

PRODUCT REQUIREMENTS CONTRACT

THIS CONTRACT is made and entered into by and between the CITY OF FRESNO, a California municipal corporation (City), and Tolar Manufacturing Company, Inc., (Contractor), as follows:

1. CONTRACT DOCUMENTS. The "Notice Inviting Bids," "Instructions to Bidders," "Bid Proposal," and the "Specifications" including "General Conditions", "Special Conditions" and "Technical Specifications" for the following: Product Requirements Contract for Bus Shelters and Amenities (Bid File No. 12302459) copies of which are annexed hereto, together with all the drawings, plans, and documents specifically referred to in said annexed documents, and are hereby incorporated into and made a part of this Contract, and shall be known as the Contract Documents.

2. PRICE. For the estimated monetary consideration of SEVEN MILLION, FIFTY THOUSAND, EIGHT HUNDRED AND SEVENTY-SEVEN DOLLARS AND ZERO CENTS (\$7,050,877.00), as set forth in the Bid Proposal, Contractor promises and agrees to furnish or cause to be furnished, in a new and working condition, and to the satisfaction of City, and in strict accordance with the Specifications, all of the items as set forth in the Contract Documents.

3. PAYMENT. City accepts Contractor's Bid Proposal as stated and agrees to pay the consideration stated, at the times, in the amounts, and under the conditions specified in the Contract Documents.

4. INDEMNIFICATION: To the furthest extent allowed by law, Contractor shall indemnify, hold harmless and defend City and each of its officers, officials, employees, agents, and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including, but not limited to personal injury, death at any time and property damage) incurred by City, Contractor or any other person, and from any and all claims, demands and actions in law or equity (including reasonable attorney's fees, litigation expenses, and costs to enforce this agreement), arising or alleged to have arisen directly or indirectly out of performance of this Contract. Contractor's obligations under the preceding sentence shall apply regardless of whether City or any of its officers, officials, employees, agents, or volunteers are passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused by the active or sole negligence, or by the willful misconduct, of City or any of its officers, officials, employees, agents, or volunteers.

If Contractor should subcontract all or any portion of the work to be performed under this Contract, Contractor shall require each subcontractor to indemnify, hold harmless and defend City and each of its officers, officials, employees, agents, and volunteers in accordance with the terms of the preceding paragraph.

This section shall survive termination or expiration of this Contract.

5. The City Manager, or designee, is hereby authorized and directed to execute and implement this Agreement. The previous sentence is not intended to delegate any authority to the City Manager to administer the Agreement, any delegation of authority must be expressly included in the Agreement.

**[Signatures follow on the next page.]**

IN WITNESS WHEREOF, the parties have executed this Contract on the day and year here below written, of which the date of execution by City shall be subsequent to that of Contractor's, and this Contract shall be binding and effective upon execution by both parties.

CITY OF FRESNO,  
A California municipal corporation

[CONTRACTOR NAME],  
[Legal Identity]

By: \_\_\_\_\_  
Melissa Perales  
Purchasing Manager  
General Services Department

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

Name: Gary Tolar

Title: President  
(If corporation or LLC., Board Chair,  
Pres. or Vice Pres.)

APPROVED AS TO FORM:  
ANDREW JANZ  
City Attorney

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

Name: Patrick Merrick

Title: Executive Vice-President  
(If corporation or LLC., CFO, Treasurer,  
Secretary or Assistant Secretary)

By: \_\_\_\_\_ Date  
Supv./Senior Deputy City Attorney

ATTEST:  
TODD STERMER, CMC City Clerk

REVIEWED BY:

By: \_\_\_\_\_  
Deputy Date

\_\_\_\_\_

Addresses:

CITY:  
City of Fresno  
Attention: Shelle O'Brien, Project Manager  
2223 G Street  
Fresno, CA 93706  
Phone: (559) 621-1420  
E-mail: shelle.obrien@fresno.gov

CONTRACTOR:  
Tolar Manufacturing Company, Inc.  
Attention: Patrick Merrick, Executive Vice President  
258 Mariah Circle  
Corona, CA 92879  
Phone: (951) 808-0081  
FAX: [(951) 808-0041  
E-mail: pmerrick@tolarmfg.com

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