



March 8, 2021

RE: Unsealed Request for Proposal (URFP) No. 21-01-62 for Design and Fabrication of artistic elements in Melrose-Orange Target Area bus shelters

To Whom it May Concern:

The City of Roanoke hereby requests proposals from Offerors for providing permanent works of art to be incorporated into four (4) new bus shelters in the Melrose-Orange Target Area (MOTA). The City reserves the right to award to multiple Offerors.

In partnership with Valley Metro, the City will install uniform bus shelters with custom details such as shelter panels and potential treatment of the underlying concrete pad. With the addition of artistic elements, the finished shelters should help communicate the neighborhood themes of “diversity, visibility, and possibility,” continuing the work of a stakeholder-driven process to bridge communities, celebrate diversity and history, and inspire residents to seek and realize opportunities for the future. The elements shall be designed through an inclusive, participatory process engaging neighbors, local business and property owners, and local students.

An engaged group of residents and stakeholders have expressed a desire for the shelters to incorporate color, educational themes, and a celebration of the diversity of the neighborhood, which incorporates a number of cultures and a large African-American population.

### **Background**

The Melrose-Orange Target Area (MOTA) boundaries encompass portions of the Loudoun-Melrose and Melrose-Rugby neighborhoods and extend from 10<sup>th</sup> Street NW to 24<sup>th</sup> Street NW and Hanover Avenue NW to Loudon Avenue NW.

MOTA has been a focus for the City’s Federal Community Development Block Grants (CDBG) and HOME funding since 2014. During that period, a stakeholder driven process has resulted in more than 100 home rehabilitations and the dedications of the Feeding America Southwest Virginia Solutions Center and a new state-of-the-art branch of the Roanoke Public Library at the Goodwill of the Valleys Job Campus.

MOTA is at the intersection of diverse neighborhoods in the northwest quadrant of the community. It incorporates a busy commercial and transportation corridor.

During the streetscape portion of the project, the development of new bus shelters will improve the public transportation experience, encourage bus ridership, and provide an opportunity for the community to present the character and identity of the area.

More information on MOTA and its assets is available [here](#).

### **Qualification**

The project is open to all artist teams. Student or youth involvement will be considered, if led by an adult. All applicants, regardless of race, age, sex, religion, nationality, origin, or disability will be considered. The City encourages Small, Women-owned, and Minority-owned business to submit a response to this URFP.

### **Scope of Services:**

**A description and/or listing of the services and/or items that the successful Offeror will be required to provide to the City under this URFP are those that are set forth in this URFP and/or below and/or referred to in any way in the sample Contract.**

Offeror should carefully read and review all such items and should address such items in its proposal. However, the final description of the services and/or items to be provided to the City under this URFP is subject to negotiations with the successful Offeror(s), and final approval by the City.

#### **A. General Requirements**

1. The Successful Offeror(s) shall work closely with neighborhood residents and stakeholders to design the artwork and shall execute it in collaboration with the established fabricator.
2. The Successful Offeror(s) shall present a final design proposal to the project team consisting of MOTA stakeholders for approval. The Roanoke Arts Commission and Roanoke City Council will review and approve the plan prior to fabrication.
3. The artwork must use durable materials suitable for outside elements and change in temperature and as impervious to vandalism as possible.
4. The artwork shall require little or no maintenance.

#### **B. Bus Shelter Specifications**

1. Shelter Specifications: Bus shelters will be fabricated in collaboration with the artist to conform with Valley Metro specifications. Anticipated shelter dimensions are [shown here](#).
2. Shelter Panels: Modifiable panel elements include color and perforation pattern.

3. Shelter Structure: Modifications to the shelter may include color and ornament. Not all modifications increase the cost.
4. Concrete Pad: The City will pour the concrete pad, the surface of which is potentially available for artistic treatment. All plans incorporating the surface area must meet all safety and code requirements and be vetted and timed with the streetscape process through the City Engineer.



#### C. Installation

The bus shelters will most likely be installed during streetscape improvements in the 2022 fiscal year, the design of the bus shelters can occur in the interim to allow an appropriate timeline for community participation in the design process fabrication, and coordination with streetscape improvement.

#### D. Budget

1. The City reserves the right to negotiate a final fee. Up to three finalists may be selected and if there be that many, video conference, phone or in person interviews may be required.
2. **The offeror's fees shall be capped at \$2,500 per bus shelter, or \$10,000 total.** The fees shall include all community engagement and design cost, including travel and materials involved in the process.
3. Fabrication and Construction cost increases (when compared with a standard shelter will be capped at \$4,000 per shelter to include all potential improvements in shelter, panels, and the concrete pad).

The offeror's job can in some ways be seen as fostering a community vision for the project that the artist then translates for the production process through coordination with the fabricator. Not all artistic improvements, (e.g. color of power coating) will increase project cost.

## **URFP Submittals:**

Offeror should submit proposal(s); one (1) original, marked as such and one (1) redacted copy, marked as such.

Each proposal, at a minimum, should include the following:

- A. A cover letter that introduces the Offeror, outlines the proposed services, and provides a brief history of the Company.
- B. Scope of Services: Describe in detail how you propose to undertake the Scope of Services, including a detailed listing and description of tasks, deliverables, specific tools that will be used, philosophy for working on community-drive projects and how you will work with the community to design and implement the project.
- C. Up to 10 images of prior work executed within the last seven years. Each image shall include a short description of the work and total budget. If one or more of the pictured pieces is appropriate and available as a response for this request, please indicate that in the description.
- D. Experience and Capacity: Describe background and related experience demonstrating ability to provide required services and provide a descriptive list of related experience in working with diverse communities and neighborhood scale projects.
- E. Organizational overview: Provide the Offeror's profile, identify the relationship support, analytical and management staff/subconsultants, and include a resume of staff who will be assigned to the various components of the work.
- F. Price: Prospective Offerors must submit the price such Offeror proposes to charge the City for providing the required services and/or items, including all fees and costs and how they are calculated.
- G. References: Provide at least three references that can attest to relevant experience within the last five years. List name, organization, phone number, and email address, and the Offeror's relationship with that reference.

The City may request additional information, clarification, or oral presentations from any of the Offerors.

This URFP includes the following Attachment:

- 1. Attachment A – Signature Page
- 2. Attachment B – Sample Contract

Successful Offeror selected for this work will be required to sign a Contract similar to Attachment B, subject to any changes that may be authorized by mutual agreement of the parties. Please review the document carefully. Any conditions to the contract shall be provided in Offeror's response.

The City reserves the right to immediately terminate any resultant Contract, with or without cause, upon written notice to the Successful Offeror(s). In the event of such termination, the Successful Offeror(s) will be compensated for services rendered through the date of termination at the rate agreed to and set out in the Contract between the parties.

**All responses to this Unsealed Request for Proposal (URFP) shall be submitted on or before 2:00 p.m. on April 12, 2021, via email to [purchase@roanokeva.gov](mailto:purchase@roanokeva.gov).**

**Delivery Alert:** Due to measures the City of Roanoke is taking in response to COVID-19, the Noel C. Taylor Municipal Building is closed to the public with essential services still available to citizens. Offerors must submit their proposal via email to [purchase@roanokeva.gov](mailto:purchase@roanokeva.gov) by the due date and time. Emails received after the due date and time will not be considered. The email must include the RFP number and title in the subject line with the Company name. The email must include two (2) digital copies of the proposal with RFP Number, Title, and name of Company on each with one named 'original', and one named 'redacted'. The redacted version should be void of all confidential and proprietary material. All other references to delivery methods in this solicitation are not valid.

Proposals received after the specified date and time will not be accepted. Faxed proposals are not acceptable.

Each Offeror who is a stock or Nonstock Corporation, Limited Liability Company, business trust, or a limited partnership or other business entity shall be authorized to transact business in the Commonwealth of Virginia as a domestic or foreign business entity if required by law. Each such Offeror shall include in its proposal response the Identification Number issued to it by the Virginia State Corporation Commission (SCC) and should list its business entity name as it is listed with the SCC. Any Offeror that is not required to be authorized to transact business in the Commonwealth as a domestic or foreign business entity as required by law shall include in its proposal response a statement describing why the Offeror is not required to be so authorized. (See VA Code Section 2.2-4311.2).

### **Evaluation Criteria.**

Offerors will be evaluated for selection on the basis of those most qualified to meet the requirements of this URFP. The City of Roanoke will use a weighted scoring system when evaluating selection criteria. Major criteria to be considered in the evaluation may include, but shall not necessarily be limited to the items referred to above and those set forth below:

- A. Experience: The background, education, and experience of the Offeror in providing similar services or items elsewhere, including the level of experience in working with municipalities and the quality of services performed or items supplied. **35 points**
- B. Cost/Fee: Reasonableness/competitiveness of proposed fee and/or benefits to the City, although the City is not bound to select the Offeror who proposes the lowest

fees or most benefits for services. The City reserves the right to negotiate fees and/or benefits to the City with the selected Offeror(s). **20 points.**

- C. Compliance: The Offeror's responsiveness and compliance with the RFP requirements and conditions. Determination that the selected Offeror has no contractual relationships which would result in a conflict of interest with the City's contract. Offeror's willingness to accept the City's sample contract. **10 points**
- D. Approach and Methodology to Meet Need: The Offeror's ability, capacity, and skill to fully and satisfactorily provide the services and/or items required in this URFP. The quality of Offeror's performance in comparable and/or similar projects. Whether the Offeror can provide the services and/or deliver the items in a prompt and timely manner. **35 points.**

### **Selection Process**

All proposals submitted in response to this URFP will be reviewed by the Purchasing Division or its designee for responsiveness prior to referral to a selection committee or person. A committee consisting of City personnel and/or others and/or an appropriate individual will then evaluate and score all responsive proposals, conduct the negotiations, and make recommendations for award to the City Manager, or the City Manager's designee, as appropriate. The award of a contract, if made, will be made to the Offeror whose proposal best furthers the interest of the City, as determined by the City Manager, or the City Manager's designee. The City reserves the right to reject any and all proposals, to waive any informality or irregularity in the proposals received, and to make the award to the Offeror whose proposal is deemed to be in the best interest of the City.

Proposal evaluation and award will be accomplished in accordance with this Request for Unsealed Proposals and Sections 23.2-1, et. seq. of the Code of the City of Roanoke, Virginia. General and/or technical questions regarding the Scope of Services and/or items required or procurement questions under this RFUP may be directed to [stanley.wells@roanokeva.gov](mailto:stanley.wells@roanokeva.gov).

Sincerely,

Stanley Wells  
Senior Buyer

**ATTACHMENT A TO URFP NO. 21-01-62  
CITY OF ROANOKE, VIRGINIA  
FOR MELROSE-ORANGE BUS SHELTER ART**

RFP No. 21-01-62  
Commodity Code: 96104

Issued By: **City of Roanoke**  
**Purchasing Division**  
**Stanley Wells, Senior Buyer**  
**Noel C. Taylor Municipal Building**  
**215 Church Ave., SW, Room 202**  
**Roanoke, VA 24011-1517**  
**Phone: (540) 853-1574**  
**Email: [stanley.wells@roanokeva.gov](mailto:stanley.wells@roanokeva.gov)**

This section must be completed by the Offeror and this Attachment A must be submitted with the proposal. In compliance with this unsealed request for proposal and subject to all terms and conditions imposed herein, which are hereby incorporated herein by reference, the undersigned offers and agrees to furnish the services and/or items requested in this solicitation if the undersigned is selected as the Successful Offeror.

**Organization Type (Check one)**

Corporation	<input type="checkbox"/>	Partnership	<input type="checkbox"/>
Sole Proprietor (individually owned)	<input type="checkbox"/>	Other (Describe)	<input type="checkbox"/>

**Conflict of Interest**

\_\_\_\_\_ Offeror, owner, officer, employees, agents and immediate family members are not now, or have not been in the past year, an employee of the City of Roanoke or has not responsibility or authority with the City that might affect the procurement transaction or any claim resulting therefrom.

Or

State below the complete name and phone number or email address of each person and their connection to the City of Roanoke. Each Offeror is advised that the Ethics in Public Contracting and Conflict of Interests Act of the Virginia Code apply to this RFP, as set forth in Section 4 (L).

Name	Email and or Phone #

**Convictions and Debarment**

Each Offeror is to state whether or not any of Offeror’s owners, officers, employees, or agents, or their immediate family members, is currently, or has been in the past year, an employee of the City of Roanoke or has any responsibility or authority with the City that might affect the procurement transaction or any claim resulting therefrom. If so, please state the complete name and address of each such person and their connection to the City of Roanoke. Each Offeror is advised that the Ethics in Public Contracting and Conflict of Interests Act of the Virginia Code apply to this RFP, as set forth in Section 4.

If you answer yes to any of the following, state on **a separate attachment to firms proposal** the person or entity against whom the conviction or debarment was entered, give the location and date of the conviction or debarment, describe the project involved, and explain the circumstances relating to the conviction or debarment, including the names, addresses and phone numbers of persons who might be contacted for additional information.

1. In the last ten years, has your organization or any officer, director, partner, owner, project manager, procurement manager or chief financial officer of your organization:
  - a. ever been found guilty on charges relating to conflicts of interest?  
Yes \_\_\_ No \_\_\_
  
2.
  - a. Is your organization or any officer, director, partner or owner currently debarred or enjoined from doing federal, state or local government work for any reason?  
Yes \_\_\_ No \_\_\_
  
  - b. Has your organization or any officer, director, partner or owner ever been debarred or enjoined from doing federal, state or local government work for any reason?  
Yes \_\_\_ No \_\_\_

**Compliance**

Has your organization, within the last five (5) years been terminated on a contract for cause?

Yes \_\_\_ NO \_\_\_\_\_

If you answered yes to the above, **on a separate attachment to firm proposal**, give the date or termination order, or payment, describe the project involved, and explain the circumstances relating to termination. Include the name, email address and phone numbers of person who might be contacted for additional information.

**Confidential & Proprietary Information**

Identify the page number and section of any information in your proposal that has been identified as confidential, proprietary or a trade secret (see Section 4(A) of the RFP.

Page No.	Section of Proposal	Description of Confidential/Proprietary Information


**Acknowledge each addendum received (if applicable)**

<u>Addendum Number</u>	<u>Issue Date</u>
<u>1</u>	
<u>2</u>	
<u>3</u>	

**Legal Name and Address of Firm (according to your registration with the SCC): REQUIRED**

\_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ By: \_\_\_\_\_  
 (Signature in Ink)

\_\_\_\_\_ Name: \_\_\_\_\_  
 (Please Print)

\_\_\_\_\_ Zip: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ FAX: \_\_\_\_\_

Email: \_\_\_\_\_ Business License# \_\_\_\_\_

**Virginia State Corporation Commission Identification Number:** \_\_\_\_\_



**ATTACHMENT B TO URFP NO. 21-01-62  
CITY OF ROANOKE, VIRGINIA  
SAMPLE CONTRACT BETWEEN CITY OF ROANOKE AND  
\_\_\_\_\_  
FOR MELROSE-ORANGE BUS SHELTER ART**

This Contract No \_\_\_\_\_ is dated \_\_\_\_\_, 20\_\_\_\_, between the City of Roanoke, Virginia, a Virginia municipal corporation, hereinafter referred to as the "City" or "Owner", and \_\_\_\_\_

(legal name and address of Consultant)

hereinafter referred to as the "Consultant," **{NOTE: Use one of the following if applicable.}** {a \_\_\_\_\_ **corporation.**} {an \_\_\_\_\_ **Individual.**} {a \_\_\_\_\_ **Partnership.**} {a \_\_\_\_\_ **Limited Liability Company.**}

**WITNESSETH:**

WHEREAS, Consultant has been awarded this nonexclusive Contract by the City for furnishing all equipment, materials, goods, labor, and services necessary for the design and fabrication of artistic elements in Melrose-Orange Target Area bus shelters and associated work in accordance with this Contract and the documents referred to herein, all such items or services also being referred to hereinafter as the Work or Project.

**NOW, THEREFORE, THE CITY AND THE CONSULTANT AGREE AS FOLLOWS:**

**SECTION 1. WORK TO BE PERFORMED AND DOCUMENTS.**

For and in consideration of the money hereinafter specified to be paid by the City to the Consultant for the Work provided for in this Contract to be performed by the Consultant, the Consultant hereby covenants and agrees with the City to fully perform the services, provide any materials called for to construct, and complete the Work called for by this Contract in a good and workmanlike manner in accordance with this Contract and the documents referred to herein in order to fully and properly complete this Contract within the time stipulated, time being made of the essence for this Contract. It is also agreed by the parties hereto that the documents to this Contract consist of this Contract and the following documents listed below (Contract Documents), all of which are and constitute a part of this Contract as if attached hereto or set out in full herein, viz:

1. Final Scope of Work (Exhibit 1).
2. Consultant's Response to URFP No. 21-01-62, dated \_\_\_\_\_. (Exhibit 2)
3. URFP No. 21-01-62, dated \_\_\_\_\_, which is incorporated herein by reference

The parties agree that if there are any differences between the provisions of the above referenced documents, the provisions of the City documents and this Contract will control over any Consultant supplied documents or information.

**SECTION 2. CONTRACT AMOUNT.**

The City agrees to pay the Consultant for the Consultant's complete and satisfactory performance of the Work, in the manner and at the time set out in this Contract, but the total amount for all such requests will not exceed \$ \_\_\_\_\_ , as provided for in this Contract and that this Contract amount may be increased or decreased by additions and/or reductions in the Work as may be authorized and approved by the City, and the Contract amount may be decreased by the City's assessment of any damages against the Consultant, as may be provided for in this Contract or by law, and the City retains the right of setoff as to any amounts of money the Consultant may owe the City. However, Consultant further acknowledges and agrees that any request for Consultant to perform Work under this Contract is in the sole discretion of the City and that there is no guarantee of any minimum amount of Work that may be requested by the City and that no Work may be requested.

**SECTION 3. TERM OF CONTRACT.**

- A. The Consultant shall start the performance of any resultant Contract as fixed by a notice to proceed given by the City to the Consultant and fully and completely perform the Contract within \_\_\_\_\_ consecutive calendar days after such date, all in accordance with the Contract provisions.
- B. All terms and conditions shall remain in force for the term of this Contract unless modified by mutual agreement of both parties.

**SECTION 4. TIME OF PERFORMANCE.**

The Consultant shall commence the Work to be performed under this Contract on such date as is established and fixed for such commencement by written notice (which may be initially given verbally in an emergency situation) to proceed given by the City representative to the Consultant, and the Consultant covenants and agrees to fully construct, perform, and complete the Work and/or provide the goods called for by this Contract established by such notice. The Consultant further agrees that the Work shall be started promptly upon receipt of such notice and shall be prosecuted regularly, diligently, and uninterruptedly at a rate of progress that will ensure full completion thereof in the shortest length of time consistent with the Contract Documents and that Consultant will cooperate and coordinate with the other City Consultants or employees doing other work or using the area where Consultant is working.

**SECTION 5. PAYMENT.**

- A. The City and Contractor agree that the City will only pay the Contractor for time actually spent and materials actually provided on the Project requested and accepted by the City. Invoices for services rendered and accepted shall be submitted by Contractor directly to the payment address of the requesting City department/division. Payment of such invoices shall be the responsibility of the department/division.
- B. The City agrees to pay Contractor for the Contractor's complete and satisfactory performance of the Work, in the manner and at the time set out in this Contract. The City retains the right to setoff as to any amounts of money Contractor may owe the City. A written progress report may be requested by the City to accompany payment request and, if so, such progress report shall detail the work completed. Also, sufficient documentation of all costs, expenses, materials supplies, and/or hours worked may be

requested by the City and, if so, may be required prior to the processing of any such request for payment. Payment will only be made for work actually performed, services actually supplied, and/or materials or goods furnished to the City, all of which need to be approved and accepted by the City prior to such payment, unless otherwise provided for in the Contract documents. Once a payment request has been received the City, the City will process such payment request. If there are any objections or problems with the payment request, the City will notify the Contractor of such matters. If the payment request is approved and accepted by the City, payment will be made by the City to the Contractor not more than 30 days after such request has been approved.

**SECTION 6. SALES TAX EXEMPTION.**

The City is exempt from payment of State Sales and Use Tax on all tangible personal property purchased or leased for the City's use or consumption. The Virginia Sales and Use Tax Certificate of Exemption number is 217-074292-9.

**SECTION 7. FREE ON BOARD, RISK OF LOSS, AND TITLE.**

All prices include F.O.B Destination, inside delivery, unless otherwise noted in this Contract. The risk of loss from any casualty, regardless of cause, shall be on the Consultant until the items have been delivered to City personnel making the request and accepted by the City. The risk of loss shall also be on the Consultant during the return of any items to the Consultant. Title to the items shall pass to the City upon receipt and acceptance of such items by the City.

**SECTION 8. INSPECTION.**

The City shall have a reasonable time after receipt of items and before payment to inspect all items for conformity to this Contract. If all or some of the items delivered to the City do not fully conform to the provisions hereof, the City shall have the right to reject and return such nonconforming items, at the sole cost of the Consultant.

**SECTION 9. WARRANTY OF MATERIAL AND WORKMANSHIP.**

Consultant agrees that all items provided to the City will be new, or if an item is refurbished or remanufactured, such item will meet the industry standards for such item and the item shall be clearly labeled as refurbished or remanufactured, and that all such items include such warranties as may be provided by Virginia law together with any warranties provided by the manufacturer of the item. Consultant shall use reasonable commercial efforts to assist the City in processing warranty claims against a manufacturer. Consultant also agrees that the services provided under this Contract shall be completed in a professional, good and workmanlike manner, with the degree of skill and care that is required by like Consultants in Virginia. Further, Consultant warrants that such services shall be completed in accordance with the applicable requirements of this Contract and shall be correct and appropriate for the purposes contemplated in this Contract. Consultant agrees that Consultant shall repair or replace, at Consultant's sole expense, and to the satisfaction of the City, any items, material, equipment, or part of the item that is found by the City to be defective or not in accordance with the terms of this Contract.

**SECTION 10. PAYMENTS TO OTHERS BY CONSULTANT.**

The Consultant agrees that Consultant will comply with the requirements of Section 2.2-4354 of the Virginia Code regarding Consultant's payment to other entities and the Consultant will take one of the two actions permitted therein within 7 days after receipt of amounts paid to Consultant by the City. Consultant further agrees that the Consultant shall indemnify and hold the City harmless for any lawful claims resulting from the failure of the Consultant to make prompt payments to all persons supplying the Consultant equipment, labor, tools, or material in connection with the work provided for in the Contract. In the event of such claims, the City may, in the City's sole discretion, after providing written notice to the Consultant, withhold from any payment request or final payment the unpaid sum of money deemed sufficient to pay all appropriate claims and associated costs in connection with the Contract and make such payment, if the City determines it to be appropriate to do so.

**SECTION 11. NOT USED.**

**SECTION 12. COMPLIANCE WITH LAWS AND REGULATIONS, AND IMMIGRATION LAW.**

Consultant agrees to and will comply with all applicable federal, state, and local laws, ordinances, and regulations, including, but not limited to all applicable licensing requirements, environmental regulations, and OSHA regulations. Consultant further agrees that Consultant does not and shall not during the performance of its Contract; knowingly employ an unauthorized alien as defined in the Federal Immigration Reform & Control Act of 1986.

**SECTION 13. INDEPENDENT CONSULTANT.**

The relationship between Consultant and the City is a contractual relationship. It is not intended in any way to create a legal agency or employment relationship. Consultant shall, at all times, maintain its status as an independent Consultant and both parties acknowledge that neither is an agent, partner or employee of the other for any purpose. Consultant shall be responsible for causing all required insurance, workers' compensation (regardless of number of employees) and unemployment insurance to be provided for all of its employees and subconsultants. Consultant will be responsible for all actions of any of its subconsultants, and that they are properly licensed.

**SECTION 14. REPORTS, RECORDS, AND AUDIT.**

Consultant agrees to maintain all books, records, electronic data, and other documents relating to this Contract for a period of five (5) years after the end of each fiscal year included in this Contract. The City, its authorized employees, agents, representatives, and/or state auditors shall have full access to and the right to request, examine, copy, and/or audit any such materials during the term of the Contract and such retention period, upon prior written notice to Consultant. This includes the City's right to audit and/or examine any of the Consultant's documents and/or data as the City deems appropriate to protect the City's interests.

**SECTION 15. NOT USED.**

**SECTION 16. DEFAULT.**

If Consultant fails or refuses to perform any of the terms of this Contract, including poor services, work or materials, the City may, by written notice to Consultant, terminate this Contract in whole or in part. In addition to any right to terminate, the City may enforce any remedy available at law or in equity in connection with such default, and Consultant shall be liable for any damages to the City resulting from Consultant's default. The City further reserves the right to immediately obtain such work or services from other entities in the event of Consultant's default.

**SECTION 17. NONWAIVER.**

Consultant agrees that the City's waiver or failure to enforce or require performance of any term or condition of this Contract or the City's waiver of any particular breach of this Contract by the Consultant extends to that instance only. Such waiver or failure is not and shall not be a waiver of any of the terms or conditions of this Contract or a waiver of any other breaches of the Contract by the Consultant and does not bar the City from requiring the Consultant to comply with all the terms and conditions of the Contract and does not bar the City from asserting any and all rights and/or remedies it has or might have against the Consultant under this Contract or by law.

**SECTION 18. FORUM SELECTION AND CHOICE OF LAW.**

This Contract shall be governed by, and construed in accordance with, the laws of the Commonwealth of Virginia, without application of Virginia's conflict of law provisions. Venue for any litigation, suits, and claims arising from or connected with this Contract shall only be proper in the Roanoke City Circuit Court, or in the Roanoke City General District Court if the amount in controversy is within the jurisdictional limit of such court, and all parties to this Contract voluntarily submit themselves to the jurisdiction and venue of such courts, regardless of the actual location of such parties. The provisions of this Contract shall not be construed in favor of or against either party, but shall be construed according to their fair meaning as if both parties jointly prepared this Contract.

**SECTION 19. SEVERABILITY.**

If any provision of this Contract, or the application of any provision hereof to a particular entity or circumstance, shall be held to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this Contract shall not be affected and all other terms and conditions of this Contract shall be valid and enforceable to the fullest extent permitted by law.

**SECTION 20. NONDISCRIMINATION.**

- A. During the performance of this Contract, Consultant agrees as follows:
  - i. Consultant will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Consultant. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- ii. Consultant in all solicitations or advertisements for employees placed by or on behalf of Consultant will state that Consultant is an equal opportunity employer.
  - iii. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- B. Consultant will include the provisions of the foregoing Section A (i, ii, and iii) in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subConsultant or vendor.

**SECTION 21. DRUG-FREE WORKPLACE.**

- A. During the performance of this Contract, Consultant agrees to (i) provide a drug-free workplace for Consultant's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of Consultant that Consultant maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subconsultant or vendor.
- B. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a Consultant, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

**SECTION 22. FAITH BASED ORGANIZATIONS.**

Pursuant to Virginia Code Section 2.2-4343.1, be advised that the City does not discriminate against faith-based organizations.

**SECTION 23. ASSIGNMENT.**

Consultant may not assign or transfer this Contract in whole or in part except with the prior written consent of the City, which consent shall not be unreasonably withheld. If consent to assign is given, no such assignment shall in any way release or relieve the Consultant from any of the covenants or undertakings contained in this Contract and the Consultant shall remain liable for the Contract during the entire term thereof.

**SECTION 24. CONTRACTUAL DISPUTES.**

Contractual claims, whether for money or for other relief, shall be submitted, in writing, no later than sixty (60) days after the earlier of the final payment or termination of the Contract or notice from the City to the Consultant that the City disputes the amount of Consultant's request for final payment. However, written notice of the Consultant's intention to file such claim must be given at the time of the occurrence or beginning of the work upon which the claim is based. Such notice is a condition precedent to the assertion of any such claim by the Consultant. A written

decision upon any such claims will be made by the City Manager or the City Manager's designee (hereafter City Manager) within thirty (30) days after submittal of the claim and any practically available additional supporting evidence required by the City Manager. The Consultant may not institute legal action prior to receipt of the City's decision on the claim unless the City Manager fails to render such decision within 120 days from submittal of Consultant's claim. The decision of the City Manager shall be final and conclusive unless the Consultant within six (6) months of the date of the final decision on a claim or from expiration of the 120 day time limit, whichever occurs first, initiates legal action as provided in Section 2.2 - 4364, of the Va. Code. Failure of the City to render a decision within said 120 days shall not result in the Consultant being awarded the relief claimed nor shall it result in any other relief or penalty. The sole result of the City's failure to render a decision within said 120 days shall be Consultant's right to immediately institute legal action. No administrative appeals procedure pursuant to Section 2.2 - 4365 of the Va. Code has been established for contractual claims under this Contract.

**SECTION 25. SUCCESSORS AND ASSIGNS.**

The terms, conditions, provisions, and undertakings of this Contract shall be binding upon and inure to the benefit of each of the parties hereto and their respective successors and assigns.

**SECTION 26. HEADINGS.**

The captions and headings in this Contract are for convenience and reference purposes only and shall not affect in any way the meaning and interpretation of this Contract.

**SECTION 27. COUNTERPART COPIES.**

This Contract may be executed in any number of counterpart copies, each of which shall be deemed an original, but all of which together shall constitute a single instrument.

**SECTION 28. AUTHORITY TO SIGN.**

The persons who have executed this Contract represent and warrant that they are duly authorized to execute this Contract on behalf of the party for whom they are signing.

**SECTION 29. NOTICES.**

All notices must be given in writing and shall be validly given if sent by certified mail, return receipt requested, or by a nationally recognized overnight courier, with a receipt, addressed as follows (or any other address that the party to be notified may have designated to the sender by like notice):

To City:	City of Roanoke Purchasing Division Attn: Purchasing Manager Noel C. Taylor Municipal Building, Room 202 215 Church Avenue, SW Roanoke, Virginia 24011
Facsimile:	(540) 853-1513

If to Consultant: \_\_\_\_\_  
Attn: \_\_\_\_\_, President/CEO  
\_\_\_\_\_  
\_\_\_\_\_  
Email Address: \_\_\_\_\_  
Phone: \_\_\_\_\_

Notices shall be deemed to be effective one day after sending if sent by overnight courier or three (3) days after sending it by certified mail, return receipt requested.

**SECTION 30. PROTECTING PERSONS AND PROPERTY.**

The Consultant expressly undertakes both directly and through its subconsultants, to take every reasonable precaution at all times for the protection of all persons and property at the location of the Work or in the vicinity of the Work or that may be affected by the Consultant's operation in connection with the Work. The Consultant will maintain adequate protection of all Consultant's Work to prevent damage to it and shall protect the City's property from any injury or loss arising in connection with this Contract and to protect adjacent property to prevent any damage to it or loss of use and enjoyment by its owners. Consultant agrees to be responsible for the entire Work and will be liable for all damages to the Work, including, but not limited to, damages to any property of the City or to any property in the vicinity or adjacent to the Work. All damage with respect to the Work caused by vandalism, weather, or any other cause, other than resulting from the sole negligence of the City shall be the responsibility of the Consultant. Consultant shall also be responsible for any inventory shortages and discrepancies of any type.

**SECTION 31. CONTRACT SUBJECT TO FUNDING.**

This Contract is subject to funding and/or appropriations from federal, state, and/or local governments and/or agencies. If any such funding is not provided, withdrawn, or otherwise not made available for this Contract, the Consultant agrees that the City may terminate this Contract on seven (7) days written notice to Consultant, without any penalty or damages being incurred by the City. Consultant further agrees to comply with any applicable requirements of any grants and/or agreements providing such funding.

**SECTION 32. SUSPENSION OR TERMINATION OF CONTRACT BY CITY.**

The City, at any time, may order Consultant to immediately stop work on this Contract, and/or by seven days (7) written notice may terminate this Contract, with or without cause, in whole or in part, at any time. Upon receipt of such notice, the Consultant shall immediately discontinue all services affected (unless the notice directs otherwise), and deliver to the City all data (including electronic data), drawings, specifications, reports, project deliverables, estimates, summaries, and such other information and materials as may have been accumulated by the Consultant in performing this Contract whether completed or in process (unless otherwise directed by the notice).

1. If the termination or stop work order is due to the failure of the Consultant to fulfill any of its Contract obligations, the City may take over the Work and prosecute the same to completion by contract or otherwise. In such case, the Consultant shall be liable to the City for any damages allowed by law, and upon demand of City shall promptly pay the same to City.

2. Should the Contract be terminated or work is stopped not due in any way to the fault of the Consultant, the Consultant shall only be entitled to compensation for services actually performed and materials actually supplied prior to notice of termination or to stop work and which are approved by the City and any applicable federal or state approving agency. No profit, overhead, or any other costs of any type are allowed after the date of such notice of termination or stop work order.
3. The rights and remedies of the City provided in this Section are in addition to any other rights and remedies provided by law or under this Contract and City may pursue any and all such rights and remedies against Consultant as it deems appropriate.

### **SECTION 33. ETHICS IN PUBLIC CONTRACTING.**

The provisions, requirements, and prohibitions as contained in Sections 2.2-4367 through 2.2-4377, of the Va. Code, pertaining to bidders, offerors, Consultants, and subConsultants are applicable to this Contract.

### **SECTION 34. COMPLIANCE WITH STATE LAW; FOREIGN AND DOMESTIC BUSINESSES AUTHORIZED TO TRANSACT BUSINESS IN THE COMMONWEALTH OF VIRGINIA.**

Consultant shall comply with the provisions of Virginia Code Section 2.2-4311.2, as amended, which provides that a Consultant organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law. Consultant shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the Contract. The City may void the Contract if the Consultant fails to remain in compliance with the provisions of this section.

### **SECTION 35. OWNERSHIP OF REPORTS AND DOCUMENTS.**

Consultant agrees that all reports and any other documents (including electronic data) prepared for, obtained in connection with, and/or required to be produced in connection with this Contract shall be delivered by the Consultant to the City and all such items shall become the sole property of the City. The Consultant agrees that the City shall own all rights of any type in and to all such items, including but not limited to copyrights and trademarks, and the City may reproduce, copy, and use all such items as the City deems appropriate, without any restriction or limitation on their use and without any cost or charges to the City from Consultant. Consultant hereby transfers and assigns all such rights and items to the City. Consultant further agrees Consultant will take any action and execute any documents necessary to accomplish the provisions of this Section. The Consultant also warrants that Consultant has good title to all materials, equipment, documents, and supplies which it uses in the Work or for which it accepts payment in whole or in part.

**SECTION 36. INDEMNITY.**

The Consultant agrees and binds itself and its successors and assigns to indemnify, keep and hold the City and its officers, employees, agents, and representatives free and harmless from any liability on account of any injury or damage of any type to any person or property growing out of or directly or indirectly resulting from any act or omission of the Consultant. In the event that any suit or proceeding shall be brought against the City or any of its officers, employees, agents, or representatives at law or in equity, either independently or jointly with the Consultant on account of any injury or damage resulting from any act or omission of the Consultant, the Consultant, upon notice given to it by the City or any of its officers, employees, agents, or representatives, will pay all costs of defending the City or any of its officers, employees, agents, or representatives in any such action or other proceeding, if such suit or proceeding shall have been brought against the City as a result of acts of omissions of the Consultant. In the event of any settlement or any final judgment being awarded against the City or any of its officers, employees, agents, or representatives, either independently or jointly with the Consultant, as a result of any act of omission of the Consultant giving rise to such settlement or judgment then the Consultant will pay such settlement or judgment, in full or will comply with such decree, pay all costs and expenses of whatsoever nature and hold the City or any of its officers, employees, agents, volunteers or representatives harmless therefrom.

**SECTION 37. INSURANCE.**

Consultant shall be responsible for ALL liability insurance they deem necessary under this contract. The City is not liable under any circumstance.

**SECTION 38. RISK OF LOSS.**

The Consultant shall bear the risk of loss to the Work or any part thereof including any damages or loss to the Work or any part thereof including any damages or loss from any cause of any type, loss, theft, mutilation, vandalism, or other damage, including those caused by acts of God, prior to the delivery of such artwork by the City.

**SECTION 39. ENTIRE CONTRACT.**

This Contract, including any attachments, exhibits, and referenced documents, constitutes the complete understanding between the parties. This Contract may be modified only by written agreement properly executed by the parties.

**SIGNATURE PAGE TO FOLLOW.**

IN WITNESS WHEREOF, the parties hereto have signed this Contract by their authorized representatives.

WITNESS:

(Full Legal Name of Consultant)

\_\_\_\_\_ By \_\_\_\_\_

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Printed Name and Title

(SEAL)

CITY OF ROANOKE, VIRGINIA

WITNESS:

\_\_\_\_\_ By \_\_\_\_\_  
City Manager or Authorized City Representative

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Printed Name and Title

Approved as to form:

Appropriation and Funds Required  
for this Contract Certified:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Director of Finance

Approved as to Execution:

Account # \_\_\_\_\_

\_\_\_\_\_  
City Attorney

**EXHIBIT 1  
TO CONTRACT  
BETWEEN CITY OF ROANOKE AND  
FOR \_\_\_\_\_**

**REFERENCE: URFP # 21-01-62**

**FINAL SCOPE OF WORK**

The following are the services and/or items that the Successful Offeror will be required to provide and such services are to be included in the proposal.

The services, work, and/or items that the Consultant shall provide in a timely and proper manner in accordance with the Contract include, but are not necessarily limited to, the following:

**Scope of work to be negotiated and finalized with successful Offeror.**

**EXHIBIT 2  
TO CONTRACT  
BETWEEN CITY OF ROANOKE AND  
FOR \_\_\_\_\_**

**REFERENCE: URFP # 21-01-62**

**CONSULTANT'S RESPONSE TO URFP NO. 21-01-62**

**TO BE PROVIDED AFTER SELECTION OF SUCCESSFUL OFFEROR.**

**EXHIBIT 3  
TO CONTRACT  
BETWEEN CITY OF ROANOKE AND  
FOR \_\_\_\_\_**

**REFERENCE: URFP # 21-01-62**

**URFP NO. 21-01-62**

**TO BE PROVIDED AFTER SELECTION OF SUCCESSFUL OFFEROR.**