### **CONTRACT AGREEMENT**

THIS AGREEMENT made and entered into this 33 day of Supplement, 2020, by and between THE DIAMOND ENGINEERING COMPANY, hereinafter called the Contractor, and the City of Grand Island, Nebraska, hereinafter called the City.

#### WITNESSETH:

THAT, WHEREAS, in accordance with law, the City has caused contract documents to be prepared and an advertisement calling for bids to be published, for construction of **Sanitary Sewer District No. 544**; **Ellington Pointe and Westwood Park Subdivisions**; and

WHEREAS, the City, in the manner prescribed by law, has publicly opened, examined, and canvassed the proposals submitted, and has determined the aforesaid Contractor to be the lowest responsive bidder, and has duly awarded to the said Contractor a contract therefore, for the sum or sums named in the Contractor's bid, a copy thereof being attached to and made a part of this contract;

NOW, THEREFORE, in consideration of the compensation to be paid to the Contractor and of the mutual agreements herein contained, the parties have agreed and hereby agree, the City for itself and its successors, and the Contractor for itself or themselves, and its or their successors, as follows:

ARTICLE I. That the Contractor shall (a) furnish all tools, equipment, superintendence, transportation, and other construction materials, services and facilities; (b) furnish, as agent for the City, all materials, supplies and equipment specified and required to be incorporated in and form a permanent part of the completed work; (c) provide and perform all necessary labor; and (d) in a good substantial and workmanlike manner and in accordance with the requirements, stipulations, provisions, and conditions of the contract documents as listed in the attached General Specifications and Special Provisions, said documents forming the contract and being as fully a part thereof as if repeated verbatim herein, perform, execute, construct and complete all work included in and covered by the City's official award of this contract to the said Contractor, such award being based on the acceptance by the City of the Contractor's bid;

ARTICLE II. That the City shall pay to the contractor for the performance of the work embraced in this contract and the contractor will accept as full compensation therefore the sum (subject to adjustment as provided by the contract) of SIX HUNDRED SEVENTY EIGHT THREE HUNDRED SIXTY SIX AND 25/100 DOLLARS (\$678,366.25) for all services, materials, and work covered by and included in the contract award and designated in the foregoing Article I; payments thereof to be made in cash or its equivalent in the manner provided in the General Specifications.

ARTICLE III. The contractor hereby agrees to act as agent for the City in purchasing materials and supplies for the City for incorporation into the work of this project. The City shall be obligated to the vendor of the materials and supplies for the purchase price, but the contractor shall handle all payments hereunder on behalf of the City. The vendor shall make demand or claim for payment of the purchase price from the City by submitting an invoice to the contractor. Title to all materials and supplies purchased hereunder shall vest in the City directly from the vendor. Regardless of the method of payment, title shall vest immediately in the City. The contractor shall not acquire title to any materials and supplies incorporated into the project. All invoices shall bear the contractor's name as agent for the City. This paragraph will apply only to these materials and supplies actually incorporated into and becoming a part of the finished product of Sanitary Sewer District No. 544; Ellington Pointe and Westwood Park Subdivisions.

<u>ARTICLE IV.</u> The work shall be substantially complete by **July 15, 2021**. Substantial completion means all new sewer has passed testing and television inspections. All contract work shall be completed and accepted by **July 22, 2021**.

ARTICLE V. It is understood and agreed that time is the essence of the contract. Should the Contractor fail to perform the work within the period of time and/or calendar day duration stipulated in Special Provisions 1.09 for final completion and in the Contract Agreement, the Contractor shall pay to the City, as liquidated damages and not as a penalty, \$250.00 per calendar day of default unless extension of time granted by the City specifically provide for the waiving of liquidated damages.

The City shall have the right to deduct the liquidated damages from any moneys in its hands, otherwise due, or to become due, to the Contractor, or to sue for and recover compensation for damages for non-performance of this contract within the time stipulated.

ARTICLE VI. The Contractor agrees to comply with all applicable State fair labor standards in the execution of this contract as required by Section 73-102, R.R.S. 1943. The Contractor further agrees to comply with the provisions of Section 48-657, R.R.S. 1943, pertaining to contributions to the Unemployment Compensation Fund of the State of Nebraska. During the performance of this contract, the contractor and all subcontractors agree not to discriminate in hiring or any other employment practice on the basis of race, color, religion, sex, national origin, age or disability. The Contractor agrees to comply with all applicable Local, State and Federal rules and regulations.

ARTICLE VII. GRATUITIES AND KICKBACKS: City Code states that it is unethical for any person to offer, give, or agree to give any City employee or former City employee, or for any City employee or former City employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract to order.

<u>ARTICLE VIII.</u> The City of Grand Island, Nebraska operates on a fiscal year beginning October 1st and ending on the following September 30th. It is understood and agreed that any portion of this agreement which will be performed in a future fiscal year is contingent upon the City Council adopting budget statements and appropriations sufficient to fund such performance.

ARTICLE IX. FAIR EMPLOYMENT PRACTICES: Each proposer agrees that they will not discriminate against any employee or applicant for employment because of age, race, color, religious creed, ancestry, handicap, sex or political affiliation.

ARTICLE X. LB 403: Every public contractor and his, her or its subcontracors who are awarded an agreement by the City for the physical performance of services within the State of Nebraska shall register with and use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska.

IN WITNESS WHEREOF, the parties hereto have executed this Contract Agreement as of the date and year first above written.

### THE DIAMOND ENGINEERING COMPANY

Byfarmest blacker	Date Sept 17th 2020
Title RESIDENT	
CITY OF GRAND ISLAND, NEBRASKA,	
By Roger S. Steele Mayor	Date 9/23/2020
Attest: Range Edwards City Clerk	
The contract and bond are in due form according to law and Attorney for the City	d are hereby approved.  Date 9 (8 2020)

#### APPENDIX A - TITLE VI NON-DISCRIMINATION -

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

- (1) Compliance with Regulations: The contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) Nondiscrimination: The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin, sex, age, and disability/handicap in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap.
- (4) Information and Reports: The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City of Grand Island or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the City of Grand Island, or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5) Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the City of Grand Island shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  - (a.) withholding of payments to the contractor under the contract until the contractor complies, and/or
  - (b.) cancellation, termination or suspension of the contract, in whole or in part.
- (6) Incorporation of Provisions: The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontract or procurement as the City of Grand Island or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the City of Grand Island to enter into such litigation to protect the interests of the City of Grand Island, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

# INLAND INSURANCE COMPANY

PO Box 80468 Lincoln, Nebraska 68501 UNIVERSAL SURETY COMPANY

### PERFORMANCE BOND

Conforms with the American Institute of Architects, AIA Document A311

TO COMPANY TO THE PARTY OF THE	BOND NO. 141257
KNOW ALL MEN BY THESE PRESENTS:	
That The Diamond Engineering Co.  as Principal, hereinafter called Contractor, and under the laws of the State of Nebraska, Lincoln, Nebraska, as Surety, hereina City of Grand Island, Nebraska	Company a corporation organized and existing fler called Surety, are held and firmly bound unto
as Obligee, hereinafter called Owner, in the amount of	<u> </u>
***Six Hundred Seventy Eight Three Hundred Sixty Six and for the payment whereof Contractor and Surety bind themselves, their heirs, of firmly by these presents:	25/100*** Dollars (\$ ***678,366.25*** ), executors, administrators, successors and assigns, jointly and severally,
WHEREAS. Contractor has by written agreement dated	
Sanitary Sewer District No. 544; Ellington Pointe and Westw	
in accordance with Drawings and Specifications prepared by	(here insert full name, title and address.)  which contract is by reference made a
NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION of the said Contract, then this obligation shall be null and void; otherwise it shall rem  The Surety hereby waives notice of any alteration or extension of times.	
(1) Complete the Contract in accordance with its terms and co (2) Obtain a bid or bids for completing the Contract in accord of the lowest responsible bidder, or, if the Owner cleets, responsible bidder, arrange for a contract between such bit there should be a default or a succession of defaults under sufficient funds to pay the cost of completion less the ball damages for which the Surety may be fiable hereunder. If	anditions, or dance with its terms and conditions, and upon determination by Surety upon determination by the Owner and the Surety jointly of the lowest adder and Owner, and make available as Work progresses (even though the contract or contracts of completion arranged under this paragraph) ance of the contract price, but not exceeding, including other costs and its amount set forth in the first paragraph hereof. The term "balance of the total amount payable by Owner to Contractor under the Contract and
Any suit under this bond must be instituted before the expiration of falls due.	two (2) years from the date on which final payment under the Contract
No right of action shall accrue on this bond to or for the use of any executors, administrators or successors of the Owner.	person or corporation other than the Owner named hereig or the heirs,
Signed and sealed this 17th day of September	,2020
In the presence of:	The Diamond Engineering Co.
Kuly Suplus	By: James J. Harder (Seal)
Burdy Arury (Witness)	By:

## INLAND INSURANCE COMPANY

PO Box 80468 Lincoln, Nebraska 68501 UNIVERSAL SURETY COMPANY

### LABOR AND MATERIAL PAYMENT BOND

Conforms with the American Institute of Architects, AIA Document A312

ZNOW ALC 3	MEN BY THESE PRESENTS:	BOND NO. 141257
	The Diamond Engineering Co.	
	- · · · · · · · · · · · · · · · · · · ·	
existing under t	reinafter called Principal, and Universal Surety he laws of the State of Nebraska, Lincoln, Nebraska, as Surety id Island, Nebraska	y, hereinafter called Surety, are held and firmly bound unto
	cinafter called Owner, for the use and benefit of claimants as h	
***Six Hund	ired Seventy Eight Three Hundred Sixty Six and	Dollars (\$***678,366.25***) executors, administrators, successors and assigns, jointly and severally
for the paymen firmly by these	t whereof Principal and Surety bind themselves, their heirs, presents.	execulors, administrators, successors and assigns, jointly and severally
WH	REAS, Principal has by written agreement dated	
Sanitary Se	wer District No. 544; Ellington Pointe and Westv	wood Park Subdivisions
in accordance w	with Drawings and Specifications prepared by	(here insert full name, title and address )
		, which contract is by reference made a
part nereot, and	is hereinafter referred to as the Contract.	
(1) (2) (3)	required for use in the performance of the Contract, labor and material b service or remail of equipment directly applicable to the Contract. The above named Principal and Surety hereby jointly and severally agree the expiration of a period of innetty (90) days after the date on which the such claimant, may sue on this bond for the use of such claimant, proses execution thereon. The Owner shall not be hable for the payment of any No suit or action shall be commenced hereunder by any claimant;  (a) Unless claimant, other than one having a direct contract will the Owner, or the Surety above named, within ninety (90) of the materials for which said claim is made, stating with were furnished, or for whom the work or labor was done or mail, postage prepaid, in an envelope addressed to the Pitransaction of business, or served in any manner in which I such service need not be made by a public officer.  (b) After the expiration of one (1) year following the date on limitation embodied in this bond is prohibited by any law conjugated to the minimum period of limitation permitted by such the minimum period of limitation	this the Principal, shall have given written notice to any two of the following—the Principal days after such claimant did or performed the last of the work or labor, or furnished the last substantial accuracy the amount claimed and the name of the party to whom the materials performed. Such notice shall be served by mailing the same by registered mail or certified functions. Owner or Surety, at any place where an office is regularly maintained for the legal process may be served in the state in which the aforesaid project is focated, save that which the process may be served in the state in which the aforesaid project is focated, save that which principal ceased Work on said Contract, it being understood, however, that if any outrolling the construction hereof such limitation shall be deepined to be amended to as a to be
Signe	d and sealed this 17th day of September	
n the presence of	nÉ	The Diamond Engineering Co.
Kede	V Supllation (Wilhess)	By: James James (Seal)  James L. Harder Pricental  Universal Surety Company
Buni	Ly Rawy	By:

## UNIVERSAL SURETY COMPANY

Lincoln, Nebraska

### POWER OF ATTORNEY

### KNOW ALL MEN BY THESE PRESENTS:

State of Nebraska

That the UNIVERSAL SURETY COMPANY, a corporation of the State of Nebraska having its principal office in the City of Lincoln, Nebraska, pursuant to the following Bylaw, which was adopted by the Board of Directors of the said Company on July 23, 1981, to wit:

"Article V-Section 6. RESIDENT OFFICERS AND ATTORNEYS-IN-FACT. The President or any Vice President, acting with any Secretary or Assistant Secretary, shall have the authority to appoint Resident Vice Presidents and Attorneys-In-Fact, with the power and authority to sign, execute, acknowledge and deliver on its behalf, as Surety: Any and all undertakings of suretyship and to affix thereto the corporate seal of the corporation. The President or any Vice President, acting with any Secretary or Assistant Secretary, shall also have the authority to remove and revoke the authority of any such appointee at any time." does hereby make, constitute and appoint

Gary Rosacker or Jay C Huston or Brindy Lawver or Tami Towne or Christopher Rosacker or Todd Price or April Empfield, Grand Island, Nebraska or Maureen Wagoner, Phillips, Nebraska

its true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver for and on its behalf, as Surety: Any and all undertakings of suretyship

And the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its offices in Lincoln, Nebraska, in their own persons.

The following Resolution was adopted at the Regular Meeting of the Board of Directors of the UNIVERSAL SURETY COMPANY, held on July 23, 1981:

"RESOLVED, That the signatures of officers of the Company and the seal of the Company may be affixed by facsimile to any Power of Attorney executed in accordance with Article V-Section 6 of the Company Bylaws: and that any such Power of Attorney bearing such facsimile signatures, including the facsimile signature of a certifying Assistant Secretary and facsimile seal shall be valid and binding upon the Company with respect to any bond, undertaking or contract of suretyship to which it is attached."

All authority hereby conferred shall remain in full force and effect until terminated by the Company. IN WITNESS WHEREOF, UNIVERSAL SURETY COMPANY has caused these presents to be signed by its President and its corporate seal to be hereunto affixed UNIVERSAL SURETY COMPANY Secretary/Treasurer Ву

County January , 20 20 , before me personally came Curtis L. Hartter, to me known, who being by me duly sworn, did depose and say that (s)he resides in the County of Lancaster, State of Nebraska; that (s)he is the President of the UNIVERSAL SURETY COMPANY, the corporation described in and which executed the above instrument; that (s)he knows the seal of the said corporation; that the seal affixed to the said instrument is such

corporate seal; that it was so affixed by order of the Board of Directors of said corporation; that (s)he signed (his) (her) name by like order; and that Bylaw, Article V-Section 6, adopted by the Board of Directors of said Company, referred to in the preceding instrument, is now in force.

My Commission Expires February 16, 2022,

Notary Public

I, Philip C. Abel, Director of UNIVERSAL SURETY COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney executed by said UNIVERSAL SURETY COMPANY, which is still in full force and effect.

Signed and sealed at the City of Lincoln, Nebraska this \_\_\_\_17th\_\_\_day of \_

Director

GENERAL NOTARY - State of Nebraska TARA MARTIN My Comm. Exp. February 16, 2022



### CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 08/12/2020

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 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).

COVERAGES	CERTIFICATE MUMBER.		<del></del>
		INSURER F:	
Grand Island NE 68802-1327		INSURER E:	
**		INSURER D :	
PO Box 1327			120710
1521 W Anna		INSURER C: National Fire Insurance of Hartford (CNA)	20478
The Diamond Engineering Co		INSURER B : Travelers Prop Casualty of America	25674
INSURED		INSURER A : Continental Insurance Company (CNA)	35289
		INSURER(S) AFFORDING COVERAGE	NAIC#
Grand Island NE 68801	PRODUCER CUSTOMER ID #: 1301		
_		E-MAIL ADDRESS: blawver@ryderinsurance.com	
509 W. Koenig St.		E-MAIL LI-	000/ 002-7 100
Ryder-Rosacker-McCue & Huston		PHONE (AIC, No. Ext): (308) 382-2330 or 800-658-4200 FAX (A/C, No): (	308) 382-7109
PRODUCER		CONTACT Brindy Lawver	
certificate fiolidar in flett of Su	tort ortaotoomonicoj.		

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. ADDL SUBR TYPE OF INSURANCE INSR WVD POLICY NUMBER GENERAL LIABILITY EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) s 1,000,000 6056763960 Х COMMERCIAL GENERAL LIABILITY 01-01-2020 01-01-2021 \$ 100,000 CLAIMS-MADE X OCCUR \$5,000 MED EXP (Any one person) s 1,000,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE GEN'L AGGREGATE LIMIT APPLIES PER s 2,000,000 PRODUCTS - COMP/OP AGG POLICY X PROŝ AUTOMOBILE LIABILITY COMBINED SINGLE LIMIT \$ 1,000,000 C Х ANY AUTO 6056582017 01-01-2020 01-01-2021 BODILY INJURY (Per person) ALL OWNED AUTOS BODILY INJURY (Per accident) 5 SCHEDULED AUTOS PROPERTY DAMAGE 3 HIRED AUTOS (Per accident) NON-OWNED AUTOS S Ś Х UMBRELLA LIAB OCCUR s 20,000,000 EACH OCCURRENCE ΑB **EXCESS LIAB** CLAIMS-MADE 6056763960/ZUP14P1205118NF | 01-01-2020 01-01-2021 s 20,000,000 AGGREGATE DEDUCTIBLE RETENTION \$ 10,000 WORKERS COMPENSATION X WC STATU-AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) 6056582020 01-01-2020 01-01-2021 s 1,000,000 N/A E L EACH ACCIDENT E L DISEASE - EA EMPLOYEE s 1,000,000 If yes, describe under DESCRIPTION OF OPERATIONS below EL DISEASE - POLICY LIMIT s 1,000,000 В Leased/Rented; Install, Floater DTC09D177812IND 01-01-2020 01-01-2021 \$350,000 Per Item : \$1,200,000 Pollution E&O 6050432675 01-01-2020 01-01-2021 \$1,000,000

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

RE: Sanitary Sewer District No. 544; Ellington Pointe and Westwood Park Subdivisions

City of Grand Island is an additional insured when required by written contract

All policies have an early notice of cancellation.

CERTITION TE NOLDER	CANCELLATION
City of Grand Island Attn: Building Inspection Dept PO Box 1968	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
Grand Island, NE 68802-1968	AUTHORIZED REPRESENTATIVE XXIV FOLICITY (KF)
Fax: (308)385-5423	

OFFICIONES HOLDER