

# REQUEST FOR PROPOSALS

## RFP-905

Artist or Fine Art Foundry for Casting Outdoor Bronze Artwork



**Date Due: Thursday, August 7, 2014  
By 11:00 AM (Ann Arbor Local Time)**

Issued by:  
City of Ann Arbor  
Procurement Unit  
301 E. Huron Street, P.O. Box 8647  
Ann Arbor, Michigan 48107-8647

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## SECTION 1

### GENERAL INFORMATION

#### A. OBJECTIVE

The purpose of this Request for Proposals (RFP) is to select an artist or fine art foundry to complete and install large bronze cast artwork for outdoor installation. The completed work will be a memorial installation located in a heavily used public plaza adjacent to the Farmers Market. The memorial will consist of two functioning Adirondack chairs that are expected to be used for seating.

#### B. QUESTIONS OR CLARIFICATIONS ABOUT THIS RFP

If a respondent finds any ambiguity, inconsistency, or error in this RFP, the respondent is responsible for requesting clarification. All questions or requests for clarification regarding this RFP are due by Tuesday, July 29, 2014 and must be addressed in writing via email to:

For Scope of Work or Proposal Content:

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

For the RFP submission process or HR Compliance:

Mark Berryman, Procurement Officer, at [mberryman@a2gov.org](mailto:mberryman@a2gov.org):

The person submitting the question or request is responsible for delivery and verification of receipt by the City. Responses will be provided to questions and requests for clarification by Friday, August 1, 2014.

#### C. PROPOSAL FORMAT AND SUBMISSION

To be considered, each respondent must submit a response ("Proposal") to this RFP using the format provided in Section 3. The Proposal must be signed in ink by the respondent or an agent authorized to bind the respondent to its provisions. Each Proposal must remain valid for at least 90 days from the Due Date.

The Proposal must be **received** by the City of Ann Arbor Procurement Unit on or before **August 7th, 2014 by 11:00 AM Ann Arbor local time ("Due Date")**. Late submissions or submissions that are not in a sealed envelope (e.g. oral, emailed, or faxed submissions) will not be accepted or considered.

Each respondent must submit in a sealed envelope **ONE (1)** original Proposal and **ONE (1)** copy of the Proposal. The sealed Proposal envelope must be clearly marked: **RFP 905- Fine Art Foundry for Casting Outdoor Bronze Artwork** and list the respondent's name and address. Each respondent must also submit **TWO (2)** copies of the Fee

Proposal with the proposed project budget in a separate sealed envelope marked "Fee Proposal," which must also be placed within the Proposal sealed envelope.

**A Proposal will be disqualified if the Fee Proposal is not contained within a separate sealed envelope.**

Proposals must be addressed and delivered to:

City of Ann Arbor  
Procurement Unit,  
c/o Customer Service, 1st Fl  
301 East Huron Street  
P.O. Box 8647  
Ann Arbor, MI 48107

All Proposals received by the Due Date will be publicly opened and recorded on the Due Date at 11 a.m. No immediate decision will be rendered.

Hand-delivered Proposals must be date/time stamped/signed at the address above in order to be considered. Normal business hours are 9:00 a.m. to 3:00 p.m. Monday through Friday, excluding City holidays. The City will not be liable to any respondent for any unforeseen circumstances or delays in delivery. Postmarking by the Due Date does not substitute for receipt of the Proposal. Each respondent is responsible for ensuring timely receipt of their Proposal by the City.

Additional time will not be granted to a single respondent; however, additional time may be granted to all respondents if the City determines that circumstances warrant it.

#### **D. SELECTION CRITERIA**

The City will evaluate the Proposals using a point system under the criteria in Section 3. The evaluation will be completed by a "Selection Panel" of members of the community, members of the Public Art Commission, and members of City staff.

After initial evaluation, the City may choose to interview selected respondents. If the City elects to interview respondents, the selected respondents will be given the opportunity to discuss their Proposal, qualifications, and past experience in more detail. The City may interview key personnel assigned to this Project. Respondents and their key personnel are expected to be available for interviews if requested.

A Proposal that has been accepted by the City may be modified by agreement of the City and respondent. No modification is valid unless included as part of the final contract.

#### **E. CLARIFICATIONS, CORRECTIONS, AND ADDENDA**

All clarifications, corrections, or changes to this RFP will be made only through an official addendum that will be posted to A2gov.org and MITN.info. It is the respondent's

responsibility to ensure they have received all addenda before submitting a Proposal. Any addendum issued by the City becomes part of the requirements of the RFP.

Respondents are responsible for obtaining and complying with all addenda. To ensure respondents have fulfilled this obligation, the Proposal must acknowledge all addenda the respondent has received. The failure of a respondent to receive or acknowledge an addendum does not relieve the respondent of the responsibility for complying with the addendum. Any harm to a respondent from such failure is not valid grounds for a protest against an award made under this RFP.

The City will not be bound by any oral or written statements regarding this RFP other than written addenda.

#### **F. DISCLOSURE UNDER FREEDOM OF INFORMATION ACT**

All communications with the City regarding this RFP, information submitted to the City as part of a Proposal, and contracts resulting from this RFP may be subject to disclosure under the Michigan Freedom of Information Act (Public Act No. 442 of 1976).

A respondent's labeling of any material as "confidential" or as otherwise exempt from disclosure is not binding on the City and the City will not be liable to the respondent or to any other person or entity for disclosing any portion of the respondent's communications, proposal material, or contracts as required by law.

#### **G. PROFESSIONAL SERVICES AGREEMENT**

The selected artist will be required to enter into a professional services agreement for artist services with the City of Ann Arbor. For reference, a sample of the agreement is attached (Appendix A). Respondents should review this sample agreement carefully prior to submitting a Proposal. **The City will not entertain changes to this standard agreement.**

This document is not an offer to contract, but is an RFP. Neither the issuance of this RFP, preparation and submission of a response, nor subsequent receipt and evaluation of any response by the City will commit the City to enter into a contract with any respondent even if all of the requirements in the RFP are met.

#### **H. COST LIABILITY**

The City of Ann Arbor assumes no responsibility or liability for costs incurred by any respondent prior to the execution of an contract. By submitting a Proposal, a respondent agrees to bear all costs incurred related to the preparation, submission, and selection process for the Proposal.

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

To the extent applicable, a selected respondent 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.

To establish compliance with these requirements, each respondent should complete and return with its Proposal completed copies of the Human Rights Contract Compliance Forms (Appendix D), and Living Wage Declaration Form (Appendix C). If one or more of these forms is not submitted with the Proposal, a respondent will have 24 hours to provide them once requested by the City.

## **J. CONFLICT OF INTEREST DISCLOSURE**

City of Ann Arbor Purchasing Policy requires that prospective vendors complete a Conflict of Interest Disclosure Form. A contract may not be awarded to the selected vendor unless and until the Procurement Unit and the City Administrator have reviewed the Disclosure Form and determined that no conflict exists under applicable federal, state, or local law or administrative regulation. Not every relationship or situation disclosed on the Disclosure Form may be a disqualifying conflict. Depending on applicable law and regulations, some contracts may awarded on the recommendation of the City Administrator after full disclosure, where such action is allowed by law, if demonstrated competitive pricing exists or it is determined the award is in the best interest of the City. A copy of the Vendor Conflict of Interest Disclosure Form is found in Section 4, Appendix E.

## **K. INDEPENDENT FEE DETERMINATION**

1. By submitting a Proposal, a respondent certifies, and in the case of a joint Proposal, each respondent thereto certifies as to its own organization, that in connection with the Proposal:
  - a) They have arrived at the fees in the Proposal independently, without consultation, communication, or agreement with any other Proposal submitter or competitor for the purpose of restricting competition as to any matter relating to the fees.
  - b) Unless otherwise required by law, the fees which have been quoted in the Proposal have not been knowingly disclosed by the submitter and will not knowingly be disclosed by the submitter prior to award directly or indirectly to any other prospective submitter or to any competitor.

- c) No attempt has been made or shall be made by the Proposal submitter to induce any other person or firm to submit or not submit a Proposal for the purpose of restricting competition.
- d) Each person signing the Proposal certifies that she or he is the person in the Proposal submitter's organization responsible for the decision as to the fees being offered in the Proposal and has not participated (and will not participate) in any action contrary to 1.a), b), or c) above.

**L. DEBARMENT**

By submitting a Proposal in response to this RFP a respondent represents that the respondent is not currently debarred, suspended, proposed for debarment, or declared ineligible or voluntarily excluded from participation in this transaction by any State or Federal departments or agency. Submission is also agreement that the City will be notified of any changes in this status.

**M. IRS FORM W9**

The selected Respondent will be required to provide the City of Ann Arbor an IRS form W-9.

**N. AWARD PROTEST**

All award protests must be in writing and filed with the Purchasing Agent within five (5) business days of the award action. The respondent must clearly and specifically state the basis for the protest in sufficient detail for the City to review and respond. If a respondent contacts a City Service Area/Unit and indicates a desire to protest an award, the Service Area/Unit shall refer the respondent to the Purchasing Agent. The Purchasing Agent will provide the respondent with the appropriate instructions for filing the protest. The protest shall be reviewed by the City Administrator or designee whose decision shall be final.

**O. SCHEDULE**

The Proposal should define an appropriate timeline in accordance with the following schedule:

Activity/Event	Anticipated Date
RFP release	Tuesday, June 17, 2014
Question/Clarification Deadline	Tuesday, July 29, 2014

Addenda Deadline	Friday, August 1, 2014
Proposal Due Date	Thursday, August 7, 2014
Selection of preferred artist or foundry	August 21, 2014
Signature and approval of Professional Services Agreement	October, 2014
Installation of artwork	Spring, 2015

Note: This schedule is for informational purposes only and is subject to change at the City's discretion.

**P. RESERVATION OF RIGHTS**

1. The City reserves the right to award any contract arising out of this RFP in any manner deemed in the best interest of the City.
2. The City reserves the right to accept or reject any Proposal, in whole or in part, to waive any defect, irregularity, or informality in any Proposal, and to further negotiate the terms of any Proposal.
3. The City reserves the right to request additional information from any respondent.
4. The City reserves the right to waive the presentation and interview process and evaluate a respondent based solely on the Proposal.
5. The City reserves the right not to consider any Proposal which the City determines to be unresponsive or deficient in any of the information requested by the RFP.
6. The City reserves the right to determine whether the scope of the project will be entirely as described in the RFP, a portion of the scope, or a revised scope.
7. The City reserves the right to select one or more respondents to perform services.
8. The City reserves the right to retain all Proposals submitted and to use any concepts in a Proposal regardless of whether that Proposal is selected. Submission of a Proposal indicates acceptance by the respondent of the conditions contained in this RFP, unless clearly and specifically noted in the Proposal.



9. The City reserves the right to publicly display the Proposals in order to solicit comment.

## SECTION 2

### BACKGROUND

The City of Ann Arbor and the Public Art Commission will install a memorial to Mr. Coleman Jewett in the plaza near the Farmer's Market. The memorial installation will be two bronze Adirondack chairs. The chairs will be replicas of the chairs built and sold by Mr. Coleman Jewett. The Jewett family will be consulted on the final design and layout of the installation.

The memorial is partially funded with private donations. The completion of the memorial is dependent on a successful campaign to raise the total project's costs.

See Appendix F: Donor Letter for more information about the memorial project and this effort. Below is the fundraising campaign's logo:



### SCOPE OF WORK

The bronze work will be an outdoor installation. It will be a permanent fixture of the public space.

Specifications for the design of the work will be provided by the City and the foundry will use the specifications as the basis for the final product. The foundry will consult with the City on the most appropriate process for casting and assembly of the installation as designed and recommend any appropriate changes to the design that would accommodate the foundry's process. The foundry will also consult on installation methods. Proposals must include memorial installation service. The foundry will install the work at the location or coordinate installation with a third-party.

The foundry must have experience in casting bronze works, including, but not limited to, clay/wax sculpturing, molding, wax casting, sprucing, investment coating, ceramic shelling, casting, sand blasting, polishing, finishing, patina sealing, and delivery.

The chair replicas will be functional as seating. Use as seating will be of particular concern for this project. The work must be durable enough to safely hold weight. The strength of the material must not deteriorate to the point where it would no longer function as a seat.

The location of the installation is an area of high-use and very frequently dense with active people. It must be fashioned to withstand frequent use and harsh outdoor winter and summer conditions. Safety of pedestrian traffic must not be inhibited.

The process of casting and assembly must account for efficiencies in material and labor cost without compromising the strength, longevity and function of the memorial.

Foundry will outline a plan for continued maintenance of the memorial.

The final Adirondack chair is approximately 42 inches in height, 36 inches in length and 34 inches in width. The chair is comprised of 34 pieces of cut wood of various sizes. The original plans for the chair's construction will be provided upon approval of contract.

Below are photos of a chair built by Mr. Coleman Jewett:









## SECTION 3

### PROPOSAL REQUIREMENTS

Respondents should organize Proposals into the following sections:

- A. Description of Professional Experience & Resume
- B. Description of the Foundry Process & Installation
- C. Work Plan
- D. Fee Proposal (include in a separate sealed envelope)
- D. Authorized Negotiator
- E. Attachments

The following describes the elements that should be included in each Proposal and the weighted point system that will be used for evaluation of the Proposal and Fee Proposal. Please review these items carefully. The Proposal must be printed in a double-sided format and the information should be presented as concisely as possible.

1. PROPOSAL: BRONZE CASTING EXPERIENCE, DESCRIPTION OF PROCESS AND EXAMPLES OF CURRENT WORK (70 points):

This element should describe and provide a visual representation of the proposed artwork sufficient to allow the City to evaluate it in the context of the project. It should include:

- a. Description of Professional Experience & Resume – 20 points
  - Provide a description of your experience as an artist or company's experience with related work. Include a narrative of your history of work and describe artistic milestones. If a company, state your company's name and address.
  - Provide detail on your experience with large works cast in bronze that required multiple casts and were assembled. Give other detail on your experience with other processes necessary for this particular work.
  - A resume of the artist or lead at the foundry and any other personnel at the company.
- b. Description of the Foundry Process & Installation – 30 points
  - Give detail on the work that would be necessary to complete the fabrication of this artwork in a finished form. Describe the process you would employ.
  - Describe what will be required for permanent outdoor installation and how the work will meet those requirements.

- Describe the installation method for the artwork and the service being offered to complete the installation.
- Address future issues of maintenance for the artwork, pedestrian safety in a high-use plaza, longevity as a functional work, and anticipated concerns related to the functionality of the chairs as seating.
- Submit images of past work:
  - Provide six (6) to eight (8) digital images (jpgs) of current work. Include large works cast in bronze that required multiple casts and installed in outdoor public spaces.
  - Please provide digital images on CD.

c. Work Plan – 20 points

- A work plan is to be presented which lists all tasks determined to be necessary to accomplish the work of this project.
- The work plan shall define resources and person-hours needed for each task and the artist/employee completing the project task.
- In addition, the work plan shall include a timeline schedule depicting the sequence and duration of tasks showing how the work will be organized and executed.

This element will be evaluated based upon:

- a. Amount of experience related to the scope of work required for this proposal.
- b. The ability of the fine art foundry in casting bronze works, including, but not limited to, clay/wax sculpturing, molding, wax casting, sprucing, investment coating, ceramic shelling, casting, sand blasting, polishing, finishing, patina sealing, and delivery.
- c. The validity of the described plan and process to complete the work as described in service as a memorial and a functional installation.
- d. Suitability of installation in a public place. Demonstrated understanding of the requirements related to the maintenance, safety, longevity, and functionality of the installation.

2. FEE PROPOSAL (30 points)

This element should include:

- a. Two copies of the project budget in separate, sealed envelopes marked “Fee Proposal,” as described in the Proposal submission instructions in Section 1. The project budget should include estimated costs for artist fees, materials, bronze, casting, fabrication, shipping, installation, contingencies, and any other anticipated expenses necessary to complete of the project.



This element will be evaluated based upon total cost and the likelihood of meeting the projected costs.

### 3. AUTHORIZED NEGOTIATOR

Include the name, phone number, and e-mail address of persons(s) in your organization authorized to negotiate the scope of work in any final contract with the City.

### 4. ATTACHMENTS

Include the following attachments in the Proposal:

- a. Legal Status of Respondent Form (see Appendix B),
- b. Living Wage Compliance Form (see Appendix C)
- c. Contract Compliance Forms (see Appendix D)
- d. Conflict of Interest Disclosure Form (see Appendix E) Form should be completed and returned with the Proposal.

Additional information, such as resumes of key personnel may also be attached to the Proposal.

## **PROPOSAL EVALUATION**

A Selection Panel will evaluate the Proposals based on the evaluation criteria and make a final recommendation to the Ann Arbor Public Art Commission. The final decision on award of any contract will be at the sole discretion of the City and subject to the reservation of rights in Section 1.

The Selection Panel will evaluate each proposal by the above described criteria and point system (element 1) to select a respondent to recommend to the Public Art Commission, who will in turn make a recommendation to the City for award of a contract. Fee Proposals (element 2) will only be opened and evaluated after the initial evaluation of element 1 has been completed.

**SECTION 4  
APPENDICES**

**Appendix A – Sample Contract**

**PROFESSIONAL SERVICES AGREEMENT BETWEEN  
[ARTIST NAME]  
AND THE CITY OF ANN ARBOR**

**Effective Date:** \_\_\_\_\_  
(to be filled in by City)

**I. PARTIES**

"City" means the City of Ann Arbor, a Michigan municipal corporation, with its address at 301 E Huron Street, Ann Arbor, Michigan 48104.

"Artist" means [Artist Name].

**II. EFFECTIVE DATE; DURATION**

This agreement shall become effective on the date of the last signature of the parties and shall remain in effect until satisfactory performance of all services, unless terminated earlier.

**III. DEFINITIONS**

"Administering Service Area/Unit" means the City's Public Services Area.

"Contract Administrator" means the City's Public Services Area Administrator or designee.

"Project" means [Project description].

**IV. SERVICES**

A. Scope: Artist shall provide professional services for the Project as specified in Exhibit A.

B. Warranty of Skill and Quality: Artist warrants that he/she has all the skills and experience necessary to perform the services to be provided pursuant to this agreement. Artist warrants that the quality of Artist's services under

this agreement shall conform to the level of quality performed by experts regularly rendering this type of service. Determination of acceptable quality shall be made solely by the Contract Administrator.

- C. City Review of Services: Artist's services under this agreement shall at all times be subject to the City's general review and approval. Artist shall confer with the City periodically during this agreement and shall provide details about the progress or adequacy of the services upon the City's request. Upon reasonable prior notice to Artist, the City shall have the right to make reasonable in-person inspections of the services. The City shall notify Artist of any defects in the services of which the City has actual notice.
- D. Reliance on City Information: Artist may rely upon the accuracy of information provided by the City except when defects should have been apparent to a reasonably competent artist or when Artist has actual notice of any defects in the information.
- E. Access: The City shall give Artist access to City staff and City-owned property as necessary to perform the services under this agreement.
- F. Compliance with Applicable Law: Artist shall perform the services under this agreement in compliance with all applicable laws, ordinances, and regulations.
  - a. Nondiscrimination. Artist must comply, and require its subcontractor(s) to comply, with the nondiscrimination provisions of Section 209 of the Elliot-Larsen Civil Rights Act (MCL 37.2209). Artist must comply with the nondiscrimination provisions of Chapter 112 of Ann Arbor City Code and assure that applicants are employed and that employees are treated during employment in a manner which provides equal employment opportunity.
  - b. Living Wage. To the extent that Artist meets the requirements of Section 1:814 of Ann Arbor City Code, Artist must comply with the living wage provisions of Chapter 23 of Ann Arbor City Code. Artist must pay those employees providing services to the City under this agreement a "living wage" as defined in Section 1:815 of Ann Arbor City Code, as adjusted in accordance with Section 1:815(3); post a notice approved by the City of the applicability of Chapter 23 in every location in which regular or contract employees providing services under this agreement are working; to maintain records of compliance; if requested by the City, provide documentation to verify compliance; take no action that would reduce the compensation, wages, fringe benefits, or leave available to any employee or person contracted for

employment in order to pay the living wage required by Section 1:815; and otherwise comply with the requirements of Chapter 23.

- G. Additional Work: The City may desire to have Artist perform work or render services related to the Project other than those expressly provided for in the "Scope of Services" section of Exhibit A. This shall be considered extra work outside the scope of this agreement and shall not proceed unless authorized by a written amendment. Any cost incurred by either party due to the performance of extra work prior to execution of an amendment shall not be reimbursed.

## V. COMPENSATION OF ARTIST

- A. Total Fee: The total fee for all services to be performed under this agreement, including administrative and overhead costs, will be [FEE].
- B. Payment Schedule: Artist shall be paid at the times and in the manner set forth in Exhibit B. Artist must submit a completed IRS form W-9 before any payment will be made. Each payment shall be conditioned upon:
  - a. Artist's completion and the City's acceptance of the services specified for that payment; and
  - b. Artist's submission of invoices and approval of those invoices by the Contract Administrator.
- C. Invoice Records: Artist shall keep detailed records of time spent and materials used so that the City may verify invoices submitted by Artist. Such records shall be made available to the City upon request and shall be submitted in summary form to support each invoice.

## VI. RELATIONSHIP OF PARTIES

- A. Independent Contractor: This 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 Artist.
- B. No Conflict of Interest: Artist certifies that he/she has no personal or financial interest in the Project other than the compensation to be received under this agreement. 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. Artist certifies that

he/she does not and will not employ or engage any person with a personal or financial interest in this Project other than the compensation to be received under this agreement.

- C. No Authority to Bind City: 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. No Default: 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, including real or personal property taxes. The City shall have the right to set off any such debt against compensation to be paid for services under this agreement.

## **VII. RIGHTS IN WORKS OF ART**

- A. Waiver of "Droit Moral" and Rights Under Visual Artists Rights Act: As to Artist's rights in works of art to be produced under this agreement, the provisions of this agreement shall supersede the provisions of the Visual Artists Rights Act of 1990, 17 U.S.C. § 101 et. seq., as amended ("VARA"). Artist waives all rights in or protections applied to the works of art and any uses of the works of art set forth in VARA or in the nature of "Droit Moral."
- B. 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 any work of art will be made.
- C. Damage or Alteration: Subject to section VII, Paragraph D below, the City agrees that it will not intentionally alter Artist's works of art without the prior written approval of Artist. Artist acknowledges, for the benefit of the City, that installation of a work of art into the building, structure, landscape or other City facility for which it has been designed may subject the work of art to destruction, damage, distortion, mutilation, or alteration upon its removal.
- D. Removal, Relocation, Sale, Donation or Destruction: Nothing in this agreement shall preclude the right of the City, in its sole discretion, to remove, relocate, sell, donate, or destroy any work of art or discrete piece thereof produced under this agreement.

## VIII. OWNERSHIP OF MATERIALS; INTELLECTUAL PROPERTY

- A. Intellectual Property Rights: All intellectual property rights, including any material produced under this agreement, shall vest in and at all times remain vested in the originator of the material produced. Artist shall identify and clearly mark all materials produced or given to the City that constitute intellectual property, the rights to which are vested in or retained by any other originator, and shall identify such other originator.
- B. Copyright Identification: When displaying or reproducing any image of the works of art or preliminary materials to be produced under this agreement that are subject to Artist's or another party's copyright (as identified and marked in accordance with section VIII, Paragraph A), the parties shall acknowledge such copyright with "©," as appropriate, in immediate adjacency to the image.
- C. No Liability: The City shall accept no liability for the further interpretation, design or implementation by others of ideas, concepts, or intellectual copyright materials generated under this agreement.
- D. Ownership of Materials: The City shall own the physical embodiment of the works of art, including art work proposals, preliminary studies, models, samples, and maquettes.
- E. Non-infringement: Art work designs produced by Artist shall 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, 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.
- F. Survival: The provisions of this section VIII shall survive the expiration or termination of this agreement.

## IX. RISK OF LOSS; INSURANCE; INDEMNIFICATION

- A. Protective Measures: Artist shall take such measures as are reasonably necessary to protect the works of art and any preliminary materials produced under this agreement from loss or damage until Artist has delivered them to the City and the City has accepted them.

- B. Insurance: Artist is responsible for procuring and maintaining at Artist's own expense whatever insurance is required during this agreement to protect Artist 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 that Artist may suffer while performing services under this agreement, including damage to or loss of works of art while they are in Artist's possession or control.
- C. Indemnification: To the fullest extent permitted by law, 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, or intentional, wrongful, or tortious act or omission by Artist or his/her agents arising from the performance of this agreement.

## **X. TERMINATION**

- A. Breach: In the case of a breach of this agreement by a party, this agreement may be terminated by the other party if the breaching party has not corrected the breach within 15 days after notice of termination.
- B. Termination With or Without Cause: The City shall have the privilege, with or without cause, to terminate this agreement at any time upon 30 days' written notice to Artist. If this agreement is terminated for any reason other than the breach of this agreement by Artist, Artist shall be compensated for reasonable time spent and reasonable quantities of materials used prior to notification of termination. As a condition of receiving compensation from the City in such a case, Artist agrees to transfer to the City title to all partially completed works of art and related preliminary items, including plans, notes, sketches, drawings, proposals, preliminary studies, models, samples, and maquettes.

## **XI. ASSIGNMENT**

- A. Written Consent: Artist shall not subcontract or assign any portion of these services without prior written consent from the City.
- B. Pledge of Payments: Artist shall retain the right to pledge payments due and payable under this agreement to third parties.

## **XII. NOTICES; CONTACTS**

All notices shall be in writing. Notices and other deliverables shall be deemed to have been properly transmitted upon actual receipt when delivered or mailed to the following addresses or to such other address noticed hereafter by either party:

City: Craig Hupy,  
Public Services Area Administrator  
City of Ann Arbor  
P.O. Box 8647  
Ann Arbor, MI 48107-8647

Artist: [Artist Contact]

Artist's failure to keep the City reasonably informed regarding Artist's current address shall be deemed a waiver of any notice or delivery requirements provided for under this agreement.

### **XIII. MISCELLANEOUS**

- A. Entire Agreement: This agreement represents the entire understanding between the City and Artist and supersedes all prior representations or agreements. 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 Artist and the City.
- B. Severability: 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.
- C. Governing Law: This agreement shall be governed and interpreted under the laws of the State of Michigan. The parties agree to venue in a court of appropriate jurisdiction in Washtenaw County for any action arising under this agreement.



**XIV. SIGNATURES**

**ARTIST:**

**CITY OF ANN ARBOR**, a Michigan  
municipal corporation

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

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

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

**Approved as to substance**

\_\_\_\_\_  
Steven D. Powers, City Administrator

\_\_\_\_\_  
Craig Hupy, Public Services Area  
Administrator

**Approved as to form and content**

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

**EXHIBIT A**  
**Scope of Services**

Artist shall complete the following services to finalize the design and structural engineering of the Project as described and depicted in the attached proposal:

[Description of services]

If a provision in the attached proposal conflicts with a provision in this agreement, this agreement prevails. The parties acknowledge that the proposal describes additional services for fabrication and installation of the Project that are beyond the scope of this agreement. The City and Artist may agree to execute an amendment to this agreement to provide those additional services, however Artist shall not perform additional services for the Project beyond the scope of this agreement unless authorized by a written amendment. Any cost incurred by either party in the performance of additional services prior to execution of an amendment shall not be reimbursed.

## **EXHIBIT B**

### **Schedule of Compensation**

Payments will be made in the following amounts. The payments will be paid upon completion of the identified elements in the Scope of Services as set out in Exhibit A and upon receipt of invoices and evidence of completion from Artist. All payments are subject to the City's acceptance of the work invoiced, which acceptance shall be provided by the Contract Administrator. Payment shall be made within 30 days of acceptance.

[Description of Payments]

**Appendix B**

**LEGAL STATUS OF RESPONDENT**

By signing below the authorized representative of the respondent certifies that:

The respondent is:

- A corporation under the laws of the state of \_\_\_\_\_, for whom \_\_\_\_\_, bearing the title of \_\_\_\_\_, whose signature is affixed to this proposal, is authorized to execute contracts on behalf of the corporation.
- A limited liability company under the laws of the state of \_\_\_\_\_, for whom \_\_\_\_\_, bearing the title of \_\_\_\_\_, whose signature is affixed to this proposal, is authorized to execute contract on behalf of the LLC.
- A partnership organized under the laws of and filed with the state of \_\_\_\_\_, whose general and limited partners are (list street and mailing address for each):
- An individual, whose signature, with address, is affixed to this RFP.

Respondent has examined the basic requirements of this RFP and its scope of services, including all addenda and agrees to offer the services specified in the RFP.

Respondent agrees that this submission may not be withdrawn for a period of ninety (90) calendar days after the scheduled submission deadline.

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

\_\_\_\_\_  
Name Title

\_\_\_\_\_  
Corporation/LLC/Partnership/Firm Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Fax

\_\_\_\_\_  
Email

\_\_\_\_\_  
Website

## Appendix C - Living Wage Requirements

### 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 \$12.70/hour when health care is provided, or no less than \$14.18/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 2014.
- 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 with 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 noncompliance.

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

\_\_\_\_\_  
Type or Print Name and Title

\_\_\_\_\_  
Email address

\_\_\_\_\_  
Date signed

**Questions about this form? Please contact:**  
Procurement Office City of Ann Arbor  
Phone: 734/794-6500

# CITY OF ANN ARBOR LIVING WAGE ORDINANCE

**RATE EFFECTIVE APRIL 30, 2014 - ENDING APRIL 29, 2015**

**\$12.70** per hour      **\$14.18** per hour

If the employer provides health care benefits\*

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.

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

**For Additional Information or to File a Complaint Contact  
Mark Berryman at (734) 794-6500 or [mberryman@a2gov.org](mailto:mberryman@a2gov.org)**

## Appendix D –Contract Compliance Forms

### Instructions

#### City Policy

The “nondiscrimination in contracts” provision of the City Code, (Chapter 112, Section 9:161) requires contractors/respondents/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/respondents/grantees include a similar provision in all subcontracts that they execute for City work or programs.

This Ordinance further requires that each prospective contractor/respondent 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/respondent 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:**  
Procurement Office of the City of Ann Arbor (734)794-6500

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**  
*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)												TOTAL COLUMNS A-L
	Male						Female						
	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>													



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

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

**EMPLOYMENT DATA**

Job Categories	Number of Employees (Report employees in only one category)												TOTAL COLUMNS A-L
	Male						Female						
	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													
TOTAL													
PREVIOUS YEAR TOTAL													

**Appendix E**  
**VENDOR CONFLICT OF INTEREST DISCLOSURE FORM**



<b>Vendor Conflict of Interest Disclosure Form</b>
--

All vendors interested in conducting business with the City of Ann Arbor must complete and return the Vendor Conflict of Interest Disclosure Form in order to be eligible to be awarded a contract. Please note that all vendors are subject to comply with the City of Ann Arbor's conflict interest policies as stated within the certification section below.

If a vendor has a relationship with a City of Ann Arbor official or employee, an immediate family member of a City of Ann Arbor official or employee, the vendor shall disclose the information required below.

**Certification:** I hereby certify that to my knowledge, there is no conflict of interest involving the vendor named below:

1. No City official or employee or City employee's immediate family member has an ownership interest in vendor's company or is deriving personal financial gain from this contract.
2. No retired or separated City official or employee who has been retired or separated from the City for less than one (1) year has an ownership interest in vendor's Company.
3. No City employee is contemporaneously employed or prospectively to be employed with the vendor.
4. Vendor hereby declares it has not and will not provide gifts or hospitality of any dollar value or any other gratuities to any City employee or elected official to obtain or maintain a contract.
5. Please note any exceptions below:

Vendor Name	Vendor Phone Number
Conflict of Interest Disclosure *	
Name of City of Ann Arbor employees, elected officials, or immediate family members with whom there maybe a potential conflict of interest.	<input type="checkbox"/> Relationship to employee _____ <input type="checkbox"/> Interest in vendor's company _____ <input type="checkbox"/> Other _____

\*Disclosing a potential conflict of interest does not disqualify vendors. In the event vendors do not disclose potential conflicts of interest and they are detected by the City, vendor will be exempt from doing business with the City.

I certify that the information provided is true and correct by my signature below:

Signature of Vendor Authorized Representative	Date	Printed Name of Vendor Authorized Representative
---	------	--

**PROCUREMENT USE ONLY**

- Yes, named employee was involved in Bid / Proposal process.
- No, named employee was not involved in procurement process or decision.

## Appendix F DRAFT DONOR LETTER

9/1/2013

First name Last name  
Street  
City, State zip

Dear Mr/Ms etc

**Remember Coleman Jewett as he is in this picture**—as he was most Saturdays at the Farmers Market?

### Collaborators

Ann Arbor Public Art  
Commission Ann Arbor Parks  
& Recreations Services Unit  
Farmers Market Commission  
Ann Arbor Area Community  
Foundation

**More information:** Aaron  
Seagraves Public Art  
Administrator 734-974-6310,  
x43730



Coleman Jewett was the consummate community member—active, engaged, caring as well as an artist, teacher, coach, mentor, and counselor. People in our community knew him in some or all of those roles *and* especially the way he held court at the Farmers Market with an invitation to sit and talk to friends and strangers alike.

**Imagine a pair of bronze chairs at the market with people sitting and talking just like people did with Coleman.** There could not be a better tribute! With an initial gift and funds from the Public Art Program, we are underway to achieving the goal of \$50,000 for a pair of bronze Adirondack chairs to be permanently installed at the Farmer's Market and dedicated to Coleman's memory. You can help make that possible and honor this wonderful community member with a gift to the Jewett Project, a tax deductible contribution through the Ann Arbor Area Community Foundation (AAACF) for this specific purpose. Because this is a permanent installment, 10% of each gift will go to the Ann Arbor Art in Public Places Endowed Fund at AAACF. This endowed fund for maintenance and preservation of public art throughout the city.

**Please participate in honoring Coleman** and make this lasting tribute a reality in the city he lived in all his life. As a colleague, friend, student, "Y" member or just a visitor at the Farmers Market, you will be honoring this man and his legacy by creating a special place at the market for all our citizens to enjoy. Make a gift in one of the following ways:

- Use the enclosed form and envelope, or
- Go to [aaacf.org](http://aaacf.org) and follow this path: Make a Gift/Donate Now/Coleman Jewett Chair Project.

We will let you know when the dedication is planned and hope you will join us.

With warm regards,

Bob Miller Chair, Ann Arbor Public Art Commission