LAGUNA MADRE WATER DISTRICT

RFP # SMS-21-12-01

CONTRACT SPECIFICATIONS FOR

SLUDGE MANAGEMENT SERVICES

Bid Opening Date: January 7th, 2022
Time: 2:05 P.M.

LEGAL NOTICE
AND
INVITATION TO BID
SLUDGE MANAGEMENT SERVICES
RFP # SMS-21-12-01

Sealed bids will be received by The LAGUNA MADRE WATER DISTRICT ("LMWD"), for sludge management services, until **2:00 PM, January 7, 2022** at the LMWD, Main Office; 105 Port Rd. Port Isabel TX 78578

RFP received after this time will not be considered.

RFP will be publicly opened and read aloud on **January 7, 2022 at 2:05 PM**. Bidders are invited to attend the bid opening at the LMWD Board Meeting Room.

Bid packages with the Specifications may be obtained contacting the Purchasing Agent or at the following website http://lmwd.org/bids-rfps-rfqs-rfi

Two (2) sets of the bid documents shall be enclosed in a sealed envelope and shall be plainly marked on the outside of the envelope and on any carrier's envelope: **"SLUDGE MANAGEMENT SERVICES, RFP # SMS-21-12-01, JANUARY 7, 2022, 2:00 PM".** This envelope shall be addressed to Purchasing Agent; Laguna Madre Water District; 105 Port Rd, Port Isabel TX 78578.

The LMWD will not be responsible in the event that the U.S. Postal Service or any other courier system fails to deliver the sealed bids to the Laguna Madre Water District, General Manager Office by the given deadline above. **No bids will be accepted via facsimile or electronic submission.**

The LMWD specifically reserves the right to reject any or all bids, to waive irregularities or informalities in any or all bids and to accept any bid which is deemed to be in the best interest of the LMWD.

Enrique Samaniego
Purchasing Agent
(956) 943-2626 Ext 312
Email: esamaniego@lmwd.org

INSTRUCTIONS TO BIDDERS

Please submit this page upon receipt.

Acknowledgment Form

RFP # SMS-21-12-01

For any clarifications, please contact Enrique Samaniego at Laguna Madre Water District, Purchasing Agent at (956) 943-2626 Ext.312 or e-mail: esamaniego@lmwd.org

Please e-mail this page upon receipt of the bid package or legal notice. If you only received the legal notice and you want the bid package mailed, please provide a method of shipment with account number in the space designated below.

Check one:

( ) Yes, I will be able to send a bid.

( ) No, I will not be able to send a bid for the following reason:

_____

If you are unable to send your bid, kindly indicate your reason for "No bid" above and return this form **via email to esamaniego@lmwd.org**. This will ensure you remain active on our vendor list.

Date _____

Company Name: _____

Authorized Representative_____

CERTIFICATION REGARDING
DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY
MATTERS **(Complete and return with bid)**

Name of Entity:_____

The prospective participant certifies to the best of their knowledge and belief that they and their principals:

a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency:
b) Have not within a three year period preceding this bid been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, Local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and
d) Have not within a three-year period preceding this application/bid had one or more public transactions (Federal, State, and Local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this bid or termination of the award. In addition, under 18 USC Section 1001, a false statement may result in a fine up to a $10,000.00 or imprisonment for up to five (5) years, or both.

_____
Name and Title of Authorized Representative (Typed)

_____ _____

Signature of Authorized Representative Date

☐ I am unable to certify to the above statements. My explanation is attached.

ETHICS STATEMENT **(Complete and return with bid)**

The undersigned bidder, by signing and executing this bid, certifies and represents to the Laguna Madre Water District that bidder has not offered, conferred or agreed to confer any pecuniary benefit, as defined by (1.07 (a) (6) of the Texas Penal Code, or any other thing of value as consideration for the receipt of information or any special treatment of advantage relating to this bid; the bidder also certifies and represents that the bidder has not offered, conferred or agreed to confer any pecuniary benefit or other thing of value as consideration for the recipient's decision, opinion, recommendation, vote or other exercise of discretion concerning this bid, the bidder certifies and represents that bidder has neither coerced nor attempted to influence the exercise of discretion by any officer, trustee, agent or employee of the Laguna Madre Water District concerning this bid on the basis of any consideration not authorized by law; the bidder also certifies and represents that bidder has not received any information not available to other bidders so as to give the undersigned a preferential advantage with respect to this bid; the bidder further certifies and represents that bidder has not violated any state, federal, or local law, regulation or ordinance relating to bribery, improper influence, collusion or the like and that bidder will not in the future offer, confer, or agree to confer any pecuniary benefit or other thing of value of any officer, trustee, agent or employee of the Laguna Madre Water District in return for the person having exercised their person's official discretion, power or duty with respect to this bid; the bidder certifies and represents that it has not now and will not in the future offer, confer, or agree to confer a pecuniary benefit or other thing of value to any officer, trustee, agent, or employee of the Laguna Madre Water District in connection with information regarding this bid, the submission of this bid, the award of this bid or the performance, delivery or sale pursuant to this bid.

THE VENDOR SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE LAGUNA MADRE WATER DISTRICT, ALL OF THEIR OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, ACTIONS, SUITS, DEMANDS, PROCEEDING, COSTS, DAMAGES, AND LIABILITIES, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM ANY ACTS OR OMISSIONS OF CONTRACTOR OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF CONTRACTOR IN THE EXECUTION OR PERFORMANCE OF THIS BID.

I have read all of the specifications and general bid requirements and do hereby certify that all items submitted meet specifications.

COMPANY: _____

AGENT NAME: _____

AGENT SIGNATURE:_____

ADDRESS:_____

ETHICS STATEMENT **(Complete and return with bid)**

CITY: _____

STATE:_____ ZIP CODE: _____

TELEPHONE:_____ FAX: _____

FEDERAL ID#:_____AND/OR SOCIAL SECURITY #: _____

DEVIATIONS FROM SPECIFICATIONS IF ANY:

_____

_____

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. *See* Section 176.006, Local Government Code.

A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.

OFFICE USE ONLY

Date Received

1. Name of person who has a business relationship with local governmental entity.

2. ( ) Check this if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7the business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

3. Name of local government officer with whom filer has employment or business relationship.

_____
Name of Officer

This section (item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?
   Yes No
B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?
   Yes No
C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?
   Yes No
D. Describe each employment or business relationship with the local government officer named in this section.

4.

_____ _____
Signature of person doing business with the governmental entity Date

Contract Information

- **Interpretation**

Questions concerning terms, conditions, and technical specifications should be directed to:

Enrique Samaniego
Purchasing Agent
esamaniego@lmwd.org
Fax (956) 943-6228

- **Tentative Time Line**

1. **January 7, 2022 at 2:00 PM - Vendor must submit two (2) sets of bid documents sealed in an envelope to:**

Enrique Samaniego; Purchasing Agent
105 Port Rd
Port Isabel TX 78578
RFP # SMS-21-12-01
January 7, 2022 - 2:00 PM

The above noted information must be included on bid envelope and on any carrier's envelope/package. Laguna Madre Water District will not be held responsible for missing, lost or late mail. Laguna Madre Water District, will not accept facsimile or electronic transmission of sealed bids.

2 January 7, 2022 - Open bids at 2:05 PM
3. January 26, 2022 at 3:00 PM Provide Final Recommendations
4. January 26, 2022 - Send to Board of Directors for approval

- **Or Equal**

Brand name or manufacturer's reference used in this request is descriptive – not restrictive – it is intended to indicate type and quality desired. Brands of like nature and quality will be considered. If bidding on other than referenced specifications please provide complete descriptive information of said article.

- **Pricing**

Bid unit price on quantity specified, extend and show total. In case of errors in extension, unit prices indicated shall govern. **Price shall remain in effect until sludge management services contract has expired.**

All fields (UNIT PRICE, TOTAL PRICE, ETC) in the Bid Schedule must be filled.

Failure to submit any of the above information with the sealed bid will disqualify bid.

- **Quality of Products**

All items must be new, in first class condition, including containers suitable for shipment and storage. No substitutions in standard grades or lesser quality will be accepted.

- **Determining Factors for Award**

    1. Bidders net price on bid service
    2. Reputation of the bidder
    3. Capacity to perform job
    4. Safety record will be considered when determining the responsibility of the bidder

- **Tax Identification Number (TIN)**

In accordance with IRS Publication 1220, a W9 form, will be required of all vendors doing business with the Laguna Madre Water District. If a W9 not made available to Laguna Madre Water District, the first payment will be subject to income tax withholding at a rate of 28% or 30% depending on the U.S. status and the source of income as per IRS Publication 1220. **The W9** Attached is sample form.

- **Taxes**

The Laguna Madre Water District is exempt from Federal Excise Tax, State Tax and local Taxes. Do not include tax in the bid. If it is determined that tax was included in the bid it will not be included in the tabulation, any awards, or payments to the contractor. Tax exemption certificates will be furnished upon request.

- **Signing of Bid**

- Failure to manually sign bid will disqualify it. **Person signing bid should show title or authority to bind their firm to a contract EEOC Guidelines**

During the performance of this contract, the contractor agrees not to discriminate against any employee or applicant for employment because of race, national origin, age, religion, gender, sexual preference, marital, veteran status, or physically challenged condition.

- **Contract and Purchase Order**

A contract for the sludge management services will be placed into effect by means of a purchase order issued by the Laguna Madre Water District after tabulation and final approval by the LMWD Board of Directors.

- **Laguna Madre Water District, Rights**

1. If only one or no bid is received by "submission date", the LMWD has the right to reject, re-bid, accept and/or extend the bid by up to an additional two (2) weeks from original submission date.
2. The right to reject any/or all bids and to make award as they may appear to be advantageous to the Laguna Madre Water District
3. The right to hold bid for 90 days from submission date without action, and to waive all formalities in bid.
4. The right to extend the total bid beyond the original 90-day period prior to an award, if agreed upon in writing by all parties (LMWD and vendor/contractor) and if bidder/vendor holds original bid prices firm.
5. The right to terminate for cause or convenience all or any part of the unfinished portion of the Project resulting from this solicitation within Thirty (30) calendar days written notice; <u>for cause</u>: upon default by the vendor/contractor, for delay or non-performance by the vendor/contractor; or if it is deemed in the best interest of the LMWD <u>for LMWD's convenience</u>.
6. In bid, stipulate whether an increase or decrease in services will affect bid price.

- **Corrections**

Any interpretation, correction, or change to the invitation to bid will be made by ADDENDUM. Changes or corrections will be issued by the Laguna Madre Water District, Purchasing Agent. **Addenda will be emailed or faxed to all who have returned the Bid Acknowledgment form.** Addenda will be issued as expeditiously as possible. It is the responsibility of the vendors to determine whether all addenda have been received. It will be the responsibility of all respondents to contact the Laguna Madre Water District prior to submitting a response to the invitation to bid to ascertain if any addenda have been issued, and to obtain any all addenda, execute them, and return addenda with the response to the invitation to bid. Addenda may be posted on the LMWD website.

The Purchase Order quantities are subject to LMWD's right to increase or decrease quantities as deemed necessary. Stipulate below, if an increase or decrease in quantity affects bid price:

(_____) No, an increase or decrease in quantities will not affect bid price

(_____) Yes, an increase or decrease in quantities will affect bid price

Respectfully submitted,

By:_____

Signature **(Failure to sign will disqualify bid)**

_____

Print Name/Title

_____

Company Name

_____

Address

_____

City, State, Zip Code

_____ _____

Phone Number Fax Number

_____

Email Address

REQUIREMENTS AND SPECIFICATIONS

Bid number:	SMS-21-12-01
Item being bid:	Sludge Management Services
Date bids due	January 7, 2022 @ 2:00 pm
Date bids opened	January 7, 2022 @ 2:05 pm

SUMMARY

The work to be performed under the provisions of these contract documents consists of furnishing all materials, equipment, and labor needed for removal, transportation and disposal and/or beneficial use of sludge from four wastewater treatment plants, owned and operated by the district to the district's monofill located adjacent to the Port Isabel Wastewater Treatment Facility.

Port Isabel WWTP, 205 Woodys Ln, Port Isabel, TX 78578

Laguna Vista WWTP, 30448 Holly Beach Rd., Laguna Vista, TX 78578

Andie Bowie WWTP,6701 Padre Blvd., South Padre Island, TX 78597

Isla Blanca WWTP, 1004 Channelview Dr, South Padre Island, TX 78597

Port Isabel Monofill is located approximately 0.75 of a mile south and 0.1 of a mile east of the intersection of State Highway 48 and State Highway 100 in Cameron County, Texas.

Proposed contract is based on transporting four containers from site(s) to monofill in one trip.

SUBMITTALS

LIST OF PRINCIPALS, ASSOCIATES AND/OR EMPLOYEES, WITH CREDENTIALS, THAT WOULD PERFORM WORK ON THE PROJECT

Provide a list of references (local in the Valley, if any) in which they have done business with in the bidder in the last three years.

Insurance: The Vendor at his own expense shall purchase, maintain and keep in force such insurance as will protect him from claims set forth below which may arise out of or result from vendors operations under the contract, whether such operations be by himself or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone whose acts any of them may be liable:

1. Workmen's compensation claims, disability benefits and other similar employee benefit acts;
2. Claims for damages because of bodily injury. Occupational sickness or disease, or death of his employees and insured by usual bodily injury liability coverage;
3. Claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees and claims insured by usual bodily injury liability coverage's and:
4. Claims for damages because of injury to or destruction of tangible property, including loss of use resulting there from.

Certificate of Insurance: before commencing the contract, the successful vendors shall file with the district a valid Certificate of Insurance acceptable to the district. Such Certificate shall contain a provision that coverage afforded under the policies will not be canceled until at least thirty days prior written notice has been given to the district.

REQUIRED INFORMATION

The responder will need to provide the following:

- A time schedule for delivery
- The Company's W-9
- The bid items shall be delivered FOB at our address
- Bidders must submit three references of similar installations
- Provide a copy of the liability insurance

All companies interested in submitting proposals must be knowledgeable and/or familiar with all of the different types of sludge management requirements from local, State, and Federal on Wastewater Sludge Regulations.

TECHNICAL SPECIFICATIONS

Laguna Madre Water District (District) owns and operates four wastewater treatment plants which produce sludge, which must be removed and disposed of from time to time according to rules and regulations. District Sludge Provisions for Port Isabel Wastewater Treatment Plant are provided in Attachment "A". The District has active provisions in Section IV – Requirements Specific to Sewage Sludge Surface Disposal Site Without a Liner and Leachate Collection System.

Laguna Madre Water District is authorized to dispose of sludge from Permit No. WQ0010350001 (Port Isabel), in addition to sludge from Permit No. WQ0010757001 (Isla Blanca), No. WQ0013772001 (Andy Bowie) and No. WQ0013877001 (Laguna Vista) at the Port Isabel monofill. Sludge Hauler (i.e., successful bidder) can access site through the main gate at Port Isabel Wastewater Treatment Plant (WWTP), located at the southern end of Woody's Ln, for disposal at an existing abandoned oxidation pond located on an area of approximately 16 acres encircled by an earthen dike with an average height of three feet. The monofill is located approximately 0.75 of a mile south and 0.1 of a mile east of the intersection of State Highway 48 and State Highway 100 in Cameron County, Texas. District has a concrete containment area to receive sludge as shown in Attachment 'B'. Sludge hauler will be responsible for delivery from each WWTP to this point in compliance with Section V – Requirements Applying to Sludge Transported to Another Facility for Further Processing. District Operators will receive sludge and spread on-site for permanent disposal. Driving distance for sludge hauling can be described as follows:

Laguna Vista WWTP to monofill = 8.5 miles,
Andy Bowie WWTP to monofill = 8.6 miles,
Isla Blanca WWTP to monofill = 6.5 miles, and
Port Isabel WWTP is located adjacent to monofill.

The bidder must be a registered transporter in the business of removing sewage sludges (Biosolids) from domestic wastewater plants and transporting and disposing or beneficially using those sewage sludges. Periodically, wastewater collection waste and solids from basins are placed on a sludge drying bed at Isla Blanca WWTP, then placed in a 20 yd^3 container that cannot be accepted at the District's monofill. This container must be hauled to an acceptable location as determined by the successful bidder.

The district will provide a copy of any previous Toxicity Characteristic Leaching Procedure (TCLP) tests, BLF Analysis, and Class B or Class A determinations performed on sludge and all testing in accordance with 30 TAC 312 and CFR 503 upon request.

The successful bidder shall provide the district the following:

- Approved and registered roll-off containers approved by TCEQ for the removal and disposal or beneficial use of sludge from each of the plants. The following number of containers are required at each site:
    1. Laguna Vista WWTP – 1 container
    2. Andy Bowie WWTP – 2 containers
    3. Isla Blanca WWTP – 3 containers
    4. Port Isabel WWTP – 1 container

. Upon notification, provide for the removal and disposal or beneficial use of sludge from the plants. The Sludge Manager shall provide the Generator with all manifests. District anticipates the following number of trips on an annual basis for each site:

1. Laguna Vista WWTP – 3 trips
2. Andy Bowie WWTP - 20 trips
3. Isla Blanca WWTP - 25 trips
4. Port Isabel WWTP – 6 trips
5. Wastewater Collection (sludge not accepted at monofill) - 3 trips

Please note from September 1, 2020, to August 31, 2021, Andy Bowie WWTP had 15 trips for sludge transport. The District has ordered a new belt filter press that is scheduled for delivery in February 2022. More wasting is anticipated from Andy Bowie WWTP, and two containers must be placed on-site to prevent delay of sludge disposal activities.

. Shall manage sludge in compliance with all applicable federal, state, county, and city laws, ordinances, and regulations, including but not limited to regulations promulgated under 40 CFR 503, 30 TAC 312 and any permit specific requirements in the TCEQ permit pertaining to sludge storage, transportation, or disposal. If compliance is impossible or if a violation is detected involving sludge or Biosolids generated by the district, the bidder shall immediately notify the district of that fact and the reason for noncompliance.

. Comply with all applicable sludge and Biosolids management laws regulations and practices, but not limited to 30 TAC 312.44 and 40 CFR 503.14.

. Provide the required monitoring and record keeping for land applied and stabilized Class A or B sludges in accordance with promulgated TCEQ and EPA rules, regulations, and test methods for sludges not applied at the Port Isabel Monofill. Bidder shall assist the District as needed to comply with Reporting Requirements described in TPDES Permit No. WQ0010350001 (See Attachment 'A'). The successful Bidder shall supply a copy to the district of all analytical reports conducted by the successful Bidder or conducted at the successful Bidder's request on the district's sludge or Biosolids, including monthly and annual reports to the TCEQ and any other monitoring records necessary for the land application, treatment, or disposal of the district's sludge.

. Provide for inspection by the district of all records regarding the storage, transportation and final disposition of the district's sludge. These records shall include, but not limited to, records demonstrating compliance with applicable Biosolids management practices in 30 TAC 312.44, all records required by 30 TAC 312.47, all TCEQ and NPDES permit and registrations, and the contracts or deeds that provide authorization for the successful Bidder to apply Biosolids.

Additional Duties. In addition to the foregoing, the successful Bidder shall be responsible for the following:

. A copy of the registration form with the assigned registration number shall be maintained at the districts place of business and in each vehicle operated under such registration.

. The successful Bidder shall renew its transporter registration as required by the TCEQ and shall provide the district with a copy of the renewed certification.

. All vehicle used for over the road transportation shall prominently display the name of the successful Bidder and the TCEQ assigned registration number.

. All vehicles shall be maintained and operated in such manner as to prevent loss of liquid or solid waste and to prevent a health nuisance.

. The successful Bidder shall not mix incompatible waste; The Successful Bidder shall be responsible for any increased disposal cost or other damages resulting from mixing incompatible waste.

. The successful Bidder shall land apply the district's sludge only where it has either real property interest allowing Biosolids land application, an enforceable contract with the real property owner providing for land application, or a signed and notarized affidavit completed by the land owner verifying agreement to the land application activity that has been submitted to the TCEQ as part of current valid land application permit under 30 TAC 312.10

. The successful Bidder shall maintain a record of each individual collection and disposal with a manifest and shall provide the district with a copy of each record.

. The successful Bidder shall furnish to the district as required by the TCEQ permit, a record of the final disposal of the district's sludge.

. The successful Bidder agrees to otherwise operate in accordance with all statues and rules of the TCEQ and EPA which are applicable to the transportation and disposal of sludge.

. The quantity of sludge shall be measured in cubic yards.

SMS-21-12-01 RFP PROPOSAL FORM

Bid number:	SMS-21-12-01
Item being bid:	Sludge Management Services
Date bids due	January 7, 2022 @ 2:00 pm
Date bids opened	January 7, 2022 @ 2:05 pm
Vendor name:	
Vendor phone:	
Vendor email:	
Vendor address:	
City, State, Zip code:	

All companies interested in submitting bid proposals must manage sludge in compliance with all applicable federal, state, county and city law's, ordinances and regulations, including but not limited to regulations promulgated under 40 CFR 503, 30 TAC 312 and any permit specific requirements in the TCEQ permit pertaining to sludge storage, transportation or disposal.

Item No.	Description	Fees per Container
1	Wastewater sludge management services (when four (4) containers are full and ready for pick up in any of the wastewater treatment facilities to district's monofill)	
2	Collection sludge management services, (only one container 2-4 times a year to site other than Port Isabel Monofill)	

Contract will commence on February 9, 2022 and end on February 8, 2025, with option to extend service agreement for 2 more years from February 9, 2025 thru February 8, 2027.

Addendum No. 1: Date:_____ Acknowledged by:_____

Addendum No. 2: Date:_____ Acknowledged by:_____

The District's payment terms are Net 30.

Representative Signature: _____

Representative Print Name: _____

Laguna Madre Water District

GENERAL CONDITIONS

Protection against accident to employees and the public The **Contractor** shall at all times exercise reasonable precautions for the safety of employees and others on or near the work site, shall comply with all applicable provisions of Federal, State and Municipal safety laws and environmental codes. The safety precautions actually taken and their adequacy shall be the sole responsibility of the contractor, acting as his discretion as an independent contractor.

Indemnification. The **Contractor** shall defend, indemnity and hold harmless the OWNER and its officers, agents and employees, from and against all damages, claims, losses, demands, suits, judgments and costs, including reasonable attorneys' fees and expenses, arising out of or resulting from the performance of the work, provided that any such damages, claim, loss demand, suit judgment, cost or expense:

(1) Is attributable to bodily injury, sickness, disease or death or to injury to or destruction of tangible property (other than the work itself) including the loss of use resulting there from; and,

(2) Is caused in whole or in part by any negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any one of them or anyone for whole acts any of them may be liable, regardless of whether or not it is caused in party by a party indemnified hereunder.

The obligation of the **Contractor** under this paragraph shall not extend to the liability of the **OWNER,** his agents or employees arising out of the preparation or approval of maps, drawings, reports, surveys, change order, designs or specifications, or the giving of or the failure to give directions or instructions by the **OWNER,** his agents or employees, provided such giving or failure to give is the primary cause of the injury or damage.

Insurance: The **Contractor** at his own expense shall purchase, maintain and keep in force such insurance as will protect him from claims set forth below which may arise out of or result from the **Contractor's** operations under the Contract, whether such operations be by himself or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

(1) Workmen's compensation claims, disability benefits and other similar employees benefit acts;

(2) Claims for damages because of bodily injury, occupational sickness or disease, or death of his employees, and claims insured by usual bodily injury liability coverage;

(3) Claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees, and claims insured by usual bodily injury liability coverage's; and

(4) Claims for damages because of injury to or destruction of tangible property, including loss of use resulting there from.

CERTIFICATE OF INSURANCE: Before commencing any of the work, **Contractor** shall file with the **OWNER** valid Certificates of Insurance acceptable to the **OWNER.** Such Certificates shall contain a provision that coverage afforded under the policies will not be cancelled until at least thirty days' prior written notice has been given to the **OWNER.**