



**FULTON  
COUNTY**

**CONTRACT DOCUMENTS FOR**

**#22ITB136410K-BKJ**

**PINE VALLEY PHASE 2A - INTERCEPTOR SEWER  
REPLACEMENT**

**For**

**DEPARTMENT OF PUBLIC WORKS**

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## CONTRACT AGREEMENT

Contractor: Wade Coots Company, Inc.  
Contract No.: 22ITB136410K-BKJ  
Address: 174 Duncan Circle  
City, State Hiram, GA 30141  
Telephone: 770-819-0601  
Email: [mark.sutton@wadecootscompany.com](mailto:mark.sutton@wadecootscompany.com)  
Contact: Mark Sutton  
Project Manager

This Agreement made and entered into effective the 22nd day of May, 2023 by and between **FULTON COUNTY, GEORGIA**, a political subdivision of the State of Georgia, hereinafter referred to as "**County**", and **WADE COOTS COMPANY, INC.**, hereinafter referred to as "**Contractor**", authorized to transact business in the State of Georgia.

### WITNESSETH

WHEREAS, County through its Department of Public Works hereinafter referred to as the "**Department**", desires to retain a qualified and experienced Contractor to perform the Pine Valley Sewer Replacement Phase 2A, hereinafter, referred to as the "**Project**".

WHEREAS, Contractor has represented to County that it is experienced and has qualified and local staff available to commit to the Project and County has relied upon such representations.

NOW THEREFORE, for and in consideration of the mutual covenants contained herein, and for other good and valuable consideration, County and Contractor agree as follows:

### ARTICLE 1. CONTRACT DOCUMENTS

County hereby engages Contractor, and Contractor hereby agrees, to perform the services hereinafter set forth in accordance with this Agreement, consisting of the following contract documents:

- I. Form of Agreement;
- II. Addenda;
- III. Exhibit A: General Conditions;
- IV. Exhibit B: Special Conditions (where applicable)

- V. Exhibit C: Scope of Work
- VI. Exhibit D: Compensation;
- VII. Exhibit E: Purchasing Forms;
- VIII. Exhibit F: Contract Compliance Forms;
- IX. Exhibit G: Insurance and Risk Management Form;
- X. Exhibit H: Payment & Performance Bonds (if applicable)

The foregoing documents constitute the entire Agreement of the parties pertaining to the Project hereof and is intended as a complete and exclusive statement of promises, representations, discussions and agreements oral or otherwise that have been made in connection therewith. No modifications or amendment to this Agreement shall be binding upon the parties unless the same is in writing, conforms to Fulton County Purchasing Code §102-420 governing change orders, is signed by the County's and the Contractor's duly authorized representatives, and entered upon the meeting minutes of the Fulton County Board of Commissioners.

If any portion of the Contract Documents shall be in conflict with any other portion, the various documents comprising the Contract Documents shall govern in the following order of precedence: 1) the Agreement, 2) the Bid document, 3) any Addenda, 4) change orders, 5) the exhibits, and 6) portions of Contractor's proposal that was accepted by the County and made a part of the Contract Documents.

The Agreement was approved by the Fulton County Board of Commissioners on **May 3, 2023, BOC Item # 23-0313.**

## ARTICLE 2. SEVERABILITY

If any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the Agreement, which shall remain in full force and effect, and enforceable in accordance with its terms.

## ARTICLE 3. DESCRIPTION OF PROJECT

County and Contractor agree the Project is to replace 4,062 L.F. of 30" to 48" RCP Gravity Sewer with 54" HOBAS Fiberglass Pipe and Epoxy Coated Precast Concrete Manhole's. All exhibits referenced in this agreement are incorporated by reference and constitute an integral part of this Agreement as if they were contained herein.

## ARTICLE 4. SCOPE OF WORK

Unless modified in writing by both parties in the manner specified in the agreement, duties of Contractor shall not be construed to exceed those services specifically set forth herein. Contractor agrees to provide all services, products, and data and to perform all tasks described in Exhibit C, Scope of Work.

## ARTICLE 5. SERVICES PROVIDED BY COUNTY

Contractor shall gather from County all available non-privileged data and information pertinent to the performance of the services for the Project. Certain services as described in Exhibit C, Scope of Work, if required, will be performed and furnished by County in a timely manner so as not to unduly delay Contractor in the performance of said obligations. County shall have the final decision as to what data and information is pertinent.

County will appoint in writing a County authorized representative with respect to work to be performed under this Agreement until County gives written notice of the appointment of a successor. The County's authorized representative shall have complete authority to transmit instructions, receive information, and define County's policies, consistent with County rules and regulations. Contractor may rely upon written consents and approvals signed by the County's authorized representative that are consistent with County rules and regulations.

#### ARTICLE 6. **MODIFICATIONS**

If during the course of performing the Project, County and Contractor agree that it is necessary to make changes in the Project as described herein and referenced exhibits, such changes will be incorporated by written amendments in the form of Change Orders to this Agreement. Any such Change Order and/or supplemental agreement shall not become effective or binding unless approved by the Board of Commissioners and entered on the minutes. Such modifications shall conform to the requirements of the Fulton County Purchasing Code, §102-420 which is incorporated by reference herein.

#### ARTICLE 7. **SCHEDULE OF WORK**

Contractor shall not proceed to furnish such services and County shall not become obligated to pay for same until a written authorization to proceed (Notice to Proceed) has been sent to Contractor from County. The Contractor shall begin work under this Agreement no later than five (5) days after the effective date of notice to proceed.

#### ARTICLE 8. **CONTRACT TERM**

Contractor shall commence the Work within ten calendar days after receipt of Notice to Proceed and shall substantially complete the Work within one hundred eighty (180) calendar days from issuance of the Notice to Proceed.

#### ARTICLE 9. **COMPENSATION**

Compensation for work performed by Contractor on Project shall be in accordance with the payment provisions and compensation schedule, attached as Exhibit D, Compensation.

The total contract amount for the Project shall not exceed \$7,536,975.00 (Seven Million Five Hundred Thirty Six Thousand Nine Hundred Seventy Five Dollars and No Cents), which is full payment for a complete scope of work.

#### ARTICLE 10. PERSONNEL AND EQUIPMENT

Contractor shall designate in writing a person(s) to serve as its authorized representative(s) who shall have sole authority to represent Contractor on all matters pertaining to this contract.

Contractor represents that it has secured or will secure, at its' own expense, all equipment and personnel necessary to complete this Agreement, none of whom shall be employees of or have any contractual relationship with County. All of the services required hereunder will be performed by Contractor under his supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under law to perform such services.

Written notification shall be immediately provided to County upon change or severance of any of the authorized representative(s), listed key personnel or subcontractor performing services on this Project by Contractor. No changes or substitutions shall be permitted in Contractor's key personnel or subcontractor as set forth herein without the prior written approval of the County. Requests for changes in key personnel or subcontractors will not be unreasonably withheld by County.

#### ARTICLE 11. SUSPENSION OF WORK

**Suspension Notice:** The County may by written notice to the Contractor, suspend at any time the performance of all or any portion of the services to be performed under this Agreement. Upon receipt of a suspension notice, the Contractor must, unless the notice requires otherwise:

- 1) Immediately discontinue suspended services on the date and to the extent specified in the notice;
- 2) Place no further orders or subcontracts for material, services or facilities with respect to suspended services, other than to the extent required in the notice; and
- 3) Take any other reasonable steps to minimize costs associated with the suspension.

**Notice to Resume:** Upon receipt of notice to resume suspended services, the Contractor will immediately resume performance under this Agreement as required in the notice.

#### ARTICLE 12. DISPUTES

Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the County. The representative shall reduce the decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The Contractor shall have 30 days from date the decision is sent to appeal the decision to the County Manager or his designee by mailing or otherwise furnishing to the County Manager or designee, copy of the written appeal. The decision of the County Manager or his designee for the determination of such appeal shall be final and conclusive. This condition shall not be pleaded in any suit involving a question of fact arising under this Agreement, unless the same is fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or is not supported by substantial evidence. In connection with any appeal proceeding under this clause, Contractor shall be afforded an opportunity to be heard and to offer evidence in support of an appeal. Pending any final decision of a dispute hereunder, Contractor shall proceed diligently with performance of the Agreement and in accordance with the decision of the County's designated representative.

ARTICLE 13. **TERMINATION OF AGREEMENT FOR CAUSE**

- (1) Either County or Contractor may terminate work under this Agreement in the event the other party fails to perform in accordance with the provisions of the Agreement. Any party seeking to terminate this Agreement is required to give thirty (30) days prior written notice to the other party.
- (2) Notice of termination shall be delivered by certified mail with receipt for delivery returned to the sender.
- (3) **TIME IS OF THE ESSENCE** and if the Contractor refuses or fails to perform the work as specified in Exhibit C, Scope of Work and maintain the scheduled level of effort as proposed, or any separable part thereof, with such diligence as will insure completion of the work within the specified time period, or any extension or tolling there of, or fails to complete said work within such time. The County may exercise any remedy available under law or this Agreement. Failure to maintain the scheduled level of effort as proposed or deviation from the aforesaid proposal without prior approval of County shall constitute cause for termination
- (4) The County may, by written notice to Contractor, terminate Contractor's right to proceed with the Project or such part of the Project as to which there has been delay. In such event, the County may take over the work and perform the same to completion, by contract or otherwise, and Contractor shall be required to provide all copies of finished or unfinished documents prepared by Contractor under this Agreement.
- (5) Contractor shall be entitled to receive compensation for any satisfactory work completed on such documents as reasonably determined by the County.

- (6) Whether or not the Contractor's right to proceed with the work has been terminated, the Contractor shall be liable for any damage to the County resulting from the Contractor's refusal or failure to complete the work within the specified time period, and said damages shall include, but not be limited to, any additional costs associated with the County obtaining the services of another Contractor to complete the project.

**ARTICLE 14. TERMINATION FOR CONVENIENCE OF COUNTY**

Notwithstanding any other provisions, the County may terminate this Agreement for its convenience at any time by a written notice to Contractor. If the Agreement is terminated for convenience by the County, as provided in this article, Contractor will be paid compensation for those services actually performed. Partially completed tasks will be compensated for based on a signed statement of completion to be submitted by Contractor which shall itemize each task element and briefly state what work has been completed and what work remains to be done.

If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the government.

**ARTICLE 15. WAIVER OF BREACH**

The waiver by either party of a breach or violation of any provision of this Agreement, shall not operate or be construed to be, a waiver of any subsequent breach or violation of the same or other provision thereof.

**ARTICLE 16. INDEPENDENT CONTRACTOR**

Contractor shall perform the services under this Agreement as an independent contractor and nothing contained herein shall be construed to be inconsistent with such relationship or status. Nothing in this Agreement shall be interpreted or construed to constitute Contractor or any of its agents or employees to be the agent, employee or representative of County.

**ARTICLE 17. RESPONSIBILITY OF CONTRACTOR**

Contractor represents that it has, or will secure at its own expenses, all personnel appropriate to perform all work to be completed under this Agreement;

All the services required hereunder will be performed by Contractor or under the direct supervision of Contractor. All personnel engaged in the Project by Contractor shall be fully qualified and shall be authorized or permitted under applicable State and local law to perform such services.

None of the work or services covered by this Agreement shall be transferred, assigned, or subcontracted by Contractor without the prior written consent of the County.

## ARTICLE 18. INDEMNIFICATION

**18.1 Non-Professional Services Indemnification.** Contractor hereby agrees to indemnify and hold harmless Fulton County, its Commissioners and their respective officers, members, employees, and agents (each, hereinafter referred to as an "Indemnified Person") from and against any and all claims, demands, liabilities, losses, costs or expenses, including attorneys' fees due to liability to a third party or parties, for any loss due to bodily injury (including death), personal injury, and property damage arising out of or resulting from the performance of this Agreement or any act or omission on the part of the Contractor, its agents, employees or others working at the direction of Contractor or on its behalf, or due to any breach of this Agreement by the Contractor or due to the application or violation of any pertinent Federal, State or local law, rule or regulation. This indemnification is binding upon to the successors and assigns of Contractor. This indemnification does not extend to the sole negligence of the Indemnified Persons nor beyond the scope of this Agreement and the work undertaken thereunder. This indemnification survives the termination of this Agreement and shall also survive the dissolution or to the extent allowed by law, the bankruptcy of Contractor.

Contractor obligation to indemnify and hold harmless, as set forth hereinabove, shall also include, but is not limited to, any matter arising out of any actual or alleged infringement of any patent, trademark, copyright, or service mark, or other actual or alleged unfair competition disparagement of product or service, or other tort or any type whatsoever, or any actual or alleged violation of trade regulations.

Contractor further agrees to indemnify and hold harmless Fulton County, its Commissioners, officers, employees, subcontractors, successors, assigns and agents from and against any and all claims or liability for compensation under the Worker's Compensation Act, Disability Benefits Act, or any other employee benefits act arising out of injuries sustained by any employees of Contractor. These indemnities shall not be limited by reason of the listing of any insurance coverage.

**18.2 Notice of Claim.** If an Indemnified Person receives written notice of any claim or circumstance which could give rise to indemnified losses, the receiving party shall promptly give written notice to Contractor, and shall use best efforts to deliver such written notice within ten (10) Business Days. The notice must include a copy of such written notice of claim, or, if the Indemnified Person did not receive a written notice of claim, a description of the indemnification event in reasonable detail and the basis on which indemnification may be due. Such notice will not stop or prevent an Indemnified Person from later asserting a different basis for indemnification. If an Indemnified Person does not provide this notice within the ten (10)

Business Day period, it does not waive any right to indemnification except to the extent that Contractor is prejudiced, suffers loss, or incurs additional expense solely because of the delay.

**18.3 Defense.** Contractor, at Contractor's own expense, shall defend each such action, suit, or proceeding or cause the same to be resisted and defended by counsel designated by the Indemnified Person and reasonably approved by Contractor (provided that in all instances the County Attorney of Fulton County Georgia shall be acceptable, and, for the avoidance of doubt, is the only counsel authorized to represent the County). If any such action, suit or proceedings should result in final judgment against the Indemnified Person, Contractor shall promptly satisfy and discharge such judgment or cause such judgment to be promptly satisfied and discharged. Within ten (10) Business Days after receiving written notice of the indemnification request, Contractor shall acknowledge in writing delivered to the Indemnified Person (with a copy to the County Attorney) that Contractor is defending the claim as required hereunder.

#### **18.4 Separate Counsel.**

**18.4.1 Mandatory Separate Counsel.** In the event that there is any potential conflict of interest that could reasonably arise in the representation of any Indemnified Person and Contractor in the defense of any action, suit or proceeding pursuant to Section 18.3 above or in the event that state or local law requires the use of specific counsel, (i) such Indemnified Person may elect in its sole and absolute discretion whether to waive such conflict of interest, and (ii) unless such Indemnified Person (and, as applicable, Contractor) elects to waive such conflict of interest, or in any event if required by state or local law, then the counsel designated by the Indemnified Person shall solely represent such Indemnified Person and, if applicable, Contractor shall retain its own separate counsel, each at Contractor's sole cost and expense.

**18.4.2 Voluntary Separate Counsel.** Notwithstanding Contractor's obligation to defend a claim, the Indemnified Person may retain separate counsel to participate in (but not control or impair) the defense and to participate in (but not control or impair) any settlement negotiations, provided that for so long as Contractor has complied with all of Contractor's obligations with respect to such claim, the cost of such separate counsel shall be at the sole cost and expense of such Indemnified Person (provided that if Contractor has not complied with all of Contractor's obligations with respect to such claim, Contractor shall be obligated to pay the cost and expense of such separate counsel). Contractor may settle the claim without the consent or agreement of the Indemnified Person, unless the settlement (i) would result in injunctive relief or other equitable remedies or otherwise require the Indemnified Person to comply with restrictions or limitations that adversely affect or materially impair the reputation and standing of the Indemnified Person, (ii) would require the Indemnified Person to pay amounts that Contractor or its insurer does not fund in full, (iii) would not result in the Indemnified Person's full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by

the settlement, or (iv) directly involves the County (in which case the County of Fulton County, Georgia shall be the only counsel authorized to represent the County with respect to any such settlement).

**18.5 Survival.** The provisions of this Article will survive any expiration or earlier termination of this Agreement and any closing, settlement or other similar event which occurs under this Agreement.

#### ARTICLE 19. **COVENANT AGAINST CONTINGENT FEES**

Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees maintained by Contractor for the purpose of securing business and that Contractor has not received any non-County fee related to this Agreement without the prior written consent of County. For breach or violation of this warranty, County shall have the right to annul this Agreement without liability or at its discretion to deduct from the Contract Price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

#### ARTICLE 20. **INSURANCE**

Contractor agrees to obtain and maintain during the entire term of this Agreement, all of the insurance required as specified in the Agreement documents, Exhibit G, Insurance and Risk Management Forms, with the County as an additional insured and shall furnish the County a Certificate of Insurance showing the required coverage. The cancellation of any policy of insurance required by this Agreement shall meet the requirements of notice under the laws of the State of Georgia as presently set forth in the Georgia Code.

#### ARTICLE 21. **PROHIBITED INTEREST**

##### Section 21.01 **Conflict of interest:**

Contractor agrees that it presently has no interest and shall acquire no interest direct or indirect that would conflict in any manner or degree with the performance of its service hereunder. Contractor further agrees that, in the performance of the Agreement, no person having any such interest shall be employed.

##### Section 21.02 **Interest of Public Officials:**

No member, officer or employee of County during his tenure shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

#### ARTICLE 22. **SUBCONTRACTING**

Contractor shall not subcontract any part of the work covered by this Agreement or permit subcontracted work to be further subcontracted without prior written approval of County.

**ARTICLE 23. ASSIGNABILITY**

Contractor shall not assign or subcontract this Agreement or any portion thereof without the prior expressed written consent of County. Any attempted assignment or subcontracting by Contractor without the prior expressed written consent of County shall at County's sole option terminate this Agreement without any notice to Contractor of such termination. Contractor binds itself, its successors, assigns, and legal representatives of such other party in respect to all covenants, agreements and obligations contained herein.

**ARTICLE 24. ANTI-KICKBACK CLAUSE**

Salaries of engineers, surveyors, draftsmen, clerical and technicians performing work under this Agreement shall be paid unconditionally and not less often than once a month without deduction or rebate on any account except only such payroll deductions as are mandatory by law. Contractor hereby promises to comply with all applicable "Anti-Kickback" Laws, and shall insert appropriate provisions in all subcontracts covering work under this Agreement.

**ARTICLE 25. AUDITS AND INSPECTORS**

At any time during normal business hours and as often as County may deem necessary, Contractor shall make available to County and/or representatives of the County for examination all of its records with respect to all matters covered by this Agreement.

It shall also permit County and/or representative of the County to audit, examine and make copies, excerpts or transcripts from such records of personnel, conditions of employment and other data relating to all matters covered by this Agreement. Contractor's records of personnel, conditions of employment, and financial statements (hereinafter "Information") constitute trade secrets and are considered confidential and proprietary by Contractor. To the extent County audits or examines such Information related to this Agreement, County shall not disclose or otherwise make available to third parties any such Information without Contractor's prior written consent unless required to do so by a court order. Nothing in this Agreement shall be construed as granting County any right to make copies, excerpts or transcripts of such information outside the area covered by this Agreement without the prior written consent of Contractor. Contractor shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred on the Project and used in support of its proposal and shall make such material available at all reasonable times during the period of the Agreement and for eight years from the date of final payment under the Agreement, for inspection by County or any reviewing agencies and copies thereof shall be furnished upon request and at no additional cost to

County. Contractor agrees that the provisions of this Article shall be included in any Agreements it may make with any subcontractor, assignee or transferee.

#### ARTICLE 26. ACCOUNTING SYSTEM

Contractor shall have an accounting system, which is established, and maintaining in accordance with generally accepted accounting principles. Contractor must account for cost in a manner consistent with generally accepted accounting procedures, as approved by Fulton County.

#### ARTICLE 27. VERBAL AGREEMENT

No verbal agreement or conversation with any officer, agent or employee of County either before, during or after the execution of this Agreement, shall affect or modify any of the terms of obligations herein contained, nor shall such verbal agreement or conversation entitle Contractor to any additional payment whatsoever under the terms of this Agreement. All changes to this shall be in writing and the form of a change order in supplemental agreement, approved by the County, and entered on the Minutes of the Board of Commissioners.

#### ARTICLE 28. NOTICES

All notices shall be in writing and delivered in person or transmitted by certified mail, postage prepaid.

Notice to County, shall be addressed as follows:

Department of Public Works  
141 Pryor Street, S.W., Suite  
Atlanta, Georgia 30303  
Telephone: 404-612-5900  
Email: [David.Clark@fultoncountyga.gov](mailto:David.Clark@fultoncountyga.gov)  
Attention: David Clark, Director

#### **With a copy to:**

Department of Purchasing & Contract Compliance  
Director  
130 Peachtree Street, S.W., Suite 1168  
Atlanta, Georgia 30303  
Telephone: (404) 612-5800  
Email: [felicia.strong-whitaker@fultoncountyga.gov](mailto:felicia.strong-whitaker@fultoncountyga.gov)  
Attention: Felicia Strong-Whitaker

Notices to Contractor shall be addressed as follows:

Wade Coots Company, Inc.  
174 Duncan Circle  
Hiram, GA 30141  
Telephone: 770-819-0601  
Email: mark.sutton@wadecootscompany.com  
Attention: Mark Sutton

#### ARTICLE 29. **JURISDICTION**

This Agreement will be executed and implemented in Fulton County. Further, this Agreement shall be administered and interpreted under the laws of the State of Georgia. Jurisdiction of litigation arising from this Agreement shall be in the Fulton County Superior Courts. If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said laws, but the remainder of this Agreement shall be in full force and effect.

Whenever reference is made in the Agreement to standards or codes in accordance with which work is to be performed, the edition or revision of the standards or codes current on the effective date of this Agreement shall apply, unless otherwise expressly stated.

#### ARTICLE 30. **EQUAL EMPLOYMENT OPPORTUNITY**

During the performance of this Agreement, Contractor agrees as follows:

Section 30.01 Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex or national origin;

Section 30.02 Contractor will, in all solicitations or advertisements for employees placed by, or on behalf of, Contractor state that all qualified applicants, will receive consideration for employment without regard to race, creed, color, sex or national origin;

Section 30.03 Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by the Agreement so that such provision will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

#### ARTICLE 31. **FORCE MAJEURE**

Neither County nor Contractor shall be deemed in violation of this Agreement if either is prevented from performing its obligations hereunder for any reason beyond its control, including but not limited to acts of God, civil or military authority, act of public enemy, accidents, fires, explosions, earthquakes, floods or catastrophic failures of public transportation, provided however, that nothing

herein shall relieve or be construed to relieve Contractor from performing its obligations hereunder in the event of riots, rebellions or legal strikes.

### ARTICLE 32. OPEN RECORDS ACT

The Georgia Open Records Act, O.C.G.A. Section 50-18-70 et seq., applies to this Agreement. The Contractor acknowledges that any documents or computerized data provided to the County by the Contractor may be subject to release to the public. The Contractor also acknowledges that documents and computerized data created or held by the Contractor in relation to the Agreement may be subject to release to the public, to include documents turned over to the County. The Contractor shall cooperate with and provide assistance to the County in rapidly responding to Open Records Act requests. The Contractor shall notify the County of any Open Records Act requests no later than 24 hours following receipt of any such requests by the Contractor. The Contractor shall promptly comply with the instructions or requests of the County in relation to responding to Open Records Act requests.

### ARTICLE 33. INVOICING AND PAYMENT

Contractor shall submit monthly invoices for work performed during the previous calendar month, in a form acceptable to the County and accompanied by all support documentation requested by the County, for payment and for services that were completed during the preceding phase. The County shall review for approval of said invoices. The County shall have the right not to pay any invoice or part thereof if not properly supported, or if the costs requested or a part thereof, as determined by the County, are reasonably in excess of the actual stage of completion.

**Time of Payment:** Invoices for payment shall be submitted to County by the first (1st) calendar day of the month to facilitate processing for payment in that same month. Invoices received after the first (1st) calendar day of the month may not be paid until the last day of the following month. The County shall make payments to Contractor by U.S. mail approximately thirty (30) days after receipt of a proper invoice. Parties hereto expressly agree that the above contract term shall supersede the rates of interest, payment periods, and contract and subcontract terms provided for under the Georgia Prompt Pay Act, O.C.G.A. 13-11-1 et seq., pursuant to 13-11-7(b), and the rates of interest, payment periods, and contract and subcontract terms provided for under the Prompt Pay Act shall have no application to this Agreement; parties further agree that the County shall not be liable for any interest or penalty arising from late payments.

**Submittal of Invoices:** Invoices shall be submitted as follows:

**Via Mail:**

Fulton County Government  
141 Pryor Street, SW  
Suite 7001  
Atlanta, Georgia 30303

Attn: Finance Department – Accounts Payable

OR

**Via Email:**

Email: [Accounts.Payable@fultoncountyga.gov](mailto:Accounts.Payable@fultoncountyga.gov)

At minimum, original invoices must reference all of the following information:

- 1) Vendor Information
  - a. Vendor Name
  - b. Vendor Address
  - c. Vendor Code
  - d. Vendor Contact Information
  - e. Remittance Address
  
- 2) Invoice Details
  - a. Invoice Date
  - b. Invoice Number (uniquely numbered, no duplicates)
  - c. Purchase Order Reference Number
  - d. Date(s) of Services Performed
  - e. Itemization of Services Provided/Commodity Units
  
- 3) Fulton County Department Information (needed for invoice approval)
  - a. Department Name
  - b. Department Representative Name

Contractor's cumulative invoices shall not exceed the total not-to-exceed fee established for this Agreement.

**County's Right to Withhold Payments:** The County may withhold payments for services that involve disputed costs, involve disputed audits, or are otherwise performed in an inadequate fashion. Payments withheld by the County will be released and paid to the Contractor when the services are subsequently performed adequately and on a timely basis, the causes for disputes are reconciled or any other remedies or actions stipulated by the County are satisfied. The County shall promptly pay any undisputed items contained in such invoices.

**Payment of Sub-contractors/Suppliers:** The Contractor must certify in writing that all sub-contractors of the Contractor and suppliers have been promptly paid for work and materials and previous progress payments received. In the event the prime Contractor is unable to pay sub-contractors or suppliers until it has received a progress payment from Fulton County, the prime Contractor shall pay all sub-contractors or supplier funds due from said progress payments within forty-eight (48) hours of receipt of payment from Fulton County and in no event later than fifteen days as provided for by State Law.

**Acceptance of Payments by Contractor; Release.** The acceptance by the Contractor of any payment for services under this Agreement will, in each instance, operate as, and be a release to the County from, all claim and liability to the Contractor for work performed or furnished for or relating to the service for which payment was accepted, unless the Contractor within five (5) days of its receipt of a payment, advises the County in writing of a specific claim it contends is not released by that payment.

#### ARTICLE 34. TAXES

The Contractor shall pay all sales, retail, occupational, service, excise, old age benefit and unemployment compensation taxes, consumer, use and other similar taxes, as well as any other taxes or duties on the materials, equipment, and labor for the work provided by the Contractor which are legally enacted by any municipal, county, state or federal authority, department or agency at the time bids are received, whether or not yet effective. The Contractor shall maintain records pertaining to such taxes as well as payment thereof and shall make the same available to the County at all reasonable times for inspection and copying. The Contractor shall apply for any and all tax exemptions which may be applicable and shall timely request from the County such documents and information as may be necessary to obtain such tax exemptions. The County shall have no liability to the Contractor for payment of any tax from which it is exempt.

#### ARTICLE 35. PERMITS, LICENSES AND BONDS

All permits and licenses necessary for the work shall be secured and paid for by the Contractor. If any permit, license or certificate expires or is revoked, terminated, or suspended as a result of any action on the part of the Contractor, the Contractor shall not be entitled to additional compensation or time.

#### ARTICLE 36. NON-APPROPRIATION

This Agreement states the total obligation of the County to the Contractor for the calendar year of execution. Notwithstanding anything contained in this Agreement, the obligation of the County to make payments provided under this Agreement shall be subject to annual appropriations of funds thereof by the governing body of the County and such obligation shall not constitute a pledge of the full faith and credit of the County within the meaning of any constitutional debt limitation. The Director of Finance shall deliver written notice to the Contractor in the event the County does not intend to budget funds for the succeeding Contract year.

Notwithstanding anything contained in this Agreement, if sufficient funds have not been appropriated to support continuation of this Agreement for an additional calendar year or an additional term of the Agreement, this Agreement shall terminate absolutely and without further obligation on the part of the County at the close of the calendar year of its execution and at the close of each

succeeding calendar year of which it may be renewed, unless a shorter termination period is provided or the County suspends performance pending the appropriation of funds.

ARTICLE 37. **WAGE CLAUSE**

Contractor shall agree that in the performance of this Agreement the Contractor will comply with all lawful agreements, if any, which the Contractor had made with any association, union, or other entity, with respect to wages, salaries, and working conditions, so as not to cause inconvenience, picketing, or work stoppage.

**IN WITNESS THEREOF**, the Parties hereto have caused this Contract to be executed by their duly authorized representatives as attested and witnessed and their corporate seals to be hereunto affixed as of the day and year date first above written.

OWNER:

CONTRACTOR:

**FULTON COUNTY, GEORGIA**

**WADE COOTS COMPANY, INC**

DocuSigned by:

*Robert L. Pitts*

Robert L. Pitts, Chairman  
Fulton County Board of Commissioners

DocuSigned by:

*W. Greg Coats*

W. Greg Coats  
Vice President

ATTEST:

ATTEST:

DocuSigned by:

*Tonya R. Grier*

Tonya R. Grier  
Clerk to the Commission

DocuSigned by:

Secretary/  
Assistant Secretary

(Affix County Seal)



(Affix Corporate Seal)

APPROVED AS TO FORM:

ATTEST:

DocuSigned by:

*[Signature]*

Office of the County Attorney

x Mark sutton (2)

Notary Public

APPROVED AS TO CONTENT:

County: Floyd

DocuSigned by:

*David Clark*

David Clark, Director  
Department of Public Works

Commission Expires: 4/8/25

DocuSigned by:

(Affix Notary Seal)



RCS

x RM

ITEM#: _____	RCS: _____	ITEM#: 2023-0313	RM: <u>5/3/2023</u>
RECESS MEETING		REGULAR MEETING	

Certificate of Insurance



# **ADDENDA**



#22ITB136410K-BKJ - Pine Valley Phase 2A - Interceptor Sewer Replacement  
January 19, 2023

Page 2

This Addendum forms a part of the contract documents and **modifies** the original ITB documents as noted below:

- County responses to questions received.

**ADDENDUM NO. 1**

The undersigned Bidder/Proposer acknowledges receipt of all Addendum by uploading this form with the Bid/Proposal submittal package as outlined in Section 1 of the ITB.

This is to acknowledge receipt of Addendum No.1, 25<sup>th</sup> day of JAN, 2023.

WADE COUTS COMPANY, INC.  
Legal Name of Bidder/Proposer

  
Signature of Authorized Representative

VICE-PRESIDENT  
Title

**EXHIBIT A**

**GENERAL CONDITIONS**

## GENERAL CONDITIONS

1. Bids may be withdrawn upon receipt of a written request prior to the stated due date and time. If a firm seeks to withdraw a bid after the due date and time, the firm must present a notarized statement indicating that an error was made, with an explanation of how it occurred. The withdrawal request must be accompanied by documentation supporting the claim. Prior to approving or disapproving the request, an opinion will be obtained from Fulton County's Legal Counsel indicating whether the firm is bound by its bid submittal.

Bids for projects that are solicited pursuant to the Georgia Local Government Public Works Construction Law (O.C.G.A. § 36-91-1 et seq.) may be withdrawn as follows:

The County must advise Bidders in the invitation to bid of the number of days that Bidders will be required to honor their bids. If an Bidder is not selected within 60 days of opening the bids, any Bidder that is determined by the governmental entity to be unlikely of being selected for contract award will be released from the bid.

2. Fulton County shall be the sole judge of the quality and the applicability of all bids. Design, features, overall quality, local facilities, terms and other pertinent considerations will be taken into account in determining acceptability.
3. The successful Bidder must assume full responsibility for delivery of all goods and services proposed.
4. The successful Bidder must assume full responsibility for replacement of all defective or damaged goods and/or performance of contracted services within thirty (30) days' notice by the County of such defect, damage or deficiency.
5. The successful Bidder must assume full responsibility for providing warranty service on all goods, materials, or equipment provided to the County with warranty coverage. Should a vendor be other than the manufacturer, the vendor and not the County is responsible for contacting the manufacturer. The Bidder is solely responsible for arranging for the service to be performed.
6. The successful Bidder shall be responsible for the proper training and certification of personnel used in the performance of the services proposed.
7. The successful Bidder shall not assign, transfer, convey, sublet, or otherwise dispose of any contract resulting from the invitation to bid or of any of its rights, title or interest therein without prior written consent of the Fulton County Board of Commissioners.

8. In case of default by the successful Bidder, Fulton County may procure the articles or services from another source and hold the successful Vendor responsible for any resultant excess cost.
9. All bids submitted to Fulton County are subject to the Georgia "Open Records Act", Official Code of Georgia, Annotated (O.C.G.A.) § 50-18-70 et seq.
10. All bids submitted to Fulton County involving Utility Contracting are subject to the Georgia law governing licensing of Utility Contractors, O.C.G.A. §43-14-8.2(h).

**EXHIBIT B**

**SPECIAL CONDITIONS**

**No Special Conditions were required for this Project**

**EXHIBIT C**

**SCOPE OF WORK**

# SCOPE OF WORK

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The Contractor shall provide all labor, equipment and materials necessary for the construction, removal and installation of sewer main, and other required improvements to the wastewater collection system with all related accessories as shown on the plans and called for in the Contract Documents and Technical Specifications. All work shall be in conformance with the contract documents, drawings and Fulton County Standards and Specifications. This project will be assigned by issuance of a Notice to Proceed. This work may include sanitary sewer replacement/repairs on pipelines and items not listed on the Bid Form.

## **1.02 Project Location**

**The project is located at Union Woods Way and Deep Creek continuing south approx. 4,062 L.F. paralleling Deep Creek to just north of Edison Rd. Fulton County, GA.**

## **1.03 Quantities**

The Owner reserves the right to alter the quantities of work to be performed or to extend or shorten the improvements at any time when and as found necessary, and the Contractor shall perform the work as altered, increased or decreased. Payment for such increased or decreased quantity will be made in accordance with the Instructions to Bidders. No allowance will be made for any change in anticipated profits nor shall such changes be considered as waiving or invalidating any conditions or provisions of the Contract and Bond.

## **1.04 Partial Owner Occupancy**

The existing facilities to which these improvements are being made will continue operation during the period of construction.

## **1.05 Coordination of Work**

- A. The Contractor shall coordinate the work with third parties (such as power, natural gas, or telephone companies) in areas where such parties may have rights to underground property or facilities.
- B. The Contractor shall request from involved third parties maps or other descriptive information as to the nature and location of such underground facilities or property. The Contractor shall make all necessary investigations to determine the existence and location of underground utilities.

- C. The Contractor will be held responsible for any damage to and for maintenance and protection of existing utilities and structures whether or not if the utility has been located by the owner. The Contractor shall contact the utility owners and the individual property owners for the location of the utilities within the area of Work.
  
- D. The Contractor shall coordinate the work with owners of private and public property where access is required for the performance of the work. Legal access will be acquired and provided by the Owner.

END OF SECTION

## **SECTION 01016**

### **OCCUPANCY**

#### **Part 1 General**

##### **1.01 Partial Occupancy by Owner**

Whenever, in the opinion of the Project Manager, any section or portion of the Work or any structure is in suitable condition, it may be put into use upon the written order of the Project Manager and such usage will not be held in any way as an acceptance of said Work or structure, or any part thereof, or as a waiver of any of the provisions of these Specifications and the Contract. Pending final completion and acceptance of the Work, all necessary repairs and replacements, due to defective materials or workmanship or operations of the Contractor, for any section of the Work so put into use shall be performed by the Contractor at Contractor's own expense.

**END OF SECTION**

## SECTION 01025

### MEASUREMENT AND PAYMENT

#### Part 1 General

##### 1.01 Scope

- A. The Bid lists each item of the Project for which payment will be made. **No payment will be made for any items other than those listed in the Bid.** The Project Manager will clarify all contradictions.
- B. Required items of work and incidentals necessary for the satisfactory completion of the work which are not specifically listed in the Bid, and which are not specified in this Section to be measured or to be included in one of the items listed in the Bid, shall be considered as incidental to the work. All costs thereof, including Contractor's overhead costs and profit, shall be considered as included in the unit prices bid for the various Bid items. The Contractor shall prepare the Bid accordingly.
- C. Work includes furnishing all labor, equipment, tools and materials, which are not furnished by the Owner and performing all operations required to complete the work satisfactorily, in place, as specified and as indicated on the Drawings.

##### 1.02 Descriptions

- A. Measurement of an item of work will be by the unit indicated in the Bid. Work performed for items not included in the Bid shall be paid in accordance with Section 8, 00700.
- B. Final payment quantities shall be determined from actual quantities installed and measured in the field.
- C. Payment for an item of work includes all necessary and incidental related work required to complete the Work, whether specified or not.
- D. Unless otherwise stated in individual sections of the Specifications or in the Bid, or as approved in writing by the Project Manager prior to beginning the Work, no separate payment will be made for any item of work, materials, parts, equipment, supplies or related items

required to perform and complete the Work. The costs for all such items required shall be included in the price bid for item of which it is a part. In the event that the Project Manager requests Work that is agreed by both the Project Manager and the Contractor as not included in the Bid, that item of work will be paid in accordance with Section 8, 00700.

- E. Payment will be made by extending unit prices multiplied by quantities provided and then summing the extended prices to reflect actual work. Such price and payment shall constitute full compensation to the Contractor for furnishing all plant, labor, equipment, tools and materials not furnished by the Owner and for performing all operations required to provide to the Owner the entire Project, complete in place, as specified and as indicated on the Drawings.
- F. "Products" shall mean materials or equipment permanently incorporated into the work.
- G. "Provide" shall mean furnish and install.

### **1.03 Non Payments**

- A. No separate payment shall be made for the restoration of developed property and the cost shall be included in the overall prices for the execution of the work unless specifically noted otherwise.
- B. No separate payment shall be made for excavation, disposal of rubbish and debris, pipe bedding, backfill, dewatering of trench, repair of damaged properties. All testing required for the execution of the work shall be done as part of the price for the item involved.
- C. No separate payment shall be made for any traffic control, work area protection, recording, safety measures, set-up of equipment and set-up of staging area except as indicated below. Payment for these items shall be part of the unit price bid for each particular item of work.
- D. No separate payment shall be made for providing detail surveys needed for construction. The Contractor shall be responsible in providing further survey necessary to complete the Work. The Contractor shall carefully preserve the established points, and in case of willful or careless destruction, the Contractor shall be

responsible for the costs of reestablishing the bench marks, reference points and stakes.

#### **1.04 Contractor Mobilization**

All costs associated with mobilization of all required resources, a one-time cost for each non-emergency project assigned by the Owner, shall be included in the unit prices bid for CONTRACTOR MOBILIZATION, based on the project sizes listed in the Bid.

#### **1.05 Sewers and Accessories**

- A. Existing Utilities and Obstructions
  - 1. Horizontal Conflict: Payments for conflicts with existing utilities shall be made only where additional manholes, fittings, and/or additional lengths of pipe are approved by the Project Manager. Said payment shall be made at the unit prices in the Bid. No other payment will be made for any delay or extra cost encountered by the Contractor due to protection, avoidance or relocation of existing utilities, mains or services or changing the horizontal alignment of the sewer.
  - 2. Vertical Conflict: Where authorized by the Project Manager, payment for additional depth of cut required to avoid vertical conflicts shall be made at the unit prices bid for sewer line. No payment will be made for relocation of existing utilities except as authorized by the Project Manager.
- B. Location and Grade: No separate payment shall be made for survey work performed by or for the Contractor in the establishment of reference points, bench marks, cut sheets, limits of right of way or easement, including their restoration, as well as centerline or baseline points.
- C. Construction along Highways, Streets and Roadways: No separate payment shall be made for traffic control or maintaining highways, streets, roadways and driveways, except as authorized by the Project Manager.
- D. Ductile Iron Pipe/PVC/FRP Gravity Sewer
  - 1. Payment for Ductile Iron Pipe/PVC/FRP gravity sewer shall be made at the unit price bid for GRAVITY SEWER, for the

quantity and type provided at the appropriate depth. Payment will be made at the one unit price for the actual depth of the sewer line.

2. Measurement for payment at the unit price for GRAVITY SEWER shall be made along the centerline of the pipe, through fittings, from inside face of structure wall penetrated to inside face of structure wall penetrated. Depth of cut shall be measured from pipe invert to ground level at pipe centerline. Cut sheets prepared by the Contractor and approved by the Project Manager shall be the basis for payment.
3. The unit price bid for GRAVITY SEWER shall include all costs for installation of the sewer as required including, but not limited to, materials, labor, excavation, dewatering, shoring, bedding, haunching, backfill, compaction, clean-up, testing, bypass pumping, traffic control, and all other related items not listed as separate items in the Bid.
4. Payment for pipe INSTALLED IN STEEL CASING will be made in addition to payment for gravity sewer installed at the appropriate depth. The unit price bid for pipe INSTALLED IN STEEL CASING shall include all additional costs associated with providing the appropriate size steel casing pipe, spacers, grout, brick, as required for the complete installation of pipe in casing via open-cut installation. All costs associated with installation of the sewer line, including excavation, dewatering, etc. shall be included in the unit price bid for GRAVITY SEWER.
5. No payment shall be made for sections of pipe which are not installed.
6. No additional payment shall be made for replacement of defective materials.
7. No additional payment will be made for maintaining or stopping flow while placing the new sewer in service.
8. No payment shall be made for sections of pipe which have not passed required tests, or if the area has not been cleaned up to the satisfaction of the Project Manager.

9. No separate payment will be made for cutting and beveling pipe.
  10. The cost of all fittings shall be included in the price bid for pipe.
- E. Clean up and testing: No separate payment shall be made for clean-up and testing.

**1.06 Precast Concrete Manholes and Accessories**

- A. The unit price bid for 4, 6 & 7-FOOT DIAMETER PRECAST MANHOLES, at the depths listed in the Bid, shall include all costs associated with construction of a complete manhole on a new sewer line, including excavation, shoring, dewatering, backfilling, compaction, crushed stone bedding, concrete slab, precast base, riser sections, cone or flat top, coring, rubber boots, grouting, sleeves, concrete, invert, mastic sealant, brickwork, mortar, connection of pipes to the manhole, vacuum testing, and all incidental items required to complete the installation.
- B. Measurement for payment at the unit price for MANHOLES shall be made from the invert to the top of the top section. Payment for manholes shall be made at the unit price bid for MANHOLES, for the type provided at the appropriate depth. Payment will be made at the one unit price for the actual depth of the manhole.
- C. Measurement for payment at the unit price for CONNECT TO EXIST./PROP. MH WITH NEW/EXIST. PIPE shall be for coring into manhole (if required), installing boot and connection pipe.
- D. DEMOLITION OF EXISTING MANHOLES AND PIPE shall be performed on items listed in the bid form removed and legally disposed of offsite and in accordance with the contract documents, drawings and Fulton County Standards and Specifications.
- E. Manhole Accessories

The unit price bid for MANHOLE RING AND COVER shall include the cost of providing the appropriate type ring and cover on a new manhole or new riser section including materials, labor, grouting, brick and mortar, minor grade adjustments (up to three inches either way vertically) and all incidental items required to complete the installation.

The unit price bid for HDPE MH VENT PIPE W/WAGER 1800 ODOR CONTROL VALVE shall include the cost of providing the appropriate type of odor control valve including materials, labor, products and all incidental items required to complete the installation.

**1.07 Bore and Jack Casings**

- A. The unit price bid for BORE AND JACK CASING shall include all costs associated with installation of the casing pipe and carrier pipe, including but not limited to excavation, shoring, dewatering, backfilling, compaction, steel casing pipe, FRP sewer pipe, spacers, grout, brick, and other accessories, for installing the pipe complete in place.
- B. Payment for casing shall be made only at the completion of all work specified for the casing installation. No partial payment shall be made for the construction of the casing without carrier pipe.
- C. Measurement for payment shall be made along the centerline of the pipe line to the limits of bore and jack as ordered by the Project Manager.
- D. Casing pipe may be included in Partial Payment Requests as stored materials, if, in the opinion of the Project Manager, the casing pipe is stored and properly protected at the Project site. Casing pipe which has been properly installed, but has not yet been paid for as installed casing, may also be included as stored materials.
- E. Payment for pipe in casing shall be made only at the completion of all work specified for the pipe installation. Payment for pipe in the casing shall be made only at the one unit price bid for BORE AND JACK CASING.
- F. In the event that rock is encountered during the installation of the pipe casing which, in the opinion of the Project Manager, cannot be removed through the casing then the Project Manager may authorize the Contractor to complete the crossing by another method via a change order.
- G. No additional payment shall be made for rock excavation through the casing.

- H. The unit price bid shall assume that all jack and bore casing installations exceed 60 feet in length.

**1.08 Erosion and Sedimentation Control**

A. General

1. No separate payment shall be made for erosion and sedimentation controls, except as noted below. All other erosion and sedimentation control costs shall be included in the unit price bid for the item to which it pertains.
2. No payment will be made for any portion of the Project for which temporary erosion and sedimentation controls are not properly maintained.
3. Quantities for payment shall be based upon actual quantity constructed by the Contractor.

B. Construction Exits: All costs for construction exits, including installation, maintenance, repair, and removal, shall be included in the unit price bid for CONSTRUCTION EXITS. The unit price bid shall include geotextile under liner, stone, and all incidental costs associated with maintaining a construction exit to Fulton County standards.

1. If the action of the construction vehicles traveling over the gravel pad does not sufficiently remove mud and debris, the vehicle tires shall be washed prior to allowing vehicles to enter public right-of way. No additional payment will be made for the cost of washing tires.
2. No payment will be made for construction exits that are improperly constructed or use materials that are not approved.

C. Reinforced Silt Fence: All costs for Type S silt fence, where ordered by the Project Manager, including installation, maintenance, repair, replacement, and removal, shall be included in the unit price bid for REINFORCED SILT FENCE.

D. Hay Bale Check Dams: All costs for hay bale check dams, including hay bales, necessary earthwork, staking, periodic maintenance and repair, and removal of sediment and hay bales

following establishment of permanent erosion control measures shall be included in the unit price bid for HAY BALE CHECK DAMS.

- E. Rip Rap with Filter Fabric Underlay: All costs for rip rap, including filter fabric, installation, maintenance, repair and removal, as required by the Standard Details and Specifications, or as directed by the Project Manager, shall be included in the unit price bid for RIP RAP WITH FILTER FABRIC UNDERLAY.
- J. Slope Stabilization: All costs for blankets, plastic netting, mulch, jute, seed, fertilizer, installation, maintenance and repair, as required by the Standard Details and Specifications, or as directed by the Project Manager, shall be included in the unit price bid for SLOPE STABILIZATION.
- K. Tree Protection Fence: All costs for tree protection fence, also known as orange mesh safety fence, including installation, maintenance, repair and removal, shall be included in the unit price bid for TREE PROTECTION FENCE.
- L. STORM WATER SAMPLING FOR NPDES: The Lump Sum price bid for storm water sampling for NPDES including all materials and accessories required to meet federal and state storm water sampling requirements at the locations shown on the Plans or as directed by the Engineer. Payment for this item shall be Lump Sum (LS). The Contractor shall comply with all requirements of State of Georgia Department of Natural Resources Environmental Protection Division General Permit No. GAR 100002 Part IV.D.6.
- M. MONITORING, NOI, NOT, RECORD KEEPING & REPORTING NPDES TO GA EPD: The Lump Sum price bid for monitoring, filing electronically the NOI & NOT, record keeping & reporting for NPDES to Georgia EPD as required to meet federal and state storm water sampling requirements. Payment for this item shall be Lump Sum (LS). The Contractor shall comply with all requirements of State of Georgia Department of Natural Resources Environmental Protection Division General Permit No. GAR 100002 Part IV. E.

#### **1.09 Vegetation Restoration**

- A. Temporary Seeding: Temporary seeding and mulching shall be applied to all disturbed area to be left exposed for a period greater than 14 days, or as ordered by the Project Manager. The unit price

bid for TEMPORARY SEEDING shall include all costs associated with spreading fast growing seed, mulching, watering, maintenance and repair until permanent grassing is established.

- B. Permanent Seeding: All costs for permanent seeding, including fine grading, raking, soil preparation (removal of rocks and other objectionable materials), sewing the appropriate type of grass seed, fertilizing, mulching, watering, temporary protective measures, maintenance and repair until permanent grassing is established, shall be included in the unit price bid for PERMANENT SEEDING. Permanent seed will be applied only after final grading and dress-up of disturbed area have been completed to the satisfaction of the Project Manager.
- C. In no case shall any one area be paid more than once for temporary grassing or for permanent grassing.
- D. If an area is temporarily grassed, and as directed by the Project Manager the area is left that way permanently, no additional payment will be made for permanent grassing.
- E. Measurement for payment will be made by Linear Foot (LF), along the sewer centerline minus creek crossings and jack & bores under roadways, to the widths allowed by the Standard Details and Specifications.

#### **1.10 Temporary Stream Crossing**

- A. Temporary Stream Crossing: All costs for constructing temporary stream crossings, whether for contractor access to the work or for work crossing streams, shall be included in the unit price bid for TEMPORARY STREAM CROSSING. Stream crossings All labor and materials including temporary culverts, stone, filter fabric underlay, check dams, bypassing, necessary earthwork, periodic maintenance and repair, and removal of sediment and all materials placed by the Contractor, following the end of the usefulness of the temporary crossing, shall be included in the unit prices bid for TEMPORARY STREAM CROSSING.
- B. Stream Crossings shall be constructed as shown in the Standard Details and Specifications, limited to 10 feet upstream and 10 feet downstream from top of trench excavation and from five feet beyond top of bank, across stream or ditch bank and bottom, to five feet beyond top of bank. Any other areas at streams or ditches

disturbed by the Contractor, which may require rip rap, shall be ripped at no additional cost to the Owner.

### **1.11 Trench Excavation and Stabilization**

- A. No separate or additional payment will be made for any special or unique method, means, techniques or equipment necessary for the Contractor's compliance with the Specifications, regulatory requirements, permits, laws or regulations which govern this Project.
- B. Trench Excavation: No separate payment will be made for trench excavation. All costs shall be included in the unit price bid for the item to which it pertains at the appropriate depth.
- C. Sheeting, Bracing and Shoring: No separate payment will be made for providing any sheeting, bracing and shoring. All costs shall be included in the unit price bid for the item to which it pertains at the appropriate depth.
- D. Dewatering Excavations: All costs of equipment, labor and materials required for dewatering shall be included in the price bid for the item to which it pertains.
- E. Trench Foundation and Stabilization
  - 1. No payment for trench stabilization shall be authorized until after the trench has been dewatered. If the pipe is installed in an inadequately prepared trench bottom, the Project Manager shall notify the Contractor in writing of the deficiency and will not authorize payment for that portion of that length of pipe which was improperly installed.
  - 2. Payment for trench stabilization shall be made on the basis of the amount authorized and the unit price bid for TRENCH STABILIZATION. Payment shall include all costs for the removal and disposal of the unsuitable material and replacement with the materials listed in the Bid including filter fabric. No additional payment will be made for material required for specified bedding.
- F. Bedding and Haunching
  - 1. The unit price bid for pipe for GRAVITY SEWER shall include excavation of the trench to the depth below the pipe

necessary to provide specified bedding and to lay the sewer to grade. Measurements for payment will be made only to the pipe invert.

2. No separate payment will be made for material used to provide specified bedding. The cost of all bedding materials shall be included in the unit price bid for the item to which it relates, except for trench stabilization.
3. No additional payment will be made for improved bedding required to compensate for over excavation of the trench.

G. Trench Rock Excavation

1. No allowance shall be made for excavating to extra widths for construction of manholes or other appurtenances, for excavating to sloping sides, or for excavations made necessary by the physical limitations of the Contractor's equipment. Cost of such additional rock excavation shall be included in the unit price bid for the item to which it pertains.

H. Initial Backfill

1. No separate payment shall be made for initial backfill.
2. No separate payment shall be made for drying out the initial backfill material in order to meet the compaction requirements.
3. No separate payment shall be made for the adding of moisture to the initial backfill materials in order to meet the compaction requirements.
4. No separate payment shall be made for providing select material if the insitu material cannot meet the compaction requirements.

I. Final Backfilling

1. No additional payment will be made for additional material when excavated materials are used.
2. No separate payment shall be made for drying out the final backfill material in order to meet the compaction requirements.

3. No separate payment shall be made for the adding of moisture to the final backfill materials in order to meet the compaction requirements.
  4. No additional payment will be made for providing select material if the insitu material cannot meet the compaction requirements.
- J. Additional Material: No separate payment will be made for additional earth or fill materials imported to the Project site.

#### **1.12 Easement Clearing and Grubbing**

- A. The unit price bid for EASEMENT CLEARING AND GRUBBING shall include all costs associated with clearing a 60-foot wide easement of the specified type, as approved by the Project Manager prior to clearing, including but not limited to removal and disposal of trees, stumps, roots, undergrowth, debris, or other objectionable matter.
- B. MEDIUM CLEARING shall be defined by an easement that is dense with shrubs, brush, and trees averaging one to two feet in diameter.
- C. The cost of moving and reestablishing landscape features, including labor and materials, shall be included in the unit price bid for the item to which it pertains.
- D. No payment will be made for clearing and grubbing in grassed areas and in areas with non-established vegetation. The costs associated with such clearing shall be included in the unit price bid for the item to which it pertains.

#### **1.13 Driveway and Road Repair and Replacement**

- A. General:
  1. Payment for removing and replacing driveway and road asphalt and concrete pavement will be made based on the measured quantity replaced at the unit price Bid. The unit price bid shall include all costs associated with cutting, removing, disposing of existing pavement, replacing and compaction of base, subbase, concrete, asphalt, and all related items as required, including providing select backfill if

necessary, all traffic control and temporary measures for maintaining traffic.

2. Payment shall be made only for that length for which the pipeline is constructed underneath or within four feet of the edge of the pavement to a width as shown in the Standard Details and Specifications.
  3. Payment for soils testing shall be made from the SOILS, CONCRETE, ASPHALT, AND MATERIALS TESTING cash allowance. No payment shall be made for tests that fail to verify required results.
  4. No additional payment will be made for removing and replacing damaged adjacent pavement.
  5. No additional payment will be made for saw cutting of driveways or curbs.
- B. Payment for removing and replacing gravel driveways will be made based on the measured quantity replaced at the unit price Bid for GRAVEL DRIVEWAY. The unit price bid shall include all costs associated with removing, replacing, and compacting a minimum of four-inches of GAB or #57 stone, and all related items as required for a complete driveway repair, including all traffic control and temporary measures for maintaining access. Payment will be made for the length for which the pipeline is constructed underneath the driveway and for the width as limited by the Standard Details and Specifications.
- C. No separate or additional payment shall be made for temporary measures required to make the road or driveway surface passable, including backfilling the top of the trench temporarily with crusher run or granular material or placing temporary asphalt topping.

#### **1.14 Traffic Control**

- A. All costs for providing traffic control in compliance with the Manual on Uniform Traffic Control Devices (MUTCD) and Georgia Department of Transportation (GDOT) specifications shall be included in the unit price bid for the item to which it pertains.
- B. The unit price bid for MUTCD STANDARD SAFETY BARREL shall include all costs for providing, installing and removing a standard MUTCD safety barrel, as directed by the Project Manager. Only

**safety barrels directed by the Project Manager**, in addition to those required by the MUTCD and GDOT, shall be paid for separately.

## **1.15 CCTV**

- A. The unit price bid for CCTV shall include all costs associated with utilizing CCTV equipment to record work on assets, measuring depth, diameter and type of pipes and all conditions of the run of the pipe from manhole to manhole. Measurement shall be made based on distance recorded on video of the CCTV, as approved by the Project Manager.
- B. For all CCTV work, PACP data requirements are as follows:
  - 1. PACP database must be NASSCO compliance
  - 2. Data must be delivered in PACP or GaniteXP format
  - 3. PACP format is only acceptable for the following versions: Nothing earlier than 2.0.2 nothing later 6.0.3
  - 4. Asset ID in the database needs to be implemented as provided by Fulton County. If the CCTV contractor discovers additional assets that are not currently mapped by Fulton County, then the discovered asset(s) should be identified with a TMP prefix joined with the next known downstream Asset ID. If there is no downstream and upstream IDs contractor need to use sequence number identified with a TMP.
  - 5. If a new Data (manhole, pipe) is found, map update (sketch) needs to be provided
  - 6. Data and videos should be provided on a CD/DVD with the label of the project
  - 7. Videos will only be accepted in MPG format.
  - 8. Video needs to be delivered per section of the pipe from manhole to manhole.

## **1.16 Utility Location – Excavation and Backfill**

- A. Where utility location is performed in roadways or sidewalks, other materials may be required for backfill. Select materials will be paid for at the unit prices bid for TRENCH STABILIZATION. Measurement for payment will be made on the actual quantity of material used for backfill of the hole where the marker ball is installed.

- B. Exploratory Excavation: The unit price bid for EXPLORATORY EXCAVATION shall include all costs associated with excavation of an area by machine and by hand where necessary with the intent of locating a Fulton County utility, including all equipment, tools, and labor. The costs associated with removal and replacement of roadway, driveway, sidewalk, or curb and gutter shall be included under the appropriate pay item. Measurement for payment will be based on the actual amount of excavation required to locate a Fulton County utility, only when ordered by the Project Manager. This item shall not be used for standard locating of utilities as required to perform the work.
- C. No payment will be made for excavation that does not locate the assigned utility, or where the marker ball is not installed directly above the pipe.
- D. No separate or additional payment will be made for any special or unique method, means, techniques or equipment necessary for the Contractor's compliance with these Specifications, regulatory requirements, permits, laws or regulations which govern this Project.

#### **1.17 Cash Allowances**

- A. General
  - 1. The Contractor shall include in the Bid Total all allowances stated in the Contract Documents. These allowances shall cover the net cost of the services provided by a firm selected by the Owner. The Contractor's handling costs, labor, overhead, profit and other expenses contemplated for the original allowance shall be included in the items to which they pertain and not in allowances.
  - 2. No payment will be made for nonproductive time on the part of testing personnel due to the Contractor's failure to properly coordinate testing activities with the work schedule or the Contractor's problems with maintaining equipment in good working condition. The Contractor shall make all necessary excavations and shall supply any samples of materials necessary for conducting compaction and density tests.
  - 3. No payment shall be provided for services that fail to verify required results.

B. Should the net cost be more or less than the specified amount of the allowance, the Contract will be adjusted accordingly by Change Order. The amount of change order will not recognize any changes in handling costs at the site, labor, overhead, profit and other expenses caused by the adjustment to the allowance.

C. Documentation

1. Submit copies of the invoices with each periodic payment request from the firm providing the services.
2. Submit results of services provided which verify required results.
3. Progress photographs
4. As "built"
5. Document showing all correspondence for changes requiring additional payment.

D. Schedule of Cash Allowances

1. Soils, Concrete, Asphalt, and Materials Testing: Allow the amount provided in the Bid for the services of a geotechnical engineering firm and testing laboratory to verify soils conditions including trench excavation and backfill, asphalt coring and density tests, testing of concrete cylinders for poured in place concrete, pipe materials, and similar issues as directed by the Project Manager. Services will be reimbursed in accordance with 1.24.D.6 below. Contractor must provide invoices for Owner approval.
2. Utility Conflict Resolution: Allow the amount specified in the Bid to resolve any unforeseen utility conflicts (including relocating and/or replacement) as directed and approved by the Project Manager.
3. Large Tree Removal: Allow the amount specified in the Bid **for the services of a tree removal specialist to remove individual trees as directed by the Project Manager.** Services will be reimbursed in accordance with 1.24.D.6 below. Contractor must provide invoices for Owner approval. No

payment will be made for trees removed as part of clearing and grubbing.

4. Bypass Pumping: Bypass pumping is included within the Item of Work. Allow the amount specified in the Bid **for the services of a bypass pumping specialty contractor to provide bypass pumping services as directed and approved by the Project Manager**. Services will be reimbursed in accordance with 1.24.D.6 below. Contractor must provide invoices for Owner approval. Costs for bypass pumping will be reimbursed only with prior approval of the Project Manager. If bypass pumps are provided without prior Project Manager approval, payment may not be made for services at the discretion of the Project Manager.
5. In Subparagraphs 3 and 4 above, the items included in “Cost and “Overhead” shall be based on the following schedule:
  - a. Unless otherwise provided in the Contract Documents, “Cost” shall be limited to the following: cost of materials incorporated into the Work, including sales tax and cost of delivery; cost of direct labor (labor cost may include a pro rata share of foreman’s account of the change) including social security, old age and unemployment insurance, and fringe benefits required by agreement or custom; workers’ or workmen’s compensation insurance; rental value of equipment and machinery; costs for preparing Shop Drawings.
  - b. Unless otherwise provided in the Contract Documents, “Overhead” shall include the following: bond and insurance premiums including increase and decreases from change in the Work, supervision, superintendence, construction parking, wages of timekeepers, watchmen and clerks, small tools, consumable supplies, expendables, incidentals, general office expense, the cost of additional reproduction for the Contractor’s subcontractors beyond that agreed upon in the Contract Documents, construction parking, any additional costs of craft supervision by the Contractor’s or subcontractors’ superintendents, and overhead charges which would be customary and expended regardless of the change in the Work due to other overlapping activities which are included as part of the original Contract, and all other expenses not included in “Cost” above.

END OF SECTION

01060-1

## SECTION 01060

### REGULATORY REQUIREMENTS

#### Part 1 General

##### 1.01 Scope

- A. Permits and Responsibilities: The Contractor shall, without additional expense to the Owner, be responsible for obtaining all necessary licenses and permits, including building permits, and for complying with any applicable federal, state, county and municipal laws, codes and regulations, in connection with the prosecution of the Work. In addition, City Work Permits, Right of Way Encroachment permits, plumbing permits and similar type permits, and all appropriate licenses are the responsibility of the contractor. If land disturbance permits, DOT permits, or easements are required, they will be obtained by the County as part of the design process.
- B. The Contractor shall take proper safety and health precautions to protect the Work, the workers, the public and the property of others.
- C. The Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the Work, except for any completed unit of construction thereof which may heretofore have been accepted.

END OF SECTION

# **EXHIBIT D**

# **COMPENSATION**

## **COMPENSATION**

---

The County agrees to compensate the Consultant as follows:

County agrees to compensate Contractor for all services performed under this Agreement in an amount not to exceed \$7,536,975.00 (Seven Million Five Hundred Thirty Six Nine Hundred Seventy Five Dollars and No Cents), which is full payment for a complete scope of work. The detailed costs are provided in the attached Bid Form.

**EXHIBIT E**

**PURCHASING FORMS**

STATE OF GEORGIA

COUNTY OF FULTON

FORM A: GEORGIA SECURITY AND IMMIGRATION CONTRACTOR AFFIDAVIT AND AGREEMENT

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services<sup>1</sup> under a contract with [insert name of prime contractor] WADE COATS COMPANY, INC on behalf of Fulton County Government has registered with and is participating in a federal work authorization program<sup>\*,2</sup> in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services to this contract with Fulton County Government, contractor will secure from such subcontractor(s) similar verification of compliance with O.C.G.A. 13-10-91 on the Subcontractor Affidavit provided in Rule 300-10-01-.08 or a substantially similar form. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to the Fulton County Government at the time the subcontractor(s) is retained to perform such service.

1435443

EEV/Basic Pilot Program\* User Identification Number

[Signature]

BY: Authorized Officer of Agent  
(Insert Contractor Name)

VICE. PRESIDENT

Title of Authorized Officer or Agent of Contractor

W. GREG COATS

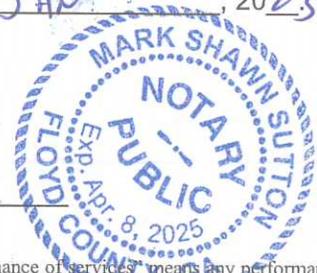
Printed Name of Authorized Officer or Agent

Sworn to and subscribed before me this 25<sup>th</sup> day of JAN, 2023

Notary Public: [Signature]

County: FLOYD

Commission Expires: 4-8-25



<sup>1</sup>O.C.G.A. § 13-10-90(4), as amended by Senate Bill 160, provides that "physical performance of services" means any performance of labor or services for a public employer (e.g., Fulton County) using a bidding process (e.g., ITB, RFQ, RFP, etc.) or contract wherein the labor or services exceed \$2,499.99, except for those individuals licensed pursuant to title 26 or Title 43 or by the State Bar of Georgia and is in good standing when such contract is for service to be rendered by such individual.

<sup>2</sup>\*[Any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603].

STATE OF GEORGIA  
COUNTY OF FULTON

N/A

**FORM B: GEORGIA SECURITY AND IMMIGRATION SUBCONTRACTOR  
AFFIDAVIT**

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services<sup>3</sup> under a contract with **[insert name of prime contractor]** \_\_\_\_\_ behalf of **Fulton County Government** has registered with and is participating in a federal work authorization program\*,<sup>4</sup> in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91.

\_\_\_\_\_  
EEV/Basic Pilot Program\* User Identification Number

\_\_\_\_\_  
BY: Authorized Officer of Agent  
(Insert Subcontractor Name)

\_\_\_\_\_  
Title of Authorized Officer or Agent of Subcontractor

\_\_\_\_\_  
Printed Name of Authorized Officer or Agent

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Notary Public: \_\_\_\_\_

County: \_\_\_\_\_

Commission Expires: \_\_\_\_\_

<sup>3</sup>O.C.G.A. § 13-10-90(4), as amended by Senate Bill 160, provides that "physical performance of services" means any performance of labor or services for a public employer (e.g., Fulton County) using a bidding process (e.g., ITB, RFQ, RFP, etc.) or contract wherein the labor or services exceed \$2,499.99, except for those individuals licensed pursuant to title 26 or Title 43 or by the State Bar of Georgia and is in good standing when such contract is for service to be rendered by such individual.

<sup>4</sup>\*[Any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603].

**FORM C1: CONTRACTOR'S GEORGIA UTILITY LICENSE CERTIFICATION**

Contractor's Name: WADE (OOE) COMPANY, INC.

Utility Contractor's Name: W. CARR (OOE)

Expiration Date of License: 4-30-23

I certify that the above information is true and correct and that the classification noted is applicable to the Bid for this Project.

Signed: 

Date: 4-30-23

(ATTACH COPY OF LICENSE)



STATE OF GEORGIA  
 BRAD RAFFENSPERGER, Secretary of State  
 Georgia Construction Industry Licensing Board  
 LICENSE NO. UC300104  
 Wade Coots Company, Inc.  
 P.O. Box 549  
 Powder Springs GA 30127  
**Utility Contractor**

EXP DATE - 04/30/2023 Status: Active  
 Issue Date: 12/28/1993

A pocket-sized license card is below. Above is an enlarged copy of your pocket card.

Please make note of the expiration date on your license. It is your responsibility to renew your license before it expires. Please notify the Board if you have a change of address.

Wall certificates suitable for framing are available at cost, see board fee schedule. To order a wall certificate, please order from the web site – [www.sos.ga.gov/plb](http://www.sos.ga.gov/plb).

Please refer to Board Rules for any continuing education requirements your profession may require.

Georgia State Board of Professional Licensing  
 237 Coliseum Drive  
 Macon GA 31217  
 Phone: (404) 424-9966  
[www.sos.ga.gov/plb](http://www.sos.ga.gov/plb)

Wade Coots Company, Inc.  
 174 Duncan Circle  
 Hiram GA 30141



STATE OF GEORGIA  
 BRAD RAFFENSPERGER, Secretary of State  
 Georgia Construction Industry Licensing Board  
 License No. UC300104  
 Wade Coots Company, Inc.  
 P.O. Box 549  
 Powder Springs GA 30127  
**Utility Contractor**

EXP DATE - 04/30/2023 Status: Active  
 Issue Date: 12/28/1993

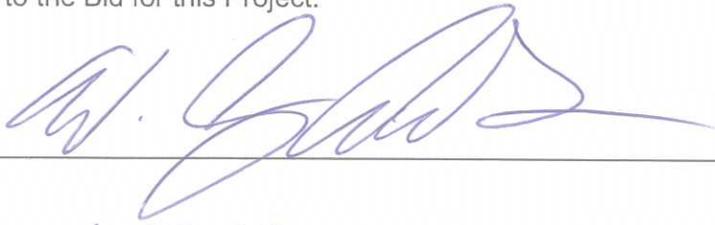
**FORM C2: CONTRACTOR'S GEORGIA GENERAL CONTRACTOR'S LICENSE  
CERTIFICATION**

Contractor's Name: WADE COOTS COMPANY, INC.

General Contractor's License Number: OCC22-19556

Expiration Date of License: 12-31-23

I certify that the above information is true and correct and that the classification noted is applicable to the Bid for this Project.

Signed:  \_\_\_\_\_

Date: 1-25-23 \_\_\_\_\_

(ATTACH COPY OF LICENSE)

# City of Hiram

## Occupational Tax Certificate

**2022**

Date Issued: 03/03/2022

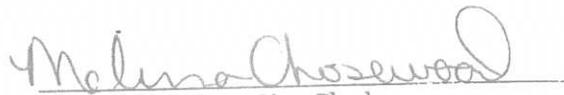
Certificate Number: OCC22-19556

Expiration Date: 12/31/2022

Issued to: **WADE COOTS COMPANY INC**  
Type of Business: **Water and Sewer Line and Related Structures Construction**  
Location: **174 DUNCAN CIR**  
Mailing Address: **WADE COOTS COMPANY INC**

PO BOX 549  
POWDER SPRINGS, GA 30127

In consideration of which is granted a Certificate in this City for the period ending December 31, 2022.  
Witness by hand and seal for the City, day and year above written.

  
City Clerk

*DISPLAY IN A CONSPICUOUS PLACE. MAY BE REVOKED FOR CAUSE.  
NON-TRANSFERABLE*

# City of Hiram

## Occupational Tax Certificate

### Receipt for Certificate

**2022**

Date Issued: 03/03/2022

Certificate Number: OCC22-19556

Expiration Date: 12/31/2022

### FEE INFORMATION

CLASS 1

\$1,750.00

**TOTAL PAID**

**\$1,750.00**

**FORM C3: GEORGIA PROFESSIONAL LICENSE CERTIFICATION**

**NOTE: Please complete this form for the work your firm will perform on this project.**

Contractor's Name: WADE COST COMPANY, INC.

Performing work as: Prime Contractor  Sub-Contractor

Professional License Type: UTILITY

Professional License Number: UC 300107

Expiration Date of License: 4-30-23

I certify that the above information is true and correct and that the classification noted is applicable to the Bid for this Project.

Signed: 

Date: 1-25-23

(ATTACH COPY OF LICENSE)



STATE OF GEORGIA  
 BRAD RAFFENSPERGER, Secretary of State  
 Georgia Construction Industry Licensing Board  
 LICENSE NO. UC300104  
 Wade Coots Company, Inc.  
 P.O. Box 549  
 Powder Springs GA 30127  
**Utility Contractor**

EXP DATE - 04/30/2023 Status: Active  
 Issue Date: 12/28/1993

A pocket-sized license card is below. Above is an enlarged copy of your pocket card.

Please make note of the expiration date on your license. It is your responsibility to renew your license before it expires. Please notify the Board if you have a change of address.

Wall certificates suitable for framing are available at cost, see board fee schedule. To order a wall certificate, please order from the web site – [www.sos.ga.gov/plb](http://www.sos.ga.gov/plb).

Please refer to Board Rules for any continuing education requirements your profession may require.

Georgia State Board of Professional Licensing  
 237 Coliseum Drive  
 Macon GA 31217  
 Phone: (404) 424-9966  
[www.sos.ga.gov/plb](http://www.sos.ga.gov/plb)

Wade Coots Company, Inc.  
 174 Duncan Circle  
 Hiram GA 30141



STATE OF GEORGIA  
 BRAD RAFFENSPERGER, Secretary of State  
 Georgia Construction Industry Licensing Board  
 License No. UC300104  
 Wade Coots Company, Inc.  
 P.O. Box 549  
 Powder Springs GA 30127  
**Utility Contractor**

EXP DATE - 04/30/2023 Status: Active  
 Issue Date: 12/28/1993

**FORM D: DISCLOSURE FORM AND QUESTIONNAIRE**

1. Please provide the names and business addresses of each of the Offeror's firm's officers and directors.

For the purposes of this form, the term "Offeror" means an entity that responds to a solicitation for a County contract by either submitting a proposal in response to a Request for Proposal or a Request for Qualification or a Bid in response to an Invitation to Bid. Describe accurately, fully and completely, their respective relationships with said Offeror, including their ownership interests and their anticipated role in the management and operations of said Offeror.

2. Please describe the general development of said Offeror's business during the past five (5) years, or such shorter period of time that said Offeror has been in business.
3. Please state whether any employee, agent or representative of said Offeror who is or will be directly involved in the subject project has or has ever: (i) directly or indirectly had a business relationship with Fulton County; (ii) directly or indirectly received revenues from Fulton County; or (iii) directly or indirectly receives revenues from the result of conducting business on Fulton County property or pursuant to any contract with Fulton County. Please describe in detail any such relationship.

★ SEE ATTACHED



January 25, 2023

Bid: 22ITB136410K-BKJ (Pine Valley Sewer Phase 2A)

Re: Response to Proposer's Disclosure Form and Questionnaire

The following responses correlate respectively to the numerically listed questions solicited in the specifications attached hereto.:

**General Questions**

1. Wade Coots Company, Inc. officers and directors:  
W. Wade Coots            President  
W. Greg Coots              Vice President  
Margaret Coots             Secretary

There are no "Affiliates" for this Project.

2. The Wade Coots Company, Inc. is a local underground utility Contractor that has been in business for over 30 years and has grown from 8 employees to over 25 employees. The Company owns and operates it's own equipment necessary to do the majority of the Work for this Contract. Wade Coots Company, Inc. specializes in Annual Contracts and holds multiple Annuals in Cobb, Fulton, and Marietta.
3. All business that has been done on previous Fulton County Contracts has been completed as Wade Coots Company, Inc. No individuals or employees have or had a separate business relationship with the County outside of Wade Coots Company, Inc.

W. Wade Coots  
President

**LITIGATION DISCLOSURE:**

Failure to fully and truthfully disclose the information required, may result in the disqualification of your bid or proposal from consideration or termination of the Contract, once awarded.

1. Please state whether any of the following events have occurred in the last five (5) years with respect to said Offeror. If any answer is yes, explain fully the following:

(a) whether a petition under the federal bankruptcy laws or state insolvency laws was filed by or against said Offeror, or a receiver fiscal agent or similar officer was appointed by a court for the business or property of said Offeror;

Circle One: YES NO

(b) whether Offeror was subject of any order, judgment, or decree not subsequently reversed, suspended or vacated by any court of competent jurisdiction, permanently enjoining said Offeror from engaging in any type of business practice, or otherwise eliminating any type of business practice; and

Circle One: YES NO

(c) whether said Offeror's business was the subject of any civil or criminal proceeding in which there was a final adjudication adverse to said Offeror, which directly arose from activities conducted by the business unit or corporate division of said Offeror which submitted a bid or proposal for the subject project. If so please explain.

Circle One: YES NO

2. Have you or any member of your firm or team to be assigned to this engagement ever been indicted or convicted of a criminal offense within the last five (5) years?

Circle One: YES NO

3. Have you or any member of your firm or team been terminated (for cause or otherwise) from any work being performed for Fulton County or any other Federal, State or Local Government?

Circle One: YES NO

4. Have you or any member of your firm or team been involved in any claim or litigation adverse to Fulton County or any other federal, state or local government, or private entity during the last three (3) years?

Circle One: YES NO

5. Has any offeror, member of offeror's team, or officer of any of them (with respect to any matter involving the business practices or activities of his or her employer), been notified within the five (5) years preceding the date of this offer that any of them are the target of a criminal investigation, grand jury investigation, or civil enforcement proceeding?

Circle One:            YES            NO

If you have answered "YES" to any of the above questions, please indicate the name(s) of the person(s), the nature, and the status and/or outcome of the information, indictment, conviction, termination, claim or litigation, the name of the court and the file or reference number of the case, as applicable. Any such information should be provided on a separate page, attached to this form and submitted with your proposal.

**NOTE: If any response to any question set forth in this questionnaire has been disclosed in any other document, a response may be made by attaching a copy of such disclosure. (For example, said Offeror's most recent filings with the Securities and Exchange Commission ("SEC") may be provided if they are responsive to certain items within the questionnaire.) However, for purposes of clarity, Offeror should correlate its responses with the exhibits by identifying the exhibit and its relevant text.**

Disclosures must specifically address, completely respond and comply with all information requested and fully answer all questions requested by Fulton County. Such disclosure must be submitted at the time of the bid or proposal submission and included as a part of the bid/proposal submitted for this project. Disclosure is required for Offerors, joint venture partners and first-tier subcontractors.

Failure to provide required disclosure, submit officially signed and notarized documents or respond to any and all information requested/required by Fulton County can result in the bid/proposal declared as non-responsive. This document must be completed and included as a part of the bid/proposal package along with other required documents.

[SIGNATURES ON NEXT PAGE]

Under penalty of perjury, I declare that I have examined this questionnaire and all attachments hereto, if applicable, to the best of my knowledge and belief, and all statements contained hereto are true, correct, and complete.

On this 25<sup>th</sup> day of JAN, 2023

WADE COSTS COMPANY, INC. 1-25-23  
(Legal Name of Proponent) (Date)

[Signature] 1-25-23  
(Signature of Authorized Representative) (Date)

VICE PRESIDENT  
(Title)

Sworn to and subscribed before me,

This 25<sup>th</sup> day of JAN., 2023

[Signature]  
(Notary Public)



Commission Expires 4-8-25  
(Date)

**EXHIBIT F**

**CONTRACT COMPLIANCE FORMS**



January 25, 2020

Mr. Mario Avery  
Contract Compliance Officer  
Fulton County Office of Contract Compliance  
130 Peachtree Street, SW  
Atlanta, GA 30303

Project, (Bid): 22ITB136410K-BKJ (Pine Valley Phase 2A Interceptor Sewer Replacement)

Re: EBO Plan

Dear Mr. Avery,

Our EBO Plan is as follows,

Wade Coots Company, Inc. has reviewed the above mentioned and intends to self-perform 100% of the Work under this Bid.

We will reach out bypass companies and boring contractors if awarded the project with the possibility of using them. Appropriate paperwork will be filled out at the time prior to work starting

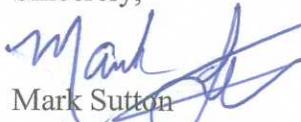
**The Total Planned Minority Participation, (MBE) on this Project will be 0%**

The remainder of the Subcontracted Work is expected to be less than 1%

For some reason we need to subcontract other parts of this contract, Wade Coots Company, Inc. will utilize the approved subs list from Fulton County or advertise through local media to find other minority firms.

Please contact us if you require any additional information on our EBO Plan.

Sincerely,



Mark Sutton  
Project Manager

**UNDERGROUND UTILITY CONTRACTOR**  
174 DUNCAN CIRCLE, HIRAM, GA 30141  
PHONE 770/819-0601 FAX: 770/819-0601102

**EXHIBIT A – PROMISE OF NON-DISCRIMINATION**

“Know all persons by these presents, that I/We (W. GREG COOTS),  
Name

VICE-PRESIDENT  
Title

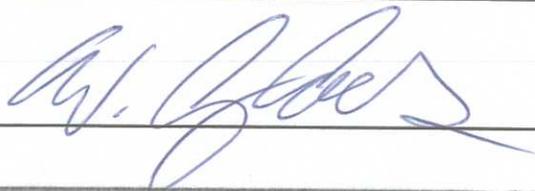
WADE COOTS COMPANY, INC  
Firm Name

Hereinafter “Company”, in consideration of the privilege to bid on or obtain contracts funded, in whole or in part, by Fulton County, hereby consent, covenant and agree as follows:

- 1) No person shall be excluded from participation in, denied the benefit of, or otherwise discriminated against on the basis of race, color, national origin or gender in connection with any bid submitted to Fulton County for the performance of any resulting there from,
- 2) It is and shall be the policy of this Company to provide equal opportunity to all businesses seeking to contract with this Company without regard to the race, color, gender or national origin of the ownership of this business,
- 3) The promises of non-discrimination as made and set forth herein shall be continuing in nature and shall remain in full force and effect without interruption,
- 4) The promise of non-discrimination as made and set forth herein shall be made a part of, and incorporated by reference into, any contract or portion thereof which this Company may hereafter obtain,
- 5) The failure of this Company to satisfactorily discharge any of the promises of non-discrimination as made and set forth herein shall constitute a material breach of contract entitling the Board to declare the contract in default and to exercise any and all applicable rights and remedies, including but not limited to cancellation of the contract, termination of the contract, suspension and debarment from future contracting opportunities, and withholding and/or forfeiture of compensation due and owing on a contract; and
- 6) The bidder shall provide such information as may be required by the Director of Purchasing & Contract Compliance pursuant to Section 102-436 of the Fulton County Non-Discrimination in Purchasing and Contracting Policy.

NAME: W. GREG COOTS

TITLE: VICE-PRESIDENT

SIGNATURE: 

**EXHIBIT B1 - SCHEDULE OF INTENDED SUBCONTRACTOR UTILIZATION**

This form **must be** completed and **submitted with the bid/proposal**. All prime bidders/proposers **must** submit this form which lists all intended subcontractors/suppliers who will be utilized under the scope of work/services.

Prime Bidder/Proposer Company Name WADE COOTS COMPANY, INC.

ITB/RFP Name & Number: 221TB136410K-BKJ

1. My firm, as Prime Bidder/Proposer on this scope of work/service(s) is **NOT** , is  a minority or female owned and controlled business enterprise.  African American (AABE);  Asian American (AAE);  Hispanic American (HBE);  Native American (NABE);  White Female American (WFBE);  Small Business (SBE);  Service Disable Veteran (SDVBE)  Disadvantage Business (DBE) **\*\*If yes, Prime must submit a copy of recent certification.**  
 Male or  Female (Check the appropriate boxes).

Indicate below the portion of work, including, percentage of bid/proposal amount that your firm will carry out directly as the Prime Contractor:

\$ \_\_\_\_\_ Or \_\_\_\_\_ %

2. This information below must be completed and submitted with the bid/proposal if a **joint venture (JV)** approach is to be undertaken. Please provide JV breakdown information below and attach a copy of the executed Joint Venture Agreement.

JV Partner(s) information:

<u>Business Name</u>		<u>Business Name</u>	
(a.)		(b.)	
% of JV		% of JV	
Ethnicity		Ethnicity	
Gender		Gender	
Certified (Y or N)		Certified (Y or N)	
Agency		Agency	
Date Certified		Date Certified	

3. Lists all Sub-Contractor/suppliers participating on the project. **(COMPLETE Exhibit B2 FORM)**

Total Dollar Value of Certified Subcontractors: (\$)

0

Total Percentage of Certified Subcontractors: (%)

0

**CERTIFICATION:** The undersigned certifies that he/she has read, understands and agrees to be bound by the Bid/Proposer provisions, including the accompanying Exhibits and other terms and conditions regarding sub-contractor utilization. The undersigned further certifies that he/she is legally authorized by the Bidder/Proposer to make the statement and representation in this Exhibit and that said statements and representations are true and correct to the best of his/her knowledge and belief. The undersigned understands and agrees that if any of the statements and representations are made by the Bidder/Proposer knowing them to be false, or if there is a failure of the intentions, objectives and commitments set forth herein, then in any such event the Contractor's acts or failure to act, as the case may be, shall constitute a material breach of the contract, entitling the County to terminate the Contract for default. The right to so terminate shall be in addition to, and in lieu of, any other rights and remedies the County may have for other defaults under the contract.

By submitting this form, it is understood that every firm listed as a subcontractor has been properly notified and will participate.

Signature:  Title: VICE-PRESIDENT

Business or Corporate Name: WADE COOTS COMPANY, INC.

Address: 174 DUNCAN CIRCLE  
HYKAM, GA 30141

Telephone: (770) 819-0601

Fax Number: (770) 819-0601407

Email Address: mark.sutton@wadecoatscompany.com









## **EXHIBIT G**

# **INSURANCE AND RISK MANAGEMENT FORMS**

## SECTION 5

### Insurance and Risk Management Provisions

#### Pine Valley Phase 2A - Interceptor Sewer Replacement

The following is the minimum insurance and limits that the Contractor/Vendor must maintain. If the Contractor/Vendor maintains broader coverages and/or higher limits that the minimum shown below, Fulton County Government requires and shall be entitled to coverage for the higher limits maintained by the Contractor/Vendor.

It is Fulton County Government's practice to obtain Certificates of Insurance from our Contractors and Vendors. Insurance must be written by a licensed agent in a company licensed to write insurance in the State of Georgia, with an A.M. Best rating of at least A- X, subject to final approval by Fulton County. Respondents shall submit with the bid/proposal evidence of insurability satisfactory to Fulton County Government as to form and content. Either of the following forms of evidence is acceptable:

- A letter from an insurance carrier stating that upon your firm/company being the successful Bidder/Respondent that a Certificate of Insurance shall be issued in compliance with the Insurance and Risk Management Provisions outlined below.
- A Certificate of Insurance complying with the Insurance and Risk Management Provisions outlined below (Request for Bid/Proposal number and Scope of Services must appear on the Certificate of Insurance).
- A combination of specific policies written with an umbrella policy covering liabilities in excess of the required limits is acceptable to achieve the applicable insurance coverage levels.

Proof of insurance must be provided to Fulton County Government prior to the start of any activities/services as described in the bid document(s). Any and all Insurance Coverage(s) and Bonds required under the terms and conditions of the contract shall be maintained during the entire length of the contract, including any extensions or renewals thereto, and until all work has been completed to the satisfaction of Fulton County Government.

**Accordingly the Respondent shall provide a certificate evidencing the following:**

**1. WORKERS COMPENSATION/EMPLOYER'S LIABILITY INSURANCE - STATUTORY (In compliance with the Georgia Workers Compensation Acts and any other State or Federal Acts or Provisions in which jurisdiction may be granted)**

Employer's Liability Insurance	BY ACCIDENT	EACH ACCIDENT	\$500,000
Employer's Liability Insurance	BY DISEASE	POLICY LIMIT	\$500,000
Employer's Liability Insurance	BY DISEASE	EACH EMPLOYEE	\$500,000

**~~2. COMMERCIAL GENERAL LIABILITY INSURANCE (Including contractual Liability Insurance)~~**

Bodily Injury and Property Damage Liability	Each Occurrence	\$1,000,000
(Other than Products/Completed Operations) General Aggregate		\$2,000,000

Products\Completed Operation	Aggregate Limit	\$2,000,000
Personal and Advertising Injury	Limits	\$1,000,000
Damage to Rented Premises	Limits	\$100,000
<b>3. BUSINESS AUTOMOBILE LIABILITY INSURANCE</b>		
<b>Bodily Injury &amp; Property Damage</b>	Each Occurrence	\$1,000,000
(Including operation of non-owned, owned, and hired automobiles).		
<b>4. UMBRELLA LIABILITY</b>		
(In excess of above noted coverages)	Each Occurrence /Aggregate	\$2,000,000

### Certificates of Insurance

Contractor/Vendor shall provide written notice to Fulton County Government immediately if it becomes aware of or receives notice from any insurance company that coverage afforded under such policy or policies shall expire, be cancelled or altered. Certificates of Insurance are to list Fulton County Government, its' Officials, Officers and Employees as an Additional Insured (except for Workers' Compensation and Professional Liability), using ISO Additional Insured Endorsement form CG 20 10 (11/85) version, its' equivalent or on a blanket basis.

This insurance shall apply as Primary Insurance before any other insurance or self-insurance, including any deductible, non-contributory, and Waiver of Subrogation provided in favor of Fulton County.

Additional Insured under the General Liability, Auto Liability, Umbrella Policies (with exception of Workers Compensation and Professional Liability), with no Cross Suits exclusion.

If Fulton County Government shall so request, the Respondent, Contractor or Vendor will furnish the County for its inspection and approval such policies of insurance with all endorsements, or confirmed specimens thereof certified by the insurance company to be true and correct copies.

Such certificates and notices **must** identify the "Certificate Holder" as follows:

Fulton County Government – Purchasing and Contract Compliance Department  
130 Peachtree Street, S.W.  
Suite 1168  
Atlanta, Georgia 30303-3459

Certificates **must** list Project Name (where applicable).

### Important:

~~It is understood that neither failure to comply nor full compliance with the foregoing insurance requirements shall limit or relieve the Contractor/Vendor from any liability incurred as a result of their activities/operations in conjunction with the Contract and/or Scope of Work.~~

### **USE OF PREMISES**

Contractor/Vendor shall confine its apparatus, the storage of materials and the operations of its workers to limits/requirements indicated by law, ordinance, permits and any restrictions of Fulton County Government and shall not unreasonably encumber the premises with its materials (Where Applicable).

### **INDEMNIFICATION AND HOLD HARMLESS AGREEMENT**

Professional Services Indemnification. With respect to liability, damages, costs, expenses (including reasonable attorney's fees and expenses incurred by any of them), claims, suits and judgments that arise or are alleged to arise out of the Consultant/Contractor's acts, errors, or omissions in the performance of professional services, the Consultant/Contractor shall indemnify, release, and hold harmless Fulton County, its Commissioners and their respective officers, members, employees and agents (each, hereinafter referred to as an "Indemnified Person"), from and against liability, damages, costs, expenses (including reasonable attorney's fees and expenses incurred by any of them), claims, suits and judgments only to the extent such liability is caused by the negligence of the Consultant/Contractor in the delivery of the Work under this Agreement, but such indemnity is limited to those liabilities caused by a Negligent Professional Act, as defined below. This indemnification survives the termination of this Agreement and shall also survive the dissolution or to the extent allowed by law, the bankruptcy of Consultant/Contractor.

For the purposes of the Professional Services Indemnity above, a "Negligent Professional Act" means a negligent act, error, or omission in the performance of Professional Services (or by any person or entity, including joint ventures, for whom Consultant/Contractor is liable) that causes liability and fails to meet the applicable professional standard of care, skill and ability under similar conditions and like surrounding circumstances, as is ordinarily employed by others in their profession.

Consultant/Contractor obligation to indemnify and hold harmless, as set forth hereinabove, shall also include, but is not limited to, any matter arising out of any actual or alleged infringement of any patent, trademark, copyright, or service mark, or other actual or alleged unfair competition disparagement of product or service, or other tort or any type whatsoever, or any actual or alleged violation of trade regulations.

Consultant/Contractor further agrees to indemnify and hold harmless Fulton County, its Commissioners, officers, employees, subcontractors, successors, assigns and agents from and against any and all claims or liability for compensation under the Worker's Compensation Act, Disability Benefits Act, or any other employee benefits act arising out of injuries sustained by any employees of Consultant/Contractor. These indemnities shall not be limited by reason of the listing of any insurance coverage.

### **PROTECTION OF PROPERTY**

Contractor/Vendor will adequately protect its own work from damage, will protect Fulton County Government's property from damage or loss and will take all necessary precautions during the progress of the work to protect all persons and the property of others from damage or loss.

Contractor/Vendor shall take all necessary precautions for the safety of employees of the work and shall comply with all applicable provisions of the Federal, State and local safety laws and building codes to prevent accidents or injury to persons on, about, or adjacent to the premises where work is being performed.

Contractor/Vendor shall erect and properly maintain at all times as required by the conditions and progress of the work, all necessary safeguards for the protection of its employees, Fulton County Government employees and the public and shall post all applicable signage and other warning devices to protect against potential hazards for the work being performed (Where Applicable).

CONTRACTOR/VENDOR ACKNOWLEDGES HAVING READ, UNDERSTANDING, AND AGREEING TO COMPLY WITH THE AFOREMENTIONED STATEMENTS, AND THE REPRESENTATIVE OF THE CONTRACTOR/VENDOR IDENTIFIED BELOW IS AUTHORIZED TO SIGN CONTRACTS ON BEHALF OF THE RESPONDING CONTRACTOR/VENDOR.

COMPANY: WADE COOTS COMPANY, INC. SIGNATURE: 

NAME: W. GREG COOTS TITLE: VICE-PRESIDENT

DATE: 1-25-23

**EXHIBIT H**

**PAYMENT & PERFORMANCE BONDS**

## BID BOND

### INSTRUCTIONS

1. No bid for a contract in Fulton County for work to be done shall be valid for any purpose unless the Contractor shall give a Bid Bond with good and sufficient surety payable to, in favor of, and for the protection of Fulton County.
2. This form is required for use in connection with the Agreement identified on its face. There shall be no deviation from this form without approval by the County.
3. The full legal name and business address of the Principal shall be inserted in the space designated "Principal" on the face of the form. The bond shall be signed by an authorized person.
4. The Bid Bond shall not be less than 5% of the total amount payable by the terms of the Contract.
5. Corporation executing the bond as surety must be among those appearing on the U.S. Treasury Department's most current list of approved sureties and must be acting within the amounts and limitations set forth therein.
6. Corporate surety shall be duly authorized by the Commissioner of Insurance of the State of Georgia to transact surety business in the State of Georgia.
7. Attestation for the Corporation must be by the Corporate Officer; for a partnership by another partner; for an individual by a notary with the Corporate Seal.



In the event suit is brought upon this Bond by the COUNTY and judgment is recovered, the SURETY shall pay all costs incurred by the COUNTY in such suit, including attorney's fees to be fixed by the Court.

Enclosed is a Bid Bond in the approved form, in the amount of Five Percent of Bid Amount---  
\_\_\_\_\_ Dollars

(\$ 5% ) being in the amount of five percent (5%) of the Contract Sum. The money payable on this bond shall be paid to the COUNTY, for the failure of the Bidder to execute a Contract within ten (10) days after receipt of the Contract and at the same time furnish a Payment Bond and Performance Bond.

(SIGNATURES ON NEXT PAGE)

IN TESTIMONY THEREOF, the PRINCIPAL and SURETY have caused these presents to be duly signed and sealed this 25th day of January, 2023

ATTEST:

Wade Coots Company, Inc.  
PRINCIPAL

(SEAL)

BY



**CERTIFICATE AS TO CORPORATE PRINCIPAL**

I, MARGARET A COOTS, certify that I am the Secretary of the Corporation named as principal in the within bond; that W. GREH COOTS who signed the said bond of said corporation; that I know this signature, and his/her signature thereto is genuine; and that said bond was duly signed, sealed and attested for in behalf of said Corporation by authority of its governing body.

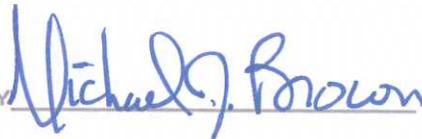
Margaret A. Coots  
SECRETARY

(CORPORATE SEAL)

Western Surety Company  
SURETY

Michael J. Brown, Attorney-in-fact  
(SEAL)

BY



**END OF SECTION**

# Western Surety Company

## POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

**Margaret S Meyers, F Anderson Philips, Douglas L Rieder, John W Miller II, Brian M Perry, W Wesley Hamilton, Michael J Brown, Individually**

of Atlanta, GA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

**- In Unlimited Amounts -**

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 24th day of February, 2022.



WESTERN SURETY COMPANY

Paul T. Bruflat, Vice President

State of South Dakota }  
County of Minnehaha } ss

On this 24th day of February, 2022, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires  
March 2, 2026



M. Bent, Notary Public

### CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 25th day of January, 2023.



WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary





## ADDITIONAL REMARKS SCHEDULE

AGENCY Yates, LLC		NAMED INSURED Wade Coots Co., Inc. 174 Duncan Circle Hiram GA 30141	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

### ADDITIONAL REMARKS

**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,**  
**FORM NUMBER:** 25 **FORM TITLE:** CERTIFICATE OF LIABILITY INSURANCE

CGL084 (10/13) Additional Insured-Owners Lessees or Contractors-Automatic Status When Required In Construction Agreement With You-Ongoing Operations And Products-Completed Operations  
 CG2033 (04/13) Additional Insured-Owners, Lessees Or Contractors-Automatic Status When Required In Construction Agreement  
 CG2001 04/13 Primary and Non-contributory- other insurance  
 CAU003 (05/19) Auto Advantage Coverage Endorsement  
 MAN-AU (01/02) Blanket Waiver  
 WC000313 (04/84) Waiver Of Our Right To Recover From Others Endorsement  
 1UNCUM 9549 (09/16) Schedule of Underlying Insurance  
 CU0001 (04/13) Commercial Liability Umbrella Coverage Form

Project: #221TB136410K-BKJ - Pine Valley Sewer

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## FIRST CHOICE CONTRACTORS LIABILITY ENDORSEMENT

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE FORM

NOTE: The following are additions, replacements and amendments to the Commercial General Liability Coverage Form, and will apply unless excluded by separate endorsement(s) to the Commercial General Liability Coverage Form.

The **COMMERCIAL GENERAL LIABILITY COVERAGE FORM** is amended as follows:

**SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE** is amended as follows:

#### 1. Extended "Property Damage"

Exclusion 2.a., Expected or Intended Injury, is replaced with the following:

- a. "Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

#### 2. Non-owned Watercraft

Exclusion 2.g. (2) (a) is replaced with the following:

- (a) Less than 51 feet long; and

#### 3. Property Damage Liability – Borrowed Equipment

The following is added to Exclusion 2.j. (4):

Paragraph (4) of this exclusion does not apply to "property damage" to borrowed equipment while at a jobsite and not being used to perform operations. The most we will pay for "property damage" to any one borrowed equipment item under this coverage is \$25,000 per "occurrence". The insurance afforded under this provision is excess over any other valid and collectible property insurance (including deductible) available to the insured, whether primary, excess, contingent or on any other basis.

#### 4. Limited Electronic Data Liability

Exclusion 2.p. is replaced with the following:

##### p. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data" that does not result from physical injury to tangible property.

The most we will pay under Coverage A for "property damage" because of all loss of "electronic data" arising out of any one "occurrence" is \$10,000.

We have no duty to investigate or defend claims or "suits" covered by this Limited Electronic Data Liability coverage.

The following definition is added to **SECTION V – DEFINITIONS** of the Coverage Form:

"Electronic data" means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

For purposes of this **Limited Electronic Data Liability** coverage, the definition of "Property Damage" in **SECTION V – DEFINITIONS** of the Coverage Form is replaced by the following:

17. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it;
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it;
- c. Loss of, loss of use of, damage to, corruption of, inability to access, or inability to properly manipulate "electronic data", resulting from physical injury to tangible property. All such loss of "electronic data" shall be deemed to occur at the time of the "occurrence" that caused it.

For purposes of this insurance, "electronic data" is not tangible property.

**SECTION I – COVERAGES, COVERAGE B. PERSONAL AND ADVERTISING INJURY LIABILITY** is amended as follows:

Paragraph 2.e. Exclusions – the Contractual Liability Exclusion is deleted.

**SECTION I – COVERAGES, the following coverages are added:**

**COVERAGE D. VOLUNTARY PROPERTY DAMAGE**

**1. Insuring Agreement**

We will pay, at your request, for "property damage" caused by an "occurrence", to property of others caused by you, or while in your possession, arising out of your business operations. The amount we will pay for damages is described in SECTION III LIMITS OF INSURANCE.

**2. Exclusions**

This insurance does not apply to:

"Property Damage" to:

- a. Property at premises owned, rented, leased or occupied by you;
- b. Property while in transit;
- c. Property owned by, rented to, leased to, loaned to, borrowed by, or used by you;
- d. Premises you sell, give away, or abandon, if the "property damage" arises out of any part of those premises;
- e. Property caused by or arising out of the "products-completed operations hazard";
- f. Motor vehicles;
- g. "Your product" arising out of it or any part of it; or
- h. "Your work" arising out of it or any part of it.

**3. Deductible**

We will not pay for loss in any one "occurrence" until the amount of loss exceeds \$250. We will then pay the amount of loss in excess of \$250 up to the applicable limit of insurance.

**4. Cost Factor**

In the event of a covered loss, you shall, if requested by us, replace the damaged property or furnish the labor and materials necessary for repairs thereto at your actual cost, excluding profit or overhead charges.

The insurance afforded under COVERAGE D is excess over any other valid and collectible property or inland marine insurance (including the deductible applicable to the property or inland marine coverage) available to you whether primary, excess, contingent or any other basis.

Coverage D covers unintentional damage or destruction, but does not cover disappearance, theft, or loss of use.

The insurance under COVERAGE D does not apply if a loss is paid under COVERAGE E.

## **COVERAGE E. CARE, CUSTODY OR CONTROL**

### **1. Insuring Agreement**

We will pay those sums that the insured becomes legally obligated to pay as damages because of "property damage" caused by an "occurrence", to property of others while in your care, custody, or control or property of others as to which you are exercising physical control if the "property damage" arises out of your business operations. The amount we will pay for damages is described in SECTION III LIMITS OF INSURANCE.

### **2. Exclusions**

This insurance does not apply to:

"Property Damage" to:

- a. Property at premises owned, rented, leased or occupied by you;
- b. Property while in transit;
- c. Premises you sell, give away, or abandon, if the "property damage" arises out of any part of those premises;
- d. Property caused by or arising out of the "products-completed operations hazard";
- e. Motor vehicles;
- f. "Your product" arising out of it or any part of it; or
- g. "Your work" arising out of it or any part of it.

### **3. Deductible**

We will not pay for loss in any one "occurrence" until the amount of loss exceeds \$250. We will then pay the amount of loss in excess of \$250 up to the applicable limit of insurance.

### **4. Cost Factor**

In the event of a covered loss, you shall, if requested by us, replace the damaged property or furnish the labor and materials necessary for repairs thereto at your actual cost, excluding profit or overhead charges.

The insurance afforded under COVERAGE E is excess over any other valid and collectible property or inland marine insurance (including the deductible applicable to the property or inland marine coverage) available to you whether primary, excess, contingent or any other basis.

The insurance under COVERAGE E does not apply if a loss is paid under COVERAGE D.

## **COVERAGE F. LIMITED PRODUCT WITHDRAWAL EXPENSE**

### **1. Insuring Agreement**

- a. If you are a "seller", we will reimburse you for "product withdrawal expenses" associated with "your product" incurred because of a "product withdrawal" to which this insurance applies.

The amount of such reimbursement is limited as described in SECTION III - LIMITS OF INSURANCE. No other obligation or liability to pay sums or perform acts or services is covered.

- a. This insurance applies to a "product withdrawal" only if the "product withdrawal" is initiated in the "coverage territory" during the policy period because:
  - (1) You determine that the "product withdrawal" is necessary; or
  - (2) An authorized government entity has ordered you to conduct a "product withdrawal".
- c. We will reimburse only those "product withdrawal expenses" which are incurred and reported to us within one year of the date the "product withdrawal" was initiated.
- d. The initiation of a "product withdrawal" will be deemed to have been made only at the earliest of the following times:
  - (1) When you have announced, in any manner, to the general public, your vendors or to your employees (other than those employees directly involved in making the determination) your decision to conduct a "product withdrawal" This applies regardless of whether the determination to conduct a "product withdrawal" is made by you or is requested by a third party;
  - (2) When you received, either orally or in writing, notification of an order from an authorized government entity to conduct a "product withdrawal"; or
  - (3) When a third party has initiated a "product withdrawal" and you communicate agreement with the "product withdrawal", or you announce to the general public, your vendors or to your employees (other than those employees directly involved in making the determination) your decision to participate in the "product withdrawal", whichever comes first.
- e. "Product withdrawal expenses" incurred to withdraw "your products" which contain:
  - (1) The same "defect" will be deemed to have arisen out of the same "product withdrawal"; or
  - (2) A different "defect" will be deemed to have arisen out of a separate "product withdrawal" if newly determined or ordered in accordance with paragraph 1.b of this coverage.

## 2. Exclusions

This insurance does not apply to "product withdrawal" expenses" arising out of:

- a. Any "product withdrawal" initiated due to:
  - (1) The failure of "your products" to accomplish their intended purpose, including any breach of warranty of fitness, whether written or implied. This exclusion does not apply if such failure has caused or is reasonably expected to cause "bodily injury" or physical damage to tangible property.
  - (2) Copyright, patent, trade secret or trademark infringements;
  - (3) Transformation of a chemical nature, deterioration or decomposition of "your product", except if it is caused by:
    - (a) An error in manufacturing, design, processing or transportation of "your product"; or
    - (b) "Product tampering".
  - (4) Expiration of the designated shelf life of "your product".
- b. A "product withdrawal", initiated because of a "defect" in "your product" known to exist by the Named Insured or the Named Insured's "executive officers", prior to the inception date of this Coverage Part or prior to the time "your product" leaves your control or possession.
- c. Recall of any specific products for which "bodily injury" or "property damage" is excluded under Coverage A - Bodily Injury And Property Damage Liability by endorsement.
- d. Recall of "your products" which have been banned from the market by an authorized government entity prior to the policy period.
- e. The defense of a claim or "suit" against you for "product withdrawal expenses".

3. For the purposes of the insurance afforded under COVERAGE F, the following is added to 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit Condition under SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:
- e. Duties In The Event Of A "Defect" Or A "Product Withdrawal"
- (1) You must see to it that we are notified as soon as practicable of any actual, suspected or threatened "defect" in "your products", or any governmental investigation, that may result in a "product withdrawal". To the extent possible, notice should include:
    - (a) How, when and where the "defect" was discovered;
    - (b) The names and addresses of any injured persons and witnesses; and
    - (c) The nature, location and circumstances of any injury or damage arising out of use or consumption of "your product".
  - (2) If a "product withdrawal" is initiated, you must:
    - (a) Immediately record the specifics of the "product withdrawal" and the date it was initiated;
    - (b) Send us written notice of the "product withdrawal" as soon as practicable; and
    - (c) Not release, consign, ship or distribute by any other method, any product, or like or similar products, with an actual, suspected or threatened defect.
  - (3) You and any other involved insured must:
    - (a) Immediately send us copies of pertinent correspondence received in connection with the "product withdrawal";
    - (b) Authorize us to obtain records and other information; and
    - (c) Cooperate with us in our investigation of the "product withdrawal".
4. For the purposes of this Coverage F, the following definitions are added to the Definitions Section:
- a. "Defect" means a defect, deficiency or inadequacy that creates a dangerous condition.
  - b. "Product tampering" is an act of intentional alteration of "your product" which may cause or has caused "bodily injury" or physical injury to tangible property.  
When "product tampering" is known, suspected or threatened, a "product withdrawal" will not be limited to those batches of "your product" which are known or suspected to have been tampered with.
  - c. "Product withdrawal" means the recall or withdrawal of "your products", or products which contain "your products", from the market or from use, by any other person or organization, because of a known or suspected "defect" in "your product", or a known or suspected "product tampering", which has caused or is reasonably expected to cause "bodily injury" or physical injury to tangible property.
  - d. "Product withdrawal expenses" means those reasonable and necessary extra expenses, listed below paid and directly related to a "product withdrawal":
    - (1) Costs of notification;
    - (2) Costs of stationery, envelopes, production of announcements and postage or facsimiles;
    - (3) Costs of overtime paid to your regular non-salaried employees and costs incurred by your employees, including costs of transportation and accommodations;
    - (4) Costs of computer time;
    - (5) Costs of hiring independent contractors and other temporary employees;
    - (6) Costs of transportation, shipping or packaging;
    - (7) Costs of warehouse or storage space; or

- (8) Costs of proper disposal of "your products", or products that contain "your products", that cannot be reused, not exceeding your purchase price or your cost to produce the products; but "product withdrawal expenses" does not include costs of the replacement, repair or redesign of "your product", or the costs of regaining your market share, goodwill, revenue or profit.
- e. "Seller" means a person or organization that manufactures, sells or distributes goods or products. "Seller" does not include a "contractor" as defined elsewhere in this endorsement.

The insurance under COVERAGE F does not apply if a loss is paid under COVERAGE G.

## **COVERAGE G. CONTRACTORS ERRORS AND OMISSIONS**

### **1. Insuring Agreement**

If you are a "contractor", we will pay those sums that you become legally obligated to pay as damages because of "property damage" to "your product", "your work" or "impaired property", due to faulty workmanship, material or design, or products including consequential loss, to which this insurance applies. The damages must have resulted from your negligent act, error or omission while acting in your business capacity as a contractor or subcontractor or from a defect in material or a product sold or installed by you while acting in this capacity. The amount we will pay for damages is described in SECTION III LIMITS OF INSURANCE.

We have no duty to investigate or defend claims or "suits" covered by this Contractors Errors and Omissions coverage.

This coverage applies only if the "property damage" occurs in the "coverage territory" during the policy period.

This coverage does not apply to additional insureds, if any.

Supplementary Payments – Coverage A and B do not apply to Coverage G. Contractors Errors and Omissions.

### **2. Exclusions**

This insurance does not apply to:

- a. "Bodily injury" or "personal and advertising injury".
- b. Liability or penalties arising from a delay or failure to complete a contract or project, or to complete a contract or project on time.
- c. Liability because of an error or omission:
  - (1) In the preparation of estimates or job costs;
  - (2) Where cost estimates are exceeded;
  - (3) In the preparation of estimates of profit or return on capital;
  - (4) In advising or failure to advise on financing of the work or project; or
  - (5) In advising or failing to advise on any legal work, title checks, form of insurance or suretyship.
- d. Any liability which arises out of any actual or alleged infringement of copyright or trademark or trade dress or patent, unfair competition or piracy, or theft or wrongful taking of concepts or intellectual property.
- e. Any liability for damages:
  - (1) From the intentional dishonest, fraudulent, malicious or criminal acts of the Named Insured, or by any partner, member of a limited liability company, or executive officer, or at the direction of any of them; or
  - (2) Which is in fact expected or intended by the insured, even if the injury or damage is of a different degree or type than actually expected or intended.

- f. Any liability arising out of manufacturer's warranties or guarantees whether express or implied.
- g. Any liability arising from "property damage" to property owned by, rented or leased to the insured.
- h. Any liability incurred or "property damage" which occurs, in whole or in part, before you have completed "your work." "Your work" will be deemed completed at the earliest of the following times:
  - (1) When all of the work called for in your contract or work order has been completed;
  - (2) When all the work to be done at the job site has been completed if your contract calls for work at more than one job site; or
  - (3) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service or maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as complete.

- i. Any liability arising from "property damage" to products that are still in your physical possession.
- j. Any liability arising out of the rendering of or failure to render any professional services by you or on your behalf, but only with respect to either or both of the following operations:
  - (1) Providing engineering, architectural or surveying services to others; and
  - (2) Providing or hiring independent professionals to provide engineering, architectural or surveying services in connection with construction work you perform.

Professional services include the preparing, approving or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, or drawings and specifications. Professional services also include supervisory or inspection activities performed as part of any related architectural or engineering activities.

But, professional services do not include services within construction means, methods, techniques, sequences and procedures employed by you in connection with construction work you perform.

- k. Your loss of profit or expected profit and any liability arising therefrom.
- l. "Property damage" to property other than "your product," "your work" or "impaired property."
- m. Any liability arising from claims or "suits" where the right of action against the insured has been relinquished or waived.
- n. Any liability for "property damage" to "your work" if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.
- o. Any liability arising from the substitution of a material or product for one specified on blueprints, work orders, contracts or engineering specifications unless there has been written authorization, or unless the blueprints, work orders, contracts or engineering specifications were written by you, and you have authorized the changes.
- p. Liability of others assumed by the insured under any contract or agreement, whether oral or in writing. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

**3. For the purposes of Coverage G, the following definition is added to the Definitions section:**

- a. "Contractor" means a person or organization engaged in activities of building, clearing, filling, excavating or improvement in the size, use or appearance of any structure or land. "Contractor" does not include a "seller" as defined elsewhere in this endorsement.

**4. Deductible**

We will not pay for loss in any one "occurrence" until the amount of loss exceeds \$250. The limits of insurance will not be reduced by the application of the deductible amount.

We may pay any part or all of the deductible amount to effect settlement of any claim or "suit", and upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

#### 5. Cost Factor

In the event of a covered loss, you shall, if requested by us, replace the damaged property or furnish the labor and materials necessary for repairs thereto at your actual cost, excluding profit or overhead charges.

The insurance under COVERAGE G does not apply if a loss is paid under COVERAGE F.

### COVERAGE H. LOST KEY COVERAGE

#### 1. Insuring Agreement

We will pay those sums, subject to the limits of liability described in SECTION III LIMITS OF INSURANCE in this endorsement and the deductible shown below, that you become legally obligated to pay as damages caused by an "occurrence" and due to the loss or mysterious disappearance of keys entrusted to or in the care, custody or control of you or your "employees" or anyone acting on your behalf. The damages covered by this endorsement are limited to the:

- a. Actual cost of the keys;
- b. Cost to adjust locks to accept new keys; or
- c. Cost of new locks, if required, including the cost of installation.

#### 2. Exclusions

This insurance does not apply to:

- a. Keys owned by any insured, employees of any insured, or anyone acting on behalf of any insured;
- b. Any resulting loss of use; or
- c. Any of the following acts by any insured, employees of any insured, or anyone acting on behalf of any insured:
  - 1) Misappropriation;
  - 2) Concealment;
  - 3) Conversion;
  - 4) Fraud; or
  - 5) Dishonesty.

#### 3. Deductible

We will not pay for loss in any one "occurrence" until the amount of loss exceeds \$1,000. The limits of insurance will not be reduced by the application of the deductible amount.

We may pay any part or all of the deductible amount to effect settlement of any claim or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

### EXPANDED COVERAGE FOR TENANT'S PROPERTY AND PREMISES RENTED TO YOU

The first paragraph after subparagraph (6) in Exclusion j., Damage to Property is amended to read as follows:

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III – Limits Of Insurance.

**SECTION I - COVERAGES, SUPPLEMENTARY PAYMENTS – COVERAGE A and B is amended as follows:**

All references to SUPPLEMENTARY PAYMENTS – COVERAGES A and B are amended to SUPPLEMENTARY PAYMENTS – COVERAGES A, B, D, E, G, and H.

**1. Cost of Bail Bonds**

Paragraph 1.b. is replaced with the following:

- b. Up to \$2,500 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

**2. Loss of Earnings**

Paragraph 1.d. is replaced with the following:

- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.

**SECTION II – WHO IS AN INSURED is amended as follows:****1. Incidental Malpractice**

Paragraph 2.a.(1)(d) is replaced with the following:

- (d) Arising out of his or her providing or failing to provide professional health care services. However, this exclusion does not apply to a nurse, emergency medical technician or paramedic employed by you to provide medical services, unless:
  - (i) You are engaged in the occupation or business of providing or offering medical, surgical, dental, x-ray or nursing services, treatment, advice or instruction; or
  - (ii) The "employee" has another insurance that would also cover claims arising under this provision, whether the other insurance is primary, excess, contingent or on any other basis.

**2. Broadened Who Is An Insured**

The following are added to Paragraph 2.:

**Subsidiaries**

- e. Your subsidiaries if:
  - (1) They are legally incorporated entities; and
  - (2) You own more than 50% of the voting stock in such subsidiaries as of the effective date of this policy. If such subsidiaries are not shown in the Declarations, you must report them to us within 180 days of the inception of your original policy.

**Additional Insureds**

- f. Any person or organization described in paragraphs g. through k. below whom you are required to add as an additional insured on this policy under a written contract or agreement in effect during the term of this policy, provided the written contract or agreement was executed prior to the "bodily injury", "property damage" or "personal and advertising injury" for which the additional insured seeks coverage.

However, the insurance afforded to such additional insured(s):

- (1) Only applies to the extent permitted by law;
- (2) Will not be broader than that which you are required by the contract or agreement to provide for such additional insured;
- (3) Will not be broader than that which is afforded to you under this policy;
- (4) Is subject to the conditions described in paragraphs g. through k. below; and
- (5) Nothing herein shall extend the term of this policy.

## g. Owner, Lessor or Manager of Premises

If the additional insured is an owner, lessor or manager of premises, such person or organization shall be covered only with respect to liability arising out of the ownership, maintenance or use of that part of any premises leased to you and subject to the following additional exclusions:

- (1) Any "occurrence" that takes place after you cease to occupy those premises; or
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

## h. State or Governmental Agency or Subdivision or Political Subdivision – Permits or Authorizations

If the additional insured is the state or any political subdivision, the state or political subdivision shall be covered only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit or authorization. This insurance does not apply to:

- (1) "Bodily injury", "property damage", or "personal and advertising injury" arising out of operations performed for the federal government, state or municipality; or
- (2) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

## i. Lessor of Leased Equipment

If the additional insured is a lessor of leased equipment, such lessor shall be covered only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s). With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

## j. Mortgagee, Assignee, or Receiver

If the additional insured is a mortgagee, assignee, or receiver of premises, such mortgagee, assignee or receiver of premises is an additional insured only with respect to their liability as mortgagee, assignee, or receiver and arising out of the ownership, maintenance, or use of the premises by you. This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

## k. Vendor

If the additional insured is a vendor, such vendor is an additional insured only with respect to "bodily injury" or "property damage" caused by "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

- (1) The insurance afforded to the vendor does not apply to:
  - (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in absence of the contract or agreement.
  - (b) Any express warranty unauthorized by you;
  - (c) Any physical or chemical change in "your product" made intentionally by the vendor;
  - (d) Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
  - (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
  - (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

- (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
- (h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
  - i. The exceptions contained in Subparagraphs d. or f.; or
  - ii. Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

(2) This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

### 3. Newly Formed or Acquired Organizations

Paragraph 3. is amended as follows:

- a. Coverage under this provision is afforded until the end of the policy period.
- d. Coverage A does not apply to product recall expense arising out of any withdrawal or recall that occurred before you acquired or formed the organization.

### SECTION III – LIMITS OF INSURANCE is amended as follows:

#### 1. Paragraph 2. is replaced with the following:

- 2. The General Aggregate Limit is the most we will pay for the sum of:
  - a. Medical expenses under Coverage C;
  - b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard";
  - c. Damages under Coverage B;
  - d. Voluntary "property damage" payments under Coverage D;
  - e. Care, Custody or Control damages under Coverage E.; and
  - f. Lost Key Coverage under Coverage H.

#### 2. Paragraph 5. is replaced with the following:

- 5. Subject to Paragraph 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
  - a. Damages under Coverage A;
  - b. Medical expenses under Coverage C;
  - c. Voluntary "property damage" payments under Coverage D;
  - d. Care, Custody or Control damages under Coverage E;
  - e. Limited Product Withdrawal Expense under Coverage F;
  - f. Contractors Errors and Omissions under Coverage G.; and,
  - g. Lost Key Coverage under Coverage H.

because of all "bodily injury" and "property damage" arising out of any one "occurrence".

#### 3. Paragraph 6. is replaced with the following:

- 6. Subject to Paragraph 5. above the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you,

or in the case of damage by fire or explosion, while rented to you or temporarily occupied by you with permission of the owner.

The Damage to Premises Rented to You Limit is the higher of the Each Occurrence Limit shown in the Declarations or the amount shown in the Declarations as Damage To Premises Rented To You Limit.

**4. Paragraph 7. is replaced with the following:**

7. Subject to Paragraph 5. above, the higher of \$10,000 or the Medical Expense Limit shown in the Declarations is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

**5. Paragraph 8. is added as follows:**

8. Subject to Paragraph 5. above, the most we will pay under Coverage D. Voluntary Property Damage for loss arising out of any one "occurrence" is \$1,500. The most we will pay in any one-policy period, regardless of the number of claims made or suits brought, is \$3,000.

**6. Paragraph 9. is added as follows:**

9. Subject to Paragraph 5. above, the most we will pay under Coverage E. Care, Custody or Control for "property damage" arising out of any one "occurrence" is \$1,000. The most we will pay in any one-policy period, regardless of the number of claims made or suits brought, is \$5,000.

**7. Paragraph 10. is added as follows:**

10. Subject to Paragraph 5. above, the most we will pay under Coverage F. Limited Product Withdrawal Expense for "product withdrawal expenses" in any one-policy period, regardless of the number of insureds, "product withdrawals" initiated or number of "your products" withdrawn is \$10,000.

**8. Paragraph 11. is added as follows:**

11. Subject to Paragraph 5. above, the most we will pay under Coverage G. Contractors Errors and Omissions for damage in any one-policy period, regardless of the number of insureds, claims or "suits" brought, or persons or organizations making claim or bringing "suits" is \$10,000.

For errors in contract or job specifications or in recommendations of products or materials to be used, this policy will not pay for additional costs of products and materials to be used that would not have been incurred had the correct recommendations or specifications been made.

**9. Paragraph 12. is added as follows:**

12. Subject to Paragraph 5. above, the most we will pay under Coverage H., Lost Key Coverage for damages arising out of any one occurrence is \$50,000.

**10. Paragraph 13. is added as follows:**

13. The General Aggregate Limit applies separately to:
- a. Each of your projects away from premises owned by or rented to you; or
  - b. Each "location" owned by or rented to you.

"Location" as used in this paragraph means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.

**11. Paragraph 14. is added as follows:**

14. With respect to the insurance afforded to any additional insured provided coverage under this endorsement:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

- a. Required by the contract or agreement; or

- b. Available under the applicable Limits of Insurance shown in the Declarations;  
whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

**SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS is amended as follows:**

**1. Subparagraph 2.a. of Duties In The Event Of Occurrence, Offense, Claim, or Suit is replaced with the following:**

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. This requirement applies only when the "occurrence" or offense is known to the following:
- (1) An individual who is the sole owner;
  - (2) A partner, if you are a partnership or joint venture;
  - (3) An "executive officer" or insurance manager, if you are a corporation;
  - (4) A manager, if you are a limited liability company;
  - (5) A person or organization having proper temporary custody of your property if you die;
  - (6) The legal representative of you if you die; or
  - (7) A person (other than an "employee") or an organization while acting as your real estate manager.

To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

**2. The following is added to Subparagraph 2.b. of Duties In The Event Of Occurrence, Offense, Claim, or Suit:**

The requirement in 2.b.applies only when the "occurrence" or offense is known to the following:

- (1) An individual who is the sole owner;
- (2) A partner or insurance manager, if you are a partnership or joint venture;
- (3) An "executive officer" or insurance manager, if you are a corporation;
- (4) A manager or insurance manager, if you are a limited liability company;
- (5) Your officials, trustees, board members or insurance manager, if you are a not-for-profit organization;
- (6) A person or organization having proper temporary custody of your property if you die;
- (7) The legal representative of you if you die; or
- (8) A person (other than an "employee") or an organization while acting as your real estate manager.

**3. The following is added to paragraph 2. of Duties in the Event of Occurrence, Offense, Claim or Suit:**

- e. If you report an "occurrence" to your workers compensation carrier that develops into a liability claim for which coverage is provided by the Coverage Form, failure to report such an "occurrence" to us at the time of the "occurrence" shall not be deemed a violation of paragraphs a., b., and c. above. However, you shall give written notice of this "occurrence" to us as soon as you become aware that this "occurrence" may be a liability claim rather than a workers compensation claim.

**4. Paragraph 6. is replaced with the following:**

6. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

Any error or omission in the description of, or failure to completely describe or disclose any premises, operations or products intended to be covered by the Coverage Form will not invalidate or affect coverage for those premises, operations or products, provided such error or omission or failure to completely describe or disclose premises, operations or products was not intentional.

You must report such error or omission to us as soon as practicable after its discovery. However, this provision does not affect our right to collect additional premium charges or exercise our right of cancellation or nonrenewal.

**5. The following is added to paragraph 8. Transfer Of Rights Of Recovery Against Others To Us:**

However, we waive any right of recovery we may have because of payments we make for injury or damage arising out of your ongoing operations or "your work" included in the "products-completed operations hazard" under the following conditions:

- a) Only when you have agreed in writing to waive such rights of recovery in a contract or agreement;
- b) Only as to the person/entity as to whom you are required by the contract to waive rights of recovery; and
- c) Only if the contract or agreement is in effect during the term of this policy, and was executed by you prior to the loss.

**6. Paragraph 10. is added as follows:**

**10. Liberalization**

If we revise this Coverage Form to provide more coverage without additional premium charge, your policy will automatically provide the additional coverage as of the day the revision is effective in the applicable state(s).

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS –  
AUTOMATIC STATUS WHEN REQUIRED IN CONSTRUCTION  
AGREEMENT WITH YOU – ONGOING OPERATIONS AND  
PRODUCTS-COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

**SCHEDULE (OPTIONAL)**

**Name of Additional Insured Persons or Organizations**

(As required by written contract or agreement per Paragraph A. below.)

**Locations of Covered Operations**

(As per the written contract or agreement, provided the location is within the "coverage territory".)

(Information required to complete this Schedule, if not shown above, will be shown in the Declarations.)

A. **Section II – Who Is An Insured** is amended to include as an additional insured:

1. Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement in effect during the term of this policy that such person or organization be added as an additional insured on your policy; and
2. Any other person or organization you are required to add as an additional insured under the contract or agreement described in Paragraph 1. above; and
3. The particular person or organization, if any, scheduled above.

Such person(s) or organization(s) is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" occurring after the execution of the contract or agreement described in Paragraph 1. above and caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf in the performance of your ongoing operations for the additional insured; or
3. Your work" performed for the additional insured and included in the "products-completed operations hazard" if such coverage is specifically required in the written contract or agreement.

However, the insurance afforded to such additional insured(s) described above:

1. Only applies to the extent permitted by law;
  2. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured;
  3. Will not be broader than that which is afforded to you under this policy; and
  4. Nothing herein shall extend the term of this policy.
- B. The insurance provided to the additional insured does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
1. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
  2. Supervisory, inspection, architectural or engineering activities.
- C. This insurance is excess over any other valid and collectible insurance available to the additional insured whether on a primary, excess, contingent or any other basis; unless the written contract or agreement requires that this insurance be primary and non-contributory, in which case this insurance will be primary and non-contributory relative to insurance on which the additional insured is a Named Insured.
- D. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits of Insurance**:

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement described in Paragraph A.1.; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

- E. **Section IV – Commercial General Liability Conditions** is amended as follows:

The Duties In The Event of Occurrence, Offense, Claim or Suit condition is amended to add the following additional conditions applicable to the additional insured:

An additional insured under this endorsement must as soon as practicable:

1. Give us written notice of an "occurrence" or an offense which may result in a claim or "suit" under this insurance, and of any claim or "suit" that does result;
2. Send us copies of all legal papers received in connection with the claim or "suit", cooperate with us in the investigation or settlement of the claim or defense against the "suit", and otherwise comply with all policy conditions; and
3. Tender the defense and indemnity of any claim or "suit" to any provider of other insurance which would cover the additional insured for a loss we cover under this endorsement and agree to make available all such other insurance. However, this condition does not affect Paragraph C. above.

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We have no duty to defend or indemnify an additional insured under this endorsement until we receive from the additional insured written notice of a claim or "suit".

- F. This endorsement does not apply to any additional insured or project that is specifically identified in any other additional insured endorsement attached to the Commercial General Liability Coverage Form.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED – OWNERS, LESSEES OR  
CONTRACTORS – AUTOMATIC STATUS WHEN  
REQUIRED IN CONSTRUCTION AGREEMENT WITH YOU**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**A. Section II – Who Is An Insured** is amended to include as an additional insured any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured.

However, the insurance afforded to such additional insured:

1. Only applies to the extent permitted by law; and
2. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

A person's or organization's status as an additional insured under this endorsement ends when your operations for that additional insured are completed.

**B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

1. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
  - a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
  - b. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional architectural, engineering or surveying services.

2. "Bodily injury" or "property damage" occurring after:

- a. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- b. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

The most we will pay on behalf of the additional insured is the amount of insurance:

- 1. Required by the contract or agreement you have entered into with the additional insured; or
  - 2. Available under the applicable Limits of Insurance shown in the Declarations;
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**PRIMARY AND NONCONTRIBUTORY –  
OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

**Primary And Noncontributory Insurance**

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

- (1) The additional insured is a Named Insured under such other insurance; and

- (2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

## AUTO ADVANTAGE COVERAGE ENDORSEMENT

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## AUTO ADVANTAGE COVERAGE ENDORSEMENT

This endorsement modifies insurance provided under the following:

### BUSINESS AUTO COVERAGE FORM

NOTE: The following are additions, replacements and amendments to the Business Auto Coverage Form, and will apply unless excluded by separate endorsement(s) to the Business Auto Coverage Form.

With respect to coverages provided by this endorsement, the provisions of the Business Auto Coverage Form apply unless modified by this endorsement.

The Business Auto Coverage Form is amended as follows:

**SECTION II – COVERED AUTOS LIABILITY COVERAGE** is amended as follows:

**A. Paragraph 1. Who Is An Insured** in section **A. Coverage** is amended by the addition of the following:

- d.** Any legally incorporated subsidiary of yours in which you own more than 50% of the voting stock on the effective date of this coverage form. However, "insured" does not include any subsidiary that is an "insured" under any other liability policy or would be an "insured" under such a policy but for its termination or the exhaustion of its limits of insurance. In order for such subsidiaries to be considered insured under this policy, you must notify us of such subsidiaries within 60 days of policy effective date.
- e.** Any organization you newly acquire or form during the policy period, other than a partnership or joint venture, and over which you maintain sole ownership or a majority interest. However, coverage under this provision:
  - (1)** Does not apply if the organization you acquire or form is an "insured" under another liability policy or would be an "insured" under such a policy but for its termination or the exhaustion of its limits of insurance;
  - (2)** Does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
  - (3)** Is afforded only for the first 90 days after you acquire or form the organization or until the end of the policy period, whichever comes first.
- f.** Who Is An Insured is amended to include as an "insured" any person or organization except a person or organization that leases or rents "auto(s)" to you, but only to the extent of his, her, or its liability for whom you and such person or organization have agreed in writing in a contract or agreement, signed and executed by you prior to the loss for which coverage is sought, that such person or organization be added as an additional "insured" on your policy. Certificates of insurance will not be considered an Agreement to Insure.

Such person or organization is an additional "insured" but only with respect to your negligent actions, which cause liability to be imposed on such person or organization without fault on the part of said person or organization.

**B. Paragraphs (2) and (4) under section 2. Coverage Extensions, a. Supplementary Payments** are deleted and replaced by the following:

- (2)** Up to \$3,000 for cost of bail bonds (including bonds for related traffic violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (4)** All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$350 a day because of time off from work.

**SECTION III – PHYSICAL DAMAGE COVERAGE** is amended as follows:

**A. Paragraph 4. Coverage Extensions** under section **A. Coverage** is deleted and replaced by the following:

**4. Coverage Extensions**

**a. Transportation Expenses**

We will pay up to \$40 per day to a total maximum of \$1,200 for temporary transportation expenses incurred by you because of the total theft of a covered "auto" of the private passenger type or light trucks with a gross vehicle weight of less than 10,000 pounds. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes Of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

**b. Loss of Use Expenses**

For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver under a written rental contract or agreement. We will pay for loss of use expenses if caused by:

- (1) Other than collision only if the Declarations indicate that Comprehensive Coverage is provided for hired "autos";
- (2) Specified Causes of Loss only if the Declarations indicate that Specified Causes of Loss Coverage is provided for hired "autos"; or
- (3) Collision only if the Declarations indicate that Collision Coverage is provided for hired "autos".

However, the most we will pay for any expenses for loss of use to any one vehicle is \$40 per day, to a total maximum of \$1200.

**B. The following is added to paragraph 4. Coverage Extensions** under section **A. Coverage**:

**c. Fire Department Service Charge**

When a fire department is called to save or protect a covered "auto", its equipment, its contents, or occupants from a covered cause of loss, we will pay up to \$1,000 for your liability for fire department service charges:

- (1) Assumed by contract or agreement prior to loss; or
- (2) Required by local ordinance.

No deductible applies to this additional coverage.

**d. Auto Loan/Lease Gap Coverage**

The following provisions apply:

- (1) If a long term leased "auto", under an original lease agreement, is a covered "auto" under this Coverage Form and the lessor of the covered "auto" is named as an additional "insured" under this policy, in the event of a total "loss" to the leased covered "auto", we will pay any unpaid amount due on the lease, less the amount paid under the Physical Damage Coverage Section of the policy; and less any:
  - (a) Overdue lease payments at the time of the "loss";
  - (b) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
  - (c) Security deposits not returned by the lessor;
  - (d) Costs for extended warranties, Credit Life Insurance, Health Accident or Disability Insurance purchased with the lease; and
  - (e) Carry-over balances from previous loans or leases.

- (2) If an owned "auto" is a covered "auto" under this Coverage Form and the loss payee of the covered "auto" is named a loss payee under this policy, in the event of a total loss to the covered "auto", we will pay any unpaid amount due on the loan, less the amount paid under the Physical Damage Coverage Section of the policy; and less any:
- (a) Overdue loan payments at the time of the "loss";
  - (b) Costs for extended warranties, Credit Life Insurance, Health Accident or Disability Insurance purchased with the loan; and
  - (c) Carry-over balances from previous loans.

C. Section D. **Deductible** is deleted and replaced by the following:

**D. Deductible**

For each covered "auto", our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Declarations subject to the following:

Any Comprehensive Coverage deductible shown in the Declarations does not apply to:

- (1) "Loss" caused by fire or lightning; and
- (2) Glass damage if repaired rather than replaced.

**SECTION IV – BUSINESS AUTO CONDITIONS** is amended as follows:

A. The following is added to paragraph a. under section **A. Loss Conditions, 2. Duties in the Event of Accident, Claim, Suit or Loss**:

This duty applies when the "accident", claim, "suit" or "loss" is first known to:

- (a) You, if you are an individual;
- (b) A partner, if you are a partnership;
- (c) An executive officer or insurance manager, if you are a corporation; or
- (d) A member or manager, if you are a limited liability company.

B. The following is added to Condition **2. Concealment, Misrepresentation or Fraud** under section **B. General Conditions**:

However, if you unintentionally fail to disclose any hazards at the inception of your policy, we will not deny coverage under this Coverage Form because of such failure. This provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

**Policy Number**  
**CA100003783-07**

**ENDORSEMENT**

**FCCI Insurance Company**

Named Insured Wade Coots Company, Inc.

Effective Date: 07-01-22  
12:01 A.M., Standard Time

Agent Name YATES LLC

Agent No. 03036-001

**BLANKET WAIVER**

**AUTOMATIC WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US**

This endorsement is subject to the terms, conditions, and any other provisions of the Business Auto Coverage Form and any endorsements attached thereto, unless changes are indicated below.

The following is added to sub-paragraph 5. Transfer Of Rights Of Recovery Against Others To Us of Paragraph A. Loss Conditions under section IV - Business Auto Conditions:

However, we will waive any right of recovery we may have because of payments we make under this coverage form arising out of an "accident" or "loss" if:

a. The "accident" or "loss" is caused by operations undertaken by you in accordance with a written contract or agreement requiring such waiver with that person or organization in the written contract or agreement and

b. The written contract or agreement was executed prior to any "accident" or "loss".

Our waiver of our right to recovery applies only to the extent that the person or organization included in the written contract or agreement with you is considered to be an Additional Insured under this coverage form or is entitled to indemnity from you. No waiver of the right to recovery will directly or indirectly apply to your employees or employees of the person or organization included in the written contract or agreement with you.

We reserve our rights or lien to be reimbursed from any recovery funds by an injured employee.

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

**All persons or organizations that, in a written contract executed by both parties prior to the date of the injury covered by this policy, require you to obtain this agreement from us.**

NOTE: This endorsement does not apply to any work completed at job sites located in Kentucky.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.  
(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective **07-01-22**  
Insured **WADE COOTS CO INC**

Policy No. **WC0100058632-03**

Endorsement No.  
Premium

Insurance Company **Monroe Guaranty Insurance Company**

Countersigned By \_\_\_\_\_

POLICY NUMBER: UMB100015831-06

<b>SCHEDULE OF UNDERLYING INSURANCE</b>		
NAME OF UNDERLYING INSURER UNDERLYING POLICY NUMBER UNDERLYING POLICY PERIOD	COVERAGE	LIMIT OF INSURANCE (UNDERLYING LIMIT)
001 FCCI INSURANCE COMPANY  CA 100003783 07/01/2022 - 07/01/2023	Commercial Automobile Liability	Combined Single Limit-Each Accident \$1,000,000 OR Bodily Injury-Each Person  Bodily Injury-Each Accident  Property Damage-Each Accident
026 MONROE GUARANTY INSURANCE COMPANY CPP 100049281 07/01/2022 - 07/01/2023	Commercial General Liability  <input checked="" type="checkbox"/> Occurrence Form <input type="checkbox"/> Claims-Made Form _____ Retroactive Date	Each Occurrence Limit \$1,000,000 General Aggregate Limit \$2,000,000 Personal and Advertising Injury Limit \$1,000,000 Products-Completed Operations Aggregate Limit \$2,000,000
026 MONROE GUARANTY INSURANCE COMPANY WCO 100058632 07/01/2022 - 07/01/2023	Employers Liability	Bodily Injury by Accident-Each Accident \$1,000,000 Bodily Injury by Disease-Policy Limit \$1,000,000 Bodily Injury by Disease-Each Employee \$1,000,000
001 FCCI INSURANCE COMPANY  CPP 100049281 07/01/2022 - 07/01/2023	Employee Benefits Liability  <input checked="" type="checkbox"/> Occurrence Form <input type="checkbox"/> Claims-Made Form _____ Retroactive Date	Each Employee Limit \$1,000,000 Aggregate Limit \$1,000,000

1-UNCUM-9549 0916

# COMMERCIAL LIABILITY UMBRELLA COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II – Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

## SECTION I – COVERAGES

### COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY

#### 1. Insuring Agreement

a. We will pay on behalf of the insured the "ultimate net loss" in excess of the "retained limit" because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking damages for such "bodily injury" or "property damage" when the "underlying insurance" does not provide coverage or the limits of "underlying insurance" have been exhausted. When we have no duty to defend, we will have the right to defend, or to participate in the defense of, the insured against any other "suit" seeking damages to which this insurance may apply. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. At our discretion, we may investigate any "occurrence" that may involve this insurance and settle any resultant claim or "suit" for which we have the duty to defend. But:

- (1) The amount we will pay for the "ultimate net loss" is limited as described in Section III – Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

- b. This insurance applies to "bodily injury" or "property damage" that is subject to an applicable "retained limit". If any other limit, such as a sublimit, is specified in the "underlying insurance", this insurance does not apply to "bodily injury" or "property damage" arising out of that exposure unless that limit is specified in the Declarations under the Schedule of "underlying insurance".
- c. This insurance applies to "bodily injury" and "property damage" only if:
  - (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
  - (2) The "bodily injury" or "property damage" occurs during the policy period; and
  - (3) Prior to the policy period, no insured listed under Paragraph 1.a. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.
- d. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1.a. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.

- (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
- (2) Provides us with written authorization to:
  - (a) Obtain records and other information related to the "suit"; and
  - (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section I – Coverage A – Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when we have used up the applicable limit of insurance in the payment of judgments or settlements or the conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

## SECTION II – WHO IS AN INSURED

1. Except for liability arising out of the ownership, maintenance or use of "covered autos":
  - a. If you are designated in the Declarations as:
    - (1) An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
    - (2) A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
    - (3) A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
    - (4) An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
  - b. Each of the following is also an insured:
    - (1) Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:
      - (a) "Bodily injury" or "personal and advertising injury":
        - (i) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" in the course of his or her employment or performing duties related to the conduct of your business or to your other "volunteer workers" while performing duties related to the conduct of your business;
        - (ii) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (a)(i) above; or
        - (iii) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (a)(i) or (ii) above.
      - (b) "Property damage" to property:
        - (i) Owned, occupied or used by;
        - (ii) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;
 you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).
    - (2) Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

- (3) Any person or organization having proper temporary custody of your property if you die, but only:
- (a) With respect to liability arising out of the maintenance or use of that property; and
  - (b) Until your legal representative has been appointed.
- (4) Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
- c. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
- (1) Coverage under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
  - (2) Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
  - (3) Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.
2. Only with respect to liability arising out of the ownership, maintenance or use of "covered autos":
- a. You are an insured.
  - b. Anyone else while using with your permission a "covered auto" you own, hire or borrow is also an insured except:
    - (1) The owner or anyone else from whom you hire or borrow a "covered auto". This exception does not apply if the "covered auto" is a trailer or semitrailer connected to a "covered auto" you own.
    - (2) Your "employee" if the "covered auto" is owned by that "employee" or a member of his or her household.
    - (3) Someone using a "covered auto" while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is yours.
  - (4) Anyone other than your "employees", partners (if you are a partnership), members (if you are a limited liability company), or a lessee or borrower or any of their "employees", while moving property to or from a "covered auto".
  - (5) A partner (if you are a partnership), or a member (if you are a limited liability company) for a "covered auto" owned by him or her or a member of his or her household.
  - (6) "Employees" with respect to "bodily injury" to:
    - (a) Any fellow "employee" of the insured arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business; or
    - (b) The spouse, child, parent, brother or sister of that fellow "employee" as a consequence of Paragraph (a) above.
- c. Anyone liable for the conduct of an insured described above is also an insured, but only to the extent of that liability.
3. Any additional insured under any policy of "underlying insurance" will automatically be an insured under this insurance.
- Subject to Section III – Limits Of Insurance, if coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:
- a. Required by the contract or agreement, less any amounts payable by any "underlying insurance"; or
  - b. Available under the applicable Limits of Insurance shown in the Declarations;
- whichever is less.
- Additional insured coverage provided by this insurance will not be broader than coverage provided by the "underlying insurance".
- No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.