

# STATEMENT OF QUALIFICATIONS

## SOQ-837

Design and Installation of Public Art at  
East Stadium Boulevard Bridge and adjacent areas



Date Due: November 30, 2012  
By 10:00 AM

Issued by:  
City of Ann Arbor  
Procurement Unit On Behalf of  
Public Services, Public Art Administrator  
301 E. Huron Street, P.O. Box 8647  
Ann Arbor, Michigan 48107-8647

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## SECTION ONE

### GENERAL INFORMATION

#### A. OBJECTIVE

The purpose of this Statement of Qualifications (SOQ) is to select an artist to provide professional services of the: "Design and Installation of Public Art at East Stadium Boulevard Bridges and adjacent areas."

The purpose of this public art project is to create visible artwork that can serve to identify this location of diverse use in Ann Arbor. The art must increase the awareness of multi-modal transportation methods on and in the area of the bridges and encourage their safe, complementary use. The goal of the artwork is also to further the connections between the nearby neighborhoods.

The SOQ lists multiple areas that have been determined as the best sites for public art at the East Stadium Boulevard Bridges location (in Section Two). An artist may propose a single artwork concept for all the areas, multiple areas, or a single area.

The Selection Panel reserves the right to select either a single artist for all the areas or multiple artists and multiple proposals. If two or more artists and proposals are selected, the total project budget (see below) will be divided among multiple installations.

#### B. QUESTIONS ABOUT THE SOQ

All questions regarding the SOQ are due by November 26, 2012 by 3:00 PM and must be addressed in writing to:

Questions regarding the SOQ content must be in writing and directed to:

Aaron Seagraves, Public Art Administrator at: [aseagraves@a2gov.org](mailto:aseagraves@a2gov.org)

All questions regarding the SOQ submissions process must be addressed in writing to:

Linda Newton, Procurement Officer at: [lnewton@a2gov.org](mailto:lnewton@a2gov.org)

#### C. BUDGET

A budget of \$360,000 has been established for the selected public art project. The proposal must fit within this budget amount, including but not necessarily limited to all artist fees, materials, insurance, travel, fabrication and installation. Periodic communications and/or Task Force/Project review meetings, presentations and design reviews at various stages must also be within the budget amount.

Final art proposal must include an estimate of the annual cost of maintenance for the artwork. (Future maintenance and operation costs are not included in the project budget stated above.)

#### D. SOQ SUBMISSION

All SOQs are due and must be delivered to the City of Ann Arbor Procurement Unit on or before November 30, 2012 by 10:00 AM. SOQs submitted late or via oral, telephonic, telegraphic, electronic mail or facsimile **will not** be considered or accepted.

The information included therein should be as concise as possible. The total submittal should not be more than 12 pages, with material on two sides (for a total of 24 pages). To be considered, each artist or artist team must submit a response to this SOQ using the format provided in Section III. No other distribution of qualifications is to be made by the submitter.

Each Artist must submit **ONE (1)** original SOQ, **ONE (1)** SOQ copy, and **ONE (1)** SOQ digital (CD, DVD, Flash drive) copy in PDF format in a sealed envelope clearly marked: **SOQ 837 - Design and Installation of Public Art Stadium Bridge.**

**Bids must be addressed and delivered to:**

City of Ann Arbor  
Procurement Unit, 5<sup>th</sup> Floor  
301 East Huron Street  
P.O. Box 8647  
Ann Arbor, MI 48107

All SOQs received on or before the Due Date will be publicly opened and recorded immediately. No immediate decisions are rendered.

Hand delivered SOQs should be date/time stamped/signed by the Procurement Unit at the address above in order to be considered. SOQ Drop off hours are Monday through Friday from 9:00 a.m. to 3:00 p.m. The City will not be liable to any Artist for any unforeseen circumstances, delivery or postal delays. Postmarking to the Due Date will not substitute for receipt of the SOQ. Each Artist is responsible for submission of their SOQ.

Additional time will not be granted to a single Artist; however, additional time may be granted to all Artists when the City determines that circumstances warrant it.

## **E. SELECTION CRITERIA**

Responses to this SOQ will be evaluated, as shown in Section III. The evaluation will be completed by a selection panel of members of the community, some members of the Ann Arbor Public Art Commission and possibly some members of City staff.

The initial evaluation is to determine the top five (5) SOQs. The City will then determine which, if any, artists will be interviewed.

During the interviews, the selected artists will be given the opportunity to discuss in more detail their concept, qualifications, and past experience. . If the City of Ann Arbor chooses to interview any applicants, the interviews will be held on December 5<sup>th</sup> or 6<sup>th</sup>, 2012. Applicants will be expected to be available on this date.

## **F. ADDENDUMS TO THIS DOCUMENT**

The City's staff will make such interpretation or correction, as well as any additional SOQ provisions that the City may decide to include, only as an SOQ addendum. Any addendum issued by the City shall become a part of the SOQ. Artists should consider issued addendums in preparing his or her SOQ submission. .

## **F. DISCLOSURES**

All information in a submitter's proposal is subject to disclosure under the provisions of Public Act No. 442 of 1976 known as the "Freedom of Information Act". This act also provides for the complete disclosure of contracts and attachments thereto.

## **G. PROFESSIONAL SERVICES AGREEMENT**

The selected artist will be required to enter into a contract for artist services with the City of Ann Arbor. For your reference a sample contract for artist services is attached (Attachment A). Please note the insurance requirements and other terms in the contract

## **H. COST LIABILITY**

The City of Ann Arbor assumes no responsibility or liability for costs incurred by the artist prior to the execution of a Contract.

## **I. NONDISCRIMINATION AND LIVING WAGE REQUIREMENTS**

To the extent applicable, a selected artist or artist team must comply with the nondiscrimination provisions of MCL 37.2209, with the City of Ann Arbor's nondiscrimination requirements (Chapter 112, Section 9:161 of the City Code) and with the living wage provisions of Chapter 23 of the Ann Arbor City Code. For reference, the following are attached:

- Contract compliance form to report employment data (Attachment D).
- Living wage declaration forms (Attachment C)
- Fair Employment (Attachment B).

## **J. RESERVATION OF RIGHTS**

The City of Ann Arbor reserves the right to accept any SOQ in whole or in part, to reject any or all SOQs in whole or in part and to waive irregularity and/or informalities in any SOQ and to make the award in any manner deemed in the best interest of the City.

The City also reserves the right to waive the interview process and evaluate an artist based on the artist's SOQ alone.

## SECTION TWO

### BACKGROUND

The core elements of any urban transportation system throughout the globe are streets, bridges, bike lanes and sidewalks. Transportation systems that are properly designed and accommodate all members of a community also are indicators of the community's values and standards, including those of equality and progress, and of the community's respect for all its members. A community that is linked together with a good transportation system tends to be closer, more active and safer, and to excel and thrive as a community.

Stadium Boulevard is a significant four-lane thoroughfare in Ann Arbor. Named after the adjacent University of Michigan football stadium, it serves as Ann Arbor's primary east-west artery and is a south-side bypass of the downtown area. East Stadium Boulevard begins at the intersection of South Main Street where Pioneer High School, the University of Michigan Golf Course, and the football stadium, are located. Eastward, just past the stadium and at the entrance to the golf course, East Stadium Boulevard rises to bridge both the Ann Arbor Rail Road and South State Street, and then descends down again near Rose White Park, a small neighborhood park. Nearby, west of South State Street, there are many athletic facilities owned by the university.

The entire area, starting from the bridges over the Ann Arbor Rail Road and South State Street and ending at the park, is currently under reconstruction and scheduled to reopen before the end of 2012. The reconstruction includes replacing the bridge and improving the surrounding areas. Staircases will be added to the bridge at South State Street to allow easier pedestrian access to East Stadium Boulevard. Open spaces connecting State Street to the park will be created, and the current landscaping will be improved. Many of these changes are the result of eliminating one block of a street adjacent to Stadium Boulevard (Rose Street) and terminating the connections of a cross-street (White Street).

The area is highly diverse in terms of the population and traffic patterns. The residents in the area east of State Street live in a neighborhood that has a mix of young professionals, retirees, students, and families and the housing is single residences, apartment buildings and student housing. Both Stadium Boulevard and State Street are busy thoroughfares with a lot of motor traffic. While Stadium is the primary choice to get across town, South State Street connects the university campus and downtown to a major retail district and interstate I-94 two miles further south. On football game days and graduation weekends, the area is filled with parked cars and pedestrians on their way to the stadium.

There is also pedestrian and bike traffic along State Street and across Stadium Blvd. Residents of the local neighborhood walk, bike or drive to the retail stores south of Stadium Blvd. South State Street has a dedicated bike lane. Rose White Park features some children's playground equipment and is popular with dog-walkers.

The E. Stadium Bridges project includes all the elements of an excellent transportation infrastructure system and demonstrates the community's values and standards. The state of the art bridges connect two parts of the City which otherwise would be separated by the railroad tracks. The project includes wide, accessible sidewalks, heated stairways connecting the pedestrians at two major corridors for the first time, wide bike lanes, and a major accessible ramp connecting State Street to E. Stadium Boulevard for persons who are mobility impaired and for other non-motorized traffic.

## SCOPE OF WORK

The purpose of this Statement of Qualifications is to contract for artist services to design and install public art at the East Stadium Boulevard Bridge and adjacent areas. Throughout this process the artist will work closely with the Project Development Task Force, the Ann Arbor Public Art Commission, and City staff to finalize the plans and to install the art.

The Project Development Task Force asks for artwork:

- that fulfills the goals of the project,
- that is highly visible and can be enjoyed by the area's diverse users,
- that establishes a unified identity, or landmark, for the area,
- that introduces an overarching theme that ties artwork in, potentially, separate locations together.

## GENERAL EXPECTATIONS

The critical location of the site and its diversity in terms of traffic pattern and usage makes it the ideal backdrop for a highly visible public art project that has the potential to become a landmark for the city and its residents. Functional art elements are encouraged, wherever possible. Goals formulated for the artwork and project are as follows:

- Furthers the connections between the nearby neighborhoods
- Lends a unifying identity to an area defined by highly diverse use (single residences, apartment buildings, student housing, university sports facilities, and local retail)
- Creates awareness of the multiple audiences (drivers, bikers, pedestrians, neighbors, residents, out-of-town-visitors); the art should reflect the range and character of those audiences by encouraging safe, complementary use of the infrastructure
- The art may consist of multiple pieces that create different "moments" of visibility and are tied together by a unifying theme
- The art should be installed at the identified sites and locations

The Project Development Task Force, as part of the Ann Arbor Public Art Commission, has identified four crucial moments /locations at the site that can be the selected locations for the artwork.

### Rose White Park Fence

The current fence between Stadium Boulevard and Rose White Park needs to be replaced at the end of the construction project. The replacement offers the opportunity to create a new barrier that separates the car traffic on Stadium and the users of Rose White Park. The art project could incorporate the barrier as a functional art element.

### The White Street termination, north-side of East Stadium Boulevard

The new construction terminates White Street on both sides of Stadium. The north side will have new green space connecting to the park and new landscaping surrounding the sidewalk. This area will be at level-grade with the park and with Stadium before it rises to the bridge. The location should be fairly visible to East Stadium Boulevard traffic, the park, and the neighborhood. From here, pedestrians can walk up along Stadium or over to State.

Underpass and Staircases at South State Street

Artwork could address drivers on State Street and pedestrians walking up the stairs to Stadium Boulevard - possibly in a different resolution or scale.

East Stadium Bridge

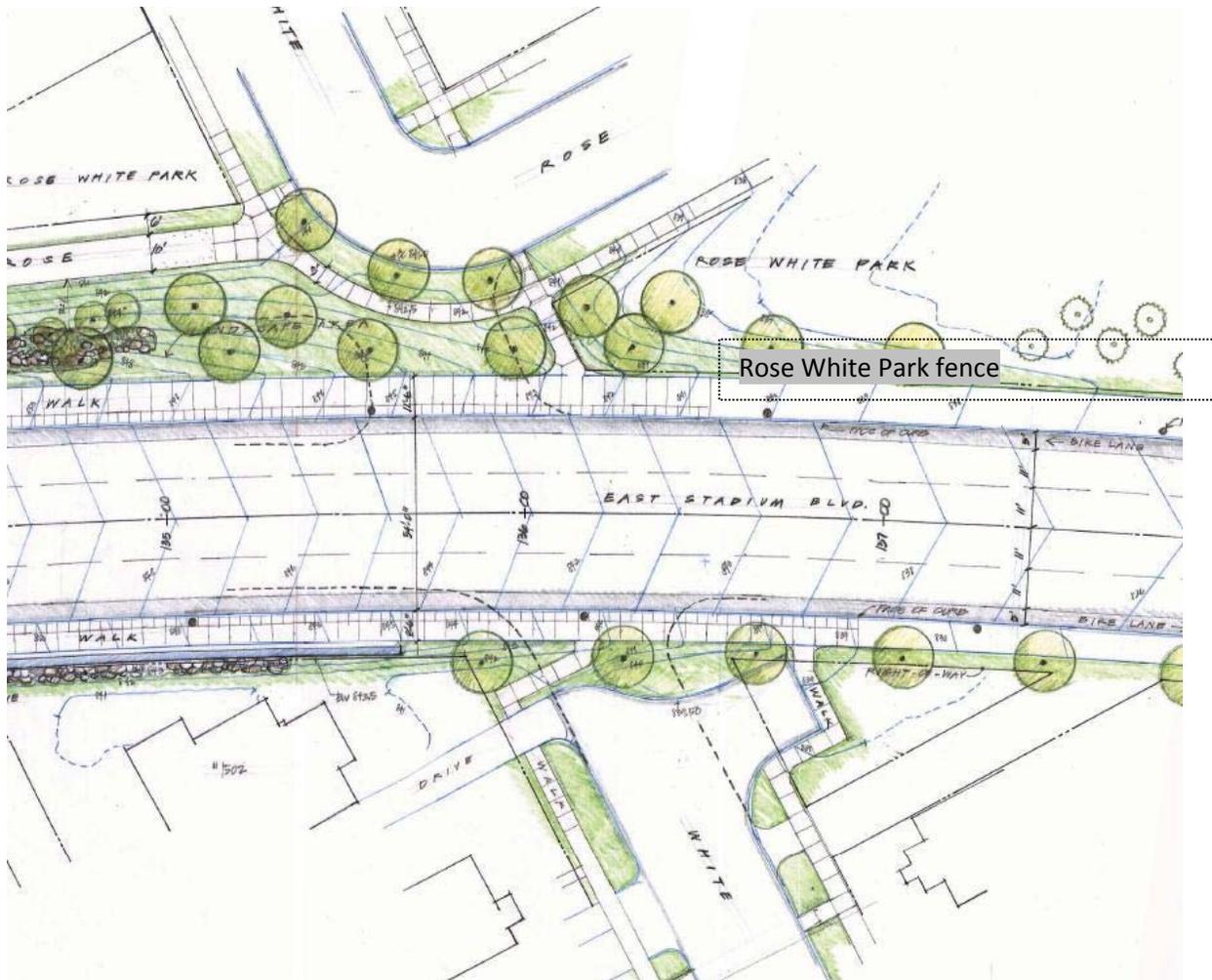
Art could be located on both sides of the bridge. Abutments, sidewalks, and railings can be engaged while the bridge design and traffic safety is not to be comprised. Art would be visible mainly for car and foot traffic along Stadium Boulevard.

*Photo of construction site December 2011*



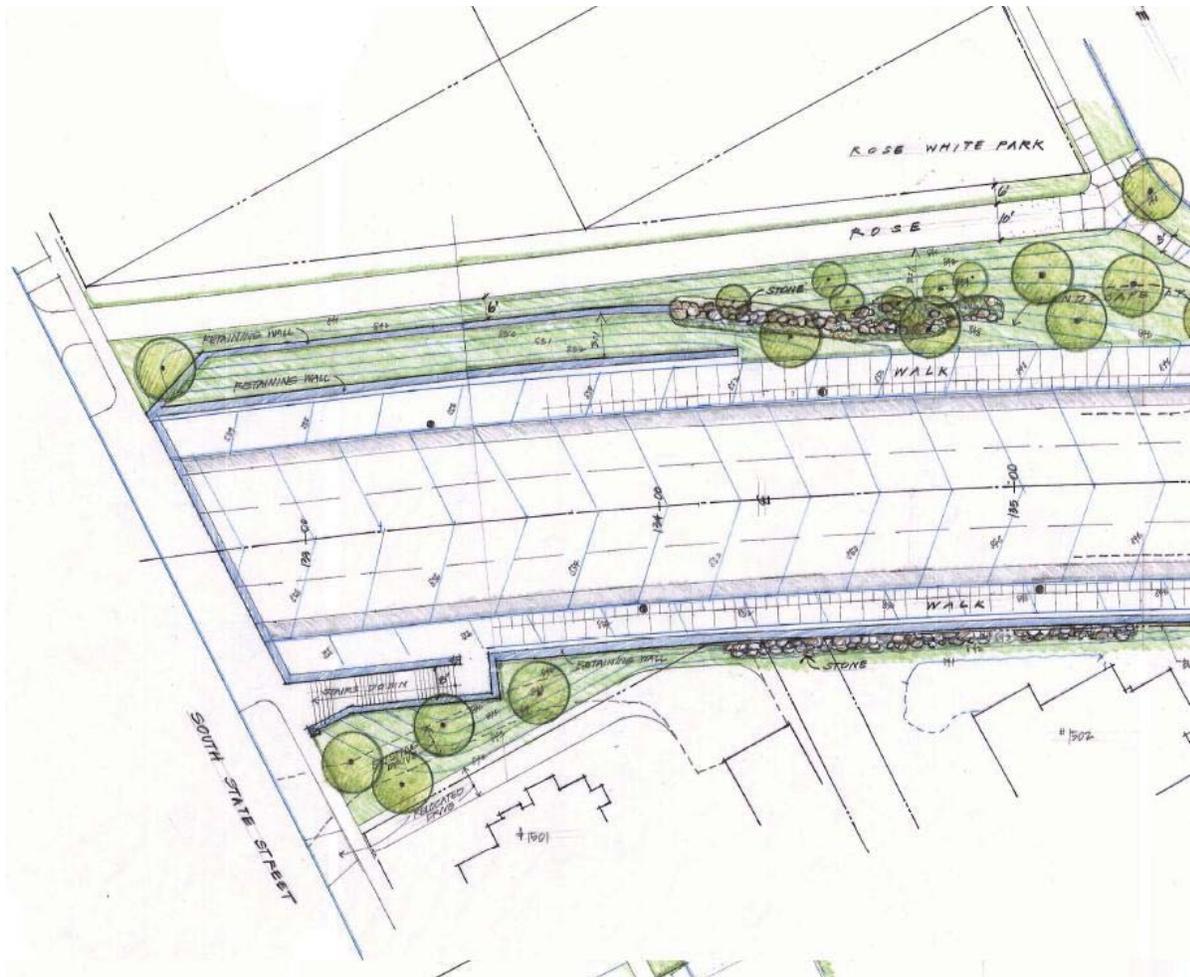
## Project Images

Figures A, B, C are sections taken from the new construction plans.



**Figure A**

Depicts the White Street terminations. The Rose White Park fence (labeled) is on the north side of the street—begins near the location where the Rose White Park sidewalk meets Stadium and continues east. The White Street termination, north-side of East Stadium Boulevard is depicted here. The eastern half of the bridge expansion begins here.



**Figure B**

Moving west, this shows the bridge to the edge of South State Street (and depicts a cut-away of the underpass and sidewalk under the bridge). There is a new walkway on the north side (titled Rose) where the block of road will be eliminated.





Photo of construction site December 2011

## SECTION THREE MINIMUM INFORMATION REQUIRED

Artist should demonstrate their capabilities and competence in their field. The SOQ submission must contain the following information, as outlined. Please review these items carefully.

Be sure to **provide the information in bold**. The checklists provided below will be used by the reviewing selection panel to ensure that all of the requirements have been addressed.

### A. Personal Information

1. Include a copy of your **resume**.
2. Must include **contact information**. Provide an address, phone number and email.

### B. Qualifications and Experience with Similar Projects

State in a written **letter of interest** the relevance of this public art project. Indicate how your qualifications fit this specific project. Provide **details of similar art projects**. Indicate if you have worked on public art projects in the past, if you have worked collaboratively with a project development team, whether those art projects were within budget and the timeline, and give a general statement of approach to similar art projects. List **three work references** (letters of recommendation not required).

### C. Past Work

1. Send up to **15 digital images** of past applicable artwork; JPEGs, 1MB maximum size per image
2. Submit a **list of the digital images**; include title, medium, dimensions, location, year of completion, & artwork budget amount

### D. Concept Proposal

Draft a narrative **description of a concept** for the public art project at the East Stadium bridge location. Graphics and rough design ideas may be sketched and included. The SOQ submission is intended to be a preliminary concept. . The Artist SOQ responses once submitted shall become the property of the city.

1. *Do not exceed a total of seven pages for the concept proposal. Any concept proposals that exceed seven pages will not be considered.*
2. *The concept proposal narrative and written description must not exceed three pages.*
3. *Any graphics, images, sketches provided for the concept must not exceed four pages.*

## **FINALIST EVALUATION**

A Selection Panel will evaluate each SOQ submission, by the following criteria to determine up to five (5) top applicants based on:

### Concept (70 points)

- Concept meets the artwork goals, purpose and expectations (see General Expectations)
- Concept does not conflict with traffic and pedestrian safety
- Concept fits with the context of the site and the selected locations

### Qualifications (30 points)

- Artistic merit and creativity of the concept
- Quality and artistic merit of past work
- Experience working in public settings
- Experience of successful implementation of artwork on time, within budget and in collaboration with project team

Based on the evaluation process mentioned above, The Selection Panel will select up to five (5) finalists to send a Request for Proposal (RFP). At this time the City will notify the top Artist directly. The RFP submission will include but not limited to art design, work plan, pricing, and maintenance plan.

Following receipt of the RFP submissions, the Selection Panel will evaluate the finalists' RFP submissions, Artist interviews, and additional information if necessary to make a recommend to the Ann Arbor Public Art Commission. The Ann Arbor Public Art Commission will submit their recommendation to the Ann Arbor City Council for final approval of the project. Work is not guaranteed to any Artist.

Up to five (5) finalists asked to submit a RFP response will receive an honorarium of \$2,000 to produce their proposal and all additional requirements within the RFP. Honorariums will be paid to finalists only after receipt of a proposal.

## **INTERVIEW**

The Selection Panel will then determine which, if any, artists will be interviewed. The City may contact references to verify material submitted by the artist.

Up to five (5) Artists will be contacted directly by the Selection Panel to coordinate interviews. The interviews will be held on December 5 or 6th, 2012; Artists are expected to be available on these dates. The interviews will be conducted using internet video conferencing. The selected artists will be given the opportunity to discuss in more detail their concept proposals, qualifications, past experience. The interviews will include a presentation by the artist, followed by questions and answers. Audiovisuals aids may be used during the interviews. The interviews may be recorded.

## **TIMELINE**

November 30, 2012 by 10:00 AM.....	Deadline for responses to this SOQ
December 3 <sup>rd</sup> or 4th, 2012 .....	Selection Panel meets
December 5 <sup>th</sup> or 6th, 2012 .....	Interviews
December 7, 2012 .....	Finalist Selection

The City reserves the right to change dates and times at their discretion.

**ATTACHMENT A - SAMPLE  
PROFESSIONAL SERVICES AGREEMENT BETWEEN**

**AND THE CITY OF ANN ARBOR FOR  
DESIGN, FABRICATION, AND INSTALLATION  
OF PUBLIC ART AT**

The City of Ann Arbor, a Michigan municipal corporation, having its offices at 100 North Fifth Avenue, Ann Arbor, Michigan 48104 (“City”) and \_\_\_\_\_, a(n) \_\_\_\_\_, whose address \_\_\_\_\_ (“Artist”), agree as follows this \_\_\_\_ day of \_\_\_\_\_, 201\_.

The Artist agrees to provide services to the City under the following terms and conditions:

**I. DEFINITIONS**

Administering Service Area/Unit means Public Services Area.

Contract Administrator means Public Services Area Administrator or whomever the Contract Administrator may from time to time designate.

**II. DURATION**

This agreement shall become effective on \_\_\_\_\_, 201\_, and shall remain in effect until satisfactory performance of all services, unless terminated for breach or as provided in this agreement.

**III. SERVICES**

- A. General Scope: The Artist agrees to provide design, fabrication, and installation services for an installation as specified in Exhibit A. The City makes no guarantee that any of the designs developed by the Artist will be implemented.
- B. Quality of Services: The Artist’s standard of service under this agreement shall be of the level of quality performed by professionals regularly rendering this type of service. Determination of acceptable quality shall be made solely by the Contract Administrator.
- C. City Review of Services: The services shall, at all times, be subject to the City’s general review and approval. The Artist shall confer with the City periodically during the progress of the services, and shall prepare and present such information and materials as may be pertinent, necessary or requested by the City to determine

the adequacy of the services or the Artist's progress. Upon reasonable prior notice to the Artist, the City and its elected officials, officers, employees and agents shall have the right to make reasonable inspections and reviews of the Artist's progress with respect to the services.

- D. Compliance with Applicable Law: The Artist shall perform his services under this agreement in compliance with all applicable laws, ordinances and regulations.
- E. Additional Work: The City may desire to have the Artist perform work or render services in connection with this project other than that expressly provided for in the "Scope of Services" section of Exhibit A. This will be considered extra work, supplemental to this agreement and shall not proceed unless authorized by a written amendment signed by both parties. Any costs incurred due to the performance of extra work prior to execution of an amendment will not be reimbursed under this agreement or an amendment.

#### **IV. COMPENSATION OF ARTIST**

The Artist shall be paid as specified in Exhibit A. The total fee to be paid the Artist for the Services, including all design, installation, administrative and any other costs incurred, will be \_\_\_\_\_ (\$\_\_\_\_\_), provided all of the Services performed are accepted as specified in Exhibit A.

Payment shall be made upon satisfactory completion and delivery of the Services as provided in Exhibit A. It is understood and agreed between the parties that the compensation stated above is inclusive of any and all remuneration to which the Artist may be entitled.

#### **V. WARRANTY OF SKILL BY ARTIST**

- A. The Artist warrants that the quality of his/her services under this agreement shall conform to the level of quality performed by experts regularly rendering this type of service.
- B. The Artist warrants that he/she has all the skills and experience necessary to perform the services he/she is to provide pursuant to this agreement. The Artist may rely upon the accuracy of reports and surveys provided to him/her by the City except when defects should have been apparent to a reasonably competent Artist or when he/she has actual notice of any defects in the reports and surveys.

#### **VI. RELATIONSHIP OF PARTIES**

- A. The parties to this agreement agree that it is not a contract of employment but is a contract to accomplish a specific result. Artist is an independent contractor performing services for the City. Nothing contained in this agreement shall be deemed to constitute any other relationship between the City and the Artist.

- B. The Artist certifies that he/she has no personal or financial interest in the project other than the fee he is to receive under this agreement. The Artist further certifies that he/she shall not acquire any such interest, direct or indirect, which would conflict in any manner with the performance of services under this agreement. Further Artist agrees and certifies that he/she does not and will not employ or engage any person with a personal or financial interest in this agreement.
- C. Artist does not have any authority to execute any contract or agreement on behalf of the City, and is not granted any authority to assume or create any obligation or liability on the City's behalf, or to bind the City in any way.
- D. Artist certifies that he/she is not, and shall not become, overdue or in default to the City for any contract, debt, or any other obligation to the City including real or personal property taxes. City shall have the right to set off any such debt against compensation awarded for services under this agreement.

## **VII. ARTIST'S ACKNOWLEDGMENT OF RISKS AND WAIVER OF RIGHTS**

The Artist understands that the City's willingness to enter into this contract is conditioned upon the Artist's agreement to the following provisions.

1. Acknowledgment of Risks of Damage. Artist acknowledges, for the benefit of the City, that installation of the work of art into the building, structure, landscape or other City facility for which it has been designed may subject such work of art to destruction, distortion, mutilation or other modification by reason of the removal of such work of art from such building, structure, landscape or other City facility.

2. Waiver of Rights Under Visual Artists Rights Act of 1990. The Artist understands and agrees that, as to his rights in the work of art, the provisions of this agreement shall supersede the provisions of the Visual Artists Rights Act of 1990 ("VARA"), 17 U.S.C. § 101 et. seq., as amended, including but not limited to § 106A(a) and § 113(d), as to the work of art, and that execution of this Agreement by the Artist shall constitute a waiver by the Artist, as permitted in 17 U.S.C. § 106A(e), as amended, of any and all rights or protections in the work of art, and any uses of the work of art whatsoever, set out in or otherwise granted by 17 U.S.C. § 101, et. seq., as amended, including but not limited to § 106A(a) or § 113(d), or otherwise in the nature of "Droit Moral" under which artists claim an interest in their work. The Artist understands that, despite the City's commitment not to intentionally damage, alter or modify the work of art without the prior written approval of the Artist, alterations to the site and/or removal of the work of art from the site may subject the work of art to destruction, distortion, mutilation or other modification, by reason of such site alterations or its removal.

3. Maintenance, Repairs or Restorations. The City shall have the right to determine, in its sole discretion, after consultation with a knowledgeable professional selected by the City, when and if maintenance, repairs and restorations to the work of art will be made.

4. Damage. Subject to Paragraph 6 below, the City agrees that it will not intentionally damage, alter, or modify the work of art without the prior written approval of the Artist.

5. Notification to Artist. The City shall endeavor to notify the Artist, during the Artist's lifetime, of any proposed alteration of the site that would affect the intended character of the work of art and shall endeavor to consult with the Artist in the planning and execution of any such alteration and shall make a reasonable effort to maintain the integrity of the work of art.

6. Removal, Relocation, Sale, Donation or Destruction. Nothing in this Agreement shall preclude any right of the City, in its sole discretion, to destroy the work of art.

### **VIII. OWNERSHIP OF DOCUMENTS AND WORKS OF ART; INTELLECTUAL PROPERTY RIGHTS; NON-INFRINGEMENT**

- A. All intellectual property rights, including without limitation any material produced in the pursuance of the agreed professional services, shall vest in and at all times remain vested in the originator of the material produced. will identify and clearly mark all materials produced and given to the City that constitute intellectual property, the rights to which are vested in and retained by or vested in and retained by any other originator, including identification of such other originator.
- B. The design recognition of the input and intellectual property rights of shall be honored, including when there is no further involvement in the project. This includes recognition of basic concepts which through developments and evolutions persist though to the final constructed design object.
- C. When displayed or reproduced in any manner, all intellectual copyright materials belonging to the artist , including sketches drawn by the artist, that have been identified and marked in accordance with Paragraph A, above, must be acknowledged in writing with "©," as appropriate, in immediate adjacency to the image, and recognized orally as appropriate.
- D. Will accept no liability for the further interpretation, design or implementation by others of ideas, concepts and intellectual copyright materials generated in the pursuance of this agreement.
- E. The City shall own the physical embodiment of the works of art, including but not limited to, the art work proposals and all preliminary studies, models, samples and maquettes thereof.

- F. The Artist represents and warrants that the art work designs do not infringe or violate any copyright, trade secret, trademark, patent or other proprietary or personal right held by any third party.

If any of the art work designs is in any action held to constitute an infringement of any third party's rights and its use is enjoined, the Artist shall immediately and at his/her expense (a) procure for the City the right to continue its use of the art work design in accordance with this agreement, (b) alter the art work design to eliminate infringing portions, subject to the City's approval, or (c) replace the art work design with a design acceptable to the City that is non-infringing.

- G. The warranties made and the rights granted by this section VIII of the agreement shall survive the expiration or earlier termination of this agreement.

#### **IX. RISK OF LOSS; INSURANCE; INDEMNIFICATION**

- A. The Artist shall take such measures as are reasonably necessary to protect the work from loss or damage until the Artist has completed delivery to the City of all materials specified herein and ownership is transferred to the City, which shall occur when delivery is complete.
- B. The Artist is responsible for procuring and maintaining at his own expense whatever insurance he/she requires during the life of this agreement to protect himself from claims for bodily injuries, death or property damage which may arise under this agreement and to cover bodily injuries, death, property damage or other losses he/she may suffer while performing the work under this agreement, including damage to or loss of the work while in his possession and control.
- C. To the fullest extent permitted by law, the Artist shall indemnify, defend and hold the City, its officers, employees and agents harmless from all suits, claims, judgments and expenses including attorney's fees resulting or alleged to result, to its proportionate extent, from any negligent, grossly negligent, reckless and/or intentional wrongful or tortious acts or omissions by the Artist or his agents occurring in the performance of this agreement.

#### **X. TERMINATION OF AGREEMENT; RIGHTS ON TERMINATION**

- A. This agreement may be terminated by either party in the case of a breach of this agreement by the other party, if the breaching party has not corrected the breach within 15 days after notice of termination is given in conformance with the terms of this agreement.

- B. The City shall have the privilege, with or without cause, to cancel and annul this agreement at any time on 30 days written notice to the Artist in accordance with the notice provisions contained in this agreement.

If services are terminated for reasons other than the breach of the agreement by the Artist, the Artist shall be compensated for reasonable time spent and reasonable quantities of materials used prior to notification of termination. As a condition of receiving the payment from the City, the Artist agrees to transfer title to all partially completed work, plans, notes, drawings, etc., to the City.

## **XI. OBLIGATIONS OF THE CITY**

- A. The City agrees to give the Artist access to staff and City owned properties as required to perform the necessary services under the agreement.
- B. The City shall notify the Artist of any defects in the services of which the City has actual notice.

## **XII. ASSIGNMENT**

- A. The Artist shall not subcontract or assign any portion of the services without prior written consent from the City.
- B. The Artist shall retain the right to pledge payment(s) due and payable under the agreement to third parties.

## **XIII. NOTICES**

All notices, forms, reports, maintenance suggestions, and other textual materials required by this agreement shall be in writing, and all such material, together with any other material to be delivered hereunder, shall be delivered or mailed to the respective addresses of the parties hereto. The Artist's failure to keep the City reasonably informed regarding the Artist's current address shall be deemed a waiver of the Artist's rights and opportunities under this agreement.

All notices, requests, demands or other communications that are required or permitted to be given under this agreement shall be in writing and shall be deemed to have been duly given upon receipt when addressed as follows:

If to the City, to:

\_\_\_\_\_  
Public Services Area Administrator  
City of Ann Arbor  
P.O. Box 8647  
Ann Arbor, MI 48107-8647

If to the Artist, to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

or to such other address as may be specified hereafter by either party for itself, by written notice to the other party.

#### **XIV. EXTENT OF AGREEMENT**

This agreement represents the entire understanding between the City and the Artist and it supersedes all prior representations or agreements whether written or oral. Neither party has relied on any prior representations in entering into this agreement.

This agreement may be altered, amended or modified only by written amendment signed by the Artist and the City.

#### **XV. SEVERABILITY OF PROVISIONS**

Whenever possible, each provision of this agreement will be interpreted in a manner as to be effective and valid under applicable law. However, if any provision of this agreement or the application of any provision to any party or circumstance will be prohibited by or invalid under applicable law, that provision will be ineffective to the extent of the prohibition or invalidity without invalidating the remainder of the provisions of this agreement or the application of the provision to other parties or other circumstances.

**XVI. CHOICE OF LAW**

This agreement shall be construed, governed, and enforced in accordance with the laws of the State of Michigan. By executing this agreement, the Artist and the City agree to venue in a court of appropriate jurisdiction sitting within Washtenaw County for purposes of any action arising under this agreement.

**XVII. SIGNATURES**

**FOR ARTIST**

By: \_\_\_\_\_  
\_\_\_\_\_

**FOR THE CITY OF ANN ARBOR**

By: \_\_\_\_\_  
John Hieftje, Mayor

By: \_\_\_\_\_  
Jacqueline Beaudry, City Clerk

**Approved as to substance**

\_\_\_\_\_  
Steve Powers, City Administrator

\_\_\_\_\_  
Craig F. Hupy, Interim Public  
Services Area Administrator

**Approved as to form and content**

\_\_\_\_\_  
Stephen K. Postema, City Attorney

## **ATTACHMENT B FAIR EMPLOYMENT PRACTICE**

The consultant, its agents or sub-contractors, shall comply with all requirements of Chapter 112 of Title IX of the Code of the City of Ann Arbor and in particular the following excerpts there from:

### **9:161 NONDISCRIMINATION BY CITY CONTRACTORS**

- (1) All contractors proposing to do business with the City of Ann Arbor shall satisfy the nondiscrimination administrative policy adopted by the City Administrator in accordance with the guidelines of this section. All contractors shall receive approval from the Director prior to entering into a contract with the City, unless specifically exempted by administrative policy. All City contractors shall take affirmative action to insure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity and tends to eliminate inequality based upon race, national origin or sex.
  
- (2) Each prospective contractor shall submit to the City data showing current total employment by occupational category, sex and minority group. If, after verifying this data, the Director concludes that it indicates total minority and female employment commensurate with their availability within the contractor's labor recruitment area, i.e., the area from which the contractor can reasonably be expected to recruit, said contractor shall be accepted by the Director as having fulfilled affirmative action requirements for a period of one year at which time the Director shall conduct another review. Other contractors shall develop an affirmative action program in conjunction with the Director. Said program shall include specific goals and timetables for the hiring and promotion of minorities and females. Said goals shall reflect the availability of minorities and females within the contractor's labor recruitment area. In the case of construction contractors, the Director shall use for employment verification the labor recruitment area of the Ann Arbor-Ypsilanti standard metropolitan statistical area. Construction contractors determined to be in compliance shall be accepted by the Director as having fulfilled affirmative action requirements for a period of six (6) months at which time the Director shall conduct another review.
  
- (3) In hiring for construction projects, contractors shall make good faith efforts to employ local persons, so as to enhance the local economy.
  
- (4) All contracts shall include provisions through which the contractor agrees, in addition to any other applicable Federal or State labor laws:
  - (a) To set goals, in conference with the Human Resources Director, for each job category or division of the work force used in the completion of the City work;
  
  - (b) To provide periodic reports concerning the progress the contractor has made in meeting the affirmative action goals it has agreed to;

- (c) To permit the Director access to all books, records and accounts pertaining to its employment practices for the purpose of determining compliance with the affirmative action requirements.
- (5) The Director shall monitor the compliance of each contractor with the nondiscrimination provisions of each contract. The Director shall develop procedures and regulations consistent with the administrative policy adopted by the City Administrator for notice and enforcement of non-compliance. Such procedures and regulations shall include a provision for the posting of contractors not in compliance.
- (6) All City contracts shall provide further that breach of the obligation not to discriminate shall be a material breach of the contract for which the City shall be entitled, at its option, to do any or all of the following:
  - (a) To cancel, terminate, or suspend the contract in whole or part and/or refuse to make any required periodic payments under the contract;
  - (b) Declare the contractor ineligible for the award of any future contracts with the City for a specified length of time;
  - (c) To recover liquidated damages of a specified sum, said sum to be that percentage of the labor expenditure for the time period involved which would have accrued to minority group members had the affirmative action not been breached;
  - (d) Impose for each day of non-compliance, liquidated damages of a specified sum, based upon the following schedule:

Contract Amount	Assessed Damages Per Day Of Non-Compliance
\$ 10,000 - 24,999	\$ 25.00
25,000 - 99,999	50.00
100,000 - 199,999	100.00
200,000 - 499,999	150.00
500,000 - 1,499,999	200.00
1,500,000 - 2,999,999	250.00
3,000,000 - 4,999,999	300.00
5,000,000 - and above	500.00

- (e) In addition the contractor shall be liable for any costs or expenses incurred by the City of Ann Arbor in obtaining from other sources the work and services to be rendered or performed or the goods or properties to be furnished or delivered to the City under this contract.

**CITY OF ANN ARBOR  
LIVING WAGE ORDINANCE  
DECLARATION OF COMPLIANCE**

The Ann Arbor Living Wage Ordinance (Section 1:811-1:821 of Chapter 23 of Title I of the Code) requires that employers providing services to the City or recipients of grants for financial assistance (in amounts greater than \$10,000 in a twelve-month period of time) pay their employees who are working on the City project or grant, a minimum level of compensation known as the **Living Wage**. This wage must be paid to the employees for the length of the contract/project.

*Companies employing fewer than 5 persons and non-profits employing fewer than 10 persons are exempt from the Ordinance. If this exemption applies to your firm, please check below:*

- This **company** is exempt due to the fact that we employ or contract with fewer than 5 individuals.
- This **non-profit agency** is exempt due to the fact that we employ or contract with fewer than 10 employees.

The Ordinance requires that all contractors/vendors and/or grantees agree to the following terms:

- a) To pay each of its employees performing work on any covered contract or grant with the City, no less than the living wage, which is defined as \$12.17/hour when health care is provided, or no less than \$13.57/hour for those employers that do *not* provide health care. It is understood that the Living Wage will be adjusted each year on April 30, and covered employers will be required to pay the adjusted amount thereafter. The rates stated above include any adjustment for 2012.
- b) Please check the boxes below which apply to your workforce:
  - Employees who are assigned to *any covered* City project or grant will be paid at or above the applicable living wage without health benefits Yes \_\_\_\_\_ No \_\_\_\_\_

**OR**

  - Employees who are assigned to *any covered* City project or grant will be paid at or above the applicable living wage with health benefits Yes \_\_\_\_\_ No \_\_\_\_\_
- c) To post a notice approved by the City regarding the Living Wage Ordinance in every work place or other location in which employees or other persons contracting for employment are working.
- d) To provide the City payroll records or other documentation as requested; and,
- e) To permit access to work sites to City representatives for the purposes of monitoring compliance, investigating complaints or non-compliance.

The undersigned authorized representative hereby obligates the contractor/vendor or grantee to the above stated conditions under penalty of perjury and violation of the Ordinance.

Company Name	Address, City, State, Zip
Signature of Authorized Representative	Phone (area code)
Type or Print Name and Title	Email address
Date signed	

**Questions about this form? Please contact:**  
Procurement Office City of Ann Arbor  
Phone: 734/794-6576

# CITY OF ANN ARBOR LIVING WAGE ORDINANCE

**RATE EFFECTIVE MAY 1, 2012 - ENDING APRIL 30, 2013**

**\$12.17 per hour**

If the employer provides health care benefits\*

**\$13.57 per hour**

If the employer does **NOT** provide health care benefits\*

Employers providing services to or for the City of Ann Arbor or recipients of grants or financial assistance from the City of Ann Arbor for a value of more than \$10,000 in a twelve-month period of time must pay those employees performing work on a City of Ann Arbor contract or grant, the above living wage.

## **ENFORCEMENT**

The City of Ann Arbor may recover back wages either administratively or through court action for the employees that have been underpaid in violation of the law. Persons denied payment of the living wage have the right to bring a civil action for damages in addition to any action taken by the City.

Violation of this Ordinance is punishable by fines of not more than \$500/violation plus costs, with each day being considered a separate violation. Additionally, the City of Ann Arbor has the right to modify, terminate, cancel or suspend a contract in the event of a violation of the Ordinance.

\* Health Care benefits include those paid for by the employer or making an employer contribution toward the purchase of health care. The employee contribution must not exceed \$.50 an hour for an average work week; and the employer cost or contribution must equal no less than \$1/hr for the average work week.

**For Additional Information or to File a Complaint Contact:**

**Linda Newton, Procurement Officer  
734/794-6576 or [Lnewton@a2gov.org](mailto:Lnewton@a2gov.org)**

**The Law Requires Employers to Display This Poster Where Employees  
Can Readily See It.**

## City of Ann Arbor Procurement Office

### INSTRUCTIONS FOR CONTRACTORS

### For Completing CONTRACT COMPLIANCE FORM

#### City Policy

The “non discrimination in contracts” provision of the City Code, (Chapter 112, Section 9:161) requires contractors/vendors/grantees doing business with the City not to discriminate on the basis of actual or perceived race, color, religion, national origin, sex, age, condition of pregnancy, marital status, physical or mental limitations, source of income, family responsibilities, educational association, sexual orientation, gender identity or HIV status against any of their employees, any City employee working with them, or any applicant for employment. It also requires that the contractors/vendors/grantees include a similar provision in all subcontracts that they execute for City work or programs.

This Ordinance further requires that each prospective contractor/vendor submit employment data to the City showing current total employee breakdown by occupation, race and gender. This allows the Human Rights Office to determine whether or not the contractor/vendor has a workforce that is reflective of the availability of women and under-represented minorities within the contractor’s labor recruitment area (the area where they can reasonably be expected to recruit employees). ***This data is provided to the City on the Human Rights Contract Compliance Forms (attached).***

#### To complete the form:

- 1) **If a company has more than one location, then that company must complete 2 versions of the form.**
  - **Form #1** should contain the employment data for the **entire corporation**.
  - **Form #2** should contain the employment data for those employees:
    - who will be working on-site;
    - in the office responsible for completing the contract; or,
    - in the case of non-profit grantees, those employees working on the project funded by the City grant(s).
- 2) If the company has only one location, fill out Form #1 only.
- 3) Complete all data in the upper section of the form including the name of the person who completes the form and the name of the company/organization’s president.
- 4) Complete the Employment Data in the remainder of the form. Please be sure to complete all columns including the Total Columns on the far right side of the form, and the Total row and Previous Year Total row at the bottom of the form.
- 5) Return the completed form(s) to your contact in the City Department for whom you will be conducting the work.

#### **For assistance in completing the form, contact:**

City of Ann Arbor Procurement Office at  
734-794-6576

If a contractor is determined to be out of compliance, the Procurement Office will work with them to assist them in coming into compliance.

**CITY OF ANN ARBOR PROCUREMENT OFFICE  
HUMAN RIGHTS CONTRACT COMPLIANCE FORM**  
Local Office (Only those employees that will do local or on-site work, if applicable)

Form #2

Name of Company/Organization \_\_\_\_\_ Date Form Completed \_\_\_\_\_

Name and Title of Person Completing this Form \_\_\_\_\_ Name of President \_\_\_\_\_

Address \_\_\_\_\_ County \_\_\_\_\_ Phone # \_\_\_\_\_  
(Street address) (City) (State) (Zip) (Area Code)

Fax# \_\_\_\_\_ Email Address \_\_\_\_\_  
(Area Code)

**EMPLOYMENT DATA**

Job Categories	Number of Employees (Report employees in only one category)												
	Male						Female						TOTAL COLUMNS A-L
	White	Black or African American	Asian	Hispanic or Latino	Native Hawaiian or Other Pacific Islander	American Indian or Alaska Native	White	Black or African American	Asian	Hispanic or Latino	Native Hawaiian or Other Pacific Islander	American Indian or Alaska Native	
	A	B	C	D	E	F	G	H	I	J	K	L	
Exec/Sr. Level Officials													
Supervisors													
Professionals													
Technicians													
Sales													
Admin. Support													
Craftspeople													
Operatives													
Service Workers													
Laborers/Helper													
Apprentices													
Other													
<b>TOTAL</b>													
<b>PREVIOUS YEAR TOTAL</b>													

**CITY OF ANN ARBOR PROCUREMENT OFFICE**  
**HUMAN RIGHTS CONTRACT COMPLIANCE FORM**  
*Entire Organization (Totals for All Locations where applicable)*

**Form #1**

Name of Company/Organization \_\_\_\_\_ Date Form Completed \_\_\_\_\_

Name and Title of Person Completing this Form \_\_\_\_\_ Name of President \_\_\_\_\_

Address \_\_\_\_\_ County \_\_\_\_\_ Phone # \_\_\_\_\_  
 (Street address) (City) (State) (Zip) (Area Code)

Fax# \_\_\_\_\_ Email Address \_\_\_\_\_  
 (Area Code)

**EMPLOYMENT DATA**

Job Categories	Number of Employees (Report employees in only one category)												
	Male						Female						TOTAL COLUMNS A-L
	White	Black or African American	Asian	Hispanic or Latino	Native Hawaiian or Other Pacific Islander	American Indian or Alaska Native	White	Black or African American	Asian	Hispanic or Latino	Native Hawaiian or Other Pacific Islander	American Indian or Alaskan Native	
	A	B	C	D	E	F	G	H	I	J	K	L	
Exec/Sr. Level Officials													
Supervisors													
Professionals													
Technicians													
Sales													
Admin. Support													
Craftspeople													
Operatives													
Service Workers													
Laborers/Helper													
Apprentices													
Other													
<b>TOTAL</b>													
<b>PREVIOUS YEAR TOTAL</b>													

# STATEMENT OF QUALIFICATIONS

## SOQ-837

Design and Installation of Public Art at  
East Stadium Boulevard Bridge and adjacent areas

### ADDENDUM 1

#### A. SOQ SUBMISSION

Deadline for the SOQ has been extended.

All SOQs are due and must be delivered to the City of Ann Arbor Procurement Unit on or before **Wednesday, December 5, 2012** by 10:00 AM. SOQs submitted late or via oral, telephonic, telegraphic, electronic mail or facsimile **will not** be considered or accepted.

#### B. CONCEPT PROPOSAL

Section Three of the SOQ has been modified to include changes to the Minimum Information Required.

The requirements of the Concept Proposal, as outlined in Section Three (Part D) have been modified to the following:

##### D. Concept Proposal

Draft a narrative **description of a concept** for the public art project at the East Stadium bridge location. Only include a written description and a narrative of your concept. *Do not include any design, sketches or images. This is intended to be a preliminary concept.* It is not intended to be an art proposal, or an artwork design. The Artist SOQ responses once submitted shall become the property of the city.

*Do not exceed a total of three pages for the concept proposal. Any concept proposals that exceed three pages will not be considered.*

Submissions that follow the original SOQ requirements will be considered, but any sketches, images or designs that were included will not be used to evaluate the submission.