

**I-95: EXIT 45, GATEWAY D1**  
**PROJECT CONSTRUCTION CONTRACT**

THIS CONSTRUCTION CONTRACT, made this 1<sup>st</sup> day of August, 2016 by and between **PRINCE GEORGE COUNTY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia ("County") with its administrative offices at 6602 Courts Drive, P. O. Box 68, Prince George, Virginia 23875; and **VIRGINIA CONCRETE CONSTRUCTION COMPANY**, a Virginia corporation ("VCCC") with a principal business address of 272 Grove Avenue, P. O. Box 1008, Petersburg, Virginia 23803.

WHEREAS, the County selected VCCC as the winning bidder of IFB# 16-0509-1; and

WHEREAS, VCCC will undertake the construction of the I-95 Exit 45 D-1 Gateway project as set out in the IFB # 16-0509-1 and as provided for by this contract for a total Contract price of \$1,154,124.00 with Completion Dates as provided for herein.

W I T N E S S E T H:

NOW THEREFORE: in consideration of the mutual benefits, undertakings and promises of the parties to this Contract, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows:

VCCC agrees to furnish all materials, supplies, tools, equipment, supervision, labor and other services necessary for the construction and completion of the improvements for the I-95 Exit 45 D1 Gateway per the plans and specifications as shown on the plans titled "Gateway D1, I95 Exit 45, South Crater Road" by Chroma Design dated March 25, 2016 and "Special Provision No. 1 Technical Specifications" dated April 2016, all as more particularly described in Prince George IFB # 16-0509-1, including as shown on applicable construction drawings and plans.

The following documents apply, where applicable, and are incorporated into this contract:

- a. IFB# 16-0509-1;
  - b. VCCC's bid submission;
  - c. Plans and Specifications entitled: "Gateway D1, I95 Exit 45, South Crater Road" by Chroma Design dated March 25, 2016 and "Special Provision No. 1 Technical Specifications" dated April 2016;
  - d. Any conditions contained in any permit;
  - e. Any requirements of state, federal and local laws and regulations;
  - f. Project Manual and supplemental specifications;
  - g. Additional requirements or directions as may be directed by the County's Project Manager, VDOT or the architect from Chroma Design; and
  - h. Surveys.
1. Scope of Work: VCCC shall perform in a workmanlike manner all work described in or reasonably implied by this Contract, the project manual and other bid documents; all additional work that is necessary to complete the work to the finished lines, grades, elevations, specifications; and installation requirements. VCCC shall furnish all implements, machinery, equipment, tools, materials, labor, and construction expertise necessary to perform the work.
  2. Description of Work: The "Work" shall mean the construction and completion of the improvements for the I-95 Exit 45 D1 Gateway per the plans and specifications as shown on the plans titled "Gateway D1, I95 Exit 45, South Crater Road" by Chroma Design dated March 25, 2016 and "Special Provision No. 1 Technical Specifications"

dated April 2016, and related improvements as outlined in the project manual, other bid documents and this contract. Such Work shall include, but is not limited to:

- a. Construction and installation of two 47' stainless steel and glass spires flanking South Crater Road;
  - b. Landscaping, sidewalks and paving improvements to the intersection of I-95, Exit 45 and South Crater Road and the area near the glass spires;
  - c. Installation of an irrigation system; and
  - d. Installation of night lights.
3. All materials used to complete the Work shall be new or, if not new, approved in advance by the County Project Manager and the Architect. Geotechnical testing of soil for quality and compaction shall be performed by Prince George County.
4. Project Manager: VCCC designates Brett Elder as its "Project Manager," and the County designates George Poulson as its "Project Manager." Doug Lamson of Chroma Design shall be the project architect. VCCC agrees to cooperate with all County officials, VDOT and the Architect in accomplishing the Work in an expeditious and economical fashion and agrees to follow the directions of the County and Architect in the event that there is any dispute over the methods, means, size, quantity, location, materials, grade, installation, quality or finished standards of the Work. Representatives of the County, VDOT and Architect shall have access to the site of the Work at all times.
5. Contract Price: VCCC shall perform the Work for a total price of \$1,154,124.00.
6. Payments: Upon properly performing all obligations in a timely and workmanlike manner, the County will make partial payments to VCCC each month in an

amount equal to 90% of the value of the work performed as determined by the County and Architect, less the aggregate of previous payments, provided that VCCC provides an application for payment to the County Project Manager no later than the 20<sup>th</sup> of the month. Prior to any payments, VCCC shall provide an electronic bank routing number of an account number for payment. All partial payments to VCCC are expressly conditioned upon VCCC's complete performance of work listed on the applicable application for which it seeks payment and its release and wavier of liens. The County shall make final payment to VCCC within thirty (30) days of the total completion of all the Work, including punch list items and after all labor and material bills have been paid.

7. Time of Performance:

- (a) Time is of the essence in performing the Work provided for in this Contract. VCCC shall commence work within thirty (30) days of receiving the "Notice to Proceed" from the County Project Manager or execution of this Contract, whichever occurs first, and will complete all Work, including "punch list" items, within 180 calendar days or January 28, 2017, whichever occurs first ("Completion Date"). In order to meet such schedule, VCCC agrees to work weekends and use labor requiring overtime pay, if necessary, which shall be paid by VCCC within the contract amount.
- (b) Normal working hours for the project are 8:00 a.m. to 5:00 p.m., Monday through Friday. The County reserves the right to require VCCC to work outside of normal working hours in the interest of minimizing impact on

adjacent users or to further timely completion. If VCCC desires to perform work outside of the normal working hours, it shall request the County's permission in advance of the time when VCCC proposes to perform the Work. The County may refuse VCCC's permission to work outside of normal working hours for any reason, including, but not limited to the County's difficulty in making arrangements for inspection of the Work. VCCC shall avoid making undue noise when working outside of normal working hours. No claim for additional compensation shall be made by VCCC when such changes occur in the daily work schedule.

- (c) VCCC shall supply a critical path schedule for the job prior to commencing work. VCCC shall also furnish progress reports and updated "critical path schedule" to the County Project Manager and Architect in a form acceptable to the County within three (3) calendar days after a request is made. In the event that work progress indicates that the schedule is not being met, VCCC shall furnish in writing to the County Project Manager and Architect, the method or schedule VCCC proposes to bring the project into compliance with the progress schedule. The process for VCCC's coordination of subcontractors and vendors is to be included within any schedule to recover lost time as well as VCCC's agreement to pay for any additional or "overtime" manpower. The County may withhold payments if the work is behind schedule or otherwise not being performed in accordance with the terms of this Contract.

- (d) For each calendar day after January 28, 2017 that the work has not been completed, the County shall have the right to deduct \$250 per day as liquidated damages, not as a penalty.

8. Performance of Work:

- (a) VCCC shall furnish all labor, supervision, tools, equipment, materials and supplies necessary for the performance of this Contract in a proper, efficient and workmanlike manner within the Time of Performance described in Section 7(a). VCCC shall prosecute all work in a prompt and diligent manner as the County may direct. VCCC shall furnish all materials necessary to perform and complete the Work in sufficient time to do so. VCCC agrees to reimburse the County for any additional costs or damages that may be assessed against the County or required in order to allow the exit ramp and public roadway to meet VDOT standards which are attributable to or caused by VCCC.
- (b) VCCC shall clean up the site on a daily basis and keep all work areas free from accumulation of waste materials, dirt, rubbish, and debris caused by its work. VCCC shall comply with all directives of the County Project Manager regarding clean-up or debris disposal. VCCC shall ensure that the work area is unobstructed and clean at all times. If VCCC fails to fulfill its obligations under this subsection, the County may, without notice, perform such work and charge the cost or a proportionate share of the cost to VCCC.

- (c) All Work shall be accomplished in a manner least disruptive to the citizens and users of Exit 45 and adjacent businesses and VCCC will submit a plan showing how the Work will be conducted in a way least disruptive to citizens and in a way that provides a safe environment to users of Exit 45 and adjacent businesses and further complies with any VDOT requirements. All work shall be performed using all available protections so that adjacent citizens shall be protected from danger, risk, noise, smell and disruption. There shall be no disruption of electricity, or other utilities unless approved in advance by the County. All workers for VCCC shall park any vehicles at an area designated by the County.
- (d) At its expense, VCCC shall provide a “staging area” outside of the project area for storage of materials and parking of equipment.
- (e) All Work by VCCC shall be performed with the highest quality workmanship consistent with professional standards applicable to the highest quality road, landscape and structure construction in Virginia. The County will inspect and approve or decline acceptance of all Work. VCCC agrees to perform any corrections as noted by the County Project Manager, Chroma Design’s Architect or VDOT inspections.
- (f) VCCC shall employ a sufficient number of workers skilled in their trades to suitably perform the Work. VCCC agrees to re-execute any work, which does not conform to the drawings and specifications or Architect’s/County Project Manager’s direction at no extra cost to the County. VCCC warrants that the Work performed is “fit for its intended

purpose,” and agrees to remedy at its cost any defects or consequential damages resulting from faulty materials or workmanship which shall become evident during a period of one year after final payment for completion of the Work.

- (g) All work and storage of materials or equipment shall occur only within the areas approved in advance by the County. Equipment shall be secured each night. All trees outside the project area shall remain untouched. All work within the project area shall be accomplished in such a way as to avoid any limb breaking, root disturbance or damage to trees outside the project area. VCCC shall pay the County \$300.00 for any tree significantly damaged or destroyed outside the project area. At the completion of work prior to final payment, the site shall be cleaned and left clear of all debris.

- 9. No Deviation from Contract Documents by VCCC: In performing the Work, VCCC shall not deviate from the Contract documents without the written consent of the County Project Manager and the Architect. If VCCC does deviate from the Contract documents, it shall correct the deviation at its expense in a manner satisfactory to the County.
- 10. Supervision of Work: If there is any dispute or delay over any progress payment, VCCC shall not suspend its work and shall diligently continue to work for a sixty-day period in order to give the parties an opportunity to resolve any differences.
- 11. Changes and Change Orders: Changes to the Scope of Work, manner of completion or Completion Schedule under this Contract may only be made upon



approval of a written change order between the County and VCCC. Any claim for the adjustment of the contract price must be made prior to any additional work being performed. Any increase or decrease in the scope of the work shall result in an increase or decrease in the project costs if warranted. Such increase or decrease shall include the cost of materials and labor plus a 15% profit "mark-up" on cost. All change orders must be approved in writing by the County Project Manager and Architect prior to proceeding with the resumed work or scheduled work using the form supplied by the County. The Contract Price or Completion Date shall be appropriately adjusted based on any approved change orders.

12. Character of Workmen and Equipment: VCCC shall employ competent superintendents, foremen and workmen legally authorized to work in the United States. The County may demand that VCCC discharge or remove from the project any employee of VCCC or any subcontractor or vendor who is incompetent or negligent in the performance of his duties or who refuses or neglects to comply with the directions of the County Project Manager.
13. Subsurface Conditions: VCCC shall promptly, before such conditions are disturbed, notify the County in writing of any subsurface or latent physical conditions differing materially from those anticipated or of any physical condition differing from those ordinarily encountered and generally recognized as inherent in this type of construction work.
14. Compliance with Law: VCCC agrees that it will at all times comply with all applicable federal, state and local regulations, laws and ordinances in connection with labor and materials or work performed on this project, including any safety

laws, rules and regulations. VCCC shall not discriminate against any person or firm on the basis of race, creed, sex, religion, color or national origin in connection with its employment practices or performances of this Contract.

15. Permits: VCCC shall obtain a permit from the County for all land disturbing activity or stormwater or flood plain requirements. VCCC must obtain all other required licenses and permits, including permits from VDOT, and pay all charges and expenses for obtaining such permits.
16. Insurance: VCCC shall provide and maintain, at its expense, Worker's Compensation, Property and Casualty, and Comprehensive General Liability insurance in compliance with IFB #16-0509-1, and as shown on the Certificate of Insurance, naming the County and its employees and agents as additional insured. VCCC will supply the County with a performance bond guaranteeing faithful performance of this contract and a labor and materialman's bond guaranteeing payment to suppliers, vendors and subcontractors. VCCC will purchase builder's risk coverage to cover the cost of replacing all improvements prior to final completion.
17. Indemnification: VCCC obligates itself to pay the cost of all materials furnished for the Work as well as all work and labor performed under this Contract, and to indemnify the County against any claims, suits, or liens by any entity other than VCCC for such costs. In addition, VCCC shall indemnify the County and save it harmless from all loss, damage, cost, expense and attorney's fees incurred on account of any breach of this contract or violation of law, regulation or ordinance by VCCC or its agents. VCCC shall indemnify the County and save it harmless

from any and all loss, costs, fines and other expenses, arising out of or occasioned by the failure of VCCC, or any of its officers, agents, employees, vendors subcontractors, or other persons engaged by the subcontractor to fully comply with the requirements of this Contract or any applicable laws, regulations or judicial precedent.

18. Assignment: VCCC shall not in whole or in part, assign or sublet this Contract or the proceeds thereof without the written consent of the County.
19. Termination: The County may terminate this contract for convenience, using the process in ¶ 5.15 of the County's RFP "Terms and Conditions" or for cause as defined in §14.2.1 of the AIA document A201 (2007). The County has the further right to complete the Work in accordance with the first two sentences of § 14.2.4 of the AIA document A201 (2007). The foregoing provisions of AIA Document A201 (2007) are hereby incorporated by reference and made a part of this Contract as if set forth herein verbatim.
20. Governing Law: This Contract shall be governed by the laws of the Commonwealth of Virginia. Any disputes arising from this contract that result in a lawsuit shall be resolved only in the Circuit Court of Prince George County, Virginia.

IN WITNESS WHEREOF, the County and VCCC have each executed this Contract by officials legally authorized to bind each party.

**PRINCE GEORGE COUNTY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia

By

Title

APPROVED AS TO FORM:

Steven L. Micas  
Steven L. Micas, County Attorney

STATE OF VIRGINIA,

~~CITY~~/COUNTY OF Prince George, to-wit:

The foregoing instrument was acknowledged before me this 1<sup>st</sup> day of August, 2016, by Percy C. Ashcraft, County Administrator, on behalf of PRINCE GEORGE COUNTY, VIRGINIA, a political subdivision of the Commonwealth of Virginia.

My commission expires: Dec 31, 2017

Registration Number: 113927

Donna H. Traylor  
Notary Public



VIRGINIA CONCRETE CONSTRUCTION COMPANY,  
A Virginia corporation

By *R. Thomas App*

*Vice-President*  
Title

COMMONWEALTH OF VIRGINIA,

CITY/COUNTY OF *Prince George*, to-wit:

The foregoing instrument was acknowledged before me this *8<sup>th</sup>* day of August, 2016, by  
*R. Thomas Elder, Jr.*, *Vice-President* on behalf of VIRGINIA CONCRETE  
CONSTRUCTION COMPANY, a Virginia corporation.

My commission expires: *5/31/19*

Registration Number: *7509955*



Teresa H. Knott  
Commonwealth of Virginia  
Notary Public  
Commission No. 7509955  
My Commission Expires 5/31/2019

*Teresa H. Knott*  
Notary Public