

**FIRST EXTENSION AND AMENDMENT TO AGREEMENT
FOR CONTINUING PROFESSIONAL ROOF DESIGN, EVALUATION, AND CONSTRUCTION
OVERSIGHT SERVICES**

This First Extension and Amendment to that certain Agreement to provide Continuing Professional Roof Design, Evaluation, and Construction Oversight Services is entered into effective as of January 5, 2024 by and between Indian River County, a political subdivision of the State of Florida ("County") and A/R/C Associates, Inc. ("Contractor").

BACKGROUND RECITALS

WHEREAS, the County and the Contractor entered into an Agreement for Continuing Professional Roof Design, Evaluation, and Construction Oversight Services effective January 5, 2021; and

WHEREAS, Paragraph 4.1 of the Agreement contains the term and renewal provisions; and

WHEREAS, the first term commenced effective as of January 5, 2021 and will end on January 4, 2024; and

WHEREAS, pursuant to the Agreement, the parties desire to extend the Agreement for an additional two years; and

WHEREAS, the parties desire to amend Paragraph 1.1 - General to include updated Work Order processes; and

WHEREAS, the parties desire to amend Paragraph 3 – Responsibilities of the Consultant to include updated errors and omissions language for drawing/document preparation, and;

WHEREAS, the parties desire to amend Paragraph 7 – Insurance and Indemnification to update minimum insurance limit requirements, and;

WHEREAS, the parties desire to amend the agreement to include Ownership and Reuse of Documents language, and;

WHEREAS, the parties desire to amend the agreement to include Federal Clauses.

NOW, THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the Contractor agree as follows:

1. The background recitals are true and correct and form a material part of this First Extension and Amendment.
2. The second renewal term shall commence effective January 5, 2024 and shall end on January 4, 2026. There are no additional extensions available on the contract.

3. Paragraph 1.1 is amended to read as follows:

1.1 Professional services shall be identified in individual Work Orders prepared by the County. Work Orders will be executed by the Board of County Commissioners, County Administration or the Purchasing Manager, as authorized. Work Orders shall include description of services to be performed; a statement of fees; a schedule of deliverable; proposed schedule for compensation and whether compensation is lump sum. Maximum amount not-to-exceed, task based, or any combination of the foregoing; a budget establishing the amount of compensation to be paid with sufficient detail so as to identify all of the various elements of costs; a projected schedule for completion of the work to be performed by the CONSULTANT; and any other additional instructions or provisions relating to the specific Services authorized pursuant to each Work Order that does not conflict with the terms of this Agreement.

4. Paragraph 3 – Responsibilities of the Consultant is amended as follows:

3.18 Where services hereunder include preparation of drawings and other contract documents by CONSULTANT and where, notwithstanding acceptance and approval by the COUNTY thereof, in the opinion of the COUNTY, drawings and other contract documents so prepared are found during the course of construction to require modification due to the oversight, inadvertence or negligent omissions of errors by, or lack of detail provided by CONSULTANT, such modifications must be made by CONSULTANT without additional compensation. Where such contract documents are used in letting a contract for construction, CONSULTANT will assume responsibility for any direct or actual damages suffered or incurred by the COUNTY, including, but not limited to, any increase in compensation due to a construction contractor, which increase is directly attributable to the required changes in the Drawings or other contract documents to the extent caused by the CONSULTANT's negligent acts, omissions, or errors.

5. Paragraph 7 – Insurance and Indemnification is amended as follows:

7.2.2 General Liability: ~~commercial general liability coverage, including contractual liability and independent contractor, with a minimum combined single limit of \$300,00 per occurrence. \$1,000,000 combined single limit per accident for bodily injury and property damage. Coverage shall include premises/operations, products/completed operations, contractual liability and independent contractors.~~ COUNTY shall be named an 'Additional Insured' on the certificate of insurance.

7.2.3 Auto Liability: ~~owned, hired, and non-owned vehicles at a minimum combined single limit of \$300,000 per occurrence. \$500,000 combined single limit per accident for bodily injury and property damage. Coverage shall include owned vehicles, hired vehicles, and non-owned vehicles.~~

7.2.4 Professional Liability: providing coverage for negligent acts, errors, or omissions committed by CONSULTANT with a limit of ~~\$1,000,000~~ \$500,000 per claim/annual aggregate.

6. The Agreement is Amended to include the following:

11. OWNERSHIP AND REUSE OF DOCUMENTS

11.1 Ownership and Copyright. Ownership and copyright of all reports, tracings, plans, electronic files, specifications, field books, survey information, maps, contract documents, and other data first developed by the CONSULTANT pursuant to this Agreement, shall be vested in the COUNTY. Said materials shall be made available to the COUNTY by the CONSULTANT at any time during normal business hours upon reasonable request of the COUNTY. On or before the tenth day after all work contemplated under this Agreement or individual Work Order is complete, all of the above materials shall be delivered to the County Project Manager.

11.2 Reuse of Documents. All documents, including but not limited to reports, drawings and specifications, prepared or performed by the CONSULTANT pursuant to this Agreement, are related exclusively to the services described herein. They are not intended or represented to be suitable for reuse by the COUNTY or others on extensions of this project or on any other project. The COUNTY's reuse of any document or drawing shall be at the COUNTY's own risk. The COUNTY shall not hold the CONSULTANT liable for any misuse of others.

7. The Agreement is amended to include the following Federal Clauses:

12. FEDERAL CLAUSES

For any work requested that will be paid for in part or whole by federal funds, the following terms will apply:

A. Contract Work Hours and Safety Standards: (1) The CONSULTANT or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. (2) Records to be maintained under this provision shall be made available by the CONSULTANT or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Homeland Security, the Federal Emergency Management Agency, and the Department of Labor, and the CONSULTANT or subcontractor will permit such representatives to interview employees during working hours on the job.

B. Suspension and Debarment: (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the CONSULTANT is required to verify that none of the CONSULTANT, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) The CONSULTANT must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by OWNER. If it is later determined that the CONSULTANT did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to OWNER, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. (4) The bidder or proposer agrees to

comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

C. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended): Contractors and Firms who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

D. Procurement of Recycled/Recovered Materials: (1) In the performance of this contract, the CONSULTANT shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—(i) Competitively within a timeframe providing for compliance with the contract performance schedule; (ii) Meeting contract performance requirements; or (iii) At a reasonable price.
(2) Information about this requirement is available at EPA’s Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
(3) The CONSULTANT also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

E. Prohibition on Contracting for Covered Telecommunications Equipment or Services:
(a) Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—
(b) Prohibitions: (1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons. (2) Unless an exception in paragraph (c) of this clause applies, the CONSULTANT and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to: (i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system; (ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system; (iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or (iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any

equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) Exceptions. (1) This clause does not prohibit CONSULTANTs from providing—

(i) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or (ii) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles. (2) By necessary implication and regulation, the prohibitions also do not apply to: (i) Covered telecommunications equipment or services that: i. Are not used as a substantial or essential component of any system; and ii. Are not used as critical technology of any system. (ii) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(d) Reporting requirement. (1) In the event the CONSULTANT identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the CONSULTANT shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information. (2) The CONSULTANT shall report the following information pursuant to paragraph (d)(1) of this clause: (i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended. (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the CONSULTANT shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts. The CONSULTANT shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

F. Domestic Preference for Procurements: As appropriate, and to the extent consistent with law, the CONSULTANT should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products. For purposes of this clause: Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

G. Access to Records: The following access to records requirements apply to this contract: (1) The CONSULTANT agrees to provide OWNER, the State of Florida, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the CONSULTANT which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. (2) The CONSULTANT agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts

and transcriptions as reasonably needed. (3) The CONSULTANT agrees to provide the FEMA Administrator or his authorized representatives access to documents pertaining to the work being completed under the contract. (4) In compliance with section 1225 of the Disaster Recovery Act of 2018, the OWNER and the CONSULTANT acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

H. DHS Seal, Logo, and Flags: The CONSULTANT shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. The CONSULTANT shall include this provision in any subcontracts.

I. Compliance with Federal Law, Regulations, and Executive Orders: This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The CONSULTANT will comply with all applicable Federal law, regulations, executive orders, and FEMA policies, procedures, and directives.

J. No Obligation by Federal Government: The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, CONSULTANT, or any other party pertaining to any matter resulting from the contract.

K. Program Fraud and False or Fraudulent Statements or Related Acts: The CONSULTANT acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.

L. Affirmative Steps: If subcontracts are to be let, the prime CONSULTANT is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

M. License and Delivery of Works Subject to Copyright and Data Rights: The CONSULTANT grants to the Owner a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this contract, the CONSULTANT will identify such data and grant to the Owner or acquires on its behalf a license of the same scope as for data first produced in the performance of this contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this contract, the CONSULTANT will deliver to the Owner data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by the Owner.

8. All other terms and provisions of the Agreement shall be unchanged and remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this First Extension and Amendment to be executed effective the day and year first set forth above.

A/R/C Associates, Inc.

INDIAN RIVER COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS

By: _____
Printed name: _____
Title: _____

By: _____
Susan Adams, Chairman

(Corporate Seal)

Date: _____

Attest: Ryan L. Butler, Clerk of Circuit Court
And Comptroller

By: _____
Deputy Clerk

Approved:

John A. Titkanich, Jr.
County Administrator

Approved as to form and legal sufficiency:

K. Keith Jackman
Assistant County Attorney