INFORMAL REQUEST FOR PROPOSAL

City of Virginia Beach
ISSUING OFFICE:

PURCHASING DIVISION
LIBERTY TAX SERVICE EXECUTIVE PARK
2388 LIBERTY WAY
VIRGINIA BEACH, VA 23456
TELEPHONE: (757) 385-4438  FAX: (757) 385-5601

DATE: June 13 2017

Attention of Offeror is Directed To Section 2.2-4367 – 2.2-4377 of Virginia Public Procurement Act (VPPA) (Ethics In Public Contracting)

RFP ITEM NO. OFCA-17-0008

RETURN THIS COPY

CLOSING DATE
July 10, 2017

CLOSING TIME
5:00 pm

PROCUREMENT OFFICER
Darla Smith

PLEASE FILL IN COMPANY NAME & ADDRESS IN THE SPACES PROVIDED BELOW:

THIS IS NOT AN ORDER

THE CITY OF VIRGINIA BEACH RESERVES THE RIGHT TO ACCEPT OR REJECT ANY AND ALL PROPOSALS IN WHOLE OR IN PART AND WAIVE ANY INFORMALITIES IN THE COMPETITIVE NEGOTIATION PROCESS. FURTHER, THE CITY RESERVES THE RIGHT TO ENTER INTO ANY CONTRACT DEEMED TO BE IN THE BEST INTEREST OF THE CITY.

DESCRIPTION OF REQUEST FOR PROPOSAL

THIS DOCUMENT CONSTITUTES A REQUEST FOR SEALED PROPOSALS FROM QUALIFIED INDIVIDUALS AND/OR ORGANIZATIONS. THE CITY OF VIRGINIA BEACH, VA AND THE OFFICE OF CULTURAL AFFAIRS INVITES EXPERIENCED ARTISTS OR ARTIST TEAMS TO PROVIDE A SITE-SPECIFIC MURAL FOR THE RUDEE UNDERPASS WALKWAY AT THE VIRGINIA BEACH OCEANFRONT.

The Virginia Beach City Council has adopted a 10% goal for minority participation in City Contracts.

ACKNOWLEDGE RECEIPT OF ADDENDUM: #1____ #2____ #3____ #4____ (Please Initial)

IN COMPLIANCE WITH THIS SOLICITATION AND TO ALL THE CONDITIONS IMPOSED HEREIN, THE UNDERSIGNED AGREES TO EXECUTE THE CONTRACT AS A RESULT OF THIS SOLICITATION. AN AGENT AUTHORIZED TO BIND THE COMPANY SHALL SIGN THE FOLLOWING SECTION. FAILURE TO EXECUTE THIS PORTION MAY RESULT IN PROPOSAL REJECTION.

AUTHORIZED AGENT/SIGNATURE_____________________________________ DATE: _______________________________

TYPE OR PRINT NAME:__________________________ TELEPHONE:__________________________

ENCLOSURE
ANTICOLLUSION NONDISCRIMINATION DRUG-FREE WORKPLACE CLAUSE

ANTICOLLUSION CLAUSE: IN THE PREPARATION AND SUBMISSION OF THIS BID, SAID OFFEROR DID NOT EITHER DIRECTLY OR INDIRECTLY ENTER INTO ANY COMBINATION OR ARRANGEMENT WITH ANY PERSON, FIRM OR CORPORATION, OR ENTER INTO ANY AGREEMENT, PARTICIPATE IN ANY COLLUSION, OR OTHERWISE TAKE ANY ACTION IN THE RESTRAINT OF FREE, COMPETITIVE BIDDING IN VIOLATION OF THE SHERMAN ACT (15 U.S.C. SECTION 1), SECTIONS 59.1-9.1 THROUGH 59.1-9.17 OR SECTIONS 59.1-68.8 THROUGH 59.1-68.8 OF THE CODE OF VIRGINIA.

THE UNDERSIGNED OFFEROR HEREBY CERTIFIES THAT THIS AGREEMENT, OR ANY CLAIMS RESULTING THERE FROM, IS NOT THE RESULT OF, OR AFFECTED BY, ANY ACT OF COLLUSION WITH, OR ANY ACT OF, ANOTHER PERSON OR PERSONS, FIRM OR CORPORATION ENGAGED IN THE SAME LINE OF BUSINESS OR COMMERCE, AND, THAT NO PERSON ACTING FOR, OR EMPLOYED BY, THE CITY OF VIRGINIA BEACH HAS AN INTEREST IN, OR IS CONCERNED WITH, THIS BID; AND, THAT NO PERSON OR PERSONS, FIRM OR CORPORATION OTHER THAN THE UNDERSIGNED, HAVE, OR ARE, INTERESTED IN THIS BID.

DRUG-FREE WORKPLACE: DURING THE PERFORMANCE OF THIS CONTRACT, THE CONTRACTOR AGREES TO (I) PROVIDE A DRUG-FREE WORKPLACE FOR THE CONTRACTOR'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 CONTRACTOR'S 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 THE CONTRACTOR THAT THE CONTRACTOR MAINTAINS A DRUG-FREE WORKPLACE; AND (IV) INCLUDE THE PROVISIONS OF THE FOREGOING SECTIONS I, II, AND III IN EVERY SUBCONTRACT OR PURCHASE ORDER OF OVER $10,000, SO THAT THE PROVISIONS WILL BE BINDING UPON EACH SUBCONTRACTOR OR VENDOR.

FOR THE PURPOSE OF THIS SECTION, "DRUG-FREE WORKPLACE" MEANS A SITE FOR THE PERFORMANCE OR WORK DONE IN CONNECTION WITH A SPECIFIC CONTRACT AWARDED TO A CONTRACTOR IN ACCORDANCE WITH THIS CHAPTER, 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.

NONDISCRIMINATION CLAUSE: 1. EMPLOYMENT DISCRIMINATION BY OFFEROR SHALL BE PROHIBITED.

2. DURING THE PERFORMANCE OF THIS CONTRACT, THE SUCCESSFUL OFFEROR SHALL AGREE AS FOLLOWS:

A. THE OFFEROR 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/consideration REASONABLY NECESSARY TO THE NORMAL OPERATION OF THE OFFEROR. THE OFFEROR AGREES TO POST IN CONSPICUOUS PLACES, AVAILABLE TO EMPLOYEES AND APPLICANTS FOR EMPLOYMENT, NOTICES SETTING FORTH THE PROVISIONS OF THIS NONDISCRIMINATION CLAUSE.

B. THE OFFEROR, IN ALL SOLICITATIONS OR ADVERTISEMENTS FOR EMPLOYEES PLACED ON BEHALF OF THE OFFEROR, WILL STATE THAT SUCH OFFEROR IS AN EQUAL OPPORTUNITY EMPLOYER.

C. 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.

D. OFFEROR WILL INCLUDE THE PROVISIONS OF THE FOREGOING SECTIONS A, B, AND C IN EVERY SUBCONTRACT OR PURCHASE ORDER OF OVER $10,000, SO THAT THE PROVISIONS WILL BE BINDING UPON EACH SUBCONTRACTOR OR VENDOR.

Name and Address of Offeror:

Date:

By: Signature in Ink

E-mail Address:

Telephone Number: ( )
Fax Phone Number: ( )

FIN/SSN #: ___________________________ Title ___________________________

Is your firm a “minority” business? ☐ Yes ☐ No
If yes, please indicate the “minority” classification bellow:
☐ African American ☐ Hispanic American ☐ American Indian ☐ Eskimo ☐ Asian American ☐ Aleut
☐ Other; Please Explain: ________________________________________________________________

Is your firm Woman Owned? ☐ Yes ☐ No
Is your firm a Small Business? ☐ Yes ☐ No
Is your firm Service Disabled Veteran Owned? ☐ Yes ☐ No
I. PURPOSE:
The City of Virginia Beach and the Office of Cultural Affairs is seeking Informal Request for Proposals (RFP) from qualified artists or artist teams to provide site-specific murals for the Rudee Underpass Walkway, a 10-foot wide walkway that extends under the Rudee Inlet Bridge.

II. BACKGROUND:
Virginia Beach is Virginia’s most populous City with over 450,000 permanent residents. It is the 38th largest city in the country and is part of the 33rd largest metropolitan region (Hampton Roads) in the United States.

Virginia Beach is rapidly evolving into a year-round destination with over half of the almost three million out-of-town visitors coming between September and May. The reason for this success is that Virginia Beach has recently invested over $300 million to enhance the resort product. This includes a new boardwalk and a 300-foot wide beach, as well as first-class hotels, restaurants and shopping experiences which make the City an attractive year-round convention, conference and meeting location.

The painted murals located under the Rudee overpass will be along a highly visible pedestrian foot/bike path and serve as a welcoming space for visitors, residents and families. The area is widely used by residents and visitors for activities such as boating, kayaking, fishing, surfing, parasailing and sightseeing. This RFP seeks qualified artist(s) to provide site-specific murals that will create excitement and interest for the community and transform the Rudee Underpass Walkway into an exciting work of art. (See Appendix A, B, and C, separate pdf attachments).

III. SITE DESCRIPTION
A harbor of happiness, Rudee Inlet is home to beautiful boats, amazing restaurants and aquatic adventures like none other in Virginia Beach. A tourist and locals favorite, Rudee Inlet is a great place to meander around the docks and watch the fishing and sport boats coming and going. With a number of fantastic fishing charters available as well as plenty of chances to get out and play on the water with boat tours, surfing, parasailing, paddle boarding, and fishing, it’s no wonder Rudee Inlet is the place where fun on the water begins. But you don’t have to get wet to enjoy Rudee Inlet’s bounty. With a wide variety of awesome restaurants overlooking the water, a fork is all you need for an adventure of your own. So however you choose to live the life, you can find it on the docks of Rudee Inlet. See Appendix C for images of surrounding site. For more information, visit www.visitvirginiabeach.com

The murals will be painted on the concrete surfaces of the abutment, and both bents (the two rows of flat supporting columns) and their headers (totaling approximately 3,120 total sq. ft.). It is the objective to have the design viewed from all directions and that the murals are thematically tied. See Appendix B.

IV. SCOPE OF WORK:
A. General Requirements:
   1. Artists and/or artist teams must be at least 18 years old. There are no
geographic limitations; however, the City of Virginia Beach and the Office of Cultural Affairs cannot provide housing or transportation. Artists must have previously created large-scale exterior public art projects; carry personal liability insurance for the duration of the project; be willing to meet all contractual obligations and adhere to a strict timeline.

2. The City of Virginia Beach and the Office of Cultural Affairs proposes a budget of up to $18,500.00 to include an artist stipend and all expenses including design, travel, lodging, required meetings, installation, preparation of site, clean-up, materials and supplies, any equipment needed to install the mural, any necessary permits, bonds, taxes and fees. The selected artist(s) will be required to provide a warranty for the artwork to include two years of maintenance or repair.

B. Specific Requirements:

1. Artwork Goals
   a) Serve as a welcoming space for visitors, residents and families.
   b) Relate thematically to the coastal environment around the site and the waterway.
   c) Other possible themes include relating to the significance of the area and local activities such as surfing, boating, kayaking, fishing, etc.
   d) Create excitement and interest for the community. Appeal to a mass audience.
   e) Transform the concrete underpass and walkway into art forms.
   f) Increase public awareness of art.
   g) Broaden viewers’ perspectives of public spaces within the City of Virginia Beach.

2. Project Timeline
   - RFP Application Deadline: July 10, 2017
   - Selection Panel Review: On or before July 14
   - Selection Notification: by end of July 2017
   - Completion: by August 31, 2017

*Schedule subject to change.

3. Rules and Guidelines
   The City of Virginia Beach and the Office of Cultural Affairs reserves the right, as its best interests may appear, to reject any or all submissions, to reject any finalist, to waive informalities in applications or proposals, to terminate the selection process for any project without prior notice. Prior to installation of any mural, a selected artist must provide a depiction of the proposed mural; any deviation from that depiction in the installed mural will be grounds for termination of the selected artist’s involvement with the project. The City of Virginia Beach and the Office of Cultural Affairs makes no representation or guaranty that any mural, once installed, will remain on display for any period of time. The City of Virginia Beach and the Office of Cultural Affairs reserves the right, in its sole discretion, to paint over the
mural at any time. Application to any project advertised by The City of Virginia Beach and the Office of Cultural Affairs constitutes agreement to all applicable rules and guidelines.

V. GENERAL TERMS AND CONDITIONS:

A. Term of Agreement.

This Agreement shall commence upon award and continue thereafter until acceptable completion. (See Project Timeline)

B. Termination with Cause/Default/Cancellation.

In the event that Artist shall for any reason or through any cause be in default of the terms of this Agreement, the City may give Artist written notice of such default by certified mail/return receipt requested at the address set forth in Section Z.

Unless otherwise provided, Artist shall have ten (10) days from the date such notice is mailed in which to cure the default. Upon failure of Artist to cure the default, the City may immediately cancel and terminate this Agreement as of the mailing date of the default notice.

Upon termination, Artist shall withdraw its personnel and equipment, cease performance of any further work under the Agreement, and turn over to the City any work in process for which payment has been made.

In the event of violations of law, safety or health standards and regulations, this Agreement may be immediately cancelled and terminated by the City and provisions herein with respect to opportunity to cure default shall not be applicable.

C. Nondiscrimination

Employment discrimination by Artist shall be prohibited. During the performance of this Agreement, Artist agrees as follows:

1. Artist 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/consideration reasonably necessary to the normal operation of Artist. Artist agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

2. Artist, in all solicitations or advertisements for employees placed by or on behalf of Artist, will state that Artist is an equal opportunity employer.

3. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulations shall be deemed sufficient for the purpose of meeting the requirements of this section.

4. Artist will include the provisions of the foregoing Sections 1, 2, and 3 in every subcontract or purchase order of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

D. Drug Free Workplace

During the performance of this Agreement, Artist agrees as follows:

1. Artist will provide a drug-free workplace for Artist’s employees.

2. Artist will 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 Artist’s workplace and specifying the actions that will be taken against employees for violations of such prohibition.
3. Artist will state in all solicitations or advertisements for employees placed by or on behalf of Artist that Artist maintains a drug-free workplace.

4. Artist will include the provisions of the foregoing Sections 1, 2, and 3 in every subcontract or purchase order of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

E. **Faith Based Organizations.**

The City of Virginia Beach does not discriminate against Faith-Based Organization.

F. **Compliance with Immigration Laws.**

Artist does not currently, and shall not during the performance of this Agreement, knowingly employ an unauthorized alien, as defined in the federal Immigration Reform and Control Act of 1986.

G. **Exclusivity**

The City reserves the right to procure goods or services covered under this contract from a third party when, in the City’s sole discretion, it is deemed to be in the City’s best interest.

H. **Compliance with All Laws.**

Artist shall comply with all federal, state and local statutes, ordinances, and regulations now in effect or hereafter adopted, in the performance of scope of work set forth herein. Artist represents that it possesses all necessary licenses and permits required to conduct its business and will acquire any additional licenses and permits necessary for performance of this Agreement prior to the initiation of work.

I. **Agreement interpreted under laws of Virginia.**

This Agreement shall be deemed to be a Virginia contract and shall be governed as to all matters whether of validity, interpretations, obligations, performance or otherwise exclusively by the laws of the Commonwealth of Virginia, and all questions arising with respect thereto shall be determined in accordance with such laws. Regardless of where actually delivered and accepted, this Agreement shall be deemed to have been delivered and accepted by the parties in the Commonwealth of Virginia.

J. **Venue.**

Any and all suits for any claims or for any and every breach or dispute arising out of this Agreement shall be maintained in the appropriate court of competent jurisdiction in the City of Virginia Beach, or the U.S. District Court for the Easter District of Virginia, Norfolk District.

K. **Business License Requirement.**

If the Artist is a business, located in the City of Virginia Beach or at any time during the performance of this Agreement obtains situs for purposes of business license taxes, it shall be unlawful for such business to conduct or engage in such business, trade or occupation without having first obtained the proper license from the Commissioner of the Revenue of the City, and the Artist covenants that it has a business license where one is required to perform this Agreement.

L. **Independent Contractor.**

The Artist shall agree and covenant that it is and shall be at all times, an independent contractor, and as such, shall have and maintain complete control over all of its employees and operations. Neither the Artist nor anyone employed by it shall be, represent, act, purport to act, or be deemed to be an agent, representative, employee or servant of the City. Nothing in this section shall be deemed to absolve or otherwise limit the Artist’s liability and responsibility to safely and correctly perform its duties under this Agreement.

M. **Integration/Merger.**
This Agreement and any appendices attached hereto constitute the entire agreement of the
parties and supersedes all prior agreements, understandings and negotiations, whether written
or oral, between the parties. This Agreement may not be modified, except in a writing signed
by both parties that is expressly stated to be an amendment hereto.

N. **Severability.**

The provisions of this Agreement shall be deemed to be severable, and should any one or more
of such provisions be declared or adjudged to be invalid or unenforceable, the remaining
provisions shall be unaffected thereby and shall remain in full force and effect.

O. **Waiver**

No failure of the City to exercise any right or power given to it by law or by this Agreement, or
to insist upon strict compliance by Artist with any of the provisions of this contract, and no
custom or practice of the parties at variance with the terms hereof, shall constitute a waiver of
the City’s right to demand strict compliance with the terms of this Agreement.

P. **Interpretation**

Whenever the context hereof shall require, the singular shall include the plural, the plural the
singular, and the use of any gender shall be applicable to all genders.

Q. **Descriptive Headings**

The descriptive headings appearing in this Agreement are for convenience only and shall not
be construed either as a part of the terms, covenants, and conditions hereof or as an
interpretation of such terms, covenants, and conditions.

R. **Representation Regarding City Employment; Conflict of Interest**

Artist represents at the time of contracting and through the pendency of this Agreement that no
one with an ownership interest in the Artist or the Artist’s corporate entity, if applicable, or other
employee of the Artist is also an employee of the City of Virginia Beach, specifically in the City
Department initiating or overseeing this Agreement. Artist further represents that no individual
with an ownership interest in the Artist or the Artist’s corporate entity, if applicable, or other
employee has a spouse, other relative or person who resides with the individual that is currently
an employee of the City of Virginia Beach, specifically in the City Department initiating or
overseeing this Agreement. Should the Artist have reasonable belief of a possible conflict of
interest, that issue should immediately be brought to the attention of the City’s Purchasing
Division for review.

S. **Non-appropriation**

It is understood and agreed between the Parties hereto that the City shall be bound and
obligated hereunder only to the extent that the funds shall have been appropriated and
budgeted for the purpose of this Agreement. In the event funds are not appropriated and
budgeted in any fiscal year for payments due under this Agreement, the City shall immediately
notify Artist of such occurrence and this Agreement shall terminate on the last day of the fiscal
year for which appropriations were received without penalty or expense to the City of any kind
whatsoever.

T. **Assignment of Agreement**

The Artist shall not, without the prior written consent of the City, assign, delegate, or otherwise
transfer, in whole or in part, the Agreement or any of the Artist’s rights or obligations arising
hereunder. The City may, in its sole discretion, consent or decline to consent to any such
assignment, delegation, or transfer, or may give its conditional consent thereto. In the event
the City conditionally consents to such an assignment, delegation, or transfer, such consent
may, without limitation, be conditional upon Artist’s remaining fully and unconditionally liable to
the City for any breach of the terms of this Agreement by Artist’s transferee and for any damage
or injury sustained by a third party or parties as a result of the intentional act or omission,
negligence, or breach of warranty by Artist’s transferee.
U. Termination without Cause
The City may at any time, and for any reason, terminate this Agreement by written notice to Artist specifying the termination date, which shall be not less than thirty (30) days from the date such notice is mailed.
Notice shall be given to Artist by certified mail/return receipt requested at the address set forth in this Agreement.
In the event of such termination, Artist shall be paid such amount as shall compensate Artist for the work satisfactorily completed, and accepted by the City, at the time of termination.
If the City terminates this Agreement without cause, Artist shall withdraw its personnel and equipment, cease performance of any further work under this Agreement, and turn over to the City any work completed or in process for which payment has been made.

V. Hold Harmless/Indemnification
It is understood and agreed that Artist hereby assumes the entire responsibility and liability for any and all damages to persons or property caused by or resulting from or arising out of any act or omission on the part of Artist, its subcontractors, agents or employees under or in connection with this Agreement or the performance or failure to perform any work required by this Agreement. Artist agrees to indemnify and hold harmless the City and its agents, volunteers, servants, employees and officials from and against any and all claims, losses, or expenses, including reasonable attorney's fees and litigation expenses suffered by any indemnified party or entity as the result of claims or suits due to, arising out of or in connection with (a) any and all such damages, real or alleged, (b) the violation of any law applicable to this Agreement, and (c) the performance of the work by Artist or those for whom Artist is legally liable. Upon written demand by the City, Artist shall assume and defend at Artist's sole expense any and all such suits or defense of claims made against the City, its agents, volunteers, servants, employees or officials.

W. Insurance
Artist agrees to secure and maintain in full force and effect at all times during the term of this Agreement, the following policies of insurance:
1. Workers' Compensation Insurance of not less than $500,000.
2. Comprehensive General Liability Insurance, including contractual liability and products and completed operations liability coverages, in an amount not less than one million dollars ($1,000,000) combined single limits (CSL). Such insurance shall name the City of Virginia Beach as an additional insured.
3. Automobile Liability Insurance including coverage for non-owned and hired vehicles in an amount not less than one million dollars ($1,000,000) combined single limits (CSL).

All policies of insurance required herein shall be written by insurance companies licensed to conduct the business of insurance in Virginia, and acceptable to the City, and shall carry the provision, that the insurance will not be cancelled or materially modified without thirty days (30) prior written notice to the City. In certain cases, where coverage is unavailable through licensed carriers, certificates of insurance written by a Surplus Lines Carrier authorized by the Virginia State Corporation Commission to transact the business of insurance in Virginia and acceptable to the City of Virginia Beach may be approved. Artist shall list the City of Virginia Beach as an additional insured and shall furnish the City with certificate of insurance showing Artist's compliance with the foregoing requirements.

X. Notice
All notices and requests required or permitted hereunder shall be sent by United States certified mail, return receipt requested and to be effective, shall be postmarked not later than the final date for giving of such notice; or such notices may be sent by commercial messenger service, in which event, to be effective, such notices shall be delivered to a commercial messenger service not later than the final date for giving such notice.
Notices for the City of Virginia Beach shall be addressed as follows:

Darla Smith
Finance/Purchasing
2388 Court Plaza Drive
Virginia Beach, VA  23456

Notices for Artist shall be addressed as follows:

___________________________________

___________________________________

Such addresses may be changed at any time and from time to time by like written notice given by either party to the other.

Y. Claims For Extra Compensation

If Artist encounters work and services not included in this Contract or any supplement thereto but which in the opinion of Artist is necessary for the successful completion of the Contract and requires extra compensation, Artist shall, before it begins the work on which it bases its claim, promptly notify the City in writing of its intention to perform the work and to make claim for extra compensation. Notification by Artist under the terms of this paragraph shall not be construed as proving the validity of the claim. No claim for extra compensation will be filed or considered unless notification is given as herein set forth.

Upon notification, the City shall promptly review any claim for extra compensation. If a claim is accepted by the City, it shall be paid as extra work in accordance with the terms of a supplemental agreement executed by the parties before such work is begun.

The amounts claimed as extra compensation by Artist shall be separately itemized, become a part of the claim, and serve as documentation thereto. The amounts itemized shall be in sufficient detail to enable the City to analyze the need for the extra work and the costs claimed for the work. [Where appropriate add: Where Artist intends to claim the costs (other than attorney’s fees) of preparing a claim for extra compensation, such costs incurred by Artist in preparing a claim shall be maintained in a separate account, clearly coded and identified, and shall be subject to audit by the City].

Z. Offset/Setoff

The City may withhold the payment of any claim or demand by any person, firm or corporation against the City until any delinquent indebtedness or other liability, including taxes, due to the City from such person, firm or corporation shall first have been settled and adjusted.

AA. Audits

The City shall have the right to audit all books and records (in whatever form they may be kept, whether written, electronic or other) relating or pertaining to this Agreement (including any and all documents and other materials, in whatever form they may be kept, which support or underlie those books and records), kept by or under the control of Artist, including, but not limited to those kept by Artist, its employees, agents, assigns, successors and subcontractors. Artist shall maintain such books and records, together with such supporting or underlying documents and materials, for the duration of this Agreement and for at least three years following the completion of this Agreement, including any and all renewals thereof. The books and records, together with the supporting or underlying documents and materials shall be made available, upon request, to the City, through its employees, agents, representatives, contractors or other designees, during normal business hours at Artist’s office or place of business in Virginia Beach, Virginia. In the event that no such location is available, then the books and records, together
with the supporting or underlying documents and records, shall be made available for audit at a time and location in Virginia Beach, Virginia, which is convenient for the City.

This paragraph shall not be construed to limit, revoke, or abridge any other rights, powers, or obligations relating to audit which the City may have by state, city, or federal statute, ordinance, regulation, or agreement, whether those rights, powers, or obligations are express or implied.

BB. Cooperative Procurement

This Agreement was awarded in accordance with Section 2.2-4304 of the Virginia Public Procurement Act (VPPA), and in accordance with the City of Virginia Beach’s Procurement Code. The procurement was conducted on behalf of the City and other public bodies. Therefore, pursuant to Code Section 2.2-4304, other public bodies and agencies shall have the right to utilize the provisions of the contract. However, when other public bodies and agencies utilize the contract, Artist must establish a separate contractual relationship between it and the other party. Under no circumstances shall the City of Virginia Beach be a party to or incur any obligations or responsibilities, contractual or otherwise, in association with these contractual agreements between the Artist and another public body or agency.

CC. Submission and Disposition of Contractual Claims

Prompt knowledge by the City of an existing or impending claim for damages or other relief may alter the plans, scheduling, or other action of the City and/or result in mitigation or elimination of the effects of the claim. Therefore, a written statement providing the City with notice of the Artist’s intention to file a claim which (i) describes the act or omission by the City or its agents that the Artist contends caused it damages or entitles it to other relief; and (ii) provides a description of the nature and amount of the claim. Such written statement shall be submitted to the City within 20 days of the time of the occurrence or beginning of the work upon which the claim is based; provided, however, if such damage is deemed certain in the opinion of the Artist to result from its acting on an order from the City, it shall immediately take written exception to the order. For purposes of this provision, “claim” shall include, without limitation, any request for an increase in the contract price or time and any request for equitable adjustment. Submission of a notice of claim as specified shall be mandatory, and failure to submit such notice shall be a conclusive waiver to such claim for damages or other relief by the Artist. Neither an oral notice or statement, nor an untimely notice or statement will be sufficient to satisfy the requirements herein.

The City will review the claim and render a final decision in writing within thirty (30) days of receipt of Artist’s written request for a final decision. Such decision shall be final and binding to the fullest extent allowed by law.

DD. Payments to Subcontractors

In accordance with Title 2.2, Chapter 43, Article 4 of the Code of Virginia (Virginia Public Procurement Act), the Artist shall make payment to all subcontractors, as defined in the Code, within seven (7) days after receipt of payment from the City; or, shall notify the City and the subcontractor in writing of the intention to withhold all or part of the amount due with the reason for nonpayment. In the event payment is not made as noted, the Artist shall pay interest at the rate of one percent (1%) per month, unless otherwise provided in the contract, to the subcontractor on all amounts that remain unpaid after seven (7) days except for the amounts withheld as provided herein.

These same requirements shall be included in each subcontract and shall be applicable to each lower-tier subcontractor. The Artist shall provide the City with its social security number or federal taxpayer identification number prior to any payment being made under this Agreement.

The Artist’s obligation to pay an interest charge to a subcontractor pursuant to the payment clause in this section may not be construed to be an obligation of the City. A contract
modification may not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

EE. OWNERSHIP OF WORK

Upon installation and final payment to the Artist, the title to the Work and ownership shall vest and be held in the name of the City of Virginia Beach.

The City of Virginia Beach may retain copies of any drawings, slides, photographs, submittals and other documents submitted to the City of Virginia Beach by the Artist related to the Work (the "Materials").

The Work. The Artist retains all rights under the Copyright Act of 1976, 17 U.S.C. §§101 et seq., except as modified by this paragraph.

In view of the intention that the Work in its final dimension shall be unique, the Artist shall not make any additional exact duplicate, two or three-dimensional reproductions of the final Work, nor shall the Artist grant permission to others to do so except with the written permission of the City. This restriction shall not apply to the Artist's use of photographic reproductions of the Work in portfolio or in critical and scholarly writings. The Artist grants the City of Virginia Beach an irrevocable license to make two-dimensional reproductions of the Work for non-commercial purposes, including but not limited to reproductions used in advertising brochures, media publicity, and catalogues or other similar publications.

Notice. All reproductions by the City shall contain a credit to the Artist and a copyright notice.

Credit to Public Art Program. The Artist shall use his best efforts to give a credit reading substantially, "an original work commissioned through the City of Virginia Beach's Public Art Program," in any public showing under the Artist's control of reproduction of the Work.

Registration. The Artist shall at the Artist's expense cause to be registered, with the United States Register of Copyrights, a copyright of the Work in the Artist's name.

FF. Subcontractors

The use of subcontractors and the work they are to perform shall receive prior written approval of the contract administrator. The Artist shall be solely responsible for all work performed and materials provided by subcontractors. The Artist shall be responsible for the liability of subcontractors for the types and limits required of the Artist.

VI. SPECIAL TERMS AND CONDITIONS:

A. Payment Schedule

1. Payment for services rendered by the Artist shall be billed in accordance with the payment schedule negotiated with Artist
2. Payment on invoices shall be Net 30 days after receipt of invoice

B. Modification

There may be no modification of any resulting Contract, except in writing, executed by the authorized representatives of the City and the Artist.

C. Company Personnel Standards

1. Personnel shall be trained/qualified to perform requested services. If any of the successful Offeror's personnel are not satisfactory in the performance of services to be furnished hereunder in a proper manner and satisfactory to the City, the Offeror shall remove any such personnel and replace them with satisfactory personnel.
2. Offeror shall use all reasonable care, consistent with its rights to manage and control
its operations, not to employ any persons or use any labor or have any equipment or permit any condition to exist which shall or may cause or be conducive to pose any liability to the general public as well as any activity to be construed as a nuisance. The City retains the right to require the successful Offeror to halt all work activities until such conditions are resolved.

D. Independent Contractor

The Artist shall agree and covenant that it is and shall be at all times, an independent contractor, and as such, shall have and maintain complete control over all of its employees and operations. Neither the Artist nor anyone employed by it shall be, represent, act, purport to act, or be deemed to be an agent, representative, employee or servant of the City. Nothing in this section shall be deemed to absolve or otherwise limit the Artist's liability and responsibility to safely and correctly perform its duties under this contract.

VII. SPECIAL INSTRUCTIONS TO THE OFFEROR:

A. Contract Administrator

Whenever used in the Request for Proposal and for purposes of any notices under this contract, Contract Administrator shall be as described below:

Nina Goodale-Salazar
Cultural Arts Coordinator
City of Virginia Beach, VA
Virginia Beach, VA 23456
757-385-2549

VIII. GENERAL SUBMITTAL TERMS AND CONDITIONS:

A. Definitions of Terms

The following definitions of terms are used herein:

1. The term “City” refers to the City of Virginia Beach.
2. The term “Offeror” refers to the person, firm, or company that provides a proposal in response to this Request For Proposal (RFP) and who may or may not be successful in achieving an opportunity to negotiate for the final award of a contract.
3. The term “Artist” means the Offeror to which the contract will be awarded. References to the Artist in this RFP shall also apply in full to any subcontractor for the named Artist.

B. Submittal of Proposals

The proposal shall be delivered as follows: Artists must submit the following information digitally on one CD or through email with individual labeled files to ngoodale@vbgov.com.

Submission address:
Nina Goodale-Salazar, Cultural Affairs
201 Market St., Suite 204
Virginia Beach, VA 23462
ngoodale@vbgov.com

1. If submitting by mail, an original and 8 copies of each proposal shall be submitted. The original proposal should be clearly marked “ORIGINAL” on its outside cover.
2. All proposals shall be received and time-stamped in the office location described below no later than 5:00 pm local time, July 10, 2017. Proposals received after the
specified date and time (time-stamped 5:01 p.m. or later) shall not be considered and shall be returned unopened to the Offeror.

3. Issuing Office:
   City of Virginia Beach
   **Darla Smith**
   Princess Anne Executive Park
   2388 Court Plaza Drive
   Virginia Beach, VA 23456
   (757) 385-4438

4. Proposals received by telephone, telegraph, facsimile or any other means of electronic transfer shall be accepted.

5. An Offeror receiving a Request for Proposal from a source other than the Issuing Office, should contact the Issuing Office to become an Offeror Of Record before submitting its proposal.

C. Examination
   Offeror shall carefully examine the contents of this Request for Proposal and any subsequent addenda.

D. Questions
   1. Questions concerning this solicitation may be made by telephone or in writing. Questions should be addressed to the Issuing Office not less than seven (7) working days prior to the closing date of the Request for Proposal. Telephonic questions should be directed to the appropriate person listed below:
      (1) Scope of Work Questions: Nina Goodale-Salazar 757-385-2549 or ngoodale@vbgov.com
      (2) Procurement Questions: Darla Smith 757-385-4062
   2. Any material changes to the solicitation document will be addressed by issuance of a written addendum to all Offerors of Record that will become part of the proposal documentation.
   3. Oral instructions do not form a part of the proposal documents.
   4. The Offeror shall check with the Issuing Office within forty-eight (48) hours prior to proposal closing to secure any addenda affecting bidding.

E. Conditions of Work
   Each Offeror shall inform himself/herself fully of the conditions relating to the project and the employment of labor therein. Failure to do so will not relieve a successful Offeror of his obligation to furnish all materials and labor necessary to carry out the provisions of this agreement.

F. Anticollusion/Nondiscrimination//Drug-Free Workplace Form
   The attached Anticollusion/Nondiscrimination/Drug-Free Workplace form incorporated herein (page 2) should be executed and returned with the proposal documents.

G. Proposal Binding for One Hundred Twenty (120) Days
   The Offeror agrees that this proposal shall be good and may not be withdrawn for a period of one hundred twenty (120) calendar days after the scheduled closing time for the Request For Proposal.

H. Proprietary Information
   Offerors are advised that Section 2.2-4342 of the Code of Virginia, i.e., the Virginia Public Procurement Act, shall govern public inspection of all records submitted by the Offeror. Specifically, if Offeror seeks to protect any proprietary data or materials, pursuant to Section 2.2-4342, **Offeror shall (i) invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be**
protected, and (iii) state the reasons why protection is needed. Furthermore, the Offeror shall submit proprietary information under separate cover, and the City reserves the right to submit such information to the City Attorney for concurrence of the Offeror’s claim that it is in fact proprietary. References may be made within the body of the proposal to proprietary information; however, all information contained within the body of the proposal not labeled proprietary or otherwise not meeting all three of the requirements of Section 2.2-4342 shall be public information in accordance with State statutes.

I. Proposal Costs

Prospective Offerors shall be responsible for all costs incurred in the development and submission of a proposal. The City assumes no contractual obligation as a result of the issuance of this RFP, the preparation or submission of a proposal by an Offeror, any cost associated with interviews and travel, or any other Offeror cost involved in a response.

J. Exceptions

Proposals should be as responsive as possible to the provisions stated herein, however, an Offeror may take exceptions to the provisions without their proposal being disqualified. During the evaluation process, the City will consider whether the impacts of any such exceptions are positive or negative. The Offeror should clearly indicate when exceptions or deviations are being taken and state the reason why. Notwithstanding the above, proposals received late shall be rejected.

K. Award

The award of a contract shall be the sole discretion of the City. The award shall be based upon the evaluation of all information as the City may request. The City reserves the right to accept or reject any or all proposals in whole or in part and to waive any informalities in the bidding. Further, the City reserves the right to enter into any contract deemed to be in the best interest of the City.

L. Fraud, Waste and/or Abuse

The City of Virginia Beach is committed to eliminating fraud and maintaining a highly ethical environment throughout our organization. The City’s Fraud, Waste and Abuse Prevention Program, coordinated by the Office of the City Auditor, consists of a Fraud Hotline, web site, awareness training and investigation services. While this program is designed to assist City employees, departments, agencies and programs in preventing and detecting incidents of fraud, waste and abuse in the City of Virginia Beach, it is also available to City contractors for this same purpose. This program focuses on dishonest acts by City employees or its contractors. Therefore, if you suspect any Fraud, Waste and/or Abuse regarding a City employee or contractor please call the Fraud Hotline at (757)468-3330.

M. Public Notice of Award or Decision to Award

Public notice of the award or the announcement of the decision to award shall be provided by posting the appropriate notice on the “bid board” located in the Issuing Office, posting notice with DemandStar by Onvia, and mailing the notice to the Offerors who submitted proposals in response to the solicitation.

N. Preparation Guidelines

For consideration, all proposals should be as responsive as possible to the solicitation. In order to adequately evaluate the proposals, all Offerors should use the following format:

Offeror should provide a description outlining the services to be performed. Such description should, at a minimum, provide the following information:

1. Offeror’s experience in providing the services requested.
2. Offeror’s capability and skill to perform the services.
3. Project Approach and Visual Representation
   a) Offeror’s understanding of the project.
   b) Overall project plan.
(1) **Current Resume** detailing professional artistic accomplishments and references from past public art projects (preferably mural projects), including awards if applicable. If applying as a team, submit a separate resume for each team member.

(2) **Digital images** of relevant work (minimum of 3, maximum of 10). Images must be labeled, numbered according to order on Image List.

(3) **Image List**: List image number, title, media, size, date, location, description of work, commissioning agency.

(4) **Project Approach**: Articulate design concept, anticipated installation requirements i.e.: possible closure of surrounding area for installation, anticipated maintenance requirements, estimated number of days of execution and choice of materials (include manufacturer specifications), outline proposed use of students in the process, if any. Limit to one page.

(5) **Visual representation of project proposal**: Proposal must include conceptual designs for all three spaces.

(6) **Project Budget.** Offeror shall provide a detailed description of the total budget to perform the services. The budget shall identify in separate detail the following: artist stipend, all expenses including design, travel, lodging, required meetings, installation, preparation of site, clean-up, materials and supplies, any equipment needed to install the mural, any necessary permits, bonds, taxes and fees.

(7) **Three Professional References**: Contact information for three references should be submitted.

(8) List of any exceptions taken to the provisions of this RFP.

(9) **Self-addressed**, stamped envelope with sufficient postage if you would like your CD and graphics returned.

O. **Proposal Opening**

At the time specified, the proposals received timely shall be opened. Only the names of the Offerors submitting proposals shall be read aloud. No other information will be provided at that time.

P. **Evaluation**

The City shall select two (2) or more Offerors deemed to be fully qualified and best suited among those submitting proposals on the basis of the factors listed below:

1. Offeror’s experience in providing the services requested.
2. Offeror’s capability and skill to perform the services.
4. Budget. The total budget to provide the services described in the proposal.

The City intends to use a numerical scoring system in the evaluation, and such scoring will be 25 points assigned to each of the four factors listed above: Experience; Capability and Skill; Services to be Provided; and Price. There is a maximum of 100 possible points. A further description of these factors is set forth in Section N. (“Preparation Guidelines”).

Negotiations shall then be conducted with each of the Offerors so selected. After negotiations have been conducted with each Offeror so selected, the City shall select the Offeror, which in its opinion, has made the best proposal, and shall award the contract to that Offeror. Should the City determine in its sole discretion that one Offeror is qualified, or that one Offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that Offeror. The City of Virginia Beach is not required to furnish a statement of the
reason(s) why a proposal was not deemed to be the most advantageous.

**Note:** Award of the contract may be made without competitive negotiations after proposals are received. In this instance, award of the contract shall be made to the responsive/responsible Offeror whose proposal was determined to be the most advantageous to the City, taking into consideration the evaluation factors set forth herein. The City of Virginia Beach is not required to furnish a statement of the reason(s) why a quote was not deemed to be the most advantageous.

**Q. Presentation/Demonstration**

The City may request the “short-listed” Offerors conduct presentations. Offeror presentations/shall be at a City site or through video conference, at a date and time mutually agreed to between the City and Offeror, and shall be at the Offeror’s expense.

**R. Submittal**

The Offeror shall submit the following documents/information:

1. Cover page of Request for Proposal with signature, title, and date;
2. Completed anticollusion/nondiscrimination/drug-free workplace form (page 2);
3. Proposal as requested herein under Section VII, Subsection N, entitled “Preparation Guidelines.”
Appendix A, B, C
See separate .PDF Attachment
Call to Artists
Request for Proposal
Rudee Underpass Walkway Mural
Virginia Beach, Virginia
RFP – Rudee Underpass Walkway Murals
City of Virginia Beach, VA
Application Deadline: July 10, 2017  5:00 p.m.
Abutment Dimensions: Approx. 384 sq. ft.

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Appendix B

Bent #1 Dimensions: Approx. 1,368 sq. ft.

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Appendix B

### Bent #2 Dimensions: Approx. 1,368 sq. ft.

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RFP – Rudee Underpass Walkway Murals
City of Virginia Beach, VA
Application Deadline: July 10, 2017 5:00 p.m. EDT