

AIA® Document A105™ – 2017

Standard Short Form of Agreement Between Owner and Contractor

AGREEMENT made as of the 28th day of February in the year Two Thousand Nineteen
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

County of Webb, State of Texas
1000 Houston Street
Laredo, Texas 78040

and the Contractor:
(Name, legal status, address and other information)

Davila Construction, Inc., General Contractor
520 Bonham
San Antonio, Texas 78205
Telephone Number: 210.224.5887
Contractor's Local Representative
Romo Contractors, LLC
Manuel Briones
2710 Zacatecas St.
Laredo, Texas 78046
Telephone Number: 956.754.5975

for the following Project:
(Name, location and detailed description)

La Presa Community Park
1983 Mangana-Hein Rd.
Community Park consisting of a jogging loop, pavilion, two (2) picnic areas, and obstacle course

The Architect:
(Name, legal status, address and other information)

Hickey Peña Architects, Limited Liability Company
600 San Bernardo, Ste. 901
Laredo, TX 78040
Telephone Number: 956-722-8186
Fax Number: 815-846-1546

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

MARGIE R. IBARRA
COUNTY CLERK
FILED
2019 JUL 26 PM 3:52
WEBB COUNTY, TEXAS
BY DEPUTY

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ARTICLE 1 THE CONTRACT DOCUMENTS

The Contractor shall complete the Work described in the Contract Documents for the Project. The Contract Documents consist of

- .1 this Agreement signed by the Owner and Contractor;
- .2 the drawings and specifications prepared by the Architect, dated August 27, 2018 , and enumerated as follows:

Drawings:

Number	Title	Date
T1	Project Title Sheet	August 27, 2018
A-101	Site Plan	August 27, 2018
A-200	Pavilion Floor Plan & Elevations	August 27, 2018

Specifications:

Section	Title	Pages
La Presa Community Park - Specifications		260

.3 addenda prepared by the Architect as follows:

Number	Date	Pages
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.4 written orders for changes in the Work, pursuant to Article 10, issued after execution of this Agreement; and

.5 other documents, if any, identified as follows:

- Exhibit A – Schedule of Values by Davila Construction
- Exhibit B – General Conditions for Webb County Construction Projects
- Exhibit C – City of Laredo Standard Technical Specifications Manual

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 2.1 The Contract Time is the number of working days available to the Contractor to substantially complete the Work.

§ 2.2 Date of Commencement:

Unless otherwise set forth below, the date of commencement shall be the date of this Agreement.
(Insert the date of commencement if other than the date of this Agreement.)

A date set forth in a Notice to Proceed issued by the Owner.

§ 2.3 Substantial Completion:

Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion, as defined in Section 12.5, of the entire Work:
(Check the appropriate box and complete the necessary information.)

Not later than sixty (60) working days from the date of commencement.

By the following date:

ARTICLE 3 CONTRACT SUM

§ 3.1 The Contract Sum shall include all items and services necessary for the proper execution and completion of the Work. Subject to additions and deductions in accordance with Article 10, the Contract Sum is:

One Hundred Eleven Thousand One Hundred Dollars and Zero Cents (\$ 111,100.00)

§ 3.2 For purposes of payment, the Contract Sum includes the following values related to portions of the Work:
(Itemize the Contract Sum among the major portions of the Work.)

Portion of the Work	Value
N/A	

§ 3.3 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and hereby accepted by the Owner:
(Identify the accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

N/A

§ 3.4 Allowances, if any, included in the Contract Sum are as follows:
(Identify each allowance.)

Item	Price
Exterior Signage	Two Thousand Dollars (\$2,000.00)
Park Furnishings	Five Thousand Dollars (\$5,000.00)
Obstacle Course	Ten Thousand Dollars (\$10,000.00)

§ 3.5 Unit prices, if any, are as follows:

(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
N/A		

§ 3.6 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

Owner and Contractor do hereby consent and agree that Liquidated Damages shall be assessed to Contractor at rate of **Four Hundred and No/100 Dollars per day (\$400.00)**, as a fair and reasonable sum for each and every day that the project is not is not complete and ready for Final Payment after Sixty (60) working days from the date of commencement.

Owner and Contractor do hereby consent and agree that the sum of **Four Hundred and No/100 Dollars per day (\$400.00)**, which may be charged for liquidated damages is a fair and reasonable sum, which sum shall be due and payable by Contractor to Owner as liquidated damages in accordance with the herein-after terms and conditions for each and every day that the project is not is not complete and ready for final payment after Sixty (60) working days from the date of commencement as provided for the completion of this project due to the Contractor's delay in performance.

Owner and Contractor recognize that time is of the essence for this project and the Owner will suffer financial loss if the Work is not complete within the time specified above, plus any extensions thereof allowed.

If the Contractor fails to perform the Work within the specified time set forth in the Contract Documents as adjusted pursuant to this Article, the Owner and Contractor agree that as liquidated damages, and not as a penalty, for delay in performance the Contractor shall pay the Owner in the amount stipulated below for each and every calendar day that expires after SIXTY (60) Working days from the date of commencement, where the Work is not complete and ready for Final Payment, the Owner shall have the right to deduct liquidated damages from any amount due or that may become due to the Contractor, or to collect such liquidated damages from the Contractor or the Surety. The Owner has the option to enforce liquidated damages or to waive such damages.

Owner and Contractor further do hereby agree that the amount of liquidated damages herein specified shall only apply to Contractor's delay in performance. Liquidated damages are intended only to compensate the Owner for additional personnel efforts in administering the Contract after normally scheduled completions dates, Owner inconvenience, lost opportunities, and lost confidence in government and morale of government when work is not completed on time.

Owner and Contractor further do hereby acknowledge, agree and recognize that such Liquidated Damages are uncertain in amount and difficult to measure and prove accurately. By executing this Contract, the Contractor agrees that the liquidated damages specified herein are fair and reasonable in amount and are not disproportionate to actual anticipated damages.

Owner and Contractor further do hereby further acknowledge, agree and recognize that Liquidated Damages do not include any sums of money to reimburse the Owner for extra costs which the Owner may become obligated to pay on other contracts which are delayed or extended because of Contractor's failure to complete the Work within the time period as specified herein, including costs associated with the delay or interference with the Project.

Owner and Contractor also acknowledge and agree and recognize that Liquidated damages are not intended to include litigation costs or attorney fees incurred by the Owner, or other incidental or consequential damages suffered by the Owner due to the Contractor's performance.

If the Owner charges liquidated damages to the Contractor, Owner and Contractor further do hereby acknowledge, consent and agree that this shall not preclude the Owner from commencing an action against the Contractor for other actual harm resulting from the Contractor's performance, including but not limited to, costs associated with the delay or interference with the Project.

Owner and Contractor further do hereby agree, consent and recognize that in order to recover liquidated damages, the Owner is under no obligation to prove the actual damages sustained by the Owner due to the Contractor's delay in performance. The parties agree that liquidated damages shall be computed at the rate of \$400.00 per day, inclusive of any applicable changes thereto, for each and every day that the project is not is not complete and ready for Final Payment after Sixty (60) working days from the date of commencement as set in this contract.

ARTICLE 4 PAYMENTS

§ 4.1 Based on Contractor's Applications for Payment certified by the Architect, the Owner shall pay the Contractor, in accordance with Article 12, as follows:

(Insert below timing for payments and provisions for withholding retainage, if any.)

Provided that an Application for Payment is received by the Architect not later than the fifth day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the sixth day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than thirty (30) days after the Architect receives the Application for Payment.

For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold ten (10) percent, as retainage, from the payment otherwise due

§ 4.2 Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate below, or in the absence thereof, at the legal rate prevailing at the place of the Project.

(Insert rate of interest agreed upon, if any.)

Local prevailing rate

ARTICLE 5 INSURANCE

§ 5.1 The Contractor shall maintain the following types and limits of insurance until the expiration of the period for correction of Work as set forth in Section 14.2, subject to the terms and conditions set forth in this Section 5.1:

§ 5.1.1 Commercial General Liability insurance for the Project, written on an occurrence form, with policy limits of not less than One Million (\$ 1,000,000.00) each occurrence, Two Million (\$ 2,000,000.00) general aggregate, and Two Million (\$ 2,000,000.00) aggregate for products-completed operations hazard.

§ 5.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than One Million (\$ 1,000,000.00) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

§ 5.1.3 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella insurance policies result in the same or greater coverage as those required under Section 5.1.1 and 5.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 5.1.4 Workers' Compensation at statutory limits.

§ 5.1.5 Employers' Liability with policy limits not less than One Million (\$ 1,000,000.00) each accident, One Million (\$ 1,000,000.00) each employee, and Two Million (\$ 2,000,000.00) policy limit.

§ 5.1.6 The Contractor shall provide builder's risk insurance to cover the total value of the entire Project on a replacement cost basis.

§ 5.1.7 Other Insurance Provided by the Contractor

(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage

Limits

§ 5.2 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance and shall provide property insurance to cover the value of the Owner's property. The Contractor is entitled to receive an increase in the Contract Sum equal to the insurance proceeds related to a loss for damage to the Work covered by the Owner's property insurance.

§ 5.3 The Contractor shall obtain an endorsement to its Commercial General Liability insurance policy to provide coverage for the Contractor's obligations under Section 8.12.

§ 5.4 Prior to commencement of the Work, each party shall provide certificates of insurance showing their respective coverages.

§ 5.5 Unless specifically precluded by the Owner's property insurance policy, the Owner and Contractor waive all rights against (1) each other and any of their subcontractors, suppliers, agents, and employees, each of the other; and (2) the Architect, Architect's consultants, and any of their agents and employees, for damages caused by fire or other causes of loss to the extent those losses are covered by property insurance or other insurance applicable to the Project, except such rights as they have to the proceeds of such insurance.

§ 5.6 Contractor must supply statutory performance and payment bonds, as well as, insurance coverages as dictated in the Project Specifications.

ARTICLE 6 GENERAL PROVISIONS

§ 6.1 The Contract

The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a written modification in accordance with Article 10.

§ 6.2 The Work

The term "Work" means the construction and services required by the Contract Documents, and includes all other labor, materials, equipment, and services provided, or to be provided, by the Contractor to fulfill the Contractor's obligations.

§ 6.3 Intent

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all.

§ 6.4 Ownership and Use of Architect's Drawings, Specifications and Other Documents

Documents prepared by the Architect are instruments of the Architect's service for use solely with respect to this Project. The Architect shall retain all common law, statutory, and other reserved rights, including the copyright. The Contractor, subcontractors, sub-subcontractors, and suppliers are authorized to use and reproduce the instruments of service solely and exclusively for execution of the Work. The instruments of service may not be used for other Projects or for additions to this Project outside the scope of the Work without the specific written consent of the Architect.

§ 6.5 Electronic Notice

Written notice under this Agreement may be given by one party to the other by email as set forth below.

Init.

(Insert requirements for delivering written notice by email such as name, title, and email address of the recipient, and whether and how the system will be required to generate a read receipt for the transmission.)

ARTICLE 7 OWNER

§ 7.1 Information and Services Required of the Owner

§ 7.1.1 If requested by the Contractor, the Owner shall furnish all necessary surveys and a legal description of the site.

§ 7.1.2 Except for permits and fees under Section 8.7.1 that are the responsibility of the Contractor, the Owner shall obtain and pay for other necessary approvals, easements, assessments, and charges.

§ 7.1.3 Prior to commencement of the Work, at the written request of the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence.

§ 7.2 Owner's Right to Stop the Work

If the Contractor fails to correct Work which is not in accordance with the Contract Documents, the Owner may direct the Contractor in writing to stop the Work until the correction is made.

§ 7.3 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies, correct such deficiencies. In such case, the Architect may withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the cost of correction, provided the actions of the Owner and amounts charged to the Contractor were approved by the Architect.

§ 7.4 Owner's Right to Perform Construction and to Award Separate Contracts

§ 7.4.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project.

§ 7.4.2 The Contractor shall coordinate and cooperate with the Owner's own forces and separate contractors employed by the Owner.

ARTICLE 8 CONTRACTOR

§ 8.1 Review of Contract Documents and Field Conditions by Contractor

§ 8.1.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 8.1.2 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner. Before commencing activities, the Contractor shall (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the Contract Documents; and (3) promptly report errors, inconsistencies, or omissions discovered to the Architect.

§ 8.2 Contractor's Construction Schedule

The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work.

§ 8.3 Supervision and Construction Procedures

§ 8.3.1 The Contractor shall supervise and direct the Work using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work.

Init.

§ 8.3.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner, through the Architect, the names of subcontractors or suppliers for each portion of the Work. The Contractor shall not contract with any subcontractor or supplier to whom the Owner or Architect have made a timely and reasonable objection.

§ 8.4 Labor and Materials

§ 8.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work.

§ 8.4.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

§ 8.5 Warranty

The Contractor warrants to the Owner and Architect that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents. Any material or equipment warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 12.5.

§ 8.6 Taxes

The Contractor shall pay sales, consumer, use, and similar taxes that are legally required when the Contract is executed.

§ 8.7 Permits, Fees and Notices

§ 8.7.1 The Contractor shall obtain and pay for the building permit and other permits and governmental fees, licenses, and inspections necessary for proper execution and completion of the Work.

§ 8.7.2 The Contractor shall comply with and give notices required by agencies having jurisdiction over the Work. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs. The Contractor shall promptly notify the Architect in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules, and regulations.

§ 8.8 Submittals

The Contractor shall promptly review, approve in writing, and submit to the Architect shop drawings, product data, samples, and similar submittals required by the Contract Documents. Shop drawings, product data, samples, and similar submittals are not Contract Documents.

§ 8.9 Use of Site

The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, the Contract Documents, and the Owner.

§ 8.10 Cutting and Patching

The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly.

§ 8.11 Cleaning Up

The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work. At the completion of the Work, the Contractor shall remove its tools, construction equipment, machinery, and surplus material; and shall properly dispose of waste materials.

§ 8.12 Indemnification

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them, from and against claims, damages, losses and

expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.

ARTICLE 9 ARCHITECT

§ 9.1 The Architect will provide administration of the Contract as described in the Contract Documents. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 9.2 The Architect will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the Work.

§ 9.3 The Architect will not have control over or charge of, and will not be responsible for, construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility. The Architect will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

§ 9.4 Based on the Architect's observations and evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor.

§ 9.5 The Architect has authority to reject Work that does not conform to the Contract Documents.

§ 9.6 The Architect will promptly review and approve or take appropriate action upon Contractor's submittals, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 9.7 On written request from either the Owner or Contractor, the Architect will promptly interpret and decide matters concerning performance under, and requirements of, the Contract Documents.

§ 9.8 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from the Contract Documents, and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions rendered in good faith.

§ 9.9 The Architect's duties, responsibilities, and limits of authority as described in the Contract Documents shall not be changed without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

ARTICLE 10 CHANGES IN THE WORK

§ 10.1 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract, consisting of additions, deletions or other revisions, and the Contract Sum and Contract Time shall be adjusted accordingly, in writing. If the Owner and Contractor cannot agree to a change in the Contract Sum, the Owner shall pay the Contractor its actual cost plus reasonable overhead and profit.

§ 10.2 The Architect may authorize or order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Such authorization or order shall be in writing and shall be binding on the Owner and Contractor. The Contractor shall proceed with such minor changes promptly.

§ 10.3 If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be subject to equitable adjustment.

ARTICLE 11 TIME

§ 11.1 Time limits stated in the Contract Documents are of the essence of the Contract.

§ 11.2 If the Contractor is delayed at any time in progress of the Work by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, or other causes beyond the Contractor's control, the Contract Time shall be subject to equitable adjustment.

§ 11.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the responsible party.

ARTICLE 12 PAYMENTS AND COMPLETION

§ 12.1 Contract Sum

The Contract Sum stated in this Agreement, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 12.2 Applications for Payment

§ 12.2.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment for Work completed in accordance with the values stated in this Agreement. The Application shall be supported by data substantiating the Contractor's right to payment as the Owner or Architect may reasonably require, such as evidence of payments made to, and waivers of liens from, subcontractors and suppliers. Payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment stored, and protected from damage, off the site at a location agreed upon in writing.

§ 12.2.2 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or other encumbrances adverse to the Owner's interests.

§ 12.3 Certificates for Payment

The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in part; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole. If certification or notification is not made within such seven day period, the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time and the Contract Sum shall be equitably adjusted due to the delay.

§ 12.4 Progress Payments

§ 12.4.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner provided in the Contract Documents.

§ 12.4.2 The Contractor shall promptly pay each subcontractor and supplier, upon receipt of payment from the Owner, an amount determined in accordance with the terms of the applicable subcontracts and purchase orders.

§ 12.4.3 Neither the Owner nor the Architect shall have responsibility for payments to a subcontractor or supplier.

§ 12.4.4 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the requirements of the Contract Documents.

§ 12.5 Substantial Completion

§ 12.5.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use.

§ 12.5.2 When the Contractor believes that the Work or designated portion thereof is substantially complete, it will notify the Architect and the Architect will make an inspection to determine whether the Work is substantially complete. When the Architect determines that the Work is substantially complete, the Architect shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, establish the responsibilities of the Owner and Contractor, and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 12.6 Final Completion and Final Payment

§ 12.6.1 Upon receipt of a final Application for Payment, the Architect will inspect the Work. When the Architect finds the Work acceptable and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment.

§ 12.6.2 Final payment shall not become due until the Contractor submits to the Architect releases and waivers of liens, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests, or encumbrances arising out of the Contract.

§ 12.6.3 Acceptance of final payment by the Contractor, a subcontractor or supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 13 PROTECTION OF PERSONS AND PROPERTY

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall take reasonable precautions to prevent damage, injury, or loss to employees on the Work and other persons who may be affected thereby, the Work and materials and equipment to be incorporated therein, and other property at the site or adjacent thereto. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.

ARTICLE 14 CORRECTION OF WORK

§ 14.1 The Contractor shall promptly correct Work rejected by the Architect as failing to conform to the requirements of the Contract Documents. The Contractor shall bear the cost of correcting such rejected Work, including the costs of uncovering, replacement, and additional testing.

§ 14.2 In addition to the Contractor's other obligations including warranties under the Contract, the Contractor shall, for a period of one year after Substantial Completion, correct work not conforming to the requirements of the Contract Documents.

§ 14.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section 7.3.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Assignment of Contract

Neither party to the Contract shall assign the Contract as a whole without written consent of the other.

§ 15.2 Tests and Inspections

§ 15.2.1 At the appropriate times, the Contractor shall arrange and bear cost of tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 15.2.2 If the Architect requires additional testing, the Contractor shall perform those tests.

§ 15.2.3 The Owner shall bear cost of tests, inspections, or approvals that do not become requirements until after the Contract is executed. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 15.3 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules.

ARTICLE 16 TERMINATION OF THE CONTRACT

§ 16.1 Termination by the Contractor

If the Work is stopped under Section 12.3 for a period of 14 days through no fault of the Contractor, the Contractor may, upon seven additional days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed including reasonable overhead and profit, and costs incurred by reason of such termination.

§ 16.2 Termination by the Owner for Cause

§ 16.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the subcontractors;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 is otherwise guilty of substantial breach of a provision of the Contract Documents.

§ 16.2.2 When any of the above reasons exist, the Owner, after consultation with the Architect, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may

- .1 take possession of the site and of all materials thereon owned by the Contractor, and
- .2 finish the Work by whatever reasonable method the Owner may deem expedient.

§ 16.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 16.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 16.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. This obligation for payment shall survive termination of the Contract.

§ 16.3 Termination by the Owner for Convenience

The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. The Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

ARTICLE 17 OTHER TERMS AND CONDITIONS

(Insert any other terms or conditions below.)

DISPUTE RESOLUTION

§ 17.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.

§ 17.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

Litigation in a court of competent jurisdiction

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

This Agreement entered into as of the day and year first written above.


Init.

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User Notes:


(3B9ADA5E)

(If required by law, insert cancellation period, disclosures or other warning statements above the signatures.)



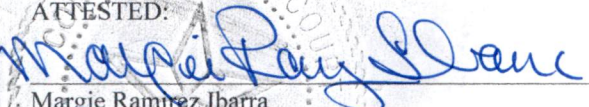
OWNER (Signature)
WEBB COUNTY, TEXAS
Hon. Tano Tijerina
Webb County Judge

(Printed name and title)

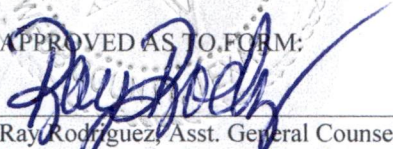


CONTRACTOR (Signature)
Davila Construction, Inc.
Tony Davila, President
Manuel Briones, Project Coordinator

(Printed name and title)
LICENSE NO.:
JURISDICTION:

ATTESTED:


Margie Ramirez Ibarra
Webb County Clerk

APPROVED AS TO FORM:


Ray Rodriguez, Asst. General Counsel
Webb County Civil Legal Division

*By law, the Webb County Civil Legal Division's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval of their own respective attorney(s).

Passed and approved by the Webb County Commissioners Court on November 13, 2018; item no. 13f.

...

<u>T1</u>	<u>Project Title Sheet</u>	<u>August 27, 2018</u>
<u>A-101</u>	<u>Site Plan</u>	<u>August 27, 2018</u>
<u>A-200</u>	<u>Pavilion Floor Plan & Elevations</u>	<u>August 27, 2018</u>

...

<u>La Presa Community Park - Specifications</u>	<u>260</u>
---	------------

PAGE 3

Exhibit A – Schedule of Values by Davila Construction

...

Exhibit B – General Conditions for Webb County Construction Projects

...

Exhibit C – City of Laredo Standard Technical Specifications Manual

...

§ 2.1 The Contract Time is the number of ~~calendar~~ working days available to the Contractor to substantially complete the Work.

...

A date set forth in a Notice to Proceed issued by the Owner.

...

[] Not later than ~~()~~ calendar ~~sixty~~ (60) working days from the date of commencement.

...

One Hundred Eleven Thousand One Hundred Dollars and Zero Cents (\$ 111,100.00)

...

N/A

...

N/A

PAGE 4

<u>Exterior Signage</u>	<u>Two Thousand Dollars (\$2,000.00)</u>
<u>Park Furnishings</u>	<u>Five Thousand Dollars (\$5,000.00)</u>
<u>Obstacle Course</u>	<u>Ten Thousand Dollars (\$10,000.00)</u>

**Additions and Deletions Report for
AIA® Document A105™ – 2017**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 18:59:58 ET on 02/12/2019.

PAGE 1

AGREEMENT made as of the _____ day of February in the year Two Thousand Nineteen

...

County of Webb, State of Texas
1000 Houston Street
Laredo, Texas 78040

...

Davila Construction, Inc., General Contractor
520 Bonham
San Antonio, Texas 78205
Telephone Number: 210.224.5887
Contractor's Local Representative
Romo Contractors, LLC
Manuel Briones
2710 Zacatecas St.
Laredo, Texas 78046
Telephone Number: 956.754.5975

...

La Presa Community Park
1983 Mangana-Hein Rd.
Community Park consisting of a jogging loop, pavilion, two (2) picnic areas, and obstacle course

...

Hickey Peña Architects, Limited Liability Company
600 San Bernardo, Ste. 901
Laredo, TX 78040
Telephone Number: 956-722-8186
Fax Number: 815-846-1546

PAGE 2

- .2 the drawings and specifications prepared by the Architect, dated August 27, 2018, and enumerated as follows:

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User Notes:

(3B9ADA5E)

...

N/A

...

§ 3.6 Liquidated damages, if any:

...

(Insert terms and conditions for liquidated damages, if any.)

...

Owner and Contractor do hereby consent and agree that Liquidated Damages shall be assessed to Contractor at rate of **Four Hundred and No/100 Dollars per day (\$400.00)**, as a fair and reasonable sum for each and every day that the project is not is not complete and ready for Final Payment after Sixty (60) working days from the date of commencement.

...

Owner and Contractor do hereby consent and agree that the sum of **Four Hundred and No/100 Dollars per day (\$400.00)**, which may be charged for liquidated damages is a fair and reasonable sum, which sum shall be due and payable by Contractor to Owner as liquidated damages in accordance with the herein-after terms and conditions for each and every day that the project is not is not complete and ready for final payment after Sixty (60) working days from the date of commencement as provided for the completion of this project due to the Contractor's delay in performance.

...

Owner and Contractor recognize that time is of the essence for this project and the Owner will suffer financial loss if the Work is not complete within the time specified above, plus any extensions thereof allowed.

...

If the Contractor fails to perform the Work within the specified time set forth in the Contract Documents as adjusted pursuant to this Article, the Owner and Contractor agree that as liquidated damages, and not as a penalty, for delay in performance the Contractor shall pay the Owner in the amount stipulated below for each and every calendar day that expires after SIXTY (60) Working days from the date of commencement, where the Work is not complete and ready for Final Payment, the Owner shall have the right to deduct liquidated damages from any amount due or that may become due to the Contractor, or to collect such liquidated damages from the Contractor or the Surety. The Owner has the option to enforce liquidated damages or to waive such damages.

...

Owner and Contractor further do hereby agree that the amount of liquidated damages herein specified shall only apply to Contractor's delay in performance. Liquidated damages are intended only to compensate the Owner for additional personnel efforts in administering the Contract after normally scheduled completions dates, Owner inconvenience, lost opportunities, and lost confidence in government and morale of government when work is not completed on time.

...

Owner and Contractor further do hereby acknowledge, agree and recognize that such Liquidated Damages are uncertain in amount and difficult to measure and prove accurately. By executing this Contract, the Contractor agrees that the liquidated damages specified herein are fair and reasonable in amount and are not disproportionate to actual anticipated damages.

...

Owner and Contractor further do hereby further acknowledge, agree and recognize that Liquidated Damages do not include any sums of money to reimburse the Owner for extra costs which the Owner may become obligated to pay on other contracts which are delayed or extended because of Contractor's failure to complete the Work within the time period as specified herein, including costs associated with the delay or interference with the Project.

...

Owner and Contractor also acknowledge and agree and recognize that Liquidated damages are not intended to include litigation costs or attorney fees incurred by the Owner, or other incidental or consequential damages suffered by the Owner due to the Contractor's performance.

PAGE 5

If the Owner charges liquidated damages to the Contractor, Owner and Contractor further do hereby acknowledge, consent and agree that this shall not preclude the Owner from commencing an action against the Contractor for other actual harm resulting from the Contractor's performance, including but not limited to, costs associated with the delay or interference with the Project.

...

Owner and Contractor further do hereby agree, consent and recognize that in order to recover liquidated damages, the Owner is under no obligation to prove the actual damages sustained by the Owner due to the Contractor's delay in performance. The parties agree that liquidated damages shall be computed at the rate of \$400.00 per day, inclusive of any applicable changes thereto, for each and every day that the project is not complete and ready for Final Payment after Sixty (60) working days from the date of commencement as set in this contract.

...

Provided that an Application for Payment is received by the Architect not later than the fifth day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the sixth day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than thirty (30) days after the Architect receives the Application for Payment.

...

For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold ten (10) percent, as retainage, from the payment otherwise due

...

%-Local prevailing rate

...

§ 5.1.1 Commercial General Liability insurance for the Project, written on an occurrence form, with policy limits of not less than One Million (\$ 1,000,000.00) each occurrence, Two Million (\$ 2,000,000.00) general aggregate, and Two Million (\$ 2,000,000.00) aggregate for products-completed operations hazard.

...

§ 5.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than One Million (\$ 1,000,000.00) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

...

§ 5.1.5 Employers' Liability with policy limits not less than One Million (\$ 1,000,000.00) each accident, One Million (\$ 1,000,000.00) each employee, and Two Million (\$ 2,000,000.00) policy limit.

PAGE 6

§ 5.6 Contractor must supply statutory performance and payment bonds, as well as, insurance coverages as dictated in the Project Specifications.

PAGE 12

DISPUTE RESOLUTION

...

§ 17.1 Initial Decision Maker

...

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.

...

§ 17.2 Binding Dispute Resolution

...

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

...

Litigation in a court of competent jurisdiction

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

PAGE 13

OWNER (Signature)

WEBB COUNTY, TEXAS
Hon. Tano Tijerina
Webb County Judge -
...

CONTRACTOR (Signature)

Davila Construction, Inc.
Tony Davila, President
Manuel Briones, Project Coordinator

ATTESTED:

...

Margie Ramirez Ibarra

...

Webb County Clerk

...

APPROVED AS TO FORM:

...

Ray Rodriguez, Asst. General Counsel

...

Webb County Civil Legal Division

...

*By law, the Webb County Civil Legal Division's Office may only advise or approve

...

contracts or legal documents on behalf of its clients. It may not advise

...

or approve a contract or legal document on behalf of other parties.

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User Notes:

(3B9ADA5E)

...

Our review of this document was conducted solely from the legal

...

perspective of our client. Our approval of this document was offered

...

solely for the benefit of our client. Other parties should not rely on

...

this approval, and should seek review and approval of their own

...

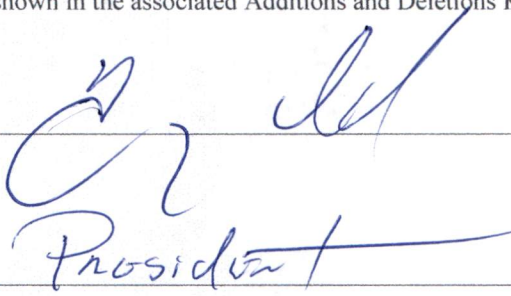
respective attorney(s).

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 18:59:58 ET on 02/12/2019 under Order No. 8269380084 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A105™ - 2017, Standard Short Form of Agreement Between Owner and Contractor, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

A handwritten signature in blue ink, appearing to be "C. J. [unclear]", written over a horizontal line.

(Title)

President

(Dated)

2-28-19



DAVICON-01

SMUNIZ

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/8/2019

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 Trimble-Batjer Insurance Associates LLP 120 Austin Hwy. Ste. 103 San Antonio, TX 78209	CONTACT NAME: Susan Muniz PHONE (A/C, No, Ext): (210) 253-2415 FAX (A/C, No): E-MAIL ADDRESS: susan@trimble-batjer.com														
INSURED Davila Construction, Inc. 520 Bonham San Antonio, TX 78205	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: left;">NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A : Allied World National</td> <td>10690</td> </tr> <tr> <td>INSURER B : Colonial County Mutual</td> <td>29262</td> </tr> <tr> <td>INSURER C : Liberty Surplus Insurance Corporation</td> <td>10702</td> </tr> <tr> <td>INSURER D : Texas Mutual Insurance Company</td> <td>22945</td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Allied World National	10690	INSURER B : Colonial County Mutual	29262	INSURER C : Liberty Surplus Insurance Corporation	10702	INSURER D : Texas Mutual Insurance Company	22945	INSURER E :		INSURER F :	
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INSURER F :															

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

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 <input checked="" type="checkbox"/> SEE BELOW GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			03109866	10/20/2018	10/20/2019	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY <input checked="" type="checkbox"/> SEE BELOW			BATX3018438506	10/20/2018	10/20/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
C	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 0			100027560002	10/20/2018	10/20/2019	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y <input checked="" type="checkbox"/> N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	0001102078	11/5/2018	11/5/2019	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

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

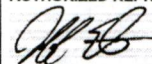
RE: La Presa Community Park

CERTIFICATE HOLDER**CANCELLATION**

Webb County
 1000 Houston Street
 Laredo, TX 78040

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





ADDITIONAL REMARKS SCHEDULE

AGENCY Trimble-Batjer Insurance Associates LLP		NAMED INSURED Davila Construction, Inc. 520 Bonham San Antonio, TX 78205	
POLICY NUMBER SEE PAGE 1		EFFECTIVE DATE: SEE PAGE 1	
CARRIER SEE PAGE 1	NAIC CODE SEE P 1		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

Certificate of Liability Remarks

****SPECIAL PROVISIONS**** GL includes blanket 30 day notice of cancellation/material change endorsement (except nonpay/10), GL and Auto includes blanket additional insured with general liability including products/completed operations and primary and non-contributory coverage and blanket waiver of subrogation endorsement all in favor of any person or organization as required by signed, written contact.

WE HAVE ISSUED AN INDUSTRY STANDARD ACORD CERTIFICATE OF INSURANCE FOR OUR CUSTOMER. A LAW PASSED BY THE TEXAS LEGISLATURE EFFECTIVE JANUARY 1, 2012 (SENATE BILL 425) PROHIBITS US FROM ADDING SPECIAL WORDING TO THE CERTIFICATE THAT WOULD (1)ALTER, AMEND OR EXTEND COVERAGE OR TERMS AND CONDITIONS PROVIDED BY THE INSURANCE POLICY; AND (2)PROVIDE FALSE OR MISLEADING INFORMATION CONCERNING THE INSURANCE POLICY; OR (3) REFER TO A LEGAL OR INSURANCE REQUIREMENT CONTAINED IN A CONTRACT.

A310™ – 2010 Bid Bond

CONTRACTOR:

(Name, legal status and address)

Davila Construction, Inc.
520 Bonham
San Antonio, TX 78205

SURETY:

Berkley Insurance Company

475 Steamboat Road
Greenwich, CT 06830

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

OWNER:

(Name, legal status and address)

Webb County
1000 Houston
Laredo, TX 78040

BOND AMOUNT: \$ Five Percent of Greatest Amount Bid by Principal (5% GAB)

PROJECT:

(Name, location or address, and Project number, if any)

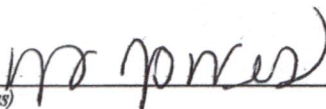
La Presa Community Park Project, Construction of new park, Laredo, TX

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

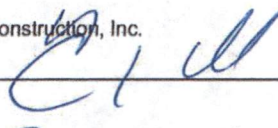
If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.


Signed and sealed this 1st day of October 2018



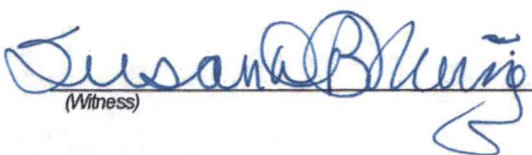
(Witness)

Davila Construction, Inc.


(Principal) *(Seal)*




(Title)



(Witness)

Berkley Insurance Company

(Surety) *(Seal)*



(Title) Joseph Patrick O'Connor, Attorney-in-Fact

IMPORTANT NOTICE

To obtain information or make a complaint:

You may call Berkley Surety Group and its affiliates by telephone for information or to make a complaint:

BERKLEY SURETY GROUP

Please send all notices of claim on this bond to:

**Berkley Surety Group
(866) 768-3534 or BSGClaim@BerkleySurety.com**

**412 Mount Kemble Avenue, Suite 310N
Morristown, NJ 07960
Attn: Surety Claims Department**

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

1-800-252-3439

You may write the Texas Department of Insurance:

**P. O. Box 149104
Austin, TX 78714-9104
Fax: (512) 475-1771
Web: <http://www.tdi.state.tx.us>
E-mail: ConsumerProtection@tdi.state.tx.us**

PREMIUM OR CLAIM DISPUTES:

Should you have a dispute concerning your premium or about a claim you should contact your agent or Berkley Surety Group first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR BOND:

This notice is for information only and does not become a part or condition of the attached document and is given to comply with Texas legal and regulatory requirements.

POWER OF ATTORNEY
BERKLEY INSURANCE COMPANY
WILMINGTON, DELAWARE

NOTICE: The warning found elsewhere in this Power of Attorney affects the validity thereof. Please review carefully.

KNOW ALL MEN BY THESE PRESENTS, that BERKLEY INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Delaware, having its principal office in Greenwich, CT, has made, constituted and appointed, and does by these presents make, constitute and appoint: Paul Guenther Adam; Joseph Patrick O'Connor; Peter Severance Batjer; Lisa Welch Friend; Susan Dale Muniz; Rhonda Ann Underwood; Barbara B. Newcomb; or Amy Michell Gamez of Trimble-Batjer Insurance Associates LLP of San Antonio, TX its true and lawful Attorney-in-Fact, to sign its name as surety only as delineated below and to execute, seal, acknowledge and deliver any and all bonds and undertakings, with the exception of Financial Guaranty Insurance, providing that no single obligation shall exceed Fifty Million and 00/100 U.S. Dollars (U.S.\$50,000,000.00), to the same extent as if such bonds had been duly executed and acknowledged by the regularly elected officers of the Company at its principal office in their own proper persons.

This Power of Attorney shall be construed and enforced in accordance with, and governed by, the laws of the State of Delaware, without giving effect to the principles of conflicts of laws thereof. This Power of Attorney is granted pursuant to the following resolutions which were duly and validly adopted at a meeting of the Board of Directors of the Company held on January 25, 2010:

- RESOLVED, that, with respect to the Surety business written by Berkley Surety, the Chairman of the Board, Chief Executive Officer, President or any Vice President of the Company, in conjunction with the Secretary or any Assistant Secretary are hereby authorized to execute powers of attorney authorizing and qualifying the attorney-in-fact named therein to execute bonds, undertakings, recognizances, or other suretyship obligations on behalf of the Company, and to affix the corporate seal of the Company to powers of attorney executed pursuant hereto; and said officers may remove any such attorney-in-fact and revoke any power of attorney previously granted; and further
RESOLVED, that such power of attorney limits the acts of those named therein to the bonds, undertakings, recognizances, or other suretyship obligations specifically named therein, and they have no authority to bind the Company except in the manner and to the extent therein stated; and further
RESOLVED, that such power of attorney revokes all previous powers issued on behalf of the attorney-in-fact named; and further
RESOLVED, that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any power of attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligation of the Company; and such signature and seal when so used shall have the same force and effect as though manually affixed. The Company may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Company, notwithstanding the fact that they may have ceased to be such at the time when such instruments shall be issued.

IN WITNESS WHEREOF, the Company has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 12th day of July, 2017.

Attest:

Berkley Insurance Company

(Seal)

By Ira S. Lederman
Executive Vice President & Secretary

By Jeffrey M. Hafter
Senior Vice President

WARNING: THIS POWER INVALID IF NOT PRINTED ON BLUE "BERKLEY" SECURITY PAPER.

STATE OF CONNECTICUT)
) ss:
COUNTY OF FAIRFIELD)

Sworn to before me, a Notary Public in the State of Connecticut, this 12th day of July, 2017, by Ira S. Lederman and Jeffrey M. Hafter who are sworn to me to be the Executive Vice President and Secretary, and the Senior Vice President, respectively, of Berkley Insurance Company.

MARIA C. RUNDBAKEN
NOTARY PUBLIC
MY COMMISSION EXPIRES
APRIL 30, 2019

[Signature of Maria C. Rundbaken]
Notary Public, State of Connecticut

CERTIFICATE

I, the undersigned, Assistant Secretary of BERKLEY INSURANCE COMPANY, DO HEREBY CERTIFY that the foregoing is a true, correct and complete copy of the original Power of Attorney; that said Power of Attorney has not been revoked or rescinded and that the authority of the Attorney-in-Fact set forth therein, who executed the bond or undertaking to which this Power of Attorney is attached, is in full force and effect as of this date.

Given under my hand and seal of the Company, this 1st day of October, 2018.

(Seal)

[Signature of Vincent P. Forte]
Vincent P. Forte

WARNING - Any unauthorized reproduction or alteration of this document is prohibited. This power of attorney is void unless seals are readable and the certification seal at the bottom is embossed. The background imprint, warning and verification instructions (on reverse) must be in blue ink.

A312™ - 2010 Performance Bond

Bond No.: 02167000

CONTRACTOR:

(Name, legal status and address)

Davila Construction, Inc.
520 Bonham
San Antonio, TX 78205

OWNER:

(Name, legal status and address)

County of Webb, State of Texas
1000 Houston Street

Laredo, TX 78040

CONSTRUCTION CONTRACT

Date: February 28, 2019

SURETY:

Berkley Insurance Company
475 Steamboat Rd.
Greenwich, CT 06830

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

This document combines two separate bonds, a Performance Bond and a Payment Bond, into one form. This is not a single combined Performance and Payment Bond.

Amount: One Hundred Eleven Thousand One Hundred and no/100 (\$111,100.00)

Description:

(Name and location)

La Presa Community Park, 1983 Mangana-Hein Road, Community Park consisting of a jogging loop, pavilion, two (2) picnic areas, and obstacle course

BOND

Date: March 12, 2019

(Not earlier than Construction Contract Date)

Amount: One Hundred Eleven Thousand One Hundred and no/100 (\$111,100.00)

Modifications
to this Bond:



None



See Section 16

CONTRACTOR AS PRINCIPAL

Company:

Davila Construction, Inc.
520 Bonham
San Antonio, TX 78205

(Corporate Seal)

SURETY

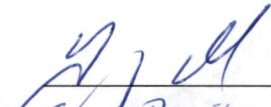
Berkley Insurance Company
475 Steamboat Rd.
Greenwich, CT 06830

(Corporate Seal)

Signature:

Name

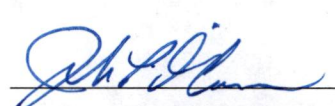
and Title:


Robert Davila
President

Signature:

Name

and Title:



Joseph Patrick O'Connor

Attorney-in-Fact

(Any additional signatures appear on the last page of this Performance Bond.)

(FOR INFORMATION ONLY – Name, address and telephone)

AGENT or BROKER:

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

§ 2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

- .1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
 - .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety;
- and
- .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

§ 4 Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

§ 5 When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

§ 5.1 Arrange for the Contractor, with the Consent of the Owner, to perform and complete the Construction Contract;

§ 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

§ 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

§ 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
- .2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

§ 6 If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
- .3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 14 Definitions

§ 14.1 **Balance of the Contract Price.** The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

§ 14.2 **Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

§ 14.3 **Contractor Default.** Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 **Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 **Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 16 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

(Corporate Seal)

SURETY

(Corporate Seal)

Signature: _____

Signature: _____

Name and Title:

Name and Title:

Address:

Address:

A312™ - 2010 Payment Bond

Bond #: 0217000

CONTRACTOR:

(Name, legal status and address)

Davila Construction, Inc.
520 Bonham
San Antonio, TX 78205

SURETY:

Berkley Insurance Company
475 Steamboat Rd.
Greenwich, CT 06830

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

OWNER:

(Name, legal status and address)

County of Webb, State of Texas
1000 Houston Street
Laredo, TX 78040

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONSTRUCTION CONTRACT

Date: February 28, 2019

This document combines two separate bonds, a Performance Bond and a Payment Bond, into one form.

Amount: One Hundred Eleven Thousand One Hundred and no/100 (\$111,100.00)

This is not a single combined Performance and Payment Bond.

Description:

(Name and location)

La Presa Community Park, 1983 Mangana-Hein Road, Community Park consisting of a jogging loop, pavilion, two (2) picnic areas, and obstacle course

BOND

Date: March 12, 2019

(Not earlier than Construction Contract Date)

Amount: One Hundred Eleven Thousand One Hundred and no/100 (\$111,100.00)

Modifications to this Bond: None See Section 18

CONTRACTOR AS PRINCIPAL

Company: *(Corporate Seal)*

Davila Construction, Inc.
520 Bonham
San Antonio, TX 78205

SURETY

Company: *(Corporate Seal)*

Berkley Insurance Company
475 Steamboat Rd.
Greenwich, CT 06830

Signature: _____

Name

and Title:

[Handwritten Signature]
Joseph Davila
President

Signature: _____

Name

and Title:

[Handwritten Signature]
Joseph Patrick O'Connor
Attorney-in-Fact

(Any additional signatures appear on the last page of this Payment Bond.)

(FOR INFORMATION ONLY – Name, address and telephone)

AGENT or BROKER:

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

§ 1 The Contractor and Surety, jointly and severally bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

- .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- .2 have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

§ 10 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

§ 11 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 12 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 13 Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

§ 14 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

§ 16 Definitions

§ 16.1 **Claim.** A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- .4 a brief description of the labor, materials or equipment furnished;
- .5 the date of which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim,
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim

§ 16.2 **Claimant.** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

§ 16.3 **Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

§ 16.4 **Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 16.5 **Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

§ 17 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 18 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

SURETY

Company:

(Corporate Seal)

Company:

(Corporate Seal)

Signature: _____

Signature: _____

Name and Title:

Name and Title:

Address:

Address:

IMPORTANT NOTICE

To obtain information or make a complaint:

You may call Berkley Surety Group and its affiliates by telephone for information or to make a complaint:

BERKLEY SURETY GROUP

Please send all notices of claim on this bond to:

**Berkley Surety Group
(866) 768-3534 or BSGClaim@BerkleySurety.com**

**412 Mount Kemble Avenue, Suite 310N
Morristown, NJ 07960
Attn: Surety Claims Department**

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

1-800-252-3439

You may write the Texas Department of Insurance:

**P. O. Box 149104
Austin, TX 78714-9104
Fax: (512) 475-1771
Web: <http://www.tdi.state.tx.us>
E-mail: ConsumerProtection@tdi.state.tx.us**

PREMIUM OR CLAIM DISPUTES:

Should you have a dispute concerning your premium or about a claim you should contact your agent or Berkley Surety Group first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR BOND:

This notice is for information only and does not become a part or condition of the attached document and is given to comply with Texas legal and regulatory requirements.

POWER OF ATTORNEY
BERKLEY INSURANCE COMPANY
WILMINGTON, DELAWARE

NOTICE: The warning found elsewhere in this Power of Attorney affects the validity thereof. Please review carefully.

KNOW ALL MEN BY THESE PRESENTS, that BERKLEY INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Delaware, having its principal office in Greenwich, CT, has made, constituted and appointed, and does by these presents make, constitute and appoint: *Paul Guenther Adam; Joseph Patrick O'Connor; Peter Severance Batjer; Lisa Welch Friend; Susan Dale Muniz; Rhonda Ann Underwood; Barbara B. Newcomb; or Amy Michell Gamez of Trimble-Batjer Insurance Associates LLP of San Antonio, TX* its true and lawful Attorney-in-Fact, to sign its name as surety only as delineated below and to execute, seal, acknowledge and deliver any and all bonds and undertakings, with the exception of Financial Guaranty Insurance, providing that no single obligation shall exceed **Fifty Million and 00/100 U.S. Dollars (U.S.\$50,000,000.00)**, to the same extent as if such bonds had been duly executed and acknowledged by the regularly elected officers of the Company at its principal office in their own proper persons.

This Power of Attorney shall be construed and enforced in accordance with, and governed by, the laws of the State of Delaware, without giving effect to the principles of conflicts of laws thereof. This Power of Attorney is granted pursuant to the following resolutions which were duly and validly adopted at a meeting of the Board of Directors of the Company held on January 25, 2010:

RESOLVED, that, with respect to the Surety business written by Berkley Surety, the Chairman of the Board, Chief Executive Officer, President or any Vice President of the Company, in conjunction with the Secretary or any Assistant Secretary are hereby authorized to execute powers of attorney authorizing and qualifying the attorney-in-fact named therein to execute bonds, undertakings, recognizances, or other suretyship obligations on behalf of the Company, and to affix the corporate seal of the Company to powers of attorney executed pursuant hereto; and said officers may remove any such attorney-in-fact and revoke any power of attorney previously granted; and further

RESOLVED, that such power of attorney limits the acts of those named therein to the bonds, undertakings, recognizances, or other suretyship obligations specifically named therein, and they have no authority to bind the Company except in the manner and to the extent therein stated; and further

RESOLVED, that such power of attorney revokes all previous powers issued on behalf of the attorney-in-fact named; and further

RESOLVED, that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any power of attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligation of the Company; and such signature and seal when so used shall have the same force and effect as though manually affixed. The Company may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Company, notwithstanding the fact that they may have ceased to be such at the time when such instruments shall be issued.

IN WITNESS WHEREOF, the Company has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 12th day of July, 2017.

Attest:

Berkley Insurance Company

(Seal)

By

Ira S. Lederman
Executive Vice President & Secretary

By

Jeffrey M. Hafter
Senior Vice President

WARNING: THIS POWER INVALID IF NOT PRINTED ON BLUE "BERKLEY" SECURITY PAPER.

STATE OF CONNECTICUT)

) ss:

COUNTY OF FAIRFIELD)

Sworn to before me, a Notary Public in the State of Connecticut, this 12th day of July, 2017, by Ira S. Lederman and Jeffrey M. Hafter who are sworn to me to be the Executive Vice President and Secretary, and the Senior Vice President, respectively, of Berkley Insurance Company.

MARIA C. RUNDBAKEN
NOTARY PUBLIC
MY COMMISSION EXPIRES
APRIL 30, 2019

Maria C. Rundbaken
Notary Public, State of Connecticut

CERTIFICATE

I, the undersigned, Assistant Secretary of BERKLEY INSURANCE COMPANY, DO HEREBY CERTIFY that the foregoing is a true, correct and complete copy of the original Power of Attorney; that said Power of Attorney has not been revoked or rescinded and that the authority of the Attorney-in-Fact set forth therein, who executed the bond or undertaking to which this Power of Attorney is attached, is in full force and effect as of this date.

Given under my hand and seal of the Company, this 12th day of March, 2019.

(Seal)

Vincent P. Forte
Vincent P. Forte

WARNING - Any unauthorized reproduction or alteration of this document is prohibited. This power of attorney is void unless seals are readable and the certification seal at the bottom is embossed. The background imprint, warning and verification instructions (on reverse) must be in blue ink.

Please **verify the authenticity** of the instrument attached to this Power by:

Toll-Free Telephone: (800) 456-5486; or

Electronic Mail: BSGInquiry@berkleysurety.com

Any written notices, inquiries, claims or demands to the Surety on the bond attached to this Power should be directed to:

Berkley Surety
412 Mount Kemble Ave.
Suite 310N
Morristown, NJ 07960
Attention: Surety Claims Department

Or

Email: BSGClaim@berkleysurety.com

Please include with all communications the bond number and the name of the principal on the bond. Where a claim is being asserted, please set forth generally the basis of the claim. In the case of a payment or performance bond, please also identify the project to which the bond pertains.

Berkley Surety is a member company of W. R. Berkley Corporation that underwrites surety business on behalf of Berkley Insurance Company, Berkley Regional Insurance Company and Carolina Casualty Insurance Company.





WEBB COUNTY'S OFFICIAL NOTICE TO PROCEED

**“Webb County La Presa Community Park (ITB#2018-005)
Bid Proposal, Plans & Technical Specifications “**

March 20th, 2019

DAVILA CONSTRUCTION, INC.; Attn:
Mr. Tony Davila, President
520 Bonham
San Antonio, TX. 78205
Ph. (210) 224-5887
tony@davilaconstruction.com

Re: “Webb County La Presa Community Park Construction Project, Invitation to Bid (ITB#2018-005)

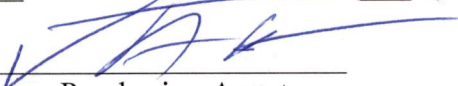
Dear Mr. Davila:

Please consider this your official Notice to Proceed from Webb County, Texas on the project named above. You are hereby authorized to proceed with construction as of **MARCH 21st, 2019 and construction shall commence not later than 7 calendar days from said date.** Contract time will begin to be counted on the start date as verified by Webb County Engineer/Dept. upon official notice of start date from Contractor. The Work shall be completed within **SIXTY (60) WORKING DAYS** as specified in the contract documents.

The amount of this construction contract is **\$110,100.00**

The following instruments that are required under the construction contract have been delivered by Contractor to Webb County, Texas/Owner.

- XX** Payment Bond - (**Yes**) (No) Contract Amt. \$25k+ **Mandatory Texas Statute**
- XX** Performance Bond – (**Yes**) (No) (N/A) **Contract Amt. \$100k+ Mandatory Texas Statute**
- XX** Public Liability Insurance - (**Yes**) (No)
- XX** Worker’s Comp. Insurance – (**Yes**) (No)
- XX** Builder’s Risk Insurance – (**Yes**) (No) (N/A)
- XX** Automobile Insurance – (**Yes**) (No)



Joe Lopez, Purchasing Agent
Webb County Purchasing Dept.

Date: March 20th, 2019



WEBB COUNTY'S OFFICIAL NOTICE TO PROCEED

**"Webb County La Presa Community Park (ITB#2018-005)
Bid Proposal, Plans & Technical Specifications "**

A handwritten signature in blue ink, appearing to read "Ray Rodriguez", written over a horizontal line.

Ray Rodriguez, Asst. General Counsel

Webb County Civil Legal Division Date: March 20th, 2019

Please ensure that all submittals required by the Contract Documents have been submitted and reviewed by the Webb County Engineering Dept. prior to ordering any related materials or completing any related work. Work cannot begin until all applicable submittals have been reviewed, which means that contract time will be counted but no work will be allowed.

Mr. Luis Perez-Garcia, P.E., the Webb County Engineer and/or Mr. Guillermo Cuellar, P.E., from the Webb County Eng. Dept. shall be your two points of contact for Webb County for this project.

If you have any questions, please contact me at (956) 523-4054 or via e-mail at lperezgarcia@webbcountytx.gov .

Sincerely,

Webb County Engineering Dept.

A handwritten signature in blue ink, appearing to read "Luis Perez-Garcia", written over a horizontal line.

Luis Perez-Garcia, P.E.

Webb County Engineer

Date: March 20, 2019

Accepted and Received:

Davila Construction, Inc., a
Texas Corporation

By: _____

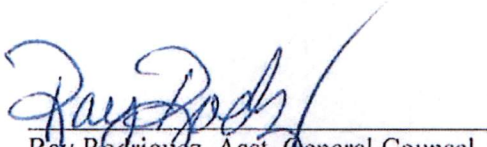
Tony Davila-President

Date: March ____, 2019



WEBB COUNTY'S OFFICIAL NOTICE TO PROCEED

"Webb County La Presa Community Park (ITB#2018-005)
Bid Proposal, Plans & Technical Specifications "


Ray Rodriguez, Asst. General Counsel
Webb County Civil Legal Division Date: March 20th, 2019

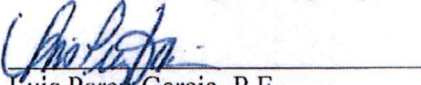
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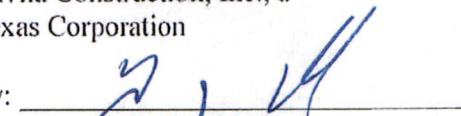
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Sincerely,

Webb County Engineering Dept.


Luis Perez-Garcia, P.E.
Webb County Engineer
Date: March 20, 2019

Accepted and Received:
Davila Construction, Inc., a
Texas Corporation

By: 
Tony Davila-President
Date: March 21, 2019