CONSTRUCTION AGREEMENT
FOR BOND STREET CONCRETE SERVICES FOR
2020 STREET BOND PROGRAM – YEAR 2
CITY OF NORTH RICHLAND HILLS AND
APEX CONCRETE CONSTRUCTION, INC.

THIS **CONSTRUCTION AGREEMENT ("Contract")** is made and entered by and between **APEX CONCRETE CONSTRUCTION, INC.**, (hereinafter referred to as "Contractor"), and the **CITY OF NORTH RICHLAND HILLS, TEXAS,** a municipal corporation (hereinafter referred to as "City" or "Owner"), to be effective upon the date executed by the City.

For and in consideration of the covenants and agreements contained herein, and for the mutual benefits to be obtained hereby, the parties hereto agree as follows:

I. CONTRACT DOCUMENTS

The parties agree that the Contract Documents shall consist of the following:
1. This signed Construction Agreement;
2. Any and all Addendum(s);
3. "Notice to Bidders" advertisement;
4. The Contractor's Bid Proposal
5. Special Instruction to Bidders;
6. General Conditions of Bid #21-011;
7. Special Conditions of Bid #21-011;
8. The Specifications of Bid #21-011;
9. The Plans/Drawings of Bid #21-011;
10. Payment Bond;
11. Performance Bond; and
12. Insurance Certificate(s)

These contract documents form the construction agreement and are a part of this construction agreement as if fully set forth herein. The contract documents are complementary and what is called for by one shall be as binding as if called for by all. In the event of an inconsistency in any of the provisions of the contract documents, the inconsistency shall be resolved by giving precedence to the contract documents in the order in which they are listed above.

II. THE WORKS

Contractor shall provide all labor, supervision, materials and equipment necessary to perform all work required by the contract documents in connection with the construction of Bond Street Concrete for Diamond Loch West, Meadow Oaks Drive, Pearl Street and Southampton Drive ("work"), through Bid #21-011 in accordance with a Scope of Work in the form of **Exhibit "A**," for each service provided under this Contract. Each Scope of Work shall be incorporated herein and governed by the terms and conditions of this contract.

III. TIME OF COMMENCEMENT; COMPLETION

Contractor shall commence work within ten (10) calendar days after receiving from City a Notice to Proceed for a work order. The Term of this Contract shall be for 12 months. The City shall have the option to renew this Contract for three (3) additional 12 month periods in accordance with Section 39 of the Special Conditions. The Date of Completion for the work shall be set forth in the Scope of Work for each service provided under this Contract.

IV. CONTRACT PRICE

The City shall pay the Contractor in currently available funds for the performance of the work, subject to additions and deductions by change orders as provided in the contract documents, a total amount not to exceed **THREE HUNDRED NINETY-TWO THOUSAND ONE HUNDRED FORTY-ONE AND 00/100 DOLLARS ($392,141.00) ("Contract Price")**. Payment will be due upon completion of work and acceptance of the work by the City. Within the following thirty (30) days, Owner shall make partial payments to the Contractor for work performed during the preceding calendar month as estimated by the Owner or Owner's Representative. Ten percent (10%) of each estimate shall be retained by the Owner until final completion and acceptance of all work covered by the Contract for the specific Scope of Work for contracts less than four hundred thousand dollars ($ 400,000.00) in total Contract Price. Five percent (5%) of each estimate shall be retained by the Owner until final completion and acceptance of all work covered by the Contract for the specific Scope of Work for contracts equal to or greater than four hundred thousand dollars ($ 400,000.00) in total Contract Price. Upon completion and acceptance of all work in compliance with the Contract, the Owner shall, within thirty (30) days, pay the Contractor the balance due under the terms and conditions of the Contract.

V. CHOICE OF LAW; VENUE

The parties agree that the laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this construction agreement, and that the exclusive venue for any legal proceeding involving this construction agreement shall be Tarrant County, Texas. No additional work shall be authorized or charged for unless authorized by a change order signed by a person authorized by the City to do so. In the event of litigation between the parties, the parties shall be entitled to reasonable attorney's fees that are necessary, equitable and just, in accordance with applicable law, and as awarded by a court of competent jurisdiction.

VI. INSURANCE

The Contractor shall, at his own expense, maintain and keep in force insurance coverage in the minimum amounts as specified in the general conditions and specifications of Bid #21-011, with the City as an additional named insured providing primary coverage. Certificates of coverage, including workers compensation insurance, must be submitted with the contract. Insurance coverage must also cover all subcontractors employed by Contractor. Insurance coverage shall be written by companies approved by the State of Texas and acceptable to the Owner.

All required insurance certificates must be submitted prior to commencement of work.

VII. TERMINATION

A) Either party may terminate this Contract at any time for cause or convenience by providing ninety (90) days' written notice to the other party. Upon the receipt of such notice, Contractor shall immediately discontinue all services and work and the placing of all orders or the entering into contracts for all supplies, assistance, facilities and materials in connection with the performance of this Contract and shall proceed to cancel promptly all existing contracts insofar as they are chargeable to this Contract. Contractor shall not be entitled to lost or anticipated profits should City choose to exercise its option to terminate.

B) Non-appropriation of Funds.

In the event no funds or insufficient funds are appropriated by the City in any fiscal period for any payments due hereunder, City will notify Contractor of such occurrence and this Agreement shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to the City of any kind whatsoever, except as to the portions of the payments herein agreed upon for which funds have been appropriated.

VIII. FORCE MAJEURE

Neither party shall be liable for failure to perform its obligations under this Contract if the performance is delayed or prevented by reason of war; civil commotion; acts of God; inclement weather; epidemics; pandemics; governmental restrictions, regulations, or interferences; fires; strikes; lockouts, national disasters; riots; material or labor restrictions; transportation problems; or any other circumstances which are reasonably beyond the control of the party. Such party's performance shall be excused for the length of time the force majeure event lasts, provided that party makes a reasonable attempt to resume performance upon conclusion of the force majeure event, unless such performance has become legally impossible, in which case that party may terminate the Contract.

IX. CONFIDENTIAL INFORMATION

Contractor understands and acknowledges that Contractor will be provided with Owner information that may be confidential by law, rule, statute, ordinance or legal order. Contractor shall not disclose any information deemed confidential to any party who is not privy to or who does not have a special right of access to said information. Contractor agrees to use confidential information for purposes of providing the services contemplated herein only as determined by the City. Disclosure of, or unauthorized use of or access to, any confidential information by Contractor is a material breach of this Agreement. If Contractor violates this provision, and in addition to any other remedies at law or in equity that the City may have, the City may immediately obtain injunctive relief in a court of competent jurisdiction enjoining any continuing or further breaches and exercise any further remedies as authorized by law. Contractor agrees to indemnify and hold the City harmless for any claims or damages caused by Contractor's breach of this confidentiality provision.

X. RIGHT TO AUDIT

During the term of this Contract, and at any time within three (3) years following the expiration of this Contract, the City shall have the right of access to all information held in the possession of the Contractor related to services performed under this Contract, for audit purposes or otherwise. Contractor agrees to provide access to such information unless expressly prohibited from doing so by court or other governmental order. Except in the event of an emergency, the City will provide reasonable advance notice of any intended audits and the need for the information. Contract or agrees that it will keep records relating to the services provided hereunder for as long as required by law.

XI. NOTICES

Any notice required to be given hereunder shall be given by certified mail, return receipt to the following addresses:

If to City:
City of North Richland Hills
Attn: Mark Hindman, City Manager
4301 City Point Drive
North Richland Hills, Texas 76102
Email: mhindman@nrhtx.com
Phone: (817) 427-6004

If to Contractor:
Apex Concrete Construction, Inc.
Attn: Danny Porter
1080 Katy Rd..
Keller, TX 76248
Email: apexconstruction57@gmail.com
Phone: 817-454-1995

With copy to the City Attorney at the same address.

XII. DISPUTE RESOLUTION

Except in the event of termination pursuant to Section VII(B) of this Contract, if either City or Contractor has a claim, dispute, or other matter in question for breach of duty, obligations, services rendered or any warranty that arises under this Contract, the parties shall first attempt to resolve the matter through this dispute resolution process. The disputing party shall notify the other party inwriting as soon as practicable after discovering the claim, dispute, or breach. The notice shall state the nature of the dispute and list the party's specific reasons for such dispute. Within ten (10) business days of receipt of the notice, both parties shall commence the resolution process and make a good faith effort, either through email, mail, phone conference, in person meetings, or other reasonable means to resolve any claim, dispute, breach or other matter in question that may arise out of, or in connection with this Agreement. If the parties fail to resolve the dispute within thirty (30) days of the date of receipt of the notice of the dispute, then the parties shall submit the matter to non-binding mediation in Tarrant County, Texas, upon written consent of authorized representatives of both parties in accordance with the Industry Arbitration Rules of the American Arbitration Association or other applicable rules governing mediation then in effect. The mediator shall be agreed to by the parties. Each party shall be liable for its own expenses, including attorney's fees; however, the parties shall share equally in the costs of the mediation. If the parties cannot resolve the dispute through mediation, then either party shall

have the right to exercise any and all remedies available under law regarding the dispute. Notwithstanding the fact that the parties may be attempting to resolve a dispute in accordance with this informal dispute resolution process, the parties agree to continue without delay all of their respective duties an obligations under this Agreement not affected by the dispute. Either party may, before or during the exercise of the informal dispute resolution process set forth herein, apply to a court having jurisdiction for a temporary restraining order in injunction where such relief is necessary to protect is interests.

XIII. ENTIRE AGREEMENT; AMENDMENTS; BINDING EFFECT

This construction agreement, including the contract documents listed in Paragraph I represents the entire and integrated agreement between City and the Contractor, and supersedes all prior negotiations, representations, or agreements, either written or oral. This construction agreement may be amended only by written instrument signed by both City and Contractor.

XIV. EFFECTIVE DATE

This construction agreement, shall be effective upon the date of execution by the City of North Richland Hills City Manager.

IN WITNESS WHEREOF, the parties have executed this construction agreement upon the year and date indicated beneath their signatures hereto.

CITY OF NORTH RICHLAND HILLS	**APEX CONCRETE CONSTRUCTION, INC.**
BY: _____	BY:_____
Mark Hindman, City Manager	Danny Porter
DATE: _____	DATE: _____
ATTEST:	ATTEST: _____
_____	TITLE: _____
Alicia Richardson, City Secretary/Chief Governance Officer	

APPROVED AS TO FORM AND LEGALITY:

NRH Council Action Y/N
Date Approved_____
Agenda No._____
Ord /Res No._____

_____
Maleshia B. McGinnis, City Attorney

EXHIBIT "A"
SCOPE OF WORK

Scope of Work #1

This document outlines the services to be provided by **APEX CONCRETE CONSTRUCTION, INC., ("Contractor")** pursuant to **City of North Richland Hills ("City")** Bid #21-011 and the Contract executed between Contractor and City on_____ **("Contract")**. The services to be provided under the Scope of Work are as follows:

Description of Services ("work"): Removal and replacement of concrete curb, gutter, driveways, and other street-related concrete improvements along approximately 200 linear feet of residential roadway. Exact location of replacement(s) to be identified by City staff.

Location of Services: Diamond Loch West (Cul-De-Sac's)

Cost of Services:

This Scope of Work for the services described above is governed by and incorporated into the Contract. The parties hereby agree that the work to be performed shall be completed no later than the Completion Date indicated herein. If the work is not timely completed, the City shall have the right to exercise any and all remedies set forth in the Contract Documents and in accordance with applicable law.

ACCEPTED AND AGREED: **CITY OF NORTH RICHLAND HILLS**	**APEX CONCRETE** **CONSTRUCTON, INC.**
By: _____	By: _____
Caroline Waggoner, Director of Public Works	Danny Porter
Date: _____	Date: _____
By: _____	By: _____
Boe Blankenship, Project Manager	Authorized Representative
Date: _____	Date: _____

EXHIBIT "A"
SCOPE OF WORK

Scope of Work #2

This document outlines the services to be provided by **APEX CONCRETE CONSTRUCTION, INC., ("Contractor")** pursuant to **City of North Richland Hills ("City")** Bid #21-011 and the Contract executed between Contractor and City on_____ **("Contract")**. The services to be provided under the Scope of Work are as follows:

Description of Services ("work"): Removal and replacement of concrete curb, gutter, driveways, and other street-related concrete improvements along approximately 1,430 linear feet of residential roadway. Exact location of replacement(s) to be identified by City staff.

Location of Services: Meadow Oaks Drive (Dick Lewis Dr – Buenos Aires Dr)

Cost of Services:

This Scope of Work for the services described above is governed by and incorporated into the Contract. The parties hereby agree that the work to be performed shall be completed no later than the Completion Date indicated herein. If the work is not timely completed, the City shall have the right to exercise any and all remedies set forth in the Contract Documents and in accordance with applicable law.

ACCEPTED AND AGREED: **CITY OF NORTH RICHLAND HILLS**	**APEX CONCRETE** **CONSTRUCTON, INC.**
By:_____	By:_____
Caroline Waggoner, Director of Public Works	Danny Porter
Date:_____	Date:_____
By:_____	By:_____
Boe Blankenship, Project Manager	Authorized Representative
Date:_____	Date:_____

EXHIBIT "A"
SCOPE OF WORK

Scope of Work #3

This document outlines the services to be provided by **APEX CONCRETE CONSTRUCTION, INC., ("Contractor")** pursuant to **City of North Richland Hills ("City")** Bid #21-011 and the Contract executed between Contractor and City on_____ **("Contract")**. The services to be provided under the Scope of Work are as follows:

Description of Services ("work"): Removal and replacement of concrete curb, gutter, driveways, and other street-related concrete improvements along approximately 1,100 linear feet of residential roadway. Exact location of replacement(s) to be identified by City staff.

Location of Services: Pearl Street (Freda Ln – Hometown Alley)

Cost of Services:

This Scope of Work for the services described above is governed by and incorporated into the Contract. The parties hereby agree that the work to be performed shall be completed no later than the Completion Date indicated herein. If the work is not timely completed, the City shall have the right to exercise any and all remedies set forth in the Contract Documents and in accordance with applicable law.

ACCEPTED AND AGREED: **CITY OF NORTH RICHLAND HILLS**	**APEX CONCRETE** **CONSTRUCTON, INC.**
By:_____	By:_____
Caroline Waggoner, Director of Public Works	Danny Porter
Date:_____	Date:_____
By:_____	By:_____
Boe Blankenship, Project Manager	Authorized Representative
Date:_____	Date:_____

EXHIBIT "A"
SCOPE OF WORK

Scope of Work #4

This document outlines the services to be provided by **APEX CONCRETE CONSTRUCTION, INC., ("Contractor")** pursuant to **City of North Richland Hills ("City")** Bid #21-011 and the Contract executed between Contractor and City on_____ **("Contract")**. The services to be provided under the Scope of Work are as follows:

Description of Services ("work"): Removal and replacement of concrete curb, gutter, driveways, and other street-related concrete improvements along approximately 1,700 linear feet of residential roadway. Exact location of replacement(s) to be identified by City staff.

Location of Services: Southampton Drive (Wakefield Rd – Chapman Rd)

Cost of Services:

This Scope of Work for the services described above is governed by and incorporated into the Contract. The parties hereby agree that the work to be performed shall be completed no later than the Completion Date indicated herein. If the work is not timely completed, the City shall have the right to exercise any and all remedies set forth in the Contract Documents and in accordance with applicable law.

ACCEPTED AND AGREED: **CITY OF NORTH RICHLAND HILLS**	**APEX CONCRETE** **CONSTRUCTON, INC.**
By:_____	By:_____
Caroline Waggoner, Director of Public Works	Danny Porter
Date:_____	Date:_____
By:_____	By:_____
Boe Blankenship, Project Manager	Authorized Representative
Date:_____	Date:_____

ITEM NO.	EST. QTY.	UNIT	DESCRIPTION	UNIT PRICE	EXTENDED PRICE
1	0	SF	Remove and replace valley gutter, complete in place.	$ _____	$ _____
2	0	SF	Remove and replace reinforced 4' concrete sidewalk, complete in place.	$ _____	$ _____
3	0	SF	Remove and replace reinforced 5' concrete sidewalk, complete in place.	$ _____	$ _____
4	0	EA	Install handicap ramp, complete in place.	$ _____	$ _____
5	300	LF	Remove and replace concrete curb and gutter, complete in place.	$ 35.85	$ 10,755.00
6	150	SF	Remove and replace driveway flow line, complete in place.	$ 11.76	$ 1,764.00
7	600	SF	Remove and replace driveway, complete in place.	$ 10.64	$ 6,384.00
8	0	LF	Remove and replace curb inlet ear or return, complete in place	$ _____	$ _____
9	0	SF	Remove and Replace Concrete Pavement, complete in place– 5" thick	$ _____	$ _____
10	0	SF	Remove and replace concrete pavement, complete in place– 6" thick	$ _____	$ _____
11	0	SF	Remove and replace concrete pavement, complete in place– 7" thick	$ _____	$ _____
12	0	SF	Remove and replace concrete pavement, complete in place– 8" thick	$ _____	$ _____
13	0	EA	Remove and replace standard curb inlet, complete in place.	$ _____	$ _____
14	0	EA	Remove and replace standard curb inlet top, complete in place.	$ _____	$ _____
15	1	LS	Mobilization Fee	$ 5,500.00	$ 5,500.00
16	1	LS	Misc. Paving Allowance	$ 5,000.00	$ 5,000.00

DIAMOND LOCH WEST COURTS TOTAL $ 29,403.00

ITEM NO.	EST. QTY.	UNIT	DESCRIPTION	UNIT PRICE	EXTENDED PRICE
1	0	SF	Remove and replace valley gutter, complete in place.	$ _____	$ _____
2	0	SF	Remove and replace reinforced 4' concrete sidewalk, complete in place.	$ _____	$ _____
3	0	SF	Remove and replace reinforced 5' concrete sidewalk, complete in place.	$ _____	$ _____
4	0	EA	Install handicap ramp, complete in place.	$ _____	$ _____
5	1,000	LF	Remove and replace concrete curb and gutter, complete in place.	$ 35.85	$ 35,850.00
6	700	SF	Remove and replace driveway flow line, complete in place.	$ 11.76	$ 8,232.00
7	3,000	SF	Remove and replace driveway, complete in place.	$ 10.64	$ 31,920.00
8	0	LF	Remove and replace curb inlet ear or return, complete in place	$ _____	$ _____
9	0	SF	Remove and Replace Concrete Pavement, complete in place– 5" thick	$ _____	$ _____
10	0	SF	Remove and replace concrete pavement, complete in place– 6" thick	$ _____	$ _____
11	0	SF	Remove and replace concrete pavement, complete in place– 7" thick	$ _____	$ _____
12	0	SF	Remove and replace concrete pavement, complete in place– 8" thick	$ _____	$ _____
13	0	EA	Remove and replace standard curb inlet, complete in place.	$ _____	$ _____
14	0	EA	Remove and replace standard curb inlet top, complete in place.	$ _____	$ _____
15	1	LS	Mobilization Fee	$ 5,500.00	$ 5,500.00
16	1	LS	Misc. Paving Allowance	$ 5,000.00	$ 5,000.00

MEADOW OAK DRIVE TOTAL $ 86,502.00

ITEM NO.	EST. QTY.	UNIT	DESCRIPTION	UNIT PRICE	EXTENDED PRICE
1	0	SF	Remove and replace valley gutter, complete in place.	$ _____	$ _____
2	0	SF	Remove and replace reinforced 4' concrete sidewalk, complete in place.	$ _____	$ _____
3	0	SF	Remove and replace reinforced 5' concrete sidewalk, complete in place.	$ _____	$ _____
4	0	EA	Install handicap ramp, complete in place.	$ _____	$ _____
5	1,200	LF	Remove and replace concrete curb and gutter, complete in place.	$ 35.85	$ 43,020.00
6	800	SF	Remove and replace driveway flow line, complete in place.	$ 11.76	$ 9,408.00
7	4,500	SF	Remove and replace driveway, complete in place.	$ 10.64	$ 47,880.00
8	0	LF	Remove and replace curb inlet ear or return, complete in place	$ _____	$ _____
9	0	SF	Remove and Replace Concrete Pavement, complete in place– 5" thick	$ _____	$ _____
10	0	SF	Remove and replace concrete pavement, complete in place– 6" thick	$ _____	$ _____
11	0	SF	Remove and replace concrete pavement, complete in place– 7" thick	$ _____	$ _____
12	0	SF	Remove and replace concrete pavement, complete in place– 8" thick	$ _____	$ _____
13	0	EA	Remove and replace standard curb inlet, complete in place.	$ _____	$ _____
14	0	EA	Remove and replace standard curb inlet top, complete in place.	$ _____	$ _____
15	1	LS	Mobilization Fee	$ 4,500.00	$ 4,500.00
16	1	LS	Misc. Paving Allowance	$ 5,000.00	$ 5,000.00

PEARL STREET TOTAL $ 109,808.00

ITEM NO.	EST. QTY.	UNIT	DESCRIPTION	UNIT PRICE	EXTENDED PRICE
1	0	SF	Remove and replace valley gutter, complete in place.	$	$
2	5,000	SF	Remove and replace reinforced 4' concrete sidewalk, complete in place.	$ 9.52	$ 47,600.00
3	0	SF	Remove and replace reinforced 5' concrete sidewalk, complete in place.	$	$
4	6	EA	Install handicap ramp, complete in place.	$	$
5	1,600	LF	Remove and replace concrete curb and gutter, complete in place.	$ 35.85	$ 57,360.00
6	800	SF	Remove and replace driveway flow line, complete in place.	$ 11.76	$ 9,408.00
7	4,000	SF	Remove and replace driveway, complete in place.	$ 10.64	$ 42,560.00
8	0	LF	Remove and replace curb inlet ear or return, complete in place	$	$
9	0	SF	Remove and Replace Concrete Pavement, complete in place– 5" thick	$	$
10	0	SF	Remove and replace concrete pavement, complete in place– 6" thick	$	$
11	0	SF	Remove and replace concrete pavement, complete in place– 7" thick	$	$
12	0	SF	Remove and replace concrete pavement, complete in place– 8" thick	$	$
13	0	EA	Remove and replace standard curb inlet, complete in place.	$	$
14	0	EA	Remove and replace standard curb inlet top, complete in place.	$	$
15	1	LS	Mobilization Fee	$ 4,500.00	$ 4,500.00
16	1	LS	Misc. Paving Allowance	$ 5,000.00	$ 5,000.00

SOUTHAMPTON DRIVE TOTAL **$ 166,428.00**

Total Amount: 2022

Section I – Diamond Loch West	$ 29,403.00
Section II – Meadow Oak Drive	$ 86,502.00
Section III – Pearl Street	$ 109,808.00
Section IV – Southampton Drive	$ 166,428.00
Total Bid:	**$ 392,141.00**