



REQUEST FOR PROPOSALS

CONSTRUCTION MANAGER AT-RISK ("CMAR") AND PRE-CONSTRUCTION SERVICES

BACKGROUND

Foundation Communities ("FC") is a local, homegrown nonprofit providing affordable, attractive homes and free on-site support services for thousands of families with kids, as well as veterans, seniors, and individuals with disabilities. We offer an innovative, proven model that empowers our residents and neighbors to achieve educational success, financial stability, and healthier lifestyles. We own and operate 27 communities all over Austin and in North Texas.

PURPOSE

Foundation Communities (FC) is soliciting proposals from a qualified Construction Manager at Risk (CMAR) for constructability analysis and interim pricing estimation on a new construction, 6 or 7 story building. *Proposal responses may also be used to select designer(s) for future projects between 2024 and 2025.*

The project will be financed in a variety of ways – primarily through the federal Low-Income Housing Tax Credit ("LIHTC") program through the Texas Department of Housing and Community Affairs ("TDHCA"), as well as a combination of local, state, and federal public funding.

1. The "Lamar Square Phase 1" building will include several uses:

1. MARY LEE PROGRAM

All of the MLF program is being relocated from other, older buildings on Lamar Square.

1. **Mary Lee Foundation – Intermediate Care Facility (ICF) pods** (approx. 12,000 SF)

- MLF holds ICF licenses from the State of Texas for these units. The State is no longer granting new ICF licenses, so it is critical that the redevelopment of the ICF "pods" adhere to the requirements outlined by Chapter 551 of the Texas Administration Code, under the Health and Human Services Commission (HHSC). The selected design firm will be expected to closely collaborate with FC, MLF, HHSC, and any consultants or other experts necessary to ensure these licenses will be able to transfer to the re-built facilities.

2. **Mary Lee Foundation – Private pay pod** (approx. 3,500 SF)

3. **Mary Lee Foundation – ICF Offices** (3,000 – 4,500 SF)

4. **Mary Lee Foundation – Housing & Community Services (HCS) Offices** (1,300 – 2,000 SF)
2. **FOUNDATION COMMUNITIES PROGRAM**

FC's replacement units are intended to replace units on Lamar Square that will be demolished in future phases of a larger Lamar Square redevelopment plan that is not part of this RFP.

1. **Foundation Communities – 70+ 0, 1, and 2-bedroom units**
2. **Foundation Communities – Community space** (1,000-1,500 SF)

The projects are anticipated to be a combination of Types I, III, IV, and V.

For the Lamar Square project, we will rely on the selected CMAR to assist us with high-level construction considerations and cost comparisons. This includes evaluating different structural options such as wood versus steel and exploring the implications of incorporating mass timber. Although we are not currently considering high-rise construction at Lamar Square, we would like know about CMAR's experience, if any, with that type of construction for potential future work. In short, we are seeking the CMAR's expertise in providing insights and guidance to help us identify and assess the most suitable construction typology through the Lamar Square RFP process.

PROJECT TIMELINE

Pre-Construction Period

- CMAR must be able to commence work pre-construction work immediately upon selection.
- The Pre-Construction Period Services are generally described in Exhibit A.
- We will execute a slightly modified AIA A133/201 contract¹ with the selected CMAR. Our expectation is that the CMAR selected to perform these Feasibility and Pre-Construction Services will ultimately be the CMAR who will construct the building, but the role is at-risk until GMP/final pricing.

Construction Period

- Construction is expected to start in the fall of 2025, although subject to change.
- Construction Period Services are generally described in Exhibit A.

SUBMITTAL REQUIREMENTS FOR PROPOSAL

1. Narrative
 - a. Describe why you're inspired to work with Foundation Communities on this project.
2. Capacity to Perform
 - a. Summarize your firm's qualifications relative to this RFP.

¹ In most cases, Foundation Communities as a sales-tax-exempt entity will formally serve as General Contractor and the selected firm will serve as prime Subcontractor, but will be responsible for all of the typical duties of a CM-At-Risk.

- b. Describe typical project staffing. Please include an Austin staff org chart and explain involvement of ownership with regards to ease of accessibility if the corporate offices are located elsewhere.
 - c. Share examples of at least five similar projects previously completed by your firm.
 - i. Outline previous green building experience and any green building certifications achieved on your similar projects (LEED, Austin Energy Green Building, NGBS, Energy Star, etc.).
 - d. Share experience with relevant construction types.
 - e. Please state whether your firm is a Woman or Minority Owned Business (WBE or MBE) or Historically Underutilized Business (HUB) as defined by the State of Texas. If your firm has policies in place to promote utilization of W/MBEs and HUBs in the design process through sub-contracting or other initiatives, please describe. Please see Exhibit B for more detail on funder requirements regarding outreach.
 - f. State whether you have experience with other governmental requirements described in Exhibit B including Davis Bacon/Prevailing Wage, Section 3, etc.
 - g. Describe history with and presence in the City of Austin. Our preference is to work with a firm with significant experience working in, and corporate offices in, the City of Austin.
 - h. List preferred multifamily subcontractors and length of relationship.
3. Fees
- a. State the fee for the Feasibility & Pre-Construction Services described herein (if this will be dependent on project type/size, please explain and provide range).
 - b. State the fee for Construction Services, breaking out the items listed below (if this will be dependent on project type/size, please explain and provide range):
 - i. General Conditions (as a percentage of the project budget and list what's included in this) Contract Default Insurance/Subcontract Bonds (as a percentage of the project budget) Note that bonding requirements are currently unknown and will be finalized after closing with all funders. Payment and Performance bonds may or may not be required, but should be assumed for purposes of responding to this RFP.
 - ii. Contractor's Fee (as a percentage of the project budget)
 - c. We will structure the contract as a GMP.
4. Job Site Safety
- a. Describe worker safety practices, including any requirements for OSHA certifications for laborers and/or supervisors, procedures in place for ensuring that subcontractors at all tiers have active workers comp insurance, etc.
 - b. Describe any experience with and willingness to participate in the Better Builder Program, if required by funders or requested by owner
 - c. Complete the Safety Questionnaire included as Exhibit C S
5. Legal Proceedings
- a. Identify any on-going legal proceeding or pending legal proceeding (arbitration, complaint, or court action) filed against your firm for any project in the past five years.
 - b. Disclose and provide explanation if you have ever been charged liquidated damages on a project or been replaced on a job.
6. Contact information for at least three relevant, recent references.

FC will initially evaluate proposals based on the below criteria:

- Fees
- Commitment to FC's mission and target client base
- Safety track record
- Prior multifamily & affordable housing experience
- Experience in the City of Austin
- Experience with multiple construction types
- Abilities in Cost Management
- Technical Capability in identifying potential impacts
- Innovation and Solutions
- Collaboration and Communication
- Use of Technology and Software to facilitate project management
- W/MBE/HUB status and/or clear plan to maximize W/MBE/HUB subcontractors

NEXT STEPS

- Interviews
- Request project presentations that show approach to the project
- Reference checks including owner contacts of past projects
- Site Visits to current or past projects, if possible
- Negotiate Terms and final selection

ATTACHMENTS

- Exhibit A – Scope of Work
- Exhibit B – Government & Documentation Requirements
- Exhibit C – Safety Questionnaire

RESPONSE DEADLINE

Please submit a response to this RFP by **Tuesday, October 8th, at 5 p.m.** to Luis Contreras at luis.contreras@foundcom.org.

If you've received this RFP invite but choose to **OPT OUT** please also kindly respond with an email declining your participation so we know not to expect a response.

QUESTIONS?

Please contact Luis Contreras by email only at luis.contreras@foundcom.org.

RFP EXHIBIT "A"

SCOPE OF WORK

I. Pre-Construction Services:

- 1.1 Review and participate in development of the design and provide preliminary estimate of construction costs and value engineering alternates within three (3) weeks after the following milestones:
 - ~50% Schematic Design (for funding applications, if required)
 - 100% Schematic Design
 - 100% Design Development
 - 50% Construction Documentation
 - 95-100% Construction Documentation (Plan Review Set/Bid Set)
- 1.2 Participate in weekly meetings (minimum) with the Owner, Architect, design team, and any third-parties.
- 1.3 Review site conditions and make suggestions based on Contractor's experience for the most cost-effective methods for handling such conditions.
- 1.4 Review design throughout development. Advise on constructability, availability of materials, lead times, and alternate methods and/or materials.
- 1.5 Proactively interact with design team to develop pre-bid value engineering alternates. Provide accurate cost estimating input to assist design team with budget-sensitive design decisions. If needed, perform post-bid value engineering as required to meet the Owner's budget objectives.
- 1.6 For final bidding, Contractor must make best efforts in W/MBE/HUB, small business, and Section 3 contractor outreach. Contractor must receive at least three (3) bids per major trade unless otherwise agreed to by Owner. Discuss recommendations of bids with Owner.
- 1.7 Prepare and regularly update a construction schedule. Make recommendations for alternate methods/materials to enhance the schedule, reduce cost, and facilitate construction.
- 1.8 Not Used
- 1.9 Sign documents associated with funding applications (e.g. cost estimate certifications, etc.)

II. Construction Services (TBD and not limited to the following; for purposes of determining Construction Manager Fee required above)

- 2.1 Lead weekly Owner/Architect/Contractor meetings to review status, schedule, changes, etc. Urgent issues shall be communicated immediately.
- 2.2 Continue to update and maintain detailed schedule of construction monthly.
- 2.3 Closely supervise all work, ensuring adherence to specifications, quality standards, schedule and costs.
- 2.4 Any and all Contractor staffing changes shall be communicated to the Owner and Architect in a timely manner.
- 2.5 Advise Owner when early procurement of construction materials is necessary to avoid issues with lead times and/or price increases.
- 2.6 Prepare and administer subcontractor payments via monthly AIA payment applications along with necessary subcontractor back-up documentation.
- 2.7 Prepare and administer weekly construction reports with photographs to Owner and Architect (in addition to OAC meetings).
- 2.8 Manage all related reports, permits and inspections.

- 2.9 Coordinate with Owner's subcontractors and vendors, including but not limited to resolving deficiencies listed in their third-party inspection reports.
- 2.10 Provide detailed pricing for changes to the Scope of Work, ensure competitive pricing, and manage all aspects of approved changes.
- 2.11 In conjunction with the Architect and/or third-party consultant, create a comprehensive punch list and resolve each deficiency.
- 2.12 Provide all documentation of guarantees, warranties and operating manuals to Owner.
- 2.13 Note all field changes on plans for inclusion in as-builts.

NOTE: General Contractor may expand this scope. Please indicate any changes.

RFP EXHIBIT "B"

GOVERNMENT & DOCUMENTATION REQUIREMENTS

Documentation: Based on our funding sources, specific documentation and compliance procedures will be required.

1. Minority- and Women-Owned Businesses/Historically Underutilized Businesses: Foundation Communities requires that our general contractors have a robust policy or plan in place to encourage maximum participation by MBE/WBE/HUB subcontractors. Additionally, our public funders will likely require documentation of outreach efforts and tracking of MBE/WBE/HUB/small business subcontracting.
2. Davis Bacon: At this time, we are uncertain if project funding will trigger Davis Bacon wage requirements. The selected firm must be prepared to implement Davis Bacon if required.
3. Section 3 Reporting: Our funding sources will likely require us to comply with Section 3 reporting, which requires projecting and then tracking total labor hours on the project vs hours worked by eligible Section 3 and Target Section 3 workers as defined by HUD.
4. Green Building Certification Programs: The project will at minimum require certification through Austin Energy Green Building, and may require LEED or other green building certification as well. Documentation from suppliers, subcontractors and/or manufacturers will be critical for this workflow.
5. Other Documentation: Funders may also require documentation and/or certifications from the general contractor and/or subcontractors regarding federal debarment, lobbying, equal opportunity employment, and more. Funding sources may also require additional documentation that we cannot foresee. Funding may trigger requirements to procure certain items only made in America. Better Builder Certification could be required by a funder or by Owner.

RFP EXHIBIT “C”

FC INSURANCE REQUIREMENTS

Note that under the terms of FC’s contract, FC is Contractor and GC is the prime “Subcontractor.” All references to Contractor below refer to FC, and Subcontractor is the CM-At-Risk. Insurance requirements are subject to change based on FC’s lender requirements.

Insurance	Minimum Coverage/Limits	Other Minimum Requirements
Commercial General Liability (Occurrence Basis)	<ul style="list-style-type: none"> • \$2,000,000 Per Occurrence • \$3,000,000 General Aggregate • \$3,000,000 Products/Completed Operations Aggregate • \$2,000,000 Personal and Advertising Injury • Designated Construction Project(s) General Aggregate Limit • \$2,000,000 Electronic Data Liability 	<ul style="list-style-type: none"> • Current ISO edition of CG 00 01 • The personal injury contractual liability exclusion shall be deleted. • Additional insured status shall be provided in favor of Contractor Parties on a combination of ISO forms CG 20 10 10 01 and CG 20 37 10 01. • This coverage shall be endorsed to provide primary and non-contributing liability coverage. It is the intent of the parties to this Agreement that all insurance coverage required herein shall be primary to and shall seek no contribution from all insurance available to Contractor Parties, with Contractor Parties’ insurance being excess, secondary and non-contributing. • The following exclusions/limitations (or their equivalent(s), are prohibited: <ul style="list-style-type: none"> ○ Contractual Liability Limitation CG 21 39 ○ Amendment of Insured Contract Definition CG 24 26 ○ Limitation of Coverage to Designated Premises or Project, CG 21 44 ○ Exclusion-Damage to Work Performed by Subcontractors on Your Behalf, CG 22 94 or CG 22 95 ○ Any Construction Defect Completed Operations exclusion ○ Any endorsement modifying or deleting the exception to the Employer’s Liability exclusion ○ Any endorsement modifying or deleting Explosion, Collapse or Underground coverage ○ Any Habitational or Residential exclusion ○ Any “Insured vs. Insured” exclusion ○ Any Punitive, Exemplary or Multiplied Damages exclusion ○ Any Subsidence exclusion ○ Such coverage can be satisfied via an Owner Controlled Insurance Program at Contractor’s request ○ No designated workplace restrictions
Excess Liability (Occurrence Basis)	\$20,000,000 Each Occurrence	<ul style="list-style-type: none"> • Such insurance shall be excess over and be no less broad than all coverages described above.

		<ul style="list-style-type: none"> • Drop-down coverage shall be provided for reduction and/or exhaustion of underlying aggregate limits and shall include a duty to defend any insured. • Policies shall be excess to the primary commercial general liability, employer's liability and automobile liability coverage and shall be written as follow form or alternatively with a form that provides coverage that is at least as broad as the primary insurance policies. • The policy shall be specifically endorsed to provide primary and non-contributory coverage with respect to any insurance or self-insurance maintained by the Contractor or any additional insured party. • No wording for Horizontal Exhaustion shall apply.
Business Auto Liability	\$1,000,000 Per Accident / combined single limit basis	<ul style="list-style-type: none"> • Current ISO edition of CA 00 01 • Arising out of any auto (Symbol 1), including owned, hired and nonowner including upset and overturn coverage. Contractor shall be named as additional insured on such coverage.
Workers' Compensation and Employer's Liability	<ul style="list-style-type: none"> • Statutory Limits • \$1,000,000 Each Accident and Disease • Alternate Employer endorsement • USL&H must be provided where such exposure exists. • Coverage shall apply where the employee resides and, in the state, where the project is located, covering all persons employed by the Subcontractor. 	<ul style="list-style-type: none"> • The State in which work is to be performed must listed under Item 3.A. on the Information Page • Such insurance shall cover liability arising out of the Subcontractor's employment of workers and anyone for whom the Subcontractor may be liable for workers' compensation claims. Workers' compensation insurance is required, and no "alternative" forms of insurance shall be permitted. • Where a Professional Employer Organization (PEO) or "leased employees" are utilized, Subcontractor shall require its leasing company to provide Workers' Compensation insurance for said workers and such policy shall be endorsed to provide an Alternate Employer endorsement in favor of Subcontractor and Contractor. Where Subcontractor uses leased employees with Workers' Compensation insurance provided by a PEO or employee leasing company, Subcontractor is strictly prohibited from subletting any of its work without the express written agreement of Contractor.
Subcontractor's Off-Site General Liability Insurance	Commercial General Liability Insurance for claims of damages due to work performed away from the Project site with limits of not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury and property damage, Two Million U.S. Dollars (USD \$2,000,000) each person or organization for personal and advertising injury, Two Million U.S. Dollars (USD \$2,000,000) general aggregate, and Two Million U.S. Dollars	Project Policies provide only certain types of coverage for a specific period of time and at a specifically defined location(s). Prior to the commencement of any Work, Subcontractor shall obtain at its own expense, to be maintained until completion of the Work or its final acceptance, whichever is later, for all operations not included in the Contractor's / Subcontractor's Project Policies.

	(USD \$2,000,000) products completed operations aggregate. Contractor shall be added as an additional insured.	
Subcontractor's Off-Site Umbrella Insurance	Umbrella Liability Insurance in excess of the commercial general liability, business automobile liability and employer's liability insurance described above on an occurrence basis with limits of at least Five Million U.S. Dollars (\$5,000,000) per occurrence and Five Million US Dollars (\$5,000,000) general aggregate and products/completed operations aggregate.	<ul style="list-style-type: none"> Such insurance shall be written as follow form or with a form that provides coverage that is at least as broad as the primary insurance policies. Contractor shall be added as an additional insured.
Professional Liability	<ul style="list-style-type: none"> \$1,000,000 Each Occurrence Such insurance shall cover all services rendered by the Subcontractor and its consultants under the Agreement, including but not limited to design or design/build services. Policies written on a Claims-Made basis shall have an extended reporting period of at least two years beyond termination of the Agreement. 	<p>This insurance is not permitted to include any type of exclusion or limitation of coverage applicable to claims arising from:</p> <ul style="list-style-type: none"> bodily injury or property damage where coverage is provided in behalf of design professionals or design/build contractors habitational or residential operations mold and/or microbial matter and/or fungus and/or biological substance punitive, exemplary or multiplied damages. Any material changes in limits, coverage or loss of aggregate limit due to outstanding and/or potential claims must be reported to Contractor within 30 days of any such event.
Subcontractor's Pollution Liability	<ul style="list-style-type: none"> \$3,000,000 Each Occurrence Such insurance must provide third party liability coverage for bodily injury, property damage, clean up expenses, and defense arising from the operations. All coverage provided in the policy shall apply to operations and completed operations of the firm without separate restrictions for either of these time frames. Mold and/or microbial matter and/or fungus and/or biological substance shall be specifically included within the definition of Pollutants in the policy. 	<p>This insurance is not permitted to include any type of exclusion or limitation of coverage applicable to claims arising from:</p> <ul style="list-style-type: none"> asbestos or lead contractual assumption of liability impaired property that has not been physically injured materials supplied or handled by the named insured. However, exclusions for the sale and manufacture of products are allowed. Exclusionary language pertaining to materials supplied by the insured shall be reviewed by the certificate holder for approval. property damage to the work performed by the Subcontractor punitive, exemplary or multiplied damages work performed by sub-subcontractors Contractor shall be added as additional insured on such coverage. Any material changes in limits, coverage or loss of aggregate limit due to outstanding and/or potential claims must be reported to Contractor within 30 days of any such event.
Property Builders Risk	Subcontractor shall maintain property builder's risk insurance in an amount equal at all times to the full replacement value, including change orders, and cost of debris removal for any single occurrence.	<ul style="list-style-type: none"> Insureds shall include Contractor, Subcontractor, all Loss Payees and Mortgagees, and sub-subcontractors of all tiers in the Work as Insureds. Such insurance shall cover:

	<ul style="list-style-type: none"> • Coverage shall be at least as broad as an unmodified ISO Special form, shall be provided on a completed-value basis, and shall be primary to any other insurance coverage available to the named insured parties, with that other insurance being excess, secondary and non-contributing. • Additional expenses due to delay in completion of project (where applicable) 	<ul style="list-style-type: none"> ○ all structure(s) under construction, including retaining walls, paved surfaces and roadways, bridges, glass, foundation(s), footings, underground pipes and wiring, excavations, grading, backfilling, filling and any other improvements to land; ○ all temporary structures (e.g., fencing, scaffolding, cribbing, false work, forms, site lighting, temporary utilities and buildings) located at the site; ○ all property including materials and supplies on site for installation; ○ all property including materials and supplies at other locations but intended for use at the site; ○ all property including materials and supplies in transit to the site for installation by all means of transportation other than ocean transit; and ○ other Work at the site identified in the Agreement to which this Exhibit is attached. • No protective safeguard warranty shall be permitted. • The termination of coverage provision shall be endorsed to permit occupancy of the covered property being constructed. This insurance shall be maintained in effect, until Substantial Completion has been achieved and one of the following has occurred: <ul style="list-style-type: none"> ○ the date on which all persons and organizations who are insureds under the policy agree that it shall be terminated; ○ the date on which final payment, as provided for in the Agreement to which this Exhibit is attached, has been made; or ○ the date on which the insurable interests in the Covered Property of all insureds other than Subcontractor have ceased. • A waiver of subrogation provision shall be provided in favor of all insureds.
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1. General Insurance Requirements

A. Definitions. For purposes of this Agreement:

- i. "ISO" means Insurance Services Office.
- ii. "Subcontractor" shall include sub-subcontractors of any tier. "Subcontractor" shall not include Foundation Communities, Inc. or its affiliates, employees, or parent companies.
- iii. "Contractor Parties" means the Contractor identified in the AIA A133 Agreement with Subcontractor, as modified and (a) Foundation Communities, Inc. and its affiliates, (b) the Project owner, (c) any lender whose loan is secured by a lien against the Work, (d) their respective shareholders, members, partners, joint ventures, affiliates, subsidiaries, successors and assigns, (e) any directors, officers, employees, or agents of such persons or entities, and (f) others as required by the Contract Documents.

B. Policies.

- i. Subcontractor shall maintain such General Liability Excess Liability, Professional and Pollution insurance, as applicable, in identical coverage, form and amount, including required endorsements, for at least four (4) years following Date of Substantial Completion of the Work to be performed under this Agreement. Subcontractor shall provide written representation to Contractor stating Work completion date.
- ii. All policies must:
 - a. Be written through insurance companies authorized to do business in the State in which the work is to be performed and rated no less than A-: VII in the most current edition of A. M. Best's Key Rating Guide.
 - b. Provide a waiver of subrogation in favor of Contractor Parties on all insurance coverage carried by Subcontractor, whether required herein or not
 - c. Contain an endorsement providing for sixty (60) days prior written notice to Contractor of cancellation or material change of coverage.
 - d. Be provided to the Contractor Parties in compliance with the requirements herein and shall contain no endorsements that restrict, limit, or exclude coverage required herein in any manner without the prior express written approval of the Contractor.
- iii. Failure of any Contractor Party to demand such certificate or other evidence of full compliance with these insurance requirements or failure of any Contractor Party to identify a deficiency from evidence that is provided shall not be construed as a waiver of the Subcontractor's obligation to maintain such insurance.
- iv. Subcontractor shall provide to the Contractor a certified copy of all insurance policies required herein within ten (10) days of any such request. Renewal policies, if necessary, shall be delivered to the Contractor prior to the expiration of the previous policy.
- v. Commencement of Work without provision of the required certificate of insurance, evidence of insurance and/or required endorsements, or without compliance with any other provision of this Agreement, shall not constitute a waiver by any Contractor Party of any rights. The Contractor shall have the right, but not the obligation, of prohibiting the Subcontractor or any sub-subcontractor from performing any Work until such certificate of insurance, evidence of insurance and/or required endorsements are received and approved by the Contractor.

C. Limits, Deductibles and Retentions

- i. The limits of liability may be provided by a single policy of insurance or by a combination of primary and excess policies, but in no event shall the total limits of liability available for any one occurrence or accident be less than the amount required herein.
- ii. No deductible or self-insured retention shall exceed \$25,000 without prior written approval of the Contractor, except as otherwise specified herein. All deductibles and/or retentions shall be paid by, assumed by, for the account of, and at the Subcontractor's sole risk. The Subcontractor shall not be reimbursed for same.

D. Forms

- i. If the forms of policies, endorsements, certificates or evidence of insurance required by this Exhibit are superseded or discontinued, Contractor will have the right to require other equivalent forms.
- ii. Any policy or endorsement form other than a form specified in this Exhibit must be approved in advance by Contractor.
- iii. Policy forms in their entirety shall be provided to Contractor by Subcontractor at Contractor's request inclusive of all endorsements and amendments made thereto.

E. Evidence of Insurance. Insurance must be evidenced as follows:

- i. ACORD Form 25 Certificate of Liability Insurance for liability coverages.
- ii. ACORD Form 28 (2003/10) Evidence of Commercial Property Insurance for property coverages.
- iii. Evidence shall be provided to Contractor prior to commencing Work and prior to the expiration of any required coverage.
- iv. ACORD Forms specify:
 - a. Contractor as certificate holder at Contractor's mailing address;
 - b. Insured's name, which must match that on this Agreement;
 - c. Insurance companies producing each coverage and the policy number and policy date of each coverage;
 - d. Producer of the certificate with correct address and phone number and have the signature of the authorized representative of the producer;
 - e. Additional Insured status in favor of Contractor Parties;
 - f. Amount of any deductible or self-insured retention in excess of \$25,000;
 - g. Designated Construction Project(s) General Aggregate Limit;

- h. Personal Injury Contractual Liability;
- i. Primary and non-contributory status;
- j. Waivers of subrogation; and
- k. All exclusions and limitations added by endorsement to all coverages. This can be achieved by provision of the Schedule of Forms and Endorsements page.**
- v. Copies of the additional insured endorsement(s) applicable to all policies except pollution liability and workers compensation, and of the 60 Day Notice of Cancellation or Material Change endorsement applicable to all required policies shall also be provided.

F. Subcontractor Insurance Representations to Contractor Parties

- i. It is expressly understood and agreed that the insurance coverages required herein (a) represent Contractor Parties' minimum requirements and are not to be construed to void or limit the Subcontractor's indemnity obligations as contained in this Agreement nor represent in any manner a determination of the insurance coverages the Subcontractor should or should not maintain for its own protection; and (b) are being, or have been, obtained by the Subcontractor in support of the Subcontractor's liability and indemnity obligations under this Agreement. Irrespective of the requirements as to insurance to be carried as provided for herein, the insolvency, bankruptcy or failure of any insurance company carrying insurance of the Subcontractor, or the failure of any insurance company to pay claims accruing, shall not be held to affect, negate or waive any of the provisions of this Agreement. Certified copies of the policies will be made available within 10 days of any request.
- ii. Failure to obtain and maintain the required insurance shall constitute a material breach of, and default under, this Agreement. If the Subcontractor shall fail to remedy such breach within five (5) business days after notice by the Contractor, the Subcontractor will be liable for any and all costs, liabilities, damages and penalties resulting to the Contractor Parties from such breach, unless a written waiver of the specific insurance requirement(s) is provided to the Subcontractor by the Contractor. In the event of any failure by the Subcontractor to comply with the provisions of this Agreement, the Contractor may, without in any way compromising or waiving any right or remedy at law or in equity, on notice to the Subcontractor, purchase such insurance, at the Subcontractor's expense, provided that the Contractor shall have no obligation to do so and if the Contractor shall do so, the Subcontractor shall not be relieved of or excused from the obligation to obtain and maintain such insurance amounts and coverages.
- iii. This Exhibit is an independent contract provision and shall survive the termination or expiration of the Construction Agreement.

G. Insurance Requirements of Subcontractor's Sub-subcontractors

- i. Insurance identical to Subcontractor shall be required of all sub-subcontractors of any tier, via written contract, (or provided by the Subcontractor on behalf of sub-subcontractors) to cover operations performed under any subcontract agreement. However, the minimum limits for the Excess Liability for Subcontractor's sub-subcontractors shall be \$5M. The Subcontractor shall be held responsible for any modification in these insurance requirements as they apply to sub-subcontractors. The Subcontractor shall maintain certificates of insurance from all sub-subcontractors, and full copies of general liability policies, containing provisions similar to those listed herein (modified to recognize that the certificate is from sub-subcontractor) enumerating, among other things, the waivers of subrogation, additional insured status, and primary liability as required herein, and make them available to the Contractor upon request.
- ii. The Subcontractor is fully responsible for loss and damage to its property on the site, including tools and equipment, and shall take necessary precautions to prevent damage to or vandalism, theft, burglary, pilferage and unexplained disappearance of property. Any insurance covering the Subcontractor's or its sub-subcontractor's property shall be the Subcontractor's and its sub-subcontractor's sole and complete means or recovery for any such loss. To the extent any loss is not covered by said insurance or subject to any deductible or co-insurance, the Subcontractor shall not be reimbursed for same. Should the Subcontractor or its sub-subcontractors choose to self-insure this risk, it is expressly agreed that the Subcontractor hereby waives, and shall cause its sub-subcontractors to waive, any claim for damage or loss to said property in favor of the Contractor Parties.
- iii. Any and all of the insurance deductibles and premiums associated with the policies providing the insurance coverage required herein shall be assumed by, for the account of, and at the sole risk of Subcontractor and all of its contractors and sub-subcontractors.

- iv. All insurance required herein shall name Contractor Parties and (and any individuals or entities with an interest in the Premises as may from time to time be requested by Contractor) as an additional insured inclusive of ongoing operations and products-completed operations coverage for additional insureds, except for Workers Compensation and Professional Liability, and Coverage for the additional insureds shall be at least as broad as the coverage provided to Subcontractor under the policy and shall apply as primary and non-contributing insurance before any other insurance or self-insurance, including any deductible, maintained by or provided to, the additional insureds. All liability insurance policies shall provide that Contractor's interest therein shall not be subject to cancellation by reason of any act or omission of the additional insureds.
- v. Coverage under the General Liability policy shall be provided using ISO Additional Insured Endorsement CG 20 10 (11 85), or CG 2010 (10 93) and CG 20 37 (10 01), or CG2033 (10 01) and CG2037 (10 01), or an endorsement providing equivalent coverage to the additional insureds, to the fullest extent permitted by law. Forms CG 20 10 10 01 and CG 20 10 07 04 are acceptable versions of the CG 20 10 10 93.
- vi. In the event sub-subcontractor has in force any insurance coverage with coverages broader and or limits higher than those coverage amounts and terms specified herein, such broader terms and higher limits shall insure and be available to each Additional Insured, and this Agreement shall be deemed to required such broader terms and higher limits.
- vii. Such limits and coverages above are minimum limits and not intended to limit Subcontractor's liability under this agreement.

H. Use of the Contractor's Equipment

The Subcontractor, its agents, employees, sub-subcontractors or suppliers shall use the Contractor's equipment only with express written permission of the Contractor's designated representative and in accordance with the Contractor's terms and condition for such use. If the Subcontractor or any of its agents, employees, sub-subcontractors or suppliers utilize any of the Contractor's equipment for any purpose, including machinery, tools, scaffolding, hoists, lifts or similar items owned, leased or under the control of the Contractor, the Subcontractor shall defend, indemnify and be liable to the Contractor Parties for any and all loss or damage which may arise from such use.

I. Release and Waiver

To the fullest extent allowed by law, the Subcontractor hereby releases, and shall cause its sub-subcontractors to release, the Contractor Parties from any and all claims or causes of action whatsoever which the Subcontractor and/or its sub-subcontractors might otherwise now or hereafter possess resulting in or from or in any way connected with any loss covered by insurance, whether required herein or not, or which should have been covered by insurance required herein, including the deductible and/or uninsured portion thereof, maintained and/or required to be maintained by the Subcontractor and/or its sub-subcontractors pursuant to this Agreement.

EXHIBIT "C"

Safety Questionnaire

Company Name: _____

Date: _____ Contact Name: _____

Phone: _____

Project being bid: _____

1. List your company's interstate Experience Modification Rate for the three most recent years.

Current _____

Last Year _____

Year before Last _____

2. Provide your company's injury experience for the past four years as reported on your OSHA 200 logs. (As an alternative, you may submit copies of your logs.)

	Yr 1	Yr 2	Yr 3	Yr 4
Number of OSHA recordable cases:	_____	_____	_____	_____
Number of lost workday cases:	_____	_____	_____	_____
Number of lost workdays:	_____	_____	_____	_____
Number of restricted workday cases:	_____	_____	_____	_____
Number of fatalities (last 4 years):	_____	_____	_____	_____
Number of man-hours worked:	_____	_____	_____	_____

3. Do you have a written safety program, including a Hazard Communication Policy?

Yes _____ No _____ If yes, enclose a copy of your program.

4. Are the costs of individual accidents kept? Yes _____ No _____

If yes, how are they reported? _____

5. Do you hold site safety meetings for field supervisors?

Yes _____ No _____ How often? _____

6. Do you hold "tool box" safety meetings?

Yes _____ No _____ How often? _____

7. Who will be the safety representative for this project?

Name

Title

Please list the safety qualifications for this person (attach resume to form):

Will this person be on site full time? Yes _____ No _____

8. Do you conduct project safety inspections?

Yes _____ No _____ How often? _____

9. Do you have an orientation program for new hires?

Yes _____ No _____ How often? _____

10. Has your organization been cited by OSHA in the last 5 years?

Yes _____ No _____ How often? _____

If yes, for what? _____

11. The undersigned warrants and represents the data provided in this document is accurate in all respects.

Name of Firm: _____

Preparer: _____

Date: _____ Title: _____