the State's proportionate share of any of WCI, Inc.'s fixed costs or non-terminable or non-refundable costs in providing cap and trade program services as set forth in the current approved WCI, Inc. budget and as agreed in the Final Plan. Withdrawal Costs must be paid by the State to WCI, Inc. within ninety (90) business days of the completion of the Final Plan.

### Section 4. Cooperation of Parties in Withdrawal Process.

WCI, Inc. shall, as soon as reasonably possible, notify the State and the other Participating Jurisdictions of any circumstance or event of which it becomes aware that is related to or is resulting from California's withdrawal from WCI, Inc. that could potentially have a material negative effect to WCI, Inc., the remaining Participating Jurisdictions or applicable markets (**"Negative Consequences"**). WCI, Inc. and the State, in consultation with the other Participating Jurisdictions, shall work in good faith and in a diligent manner to mitigate any such Negative Consequences which may include, but are not limited to, removing California from all IT and related platforms and closing all escrow accounts.

### Section 5. Use of California confidential and proprietary information Post-Termination.

In addition to and notwithstanding any other term or condition of the Agreement but subject to any laws applicable in California, WCI, Inc. may keep a copy of California's confidential and proprietary information for the use by WCI, Inc. and the remaining Participating Jurisdictions only if such use is necessary and only for as long as such use is necessary for the ongoing market monitoring and oversight of the remaining joint market. In keeping a copy of and using California's confidential and proprietary information, WCI, Inc. shall ensure use of such information is consistent with the use of such confidential and proprietary information by the remaining Participating Jurisdictions and WCI, Inc. during the term of this Agreement. The State shall allow use of California's confidential and proprietary information by WCI, Inc. and the remaining Participating Jurisdictions only if WCI, Inc. and the remaining Participating Jurisdictions continue to maintain the confidentiality of such information consistent with the applicable information sharing agreements and each Participating Jurisdiction's responsibilities under its respective laws.