REPRESENTATIONS AND CERTIFICATIONS

REPRESENTATIONS

1. Type of Business

(a) The bidder represents as part of its offer that it operates as (Mark one with an "X"):

☐ an individual

☐ a partnership

☐ a sole proprietorship

☐ a corporation

☐ another entity _____.

(b) If incorporated, under the laws of the State of: _____.

2. Disadvantaged Business Enterprise (DBE)

The bidder represents as part of its offer that it (Mark one with an "X"):

☐ is

☐ is not

A disadvantaged business enterprise (DBE). A DBE is defined as "a for-profit small business concern which is at least 51 percent owned by one or more socially and economically disadvantaged individuals, or in case of any publicly owned business, at least 51 percent of the stock is owned by one or more socially and economically disadvantaged individuals and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it." For purposes of this definition, socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Asian-Pacific Americans, Subcontinent Asian Americans, Native Americans; women; and any additional groups whose members are designated as socially and economically disadvantaged by the Small Business Administration (SBA), at such time as the SBA designation becomes effective.

3. Contingent Fee

(a) Except for full-time bona fide employees working solely for the bidder, the bidder represents as part of its offer that it (Mark one with an "X"):

☐ has

☐ has not

employed or retained any company or persons to solicit or obtain this contract, and (Mark one with an "X"):

☐ has

☐ has not

REPRESENTATIONS AND CERTIFICATIONS

paid or agreed to pay any person or company employed or retained to solicit or obtain this contract any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this contract.

(b) The bidder agrees to provide information relating to (a) above, as requested by the Subcontracts Manager/Buyer and, when any item in subparagraph (a) is answered affirmatively, to promptly submit to the Subcontracts Manager/Buyer a completed Standard Form 119, "Statement of Contingent or Other Fees."

4. Interest of Public Officials

The bidder represents and warrants that no employee, official, or member of the Board (Executive Committee) of the **Contractor** is or will be peculiarity interested or benefited directly or indirectly in this contract.

5. Covenant Against Gratuities

The bidder represents as part of its offer that neither it nor any of its employees, representatives or agents have offered or given gratuities (in the form of entertainment, gifts or otherwise) to any director, officer or employee of the **Contractor** with the view toward securing favorable treatment in the awarding, amending, or the making of any determination with respect to the performing of the contract.

6. Previous Contracts and Compliance Reports

(a) The bidder represents as part of its offer that it (Mark one with an "X"):

☐ has

☐ has not

participated in a previous contract or subcontract subject either to the Equal Opportunity clause of this solicitation, the clause originally contained in Section 310 of Executive Order Number 10925, or the clause contained in Section 201 of Executive Order Number 11114; and

(b) It (Mark one with an "X"):

☐ has

☐ has not

filed all required compliance reports.

(c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontractor awards.

7. Affirmative Action Compliance

(a) The bidder represents as part of its offer that it has a workforce of (____ of employees):

(b) It (Mark one with an "X"):

REPRESENTATIONS AND CERTIFICATIONS

☐ has developed and has on file

☐ has not developed and does not have on File

at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), or it (Mark one with an "X"):

☐ has

☐ has not

previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

8. <u>Parent Company and Identifying Data</u>

(a) The bidder represents as part of its offer that it (Mark one with an "X"):

☐ is

☐ is not

owned or controlled by a parent company. A parent company, for the purpose of this provision, is one that owns or controls the activities and basic business policies of the bidder. To own the bidding company means that the parent company must own more than 50 percent of the voting rights in that company. A company may control a bidder as a parent even though not meeting the requirements for such ownership if the company is able to formulate, determine, or veto basic policy decisions of the bidder through the use of dominant minority voting rights, use of proxy voting, or otherwise.

(b)If the bidder is not owned or controlled by a parent company, it shall insert its own Employer's Identification Number below:

(c) If the bidder is owned or controlled by a parent company, it shall enter in the blocks below the name and main office address of the parent company, and the parent company's Employer's Identification Number.

NAME OF PARENT COMPANY AND MAIN OFFICE ADDRESS (INCLUDE ZIP AND PHONE):

PARENT COMPANY'S EMPLOYER'S IDENTIFICATION #

REPRESENTATIONS AND CERTIFICATIONS

CERTIFICATIONS

9. Certification of Independent Price Determination

(a) By submission of this offer, the bidder certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:

(1) The prices in this offer have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor.

(2) Unless otherwise required by law, the prices which have been quoted in this offer have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to the opening (in the case of an advertised procurement) or prior to award (in the case of a negotiated procurement), directly or indirectly to any other bidder or to any competitor; and

(3) No attempt has been made or will be made by the bidder to induce any other person or firm to submit or not to submit an offer for the purpose of restricting competition.

(b) Each person signing this offer certifies that:

(1) He is the person in the bidder's organization responsible within that organization for the decision as to the prices being offered herein and that he has not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above; or

(2) He: (i) is not the person in the bidder's organization responsible within that organization for the decision as to the prices being offered herein but that he has been authorized in writing to act as an agent for the persons responsible for such decision in certifying that such persons have not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above, and as their agent does hereby so certify; and (ii) has not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above.

10. Disadvantaged Business Enterprise Goal

If goals have been established, by submission of this offer, the bidder certifies that it will comply with the provisions of the Contract attached to this solicitation entitled "Disadvantaged Business Enterprise Program" and will meet such goals as are established in any ensuing contract. Refer to DBE Program section of the package for more detail.

11. Clean Air and Water Certification

Applicable if the offer exceeds $100,000, or the Subcontract Manager believes that orders under an indefinite contract in any year will exceed $100,000 or a facility to be used has been the subject of a conviction under the Air Act [42 U.S.C. 7413(c) (1)] or the Water Act [33 U.S.C. 1319 (c)] and is listed by the Environmental Protection Agency (EPA) as a violating facility, and the acquisition is not otherwise exempt.

By submission of this offer, the bidder certifies that:

REPRESENTATIONS AND CERTIFICATIONS

(a) Any facility to be used in the performance of this proposed contract (Mark one with an "X"):

☐ is

☐ is not listed on the EPA List of Violating Facilities

(b) It will immediately notify the Subcontract Manager/Buyer, before award, of the receipt of any communication from the Administrator, or a designee of the EPA, indicating that any facility which it proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities; and (c) It will include a certification substantially the same as this certification, including this paragraph (c), in every nonexempt subcontract.

12. <u>Certification of Non-Segregated Facilities</u>

(a) By the submission of this offer, the bidder certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control, where segregated facilities are maintained.

(b) The bidder agrees that a breach of this certification is a violation of the Equal Opportunity Clause in the contract.

(c) As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion or nation origin, because of habit, local custom or otherwise.

(d) It further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will:

(1) obtain identical certifications from proposed subcontractors before the award of subcontracts under which the subcontractor will be subject to the Equal Opportunity clause;

(2) Retain such certifications in its files; and

(3) Forward the following notice to the proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods).

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENTS FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES

A Certification of Nonsegregated Facilities must be submitted before the award of a subcontract under which the subcontractor will be subject to the Equal Opportunity clause. The certification may be submitted either for such subcontract or for all subcontracts during a period (i.e., quarterly, semiannually or annually).

Note: the penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

REPRESENTATIONS AND CERTIFICATIONS

13. Certification of Restrictions on Lobbying

This Certification is applicable if the offer exceeds $100,000.

(a) By submission of this offer, the bidder certifies, to the best of his or her knowledge or belief, that:

(1) No Federal appropriated funds have been paid, or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

(b) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of nor less than $10,000 or not more than $100,000 for each such failure.

14. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

(a) Primary Covered Transactions. [This certification applies to the offer submitted in response to this solicitation and will be a continuing requirement throughout the term of the **Prime Contract**.]

(1) In accordance with the provisions of Appendix A to 49 Code of Federal Regulations (CFR) Part 29, the bidder certifies to the best of its knowledge and belief, that it and its principals:

(i) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(ii) have not within a three-year period preceding this offer 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;

(iii) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(ii) of

REPRESENTATIONS AND CERTIFICATIONS

this Certification; and

(iv) have not within a three-year period preceding this offer had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the bidder is unable to certify to any of the statements in this certification, the bidder shall attach an explanation to this offer.

(b) Lower Tier Covered Transactions. [This certification applies to a subcontract at any tier expected to equal or exceed $25,000 and will be a continuing requirement throughout the term of the **Prime Contract**.]

(1) In accordance with the provisions of Appendix B to 49 Code of Federal Regulations (CFR) Part 29, the prospective lower tier participant (subcontractor) certifies, by submission of this offer, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

(c) The Certification required by subparagraph (b), above, shall be included in all applicable subcontracts and a copy kept on file by the **Contractor**. The **Contractor** shall be required to furnish copies of certifications to the Subcontract Manager/Buyer upon his/her request.

15. <u>Conflict of Interest Certification</u>

This Certification is required to be completed if the solicitation is a Request for Proposals and for Invitation for Bids.

By submission of this proposal, I certify that:

(a) I have read and understand the General Provisions clause entitled "Interest of Public Officials" that will be incorporated into any contract resulting from this solicitation. I further understand that the pecuniary interest in that clause includes employment relationships.

(b) I understand the **Contractor** has an internal conflict of interest policy for its employees which includes as a actual or possible of interest whether or not a member of the employee's immediate family works for a firm doing, or seeking to do, business with the **Contractor**.

(c) Mark one with an "X":

- ☐ To the best of my knowledge and belief, no employee of my firm is related to an **Contractor** employee; or
- ☐ An employee of my firm is related to an **Contractor** employee and a letter to the Contract Administration Manager explaining that relationship is attached to this Exhibit A.

(d) The requirement of this certification has been passed through to all first-tier subcontractors or subconsultants anticipated to be used at the time of the submission of my proposal.

REPRESENTATIONS AND CERTIFICATIONS

16. Communication Policy and Certification

(a) All oral and written communications with **Contractor** regarding this solicitation should be exclusively with, or on subjects and with persons approved by, the person identified below:

Anna Reyna, Procurement Manager
Flatiron / Dragados, LLC
Address: 1620 North Port Avenue, Corpus Christi, Texas 78401
Email: areyna@harborbridgeproject.com
Phone: 361-360-6549

Discussions or communications with any other person could result in disclosure of proprietary or other competitive sensitive information or otherwise create the appearance of impropriety or unfair competition and, thereby, compromise the integrity of **Contractor**'s procurement system. If competition issues cannot be resolved through normal communication channels, the **Contractor's** Procurement Regulations contain protest provisions for actual or prospective competitors claiming any impropriety in connection with this procurement.

(b) By submission of this bid or proposal, the bidder or bidder certifies that it has not, and will not prior to contract award, communicate orally or in writing with any Contractor employee or other representative (including Contractor Board members, Contractor contractors, or Contractor consultants) other than the individual, or person(s) and on subjects approved by the individual, named above, except as described below: (CHECK "NONE" IF NONE EXISTS.)

☐ **NONE**

Name of Flatiron/Dragados, LLC Representa	Date and Subject of Communication

{provide attachment, if necessary}

(c) This certification concerns a material representation of fact upon which reliance will be placed in awarding a contract. If it is later determined that the bidder/bidder knowingly rendered an erroneous certification, in addition to any other remedies the **Contractor** may have, the Subcontract Manager/Buyer may terminate the contract resulting from this solicitation for default and/or recommend that the bidder/bidder be debarred or suspended from doing business with the **Contractor** in the future in accordance with the procedures set forth in **Contractor**'s Procurement Regulations. In addition, a false entry could be a violation of Texas Penal Code paragraph 37.10.

(d) The bidder shall provide immediate written notice to the Subcontract Manager/Buyer if, at any time

REPRESENTATIONS AND CERTIFICATIONS

prior to contract award, he/she learns that its certification was, or a subsequent communication makes, the certification erroneous.

****

SIGNATURE BLOCK FOR ALL REPRESENTATIONS & CERTIFICATIONS

****

NAME OF BIDDER & ADDRESS (INCLUDE ZIP & PHONE)

Signature:

NAME:

DATE:

BIDDERS/BIDDERS MUST SET FORTH FULL, ACCURATE AND COMPLETE INFORMATION AS REQUIRED BY THIS SOLICITATION (INCLUDING THIS ATTACHMENT). FAILURE TO DO SO MAY RENDER THE OFFER NONRESPONSIVE OR UNACCEPTABLE.

A FALSE STATEMENT IN ANY BID OR PROPOSAL SUBMITTED TO THE CONTRACTOR MAY BE A CRIMINAL OFFENSE IN VIOLATION OF SECTION 37.10 OF THE TEXAS PENAL CODE.