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101 South Broad Street
Brevard, NC 28712

**REQUEST FOR QUALIFICATIONS
FOR PROFESSIONAL ARCHITECTURAL SERVICES
TRANSYLVANIA COUNTY**

I. SCOPE OF SERVICES

Transylvania County is inviting interested architectural firms, licensed in the State of North Carolina, to send their qualifications for consideration to supply professional architectural phase services and probable costs for of the Transylvania County Library Amphitheatre Improvement Project. The location is Transylvania County Library at 212 S Gaston Street, Brevard, NC 28712.

II. SUBMISSION

- A. Submittals: Send five (3) hard copies, marked "Library Amphitheatre Improvement Project" and one electronic. Submittals will be received no later than **4:00 PM EST, on May 15, 2024** at:
Transylvania County Administration
Attn: Jennifer Galloway, Purchasing Agent
101 S Broad Street, Brevard, NC 28712.
- B. Qualification Packages will be hand-delivered or mailed. If the Qualification Submittal is sent by mail or commercial express, the Respondent shall oversee actual delivery of the Qualification Submittal to the Transylvania County Administration Office before the deadline. All Submittals are property of Transylvania County. RFQ packages will not be accepted via fax machine or e-mail.
- C. Mark the outside of the Submittal's envelope with RFQ and the proposal subject, "Transylvania County Library Amphitheatre Improvement Project".
- D. Time is of the essence and any proposal or addenda pertaining thereto received after the announced time and date for Submittal, whether by mail or otherwise, shall be rejected. It is the sole responsibility of the Architectural Firm to ensure that their proposal is received by the Transylvania County Administration Department personnel before the deadline shown above in Section 1.1. There is nothing in this RFQ that precludes Transylvania County from requesting other information from Architectural Firms at any time during the RFQ process.
- E. Nothing here is intended to exclude any responsibilities, restrain, or restrict competition. All responsible and qualified Architectural Firms are encouraged to send their responses.
- F. Transylvania County reserves the right to waive any informalities, to reject any and/or all proposals, and to accept any proposal which in its opinion may be in the best interest of the County.
- G. Qualification Submittals may be withdrawn by the sending agency, by written request, prior to submittal deadline.

III. PREPARATION

- A. Architectural Firms are to submit RFQ Packages which present their qualifications and understanding of the services to be performed. Emphasis should be placed on completeness of services offered and clarity of content. All submittals should be complete, carefully worded, and they must convey all the information requested by Transylvania County. If errors or exceptions are found in the Architectural Firm's Qualification Package, or if the

submittal does not conform to the requirements of the RFQ, Transylvania County will be the sole judge as to whether that variance is significant enough to reject the Architectural Firm's submittal.

- B. RFQ submittals will be prepared simply and economically. All data, materials, and documentation shall be available in a clear, concise form. Transylvania County does not expect, nor will any more favorable consideration be given to submittals with overly fancy covers, bindings, color photographs, sample plans, non-pertinent information regarding other accomplishments (which have no direct bearing on this project), resumes of individuals who will not be engaged in the work, or pages of other non-project related material. Brevity is appreciated. Submittals are limited to 50 pages, double sided 8 ½ x 11 paper, One inch (1") border formatting, size 12, Times New Roman, Font. Covers and dividers will not count in the 50 pages of content.
- C. Architectural Firms requiring clarification or interpretation of this RFQ will make a written request, to the Transylvania County Purchasing Department, no later than the date and time for submittal of written questions
- D. Any interpretation, correction or change of this RFQ will be made by addendum. Addenda shall be mailed or delivered to the County Purchasing Department and have received a complete set of the RFQ documents that was sent. It is the responsibility of the Architectural Firm to ensure that all addenda items are received by the Transylvania County Purchasing Department.
- E. All submittals shall supply a straightforward, concise description of the Architectural Firm's ability to satisfy the requirements of the Transylvania County RFQ.
- F. Qualification Submittals, (and copies), will be bound in a single volume. All documentation sent with the offer will be bound in the same single volume.
- G. Additionally, the Non-Collusion Affidavit must be signed by the Principal of the Architectural Firm, or an Officer of the Corporation that is duly authorized as a Signatory Authority of the Corporation.
- H. If any offer includes comments over and above the specific information requested in this RFQ such comments must be included as a separate appendix.
- I. The Firm is solely responsible for all costs and expenses associated with the preparation of the submittal and of any supplementary presentation, (including any oral presentation), if requested by Transylvania County.
- J. Qualification Packages must be made in the official name of the Individual, Firm, or Corporation under which the business is conducted, (showing official business address), and must be signed in ink by a signatory that is duly authorized to legally commit the business entity that is submitting the RFQ.
- K. Submittals shall be typewritten, or computer generated.
- L. The County may enter in a contract with more than one Architectural Firm to supply the various professional services that are needed.

IV. GENERAL TERMS AND CONDITIONS

- A. Non-Collusion Affidavit
Each qualification package must be accompanied by a notarized declaration of facts on non-collusion executed by the firm or in the case of a corporation, by a duly authorized representative of the Architectural Firm. The Non-Collusion Affidavit is supplied here.
- B. Addenda/Changes
Any additions, deletions, modifications, or changes made to this RFQ shall be processed through the Transylvania County Finance Department. Any deviation from this procedure may result in the disqualification of the firm's submittal or the cancellation of any contract resulting from this RFQ.

C. Questions

Questions concerning this RFQ should be directed to:

Transylvania County
Attn: Jennifer Galloway
101 S Broad Street
Brevard, NC 28712
Email: jennifer.galloway@transylvaniacounty.org

7205

All questions about this RFQ must be sent in writing no later than May 2, 2024. Only written questions will be considered. Any questions that the County considers pertinent to all proposers will be mailed as an addendum to the RFQ. Fax and e-mail messages will be treated as written questions .

D. Proprietary Information

Trade secrets or proprietary information given by a firm in connection with a procurement Transaction shall not be subject to the public disclosure under the North Carolina Public Records Act by NC General Statutes §66-152(3). However, the Architectural Firm must invoke the protection of this section prior to or upon submission, show the data on other materials to be protected and say the reasons why protection is necessary. Each individual page considered a trade secret or proprietary information must be labeled “Confidential” in the top right corner.

E. Minority Businesses

Transylvania County encourages all businesses, including DBE, minority, and women-owned businesses to respond to all RFQ’s.

F. Award/Contract Time

No part of this solicitation is considered part of a contract, nor are any provisions contained here legally binding to Transylvania County. The award shall be given to the responsible Architectural Firm(s) whose qualifications are determined to be the most helpful to the County, taking into consideration the evaluation factors in the RFQ. The County wishes to enter into an agreement with one Architectural Firm which will oversee the work associated with this RFQ. Transylvania County expects award of contract within 90 days with all work, architectural, design, and construction to be completed in an expedited manner. The detailed Scope of Work and schedule of deliverables shall be negotiated with the successful Architectural Firm(s) for each specified project.

G. Contract Document

The successful Architectural Firm(s) will have to enter a design consultant services agreement. A copy of Transylvania County’s Standard Agreement for Design Consultant Services are attached.

H. Sub-Consultants

If any sub-consultants are used for various assignments of the overall Transylvania County Industrial Park Expansion, the awarded Architectural Firm(s) shall provide to Transylvania County, as the Purchasing Agent, a list of names of any of the intended sub-consultants, their applicable license number(s) and a description of the work to be done by each vendor. The awarded Architectural firm(s) shall not substitute other sub-consultants without the written consent of Transylvania County. The awarded Architectural Firm(s) oversee all services performed by a sub-Engineer, contractor, or vendor as though the services they supplied had been performed by the Awarded Architectural Firm. Responsibilities include, but are not limited to, compliance with applicable licensing regulations. If at any time the County finds that any sub-engineer, outside contractor, or vendor is incompetent or undesirable, Transylvania County will notify the awarded Architectural Firm(s) accordingly, and the same shall take immediate steps for cancellation of the subcontract, dismissal of its employees, and replacement of sub-engineer, contractor or vendors to perform services needed according to the signed contract with Transylvania County. Nothing contained in any awarded and signed contract, resulting from this RFQ, shall create any contractual relationship between any sub-engineer, contractors or vendors with Transylvania County. It shall be the awarded Architectural Firm(s) responsibility to ensure that all terms needed in the attached contract are incorporated into all the said subcontracts.

I. Insurance

The selected Architectural Firm(s) shall buy and keep in force, at their own expense, such insurance as will protect the Architectural Firm and Transylvania County, to include professional liability (E&O), from claims which may arise out of or result from the Architectural Firm's execution of work, whether such execution be by themselves, their employees, their agents, their subcontractors/engineers, or by anyone for whose acts any of them may be liable. The insurance coverage shall be such as to fully protect Transylvania County, and the General Public from all claims of injury and/or damage resulting by any actions on the part of the Architectural Firm or its hired forces as listed above. See Sample Contract for any other information on insurance coverage and limits. The selected firm shall give a copy of an original Certificate of Insurance, naming Transylvania County as an additionally insured partner for this project. Should any of the policies be canceled before the end date, the issuing company will provide thirty (30) days written notice to the certificate holder. The Architectural Firm shall offer insurance and satisfactory coverage, using correct forms, any sub-contractors, employees, companies, and vendors that are approved and considered acceptable to the Transylvania County Purchasing Agent. Further, the awarded Architectural Firm shall be required to show evidence of insurance coverage on behalf of subcontractors, engineers, employees and vendors (if applicable), before entering any agreement to sublet any part of the work to be completed under this contract.

V. QUALITY COMMITMENT

Transylvania County will use best management/oversight practices to ensure the highest quality of services is provided to its citizens. With this goal in mind, Architectural Firms must demonstrate how they have and use proper quality management systems that result in customer satisfaction and continuous improvements. To satisfy these requirements, Architectural Firms must show its commitment to best management practices while supplying services at the highest possible level of quality throughout all phases of the project. Proposals must show, at a minimum: (1) a complete understanding of the processes utilized within the organization to ensure quality and (2) graphical demonstrations that outline quality and process management within the organization and how they relate with sub-consultants and with the Owner (Transylvania County). The response to quality must be deliberate and contain sufficient evidence that the Architectural Firm(s) have adopted quality and best management practices as an integral part of their organization. As a part of the responses to this request, Architectural Firms shall show their organization's design process, e.g., process map, flow chart. Additionally, they must show processes in place to recognize, track and analyze project change orders due to errors and omissions, (including those caused by any sub consultants), and discuss how these processes are used to minimize future occurrences.

VI. STATEMENT OF QUALIFICATIONS REQUIREMENTS

Interested engineering/consulting firms wanting to supply services should include the following with its Statement of Qualifications:

- A. Firm name, address, telephone, fax number, contact person and e-mail address.
- B. Year established and former firm names.
- C. Names of principles of the firm and states in which they are registered.
- D. Types of services for which the firm is qualified.
- E. A complete understanding of the services the Scope of Work provides.
- F. Supply a List of staff members and resumes to Transylvania County of those persons who will be assigned to work with the County on various projects. Include an Organizational Chart but does not include resumes or list of personnel who will not be assigned to these projects.
- G. Supply a list to Transylvania County of current ongoing projects. Include: Project start date, expected completion date, total project cost, and ability to devote staff resources to complete this project.

- H. List and describe all your Architectural Firm's earlier experience in the design of similar facilities over the last three (3) years that apply to the proposed project list. For each project listed, the information should include:
1. Name and location of the project and the date the work was completed.
 2. Name and telephone number of the facilities maintenance director or staff person whom your firm worked with on the project (projects references).
 3. Name of the project manager assigned to each listed project.
 4. Total final combined design and construction dollar amount of the work performed.
 5. Number of change orders and total amount of change orders.
- I. Names of outside consultants (sub-consultants) who would be involved to provide services required for these projects. Supply a one-page synopsis for each consultant to include the following information:
1. Individual's proposed role in the project.
 2. A resume or brief description of the individual's earlier experience as it relates to his/her role in the project.
 3. For any proposed sub consultants, show how long your firm has worked with the sub-consultant on earlier projects.
- J. To be considered responsive for this RFQ, the Architectural Firm(s) must include the following information:
1. Description of the kind of work that can be subcontracted.
 2. Willingness to affiliate with DBE, minority or women-owned businesses ("M/WBE").
 3. Name any sub-contractible work that could be performed by minority firms.
 4. Name and address of the DBE and M/WBE firms that are expected to perform the sub-contractible work.
 5. Quality Control and Assurance processes as mentioned above in Section VII.
 6. Hourly billing rates charged by your Architectural Firm each position, type, and reimbursable expenses.
 7. Estimated timetable of project if awarded from contract award to completion.

Note: Do not include sample Scope of Work, project approach or schedule with this submittal.

VII. EVALUATION PROCESS:

Following the deadline for submittal of qualifications, a review of the submitted qualifications will be by a selection committee set up by the County. The selection committee will review, analyze and rank all submittals based on their response to the information asked. The choice shall be made in order of preference based on criteria set up here.

If desired, the selection committee may shorten the list of the number of qualified firms. Transylvania County reserves the discretion to decide the number of firms that will be on the short-list. The County may engage in individual discussions with considered more offerors thought fully qualified, responsible, and suitable based on first responses and with emphasis on professional competence to supply the required services. Interviews are not predicted. However, the selection committee may schedule interviews if needed in the selection process. Such offerors shall be encouraged to elaborate on their qualifications and performance data or staff ability pertinent to the proposed project, as well as alternative concepts. The choice committee may conduct discussions with the Architectural Firm(s) submitting responses regarding the contract and shall select from among the firm(s) considered most qualified to supply the required services. At the discretion of the County, the discussions with the firm(s) may consist of written questions and responses, and/or personal interviews with members of the Architectural Firm(s). If personal interviews are required by Transylvania County, the persons proposed to manage performing the work required here shall attend the interview. If asked, firms should be prepared to send financial status information, which shall be held in confidence. Transylvania County will negotiate a stipulated sum fee for basic services and a rate schedule to be used for added services and contingent added services with the most qualified firm at compensation which is fair and reasonable to the County. These

rates shall include all disciplines. (Example: Architect, Project Manager, Engineers, Administrative Staff, etc.). In making this decision, Transylvania County will consider the established value, scope, complexity, and the professional nature of the services given. Should Transylvania County be unable to negotiate a satisfactory contract with the Architectural Firm(s) considered to be the most qualified, negotiations with the said Architectural Firm(s) shall be formally ended.

Negotiations will then continue with the remaining ranked firms in the same manner until an agreement is reached, unless it is decided by the committee that it is in the best interest of Transylvania County that the process is stopped or changed.

Transylvania County reserves the right to reject any and/or all submittals, and to waive defects, technicalities and/or irregularities in any submittal. Transylvania County reserves the right to complete a contract with one or more Architectural Firm(s) based on all factors involved in the written qualification given without further discussion or interviews.

VIII. SELECTION PROCESS

The included criteria, but not limited to, may be used in the evaluation of qualification packages for development of a shortlist to be considered for potential negotiations. These criteria are not necessarily listed in order of importance.

- A. Architectural Firm(s) qualifications and experience including location of offices and related staffing.
- B. Architectural Firms understanding the project goals.
- C. Earlier work experience of similar projects and proven experience in the design and construction of Public Facility Buildings Architectural Firm's demonstration of ability to understand the specialized requirements with Federal Aviation Administrative Regulations, Federal and State funded Grant projects, etc.
- D. Proposed staff, including sub-engineers, proposed to perform the work.
- E. Financial stability of the consultant.
- F. Demonstration of Quality Control: Proved systematic approach to quality control and interdisciplinary coordination methodologies throughout the various phases of design and construction of the project.
- G. Demonstration of Cost Control: Proved experience implementing cost saving measures that effectively maximized the use of funding from a variety of sources and minimized unnecessary expenses while achieving desired results.
- H. Demonstration of knowledge of alternative soil situations and foundations.
- I. The ability of the consultant to begin work at once and complete the projects in a prompt manner.
- J. References: Evaluation of comments received from referenced earlier clients

RESPONDER'S CERTIFICATION FORM

I have carefully examined the Request for Qualifications (RFQ), the Sample Agreement for Design Consultant Services and any other documents going with or made a part of this Request for Qualification.

I hereby propose to offer the professional design consultant services for Transylvania County in accordance with the instructions, terms, conditions, and requirements incorporated in this Request for Qualification. I certify that all information contained in this response is truthful to the best of my knowledge and belief. I further certify that I am duly authorized to send this response on behalf of the Aforementioned Architectural Firm as its act and deed and that the firm is ready, willing and able to perform if awarded the contract.

NAME OF FIRM: _____

BY: (Printed name) _____

SIGNATURE: _____

MAILING ADDRESS: _____

CITY/STATE/ZIP CODE: _____

TELEPHONE NUMBER: _____

FAX NUMBER: _____

ACKNOWLEDGEMENT OF ADDENDA

Responder hereby acknowledges receipt of all Addenda through and including:
Addendum No. Date

Acknowledgement

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

NON-COLLUSION AFFIDAVIT
State of North Carolina

_____, being first duly sworn, deposes and says that:

1. He/She is the _____ (Title)
of _____ (Firm's name), as the
responder that has given the attached response.
2. He/She is fully informed respecting the preparation and contents of the attached response
and of all pertinent circumstances respecting such a response.
3. Such a response is genuine and that this is not a collusive nor sham acknowledgement.
4. Neither is the said responder nor any of its officers, partners, owners, agents,
representatives, employees or parties in interest, including this affiant, has in any way colluded,
conspired, connived or agreed, directly or indirectly, with any other responder firm or person to
submit a collusive or sham response in connection with the contract for which the attached
response has been given or to refrain from responding in connection with such contract, or has in
any manner, directly or indirectly looked for by agreement or collusion of communication or
conference with any other responder, firm or person to fix the price or prices in the attached
response, if applicable, or of any other responders, or to fix any overhead, profit or cost elements
price of the response, if applicable, of any other responder or to secure through collusion,
conspiracy, connivance or unlawful agreement any advantage against the Transylvania County or
any person interested in the proposed contract.

Signature

Title
NOTARIZE

Subscribed and sworn to before me,

This _____ day of _____, 20____

Notary Public _____

My Commission Expires: _____

General Provisions

I-1. Definitions	I-16. Warranty
I-2. E-Verify	I-17. Item Substitution and Variation
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I-10. Assignment	I-25. Notification of Debarment or Suspension Status
I-11. Iran Divestment Act	I-26. Equal Employment Opportunity
I-12. Permits and Licenses	I-27. Drug-Free Workplace
I-13. Non-Waiver or Defaults	I-28. Accident Prevention, Fire Protection, Sanitation
I-14. Indemnity	I-29. Standards
I-15. Insurance	I-30. Force Majeure
I-31. Federal Funds	

I-1. Definitions:

As used throughout this contract, the following terms shall have the meaning set out below:

A. “Transylvania County” refers to the Transylvania County Government activities and organizations.

B. “Contract” Identifies this contract or any modification thereto.

C. “Finance Director” means a person authorized in writing to execute and administer the contract on behalf of Transylvania County or said Finance Director’s successor or successors. (Note: Other Transylvania County and Government Officials, who by virtue of their positions are concerned with the administration and operation of this contract, may take certain administrative actions on behalf of the Finance Director. These Officials may conduct inspections, process and collect contract payments, make administrative decisions and perform other duties of an administrative nature. They may not waive or change contract terms; impose added contract requirements; issue cure, showing cause, or termination notices; or make final decisions according to Contract terms. (Refer all questions concerning the authority of other Transylvania County or Government Officials to the Finance Director).

D. “Contractor or vendor” means the individual, partnership, corporation, or other entity which is a party to this contract and who is responsible for all actions, performance and work there under, to include that of any subcontractor or vendor.

II-2. E-Verify:

As a condition of payment for services given under this agreement, vendor or The contractor shall follow the requirements of Article 2, Chapter 64 of the General Statutes. Further, if the vendor or the contractor supply the services to Transylvania County utilizing a subcontractor, Vendor or Contractor shall require the subcontractor to follow the requirements of Article 2 of Chapter 64 of the General Statutes as well. Vendor or contractor shall verify, by declaration of facts, compliance of the terms of this section upon request by Transylvania County.

I-3. Conflicts of Interests:

Contractor warrants that no person or selling agency was employed or kept securing this contract

upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee excepting bonafide employees or bonafide proven commercial selling agencies kept by contractor or vendor for the purpose of securing business. Contractor warrants that no gratuities, (entertainment, gifts, etc.), were or will be offered or given by the contractor or any person being the contractor to any Transylvania County Commissioner, employee, or spouse of an employee/Commissioner. For breach of either of the warranties, Transylvania County may stop this and all other Transylvania County Contracts for default and deduct from amounts due under this or other contracts, or bill contractor or vendor for the total value of any contingent fee or gratuity.

I-4. Officials Not to Benefit:

No person or Commissioner involved in the purchasing process and/or contracting of this agreement, shall be admitted to any share or part of this contract, or to any benefit that may arise there from; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

I-5. Oral Representations:

This written Contract includes the entire agreement between the parties. Transylvania County will not be bound by any oral or written representation not included in the written contract or a change or amendments thereto. Transylvania County will not be bound by any terms on contractor or vendor forms or letter unless such terms are specifically agreed to and incorporated in the contract and signed by the Finance Director.

I-6. Non-Appropriation:

All funds for payment by County under this Contract are subject to the availability of any annual appropriation for this purpose by the Board of Commissioners. In case of non-appropriation of funds by the Board of Commissioners under the Contract, County will end the Contract, without termination charge or liability, on the last day of the then-current fiscal year or when the appropriation made for then-current year for the services/items covered by this Contract is spent, whichever occurs first. If at any time funds are not appropriated for the continuance of this Contract, cancellation shall be accepted upon three (3) days prior written notice, but failure to give such notice shall be of no effect and County shall not be compelled under this Contract beyond the date of termination.

I-7. Representations:

The Contractor will not stand for itself to be an agent or representative of Transylvania County or any other agency or instrumentality of the US Government.

I-8. Advertisements:

The Contractor will not stand for in any manner, expressly or by implication, those items or services purchased or sold under this contract are approved or endorsed by any element of Transylvania County Government. Any advertisement, including cents off coupons, by the Contractor which refers to Transylvania County activity will hold a statement that the advertisement was neither paid for nor sponsored, in whole or in part, by the activity.

I-9. Subcontracting:

Contractor shall not subcontract any part of the work to be performed without the prior written consent of the Finance Director. Any subcontractor or vendor used in connection with this contract is the agent of the Finance Director.

I-10. Assignment:

Contractor may not assign its rights or delegate its obligations under this contract without the prior written consent of the Finance Director.

I-11. Iran Divestment Act:

Seller certifies that: (1) Seller is not listed on the Iran Divestment List created by the State Treasurer per N.C.G.S. § 147-86.58 (the "Final Divestment List"), and (2) Seller will not utilize any subcontractor performing work under this Purchase Order which is listed on the Final Divestment List. The Final Divestment List can be found on the State Treasurer's website at the address www.nctreasurer.com/Iran and should be updated every 180 days.

I-12. Permits and Licenses:

Contractor will, at his/her own expense, obtain all necessary permits, give all notices, pay all license fees and follow all laws, rules, ordinances, and regulations relating to the preservation of the public health or applicable to the services or business continued under this contract. The burden of deciding applicability of licensing requirements, laws, ordinances, and regulations for Contractor and his/her employees rests with the Contractor.

I-13. Non-Waiver or Defaults:

Any failure by Transylvania County at any time to enforce or require strict performance of any terms or conditions of this contract will not be a waiver thereof and will not affect or impair such terms and conditions in any way or Transylvania County's right at any time to avail itself of such remedies as it may have for breach or breaches of such terms and conditions.

I-14. Indemnity:

A. Contractor shall indemnify, hold harmless and defend Transylvania County, their agents, representatives, employees and customers from any and all suits, judgments and claims, including those proven by or following court decisions, to international agreements, or duly promulgated regulations of the United States Government, and all charges and expenses incident thereto which arise out of or in connection with:

1. The alleged or established violation or infringement of any patent, copyright or trademark rights asserted by any third-party on items or services provided by the Contractor.
2. Loss, death, damage or injury alleged or established to have arisen out of or in connection with products, services, or equipment provided by Contractor, unless such loss, death, damage, or injury was caused by Transylvania County, its representatives, or employees.
3. Any loss, death, damage, or injury alleged or proven to have arisen out of or in connection with any other acts or omissions of the Contractor, subcontractor, vendors, representatives, agents, or employees.

B. Transylvania County will give Contractor notice and an opportunity to defend.

I-15. Insurance:

During the term of the Contract, the Contractor or vendor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the contract. As a minimum, the Contractor or vendor shall supply and keep the following coverage and limits.

A. Worker's Compensation – The Contractor or vendor shall supply and support worker's compensation insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$150,000, covering all of Contractor or vendor's employees who are engaged in any work under the contract. If any work is sublet, the Contractor or vendor shall require the subcontractor to supply the same coverage for any of his employees engaged in any work under the contract.

B. Commercial General Liability – General Liability Coverage, on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$500,000.00 combined single limit (Defense cost shall not be more than the limit of liability).

C. Automobile – Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles used in connection with the contract. The minimum combined single limit shall be \$150,000.00 bodily injury and property damage; \$150,000.00 uninsured/under-insured motorist; and \$1,000.00 medical payment.

I-16. Warranty:

Contractor warrants that:

A. The items offered shall be merchantable, and fit and sufficient for the use intended and are not "seconds" as the term is normally understood in the trade. This warranty shall survive acceptance by Transylvania County of the items and is in addition to other warranties of added scope given by the Contractor to Transylvania County.

B. The items or services offered under this contract are covered by the most favorable warranties the Contractor gives to any customer for such items or services and that the rights and remedies provided in the Contractor's warranties are in addition to and do not limit any rights afforded to Transylvania County by any other clause of this contract.

C. Where applicable, the items offered under this contract have been manufactured in accordance with Underwriter's Laboratories, Inc. (UL) standard, or if manufactured overseas, the overseas equivalent of UL and the applicable item and/or part items carry the appropriate UL or overseas equivalent seal of approval.

D. Items, packing, and packaging provided will follow all contract terms and with all laws, rules, and regulations applicable to delivery for domestic resale. Contractor shall follow the Magnuson-Moss Warranty Act on all sales to Transylvania County.

II-17. Item Substitution and Variation in Quantity:

No substitution or variation in the quantity of any item called for by this contract will be accepted unless authorized by the Transylvania County Finance Director.

I-18. Inspection and Acceptance:

The government per the following shall make inspection and acceptance:

A. The Contractor shall keep an in process and end-item quantity control program to ensure shipments to Transylvania County activities do not include defective/non-conforming items.

B. Inspection and acceptance shall not be conclusive with respect to latent defects or fraud, or with respect to Transylvania County rights under the warranty provisions held here.

C. In case any supplies or services are defective in material or workmanship, or are

otherwise not in conformity with the requirements of this contract, Transylvania County reserves the right to reject such supplies or services, or to require replacement or correction. Rejected supplies shall be removed by and at the expense of the Contractor promptly after notice. When such rejection, correction or replacement requires transportation of the supplies or part thereof, all shipping and administrative costs to and from the Contractor's plant shall also be borne by the Contractor.

D. In case of refund, the Contractor shall be liable to the Transylvania County for the added costs of re-procurement (if any). In no event will the liability of Contractor for cost and losses, and for re-procurement exceed an amount equal to the original purchase price of the defective item.

E. The provisions of this clause do not affect the rights or obligations of either party, as they may be provided for in other portions of this contract or otherwise under applicable law.

II-19. Availability of Funds: All payments to the Contractor or vendor are dependent upon and subject to the availability of funds to the County for the purposes in this agreement.

I-20. Invoice and Payment:

A. Invoicing Instructions. To be considered proper invoices, invoices must be sent as follows:

1. Contractor must prepare a separate numbered invoice for each order or part of an order. Do not combine multiple purchase orders on one invoice. Additionally, when partial shipments are authorized, use a separate invoice. Do not duplicate an invoice number used for prior billings:

2. Invoices must be issued by the company whose name is on the contract/order (unless otherwise authorized by the Transylvania County Finance Director) and must have the following minimum information to enable prompt payment:

(a) Name of Contractor.

(b) Invoice Date. This cannot be a date earlier than the ship date required by the contract or purchase/deliver order. If the invoice date is a date earlier than the required ship date, Transylvania County has the right either to return the improper invoice to the Contractor for correction or to change the invoice date to be the required ship date. If an improper invoice is returned to a Contractor because the date on the invoice is earlier than the required ship date or because the invoice is improper for any other reason, the invoice date, will be the date of receipt of the corrected, proper invoice.

(c) Contract/Order Number.

(d) Item Description and Quantity Shipped/Delivered.

(e) Contract/Order Line-Item Cost and Total.

(f) Any applicable sales tax.

(g) Shipping and Discount Terms, and special allowance(s) if included in the contract. Special allowances must be shown on the invoice using percentage figures only. Do not deduct any of these from the item cost or from the invoice total.

(h) "Ship To" address as shown on order or contract.

(i) Freight charges (on FOB origin shipments).

(j) Name, title and phone number of Contractor's contact person.

(k) Complete "Remit To" mailing address on the invoice to indicate where The contractor's payment is to be sent. This address must be the same address as on the contract unless otherwise communicated from the Transylvania County Accounts Payable Office.

3. Correcting invoices and credit memos must be marked as such and must cross-reference to the corrected invoice.

C. Payment.

1. A proper invoice is an invoice which has all the information/documentation, specified in paragraph A. (2) above and is sent to the address specified in the contract or purchase/delivery order for the designated Transylvania County paying office. Improper invoices be returned without payment to the Contractor.

2. The next payment date for Transylvania County Contracts is set up at 30 days after receipt of a proper invoice.

3. Payment is made:

(a) The date a check for payment is dated.

(b) The date an electronic fund transfer is sent to the financial institution, regardless of the date the financial institution posts the transfer.

(c) The date a withholding authorized by the contract is started by Transylvania County.

4. Any questions or inquiries concerning invoice payments should be directed to the Transylvania County Finance Account Payable department named on the contract or purchase/deliver order.

I-21. Withholding: Transylvania County may withhold payment for amounts due or creditable to Transylvania County under this contract, e.g., returns, damage.

I-22. Contractor Liability:

A. Except as set out specifically elsewhere in the contract, Contractor shall be liable for cost to Transylvania County associated with termination for default, rejection of items, and breach of warranty, in addition to reimbursement of payment of the purchase price and re-procurement costs.

B. Contractor will not be liable for damages if the failure to perform arises out of causes beyond the control and the fault or negligence of the Contractor. Such causes may include, but are not restricted to, Acts of God or the public enemy, Acts of the Government in its sovereign or contractual ability, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather.

II-23. Termination:

A. Mutual Termination. This contract may be ended at any time upon the mutual agreement of both parties.

B. Termination for Convenience. Transylvania County by written notice may terminate this contract in whole or in part when it is in the best interest of the Transylvania County. To the extent that this contract is for services and is so ended, Transylvania County shall be liable for payment as in the payment provisions of the contract for services given prior to the effective date of termination

C. Termination for Default. Transylvania County by written notice may terminate this contract in whole or in part for failure of the Contractor to fulfil any of the provisions hereof. In such event, the Contractor shall be liable for damages including the excess costs of re-procuring similar supplies and services provided that if

1. The Contractor was not in default; or

2. The Contractor's failure to perform is without his/her or his/her Subcontractor or vendor's control or negligence; then the termination shall be considered a "Termination for Convenience."

D. The rights and remedies of Transylvania County provided in this clause are in addition to any other rights and remedies provided by law or under other clauses of this contract.

I-24. Request for Monetary or Other Relief:

No request for monetary or other relief by Contractor shall be considered unless sent in writing to the Transylvania County Finance Director within 90 days after termination or termination of performance under the contract, whichever comes first. This clause shall not extend any period for filing, which is further limited by another clause of the contract.

I-25. Notification of Debarment or Suspension Status:

The Contractor or Vendor shall supply immediate notice to the Transylvania County Finance Director if being suspended, debarred or declared ineligible by any State of NC or Federal department or agency, or upon receipt of a notice of proposed debarment from another agency, during the performance of this contract.

I-26. Equal Employment Opportunity:

The contractor will take affirmative action in following all Federal and State requirements concerning fair employment and employment of people with disabilities, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin or disability.

I-27. Drug-Free Workplace:

The contractor or vendor agrees to make a good faith effort to show and support a drug-free workplace in connection with the performance of this contract. Consistent with the size and organization of its work force, contractor or vendor may wish to consider taking the following or other proper actions in showing a drug-free workplace: Publicizing a drug-free workplace policy; starting an employee drug awareness program or encouraging participation in existing community programs; informing employees of the general availability of drug counseling programs; etc.

I-28. Accident Prevention, Fire Protection, and Sanitation:

If this contract is performed in whole or in part on premises owned or under the control of the Transylvania County Government, the contractor or vendor shall conform to all safety regulations and requirements concerning such premises in effect any time during contract performance to prevent accidents. Any violations of safety regulations, unless at once corrected as directed by the Finance Director, shall be grounds for termination of the contract under the "Termination for Default" Clause.

I-29. Standards:

All manufactured items and/or fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving a connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the proper state inspector which customarily requires the label or reexamination listing or identification marking of the proper safety standard organization; such as the American Society of Mechanical Engineers for pressure vessels; The Underwriters Laboratories and/or National Electrical Manufacturers' Association for electrically operated

assemblies; or The American Gas Association for gas operated assemblies, where such approvals of listings have been proven for the type of device offered and given. Further, all items offered shall meet all requirements of the Occupational Safety and Health Act (OSHA), and State and Federal requirements relating to clean air and water pollution.

All Codes, standards, and specifications such as the National Electrical Code, North Carolina State Building Code, ASTM specifications, etc. referred to in the project specification shall be the issue in effect on the date of the invitation for bid, request for quote, and/or award.

I-30. Force Majeure:

Neither party shall be thought to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.

I-31. Federal Funds:

If the source of funds for this agreement is Federal Funds, the following Federal provisions apply following 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II (as may be applicable):

- A. Equal Employment Opportunity (41 C.F.R. Part 60).
- B. Davis-Bacon Act (40 U.S.C. 3141-3148).
- C. Copeland "Anti-Kickback" Act (40 U.S.C. 3145).
- D. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708).
- E. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387)
- F. Debarment and Suspension (Executive Orders 12549 and 12689).
- G. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).
- H. Procurement of Recovered Materials (2 C.F.R. § 200.322); and
- I. Record Retention Requirements (2 CFR § 200.324).