

North Dakota Department of Transportation
INVITATION TO BID

NDDOT Contract # 50162132

Bid Number: 968-72/988-26-16-050	Bid Opening Date & Time: 01/10/2017 02:00 PM
Items: Contractor Operated Equipment	Buyer: Vanessa Brosten
Bid Mailing Address: 608 East Boulevard Avenue	Telephone Number: 701-328-4466
City, State, Zip: Bismarck, North Dakota, 58505-0700	Email: vbrosten@nd.gov
Contract Period: 01/10/2017 TO 07/01/2017	Date Prepared: 12/19/2016

BID RESPONSE

Please submit your bid response on the attached forms in conformance with the instructions and specifications in the NDAC 04-12-01 – 04-12-16. One copy of your bid response must be returned to the North Dakota Department of Transportation (NDDOT) prior to the time and date specified for the bid opening. Bid responses received after the time and day specified for the bid opening will be rejected. Mark envelope with word "BID" and the opening time and date. **If your bid response is accepted by NDDOT, then your bid response will constitute a binding contract.**

CONTRACT

This contract is made and entered into by and between NDDOT for the state of North Dakota (hereinafter state) and

Vendor Name Baranko Bros., Inc.	Vendor Address 3048 Hwy 22 N Dickinson, ND 58601
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(hereinafter vendor). In consideration of and for the acceptance by the state of the offer made by the vendor pursuant to the bid response, the vendor agrees and promises to sell, furnish, and deliver to the state, at the time, places, and prices specified in the bid response, all goods, merchandise, supplies, commodities, equipment, or other items contained in the bid response and for which the vendor has been awarded this contract by the state. The vendor shall fully perform this contract in accordance with the terms and conditions contained in the bid response including all specifications, rules, or regulations mentioned therein, and shall comply with all applicable provisions of the NDAC 04-12-01 – 04-12-16 promulgated by the State Purchasing Division; such manual being made a part of this contract by reference. The Risk Management Appendix and Appendices A and E of the Title VI Assurances, attached, are hereby incorporated into and made a part of this agreement.

The following must be completed by the vendor; failure to do so may result in the rejection of the vendors bid proposal.

Vendor Name Baranko Bros., Inc.		
Mailing Address PO Box 820 Dickinson, ND 58602		
Telephone Number 701-483-5868	Fax Number 701-483-5960	E-mail Address joe@barankoinc.com

Glenn Baranko - President

Name & Title (Type or Print)

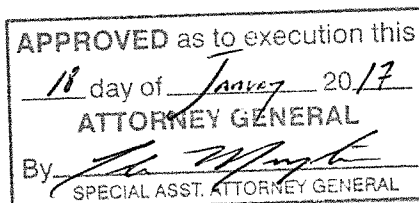
Glenn Baranko
Signature

1-3-17
Date

To be signed by **Owner; Partner; Corp. Pres., Vice Pres., or other authorized Corp. Officer** or bid may be rejected. (if signed by other authorized Corp. Officer, please attach copy of Power of Attorney or other documentation showing authority to sign.)

FOR ND DEPARTMENT OF TRANSPORTATION USE ONLY Accepted by the state according to provisions of award.

Authorized Signature <i>Grant Levi</i>	Date <i>1/18/17</i>
Recommended for approval <i>[Signature]</i>	Date <i>1-18-17</i>
	Approximate contract amount \$ <i>unknown</i>



CLA 7480 (Div. 50)

MAILING INSTRUCTIONS

Mail only one completed and signed request for bid document per envelope, unless instructed otherwise. Request for bid documents not signed or received after the date and time specified in the request for bid will be rejected.

BID IS: ☒ SEALED ☐ NOT SEALED

Address the envelope containing your response in the following manner:

BID NUMBER – 968-72/988-26-16-050
BID OPENING DATE/TIME – January 10, 2017; 2:00 PM
N. D. DEPT. OF TRANSPORTATION
PROCUREMENT SECTION
608 E BOULEVARD AVE
BISMARCK ND 58505-0700

BIDDERS INSTRUCTIONS

1. **Assistance to Bidders with a Disability.** Bidders with a disability and/or language assistance, contact Civil Rights Division, NDDOT, 701-328-2978 or civilrights@nd.gov or TTY 711, as soon as possible so that reasonable accommodations can be made. Additionally, the Request for Reasonable Accommodations form (SFN 60135) can be accessed at the following NDDOT website location: <http://www.dot.nd.gov/forms/sfn60135.pdf>.
2. **Awards, Splitting of.** The state reserves the right to make awards by item, groups of items, or on the total low bid for all the items specified as indicated in the detailed specifications. Bidders interested only in the total low bid for all items are to state 'all or nothing' on their bid response.
3. **Bid Bond.** Waived in this instance: however, bidder(s) failing to enter into a contract with this office, upon notification of award, may be subject to removal from the bidder's list.
4. **Bid Held Firm.** Bids are not awarded at the bid opening. Bid responses will be firm for 30 days, unless stated otherwise.
5. **Bid Opening.** All sealed bids received by the NDDOT Procurement Office will be opened and read at 608 East Boulevard Avenue, Bismarck, North Dakota, at the time specified in the solicitation. Interested parties are invited to attend the bid opening.
6. **Bid Summary.** Bid summaries are available when the bid has been awarded. When bids are issued using the State's electronic bidding system, the bid summary will be posted and available for download from: <http://www.nd.gov/spo/>
Bid summaries will be mailed to those bidders who supply a self-addressed, stamped envelope with their bid response. A copy of the bid summary may also be obtained by visiting the NDDOT Procurement Office during normal working hours.
7. **Bidder Checklist.** HAVE YOU REMEMBERED TO:
 - Review all instructions, terms and conditions, and specifications to ensure your bid response complies?
 - Prepare your price in the specified unit of measure, F.O.B. Destination, Freight Prepaid to the delivery location listed on the cover sheet?
 - Indicate whether you can meet the delivery date indicated on the cover sheet?
 - Sign your bid response on the cover sheet?
 - Initial all changes and corrections?
 - Submit any required samples or enclosures, if applicable?
 - Mark the envelope as indicated above?
 - Review and complete all requirements contained in this solicitation to ensure compliance.

8. **Clarifications, Bid Changes and Questions Deadline.** The Procurement Officer is the point of contact. Any irregularities, lack of clarity, requested bid changes and all questions regarding this bid and the procurement process must be addressed to the Procurement Officer referenced on the first page of this document not later than end of business December 30, 2016. (Contact information is indicated on cover page). If a bid amendment is required, it will generally be issued after this date.

The bidder is cautioned that the requirement of this solicitation can be altered only by written amendments and that verbal communications from whatever source are of no effect.

9. **Contract Award.** Contracts will not be awarded at the time of the bid opening. The Invitation to Bid information that is received by the NDDOT will be used to create a Contractor Data Pool. The NDDOT will base contractor selection on the low bid closest to meeting the minimum specification, the location of the snow removal or flood control event, availability at the time of the event, willingness to travel and the cost of the transport unit. This means the low bid per unit hour will not always be the successful contractor.

Bid responses will be firm through **July 1, 2017**

10. **Corrections.** The bidder's authorized representative must initial any corrections and alterations (i.e. erasures, whiteouts, correction tape, etc.) made to the bid response. Those bid responses with corrections and alterations that are not initialed are subject to confirmation by the Procurement Officer.

11. **Definitions.**

- Bidder - any person or firm submitting a competitive bid in response to a solicitation.
- Bid summary - a summary of all bid responses received by the NDDOT Procurement Office.
- Bid response - the executed document submitted by a bidder in response to a solicitation.
- Contract - a deliberate written agreement between two or more competent persons to perform specific act or acts.
- Contractor - any person or firm having a contract with a governmental body.
- Solicitation - the process of notifying prospective bidders that the State wishes to receive bids for furnishing goods or services.

12. **Electronic & Facsimile Bids.** Bid responses are not to be email attached or faxed to the NDDOT unless this transmittal method has been authorized by the Procurement Officer or bid document. (Contact the Procurement officer regarding additional requirements and exceptions.) Bid responses electronically submitted or faxed may be rejected as non-responsive. Bids may be faxed to a third party who will put it in a properly-addressed envelope and deliver it to the NDDOT Procurement Office before the date and time specified in the solicitation.

13. **Freight/F.O.B. Destination.** Freight and transportation charges are to be included in the price of the products, unless otherwise specified in the solicitation. (F.O.B. - Free On Board).

14. **Indemnification.** Bidders must review the attached Risk Management Appendix for indemnification and insurance requirements. The indemnification and insurance provisions are incorporated and made part of this solicitation and the resultant final contract. Objections to any of the provisions of the indemnification and insurance requirements must be made in writing to the attention of the Procurement Officer by the time and date set for receipt of questions. No alteration of these provisions will be permitted without prior written approval from the Purchasing Agency or Entity in consultation with the North Dakota Risk Management Division. Upon receipt of the Notice of Award, the successful bidder must obtain the required insurance coverage and provide the Procurement Officer with proof of coverage prior to contract approval. The coverage must be satisfactory to the Purchasing Agency or Entity, in consultation with the North Dakota Risk Management Division. A bidder's failure to provide evidence of insurance coverage is a material breach and grounds for withdrawal of the award or termination of the contract.

Awarded contractor(s) must provide their own insurance in all instances and must meet the requirements of the attached Risk Management Appendix.

An awarded contractor will be required to furnish proof of insurance, as detailed in the Risk Management Appendix within 24 hours of a request for contract activation.

15. **Late Bids.** It is the bidder's responsibility to ensure that a bid response is physically deposited with the NDDOT Procurement Office prior to the date and time specified for the opening. Late bid responses will not be opened and will be rejected and returned regardless of the degree of lateness or the reasons.

16. **Minor Informalities.** The State reserves the right to waive minor informalities in bid responses in accordance with N.D.A.C. 4-12-10. Minor informalities are insignificant omissions or nonjudgmental mistakes that are matters of form rather than substance, evident from the bid document, with a negligible effect on price, quantity, quality, delivery, or contractual conditions that can be waived or corrected without prejudice to other bidders.

17. **Multiple Bid(s).** Bidders may submit more than one bid response(s) for the item(s) specified in the solicitation. Each bid submitted must comply in all aspects with the bid requirements and these instructions.

18. **Negotiation.** NDDOT reserves the right to negotiate with the successful bidder to ensure the best possible consideration is afforded to all concerned.

19. **New Equipment and Materials.** Unless otherwise indicated in the detailed specifications of this solicitation, all equipment and materials shall be new and under current production for use in the United States.

20. **Open Records.** After the bid opening, bid documents will be subject to the North Dakota open records law. Records are closed or confidential only if specifically stated in law. If a request for public information is received, the procurement officer will determine whether the information is an exception to the North Dakota open records law, and the information will be processed appropriately. Those interested in reviewing the bid file are to make arrangements with the NDDOT Procurement Office. The NDDOT Procurement Office hours are 8:00 a.m. - 12:00 p.m. and 1:00 p.m. - 5:00 p.m. Monday through Friday.

21. **Packaging.** All shipments are to be packaged according to accepted commercial practices to avoid damage in shipment.

22. **Performance Bond.** Successful bidders will not be required to furnish a performance bond; however, failure to perform satisfactorily will result in the immediate termination of the contract(s) and bidders may be subject to removal from the bidder's list.

23. **Preparation of Bid.** Bids will be accepted on NDDOT forms only. If the document is located on the State Procurement Office website, then bidder is to download the document and type or write their responses as indicated by the bid document. Alteration of the bid document may be cause for bid rejection. Bidders are cautioned to examine specifications and all instructions. Failure to do so will be at the bidder's risk.

24. **Pricing.** Unit prices are to be stated in United States currency and based on the unit of measurement specified in the solicitation, F.O.B. Destination, to the NDDOT delivery locations specified herein.

In the event of mathematical differences between the unit price and extended total, the unit price will prevail.

25. **Protest of Award.** An interested party may protest the award within seven days after receiving notice in accordance with N.D.C.C. 54-44.4-12 and N.D.A.C. 4-12-14. Notice of award will be issued only to those bidders who submitted responses to this IFB. Seven calendar days after award or issuance of the Notice of Intent to Award; it will be assumed that all interested parties knew or should have known all the facts surrounding the award.

26. **Rejection.** Bid responses may be rejected if:

- The bid response is not legible.
- The bid response is not completed as requested.
- The bid response is faxed to the procurement office.
- The bid response is not responsive to the specifications or other requirements of the solicitation.
- The bid response is received after the time and date specified.
- The bidder has not met Vendor Registration requirements or is suspended or debarred.
- The bid document has been altered by the bidder.
- The bidder is determined to be not responsible (N.D.A.C. 4-12-11-04).

27. **Signature.** The bid must be signed manually in ink. The name and title of the person signing the bid response must be typed or printed above the signature. The bid must be signed by Owner, Partner, Corp. Pres., Vice Pres., or other authorized Corp. Officer or the bid may be rejected. If signed by other authorized Corp. Officer or

representative, please attach a letter signed by the Owner, Partner, Corp. Pres., or Vice Pres. indicating the individual has authority to enter into a contract on behalf of the company (or a Power of Attorney).

28. **Specifications, Brand Name or Equivalent.** Unless otherwise indicated in the detailed specifications of this solicitation, the use of a specific brand name or make/model is for illustrative purposes only, and the State will consider equivalent products. If a commodity or service put forth by a bidder is rejected as not being equivalent, the Procurement Officer will notify the bidder of the rejection.

29. **Specifications, Compliance.** All bids submitted in response to this Invitation for Bid must comply with the specifications contained herein, and the successful bidder will be held responsible. Noncompliance with specifications is grounds for rejection of the bid response. Bidders who desire to submit commodities or services that deviate from these specifications or have any objections to the specifications stated herein must be clearly pointed out PRIOR TO THE DEADLINE FOR RECEIPT OF QUESTIONS; otherwise, it will be considered that the items offered are in strict compliance with these specifications, and the bidder will be held responsible.

30. **Supplemental Terms and Conditions.** Bids including supplemental terms and conditions will be accepted, but supplemental conditions that conflict with any conditions contained in this ITB or that diminish the State's rights will be considered null and void. The State is not responsible for identifying conflicting supplemental terms and conditions before issuing a contract award.

After award of contract:

- a) If a conflict arises between a supplemental term or condition included in the bid and a term or condition of the ITB, the term or condition of the ITB will prevail, and,
- b) If the State's rights would be diminished as a result of application of a supplemental term or condition included in the bid, the supplemental term or condition will be considered null and void.

Changes, modifications, additions, or alterations to the bid document could be cause for rejection of the submitted bid at the sole discretion of the NDDOT. Contact the Procurement Officer in writing prior to the deadline for clarifications.

31. **Taxes.** The State does not pay sales tax or federal excise tax. The state sales tax exemption number is E-2001. The federal tax-free transaction number is 45-70-0010K. The Purchasing Agency will furnish a tax exempt certificate upon request.

32. **Vendor Registration.** Bids will be accepted from bidders who are not currently Approved Bidders for the State of North Dakota; however, the successful bidder may be required to become approved prior to award, in accordance with N.D.C.C. 54-44.4-09. To become an Approved Bidder, you must: 1) register with the North Dakota Secretary of State (fees apply), and 2) submit a completed Bidder List Application to the ND State Procurement Office. Registration instructions and forms are available on-line at: www.nd.gov/spo/vendor. Contact the ND State Procurement Office at 701-328-2683 or infospo@nd.gov for assistance.

Placement on the bidders list does not guarantee a bidder will receive notice of every formal solicitation. Bidders must maintain current information by submitting a Notice of Change form to the State Procurement Office (Fax 701-328-1615). Visit the website for forms: www.nd.gov/spo/vendor.

33. **Withdrawal or changes to a bid response prior to the bid opening date and time.** A bidder may withdraw or make a change to his bid response prior to the bid opening date and time. The request to make a change or withdraw must be in writing by a representative of the firm. The request to withdraw or change must be signed by the bidder or his designated representatives.

34. **Withdrawals after the bid opening date and time.** After the bid opening, no changes may be made to the bid response. The bidder may make a written request to withdraw the bid response, subject to approval by the NDDOT Procurement Office. Vendors continually withdrawing bids after the bid opening may be removed from the Vendor Database.

GENERAL CONTRACT TERMS AND CONDITIONS

1. **Affirmative Action.** The contractor will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of individuals with disabilities, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin, or disability.
2. **Applicable Law and Venue.** Any dispute arising out of this agreement will be resolved under the laws of the State of North Dakota.
3. **Billing and Payment Procedures.** Invoices are to be submitted to the contract identified district personnel unless otherwise instructed. Failure to submit correct invoices to the appropriate NDDOT office may delay contractor payment.

Payment will normally be made within thirty days after delivery and acceptance of commodities or services under this contract and receipt of a correct invoice. All invoice and payment inquiries must be directed to the purchasing agency.

4. **Binding Contract.** The acceptance of a bid response in writing by the purchasing agency constitutes a contract between the bidder and the State. Written acceptance from the purchasing agency will be in the form of a purchase order, notification of award, or contract. Any oral agreement or arrangement by a bidder with a State employee or purchasing agency will have no force or effect unless reduced to writing.

Upon notification of award, the contractor must produce a certificate of insurance meeting the risk management appendix. The Invitation to Bid document will be signed by the NDDOT and an appendix, similar to Attachment 1, will be created to document the particular circumstances and conditions of the event.

Attachment 1 is a sample document. Equipment types and rates, as submitted by successfully awarded contractors, will be entered into Attachment 1 along with other information pertinent to the service as contracted.

5. **Compliance with Laws.** The contractor must, in performance of work under this contract, fully comply with all applicable federal, state or local laws, rules, regulations and policies, including those relating to nondiscrimination, affirmative action, accessibility and civil rights including Title VI of the Civil Rights Act of 1964. The contractor agrees to file all required reports on time, to make required payroll deductions, and to pay all taxes and premiums owed on time, including sales and use taxes and unemployment compensation and workers' compensation premiums. The contractor shall have and keep current at all times during the term of this contract all licenses and permits required by law.
6. **Contract Amendments, Waivers.** After a binding contract has been entered into, no changes (i.e. additions, substitutions, subcontracting or a price adjustment) may be made, unless prior approval has been obtained from the purchasing agency and Procurement Officer.

The terms of this contract shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by the parties. No waiver consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement.

7. **Contract Term and Renewal Option.** Since the NDDOT will enter into contracts based on the need for services; contracts will become effective upon the date of last contract signature and will terminate not later than July 1, 2017, contracts are not renewable.

The NDDOT reserves the right to renegotiate price and terms provided that such negotiated price and terms fall within the original scope of work for this bid. Negotiations may be conducted at such times that additional and unexpected services falling within the scope of the contract may occur. Such changes will be documented by amendment to the contract.

8. **Contract Termination.**

- a. **Termination without Cause.** This contract may be terminated by mutual consent of both parties, or by either party upon 30 days' written notice.
- b. **Termination for Lack of Funding or Authority.** The State may terminate this contract effective upon delivery of written notice to the contractor, or on any later date stated in the notice, under any of the following conditions:
 - i. If funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for purchase of the services or supplies in the indicated quantities or term. The contract may be modified by agreement of the parties in writing to accommodate a reduction in funds.
 - ii. If federal or state regulations or guidelines are modified, changed or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this contract or are no longer eligible for the funding proposed for payments authorized by this contract.
 - iii. If any license or certificate required by law or regulation to be held by the contractor to provide the services required by the contract is for any reason denied, revoked or not renewed.Any such termination of this contract under (i), (ii), or (iii), above, shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.
- c. **Termination for Cause.** The State by written notice to the contractor may terminate the whole or any part of this contract:
 - i. If the contractor fails to provide services required by this contract within the time specified herein or any extension thereof; or
 - ii. If the contractor fails to perform any of the other provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms and after receipt of written notice from the State, fails to correct such failures within ten days or such longer period as NDDOT may authorize.
 - iii. The rights and remedies of the State provided in the above clause related to defaults by the contractor are not exclusive and are in addition to any other rights and remedies provided by law or under this contract.
- d. **Termination, Deliveries.** If the contract is terminated for any reason, the contractor is responsible for delivery of all commodities and services ordered prior to the termination, unless those orders had been canceled by the Purchasing Agency or Entity.

9. **Fuel and Refueling:** The NDDOT will not pay additional monies for equipment fuel or refueling. Refueling should not be a large issue since most of the work will be for short periods of time. For this contract, it is unlikely that a contractor will have to stay on one job site longer than a tank of fuel would last on most machines. The contractor is in all instances responsible for refueling of their own equipment.

Equipment contractors that have performed this service for the NDDOT in the past have had to refuel at one time or another. Contractors will typically have a fuel service tank in the back of their pickup to refuel the machines. Some companies are big enough that they have a dedicated large fuel truck that typically wouldn't get driven to the job site every day. It is up to the contractor to fuel their equipment and to manage how they will refuel. This cost shall be reflected in the hourly rates offered in the bid response.

10. **Inspection and Investigations.** The State reserves the right to conduct inspections and investigations related to the bidder and offered commodities or services, including but not limited to the firm, its facility, personnel, qualifications, and the commodities and/or services offered to make determinations regarding compliance with the bid requirements and responsibility of the bidder.

11. **Materials and Workmanship.** All material and workmanship shall be subject to inspection and testing at the discretion of the purchasing agency either at the point of manufacturer, place of storage, or upon receipt.

12. **Receiving.** Deliveries must arrive at the designated destination(s) during normal business hours unless other shipping/receiving instructions are issued by NDDOT personnel. The contractor shall contact the NDDOT to schedule delivery dates and times at least 24 hours in advance of delivery.

All NDDOT offices will be closed in recognition of State holidays. Any day declared a holiday by the President or Governor will also be recognized by office closure.

13. **Road Restrictions:** It is likely that road restrictions will be in effect during the flood 'season'. The NDDOT will waive the fee in an emergency situation. Contractors may not be allowed on certain roads but will be allowed to get to the service site. Contractors will still be required to obtain the permit and validation numbers from the Highway Patrol. It is just the fees that will be waived. Contractors and NDDOT District personnel will address this situation on an as needed basis.

14. **Subcontracts, Assignment.** The contractor shall not subcontract, assign or transfer the contractor's interests or duties under this contract without express written consent of the purchasing agency. However, the contractor may enter into subcontracts provided that any such subcontractor acknowledges the binding nature of this contract and incorporates this contract, including any attachments. The contractor is solely responsible for the performance of any subcontractor. The contractor shall not have the authority to contract for or incur obligations on behalf of the State.

15. **Successors in Interest.** The provisions of this agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
SPECIFICATIONS
CONTRACTOR OPERATED EQUIPMENT
FOR SNOW REMOVAL**

The intent of this bid specification is to request pricing for contractor operated SNOW REMOVAL work. The NDDOT primarily seeks the services of dozers, tracked agricultural tractors with blades, motor graders with wings and v-plows, and large pay-loader mounted snow blowers for clearing and moving snow in the medians and ditches. There are many variables that come into play when identifying how much work may be needed, the biggest one being future weather patterns.

The NDDOT is requesting pricing per running dozer, tractor, motor grader, or pay-loader hour with an operator. The NDDOT is also requesting pricing for the cost of the truck and trailer/lowboy per hour used to transport the unit. Hourly rates shall include all operating expenses such as fuel and oil. Prices as submitted must be held firm for the period indicated on the Invitation to Bid cover.

The NDDOT will only pay the hourly rate on the transport unit during actual use not while on standby. The NDDOT will pay the transport unit rate from the units original location to our job site, from job site to job site if loading is necessary, and to and from the closest NDDOT site with electricity if the machine needs to be plugged in at the end of each day or over the weekend and back to the units original location at the end of the project. The NDDOT will not pay for any transportation costs beyond the closest DOT yard with electricity. The NDDOT will be responsible for the electricity used at our sites. The NDDOT will not be responsible for any other daily costs associated with the SNOW REMOVAL work.

The NDDOT will provide traffic control if necessary. The units may be needed for a couple of days, a week, a month, or more depending on the weather patterns. The contractor will be asked if they are interested in traveling anywhere within North Dakota. Preference will be given to willingness to travel.

If a SNOW REMOVAL event requires contract activation:

- The selected contractor will produce a certificate of insurance within 24 hours that meets the requirements of the attached risk management appendix.
- The Invitation to Bid document will be signed by the NDDOT and will become the contract document.
- An appendix, similar to Attachment 1, will be created to document the particular circumstances and conditions of the event. Attachment 1 is a sample document. Equipment types and rates, as submitted by successfully awarded contractors, will be entered into Attachment 1 along with other information pertinent to the service as contracted.

The Equipment Operator will not be an employee of the NDDOT.

The NDDOT will not have permission to operate any of the contractor's equipment.

All SNOW REMOVAL work is to be performed during daylight hours.

Payment shall be paid as follows: 100% of the total cost of hours used based on the bid price upon satisfactory completion of the SNOW REMOVAL. Invoices shall be addressed to the Districts in which the SNOW REMOVAL is being performed.

The NDDOT may at its discretion terminate the service at any point during the contract period with no further financial obligation to the successful bidder.

CONTRACTOR OPERATED DOZER WORK

As a minimum, each dozer unit shall be equipped with:

	COMPLY		COMMENTS
	YES	NO	
120 Net flywheel hp	<u>X</u>	<u> </u>	<u> </u>
28,000 pound operating weight	<u>X</u>	<u> </u>	<u> </u>
Six way dozer blade	<u>X</u>	<u> </u>	<u> </u>
Hour meter, must not mark time without engine running on snow removal unit and transport unit	<u>X</u>	<u> </u>	<u> </u>
Low Ground Pressure	<u>X</u>	<u> </u>	<u> </u>
Transporting truck with the ability to transport the unit	<u>X</u>	<u> </u>	<u> </u>
Willing to travel throughout the state	<u>X</u>	<u> </u>	<u> </u>

ITEM NO. 1 - CONTRACTOR OPERATED DOZER WORK:

<u>MACHINE MAKE, MODEL, YEAR,</u> <u>DESCRIPTION (BLADE&TRACKS),</u> <u>CURRENT LOCATION</u>	<u>COST PER</u> <u>RUNNING UNIT</u> <u> HOUR</u>	<u>ADDITIONALCOST</u> <u>PER TRANSPORTING</u> <u> HOUR</u>
1. <u>Cat, D6M, 1998</u> <u>190hp, 6 way blade, LGP</u> <u>Dickinson Yard</u>	<u>\$ 157.00</u> /HOUR	<u>\$ 163.00</u> /HOUR
2. <u>Komatsu, D85EX-15, 2006</u> <u>240hp, straight blade, standard track</u> <u>Dickinson Yard</u>	<u>\$ 185.00</u> /HOUR	<u>\$ 163.00</u> /HOUR
3. <u>Komatsu, D65PX-16, 2010</u> <u>205hp, 6 way blade, LGP</u> <u>Dickinson Yard</u>	<u>\$ 168.00</u> /HOUR	<u>\$ 163.00</u> /HOUR
4. <u>Komatsu, D65WS-17, 2013</u> <u>205hp, 6 way blade, LGP</u> <u>Dickinson Yard</u>	<u>\$ 178.00</u> /HOUR	<u>\$ 163.00</u> /HOUR
5. <u>Komatsu, D61PX, 2015</u> <u>168hp, 6 way blade, LGP</u> <u>Dickinson Yard</u>	<u>\$ 162.00</u> /HOUR	<u>\$ 163.00</u> /HOUR
6. <u>Cat, D7H, 1994</u> <u>210hp, straight blade, standard track</u> <u>Dickinson Yard</u>	<u>\$ 168.00</u> /HOUR	<u>\$ 163.00</u> /HOUR
7. <u> </u> <u> </u> <u> </u>	<u>\$</u> <u> </u> /HOUR	<u>\$</u> <u> </u> /HOUR
8. <u> </u> <u> </u> <u> </u>	<u>\$</u> <u> </u> /HOUR	<u>\$</u> <u> </u> /HOUR

CONTRACTOR OPERATED AGRICULTURAL TRACTOR DOZER WORK

As a minimum, each agricultural tractor with blade unit shall be equipped with:

	COMPLY		COMMENTS
	YES	NO	
370 Net hp	_____	_____	_____
Six way dozer blade	_____	_____	_____
Hour meter, must not mark time without engine running on snow removal unit and transport unit	_____	_____	_____
Low Ground Pressure	_____	_____	_____
Transporting truck with the ability to transport the unit	_____	_____	_____
Willing to travel throughout the state	_____	_____	_____

ITEM NO. 2 - CONTRACTOR OPERATED AGRICULTURAL TRACTOR DOZER WORK:

MACHINE MAKE, MODEL, YEAR, DESCRIPTION (BLADE&TRACKS), CURRENT LOCATION	COST PER RUNNING UNIT HOUR	ADDITIONALCOST PER TRANSPORTING HOUR
1. _____ _____ _____	\$ _____/HOUR	\$ _____/HOUR
2. _____ _____ _____	\$ _____/HOUR	\$ _____/HOUR
3. _____ _____ _____	\$ _____/HOUR	\$ _____/HOUR
4. _____ _____ _____	\$ _____/HOUR	\$ _____/HOUR
5. _____ _____ _____	\$ _____/HOUR	\$ _____/HOUR
6. _____ _____ _____	\$ _____/HOUR	\$ _____/HOUR
7. _____ _____ _____	\$ _____/HOUR	\$ _____/HOUR
8. _____ _____ _____	\$ _____/HOUR	\$ _____/HOUR

CONTRACTOR OPERATED MOTOR GRADER WORK

As a minimum, each motor grader with a wing or wings and v-plow unit shall be equipped with:

	COMPLY		COMMENTS
	YES	NO	
160 Net hp	<u>X</u>	<u> </u>	<u> </u>
12' blade	<u>X</u>	<u> </u>	<u> </u>
Right hand benching wing	<u>X</u>	<u> </u>	<u> </u>
Left hand benching wing (optional)	<u> </u>	<u>X</u>	<u> </u>
V-Plow	<u>X</u>	<u> </u>	<u> </u>
Hour meter, must not mark time without engine running on snow removal unit and transport unit	<u>X</u>	<u> </u>	<u> </u>
Transporting truck with the ability to transport the unit	<u>X</u>	<u> </u>	<u> </u>
Willing to travel throughout the state	<u>X</u>	<u> </u>	<u> </u>

ITEM NO. 3 - CONTRACTOR OPERATED MOTOR GRADER WORK:

MACHINE MAKE, MODEL, YEAR, DESCRIPTION CURRENT LOCATION	COST PER RUNNING UNIT HOUR	ADDITIONALCOST PER TRANSPORTING HOUR
1. Cat, 163H, 1997, 1998, 2002, 2005 220hp, 14' blade Dickinson Yard	\$ <u>152.00</u> /HOUR	\$ <u>163.00</u> /HOUR
2. John Deere, 872GP, 2013 185hp, 14' blade Dickinson Yard	\$ <u>163.00</u> /HOUR	\$ <u>163.00</u> /HOUR
3. V-Plow attachment Dickinson Yard	\$ <u>18.00</u> /HOUR	\$ <u> </u> /HOUR
4. Right hand wing attachment Dickinson Yard	\$ <u>18.00</u> /HOUR	\$ <u> </u> /HOUR
5. <u> </u> <u> </u> <u> </u>	\$ <u> </u> /HOUR	\$ <u> </u> /HOUR
6. <u> </u> <u> </u> <u> </u>	\$ <u> </u> /HOUR	\$ <u> </u> /HOUR
7. <u> </u> <u> </u> <u> </u>	\$ <u> </u> /HOUR	\$ <u> </u> /HOUR
8. <u> </u> <u> </u> <u> </u>	\$ <u> </u> /HOUR	\$ <u> </u> /HOUR

CONTRACTOR OPERATED AWD PAY-LOADER WITH SNOW BLOWER WORK

As a minimum, each AWD pay-loader with snow blower unit shall be equipped with:

	COMPLY		COMMENTS
	YES	NO	
180 Net flywheel hp AWD pay-loader	_____	_____	_____
Front mounted self contained snow blower with 250 hp	_____	_____	_____
Snow blower capable of blowing 2700 tons per hour	_____	_____	_____
Blower to be as wide as loader and a minimum of 48" tall	_____	_____	_____
Hour meter, must not mark time without engine running on snow removal unit and transport unit	_____	_____	_____
Transporting truck with the ability to transport the unit	_____	_____	_____
Willing to travel throughout the state	_____	_____	_____

ITEM NO. 4 - CONTRACTOR OPERATED AWD PAY-LOADER WITH SNOW BLOWER WORK:

<u>MACHINE MAKE, MODEL, YEAR,</u> <u>DESCRIPTION (BLADE, TRACKS, BLOWER)</u> <u>CURRENT LOCATION</u>	<u>COST PER</u> <u>RUNNING UNIT</u> <u> HOUR</u>	<u>ADDITIONALCOST</u> <u>PER TRANSPORTING</u> <u> HOUR</u>
1. _____ _____ _____	\$ _____/HOUR	\$ _____/HOUR
2. _____ _____ _____	\$ _____/HOUR	\$ _____/HOUR
3. _____ _____ _____	\$ _____/HOUR	\$ _____/HOUR
4. _____ _____ _____	\$ _____/HOUR	\$ _____/HOUR
5. _____ _____ _____	\$ _____/HOUR	\$ _____/HOUR
6. _____ _____ _____	\$ _____/HOUR	\$ _____/HOUR
7. _____ _____ _____	\$ _____/HOUR	\$ _____/HOUR
8. _____ _____ _____	\$ _____/HOUR	\$ _____/HOUR

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
SPECIFICATIONS
CONTRACTOR OPERATED BACKHOE, EXCAVATOR WORK AND PUMP RENTAL
FOR FLOOD CONTROL SERVICE**

The intent of this bid specification is to request pricing for contractor operated backhoe and excavator work as well as pump rental. Primarily tractor backhoes and track excavators for opening blocked pipes and ditches due to ice jams and flooding. There are many variables that come into play when identifying how much work may be needed, the biggest one being future weather patterns.

The NDDOT is requesting pricing per running tractor backhoe and track excavator hour with an operator. The NDDOT is also requesting pricing for the cost of the truck and trailer/lowboy per hour used to transport the unit. The NDDOT is also requesting pricing for the cost of the truck and trailer/lowboy per hour used to transport the unit. Hourly rates shall include all operating expenses such as fuel and oil.

The NDDOT will only pay the hourly rate on the transport unit during actual use not while on standby. The NDDOT will pay the transport unit rate from the units original location to our job site, from job site to job site if loading is necessary, and to and from the closest NDDOT site with electricity if the machine needs to be plugged in at the end of each day or over the weekend and back to the units original location at the end of the project. The NDDOT will not pay for any transportation costs beyond the closest DOT yard with electricity. The NDDOT will be responsible for the electricity used at our sites. The NDDOT will not be responsible for any other daily costs associated with the tractor backhoe and or excavator work.

If a FLOOD CONTROL event requires contract activation

- The selected contractor will produce a certificate of insurance within 24 hours that meets the requirements of the attached risk management appendix.
- The Invitation to Bid document will be signed by the NDDOT and will become the contract document.
- An appendix, similar to Attachment 1, will be created to document the particular circumstances and conditions of the event. Attachment 1 is a sample document. Equipment types and rates, as submitted by successfully awarded contractors, will be entered into Attachment 1 along with other information pertinent to the service as contracted.

In the event that the NDDOT encounters flooding issues time is very critical. The NDDOT may request that the contractor be in place within 12 hours of being contacted. Having the proper paper work in place to facilitate a contract is critical. Vendor Registration must be completed prior to bid submittal and insurance certificates meeting the attached Risk Management Appendix must be submitted as quickly as possible within the 24 hour window.

The NDDOT is also requesting rental pricing for various size pumps to move water due to flooding. The pricing shall be per running hour if the pump has an engine and hour meter or a weekly rate if the pump does not have an hour meter. Contractors must carry insurance sufficient to cover replacement cost in the event that the pump equipment is damaged during the rental term.

The NDDOT will provide traffic control if necessary.

The Equipment Operator will not be an employee of the NDDOT.

The NDDOT will not have permission to operate the contractor's backhoe or excavator equipment.

The contractor will be asked if they are interested in traveling anywhere within North Dakota. Preference will be given to willingness to travel.

Payment shall be paid as follows: 100% of the total cost of hours used based on the bid price upon

satisfactory completion of the tractor backhoe and or excavator work and pump rental. Invoices shall be addressed to the Districts in which the work being performed. The NDDOT may at its discretion terminate the rental period at any point during the contract period with no further financial obligation to the successful bidder.

The NDDOT may at its discretion terminate the service or rental period at any point during the contract period with no further financial obligation to the successful bidder.

CONTRACTOR OPERATED TRACTOR BACKHOE WORK

As a minimum, each TRACTOR BACKHOE unit shall be equipped with:

	COMPLY		COMMENTS
	YES	NO	
75 hp	X		
Backhoe with bucket	X		
Digging depth of 15'	X		
Swing arc of 180 degrees	X		
Hour meter, must not mark time without engine running on tractor backhoe and transport unit	X		
Transporting truck with the ability to transport the unit	X		
Willing to travel throughout the state	X		

ITEM NO. 5 - CONTRACTOR OPERATED TRACTOR BACKHOE WORK

MACHINE MAKE, MODEL, YEAR, DESCRIPTION (REACH OF BOOM), CURRENT LOCATION	COST PER RUNNING UNIT HOUR	COST PER TRANSPORTING HOUR
1. Cat, 416C, 1997 75hp, 15' digging depth Dickinson Yard	\$125.00/HOUR	\$163.00/HOUR
2. Cat, 420F IT, 2015 93hp, 15' digging depth Dickinson Yard	\$135.00/HOUR	\$163.00/HOUR
3. _____ _____ _____	\$_____/HOUR	\$_____/HOUR
4. _____ _____ _____	\$_____/HOUR	\$_____/HOUR
5. _____ _____ _____	\$_____/HOUR	\$_____/HOUR
6. _____ _____ _____	\$_____/HOUR	\$_____/HOUR
7. _____ _____ _____	\$_____/HOUR	\$_____/HOUR

CONTRACTOR OPERATED EXCAVATOR WORK

As a minimum, each EXCAVATOR unit shall be equipped with:

	COMPLY		COMMENTS
	YES	NO	
120 Net hp minimum	X		
Low ground pressure tracks	X		
Designed to reach at ground level 25' minimum	X		
Hour meter, must not mark time without engine running on unit and transport unit	X		
Transporting truck with the ability to transport the unit	X		
Willing to travel throughout the state	X		

ITEM NO. 6 - CONTRACTOR OPERATED EXCAVATOR WORK

MACHINE MAKE, MODEL, YEAR, DESCRIPTION CURRENT LOCATION	COST PER RUNNING UNIT HOUR	COST PER TRANSPORTING HOUR
1. Cat, 330BL, 1998 210hp, 38ft reach Dickinson Yard	\$165.00/HOUR	\$163.00/HOUR
2. Komatsu, PC220LC, 2004 168hp, 29ft reach Dickinson Yard	\$145.00/HOUR	\$163.00/HOUR
3. Komatsu, PC360LC, 2012 257hp, 36ft reach Dickinson Yard	\$200.00/HOUR	\$163.00/HOUR
4. _____ _____ _____	\$_____/HOUR	\$_____/HOUR
5. _____ _____ _____	\$_____/HOUR	\$_____/HOUR
6. _____ _____ _____	\$_____/HOUR	\$_____/HOUR
7. _____ _____ _____	\$_____/HOUR	\$_____/HOUR

WATER PUMP RENTAL

As a minimum, each WATER PUMP unit shall be equipped with:

	COMPLY		COMMENTS
	YES	NO	
Ability to pump water from a ditch or reservoir of some type	_____	_____	_____
Minimum of 6" pump but no maximum size limit	_____	_____	_____
Proper suction and discharge hose	_____	_____	_____
Engine driven or PTO driven	_____	_____	_____
If equipped with an hour meter, must not mark time without engine running	_____	_____	_____

ITEM NO. 7 - WATER PUMP RENTAL

Indicate the rate per hour if metered
or per week if not metered.

PUMP MAKE, MODEL, YEAR DESCRIPTION
AND CURRENT LOCATION

RATE PER HOUR OR RATE PER WEEK

1. _____ _____ _____	\$_____/HOUR	\$_____/WEEK
2. _____ _____ _____	\$_____/HOUR	\$_____/WEEK
3. _____ _____ _____	\$_____/HOUR	\$_____/WEEK
4. _____ _____ _____	\$_____/HOUR	\$_____/WEEK
5. _____ _____ _____	\$_____/HOUR	\$_____/WEEK
6. _____ _____ _____	\$_____/HOUR	\$_____/WEEK
7. _____ _____ _____	\$_____/HOUR	\$_____/WEEK

SERVICE AREA PREFERENCE

Please indicate in which districts you will be able to provide a CONTRACTOR OPERATED EQUIPMENT service:

DISTRICT	Service Area Preference (Yes or No)
Bismarck	<u> X </u>
Valley City	<u> </u>
Devils Lake	<u> </u>
Minot	<u> </u>
Dickinson	<u> X </u>
Grand Forks	<u> </u>
Williston	<u> X </u>
Fargo	<u> </u>

SERVICE REPRESENTATIVE:

The contractor must provide a dedicated customer service representative to provide support for this contract. The contractor shall notify the Procurement Officer in the event the representative is changed.

NAME: Joe Kessel
(Name of person servicing this contract)

BUSINESS NAME: Baranko Bros., Inc.

MAILING ADDRESS: PO Box 820
(Address to which payments are to be sent)

CITY & STATE: Dickinson, ND ZIP CODE: 58602

PHONE NUMBER: 701-483-5868 TOLL FREE:

FAX NUMBER: 701-483-5960 E-MAIL joe@barankoinc.com

CONTRACT APPENDIX A**FOR CONTRACTOR OPERATED EQUIPMENT SERVICES**

Contractor will provide CONTRACTOR OPERATED EQUIPMENT as provided in the solicitation - Invitation to Bid 968-72/988-26-16-050 with the following additional conditions.

Equipment Bid Items 1 – 6, Contractor will provide this equipment at the indicated rate:

Bid Item No.	Equipment No.	Short Description	Running Rate per Hour	Transporting Rate per Hour
(Example) 5	1	Tractor Backhoe	\$\$\$	\$\$\$
(Example) 6	2	Excavator	\$\$\$	\$\$\$

Bid Item 7, Contractor will provide this pump equipment at the indicated rate:

Bid Item No.	Equipment No.	Short Description	Rental Rate per Hour	Rental Rate per Week
7	2	Pump	\$\$\$	\$\$\$

CONTRACTOR OPERATED EQUIPMENT services shall be conducted as directed by District Personnel, in the following areas:

(DESCRIPTION OF LOCATION)

Invoices will be sent to the following District:

NDDOT, (District Name). (Contact Name)
 (District Address)
 (District City, State, Zip)
 District contact phone number:
 District Fax number:

CONTRACT APPENDIX A**FOR CONTRACTOR OPERATED EQUIPMENT SERVICES**

Contractor will provide CONTRACTOR OPERATED EQUIPMENT as provided in the solicitation - Invitation to Bid 968-72/988-26-16-050 with the following additional conditions.

Equipment Bid Items 1 – 6, Contractor will provide this equipment at the indicated rate:

Bid Item No.	Equipment No.	Short Description	Running Rate per Hour	Transporting Rate per Hour
1	1	Cat D6M Dozer	\$157	\$163
1	5	Komatsu D61PX Dozer	\$162	\$163

Bid Item 7, Contractor will provide this pump equipment at the indicated rate:

Bid Item No.	Equipment No.	Short Description	Rental Rate per Hour	Rental Rate per Week

CONTRACTOR OPERATED EQUIPMENT services shall be conducted as directed by District Personnel, in the following areas:

Beulah section, ND 1806 and ND200 (Cat)

Killdeer section ND22 and ND8 (Komatsu)

Invoices will be sent to the following District:

NDDOT Dickinson District, Aaron Auer
1700 3rd Ave. W Suite 101
Dickinson, ND 58601-3009
District contact phone number: 701-701-227-6526
District Fax number: 701-227-6505

**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
APPENDIX A OF THE TITLE VI ASSURANCES**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees as follows:

1. Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, the Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. Non-discrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Recipient or the Federal Highway Administration as appropriate, and will set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.



**NORTH DAKOTA DEPARTMENT OF TRANSPORTATION
APPENDIX E OF THE TITLE VI ASSURANCES**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the Contractor) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).



Risk Management Appendix

Service Contracts with Private Individuals, Companies, Corporations, Etc.:

Contractor agrees to defend, indemnify, and hold harmless the state of North Dakota, its agencies, officers and employees (State), from and against claims based on the vicarious liability of the State or its agents, but not against claims based on the State's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by Contractor to the State under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary. Contractor also agrees to defend, indemnify, and hold the State harmless for all costs, expenses and attorneys' fees incurred if the State prevails in an action against Contractor in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this agreement.

Contractor shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota, the following insurance coverages:

- 1) **Commercial general liability and automobile liability** insurance – minimum limits of liability required are **\$250,000 per person and \$1,000,000 per occurrence.**
- 2) **Workers compensation** insurance meeting all statutory limits.
- 3) The State of North Dakota, its agencies, officers, and employees (State) shall be endorsed as an **additional insured** on the commercial general liability and automobile liability policies.
- 4) Said endorsements shall contain a **"Waiver of Subrogation"** in favor of the state of North Dakota.
- 5) The policies and endorsements may not be canceled or modified without **thirty (30) days prior written notice** to the undersigned State representative.

Contractor shall furnish a certificate of insurance evidencing the requirements in 1, 3, and 4, above to the undersigned State representative prior to commencement of this agreement.

The State reserves the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time. Any attorney who represents the State under this contract must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08.

When a portion of a Contract is sublet, the Contractor shall obtain insurance protection (as outlined above) to provide liability coverage to protect the Contractor and the State as a result of work undertaken by the Subcontractor. In addition, the Contractor shall ensure that any and all parties performing work under the Contract are covered by public liability insurance as outlined above. All Subcontractors performing work under the Contract are required to maintain the same scope of insurance required of the Contractor. The Contractor shall be held responsible for ensuring compliance with those requirements by all Subcontractors.

Contractor's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the State. Any insurance, self-insurance or self-retention maintained by the State shall be excess of the Contractor's insurance and shall not contribute with it. The insolvency or bankruptcy of the insured Contractor shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Contractor from meeting the retention limit under the policy. Any deductible amount or other obligations under the policy(ies) shall be the sole responsibility of the Contractor. This insurance may be in a policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The State will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above.

RM Consulted 2007
Revised 5-09





BARABRO-01

BGETZ

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/17/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER American Insurance, Inc. 401 North 4th Street, Ste 201 Bismarck, ND 58501	CONTACT NAME: Nikki Weidner		
	PHONE (A/C, No, Ext): (701) 222-3303 4833	FAX (A/C, No): (701) 483-3208	
	E-MAIL ADDRESS: nweidner@weareamerican.com		
INSURED Baranko Brothers, Inc. Contracting Unlimited, Inc. PO Box 820 Dickinson, ND 58602-0820	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: Travelers Indemnity Co America		25666
	INSURER B: Travelers Indemnity Company		25658
	INSURER C:		
	INSURER D:		
	INSURER E:		
		INSURER F:	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER: 1

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X	X	CO6945L736	11/21/2016	11/21/2017	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 OTHER: \$
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY <input checked="" type="checkbox"/> MCS90	X	X	8106945L736	11/21/2016	11/21/2017	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ OTHER: \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTIONS \$ 0			CUP0J44776A	11/21/2016	11/21/2017	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 OTHER: \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		CO6945L736	11/21/2016	11/21/2017	PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Equipment Floater			6608242L516	11/21/2016	11/21/2017	Cargo \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

CANCELLATION

North Dakota Department of Transportation
608 E Boulevard Ave
Bismarck, ND 58505-0780

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BUSINESS AUTO EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to the Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- | | |
|---|---|
| A. BROAD FORM NAMED INSURED | H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT |
| B. BLANKET ADDITIONAL INSURED | I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT |
| C. EMPLOYEE HIRED AUTO | J. PERSONAL PROPERTY |
| D. EMPLOYEES AS INSURED | K. AIRBAGS |
| E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS | L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS |
| F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS | M. BLANKET WAIVER OF SUBROGATION |
| G. WAIVER OF DEDUCTIBLE – GLASS | N. UNINTENTIONAL ERRORS OR OMISSIONS |

PROVISIONS

A. BROAD FORM NAMED INSURED

The following is added to Paragraph A.1., **Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any organization you newly acquire or form during the policy period over which you maintain 50% or more ownership interest and that is not separately insured for Business Auto Coverage. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier.

B. BLANKET ADDITIONAL INSURED

The following is added to Paragraph c. in A.1., **Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Covered Autos Liability Coverage, but only for damages to which

this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Section II.

C. EMPLOYEE HIRED AUTO

- The following is added to Paragraph A.1., **Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

- The following replaces Paragraph b. in B.5., **Other Insurance**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

b. For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1) Any covered "auto" you lease, hire, rent or borrow; and
- (2) Any covered "auto" hired or rented by your "employee" under a contract in an "employee's" name, with your

COMMERCIAL AUTO

permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

D. EMPLOYEES AS INSURED

The following is added to Paragraph A.1., **Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS

1. The following replaces Paragraph A.2.a.(2), of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

(2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

2. The following replaces Paragraph A.2.a.(4), of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS

The following replaces Subparagraph (5) in Paragraph B.7., **Policy Period, Coverage Territory**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

(5) Anywhere in the world, except any country or jurisdiction while any trade sanction, embargo, or similar regulation imposed by the United States of America applies to and prohibits the transaction of business with or within such country or jurisdiction, for Covered Autos Liability Coverage for any covered "auto" that you lease, hire, rent or borrow without a driver for a period of 30 days or less and that is not an "auto" you lease, hire, rent or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.

(a) With respect to any claim made or "suit" brought outside the United States of America, the territories and possessions of the United States of America, Puerto Rico and Canada:

(i) You must arrange to defend the "insured" against, and investigate or settle any such claim or "suit" and keep us advised of all proceedings and actions.

(ii) Neither you nor any other involved "insured" will make any settlement without our consent.

(iii) We may, at our discretion, participate in defending the "insured" against, or in the settlement of, any claim or "suit".

(iv) We will reimburse the "insured" for sums that the "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, that the "insured" pays with our consent, but only up to the limit described in Paragraph C., **Limits Of Insurance**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**.

(v) We will reimburse the "insured" for the reasonable expenses incurred with our consent for your investigation of such claims and your defense of the "insured" against any such "suit", but only up to and included within the limit described in Paragraph C., **Limits Of Insurance**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**, and not in addition to such limit. Our duty to make such payments ends when we have used up the applicable limit of insurance in payments for damages, settlements or defense expenses.

(b) This insurance is excess over any valid and collectible other insurance available to the "insured" whether primary, excess, contingent or on any other basis.

(c) This insurance is not a substitute for required or compulsory insurance in any country outside the United States, its territories and possessions, Puerto Rico and Canada.

You agree to maintain all required or compulsory insurance in any such country up to the minimum limits required by local law. Your failure to comply with compulsory insurance requirements will not invalidate the coverage afforded by this policy, but we will only be liable to the same extent we would have been liable had you complied with the compulsory insurance requirements.

- (d) It is understood that we are not an admitted or authorized insurer outside the United States of America, its territories and possessions, Puerto Rico and Canada. We assume no responsibility for the furnishing of certificates of insurance, or for compliance in any way with the laws of other countries relating to insurance.

G. WAIVER OF DEDUCTIBLE – GLASS

The following is added to Paragraph D., Deductible, of SECTION III – PHYSICAL DAMAGE COVERAGE:

No deductible for a covered "auto" will apply to glass damage if the glass is repaired rather than replaced.

H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT

The following replaces the last sentence of Paragraph A.4.b., Loss Of Use Expenses, of SECTION III – PHYSICAL DAMAGE COVERAGE:

However, the most we will pay for any expenses for loss of use is \$65 per day, to a maximum of \$750 for any one "accident".

I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT

The following replaces the first sentence in Paragraph A.4.a., Transportation Expenses, of SECTION III – PHYSICAL DAMAGE COVERAGE:

We will pay up to \$50 per day to a maximum of \$1,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type.

J. PERSONAL PROPERTY

The following is added to Paragraph A.4., Coverage Extensions, of SECTION III – PHYSICAL DAMAGE COVERAGE:

Personal Property

We will pay up to \$400 for "loss" to wearing apparel and other personal property which is:

- (1) Owned by an "insured"; and

- (2) In or on your covered "auto".

This coverage applies only in the event of a total theft of your covered "auto".

No deductibles apply to this Personal Property coverage.

K. AIRBAGS

The following is added to Paragraph B.3., Exclusions, of SECTION III – PHYSICAL DAMAGE COVERAGE:

Exclusion 3.a. does not apply to "loss" to one or more airbags in a covered "auto" you own that inflate due to a cause other than a cause of "loss" set forth in Paragraphs A.1.b. and A.1.c., but only:

- a. If that "auto" is a covered "auto" for Comprehensive Coverage under this policy;
- b. The airbags are not covered under any warranty; and
- c. The airbags were not intentionally inflated.

We will pay up to a maximum of \$1,000 for any one "loss".

L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS

The following is added to Paragraph A.2.a., of SECTION IV – BUSINESS AUTO CONDITIONS:

Your duty to give us or our authorized representative prompt notice of the "accident" or "loss" applies only when the "accident" or "loss" is known to:

- (a) You (if you are an individual);
- (b) A partner (if you are a partnership);
- (c) A member (if you are a limited liability company);
- (d) An executive officer, director or insurance manager (if you are a corporation or other organization); or
- (e) Any "employee" authorized by you to give notice of the "accident" or "loss".

M. BLANKET WAIVER OF SUBROGATION

The following replaces Paragraph A.5., Transfer Of Rights Of Recovery Against Others To Us, of SECTION IV – BUSINESS AUTO CONDITIONS:

5. Transfer Of Rights Of Recovery Against Others To Us

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract signed and executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of operations contemplated by

COMMERCIAL AUTO

such contract. The waiver applies only to the person or organization designated in such contract.

N. UNINTENTIONAL ERRORS OR OMISSIONS

The following is added to Paragraph B.2., Concealment, Misrepresentation, Or Fraud, of SECTION IV – BUSINESS AUTO CONDITIONS:

The unintentional omission of, or unintentional error in, any information given by you shall not prejudice your rights under this insurance. However this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

Do not add this form to a policy. It is for informational purposes only.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

BLANKET ADDITIONAL INSURED (CONTRACTORS)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

1. WHO IS AN INSURED – (Section II) is amended to include any person or organization that you agree in a "written contract requiring insurance" to include as an additional insured on this Coverage Part, but:
 - a) Only with respect to liability for "bodily injury", "property damage" or "personal injury"; and
 - b) If, and only to the extent that, the injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the "written contract requiring insurance" applies. The person or organization does not qualify as an additional insured with respect to the independent acts or omissions of such person or organization.
2. The insurance provided to the additional insured by this endorsement is limited as follows:
 - a) In the event that the Limits of Insurance of this Coverage Part shown in the Declarations exceed the limits of liability required by the "written contract requiring insurance", the insurance provided to the additional insured shall be limited to the limits of liability required by that "written contract requiring insurance". This endorsement shall not increase the limits of insurance described in Section III – Limits Of Insurance.
 - b) The insurance provided to the additional insured does not apply to "bodily injury", "property damage" or "personal injury" arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services, including:
 - i. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders or change orders, or the preparing, approving, or failing to prepare or approve, drawings and specifications; and
 - ii. Supervisory, inspection, architectural or engineering activities.
- c) The insurance provided to the additional insured does not apply to "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the "written contract requiring insurance" specifically requires you to provide such coverage for that additional insured, and then the insurance provided to the additional insured applies only to such "bodily injury" or "property damage" that occurs before the end of the period of time for which the "written contract requiring insurance" requires you to provide such coverage or the end of the policy period, whichever is earlier.
3. The insurance provided to the additional insured by this endorsement is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to the additional insured for a loss we cover under this endorsement. However, if the "written contract requiring insurance" specifically requires that this insurance apply on a primary basis or a primary and non-contributory basis, this insurance is primary to "other insurance" available to the additional insured which covers that person or organization as a named insured for such loss, and we will not share with that "other insurance". But the insurance provided to the additional insured by this endorsement still is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to the additional insured when that person or organization is an additional insured under such "other insurance".
4. As a condition of coverage provided to the additional insured by this endorsement:
 - a) The additional insured must give us written notice as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, such notice should include:

COMMERCIAL GENERAL LIABILITY

- i. How, when and where the "occurrence" or offense took place;
 - ii. The names and addresses of any injured persons and witnesses; and
 - iii. The nature and location of any injury or damage arising out of the "occurrence" or offense.
- b) If a claim is made or "suit" is brought against the additional insured, the additional insured must:
- i. Immediately record the specifics of the claim or "suit" and the date received; and
 - ii. Notify us as soon as practicable.
- The additional insured must see to it that we receive written notice of the claim or "suit" as soon as practicable.
- c) The additional insured must immediately 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.
- d) The additional insured must 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. However, this condition does not affect whether the insurance provided to the additional insured by this endorsement is primary to "other insurance" available to the additional insured which covers that person or organization as a named insured as described in paragraph 3. above.

5. The following definition is added to SECTION V. – DEFINITIONS:

"Written contract requiring insurance" means that part of any written contract or agreement under which you are required to include a person or organization as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs and the "personal injury" is caused by an offense committed:

- a. After the signing and execution of the contract or agreement by you;
- b. While that part of the contract or agreement is in effect; and
- c. Before the end of the policy period.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CONTRACTORS XTEND ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to this Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- | | |
|---|--|
| <p>A. Aircraft Chartered With Pilot</p> <p>B. Damage To Premises Rented To You</p> <p>C. Increased Supplementary Payments</p> <p>D. Incidental Medical Malpractice</p> <p>E. Who Is An Insured – Newly Acquired Or Formed Organizations</p> <p>F. Who Is An Insured – Broadened Named Insured – Unnamed Subsidiaries</p> <p>G. Blanket Additional Insured – Owners, Managers Or Lessors Of Premises</p> | <p>H. Blanket Additional Insured – Lessors Of Leased Equipment</p> <p>I. Blanket Additional Insured – States Or Political Subdivisions – Permits</p> <p>J. Knowledge And Notice Of Occurrence Or Offense</p> <p>K. Unintentional Omission</p> <p>L. Blanket Waiver Of Subrogation</p> <p>M. Amended Bodily Injury Definition</p> <p>N. Contractual Liability – Railroads</p> |
|---|--|

PROVISIONS

A. AIRCRAFT CHARTERED WITH PILOT

The following is added to Exclusion g., **Aircraft, Auto Or Watercraft**, in Paragraph 2. of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

This exclusion does not apply to an aircraft that is:

- (a) Chartered with a pilot to any insured;
- (b) Not owned by any insured; and
- (c) Not being used to carry any person or property for a charge.

B. DAMAGE TO PREMISES RENTED TO YOU

1. The first paragraph of the exceptions in Exclusion j., **Damage To Property**, in Paragraph 2. of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY** is deleted.
2. The following replaces the last paragraph of Paragraph 2., **Exclusions**, of **SECTION I – COVERAGES – COVERAGE A. BODILY**

INJURY AND PROPERTY DAMAGE LIABILITY:

Exclusions c. and g. through n. do not apply to "premises damage". Exclusion f.(1)(a) does not apply to "premises damage" caused by:

- a. Fire;
- b. Explosion;
- c. Lightning;
- d. Smoke resulting from such fire, explosion, or lightning; or
- e. Water;

unless Exclusion f. of Section I – Coverage A – Bodily Injury And Property Damage Liability is replaced by another endorsement to this Coverage Part that has Exclusion – All Pollution Injury Or Damage or Total Pollution Exclusion in its title.

A separate limit of insurance applies to "premises damage" as described in Paragraph 6. of **SECTION III – LIMITS OF INSURANCE**.

Do not add this form to a policy. It is for informational use only.

COMMERCIAL GENERAL LIABILITY

3. The following replaces Paragraph 6. of **SECTION III – LIMITS OF INSURANCE:**

Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "premises damage" to any one premises. The Damage To Premises Rented To You Limit will apply to all "property damage" proximately caused by the same "occurrence", whether such damage results from: fire; explosion; lightning; smoke resulting from such fire, explosion, or lightning; or water; or any combination of any of these causes.

The Damage To Premises Rented To You Limit will be:

- a. The amount shown for the Damage To Premises Rented To You Limit on the Declarations of this Coverage Part; or
 - b. \$300,000 if no amount is shown for the Damage To Premises Rented To You Limit on the Declarations of this Coverage Part.
4. The following replaces Paragraph a. of the definition of "insured contract" in the **DEFINITIONS** Section:
- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for "premises damage" is not an "insured contract";
5. The following is added to the **DEFINITIONS** Section:
- "Premises damage" means "property damage" to:
- a. Any premises while rented to you or temporarily occupied by you with permission of the owner; or
 - b. The contents of any premises while such premises is rented to you, if you rent such premises for a period of seven or fewer consecutive days.
6. The following replaces Paragraph 4.b.(1)(b) of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**
- (b) That is insurance for "premises damage"; or
7. Paragraph 4.b.(1)(c) of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS** is deleted.

C. INCREASED SUPPLEMENTARY PAYMENTS

1. The following replaces Paragraph 1.b. of **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** of **SECTION I – COVERAGE:**
 - b. Up to \$2,500 for the 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. The following replaces Paragraph 1.d. of **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** of **SECTION I – COVERAGES:**
 - 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.

D. INCIDENTAL MEDICAL MALPRACTICE

1. The following is added to the definition of "occurrence" in the **DEFINITIONS** Section:

"Occurrence" also means an act or omission committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to a person.
2. The following is added to Paragraph 2.a.(1) of **SECTION II – WHO IS AN INSURED:**

Paragraph (1)(d) above does not apply to "bodily injury" arising out of providing or failing to provide:

 - (i) "Incidental medical services" by any of your "employees" who is a nurse practitioner, registered nurse, licensed practical nurse, nurse assistant, emergency medical technician or paramedic; or
 - (ii) First aid or "Good Samaritan services" by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor. Any such "employees" or "volunteer workers" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

Do not add this form to a policy. It is for informational use only.

3. The following is added to Paragraph 5. of **SECTION III – LIMITS OF INSURANCE:**

For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to any one person will be deemed to be one "occurrence".

4. The following exclusion is added to Paragraph 2., **Exclusions**, of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY:**

Sale Of Pharmaceuticals

"Bodily injury" or "property damage" arising out of the willful violation of a penal statute or ordinance relating to the sale of pharmaceuticals committed by, or with the knowledge or consent of, the insured.

5. The following is added to the **DEFINITIONS** Section:

"Incidental medical services" means:

- a. Medical, surgical, dental, laboratory, x-ray or nursing service or treatment, advice or instruction, or the related furnishing of food or beverages; or
- b. The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances.

"Good Samaritan services" means any emergency medical services for which no compensation is demanded or received.

6. The following is added to Paragraph 4.b., **Excess Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

The insurance is excess over any valid and collectible other insurance available to the insured, whether primary, excess, contingent or on any other basis, that is available to any of your "employees" or "volunteer workers" for "bodily injury" that arises out of providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to any person to the extent not subject to Paragraph 2.a.(1) of Section II – Who Is An Insured.

E. WHO IS AN INSURED – NEWLY ACQUIRED OR FORMED ORGANIZATIONS

The following replaces Paragraph 4. of **SECTION II – WHO IS AN INSURED:**

4. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, of which you are the sole owner or in which you maintain the majority ownership interest, will qualify as a Named Insured if there is no other insurance which provides similar coverage to that organization. However:

- a. Coverage under this provision is afforded only:

(1) Until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier, if you do not report such organization in writing to us within 180 days after you acquire or form it; or

(2) Until the end of the policy period, when that date is later than 180 days after you acquire or form such organization, if you report such organization in writing to us within 180 days after you acquire or form it, and we agree in writing that it will continue to be a Named Insured until the end of the policy period;

- b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

- c. Coverage B does not apply to "personal injury" or "advertising injury" arising out of an offense committed before you acquired or formed the organization.

F. WHO IS AN INSURED – BROADENED NAMED INSURED – UNNAMED SUBSIDIARIES

The following is added to **SECTION II – WHO IS AN INSURED:**

Any of your subsidiaries, other than a partnership, joint venture or limited liability company, that is not shown as a Named Insured in the Declarations is a Named Insured if you maintain an ownership interest of more than 50% in such subsidiary on the first day of the policy period.

No such subsidiary is an insured for "bodily injury" or "property damage" that occurred, or "personal injury" or "advertising injury" caused by an offense committed after the date, if any, during the policy period, that you no longer maintain an ownership interest of more than 50% in such subsidiary.

Do not add this form to a policy. It is for informational use only.

G. BLANKET ADDITIONAL INSURED – OWNERS, MANAGERS OR LESSORS OF PREMISES

The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that is a premises owner, manager or lessor and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage", "personal injury" or "advertising injury" that:

- a. Is "bodily injury" or "property damage" that occurs, or is "personal injury" or "advertising injury" caused by an offense that is committed, subsequent to the execution of that contract or agreement; and
- b. Arises out of the ownership, maintenance or use of that part of any premises leased to you.

The insurance provided to such premises owner, manager or lessor is subject to the following provisions:

- a. The limits of insurance provided to such premises owner, manager or lessor will be the minimum limits which you agreed to provide in the written contract or agreement, or the limits shown on the Declarations, whichever are less.
- b. The insurance provided to such premises owner, manager or lessor does not apply to:
 - (1) Any "bodily injury" or "property damage" that occurs, or "personal injury" or "advertising injury" caused by an offense that is committed, after you cease to be a tenant in that premises; or
 - (2) Structural alterations, new construction or demolition operations performed by or on behalf of such premises owner, lessor or manager.
- c. The insurance provided to such premises owner, manager or lessor is excess over any valid and collectible other insurance available to such premises owner, manager or lessor, whether primary, excess, contingent or on any other basis, unless you have agreed in the written contract or agreement that this insurance must be primary to, or non-contributory with, such other insurance, in which case this insurance will be primary to, and non-contributory with, such other insurance.

H. BLANKET ADDITIONAL INSURED – LESSORS OF LEASED EQUIPMENT

The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that is an equipment lessor and that you have agreed in a written contract or agreement to include as an insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage", "personal injury" or "advertising injury" that:

- a. Is "bodily injury" or "property damage" that occurs, or is "personal injury" or "advertising injury" caused by an offense that is committed, subsequent to the execution of that contract or agreement; and
- b. Is caused, in whole or in part, by your acts or omissions in the maintenance, operation or use of equipment leased to you by such equipment lessor.

The insurance provided to such equipment lessor is subject to the following provisions:

- a. The limits of insurance provided to such equipment lessor will be the minimum limits which you agreed to provide in the written contract or agreement, or the limits shown on the Declarations, whichever are less.
- b. The insurance provided to such equipment lessor does not apply to any "bodily injury" or "property damage" that occurs, or "personal injury" or "advertising injury" caused by an offense that is committed, after the equipment lease expires.
- c. The insurance provided to such equipment lessor is excess over any valid and collectible other insurance available to such equipment lessor, whether primary, excess, contingent or on any other basis, unless you have agreed in the written contract or agreement that this insurance must be primary to, or non-contributory with, such other insurance, in which case this insurance will be primary to, and non-contributory with, such other insurance.

I. BLANKET ADDITIONAL INSURED – STATES OR POLITICAL SUBDIVISIONS – PERMITS

The following is added to **SECTION II – WHO IS AN INSURED**:

Any state or political subdivision that has issued a permit in connection with operations performed by you or on your behalf and that you are required

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by any ordinance, law or building code to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage", "personal injury" or "advertising injury" arising out of such operations.

The insurance provided to such state or political subdivision does not apply to:

- a. Any "bodily injury," "property damage," "personal injury" or "advertising injury" arising out of operations performed for that state or political subdivision; or
- b. Any "bodily injury" or "property damage" included in the "products-completed operations hazard".

J. KNOWLEDGE AND NOTICE OF OCCURRENCE OR OFFENSE

The following is added to Paragraph 2., **Duties In The Event of Occurrence, Offense, Claim or Suit**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

- e. The following provisions apply to Paragraph a. above, but only for the purposes of the insurance provided under this Coverage Part to you or any insured listed in Paragraph 1. or 2. of Section II – Who Is An Insured:

- (1) Notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known by you (if you are an individual), any of your partners or members who is an individual (if you are a partnership or joint venture), any of your managers who is an individual (if you are a limited liability company), any of your "executive officers" or directors (if you are an organization other than a partnership, joint venture or limited liability company) or any "employee" authorized by you to give notice of an "occurrence" or offense.

- (2) If you are a partnership, joint venture or limited liability company, and none of your partners, joint venture members or managers are individuals, notice to us of such "occurrence" or offense must be given as soon as practicable only after the "occurrence" or offense is known by:

- (a) Any individual who is:
 - (i) A partner or member of any partnership or joint venture;

- (ii) A manager of any limited liability company; or

- (iii) An executive officer or director of any other organization;

that is your partner, joint venture member or manager; or

- (b) Any "employee" authorized by such partnership, joint venture, limited liability company or other organization to give notice of an "occurrence" or offense.

- (3) Notice to us of such "occurrence" or of an offense will be deemed to be given as soon as practicable if it is given in good faith as soon as practicable to your workers' compensation insurer. This applies only if you subsequently give notice to us of the "occurrence" or offense as soon as practicable after any of the persons described in Paragraphs e. (1) or (2) above discovers that the "occurrence" or offense may result in sums to which the insurance provided under this Coverage Part may apply.

However, if this Coverage Part includes an endorsement that provides limited coverage for "bodily injury" or "property damage" or pollution costs arising out of a discharge, release or escape of "pollutants" which contains a requirement that the discharge, release or escape of "pollutants" must be reported to us within a specific number of days after its abrupt commencement, this Paragraph e. does not affect that requirement.

K. UNINTENTIONAL OMISSION

The following is added to Paragraph 6., **Representations**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

The unintentional omission of, or unintentional error in, any information provided by you which we relied upon in issuing this policy will not prejudice your rights under this insurance. However, this provision does not affect our right to collect additional premium or to exercise our rights of cancellation or nonrenewal in accordance with applicable insurance laws or regulations.

L. BLANKET WAIVER OF SUBROGATION

The following is added to Paragraph 8., **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

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COMMERCIAL GENERAL LIABILITY

If the insured has agreed in a contract or agreement to waive that insured's right of recovery against any person or organization, we waive our right of recovery against such person or organization, but only for payments we make because of:

- a. "Bodily injury" or "property damage" that occurs; or
- b. "Personal injury" or "advertising injury" caused by an offense that is committed;

subsequent to the execution of that contract or agreement.

M. AMENDED BODILY INJURY DEFINITION

The following replaces the definition of "bodily injury" in the **DEFINITIONS** Section:

3. "Bodily injury" means bodily injury, mental anguish, mental injury, shock, fright, disability, humiliation, sickness or disease sustained by a person, including death resulting from any of these at any time.

N. CONTRACTUAL LIABILITY – RAILROADS

1. The following replaces Paragraph c. of the definition of "insured contract" in the **DEFINITIONS** Section:
 - c. Any easement or license agreement;
2. Paragraph f.(1) of the definition of "insured contract" in the **DEFINITIONS** Section is deleted.

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