



DEPARTMENT OF
ECOLOGY
State of Washington

CONTRACT No. C2400177

CONTRACT

BETWEEN

STATE OF WASHINGTON, DEPARTMENT OF ECOLOGY

AND

WESTERN CLIMATE INITIATIVE, INC.

This Contract ("Contract") is made and entered into by and between the state of Washington, Department of Ecology, referred to as "ECOLOGY," and the below named firm, referred to as "CONTRACTOR."

Contractor Name: Western Climate Initiative, Inc.

Address: 1107 9th Street, Suite 1070

City, State, Zip Code: Sacramento, CA 95814

Phone: (418) 209-8079

E-mail: operations@wci-inc.org

WA State UBI Number: 604-583-954-000

Federal ID Number: 45-4044016

1. PURPOSE

The purpose of this Contract is to provide Ecology with access to administrative systems being developed and administered to support the implementation of state and provincial GHG trading programs.

2. SCOPE OF WORK

- a) Appendix A, *Statement of Work and Budget Detail and Payment Provisions*, is attached hereto and incorporated by reference. The Scope of Work is set forth in Section 2 of Appendix A.
- b) Appendix B, *General Terms and Conditions*, is attached hereto and incorporated by reference. It contains the General Terms and Conditions governing work to be performed under this Contract, the nature of the working relationship between ECOLOGY and the CONTRACTOR, and specific obligations of both parties.

3. CONTRACT PERIOD

The period of performance of this Contract will commence on March 1, 2024 (or the date of final signature, whichever comes later) and continue until June 30, 2025, unless the Contract is terminated sooner as provided herein. Amendments extending the period of performance, if any, shall be exercised upon the mutual written agreement of the parties.

4. TOTAL COMPENSATION

Total compensation payable to CONTRACTOR under this Contract shall not exceed two million five hundred eleven thousand nine hundred fifty dollars (\$2,511,950.00), inclusive of all costs.

The source of funds for this Contract is Climate Investment Account. The CONTRACTOR agrees to comply with all applicable rules and regulations associated with these funds.

5. BILLING AND PAYMENT PROCEDURES

Payment requests shall be submitted on state form, Invoice Voucher A19-1A. Invoice voucher shall reference the Contract number and clearly identify those items that relate to performance under this Contract. Invoice shall describe and document to ECOLOGY's reasonable satisfaction a description of the work performed, the progress of the work, and related costs. The CONTRACTOR shall attach supporting documentation to the invoice.

Send Invoices to:

State of Washington
Department of Ecology
Climate Pollution Reduction Program
Attn: Derek Nixon
PO Box 47600
Olympia, WA 98504-7600
derek.nixon@ecy.wa.gov

Payment requests may be submitted on a Quarterly basis under the schedule set forth in Appendix A, Section 3. Upon expiration of this Contract, any claim for payment not already made shall be submitted to ECOLOGY within thirty (30) days after the expiration date.

Payment shall be made after submission of a properly completed invoice, form A19-1A. Payment shall be considered timely if made by ECOLOGY within thirty (30) calendar days of the date set forth in Appendix A, Section 3. Payment shall be sent to the address designated by the CONTRACTOR.

Payment will be issued through Washington State's Office of Financial Management's Statewide Payee Desk. To receive payment, the CONTRACTOR must register as a statewide vendor by submitting a statewide vendor registration form and an IRS W-9 form at website, [Statewide Vendor/Payee Services | Office of Financial Management \(wa.gov\)](https://www.wa.gov/Statewide-Vendor-Payee-Services). For questions about the vendor registration process, contact Statewide Payee Help Desk at (360) 407-8180 or email PayeeRegistration@ofm.wa.gov.

6. CONTRACT MANAGEMENT

The Contract Manager for each of the parties shall be the contact person for all communications, notifications, and billing questions regarding the performance of this Contract. Each party agrees that if there is a change in representatives, they will promptly notify the other party in writing. Such changes do not require a contract amendment.

ECOLOGY Contract Manager is:

Name: Derek Nixon

Program Name: Climate Pollution Reduction Program

Address: 300 Desmond Dr. SE, Lacey, WA 98503

Mailing Address: PO Box 47600, Olympia, WA 98504-7600

Phone: (360) 485-7594

E-mail address: derek.nixon@ecy.wa.gov

CONTRACTOR Contract Manager is:

Name: Eric Turcotte

Contractor Name: Western Climate Initiative, Inc.

Address: 1107 Ninth Street, Suite 1070

City, State Zip Code: Sacramento, CA 95814

Phone: (418) 209-8079

E-mail address: operations@wci-inc.org

7. ASSURANCES

ECOLOGY and the CONTRACTOR agree that all activity pursuant to this Contract will be in accordance with all the applicable current federal, state, and local laws, rules, and regulations.

8. CONFORMANCE

If any provision of this Contract violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

9. ORDER OF PRECEDENCE

In the event of an inconsistency in the terms of this Contract, or between the terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations.
- Mutually agreed written amendments to this Contract.
- This Contract, no. C2400177.
- Appendix A – *Statement of Work and Budget Detail and Payment Provisions*.

APPENDIX A

STATEMENT OF WORK AND BUDGET DETAIL AND PAYMENT PROVISIONS

1. Background

In May 2021, the Washington Legislature passed the Climate Commitment Act (CCA) to reduce carbon pollution and help achieve greenhouse gas (GHG) limits set in state law. The CCA directs the Washington Department of Ecology (Ecology or State) to develop rules to implement a cap on carbon emissions, including mechanisms for the sale and tracking of tradeable emissions allowances and compliance and accountability measures. The Washington cap-and-invest program establishes an emissions cap that covers certain industrial facilities, fuel suppliers, electricity suppliers and importers, and natural gas distributors with annual GHG emissions above 25,000 metric tons of carbon dioxide equivalent.

Western Climate Initiative, Inc. (WCI, Inc. or Contractor) was formed as a nonprofit organization to provide coordinated administrative and technical support to Washington 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 also ensures that all the programs maintain the highest level of security, enhances market oversight, reduces the potential for fraud and malfeasance, and provides a framework that can be expanded as more jurisdictions implement their respective programs. In particular, the coordinated support provided by WCI, Inc. facilitates the ability of jurisdictions to accomplish the technical aspects of program linkage if and when such linkage agreements are made between jurisdictions.

As a participating jurisdiction and as provided in WCI, Inc.'s bylaws, Washington will hold two (2) voting positions and two (2) nonvoting positions on the WCI, Inc. Board of Directors.

California and Quebec are also participating jurisdictions (more information regarding the WCI, Inc. Board of Directors and bylaws is available at: <https://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 Ecology with access to administrative systems being developed and administered to support the implementation of state and provincial GHG trading programs. Ecology will be provided access to administrative systems including development and administration of an emissions allowance tracking system; development and administration of an emissions 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.

Changes to the administrative systems referenced in this Scope of Work are to be mutually agreed to between the parties during the implementation of the project.

3. Budget Detail and Payment Provisions:

Upon receipt and approval of invoice(s), ECOLOGY agrees to compensate the Contractor for annual membership dues consistent with the payment terms set forth in Section 5 of the Agreement. Please refer to the table below for a breakdown of quarterly payments. The total amount payable to the Contractor for the duration of the contract shall not exceed \$2,511,950.00.

Quarterly Periods	Payment Due Dates	Amount
April – June 2024	July 1, 2024	\$502,390.00
July – September 2024	October 1, 2024	\$502,390.00
October – December 2024	January 1, 2024	\$502,390.00
January – March 2025	April 1, 2025	\$502,390.00
April – June 2025	July 1, 2025	\$502,390.00
	Total Project Cost	\$2,511,950.00

APPENDIX B GENERAL TERMS AND CONDITIONS

DEFINITIONS

As used throughout this Contract, the following terms shall have the meaning set forth below:

"ECOLOGY" shall mean the Department of Ecology of the state of Washington, any division, section, office, unit, or other entity of the agency, or any of the officers or other officials lawfully representing ECOLOGY.

"AGENT" shall mean the Director of Ecology, and/or the delegate authorized in writing to act on the Director's behalf.

"WCI, Inc." means any division, unit, or other entity of the Western Climate Initiative, Inc., or any of the officers or other officials lawfully representing WCI, Inc.

"Contract" shall mean this agreement including all Appendices and any other attachments referenced or incorporated herein.

1) AMENDMENTS

This Contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

2) ASSIGNMENT

Neither this Contract, nor any claim arising under this Contract, shall be transferred or assigned by either party without prior written consent of the other party.

3) ATTORNEY FEES

In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorney fees and costs.

4) COMPLIANCE WITH ALL LAWS

WCI, Inc. agrees to observe all applicable laws, regulations, and policies of the United States and the state of Washington affecting performance under this Contract.

5) CONFIDENTIALITY AND SAFEGUARDING OF INFORMATION

WCI, Inc. shall maintain the confidentiality of ECOLOGY'S Confidential Information.

WCI, Inc. shall not use or disclose any ECOLOGY Confidential Information for any purpose not directly connected with the performance of this Contract, except with prior written consent of ECOLOGY, or as may be required by law.

WCI, Inc. shall ensure its directors, officers, employees, contractors or agents use all Confidential Information solely for the purposes of accomplishing the services set forth in this Contract.

WCI, Inc. agrees not to release, divulge, publish, transfer, sell, or otherwise make known to unauthorized persons any ECOLOGY Confidential Information without the express written consent of ECOLOGY or as otherwise required by law or court order.

For the purposes of this Contract, “Confidential Information” means any and all information (including Sensitive Information or Personal Information) of a party (the “Disclosing Party”), identified as confidential or marked as confidential information, or is clearly recognizable as confidential information to a prudent person with no special knowledge of the other Party’s business, that has or will come into the possession or knowledge of the other party or any of its personnel or subcontractors (the “Receiving Party”), or to which the Receiving Party has access in connection with or as a result of entering into this Contract, including information concerning or of the Disclosing Party’s past, present or future clients, customers, subcontractors, suppliers, technology or business. Confidential Information shall not include information that: (i) is information that is derived pursuant to any Requirements of Law; (ii) is or becomes generally available to the public without fault or breach on the part of WCI, Inc. of any duty of confidentiality owed by WCI, Inc. to ECOLOGY or to any third-party; (iii) WCI, Inc. can demonstrate to have been rightfully obtained by WCI, Inc. without any obligation of confidence, from a third-party who had the right to transfer or disclose it to WCI, Inc. free of any obligation of confidence; (iv) WCI, Inc. can demonstrate to have been rightfully known to or in the possession of WCI, Inc. at the time of disclosure, free of any obligation of confidence when disclosed; or (v) is independently developed by WCI, Inc. but the exclusions in this definition of “Confidential Information” shall in no way limit the meaning of Personal Information or the obligations attaching thereto under the Contract or at law.

Notwithstanding the foregoing, ECOLOGY Confidential Information includes:

- (a) information of or provided by ECOLOGY that is identified as 'confidential' or marked as 'confidential information', or is clearly recognizable as confidential information to a prudent person with no special knowledge of ECOLOGY's business; and
- (b) information about ECOLOGY's personnel, financial circumstances, business plans and strategies, forecasts and forecast assumptions, business practices, operations and procedures that is identified as 'confidential' or marked as 'Confidential Information,' or is clearly recognizable as confidential information to a prudent person with no special knowledge of ECOLOGY's business.

“Sensitive information” includes all information or material received from ECOLOGY that has or could have commercial or other value to any party with an interest or involvement in the ECOLOGY project, in particular to any entity subject to regulation by ECOLOGY. Examples of sensitive information include information about an upcoming ECOLOGY decision or publication.

“Personal information” including, but not limited to, “Protected Health Information”, collected, used, or acquired in connection with this Contract shall be protected against unauthorized use, disclosure, modification, or loss.

WCI, Inc. agrees to indemnify and hold harmless ECOLOGY for any damages related to WCI, Inc.’s unauthorized use of any Confidential Information.

Upon breach of this provision, ECOLOGY may terminate the Contract as provided in Section 22 of Appendix B and, separately, shall be entitled to return of all Confidential Information.

This confidentiality requirement shall survive termination of this Contract.

6) CONFLICT OF INTEREST

WCI, Inc. shall act in a professional and ethical manner, and shall avoid any conflict of interest that might influence WCI, Inc.’s actions or judgment.

WCI, Inc. must disclose immediately to ECOLOGY any interest, direct or indirect, that might be construed as prejudicial in any way to the professional judgment of WCI, Inc. in rendering service to ECOLOGY. For clarification only, WCI, Inc.'s work with any current, future or potential participating jurisdiction shall not be considered a conflict of interest or otherwise violate any provision of this Section 6.

Except as required by law, WCI, Inc. shall not permit staff that work on an ECOLOGY project to voluntarily testify, advocate, or consult for parties with interests or involvement in that ECOLOGY project on subject matter related to the ECOLOGY project during the Contract term, unless WCI, Inc. obtains prior written approval from ECOLOGY. This requirement shall survive termination of the contract.

Notwithstanding any determination by the Executive Ethics Board or other tribunal, ECOLOGY may, in its sole discretion, by written notice to WCI, Inc., terminate this Contract as provided in Sections 22 of Appendix B if it is found after due notice and examination by the AGENT that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute, involving WCI, Inc. in the procurement of, or performance under this Contract.

In the event this Contract is terminated as a result of a conflict of interest issue, ECOLOGY shall be entitled to pursue the same remedies against WCI, Inc. as it could pursue in the event of a breach of the Contract by WCI, Inc. The rights and remedies of ECOLOGY provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the AGENT makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this Contract.

7) DISPUTES

Except as otherwise provided in this Contract, when a dispute arises between the parties that cannot be resolved by direct negotiation, either party may request a dispute hearing with the AGENT.

- a) The request for a dispute hearing must:
 - 1) Be in writing.
 - 2) Identify WCI, Inc.'s name, address, and Contract number.
 - 3) State the disputed issue(s).
 - 4) State the relative positions of the parties.
 - 5) Be mailed to the AGENT and the other party's (respondent's) Contract manager within three (3) business days after the parties agree that they cannot resolve the dispute.
- b) The respondent shall send a written answer to the requester's statement to both the AGENT and the requester within five (5) business days.
- c) The AGENT shall review the written statements and reply in writing to both parties within ten (10) business days. The AGENT may extend this period if necessary by notifying the parties.
- d) The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal but that the decision of the AGENT shall only be binding on WCI, Inc. with WCI, Inc.'s written consent.

Nothing in this Contract shall be construed to limit the parties' choice of a mutually acceptable method, in addition to the dispute resolution procedure outlined above.

8) FUNDING AVAILABILITY

- (a) ECOLOGY's ability to make payments is contingent on availability of funding. In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date and prior to completion or expiration date of this Contract, ECOLOGY, at its sole discretion, may elect to terminate the Contract as provided in Section 22 of Appendix B or to renegotiate the Contract subject to new funding limitations and conditions. ECOLOGY may also elect to suspend the Contract until ECOLOGY determines the funding insufficiency is resolved. In the event of suspension, Contractor shall not be obligated to perform any provisions of this Contract. ECOLOGY may exercise any of these options with no notification restrictions, although ECOLOGY will make a reasonable attempt to provide notice.
- (b) In the event of termination or suspension, ECOLOGY will reimburse eligible costs incurred by WCI, Inc. through the effective date of termination or suspension. Reimbursed costs must be agreed to by ECOLOGY and WCI, Inc. In no event shall ECOLOGY's reimbursement exceed ECOLOGY's total responsibility under this agreement and any amendments.

9) GOVERNING LAW

This Contract shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be the Superior Court for Thurston County.

10) INDEMNIFICATION

To the fullest extent permitted by law, WCI, Inc. expressly agrees to indemnify, defend, and hold harmless ECOLOGY for any claim arising out of or incident to WCI, Inc.'s or any subcontractor's performance or failure to perform under this Contract.

WCI, Inc.'s obligations to indemnify, defend, and hold harmless ECOLOGY include any claim by WCI, Inc.'s agents, employees, representatives, or any subcontractor or its employees.

WCI, Inc.'s obligations to indemnify, defend, and hold harmless ECOLOGY shall not be eliminated or reduced by any actual or alleged concurrent negligence of ECOLOGY or its agents, agencies, employees and officials.

WCI, Inc. waives its immunity under state of Washington Title 51 RCW to the extent it is required to indemnify, defend, and hold harmless State and its agencies, officials, agents, or employees.

11) INDEPENDENT CAPACITY OF WCI, Inc.

The parties intend that no agency relationship is created by this Contract. WCI, Inc. and its employees or agents are not employees or agents of ECOLOGY. WCI, Inc. will not hold itself out as or claim to be an officer or employee of ECOLOGY or of the state of Washington by reason hereof, nor will WCI, Inc. make any claim of right, privilege or benefit that would accrue to such employee under law.

12) LIMITATION OF AUTHORITY

Only ECOLOGY's Director or delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract. Furthermore, any alteration, amendment, modification, or waiver or any clause or

condition of this Contract is not effective or binding unless made in writing and signed by the Director or delegate.

13) NON-DISCRIMINATION LAWS

During the performance of this Contract, WCI, Inc. shall comply with all applicable federal and state non-discrimination laws, regulations, and policies.

In the event of WCI, Inc.'s non-compliance or refusal to comply with any non-discrimination law, regulation or policy, this Contract may be rescinded, canceled or terminated in whole or in part, and WCI, Inc. may be declared ineligible for further contracts with ECOLOGY. WCI, Inc. shall, however, be given a reasonable time in which to cure this non-compliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

14) PUBLIC INFORMATION

This Contract and all related documents are subject to public disclosure as required by Washington's Public Records Act, RCW chapter 42.56.

ECOLOGY will withhold information marked confidential or proprietary only to the extent ECOLOGY believes information is exempt under applicable laws. When a third party requests contract documents, ECOLOGY may or may not notify WCI, Inc. prior to releasing. In the event of such notification, WCI, Inc. must obtain a court order enjoining disclosure or ECOLOGY will release the information on the date specified.

15) PUBLICITY

WCI, Inc. agrees to submit to ECOLOGY all advertising relating to this Contract wherein ECOLOGY's name is mentioned or language is used from which the connection of ECOLOGY's name may, in ECOLOGY's judgment, be inferred or implied. WCI, Inc. agrees not to publish or use such advertising and publicity matters without the prior written consent of ECOLOGY. This Section 15 shall not apply to use of ECOLOGY's name on the WCI, Inc. website or when used in providing the services as set forth in the Scope of Work in the normal course and consistent with how such services are provided to other participating jurisdictions.

16) RECORDS MAINTENANCE

WCI, Inc. shall maintain books, records, documents, data, and other evidence relating to this Contract.

WCI, Inc. shall retain such records for a period of six (6) years following the date of final payment. At no additional cost, these records, including materials generated under the Contract, shall be subject at all reasonable times to inspection, review, or audit by ECOLOGY personnel duly authorized by ECOLOGY, the Office of the State Auditor, or federal and state officials so authorized by law, regulation, or agreement provided that after termination of the Contract such audit or inspection shall not occur more than one time in any twelve consecutive month period unless ECOLOGY demonstrates good cause for such additional inspection or audit. All inspections and audits must be conducted during normal WCI, Inc. business hours and must not unreasonably interfere with WCI, Inc. business operations.

If ECOLOGY sends written notice to WCI, Inc. of any litigation, reasonably anticipated potential litigation, claim, or audit before the expiration of the six (6) year period, the records shall be retained

until ECOLOGY sends written notice to WCI, Inc. that all litigation, reasonably anticipated potential litigation, claims, or audit findings involving the records have been resolved.

17) SEVERABILITY

The provisions of this Contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Contract.

18) SITE SAFETY AND SECURITY COMPLIANCE

While on ECOLOGY's premises, WCI, Inc., its agents, employees, shall conform in all respects with ECOLOGY's policies and regulations concerning safety, physical, fire, security, or other site rules.

19) SUSTAINABLE PRACTICES

In order to sustain Washington's natural resources and ecosystems, WCI, Inc. is encouraged to implement sustainable practices where and when possible. These practices include conservation of water and energy, use of certified green cleaning products, allowance of toxic chemicals, purchase and use of sustainably produced products (e.g., 100% recycled paper), and use of reusable products. For more examples and resources, see website: [Department of Ecology Green Purchasing For Business](#).

20) TAXES

All payments accrued because of payroll taxes, unemployment contributions, any other taxes, insurance, or other expenses for WCI, Inc. or its staff shall be the sole responsibility of WCI, Inc.

21) RIGHT TO TERMINATION

- (a) **Termination by ECOLOGY.** This Contract may be terminated and cancelled by ECOLOGY prior to the end of the Term upon ECOLOGY complying with the requirements of the withdrawal procedures set forth in Section 22 below.
- (b) **Termination by WCI, Inc.** This Contract may be terminated and cancelled by WCI, Inc. upon ECOLOGY's material breach of the Contract and such breach is not cured by ECOLOGY within thirty (30) days of WCI, Inc. providing ECOLOGY with written notice of such breach. The termination and withdrawal procedures set forth in Section 22 below, including without limitation the ninety (90) day notice period set forth in Section 22(a) below, shall apply to a termination for cause by ECOLOGY under this paragraph.

22) TERMINATION AND WITHDRAWAL PROCEDURES

- (a) **Notice of Termination and Withdrawal.** Subject to the terms of Section 22(a) of Appendix B, ECOLOGY must provide WCI, Inc. and each of the other participating jurisdictions with ninety (90) days prior written notice of its intent to terminate this Contract 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 Washington as a participating jurisdiction of WCI, Inc.
- (b) **Effect of Providing Notice of Termination.** WCI, Inc.'s receipt of the Withdrawal Notice shall have the following effects:

- (i) Within fifteen (15) business days of WCI, Inc.'s receipt of the Notice of Termination, WCI, Inc. shall provide to ECOLOGY a draft plan of withdrawal ("**Withdrawal Plan**"). A copy of the Withdrawal Plan shall also be provided to all other participating jurisdictions.
- (ii) 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 ECOLOGY as a participating jurisdiction including, but not limited to: removing ECOLOGY from all IT and related platforms, closing all escrow accounts, collecting and returning all ECOLOGY 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 ECOLOGY'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 ECOLOGY 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 22(c) below; and
 - (5) An accounting of the fees paid to WCI, Inc. under this Contract by ECOLOGY and application of the Withdrawal Costs.
 - (iii) ECOLOGY 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 ECOLOGY, 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.
- (c) **Withdrawal Costs.** Withdrawal Cost shall include all costs directly incurred by WCI, Inc. in providing the Withdrawal Services plus ECOLOGY'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 ECOLOGY to WCI, Inc. within ninety (90) business days of the completion of the Final Plan.
- (d) **Cooperation of Parties in Withdrawal Process.** WCI, Inc. shall, as soon as reasonably possible, notify ECOLOGY and the other participating jurisdictions of any circumstance or event of which it becomes aware that is related to or is resulting from Washington'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 ECOLOGY, 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 ECOLOGY from all IT and related platforms and closing all escrow accounts.
- (e) **Use of ECOLOGY's confidential and proprietary information Post-Termination.** In addition to and notwithstanding any other term or condition of the Contract but subject to any laws applicable in Washington, WCI, Inc. may keep a copy of ECOLOGY'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 ECOLOGY'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 Contract. ECOLOGY shall allow use of ECOLOGY'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.

23) WAIVER

Waiver of any default or breach shall not be deemed a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Contract unless stated to be such in writing and signed by authorized representative of ECOLOGY.

End of Document