EBIX Insurance No. *S200004685

# AGREEMENT FOR SERVICES BETWEEN THE SANTA CLARA STADIUM AUTHORITY, AND CONTRACTOR COMPLIANCE AND MONITORING, INC.

## PREAMBLE

This Agreement is entered into between the Santa Clara Stadium Authority, a joint powers agency created pursuant to Section 6532 of the California Government Code (Authority) and Contractor Compliance and Monitoring, Inc., a California corporation, (Contractor). Authority and Contractor may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

## RECITALS

A. Authority desires to secure the services more fully described in this Agreement, at Exhibit A, entitled "Scope of Services";

B. Contractor represents that it, and its subcontractors, if any, have the professional qualifications, expertise, necessary licenses and desire to provide certain goods and/or required services of the quality and type which meet objectives and requirements of Authority; and,

C. The Parties have specified herein the terms and conditions under which such services will be provided and paid for.

The Parties agree as follows:

## AGREEMENT TERMS AND CONDITIONS

### 1. AGREEMENT DOCUMENTS

The documents forming the entire Agreement between Authority and Contractor shall consist of these Terms and Conditions and the following Exhibits, which are hereby incorporated into this Agreement by this reference:

Exhibit A – Scope of Services

Exhibit B – Schedule of Fees

Exhibit C – Insurance Requirements

Exhibit D – Labor Compliance Addendum (if applicable)

This Agreement, including the Exhibits set forth above, contains all the agreements, representations and understandings of the Parties, and supersedes

and replaces any previous agreements, representations and understandings, whether oral or written. In the event of any inconsistency between the provisions of any of the Exhibits and the Terms and Conditions, the Terms and Conditions shall govern and control.

## 2. TERM OF AGREEMENT

Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on February 10, 2021 and terminate on February 9, 2022.

## 3. SCOPE OF SERVICES & PERFORMANCE SCHEDULE

Contractor shall perform those Services specified in Exhibit A within the time stated in Exhibit A. Time is of the essence.

## 4. WARRANTY

Contractor expressly warrants that all materials and services covered by this Agreement shall be fit for the purpose intended, shall be free from defect and shall conform to the specifications, requirements and instructions upon which this Agreement is based. Contractor agrees to promptly replace or correct any incomplete, inaccurate or defective Services at no further cost to Authority when defects are due to the negligence, errors or omissions of Contractor. If Contractor fails to promptly correct or replace materials or services, Authority may make corrections or replace materials or services and charge Contractor for the cost incurred by Authority.

## 5. QUALIFICATIONS OF CONTRACTOR - STANDARD OF CARE

Contractor represents and maintains that it has the expertise in the professional calling necessary to perform the Services, and its duties and obligations, expressed and implied, contained herein, and Authority expressly relies upon Contractor's representations regarding its skills and knowledge. Contractor shall perform such Services and duties in conformance to and consistent with the professional standards of a specialist in the same discipline in the State of California.

## 6. COMPENSATION AND PAYMENT

In consideration for Contractor's complete performance of Services, Authority shall pay Contractor for all materials provided and Services rendered by Contractor in accordance with Exhibit B, entitled "SCHEDULE OF FEES." The maximum compensation of this Agreement is twenty thousand dollars ($20,000), subject to budget appropriations, which includes all payments that may be authorized for Services and for expenses, supplies, materials and equipment required to perform the Services. All work performed or materials provided in

excess of the maximum compensation shall be at Contractor's expense. Contractor shall not be entitled to any payment above the maximum compensation under any circumstance.

## 7. TERMINATION

A. Termination for Convenience. Authority shall have the right to terminate this Agreement, without cause or penalty, by giving not less than Thirty (30) days' prior written notice to Contractor.

B. Termination for Default. If Contractor fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, Authority may terminate this Agreement immediately upon written notice to Contractor.

C. Upon termination, each Party shall assist the other in arranging an orderly transfer and close-out of services. As soon as possible following the notice of termination, but no later than ten (10) days after the notice of termination, Contractor will deliver to Authority all Authority information or material that Contractor has in its possession.

## 8. ASSIGNMENT AND SUBCONTRACTING

Authority and Contractor bind themselves, their successors and assigns to all covenants of this Agreement. This Agreement shall not be assigned or transferred without the prior written approval of Authority. Contractor shall not hire subcontractors without express written permission from Authority.

Contractor shall be as fully responsible to Authority for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons directly employed by it.

## 9. NO THIRD PARTY BENEFICIARY

This Agreement shall not be construed to be an agreement for the benefit of any third party or parties and no third party or parties shall have any claim or right of action under this Agreement for any cause whatsoever.

## 10. INDEPENDENT CONTRACTOR

Contractor and all person(s) employed by or contracted with Contractor to furnish labor and/or materials under this Agreement are independent contractors and do not act as agent(s) or employee(s) of Authority. Contractor has full rights to manage its employees in their performance of Services under this Agreement.

## 11. CONFIDENTIALITY OF MATERIAL

All ideas, memoranda, specifications, plans, manufacturing procedures, data, drawings, descriptions, documents, discussions or other information developed or received by or for Contractor and all other written information submitted to Contractor in connection with the performance of this Agreement shall be held confidential by Contractor and shall not, without the prior written consent of Authority, be used for any purposes other than the performance of the Services nor be disclosed to an entity not connected with performance of the Services. Nothing furnished to Contractor which is otherwise known to Contractor or becomes generally known to the related industry shall be deemed confidential.

## 12. OWNERSHIP OF MATERIAL

All material, which shall include, but not be limited to, data, sketches, tracings, drawings, plans, diagrams, quantities, estimates, specifications, proposals, tests, maps, calculations, photographs, reports, designs, technology, programming, works of authorship and other material developed, collected, prepared or caused to be prepared under this Agreement shall be the property of Authority but Contractor may retain and use copies thereof. Authority shall not be limited in any way or at any time in its use of said material. However, Contractor shall not be responsible for damages resulting from the use of said material for work other than Project, including, but not limited to, the release of this material to third parties.

## 13. RIGHT OF AUTHORITY TO INSPECT RECORDS OF CONTRACTOR

Authority, through its authorized employees, representatives or agents shall have the right during the term of this Agreement and for four (4) years from the date of final payment for goods or services provided under this Agreement, to audit the books and records of Contractor for the purpose of verifying any and all charges made by Contractor in connection with Contractor compensation under this Agreement, including termination of Contractor. Contractor agrees to maintain sufficient books and records in accordance with generally accepted accounting principles to establish the correctness of all charges submitted to Authority. Any expenses not so recorded shall be disallowed by Authority Contractor shall bear the cost of the audit if the audit determines that there has been a substantial billing deviation in excess of five (5) percent adverse to the Authority.

Contractor shall submit to Authority any and all reports concerning its performance under this Agreement that may be requested by Authority in writing. Contractor agrees to assist Authority in meeting Authority's reporting requirements to the State and other agencies with respect to Contractor's Services hereunder.

## 14. HOLD HARMLESS/INDEMNIFICATION

A. To the extent permitted by law, Contractor agrees to protect, defend, hold harmless and indemnify Authority, its respective governing boards, commissions, officers, employees, volunteers and agents from and against any claim, injury, liability, loss, cost, and/or expense or damage, including all costs and attorney's fees in providing a defense to any such claim or other action, and whether sounding in law, contract, tort, or equity, in any manner arising from, or alleged to arise in whole or in part from, or in any way connected with the Services performed by Contractor pursuant to this Agreement – including claims of any kind by Contractor's employees or persons contracting with Contractor to perform any portion of the Scope of Services – and shall expressly include passive or active negligence by Authority connected with the Services. However, the obligation to indemnify shall not apply if such liability is ultimately adjudicated to have arisen through the sole active negligence or sole willful misconduct of Authority; the obligation to defend is not similarly limited.

B. Contractor's obligation to protect, defend, indemnify, and hold harmless in full Authority and Authority's employees, shall specifically extend to any and all employment-related claims of any type brought by employees, contractors, subcontractors or other agents of Contractor, against Authority (either alone, or jointly with Contractor), regardless of venue/jurisdiction in which the claim is brought and the manner of relief sought.

C. To the extent Contractor is obligated to provide health insurance coverage to its employees pursuant to the Affordable Care Act ("Act") and/or any other similar federal or state law, Contractor warrants that it is meeting its obligations under the Act and will fully indemnify and hold harmless Authority for any penalties, fines, adverse rulings, or tax payments associated with Contractor's responsibilities under the Act.

## 15. INSURANCE REQUIREMENTS

During the term of this Agreement, and for any time period set forth in Exhibit C, Contractor shall provide and maintain in full force and effect, at no cost to Authority, insurance policies as set forth in Exhibit C.

## 16. WAIVER

Contractor agrees that waiver by Authority of any one or more of the conditions of performance under this Agreement shall not be construed as waiver(s) of any other condition of performance under this Agreement. Neither Authority's review, acceptance nor payments for any of the Services required under this Agreement

shall be constructed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

## 17. NOTICES

All notices to the Parties shall, unless otherwise requested in writing, be sent to Authority addressed as follows:

Santa Clara Stadium Authority
Attention: Executive Director
1500 Warburton Avenue
Santa Clara, CA 95050

And to Contractor addressed as follows:

Contractor Compliance and Monitoring, Inc.
635 Mariners Island Blvd., Suite 200
San Mateo, CA 94404
Or by facsimile at (650) 522-4402

The workday the e-mail was sent shall control the date notice was deemed given. An e-mail transmitted after 1:00 p.m. on a Friday shall be deemed to have been transmitted on the following business day.

## 18. COMPLIANCE WITH LAWS

Contractor shall comply with all applicable laws and regulations of the federal, state and local government, including but not limited to "The Code of the City of Santa Clara, California" ("SCCC"). In particular, Contractor's attention is called to the regulations regarding Campaign Contributions (SCCC Chapter 2.130), Lobbying (SCCC Chapter 2.155), Minimum Wage (SCCC Chapter 3.20), Business Tax Certificate (SCCC section 3.40.060), and Food and Beverage Service Worker Retention (SCCC Chapter 9.60), as such Chapters or Sections may be amended from time to time or renumbered. Additionally Contractor has read and agrees to comply with City's Ethical Standards (http://santaclaraca.gov/home/showdocument?id=58299).

## 19. CONFLICTS OF INTEREST

Contractor certifies that to the best of its knowledge, no Authority officer, employee or authorized representative has any financial interest in the business of Contractor and that no person associated with Contractor has any interest, direct or indirect, which could conflict with the faithful performance of this Agreement. Contractor is familiar with the provisions of California Government Code section 87100 and following, and certifies that it does not know of any facts

which would violate these code provisions. Contractor will advise Authority if a conflict arises.

## 20. FAIR EMPLOYMENT

Contractor shall not discriminate against any employee or applicant for employment because of race, sex, color, religion, religious creed, national origin, ancestry, age, gender, marital status, physical disability, mental disability, medical condition, genetic information, sexual orientation, gender expression, gender identity, military and veteran status, or ethnic background, in violation of federal, state or local law.

## 21. NO USE OF AUTHORITY NAME OR EMBLEM

Contractor shall not use Authority's name, insignia, or emblem, or distribute any information related to services under this Agreement in any magazine, trade paper, newspaper or other medium without express written consent of Authority.

## 22. GOVERNING LAW AND VENUE

This Agreement shall be governed and construed in accordance with the statutes and laws of the State of California. The venue of any suit filed by either Party shall be vested in the state courts of the County of Santa Clara, or if appropriate, in the United States District Court, Northern District of California, San Jose, California.

## 23. SEVERABILITY CLAUSE

In case any one or more of the provisions in this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, it shall not affect the validity of the other provisions, which shall remain in full force and effect.

## 24. AMENDMENTS

This Agreement may only be modified by a written amendment duly authorized and executed by the Parties to this Agreement.

## 25. COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which shall constitute one and the same instrument.

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives.

**SANTA CLARA STADIUM AUTHORITY**
a California Joint Power Agency

Approved as to Form:

BRIAN DOYLE
Stadium Authority Counsel

Dated: 3/15/2021

DEANNA J. SANTANA
Executive Director
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

"AUTHORITY"

**CONTRACTOR COMPLIANCE AND MONITORING, INC.**
a California corporation

Dated: February 4, 2021
By (Signature): Deborah E.G. Wilder
Name: Deborah E.G. Wilder
Title: President
Principal Place of Business Address: 635 Mariners Island Blvd., Suite 200
San Mateo, CA 94404
Email Address: dwilder@ccmilcp.com
Telephone: (650) 522-4403
Fax: (650) 522-4402

"CONTRACTOR"

## EXHIBIT A
## SCOPE OF SERVICES

The Services to be performed for the Authority by the Contractor under this Agreement are set forth below.

1. **Product Description Work Plan or Proposal**
   Listed below is a scope of services. It includes special reporting and requirements for Prop 84 projects as well as special requirements for federally funded project. A project which does not have Prop 84 funding nor any federal funding would exclude those items from the scope of work. The scope of work below assigns approximate times to each task to be performed.

   - A typical project starts with preconstruction tasks of reviewing contracts and providing the correct language and information in the bid documents. (Items 1-6)
   - Once a successful bidder is chosen, CCMI can help file the PWC-100 form and verify critical information about the contractors doing the work such as contractor registration, CSLB licensing and worker's compensation. (Items 7-8, 11)
   - CCMI attends a preconstruction conference to review the Labor Compliance requirements for the project. (Item 9)
   - The auditing onsite interviewing and monthly reports are performed each month during the project, including any additional investigations verification of corrections and restitution. (Items 10, 12-21, 25)
   - The close out process is accomplished at the end of the project. (Items 21-24)

   **Work Plan: California and Davis Bacon Prevailing Wage Project**

   1. Assist Authority in obtaining LCP approval from the DIR for Proposition 84 projects. Requesting a formal LCP approval from the DIR includes: 1) a 4-page application detailing the expertise of the Authority and how the LCP will be administered; 2) a Resolution from your Stadium Authority Board approving the LCP an adopting the program; and, 3) an administrative manual which incudes in great details the components of a Labor Compliance plan which essential meets the requirements of operating an LCP. The Administrative Manual is typically around 30-35 pages. The forms and attachments run another 30-35 pages. Completing this application process includes the Authority gaining understanding of all the LCP requirements and establishing best practice protocols to adopt it. This takes approximately 90 days to obtain approval. The DIR requires up to 60 days to review and approve the LCP. The Stadium Authority Board must adopt an applicable resolution, so CCMI allocates up to 30 days to have that item agendized on the Stadium Authority Board calendar. Annual reports are completed each August for the prior fiscal year.

2. Provide required language and prevailing wage documentation to the Client for prevailing wage compliance. 29 CPR Part 5.5 REQUIRES that certain mandated prevailing wage language be included in the bid specifications and contract whenever federal Davis-Bacon requirements apply to a project. Usually takes about 30-60 minutes to provide required language and to review any contracts or specifications.

3. Pull applicable Davis Bacon Wage determination for project and provide to Client. A hard copy of the applicable federal wage determination is required to be included in the bid specifications and the contract. A mere reference to the wage determination and MOD number or to the website www.wdol.gov is insufficient to meet this requirement and can result in the Client being subject to additional change order costs. Usually takes 30-60 minutes.

4. Review the specification to ensure that the requirements of California prevailing wage are included. Usually takes 30-60 minutes

5. Assist the Client, as required, in requesting additional federal wage determinations through the conformance process. Depending on the need, a conformance typically takes 1-3 hours per conformance

6. Create project files upon award of the project. 130 minutes

7. Assist the Client with completion and filing of PWC-100 form (required on all State prevailing wage projects in excess of $15,000 or maintenance and in excess of $25,000 for construction). The PWC-100 form is to be filed within 30 days of contract award, but not later than the first day worked. Approximately 30 minutes

8. Verify contractor's eligibility to work by checking the contracting status with both California and Federal lists, including the California Department of Industrial Relations (www.dir.ca.gov) and the Federal Excluded Parties list (www.sam.gov). Once subcontractors are identified, also verify the eligibility of all subcontractors. Depending on number of contractors on the project 15-90 minutes

9. Attend Preconstruction conference or conduct a separate labor compliance webinar, including providing a checklist of laws and regulations which need to be followed to comply with state and federal prevailing wage requirements as well as all forms required for labor compliance. Depends on the complexity of the project and experience of contractors. 1-3 hours.

10. Provide a phone line and e-mail contact where contractors and subcontractors can contact CCMI for clarification on prevailing wage, certified payrolls, apprenticeship and compliance issues. On an as needed basis throughout the project.

11. License check and confirmation with California Contractor's State License Board of current and active license status, as well as worker's compensation coverage of all contractors and all listed subcontractors. Confirmation that contractors are currently registered as "public works contractors" with the State of California. Depending on number of contractors on the project 15-90 minutes

12. Review and comparison of work classification with California prevailing wage classification and Davis-Bacon wage classifications to ensure the contractor is paying the correct prevailing wage rate. 30-60 minutes

13. Monitoring of all weekly certified payroll, including, but not limited to: correct classification of workers, proper wages being paid, proper calculation and payment of fringe benefits and training contributions, review overtime, shift pay, weekend and holiday work/pay, only permissible deductions will be allowed, cross reference of onsite interviews with certified payrolls to verify all workers are listed and review the "certification" or "Statement of Compliance" is complete and properly signed by an individual with knowledge and authority to act on behalf of the company. This time frame depends on the size of the project and number of workers employed. An audit could take 1 hour or 40 hours a month.

14. Monitoring of all Apprenticeship Requirements. Collection and review of all DAS-140 and DAS-142 forms. Review of applicable apprenticeship ratios, correct wages paid, training contributions (CAC2 forms). Verification that all apprentices also have an active Apprenticeship Certificate (U.S. Department of Labor, Office of Apprenticeship) certificate. This time is included in item 13 above.

15. Verification that apprentices are properly supervised and employed in approved ratios as required by both California and Federal apprenticeship regulations applicable to Davis-Bacon projects. This time is included in item 13 above

16. Jobsite audits and random interview of workers will be conducted by CCMI (to determine veracity of certified payroll information, compliance with anti-kickback, equal employment opportunity requirements, jobsite posting requirements, etc.). CCMI will cross reference the interviews with certified payroll information. CCMI will also confirm that required posters and wage rates are posted on the project. (required on Proposition 84 and Davis Bacon funded projects). The onsite interviews typically take 1 hour on site plus related travel of 1-2 hours

17. Proof of Payment: Monthly verification of payment of wages to workers by all contractors and subcontractors on the project (required by Prop 84 funding only). This again is determined by the number of contractors on the project. The request is typically 10 minutes per contractor. However, if the contractor

does not provide the information requested or the information does not match the certified payroll, follow up could take 30-120 minutes

18. Respond to any inconsistencies or deliberate deceptions on the part of contractors through additional detailed audit of contractors through review of cancelled checks, timecards, and related records (as needed) and seek appropriate resolution consistent with California and Davis Bacon regulations. This is handled on a case by case basis. An inquiry for additional information and review of additional documents could take one hour or several hours depending on the information provided and any underpayment identified

19. Communication of potential violations will be provided promptly to the Client with recommended action. In the event paperwork or compliance issues with a contractor cannot be resolved quickly, the Client will be notified of this potential problem and a recommendation will be made to the Client to retain a certain portion of the scheduled progress payment until the issue is resolved. The Authority will receive a monthly report by contractor. This is included in the time allocated in item 20 below. However, communication of serious violations is usually transmitted via email or by phone call and typically can take 30-90 minutes depending on the seriousness of the violation.

20. Communications with Contractors. CCMI will work with all contractors and subcontractors with the goal of amicable agreement on resolving issues related to violations, penalties and compliance. All meetings and calls with contractors will be documented in the project folder maintained by CCMI. After the audit is completed, reports are prepared for each contractor and subcontractor on the project who worked in that month. Reports typically take 10 minutes each.

21. Collect Section 3 reporting information and prepare annual reporting (applies to CDBG funding or other federal funding requiring Section 3 reporting) Usually 20 minutes per month to collect and review the data and one hour to prepare the Annual Report.

22. Provide Final Wage Compliance Report within 30 days of completion of project. Final close of project including imposition of penalties and reports to Labor Commissioner; issuing of Request for Forfeitures/Notices to Withhold and other close out documentation. Such report shall include: start and completion of project, services provided, summary of discrepancies, violations, corrective action and restitution of any underpayment of wages and any other documentation requested by the Client. Final Close-Out Report will also include a review of any imposition of penalties and reports to California Labor Commissioner; and US DOL, as required. Depending on the funding source, the number of reports to be completed and number of violations which remain outstanding, the close out procedure can take 1-10 hours

23. Maintain all records for a period of five (5) years. 30 minutes to archive folder

24. Attend any compliance or auditing meeting with the State or federal agencies relating to the labor compliance on this project. Typically. this does not occur on purely State funded projects. Federal audit are typically 4-8 hours.

25. Provide other assistance relating to labor compliance as requested by the Client. On an as needed basis

26. Provide updates to the Authority on labor compliance trainings conducted by the DIR. CCMI staff attends periodic LCP training conducted by the DIR. CCMI staff regularly attends training conducted every year or two by the U.S. Department or Labor on Davis Bacon compliance. In addition. CCMI prcsidc.mt Deborah Wilder conducts her own in-house staff training on new and updated regulations and implementations on a regular basis and will pass this information on to the Authority.

27. Provide prevailing wage training to staff. CCMI also provides training to public agencies and contractors on meeting prevailing wage requirements. This can include a single 1-hour session or informational training or sessions spread over several weeks to provide more hands-on detail of full labor compliance training.

28. Serve as an expert witness in state and federal labor compliance and prevailing wage violations. Sec Exhibit 13 for hourly rate.

CCMI prides itself in taking a proactive, educational/team approach in working with Clients and contractors before problems arise. Wilder's extensive experience in this area over the last 35 years has given her particular insight into spotting potential problems early on during project construction. CCMI is committed to implementing and enforcing a program that is fair to all contractors, but one which requires strict adherence to the requirements of prevailing wage and Labor Compliance. Our breadth of experience and expertise cannot be matched by any other LCP firm in the State.

## 2. Project Schedule

Please see the explanation and timeline identified in item 1 above. The timeline for completing a project depends on several factors which include the length of the construction package. As the audits are taking place throughout the project, the close out of the project typically takes 30-45 days after completion of the project.

The start date is when the Authority identifies the project to us and either requests our assistance with pre bid documents or informs us of an upcoming preconstruction conference. Each month we audit the project. Typically, in reviewing the payrolls once a month, we only anticipate a 2-week time lag. For example, if we review CPRs on the 1st of the month, we would expect payrolls and labor compliance documents through the 15th of the prior month. There are no order dates or installation time for this work. We seek to close the project promptly once we are notified of its completion.

## EXHIBIT B
## SCHEDULE OF FEES

In no event shall the amount billed to Authority by Contractor for services under this Agreement exceed twenty thousand dollars ($20,000), subject to budget appropriations.

Contractor shall provide a schedule of rates and fees which includes all billing amounts and costs as follows:

CCMI typically bills for its services in one of two ways, by hourly rates or project based.

**1. Hourly Rates***

- Technician: $75.00
- Analyst: $95.00
- Manager: $125.00
- Principal: $350.00
- Onsite Interviews: $200 per project per visit
- Expert Testimony: $450 per hour (Wilder only)

Note: CCMI's can bill based on hourly rates with a NTE cap on the work.

**2. Project Based**

To quote a flat fee price, CCMI needs the following information: Funding source, dollar value of project, anticipated number of work days on the project, approximate number of subcontractors on the project. We then will provide a single flat fee for all services and payment is made in even monthly amounts over the course of the project. Below are some examples using the proposed scope of work as set f01ih in Exhibit A:

- The flat fee price for obtaining an LCP for Prop 84 projects is $1500.
- Annual Report to DIR each year is billed at $300 a year.
- A $2.5 million project with Prop 84 funding to be completed in 10 months with between 8-10 subcontractors would like be billed as a flat fee if $12,500. An hourly NTE price would be capped at $15,500. It should be noted that when we provide a NTE price, it does not mean that we will reach that-final price. The project could well come in under that NTE price.
- A $400,000 project with CA and Federal Davis Bacon requirements to be completed over 4 months would be billed at a flat fee of $3000 and with an hourly NTE of $4,000.
- A $12 million project with CA and CDBG funding and Section 3 hiring requirements to be completed over 18 months would likely be a flat fee of $27,000 with an hourly NTE of $33,000

## EXHIBIT C
## INSURANCE REQUIREMENTS

Without limiting the Consultant's indemnification of the Santa Clara Stadium Authority ("Stadium Authority"), and prior to commencing any of the Services required under this Agreement, the Consultant shall provide and maintain in full force and effect during the period of performance of the Agreement and for twenty-four (24) months following acceptance by the Stadium Authority, at its sole cost and expense, the following insurance policies from insurance companies authorized to do business in the State of California. These policies shall be primary insurance as to the Stadium Authority so that any other coverage held by the Stadium Authority shall not contribute to any loss under Consultant's insurance. The minimum coverages, provisions and endorsements are as follows:

A. COMMERCIAL GENERAL LIABILITY INSURANCE

1. Commercial General Liability Insurance policy which provides coverage at least as broad as Insurance Services Office form CG 00 01. Policy limits are subject to review, but shall in no event be less than, the following:

   $1,000,000 Each Occurrence
   $2,000,000 General Aggregate
   $2,000,000 Products/Completed Operations Aggregate
   $1,000,000 Personal Injury

2. Exact structure and layering of the coverage shall be left to the discretion of Consultant; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.

3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Consultant to comply with the insurance requirements of this Agreement:

   a. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;

   b. There shall be no cross liability exclusion which precludes coverage for claims or suits by one insured against another; and

   c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability.

B. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01 with policy limits a minimum limit of not less than

one million dollars ($1,000,000) each accident using, or providing coverage at least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned (if any), non-owned and hired autos.

In the event that the Work being performed under this Agreement involves transporting of hazardous or regulated substances, hazardous or regulated wastes and/or hazardous or regulated materials, Consultant and/or its subcontractors involved in such activities shall provide coverage with a limit of one million dollars ($1,000,000) per accident covering transportation of such materials by the addition to the Business Auto Coverage Policy of Environmental Impairment Endorsement MCS90 or Insurance Services Office endorsement form CA 99 48, which amends the pollution exclusion in the standard Business Automobile Policy to cover pollutants that are in or upon, being transported or towed by, being loaded onto, or being unloaded from a covered auto.

C. WORKERS' COMPENSATION

1. Workers' Compensation Insurance Policy as required by statute and employer's liability with limits of at least one million dollars ($1,000,000) policy limit Bodily Injury by disease, one million dollars ($1,000,000) each accident/Bodily Injury and one million dollars ($1,000,000) each employee Bodily Injury by disease.

2. The indemnification and hold harmless obligations of Consultant included in this Agreement shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefit payable by or for Contractor or any subcontractor under any Workers' Compensation Act(s), Disability Benefits Act(s) or other employee benefits act(s).

3. This policy must include a Waiver of Subrogation in favor of the Stadium Authority, its governing board, subordinate boards, officers, employees, volunteers and agents.

D. PROFESSIONAL LIABILITY

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designed to protect against negligent acts, errors or omissions of the Consultant. Covered services as designated in the policy must specifically include work performed under this agreement. Coverage shall be in an amount of not less than one million dollars ($1,000,000) per occurrence or two million dollars ($2,000,000) aggregate. Any coverage containing a deductible or self-retention must first be approved in writing by the Stadium Authority General Counsel's Office.

E. COMPLIANCE WITH REQUIREMENTS

All of the following clauses and/or endorsements, or similar provisions, must be part of each commercial general liability policy, and each umbrella or excess policy.

1. Additional Insureds. The Santa Clara Stadium Authority, its governing board, subordinate boards, officers, employees, volunteers and agents ("Indemnified Parties") are hereby added as additional insureds in respect to liability arising out of Consultant's work for the Stadium Authority, using Insurance Services Office (ISO) Endorsement CG 20 10 11 85, or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.

2. Primary and non-contributing. Each insurance policy provided by Consultant shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from, any other insurance which the Indemnified Parties may possess, including any self-insurance or self-insured retention they may have. Any other insurance that the Indemnified Parties may possess shall be considered excess insurance only and shall not be called upon to contribute with Consultant's insurance.

3. Cancellation.

   a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided due to non-payment of premiums shall be effective until written notice has been given to the Stadium Authority at least ten (10) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least ten (10) days prior to the effective date of non-renewal.

   b. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided for any cause save and except non-payment of premiums shall be effective until written notice has been given to the Stadium Authority at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.

4. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through E of this Exhibit C, above.

F. ADDITIONAL INSURANCE RELATED PROVISIONS

Consultant and the Stadium Authority agree as follows:

1. Consultant agrees to ensure that subcontractors, and any other party involved with the Services, who is brought onto or involved in the performance of the Services by Consultant, provide the same minimum insurance coverage required of Consultant, except as with respect to limits. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Consultant agrees that upon request by the Stadium Authority, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project will be submitted to the Stadium Authority for review.

2. Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge the Stadium Authority or Consultant for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to the Stadium Authority. It is not the intent of the Stadium Authority to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against the Stadium Authority for payment of premiums or other amounts with respect thereto.

3. The Stadium Authority reserves the right to withhold payments from the Consultant in the event of material noncompliance with the insurance requirements set forth in this Agreement.

G. EVIDENCE OF COVERAGE

Prior to commencement of any Services under this Agreement, Consultant, and each and every subcontractor (of every tier) shall, at its sole cost and expense, provide and maintain not less than the minimum insurance coverage with the endorsements and deductibles indicated in this Agreement. Such insurance coverage shall be maintained with insurers, and under forms of policies, satisfactory to the Stadium Authority and as described in this Agreement. Consultant shall file with the Stadium Authority all certificates and endorsements for the required insurance policies for the Stadium Authority's approval as to adequacy of the insurance protection.

H. EVIDENCE OF COMPLIANCE

Consultant or its insurance broker shall provide the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage, and be delivered to the Stadium Authority through its representative as set forth below, at or prior to execution of

this Agreement. Upon the Stadium Authority's request, Consultant shall submit to the Stadium Authority copies of the actual insurance policies or renewals or replacements. Unless otherwise required by the terms of this Agreement, all certificates, endorsements, coverage verifications and other items required to be delivered to the Stadium Authority pursuant to this Agreement shall be mailed to:

Santa Clara Stadium Authority
c/o Ebix, Inc.
P.O. Box 100085 – S2 or 1 Ebix Way
Duluth, GA 30096 John's Creek, GA 30097

Telephone number: 951-766-2280
Fax number: 770-325-0409
Email address: ctsantaclara@ebix.com

I. QUALIFYING INSURERS

All of the insurance companies providing insurance for Consultant shall have, and provide written proof of, an A. M. Best rating of at least A minus 6 (A- VI) or shall be an insurance company of equal financial stability that is approved by the Stadium Authority or its insurance compliance representatives.