



# ARTIST REQUEST FOR QUALIFICATIONS

## Boise City Seeks to Qualify Artists for an Artist Roster on behalf of Valley Regional Transit

**Application Deadline:** July 9<sup>th</sup>, 2021 at 1pm. Mountain Standard Time.

**Budget: \$500 - \$25,000**

### OPPORTUNITY

The Boise City Department of Arts & History (the City) is seeking Statement of Qualifications (applications) from qualified individuals (Artists) for an opportunity to be included in an Artist Roster on behalf of Valley Regional Transit (VRT). Multiple artists may be selected by VRT from the Artist Roster and commissioned to complete individual public art



*Hey Boise, Nice Ride by Jason Sievers, 2007*

projects for VRT infrastructure and community sponsorship opportunities. Project commissions may consist of but are not limited to vinyl wraps for transit shelters and transportation vehicles, artist-designed bike racks, artist designed graphics or posters, and more. Artists from a wide variety of disciplines are encouraged to apply.

Artists selected for the roster are not guaranteed to receive a commission or project. Qualified artists may receive multiple commissions or projects over the lifetime of the roster. Individual project budgets may range from \$500 (Five Hundred Dollars) – \$25,000 (Twenty-Five Thousand Dollars). The City will facilitate the qualification and artist selection process but will not be involved in the process of commissioning the artists directly. VRT will coordinate with community sponsors to identify project type, conceptual themes, project budget and select artists from the roster, based on artists' past work portfolios, and will contract with the artist(s) to complete the projects as

funding becomes available. Artists selected for the roster will be considered for projects for a period of 5 years.

## **BACKGROUND**

The Treasure Valley Regional Public Transportation Authority was formed in January of 1999 when the Boards of the Ada and Canyon RPTAs formally voted to merge the two organizations. Valley Regional Transit (VRT) was adopted as the official name in 2004.

VRT is the Treasure Valley's premier public transportation authority and is responsible for the management of a variety of transportation solutions including public bus transit, specialized van services, paratransit, park-and-ride, and more. VRT frequently works with other organizations and government agencies, like the City of Boise, to create options that are accessible, affordable, and consistent. The



*Well... aren't we all buses looking for shelter by Will Oberleitner, 2019*

partnership between the Department of Arts & History and VRT has led to the installation of many impactful public art projects that public transportation users can enjoy.

In 2015, Stephanie Inman contracted with the Department of Arts & History to create *Art Along the Way: The Art Plan for VRT's Main Street Station*. Shortly after the plan was completed, the first phase of projects were implemented. These projects included a wall mosaic, artist designed wayfinding signifiers, and a series of banner murals. In 2018, the second phase of projects were installed. These projects included an artist designed window treatment, an additional series of vinyl murals, and a hand painted mural. Over the years, multiple artist-designed bus shelter wraps have been commissioned and installed throughout the Boise area.



*Wingin' it with Raven* by Larry McNeil, 2018

## PROJECT TIMELINE

Description	Date
Call to Artist Released	May 26 <sup>th</sup> , 2021
Application Workshop – Optional	June 16 <sup>th</sup> , 2021 at 1pm, MST
Questions/ Clarifications due via email by 5pm, MST	July 2 <sup>nd</sup> , 2021 by 5PM, MST
APPLICATION DEADLINE <b>No Late submissions will be accepted</b>	July 9 <sup>th</sup> , 2021 at 1pm, MST
Selection Panel	August 2021
Final Artist(s) Selection	August - September 2021

The timeline is intended to provide artists, who are interested in applying, a loose framework for project phase expectations. The timeline, with exception to dates relating to the call-to-artists, are subject to change based on the approval process and needs of the overall project.

## **APPLICATION PROCESS**

### APPLICATION INFORMATION

The submission package or envelope must be sealed and plainly marked for delivery as follows:

**ATTN: Purchasing Department**

**Boise City Hall**

**150 N. Capitol Blvd.**

**Boise, ID 83702**

**RFQ 21-278 VRT Artist Roster**

**Solicitation Number: RFQ 21-278**

**Project Name: VRT Artist Roster**

**Deadline Date: July 9<sup>th</sup>, 2021 at 1pm, MST. Mountain Standard Time**

The Applicant's return address must also appear on the outside of the envelope or package. Submissions made using "Express/Overnight" services must be shipped in a separate sealed inner envelope/package identified as stated above.

For hand delivered submissions, it is the Applicant's responsibility to have the City Purchasing Office time-stamp their application prior to the deadline. Allow yourself extra time when delivering your application to ensure it gets time-stamped before the deadline. Late, non-stamped, or incomplete proposals will not be accepted. Oral, telephone, facsimile, and email submissions will not be accepted. **DO NOT EMAIL OR FAX YOUR PROPOSAL.**

It is the Applicant's sole responsibility to timely submit their application by the scheduled deadline date and time.

**OR**

**E-Bids:** Electronic Bids/Proposals submitted through DemandStar ([www.demandstar.com](http://www.demandstar.com)) or BidNet ([www.bidnetdirect.com](http://www.bidnetdirect.com)) will also be accepted for this project. Bids/Proposals must be signed and submitted in same required format. Submit one (1) electronic copy if using E-Bidding. After uploading your bid/proposal, Bidder's are encouraged to verify the successful upload of the document.

**Sign your electronic bid/proposal. Bids/Proposals without written signature will not be accepted.**

All E-Bids must be submitted before the scheduled bid/proposal opening. In the event of a technology failure, the City reserves the right to accept all bids/proposals submitted and electronically time stamped prior to bid/proposal opening. The City will require bid/proposal receipt document to be on file as proof of timely submission. Bidders are encouraged to confirm the successful up-load of their bid/proposal document. The City will not accept bids/proposals after the scheduled time for opening.

The Owner is the City of Boise.

**ALL BIDS/PROPOSALS MUST BE SIGNED.**

**APPLICATION DEADLINE is July 9<sup>th</sup>, 2021 at 1pm, MST at 1pm. Mountain Standard Time**

Applicants are responsible for all costs (including site visits where needed) incurred in preparing or responding to this RFQ. All materials and documents submitted in response to this RFQ become the property of Boise City and will not be returned. Unfortunately, un-signed proposals & proposals received after July 9<sup>th</sup>, 2021 at 1pm, MST will not be accepted or considered.

**PRE-APPLICATION WORKSHOP**

A Pre-Application Workshop will be held June 16<sup>th</sup>, 2021 at 1pm, MST local time in the Boise City Council Chambers located at 150 N Capitol Blvd, 3<sup>rd</sup> floor, Boise, Idaho 83702. At the Workshop, staff will review the application process, discuss the process for design, fabrication and installation, and answer any questions Applicants may have. This is the only opportunity to speak directly with Arts & History and Purchasing staff. Inquiries at any other time must be submitted in writing to Jolene Merry at [jmerry@cityofboise.org](mailto:jmerry@cityofboise.org). Attendance by the Applicants is strongly recommended but not required. Workshop will be recorded and posted along with any Q & As that effect the project via a posted addendum.

## **FORMS TO BE SUBMITTED**

Applicants must submit the following completed forms by the proposal deadline:

- ONE (1) signed original application, which includes:
  - Application Form/Signature Page – Provided Below
  - Letter of Interest/Ability to Provide
  - Resume/Prior Experience
  - Example Artwork List – Provided Below
  - Examples of Past Work
- A digital (PDF) version of the entire application on either one (1) flash drive or one (1) compact disk. The digital PDF file name shall be named RFQ 21-278 [Artist *name*].\_Application (example: RFQ 21-278 \_Smith\_Application).
- Individual digital file of each Image of Past Work, jpeg format, 300dpi, not more than 10" on its longest side. Provide these files on same flash drive or compact disk that contains the digital version of the application. The file name format shall be RFQ 21-278 \_[Artist *name*].\_[image list number] (example: RFQ 21-278\_Smith\_01).

ALL APPLICATIONS MUST BE SIGNED (both E-Bids and hard copies). Applications not signed will be disqualified and considered non-responsive. Failure to submit all requested information may render any application unresponsive and void.

## **ADDENDA**

In the event it becomes necessary to revise any part of this RFQ, addenda will be issued. Information given to one Applicant will be available to all other Applicants if such information is necessary for purposes of submitting an application or if failure to give such information would be prejudicial to uninformed Applicants. It is the Applicant's responsibility to check for addenda prior to submitting an application. Failure to do so may result in the application being declared non-responsive. No addenda will be issued fewer than four (4) business days before the proposal deadline unless the deadline is extended. Proposer shall indicate within their cover letter the addenda number(s) which they have incorporated into their submittal.

## REQUIRED CONTENT, EVALUATION, AND SELECTIONS

The application format explained below is meant to allow uniform review and easy access to information by the Evaluation Panel. Applications not conforming to the requested format or not in compliance with the specifications will be considered non-responsive. The applications are to be clear and to the point.

Applicants are invited to include information about innovative methods and/or ideas which they can provide to achieve successful results for the artwork and the urban park project. Unique qualities and/or capabilities and cost efficiencies may be identified. For each of the specific areas listed below, Applicants should include a description of qualifications to serve as an Artist.

The application must contain the following information in the sequence set forth below. Applicants will be ranked according to the articles below, with points applied per article (500 points total):

1. **Application Form/Signature Page** (Pass/ Fail – *if submitted, complete and signed, you pass; if missing, incomplete, or not signed, you fail*)

Fill out / sign the Application Form/Signature Page and submit as your first document.

2. **Letter of Interest/Ability to Provide** (Pass/Fail)

Include a one-page letter addressing why you're interested in this opportunity and your related experience or qualifications. Describe how the Applicant would approach the project. Explain your ability to deliver the level of quality desired.

3. **Resume/Prior Experience** (Pass/Fail.)

Include a one-page resume of the Artist's qualifications and past experience

4. **Example Artwork List** (Pass/Fail)

Please use the provided form to list the information for the submitted images: title, type of work (painting, sculpture, installation), material(s), date and any comments.

5. **Examples of Past Work** (250 pts.)

Provide up to ten (10) examples of your completed artwork that demonstrate your ability to best meet the desired outcomes of this RFQ. Examples can be provided in photo or

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video form and must adhere to the follow standards: Images files are not to exceed 300dpi and 10" on the longest side, video files are not to exceed 2 minutes in duration.

### **EVALUATION OF APPLICANT**

In determining the best qualified Applicants, City of Boise will consider all acceptable applications on a basis consistent with this RFQ. A selection committee will rank all eligible applications directly from the evaluation process and basis of qualifications identified in this document. The selection committee may include representatives from: Boise City Arts & History Commission, the Arts & History Advisory Team, a local artist, a member from Boise Planning and Development Services, and Valley Regional Transit. Artists selected for the roster are not guaranteed to receive a commission or project. VRT will personally select and contract with the artist(s) from the roster to complete public art projects as they arise.

### **QUALIFICATION BASED SELECTION**

The City of Boise reserves the right to reject any and all applications, to waive any irregularities in the applications received and to accept the applications that are in the best interest of the City. Boise City is an Equal Opportunity Employer. The City of Boise is exempt from Federal and State taxes and will execute the required exemption certificates.

### **QUESTIONS & CLARIFICATIONS**

Submit any questions or requests for clarifications by or before July 2<sup>nd</sup>, 2021 by 5pm MST to: **Jolene Merry**, [jmerry@cityofboise.org](mailto:jmerry@cityofboise.org).



**Call for Artists: RFQ 21-278 VRT Artist Roster  
APPLICATION FORM / SIGNATURE PAGE**

Name: \_\_\_\_\_

Artistic Medium(s): \_\_\_\_\_

Address: \_\_\_\_\_

City/ State/ Postal Code: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Website: \_\_\_\_\_ Social Media: \_\_\_\_\_

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

*You must sign and date this form or you will be disqualified!*

**1. INCLUDE/ATTACH LETTER OF INTEREST**

**2. INCLUDE/ATTACH RESUME**

**3. Proposer Acknowledges Receipt of the Following Addenda:**

Addenda #1

Addenda #2

Addenda #3

Addenda #4

Please let us know how you found out about this opportunity:

\_\_\_\_\_

Would you like to receive direct email about other Call for Entries from the Boise City Department of Arts & History? \_\_\_\_\_

The above signed Applicant proposes to provide services in accordance with the specifications for RFQ 21-278, VRT Artist Roster, Valley Regional Transit and to bind themselves, on the acceptance of this application, to enter into and execute a contract, of which this application, terms and conditions, and specifications will be part. **The City of Boise has agreed to manage the bid process *only* and will not be involved in project decisions, nor contract agreements**

**4. Example Artwork List (UP TO TEN ARTWORK EXAMPLES)**

Example #1	Title:
Type of work:	
Materials Used:	
Date Finished:	
Additional Information or Comments	

Example #2	Title:
Type of work:	
Materials Used:	
Date Finished:	
Additional Information or Comments	

Example #3	Title:
Type of work:	
Materials Used:	
Date Finished:	

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Additional Information or Comments	
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Example #4	Title:
Type of work:	
Materials Used:	
Date Finished:	
Additional Information or Comments	

Example #5	Title:
Type of work:	
Materials Used:	
Date Finished:	
Additional Information or Comments	

Example #6	Title:
Type of work:	
Materials Used:	
Date Finished:	

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Additional Information or Comments	

Example #7	Title:
Type of work:	
Materials Used:	
Date Finished:	
Additional Information or Comments	

Example #8	Title:
Type of work:	
Materials Used:	
Date Finished:	
Additional Information or Comments	

Example #9	Title:
Type of work:	
Materials Used:	

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Date Finished:	
Additional Information or Comments	

Example #10	Title:
Type of work:	
Materials Used:	
Date Finished:	
Additional Information or Comments	

## **GENERAL CONDITIONS**

These General Conditions are presented for clarification of the Terms and Conditions included with the Artist Agreement.

### **1.1 Intent of Application**

It is the intent of this application to describe the services being sought in sufficient detail to secure qualified Applicants, based on past work. Applications will be evaluated using a weighted scoring method. Applications not conforming to the requested format or not in compliance with the specifications will not receive full scoring.

### **1.2 Applicant's Costs**

The Applicant will be responsible for all costs (including site visits where needed) incurred in preparing or responding to this solicitation. All materials and documents submitted in response to the solicitation become the property of the City and will not be returned.

### **1.3 Reserved Rights**

The City of Boise reserves the right to accept or reject applications. The City may select an artist on the basis of the written application and may request oral presentations.

### **1.4 Public Records**

The Idaho Public Records Law, Idaho Code Sections 9-337 through 9-348, allows the open inspection and copying of public records. Public records include any writing containing information relating to the conduct or administration of the public's business prepared, owned, used, or retained by a State or local agency regardless of the physical form or character. All, or most, of the information contained in your application will be a public record subject to disclosure under the Public Records Law and will be available for inspection and copying by any person. The Public Records Law contains certain exemptions. One exemption potentially applicable to part of your response may be for trade secrets. Trade secrets include a formula, pattern, compilation, program, computer program, device, method, technique or process that derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons and is subject to the efforts that are reasonable under the circumstances to maintain its secrecy.

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If you consider any element of your Application to be a trade secret, or otherwise protected from disclosure, you **must**:

- a. Indicate by marking **each page** of the pertinent document confidential; and,
- b. Include the specific basis for your position that it be treated as exempt from disclosure.

Prices quoted in your application are not a trade secret.

The following is not acceptable or in accordance with the Public Records Law and **will not be honored**:

- a. Marking your entire Application as exempt; or,
- b. Placing a statement or legend on one (1) page stating that all or substantially all of the response is exempt.

The City, to the extent allowed by law and in accordance with these Instructions, will honor a designation of nondisclosure. If you claim material to be exempt from disclosure under the Idaho Public Records Law, the Applicant will expressly agree to defend, indemnify and hold harmless the City from any claim or suit arising from the City's refusal to disclose any such material. Any questions regarding the applicability of the Public Records Law should be addressed to your own legal counsel – **Prior to submission**.

### **1.5 Taxes**

The City of Boise is exempt from Federal and State taxes and will execute the required exemption certificates for items purchased and used by the City. Items purchased by the City and used by an Artist are subject to Use Tax. All other taxes are the responsibility of the Artist.

### **1.6 Request for Clarification or Questions, Protest of Application Requirements or Process**

Any Artist who wishes to request clarifications, or protest the requirements, or processes outlined in this solicitation may submit a written notification to the Department of Finance & Administration, to be received no later than 5:00PM MST, July 2<sup>nd</sup>, 2021. The notification will state the exact nature of the clarification, protest, describing the location of the protested portion or clause in the Application document and explaining why the provision should be struck, added, or altered, and contain suggested corrections. The Finance & Administration Department may deny the protest, require that the Application document be modified, modify the proposal, and/or reject all or part of the protest. Changes to these specifications will be made by written addendum. Verbal responses will not be binding on the City or the Applicant.

Written requests are to be directed to:

Jolene Merry  
City of Boise Purchasing  
150 N. Capitol Blvd.  
Boise ID 83702  
[jmerry@cityofboise.org](mailto:jmerry@cityofboise.org)

### **1.7 Addenda to the RFQ**

If this specification is modified by the Purchasing Office, the modifications will be sent to each Applicant in writing through a website attachment or by email. Verbal modifications are not binding on the City or the Artist. No oral changes will be considered or acknowledged. Artists are requested to acknowledge each addendum received in their Application.

### **1.8 Modification and Withdrawal of Proposal**

An application may be modified or withdrawn by the Artist prior to the set date and time for the opening of proposals.

### **1.9 Application Questions**

Questions and responses of any one Applicant, which the City of Boise deems may affect or cause an ambiguity in application responses, will be supplied to all prospective Applicants by addendum.

The City of Boise may, by written notice to all Applicants, cancel, postpone or amend the Request for Qualifications (RFQ) prior to the due date. If, in the opinion of the City of Boise, the revisions or amendments will require additional time for a response, the due date will be extended to all Applicants. If revisions and amendments are not furnished to Applicants prior to the due date, applications shall be considered withdrawn and the process shall be re-initiated without further discussion.

### **1.10 Award Criteria**

Criteria necessary to evaluate the applications in relation to the service being sought are included in the RFQ documents and will be established and weighted. At a minimum, criteria will include general qualifications, specific project experience, compliance to the specifications and requirements for the service.



### **1.11 Idaho's Reciprocal Preference Law**

Reciprocal preference applies to any purchase of materials, supplies, services or equipment that is competitively bid/proposal, regardless of the dollar amount, is subject to Idaho's Reciprocal Preference Law, Idaho Code §67-2349.

Reciprocal Preference Information:

<https://www.naspo.org/reciprocity1> *Note: Click on state of ID*

### **1.12 Significant Local Economic Presence**

To qualify as an Applicant with a significant local economic presence, a firm must maintain in the Metropolitan Impact Area a fully staffed office, or fully staffed sales offices, or fully staffed sales outlets, or manufacturing facilities, or warehouses, and, if required, be registered with the Secretary of State of Idaho to do business in Idaho at the time of the bid/proposal opening.

- **Metropolitan Impact Area:** Includes and is limited to the counties of Ada, Boise, Canyon, Elmore, Gem, Owyhee and Payette in the state of Idaho.

### **1.13 Disadvantaged Business Enterprises (D.B.E.)**

D.B.E. firms and business enterprises are encouraged to submit an application. Women owned and minority owned firms are encouraged to submit an application. The City actively encourages any applications by D.B.E. firms for goods and services for the City.

### **1.14 Rejection of Applications**

The City of Boise may, at its sole option, reject any and all applications, for any reason, and reserves the right to re-solicit applications in the event no response to the call is acceptable to the City of Boise. City of Boise is in no way obligated to any Applicant for the work as set forth in the call.

**1.14.1** The City of Boise reserves the right to accept or reject applications on each item separately or the RFQ as a whole, without further discussion.

**1.14.2** Applications, which are incomplete, will be considered non-responsive to this opportunity and may be rejected without further consideration.

**1.14.3** If, in the opinion of the City of Boise, the opportunity does not result in reasonable

qualifications and experience required by the City of Boise, then all applications shall be rejected. All participating Applicants shall be notified of the rejection, the reasons for the rejection, and advised of the disposition of the requirement.

### **1.15 Protest of Artist Selection or Contract Award**

A participating Applicant may object to the contract award by responding in writing to the City's notice of intent to award the contract within seven (7) calendar days after transmittal of the Notice of Intent to Award letter. The responsive protest must set forth in specific terms the alleged reason the Applicant selection or contract award is erroneous. The judgment used in the scoring by individual evaluators is not grounds for a protest. The protest must be submitted in writing. Any protest addressed to the Mayor or City Council will be referred to the City Purchasing Agent.

- Only persons who submitted a proposal are allowed to protest the award.
- Protest must be in writing and received within seven (7) days of Intent to Award Letter posting.
- Purchasing will address the protest with input from Project Manager if necessary.
- After receipt of protest response proposer has three (3) working days (Monday – Friday) to protest to the City Council by submitting a protest of the decision to the City Clerk. City Clerk will then schedule the Consultant for Council.
- If Federal grant funds are involved and the protestor is not satisfied with the way that the City has resolved the protest, the protestor may have the option to appeal to the City Council and then the Federal Grant Provider.
- Award protests are only allowed on formal level Bid/RFQ's. There is no protest period for the semiformal or informal Bid/RFQ process.

Written protests are to be directed to:

Collin Millar
Fax 208.384.3995
<a href="mailto:purchasing@cityofboise.org">purchasing@cityofboise.org</a>

**AGREEMENT FOR DESIGN, FABRICATION AND  
COORDINATION OF INSTALLATION OF PUBLIC ART  
BETWEEN VALLERY REGIONAL TRANSIT AND ARTIST  
SAMPLE DRAFT CONTRACT – DO NOT FILL OUT**

**THIS AGREEMENT** is made and entered into effective upon its mutual acceptance (“Effective Date”) by and between Valley Regional Transit (VRT), and ARTIST NAME HERE (“Artist”), collectively referred to as “the Parties,” for the purpose of defining the rights and responsibilities of the Parties regarding the design, fabrication, and coordination of the installation of public art (the “Work”) for VRT assets .

**BACKGROUND**

- 1) VRT Artist Roster Background.
- 2) Arts and History is responsible for the administration of public art for the City.
- 3) An evaluation team selects the Artist through a competitive bid and proposal process.
- 4) VRT desires to enter into a contract with the Artist to design, fabricate and coordinate the installation of the Work, subject to the terms and conditions of this Agreement.

**NOW, THEREFORE,** the Parties agree as follows:

1. **The Site.** For purposes of this Agreement, the Site shall be the VRT assets,.
2. **Scope of Services:** Design, Fabrication, Delivery of Art. The Artist shall design the Work, working with VRT’s project team upon signing this Agreement. The Artist will develop conceptual design options, which will be provided to Arts and History and the project team for feedback and final approval of one option. The production of the Work shall not commence until final approval of the refined conceptual design drawings are received from VRT. The Artist shall work with VRT to complete any design decisions. Installation of the work will be coordinated with the project’s general contractor and be paid for separately in an amount not to exceed \$25,000. Artist shall communicate clearly with installers regarding technical issues regarding handling the artwork.
3. **Artist’s Responsibilities.**

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a) In addition to other responsibilities set forth in this Agreement, Artist shall attend meetings in person or by phone with representatives of VRT to provide periodic progress reports.

b) Artist shall not assign any of his or her obligations under this Agreement without the written consent of VRT. This provision shall not prevent the Artist from subcontracting for obligations that do not require his or her artistic talents, including, but not limited to, such obligations as engineering, structural engineering, drawing architectural renderings or plans for the preparation and submittal of operations and maintenance manual for all works, or fabrication.

4. **Compensation.** The Artist's fee for the scope of work and services contained in this Agreement is not to exceed \$25,000. This amount shall constitute full payment for all services the Artist shall perform, including necessary materials and fees, related travel, permits for the artwork, and necessary costs as set forth in the Scope of Services and this Agreement. Payments shall be in multiple installments as follows:

a) **\$XX,000** (\_\_\_\_ thousand dollars) no later than forty-five (45) days from the Effective Date to provide for the design process and related travel necessary to finalize the design.

b) **\$XX,000** (\_\_\_\_ thousand dollars) in incremental amounts based on cash flow needs as verified with City's project manager, no later than forty-five (45) days from the time VRT receives the Artist's invoices for fabrication milestones completed, materials ordered, other sub-contractor fees, project management fees, and delivery of the Work.

c) The balance of **\$XX,000** (\_\_\_\_ thousand dollars) no later than forty-five (45) days from final review of installed Work and approval by VRT, delivery of conservation report by the artist, and confirming that Artist has met all terms and conditions of the Scope of Services and this Agreement.

5. **VRT's Responsibilities.** VRT agrees to timely furnish Artist all information, reports, data, statistics, drawings and information in its possession concerning matters covered by this Agreement, together with timely access to all facilities, personnel and data necessary to perform the Work unless such disclosure is prohibited by law.

6. **Time of Performance.** The Artist shall coordinate commencement of design upon signing this Agreement and/or by a date agreed upon between the Parties. The Artist shall complete the Scope of Services on or before Date TBD or on such other later date as may be agreed upon between the Parties in writing.

7. **Approvals.** Artist shall allow VRT to review the Work's progress as follows:

a) Initial review and approval of the designs and/or working drawings to determine that the Work is appropriate for the location. Reviews must be timely in their turn around or additional time must be provided to the Artist to complete.

b) Review and approval by VRT representatives of design, fabrication, and/or installation methods prior to the commencement of fabrication/installation, as appropriate.

c) At VRT's request, additional periodic reviews, via photographs, and approvals as the Work's design, fabrication and/or installation progresses.

d) VRT shall approve or disapprove the Work within seven (7) days of final completion. If, during the approval reviews, VRT concludes that the Work does not conform to the designs as previously approved, or as mutually agreed by the Parties in writing, VRT shall provide the Artist with a notice in writing of specific non-conformity and request the Artist to address and cure the specific non-conformity within two weeks of the reviews. The Artist shall have thirty (30) days within which to address, cure, and correct any non-conformity. If, after resubmission, the Work still does not conform, this Agreement shall be subject to immediate termination for cause. Failure by VRT to disapprove in writing in a timely fashion shall be presumed to be approval of the Work.

8. **Public Education.** The Artist agrees to participate, at no additional cost to VRT, in public events, a "Meet the Artist" event and/or a public dedication of the Work, as planned and negotiated by the Artist and VRT. Such events shall be timed to the extent possible to occur when the Artist is available in Boise.

9. **Project Close-Out.**

a) Upon installation of the Work and prior to final approval or disapproval, the Artist shall furnish VRT a full release and lien waiver, together with such releases and waivers from any subcontractor who furnished goods for or performed services for the Work in any way. The

Artist shall comply with all applicable federal, state and local laws, statutes, rules, regulations and/or ordinances.

b) The Artist shall also submit a conservation/maintenance plan to VRT including specific recommendations for on-going maintenance and repairs, as well as slides and/or photographs and written documentation of fabrication and installation of the Work, such as to assist in future maintenance, repair, and public education.

**10. Repairs, Maintenance, or Alterations.**

a) The Artist shall not be responsible for and shall not be held liable for any damage beyond the control of Artist to the Work, its surfaces, or environment caused by personnel of VRT or its employees, visitors, or others.

b) The Artist shall not be responsible for and shall not be held liable for any damage to the Work by extremely adverse weather conditions, acts of nature, or vandalism.

c) VRT may provide basic maintenance, restoration, and repairs as it deems necessary. VRT shall be responsible for and pay for repairs following expiration for the one-year warranty period.

d) In VRT's sole discretion, the Artist may be given an opportunity to perform and/or act as consultant for the repair or restoration. If design work is necessary, the Artist shall receive compensation to be agreed upon by the Parties. In the event that the Work is damaged or destroyed, VRT may, in its sole discretion, relocate, repair, or restore the Work subject to receipt of any insurance proceeds and availability of sufficient funds.

**11. VRT's Insurance.** VRT shall obtain all necessary property and commercial general liability insurance as may be required in order to protect its insurable interests for its rights and obligations described within this Agreement. Upon final completion of the Work, and acceptance of the Work, VRT shall obtain property insurance for the Work which may be included in VRT's self-insurance program.

**12. Indemnification.** The Artist shall indemnify, save and hold harmless VRT, its elected officials, officers, employees, agents, and volunteers, from and for any and all liability, losses, claims, actions, judgments for damages, or injury to persons or property and losses and expenses, including reasonable attorney fees, arising from all acts or omissions to act of the Artist or his/her servants, officers, agents employees, guests, and business invitees in rendering

services under this contract or otherwise caused or incurred by the Artist, his/her servants, officers, agents employees, guests, and business invitees, and not caused by or arising out of the tortious conduct of VRT or its employees. The limits of insurance will not be deemed a limitation of the covenants to indemnify, save and hold harmless VRT, its elected officials, officers, employees, agents, and volunteers. If VRT becomes liable for an amount in excess of the Artist's insurance limits, Artist covenants and agrees to indemnify and save and hold harmless VRT, its elected officials, officers, employees, agents, and volunteers, from and for any and all liability, losses, claims, actions, judgments for damages, or injury to persons or property and losses and expenses, including reasonable attorney fees, to the extent permitted by law.

The Artist represents and warrants that any and all materials or deliverables, including, but not limited to: the design, and the Works, provided under this contract are either original, not encumbered and do not infringe upon the copyright, trademark, patent or other intellectual property rights of any third party, or are in the public domain. Artist agrees to indemnify and hold harmless VRT, its elected officials, officers, employees, agents, contractors, licensees, successors or assigns from and against any injury, loss, liability, expense claim, law suits, and damages arising from the Artist's Artwork, including but not limited to copyright, trademark, patent or other intellectual property infringement or violations. If deliverables, materials or Work provided hereunder become the subject of a claim, suit or allegation of copyright, trademark or patent infringement, City shall have the right, in its sole discretion, to require Artist to produce, at the Artist's own expense, a new non-infringing materials, deliverables, or Works as a means of remedying any claim of infringement in addition to any other remedy available to VRT under law or equity.

13. **Warranty.** Upon final acceptance of the completed Work by VRT, the Artist warrants that the Work shall be free from defects in materials and workmanship, including inherent vice. The Artist, for a period of one (1) year after acceptance by VRT, shall correct any such defects at Artist's expense. "Inherent vice" refers to a quality within the material or materials which comprise the Work which, either alone or in combination with other materials used in the Work or reacting to the environment, results in the tendency of the Work to destroy itself. Upon written notification of a defect in materials or workmanship, the Artist shall have sixty

(60) days to commence repairs and shall conclude the repairs within a reasonable time thereafter.

14. **Ownership.** Each Work shall be a limited edition of one. The Artist warrants that, unless otherwise stipulated, the Work is original, in that the Work owes its creation or origin to Artist, and is not the product of copying another's work in any manner. Furthermore, the Artist warrants and represents she has not previously published the Work which is transferred by, and the subject of, this Agreement and that the Artist is the sole owner of all rights therein. Upon final approval and acceptance of the Work, subject to delivery, installation and final payment, VRT shall own the Work. Except as set forth in Paragraphs 16 and 17, herein, the Artist hereby expressly waives any ownership right, title or interest in the Work. The Artist understands that said waiver includes waivers of the exclusive rights of reproduction, adaptation, publication, performance and display.

15. **Ownership of Copyright.** The Artist shall retain all right, title and ownership of the copyright of the Work. The Artist hereby grants VRT a royalty-free, irrevocable, perpetual, non-exclusive license to reproduce images of the Work for educational or promotional uses. Models or drawings shall not be identified or represented to be the finished artwork. The Artist shall be identified, whenever possible, on all printed material, signage, websites or other promotional material as the original creator of the design and the Work. The Artist shall retain the right to claim authorship of the design of the Work and may utilize such authorship in any of his/her printed material or other promotional material.

16. **Waivers and Relinquishments of Rights.** Except for copyright, as set forth in paragraph 16, above, the Artist agrees to relinquish all ownership rights, title, and interest to the Work created for the Project and hereby expressly waives the right of integrity, but not attribution, with respect to the Work as conferred by the federal Visual Rights Act of 1990, Title 17 U.S.C. Sections 101, et seq. If at any time following final approval, VRT chooses to move or modify the Work, VRT will make reasonable attempts to contact and to notify the Artist regarding VRT's plans, provided that the Artist shall have no right to override or veto VRT's plans. The Artist hereby waives his/her right to file a claim or demand of any type against VRT based upon any future decision regarding the placement or modification of the Work, including those granted pursuant to the Copyright Act of 1976 and the Visual Rights



Act of 1990. To the extent that the provisions of this Agreement differ from the Copyright Act of 1976 and Visual Rights Act of 1990, the provisions of this Agreement shall govern and the Artist expressly waives any such differences.

17. **Artwork Changes.**

a) Material Changes After Acceptance/Completion:

i) If any material change occurs to the Work after final acceptance by VRT (whether such change is an intentional act of a third party, an accident, or an act of nature), including but not limited to a change to the exterior surface of the Work or the interrelationship or relative locations of the parts of the Work, VRT reserves the right to determine, after consultation with an independent, professional art conservator, if, when and how any repair and restoration to the Work can be made, and the nature, scope and anticipated cost of any such repair or restoration. VRT reserves the right to contract with a conservator, rather than the Artist, to implement any such repairs or restoration.

ii) VRT reserves the right to manage its buildings, facilities and public sites for public purposes, and in doing so, may determine that it is necessary to relocate or remove the Work and/or modify the site in/on which it is located. VRT shall not relocate or remove the Work and/or substantially modify the site in/on which it is located without attempting to notify Artist of the proposed change; provided, however, that Artist shall have no right to object to any such relocation, removal or modification.

iii) In the event VRT decides to de-accession the Work or any of its components, the Artist shall have the first right of refusal to purchase his Work, providing it is not integrated into a larger piece or a structure, and/or can be removed without destruction of the Work.

iv) If a modification of the Work occurs, the Artist may give written notice to VRT requesting that her name and the Work be disassociated, and the Work shall no longer be designated as the Artist's Work.

v) For purposes of this Agreement, no modification of the Work resulting from the passage of time or the inherent nature of the materials used in the Work shall constitute a modification. In addition, no modification of the Work resulting from conservation or public presentation (including but not limited to lighting and placement) shall constitute a

modification that is prejudicial to the Artist's honor or reputation or for which the Artist may claim relief or any remedy from VRT.

vi) The action of VRT in the exercise of its governmental powers (including but not limited to the issuing of any permit for the redevelopment of land or any structure thereon other than action by VRT on the specific site of the Work) shall not constitute a modification of the Work for which the Artist may claim any form of relief from VRT.

vii) By executing this Agreement, the Artist consents to the installation of the Work in or around the site specified in this Agreement. The Artist acknowledges that such installation may subject the Work to destruction, distortion, mutilation or other modification by reason of its removal from that location.

18. **Publicity-Rights of Reproduction.** In retaining the Artist's right of attribution as set forth in Section 17 above, the Artist also consents to the use of the Artist's full name and the Artist's own identifying photograph in any publicity or promotional materials produced for the Work, whether printed or electronic, in the discretion of VRT. Such consent includes placement of these items on any Web site VRT maintains.

19. **Nondiscrimination.**

a) In the performance of this Agreement, the Artist and any subcontractors agree not to discriminate in their employment practices against any employee, contractor, subcontractor or Applicant for employment because of the employee's or Applicant's race, religion, national origin, ancestry, sex, age, disability or sexual orientation and/or gender identity/expression.

b) The Artist also agrees to comply with all provisions of Idaho law relative to labor, and all other applicable federal, state, and/or local statutes, ordinances, and regulations relative to employment, wages, and hours of labor.

20. **Independent Artist.** The Parties intend that this Agreement create only an independent contractor relationship and that the Artist is not an employee, agent, joint venturer or partner of Arts and History or VRT. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between the Artist and VRT or between the Artist and any official, agent or employee of VRT. The Artist shall retain the right to perform services for others during the term of this Agreement.

21. **Attorney's Fees.** If either party brings any action or proceeding to enforce, protect or establish any right or remedy under the terms and conditions of this Agreement, in addition to any other relief awarded, the prevailing party shall be entitled to recover reasonable attorney's fees, as determined by a court of competent jurisdiction.
22. **Agreement Made in Idaho.** The laws of the State of Idaho shall govern the validity, interpretation, performance and enforcement of this Agreement. In the event of a dispute, venue shall be in the courts in Ada County, Idaho.
23. **Cumulative Rights and Remedies.** All rights and remedies here enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law. Likewise, the exercise of any remedy provided for herein or allowed by law shall not be to the exclusion of any other remedy.
24. **Agreement Made in Writing.** This Agreement contains all of the agreements and conditions made between the Parties hereto and may not be modified orally or in any manner other than by agreement in writing signed by the Parties hereto or their respective successors in interest.
25. **Termination for Cause.** If either party willfully or negligently fails to fulfill its obligations under this Agreement, the other party shall have the right to terminate the agreement by giving written notice to the defaulting party of its intent to terminate and specify the grounds for termination. The defaulting party shall have thirty (30) days after receipt of the notice to cure the default. If the defaulting party does not cure the default, this Agreement shall terminate. In the event of termination for non-performance by VRT, it shall compensate the Artist for all phases of the Scope of Services the Artist has successfully completed and any additional services and materials performed or supplied prior to termination; provided however, that such payment shall be limited to the amount of compensation set forth herein. In the event of default by the Artist, except that caused by the death or incapacity of the Artist, all finished and unfinished drawings, photographs, and other Work products prepared and submitted or prepared for submission under this agreement shall, at VRT's option, become its property. This shall not relieve the Artist of any liability for damages sustained by virtue of the Artist's breach or default of this Agreement and VRT may

reasonably withhold payments due until the exact amount of damages due VRT from the Artist is determined.

26. **Termination for Convenience of VRT.** VRT may terminate this Agreement for any reason at any time by giving at least fifteen (15) days' notice in writing to the Artist. If the Agreement is terminated by VRT as provided herein, VRT shall compensate the Artist for all phases of the Scope of Services the Artist has completed up to the date of written notice of termination and any additional services and materials performed or supplied prior to termination, less payments of compensation VRT has previously made, not to exceed the amount set forth in Section 4. If payments VRT has previously made exceed the amount of compensation due hereunder, the Artist shall immediately refund the unearned balance to VRT. If VRT terminates this Agreement due to the fault of Artist, Section 26 hereof relative to termination shall apply.

27. **Force Majeure.** Neither the Artist nor VRT shall be considered in default in the performance of its obligations hereunder to the extent that performance of such obligations are delayed, hindered, or prevented by force majeure. Force majeure shall be any cause beyond the control of the parties hereto which they could not reasonably have foreseen and guarded against. Force majeure shall include, without limitation, acts of God, strikes, lockouts, fires, riots, civil commotion or civil unrest, incendiarism, interference by civil or military authorities, compliance with the regulations or orders of any governmental authorities which were not in effect at the time of the execution of this Agreement, and acts of war (declared or undeclared).

28. **Severability.** If any provision of this Agreement or application thereof is held invalid, such invalidity will not affect other provisions or applications of this Agreement which can be given effect without the invalid provision or application, and to that end, the provisions hereof are declared to be severable.

29. **Party Representatives.** For purposes of this Agreement the following persons or their designees shall act as party representatives:

**VRT:** Jason Russell or his designee

**Artist:**

30. **Successors and Assigns.** All of the terms, provisions, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon each party and their successors, assigns, legal representatives, heirs, executors and administrators.

31. **Method of Payment.** VRT shall be responsible for receipt and approval of invoices, and for disbursement of funds to the Artist.

32. **Effective Date.** The effective date of this Agreement shall be upon the Parties mutual acceptance of this Agreement.

33. **Notices.** Written notices to the Parties shall be given by registered or certified mail, postage prepaid, and addressed to said parties at the addresses below, unless otherwise designated by written notice to the other parties:

Valley Regional Transit  
700 NE 2<sup>nd</sup> St.  
Meridian, Idaho 83642

All such notices, except as otherwise provided, may either be delivered personally deposited in the United States mail, properly addressed with postage fully prepaid by certified or registered mail, return receipt requested, and shall be effective five (5) days after deposit in the mail.

[End of text; signatures on following page.]



RFQ 21-278 VRT Artist Roster

APPROVED AS TO FORM AND CONTENT:

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Valley Regional Transit

Date

CONTRACT AMOUNT:

**Not to Exceed \$25,000**



**EXHIBIT A**

Artwork Location Examples