

**CITY OF COSTA MESA
PROFESSIONAL SERVICES AGREEMENT
WITH
ABSOLUTE CONSULTING ENGINEERS, INC.**

THIS AGREEMENT is made and entered into this 29 day of October, 2015 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and ABSOLUTE CONSULTING ENGINEERS, INC., a California Corporation ("Consultant").

WITNESSETH:

A. WHEREAS, City proposes to utilize the services of Consultant as an independent contractor to provide engineering and design services for an HVAC system in the Balearic Community Center, as more fully described herein; and

B. WHEREAS, Consultant represents that it has that degree of specialized expertise contemplated within California Government Code Section 37103, and holds all necessary licenses to practice and perform the services herein contemplated; and

C. WHEREAS, City and Consultant desire to contract for the specific services described in Exhibit "A" (the "Project") and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and

D. WHEREAS, no official or employee of City has a financial interest, within the provisions of Sections 1090-1092 of the California Government Code, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0. SERVICES PROVIDED BY CONSULTANT

1.1. Scope of Services. Consultant shall provide the professional services described in the City's Request for Bids ("RFB"), attached hereto as Exhibit "A," and Consultant's Response to City's RFB (the "Response") attached hereto as Exhibit "B," both incorporated herein by this reference.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Performance to Satisfaction of City. Consultant agrees to perform all the work to the complete satisfaction of the City and within the hereinafter specified. Evaluations of the work will be done by the City's Chief Executive Officer ("City CEO") or his or her designee. If the quality of work is not satisfactory, City in its discretion has the right to:

(a) Meet with Consultant to review the quality of the work and resolve the

matters of concern;

- (b) Require Consultant to repeat the work at no additional fee until it is satisfactory; and/or
- (c) Terminate the Agreement as hereinafter set forth.

1.4. Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws, including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement.

1.5. Non-discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender or sexual orientation, except as permitted pursuant to Section 12940 of the Government Code.

1.6. Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

1.8. Confidentiality. Employees of Consultant in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and employees of City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this Section shall survive the termination of this Agreement.

2.0. COMPENSATION AND BILLING

2.1. Compensation. Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "C," attached hereto and made a part of this Agreement (the "Fee Schedule"). Consultant's total compensation shall not exceed Twenty One Thousand Eight Hundred Dollars (\$21,800.00).

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in the Consultant's Proposal unless the City or

the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.3. Method of Billing. Consultant may submit invoices to the City for approval on a progress basis, but no more often than two times a month. Said invoice shall be based on the total of all Consultant's services which have been completed to City's sole satisfaction. City shall pay Consultant's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail, the services performed, the date of performance, and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the Effective Date.

3.0. TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days from the Effective Date of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

4.0. TERM AND TERMINATION

4.1. Term. This Agreement shall commence on the Effective Date and continue for a period of three (3) months, ending on January 29, 2016, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City.

4.3. Compensation. In the event of termination, City shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of City's written notice of termination. Compensation for work in progress shall be prorated based on the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the City or in the possession of the Consultant.

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4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the City within ten (10) days of delivery of termination notice to Consultant, at no cost to City. Any use of uncompleted documents without specific written authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant.

5.0. INSURANCE

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by City:

- (a) Commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit.
- (b) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence for bodily injury and property damage.
- (c) Workers' compensation insurance as required by the State of California. Consultant agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officers, agents, employees, and volunteers arising from work performed by Consultant for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.
- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate. Architects' and engineers' coverage shall be endorsed to include contractual liability. If the policy is written as a "claims made" policy, the retro date shall be prior to the start of the contract work. Consultant shall obtain and maintain, said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

5.2. Endorsements. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

- (a) Additional insureds: "The City of Costa Mesa and its elected and appointed boards, officers, officials, agents, employees, and volunteers

are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Consultant pursuant to its contract with the City; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; automobiles owned, leased, hired, or borrowed by the Consultant."

- (b) Notice: "Said policy shall not terminate, be suspended, or voided, nor shall it be cancelled, nor the coverage or limits reduced, until thirty (30) days after written notice is given to City.
- (c) Other insurance: "The Consultant's insurance coverage shall be primary insurance as respects the City of Costa Mesa, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."
- (d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Costa Mesa, its officers, officials, agents, employees, and volunteers.
- (e) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5.3. Deductible or Self Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

5.4. Certificates of Insurance. Consultant shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement. The certificates of insurance shall be attached hereto as Exhibit "D" and incorporated herein by this reference.

5.5. Non-limiting. Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

6.0. GENERAL PROVISIONS

6.1. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. Representatives. The City CEO or his or her designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

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Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Project Managers. City shall designate a Project Manager to work directly with Consultant in the performance of this Agreement.

Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with City during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. Notices. Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONSULTANT:

Absolute Consulting Engineers
3839 Birch
Newport Beach, CA 92660
Tel: (949) 852-8700
Fax: (949) 852-1918
Attn: Saum Nour

IF TO CITY:

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Tel: (714) 327-7483
Fax: (714) 327-7556
Attn: Scot Wolf

6.5. Drug-free Workplace Policy. Consultant shall provide a drug-free workplace by complying with all provisions set forth in City's Council Policy 100-5, attached hereto as Exhibit "E" and incorporated herein by reference. Consultant's failure to conform to the requirements set forth in Council Policy 100-5 shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by City.

6.6. Attorneys' Fees. In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.7. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

6.8. Assignment. Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this

Agreement. Regardless of City's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

6.9. Indemnification and Hold Harmless. Consultant agrees to defend, indemnify, hold free and harmless the City, its elected officials, officers, agents and employees, at Consultant's sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the City, its elected officials, officers, agents and employees arising out of the performance of the Consultant, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Consultant, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of the Consultant, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the City, its elected officials, officers, agents and employees based upon the work performed by the Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not the Consultant, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Consultant's Proposal, which shall be of no force and effect.

6.10. Independent Contractor. Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its or employees are in any manner agents or employees of City. Consultant shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Consultant shall indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant further agrees to indemnify and hold City harmless from any failure of Consultant to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

6.11. PERS Eligibility Indemnification. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

6.12. Cooperation. In the event any claim or action is brought against City relating to Consultant's performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation which City might require.

6.13. Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, files and tapes furnished or prepared by Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Consultant agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Consultant. City shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to City any findings, reports, documents, information, data, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other Project related items as requested by City or its authorized representative, at no additional cost to the City.

6.14. Public Records Act Disclosure. Consultant has been advised and is aware that this Agreement and all reports, documents, information and data, including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, pursuant to this Agreement and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 *et seq.*). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

6.15. Conflict of Interest. Consultant and its officers, employees, associates and subconsultants, if any, will comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this agreement, including, but not limited to, the Political Reform Act (Government Code Sections 81000, *et seq.*) and Government Code Section 1090. During the term of this Agreement, Consultant and its officers, employees, associates and subconsultants shall not, without the prior written approval of the City Representative, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subconsultants to abstain from a decision under this Agreement pursuant to a conflict of interest statute.

6.16. Responsibility for Errors. Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this

Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.

6.17. Prohibited Employment. Consultant will not employ any regular employee of City while this Agreement is in effect.

6.18. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the document referenced.

6.19. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.20. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.21. Headings. Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.22. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.23. Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.24. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.25. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this

Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.26. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.27. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CITY OF COSTA MESA,
A municipal corporation

REDACTED

Chief Executive Officer

Date: 10/26/15

CONSULTANT

REDACTED

Signature

K. NOURMOHAMMAD, PARTNER/OFFICER

Name and Title

REDACTED

Social Security or Taxpayer ID Number

Date: 5/10/2019

ATTEST:

REDACTED

City Clerk and ex-officio Clerk
of the City of Costa Mesa



APPROVED AS TO FORM:

REDACTED

City Attorney

Date: 10/22/15

APPROVED AS TO INSURANCE:
REDACTED

[Redacted Signature]

Risk Management

Date: 10/13/15

APPROVED AS TO CONTENT:
REDACTED

[Redacted Signature]

Project Manager

Date: 10/19/15

DEPARTMENT HEAD APPROVAL
REDACTED

[Redacted Signature]

Ernesto Munoz, Director of Public Services

Date: 10.15.15

[Redacted Signature]

Steve Dunivent, Interim Finance Director

Date: 10.20.15

EXHIBIT A
REQUEST FOR BIDS



REQUEST FOR BID

Submitted to City of Costa Mesa/Public Services
For Projects and Maintenance Services Under \$45,000

THIS PROPOSAL, IN ORDER TO BE VALID, MUST BE RETURNED TO CITY OF COSTA MESA

ATTN: Scot Wolf

VIA FAX TO: (714) 327-7556

NO LATER THAN 4:00 P.M., May 15, 2015

VIA EMAIL TO: scot.wolf@costamesaca.gov

VENDOR'S NAME Absolute Consulting Engineers	VENDOR'S TELEPHONE 949 852 8700/949 903 0016 cell	DATE 5/15/2015
STREET ADDRESS 3839 Birch, Newport Beach, Ca 92660	FAX NUMBER 949 852 1918. Snour@absoluteco.com	
CITY, STATE & ZIP Absolute Consulting Engineers 3839 Birch, Newport Beach, Ca 92660	JOB NAME/LOCATION BALEARIC CENTER- DESIGN NEW HVAC SYSTEM/ Balearic Community Center: 1975 Balearic Dr. Costa Mesa, CA 92626	

SCOPE OF WORK: (PROVIDED BY DEPARTMENT)
Provide Engineering and design services for an HVAC system to provide climate control to the facility and to address energy efficiency and comfort. Services to include drawings and specifications necessary to solicit contractor proposals and submittal to the Building Department. Price to include "Engineer's Estimate" of HVAC system installation costs.

VENDOR'S RESPONSE TO REQUEST: (PROVIDE ADDITIONAL PAGES IF MORE SPACE IS REQUIRED)
Proposal must be submitted in response to the scope of work "as-is" Attached

Attached Proposal and Qualifications: Mechanical, Plumbing (Gas/Condensate), Structural Support, Bidding City Sumbittal, Printing (estimate), ...

PREVAILING WAGE REQUIREMENTS APPLY TO PROJECTS OVER \$1,000

We Propose Hereby to Furnish Material, Labor, Special Equipment and Permits, Complete in Accordance With Above Specifications
FOR THE SUM OF:
twenty one thousand eight hundred ----- dollars (\$ 21,800.00)

All material is guaranteed to be as specified, all work to be completed in a workmanlike manner according to standard practices, according to terms and conditions on the attached hereon and made a part thereof. A Purchase Order will not be issued until the insurance certificate are approved by Risk Management.

Note: Proposal may be withdrawn by Contractor if not accepted within 30 days.

REDACTED

AUTHORIZED SIGNATURE

GENERAL TERMS AND CONDITIONS OF THE CITY OF COSTA MESA

In submitting a proposal, the bidder acknowledges that the bidder has thoroughly and carefully read and understands the bid document and attachments; agrees to furnish the product and or labor at the prices, quantities, and terms and conditions stated; and certifies that the information contained in the bid is true and complete to the best of the bidder's knowledge.

1. Submission of a signed bid/proposal will be interpreted to mean the bidder has agreed to all the terms and conditions set forth in the pages of this solicitation. Bidder's signed bid and the City of Costa Mesa's written acceptance shall constitute a binding contract. The submission of a proposal shall be considered conclusive evidence that the Contractor has investigated and is satisfied as to the condition to be encountered in respect to the character, quality, and quantities of work to be performed and materials to be furnished to comply with requirements of the contract and specifications.
2. All contractors shall comply with current federal, state, local and other laws relative thereto. This contract shall be in accordance with the laws of the State of California. The parties stipulate that this contract was entered into in the County of Orange, in the State of California. The parties further stipulate that the County of Orange, California, is the only appropriate forum for any litigation resulting from a breach hereof or any questions risen here from.
3. Whenever a question as to the meaning of any portion of the specifications is in dispute, or where there may be more than one interpretation given to any portion of the specifications, the interpretation by the City of Costa Mesa shall be final.
4. Bidder hereby agrees that the material, equipment or services offered will meet all the requirements of the specifications in this solicitation unless deviations from them are clearly indicated in the bidder's response.
5. The Contractor shall be responsible for providing qualified supervision in all areas of operations. The supervisor will work with City personnel in planning and scheduling the work for successful completion of the task. The contractor shall furnish all required safety devices for his men and equipment and must observe all State safety codes. All articles delivered under this contract must conform to the Safety Orders of the State of California, Division of Industrial Safety.
6. The Contractor shall exercise good housekeeping habits at all times, and maintain the job in safe, clean condition, and he will restore the job site to its original condition of cleanliness and repair at completion of the job. All work which is determined by the City to be defective or deficient in any of the requirements of the specifications shall be remedied by the Contractor at his expense in a manner acceptable to the City.
7. Under no condition will the Contractor, his agent or workman remove any item or items from the job site except that which has been authorized by the City of Costa Mesa in writing.
8. If any subcontractors are to be used in the performance of this contract, they must be identified as subcontractors in the bid.
9. The City of Costa Mesa reserves the right to make awards to the lowest acceptable Contractor, to make awards based on work requirements, to make no award, or to terminate any or all contracts any time due to less than acceptable standards of material, workmanship, or illegal acts. The City of Costa Mesa reserves the right to reject any bids, all bids, or any part of a bid. The City of Costa Mesa reserves the right to reject the bid of any Bidder who previously failed to perform adequately for the City of Costa Mesa or any other governmental agency. The City of Costa Mesa expressly reserves the right to reject the bid of any bidder who is in default on the payment of taxes, licenses, or other monies due to the City of Costa Mesa.
10. Prices quoted shall be net, including all trade discounts, and Contractor should not include Federal Excise Tax. The City of Costa Mesa is exempt from Federal Excise Tax.
11. Contractor shall not commence work under this contract until he has obtained all insurance required under this section and the insurance has been approved by City as to form, amount, and carrier, nor shall contractor allow any subcontractor to commence any work until all similar insurance required of the subcontractor has been obtained and approved. Neither the failure of contractor to supply specified insurance policies and coverage, nor the failure of City to approve same shall alter or invalidate the provisions of this contract.

GENERAL TERMS AND CONDITIONS OF THE CITY OF COSTA MESA - continued

WORKERS' COMPENSATION INSURANCE

Contractor shall obtain and maintain during the life of this contract workers' compensation insurance and, if any work is sublet, contractor shall require all subcontractors to obtain workers' compensation insurance.

All workers' compensation insurance policies shall provide that the insurance may not be canceled without thirty (30) days advance written notice of such cancellation to City.

Contractor is aware of the provision of Section 3700 of the Labor Code, which requires every employer to be insured against liability for Workman's Compensation or undertake self-insurance in accordance with the provisions of that Code, and will comply with such provisions before commencing the performance of the work of this contract.

Contractor agrees to waive, and obtain endorsements from its workers' compensation insurer waiving, subrogation rights under its workers' compensation insurance policy against the CITY and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.

LIABILITY INSURANCE COVERAGE

Contractor shall obtain and maintain during the life of this contract the following insurance coverage:

- **Commercial General Liability**, including coverage for premises-operations, products/completed operations hazard, blanket contractual, broad form property damage, and independent contractors, personal injury.
- **Automobile liability**, including owned, hired, and non-owned vehicles.

The above insurance coverages shall have limits of not less than one million dollars (\$1,000,000.00) combined single limit, per occurrence and aggregate.

- **Endorsements** to the policies providing the above insurance shall be obtained by contractor, adding the following three provisions:
- Additional insureds: (For Commercial General Liability only)

"The City of Costa Mesa and its elected and appointed boards, officers, agents, and employees are additional insureds with respect to the subject project and agreement."

"Said policy shall not terminate, nor shall it be canceled nor the coverage reduced, until thirty (30) days after written notice is given to City."

"Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."

If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

All insurance carriers utilized by the contractor or any subcontractor under this contract shall be approved by the California Department of Insurance to transact business in the State of California. The types of services provided under this contract may further require contractor's insurance carrier(s) to be admitted insurers in the State of California.

13. **Payment Terms:** Subsequent to receipt of goods, the vendor must submit an invoice for payment. Invoices shall be sent to: City of Costa Mesa, Accounts Payable, P. O. Box 1200, Costa Mesa, CA. 92628-1200. Invoices shall include the purchase order number, description of the goods provided and price. Payment shall be made within thirty (30) days after receipt of invoice. Invoices are to be submitted in arrears for goods provided. Any "prompt payment discounts" will be taken by the City of Costa Mesa, if possible, and will be included in the bid evaluation if the terms offered are for (20) days or longer.

GENERAL TERMS AND CONDITIONS OF THE CITY OF COSTA MESA - continued

14. Project manager responsibilities are assigned to Scot Wolf. Any questions regarding these terms and conditions or project problems should be directed to the person mentioned herein.

CONDITIONS. The following standard conditions are always applicable, and the following work order conditions are also applicable when this order provides for performance of any work.

STANDARD CONDITIONS

1. **Law:** This contract is governed by the laws of the State of California. The provisions of the Uniform Commercial Code shall apply except as otherwise set forth in this contract.
2. **Contract:** This order, when accepted by SELLER either in writing or by the shipment of any article or other commencement of performance hereunder, constitutes the entire contract between SELLER and the CITY, no exceptions, alternates, substitutes or revisions are valid or binding on the CITY unless authorized by the CITY in writing. The SELLER acknowledges that he has read and agrees to all terms and conditions of this contract/purchase order. The only terms and conditions that will be applicable to the interpretation of this contract are those issued by the City of Costa Mesa.
3. **Taxes:** Unless otherwise provided herein or by law, price quoted does not include California State sales or use tax. The City is exempt from Federal excise tax.
4. **Delivery:** Time of delivery is the essence of this contract. The CITY reserves the right to refuse any goods and to cancel all or any part of the goods not delivered by the due date and/or not conforming to applicable specifications, drawings, samples or descriptions. Acceptance of any part of the order shall not bind CITY to accept future shipments, nor deprive it the right to return goods already accepted, at SELLER'S expense. Overshipments and undershipments shall be only as agreed to by CITY.
5. **Risk of Loss:** Delivery shall not be deemed to be complete until goods have been actually received and accepted by CITY. Payment shall be made after satisfactory acceptance of shipments by the CITY.
6. **Warranty:** SELLER expressly warrants that the goods covered by this order are of merchantable quality, satisfactory and safe for consumer use, and are fit for the particular purpose as set forth in the CITY'S specification. Acceptance of this order shall constitute an agreement upon SELLER'S part to indemnify and hold harmless from liability, loss, damage and expense, including reasonable attorney fees, incurred or sustained by CITY, its officers, employees and agents, by reason of the failure of the goods to conform to such warranties, faulty work performance, negligent or unlawful acts, and noncompliance with any applicable local, State or Federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law. Inspection by the City of Costa Mesa or its agents or employees and acceptance of the articles, materials and work covered by this contract shall not constitute release or waiver of the City of Costa Mesa's rights by reason of failure of Contractor to comply with any of the warranties contained herein. Warranties herein expressed or implied shall be construed as consistent with each other and as cumulative and, where in conflict, the specifications of the City of Costa Mesa shall be paramount.
7. **Infringement:** SELLER shall indemnify and defend CITY, at SELLER'S expense, against all claims, demands, suits, liability and expense on account of alleged infringement of any patent, copyright or trademark, resulting from or arising in connection with the manufacture, sale, normal use or other normal disposition of any article or material furnished hereunder.
8. **Assignment:** Neither this order nor any claim against CITY arising directly or indirectly out of or in connection with this order shall be assignable by SELLER or by operation of law, nor shall SELLER subcontract any obligations hereunder, without CITY'S prior written consent.
9. **Default:** If SELLER or any subcontractor breaches any provision hereof, or becomes insolvent, enters bankruptcy, receivership or other like proceeding (voluntarily or involuntarily) or makes assignment for the benefit of creditors, CITY shall have the right, in addition to any other rights it may have hereunder or by law, to terminate this order by giving SELLER written notice whereupon (a) CITY shall be relieved of all further obligation hereunder, except to pay the reasonable value of SELLER'S prior performance, but not more than the contracted price, and (b) CITY may procure the articles or services from other sources and may deduct from unpaid balance due the vendor or may collect against the bond or surety, or may invoice the vendor for excess cost so paid. The price paid by CITY shall be considered prevailing market price at the time such purchase is made.
10. **Labor Disputas:** Whenever any actual or potential labor dispute delays or threatens to delay the timely performance of this order, SELLER shall immediately give written notice thereof to CITY.
11. **Nondiscrimination:** In the performance of the terms of any contract resulting from this order, SELLER agrees that they will not engage nor permit such subcontractors, where applicable as he may employ, from engaging in discrimination in employment of persons because of the race, color, sex, national origin or ancestry, disability or religion of such person.
12. **Termination:** The CITY reserves the right to terminate this contract without penalty and without cause after 30 days' written notice unless otherwise specified.

WORK ORDER CONDITIONS

13. **Performance:** SELLER shall perform all work diligently, carefully, and in a good and workmanlike manner; shall furnish all labor, supervision, machinery, equipment, materials and supplies necessary therefor; shall obtain and maintain all building and other permits and licenses required by public authorities in connection with performance of the work; and, if permitted to subcontract, shall be fully responsible for all work performed by subcontractors. SELLER shall conduct all operations in SELLER'S own name and as independent contractor, and not in the name of, or as an agent for CITY.
14. **Indemnification:** The Contractor hereby agrees to defend at his own cost and to indemnify and hold harmless the City of Costa Mesa, its officers, agents and employees, from and against any and all liability, damages, costs, losses, claims and expenses, howsoever caused, resulting directly or indirectly from or connected with the performance of the contract (including but not limited to such liability, costs, damage, loss, claim, or expense arising from the death or injury to an agent or employee of the Contractor, subcontractor, or the City of Costa Mesa or loss of, damage to, or destruction of the property of Contractor, subcontractor, or of the City of Costa Mesa, or of any agent or employee of the Contractor, subcontractor, or of the City of Costa Mesa), except where such liability, damages, costs, losses, claims or expenses are caused solely by the negligent or wrongful acts of the City of Costa Mesa or any of its agents or employees other than negligent omission or commissions of the City of Costa Mesa, its agents or employees, in connection with the general supervision or direction of the work to be performed hereunder. The Contractor, in addition to the foregoing, specifically shall indemnify and save harmless the City of Costa Mesa, any and all of the City of Costa Mesa's officers, agents, and employees, from any liability by reason of California safe place statutes or similar provisions pertaining to the workplace or safety of materials or equipment supplied by the City of Costa Mesa or others at the direction of the City of Costa Mesa and used in the performance of the work hereunder.
15. **Insurance:** SELLER shall maintain in full force during the term of this contract the following insurances, in a form and with companies as approved by the CITY, with limits not less than those specified: (a) Worker's Compensation and Employer's Liability complying with any statutory requirements; (b) Commercial General Liability insurance including broad form property damage, products/completed operations and contractual liability coverage, with a \$1,000,000 combined single limit each occurrence; Endorsements to the Commercial General Liability insurance shall be obtained by contractor, adding the following three provisions; (1) Additional insureds: "The City of Costa Mesa and its elected and appointed boards, officers, agents, and employees are additional insureds with respect to the subject project and agreement." (2) Notice: "Said policy shall not terminate, nor shall it be cancelled nor the coverage reduced, until thirty (30) days after written notice is given to City." (3) Other insurance: "Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy." (c) Comprehensive Auto Liability (including the owned, nonowned and hired automobile hazards) with \$1,000,000 combined single limit each occurrence. If the CITY so desires, these limits may be increased or decreased.
16. **Bills and Liens:** SELLER shall pay promptly all indebtedness for labor, materials and equipment used in performance of the work. SELLER shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, SELLER shall promptly procure its release and indemnify CITY against all damages and expense incident thereto.
17. **Bonds:** If the CITY so desires, SELLER shall provide payment and performance bonds as required.
18. **Changes:** SELLER shall make no change in the work or perform any additional work without the CITY'S specific written approval.

MISCELLANEOUS CONDITIONS

19. All plants and materials must be free of pests and disease. If any are found, the material will be rejected and refused. Vendor will pick up at no cost to the CITY.
20. Vendor is required to provide a completed MSDS (Material Safety Data Sheet) for hazardous substances as required by Labor Code Sections 6390; General Industrial Safety Order, Section 5194; and Title 8, California Admins. Code. MSDS sheet for each specified item shall be sent to place of shipment, and a copy sent to the Purchasing Division.

DEFINITION

Whenever used herein, "CITY" shall mean, City of Costa Mesa, a political subdivision of the State of California.

(5146-22)



Absolute Consulting Engineers
Total Design and R & D Engineers

PROPOSAL

Date: 5/10/2015

Proposal #: Balearic Ctr

Client Name and Address:

Scot Wolf, Project Manager
City of Costa Mesa
Public Services Department
(714) 327- 7483 office
(714) 599- 0736 mobile

Project Name & Location:

Balearic Center - New HVAC Design
1975 Balearic Dr. Costa Mesa, CA
92626.

Dear Mr. Scot Wolf,

The following is a proposal for professional Mechanical, and Energy Design Services.

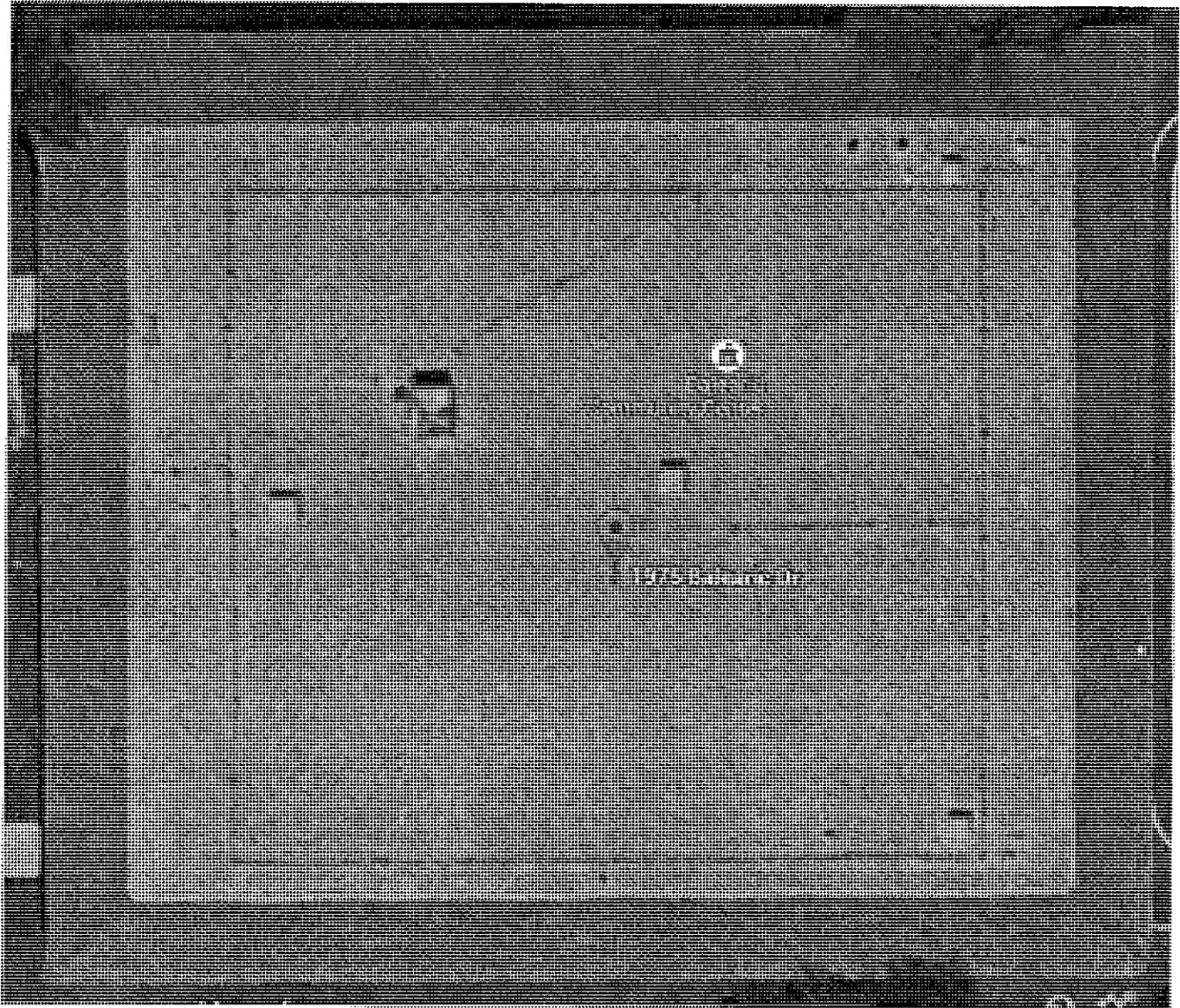
Existing Condition:

- One air conditioning unit on roof feeding front office space (Heating and cooling).
- Gas available in space.
- Three vertical heaters feeding six zones underground
- Power to be upgraded to 600 amp single phase
- All New units to be single phase

Require Scope:

- Provide Engineering and design services for an HVAC system to provide climate control to the facility and to address energy efficiency and comfort.
- Services to include drawings and specifications necessary to solicit contractor proposals and submittal to the Building Department.
- Price to include "Engineer's Estimate" of HVAC system installation costs.
- Hereby to Furnish Material, Labor, Special Equipment and Permits, Complete in Accordance With Above Specifications
- This is considered a Non-DSA project and City of Costa Mesa City Building and Safety will be only Authority Having Jurisdiction.

Absolute Consulting Engineers
Absoluteco.com



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Absoluteco.com

SCOPE OF WORK

PLUMBING DESIGN

1. Design and develop condensate piping to tailpiece of lavatory
2. Provide gas piping design
3. Develop construction drawings
4. Drafting of all plumbing plans
5. Calculations on all code conditions
6. Specifications within Drawing Sheets
7. Resolution of plan check comments

MECHANICAL DESIGN

1. Developing schematic design for single phase gas packaged roof top units
2. Preparing mechanical heat load calculations
3. Developing mechanical construction drawings
4. Developing air distribution
5. Capping the existing underground ductwork and demo of existing HVAC system
6. Developing CO sensors for all rooms and interlock with economizer units
7. Preparing details and guidelines
8. Specifications within Drawing Sheets
9. Resolution of plan check comments

MECHANICAL 2013 TITLE-24

10. Prepare all calculations
11. Preparing mechanical compliance forms

STRUCTURAL FOR MECHANICAL UNITS

12. Evaluate existing structure
 13. Prepare all calculations and design for support
 14. Calculate and design all gravity loads
 15. Calculate and design for all overturning moment loads
 16. Prepare all structural drawings
 17. Preparing details and guidelines
 18. Specifications within Drawing Sheets
 19. Resolution of plan check comments
- Assumption: No mechanical screening for the units and associated structural

PROJECT ADMINISTRATION

20. Response to Bid Questions, City Submittal, bidding, and Job Walk Meeting
21. Response to RFI, Final Punch List

Absolute Consulting Engineers

Absoluteco.com

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NOT INCLUDED

1. Site visits exceeding four visits during the construction
2. Services to reflect changes by The Client, Owner or Architect, including evaluation and incorporation of substitutions, value engineering proposed by Contractors, and change orders to previously approved work.
3. Preparing documents for alternate bids or value engineering items requested by the Client or Tenant, or preparing documents out of sequence, or documents for out-of-sequence work, or for Contractor's work which is not executed.
4. Services above the buildings standard tenant improvements except as otherwise included in the agreed fee.
5. Services resulting from changes in the scope of the Project or its design from that described under the Project Description section herein
6. Services to revise documents required by the enactment of revisions of codes, laws, or regulations subsequent to the preparation of such documents, or due to other causes outside the control of the Engineer.
7. Updating drawings with as-built conditions or providing electronic files for Contractor's use
8. Detailing and profiling of electrical conduit runs and Modification to main electrical switchboard
9. Electrical or Mechanical or Plumbing acceptance testing
10. Sound/security system, Interior voice, data communications, interior TV, computer, telephone, low voltage controls, detailed control design, building management system, and internet wiring design
11. Value Engineering Process
12. Re-Engineering design based on substituted equipment in the submittal process
13. Fire protection design including Smoke Control design, Fire alarm design, or similar
14. Acoustical evaluation or odor generation of restaurant and building mechanical equipment

REIMBURSABLE EXPENSES

Expenses incurred during the term of this project shall be considered reimbursable and plus 10% for processing. The expenses which shall be classified as reimbursable include but do not limit the following: Printing, reproductions, deliveries, postage, Plotting, City Permit fees

DESIGN FEES

Design fee is a fixed sum as indicated below. Payment shall be based on schedule below. Interest, at the rate of 18% per year, will be due if payment has not been received sixty days after the date of invoice.

FEE SHALL BE

Mechanical/Plumbing Plans	\$9800.00
Structural Plans	7850.00
Construction Administration	3650.00
Approximate Printing Cost	500.00

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PAYMENT SCHEDULE

For the above services, the payment schedule is as follows:

- Retainer..... 34%
- First Submittal..... 33%
- Prior to Final Submittal document phase 33%

1. For additional services such as major changes to the scope of work after commencement of contract documents (excludes minor drawing changes normally associated with this type of work) or preparation of as-built drawings of existing conditions, the Architect (Owner) shall pay the Engineer on an hourly basis as follows:

Principals:	\$165.00 per hour
Engineers:	\$145.00 per hour
Designers:	\$129.00 per hour
CADD:	\$99.00 per hour
Technical assistants:	\$79.00 per hour

2. The above proposal assumes a maximum construction document phase of 12 months from the commencement date to the building department approval. Extension, beyond the schedule limitation, shall be considered an additional service.

Please Read and Sign:

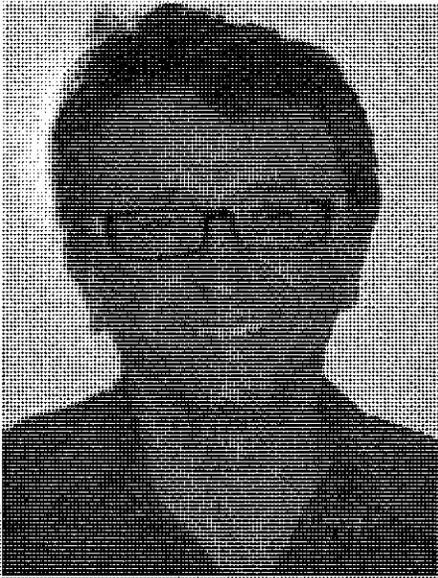
Acceptance of proposal: The above prices, specifications, and conditions are satisfactory and are hereby accepted. Absolute Consulting Engineers is authorized to do the work as specified. Payment will be made to Absolute Consulting Engineers as outlined above.

Scot Wolf, City of Costa Mesa	Date

Dr. Saum Nour, Partner	Date

THANK YOU FOR THE OPPORTUNITY TO SUBMIT A FEE PROPOSAL FOR THIS PROJECT.
NOTE: THIS PROPOSAL MAY BE WITHDRAWN BY ABSOLUTE CONSULTING ENGINEERS IF NOT ACCEPTED WITHIN 30 DAYS

Absolute Consulting Engineers
Absoluteco.com



"Dr. Saum K. Nour Ph.D."

BS Mechanical Engineering,

BS, MS, and Ph.D. in Nuclear Engineering

PE Mechanical 026221, PE Electrical 15597, PE Civil 71141, Certified in
Plumbing Design, Certified in Fire Protection Engineering (UCI), LEED AP, AIA

LEED EB:OM **Platinum:** Administrator of **ATT Building- Los Angeles** (First
commercial high rise building in Los Angeles, 1962)

Fellow American Society of Plumbing Engineers

Licensed Professional Engineer in 30 States

Absolute Consulting Engineers/Total Design and R & D Engineers

Newport Beach, CA

www.absoluteco.com and WWW.Greenerade.Com

Summary of Experience

Dr. Nour has over 37 years of experience in the field of Engineering. His diversified work includes small building projects to large industrial facilities, for which he designed and specified a variety of equipment solutions and systems, performed construction support and multi-discipline coordination tasks. He also has done extensive work on commercial and residential projects where he has designed plumbing, HVAC, system ventilation, energy compliance forms, air quality control, and plumbing systems.

As a founder of ACE, his experience and practical approach to pragmatic design has made it one of the most efficient and dynamic consulting engineering firms in Southern California. Dr. Nour has customized programs and has automated all aspects of engineering design for higher rates of accuracy and efficiency. Based on his extensive theoretical background, Nour has been able to innovate new designs where the UMC codes were required variance due to inadequacies of the governing codes. In addition, this background has given Dr. Nour the specialized ability to diagnose the California Energy Laws from theoretical to practical and construction views. Currently he lectures at University of Southern California- School of Architecture. He is partnered with Jeff Elmassian of Greenuendo on a variety of water conservation projects including with the U.S. Forest Service and local Los Angeles schools.

Over the past 28 years at Absolute Consulting Engineers, Dr. Nour's designs include commercial buildings, industrial, and production facilities. These facilities include many City facilities, Watson Pharmaceutical, Baxter Pharmaceutical, Crocket Packaging, American Meat Company, TM Cobb Doors, Costa Mesa Sanitation District, and many more.

He designed and specified various equipment and systems, performed construction support, management, and multi-discipline coordination tasks. Prior to joining Absolute Consulting Engineers, Dr. Nour held various positions in research and academia, engineering design offices, and consultancy.

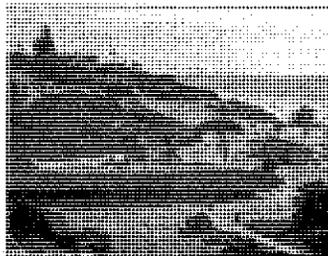
Representative Experience-

Very Short list of projects

Over 28 years: From Offices, to plants, to Pharmaceuticals, very very much of rainbow of applications with variety of cooling and heating systems

- Contract Quality Control- Long Beach Naval Support
- Costa Mesa Sanitation District- Victoria Site
- Costa Mesa Sanitation District- Mendoza Site
- Costa Mesa Sanitation District- 23rd Street Site
- Costa Mesa Sanitation District- Elden Site
- Costa Mesa Sanitation District- South Coast Plaza Site
- Crocket Packaging, (City of Industry, Ca)
- American Meat Company, (Los Angeles, Ca)
- Newport Meat Company, (Irvine, Ca)
- Home Depot Center, (Carson, Ca)
- University of Southern California, (Irvine, Ca)
- Mercury Insurance Buildings across California- Energy Overhaul Study
- ICE Enforcement, Ohio- Energy Consultant- LEED Silver 2015
- Bank of America Complete Lighting Systems
- Major Overhaul of the Air Conditioning Systems Hyundai (Chino, Ca)
- Design of the Hyundai/Kia Design Center \$35M- (Irvine, Ca)
- Design of the Hyundai Proving Ground- (California City, Ca)
- Design of the complete Solar Wafer Plant - Italy
- Laguna Beach City Corporate Yard (Laguna Beach, Ca)
- City of Santa Ana Library (Santa Ana, Ca)
- Four Fire Department (Santa Ana, Ca)
- Animal Shelter (Van Nuys, Ca)
- Rancho Del Campo Detention Center(Campo, Ca)
- La Bonita Wastewater (La Habra, CA)
- Moonlight State Beach Improvements (Restrooms and Concessions) (Encinitas, CA)

- 3-Story Life Guard Tower at 32nd Street Naval Station (San Diego, CA)
- Moonlight Beach Life Guard Facilities, Utility Analysis and Evaluation of Existing Condition (Encinitas, CA)
- Harbor Aquatics Center (Oceanside, CA)
- Harbor Lot 11B Restrooms (Oceanside, CA)
- Palm Court (Victorville, CA)
- Anaheim Fire Station No. 12: Peer Review (Anaheim, CA)
- Boys & Girls Club Linda Vista Teen Center (San Diego, CA)
- Descanso Detention Center (San Diego County, CA)
- Education Administration Building (Calexico, CA)
- North County Animal Shelter (Carlsbad, CA)
- Labor Corps Building (Los Angeles, CA)
- Polinsky Children's Nursery (San Diego, CA)



- San Diego Job Corps Center (Imperial Beach, CA)
- Registrar of Voters Voting Machines (San Diego, CA)
- French Valley Jet Center (French Valley, CA)
- Point Loma Pump Station (San Diego, CA)
- City of Chula Vista Library, North (Chula Vista, CA)
- City of Chula Vista Library, South (Chula Vista, CA)
- City of Corona, Historic Corona Civic Theatre (Corona, CA)

- Designing complete blood cleansing production facility, Atopix, San Diego, Ca
- Redesign of Sulphuric acid production facility to other by products
- Consultant to many production lines
- Designing, R & D, purchasing and procurement of factory equipment parts
- Full design of network operation center of ATT in Concord, Ca (\$7.5M Mechanical/Electrical Systems)
- Full Renovation of all of the Mercury Insurance Brea Facilities
- Full renovation of the HVAC systems for Teledyne- Agoura Hills
- Complete Design of the City Sreach.com/Ticket Master Facilities in Pasadena and San Francisco
- Redesign of the ventilation system at Food Production Bing- Pomona, Ca
- Full design of facilities for Mercury insurance computer as well as operation facility in 4 states
- Food production facilities in San Diego (Delimex) as well as Pomona, Ca

Education

- **Ph.D. Nuclear Engineering**, University of Illinois-Urbana, 1982
- **M.S. Nuclear Engineering**, University of Illinois-Urbana, 1980
- **B.S. Nuclear Engineering**, University of Oklahoma, 1978
- **B.S. Mechanical Engineering**, University of Oklahoma 1977

University of California- Irvine- Three Years Program: Fire Protection Engineering

Dr. Nour's position is required annually to participate in at least 30 hours of continuing professional education. He obtains over 150 CEU's annually.

Professional Affiliation

- II. American Society of Plumbing Engineers
- III. International Association of Electrical Inspectors
- IV. American Society of Heating, Refrigerating, and Air Conditioning

Professional Certifications

- Registered Engineer in Civil Engineering
- Registered Engineer in Electrical Engineering
- Registered Engineer in Mechanical
- Professional Engineering practice in State of CA, and 25 other States
- Certified in Plumbing Engineering
- Certified in Fire Protection Program
- Advanced Technical Development Program- Carrier

Lecture Series:

- **AIA Orange County**
- **University of Southern California- School of Architecture**
- **University of California- Irvine**
- **County of Orange- Green Forum**
- **Greenerade.Com- Lectures Web on LEED and Cal Green**
- **University of Wisconsin- College of Engineering**

Publications

- **Saum's Blog @ <http://greenerade.com/saums-blog/>** See List below
- **ASPEOC.com** Monthly Newsletter, 2010-2014 Eighteen Articles
- **Green Investment, Lecture**, North Carolina, October 30th 2012-
- **USC School of Architecture Lecture Series- Architectural Registration Exam Series – See Blogs for downloading Lectures**
- **Review and Commentary** on article by GB Wright, JA Sawfield, and S Arthur on “**The Performance Characteristics of multi-outlet siphonic Roof Drainage Systems**”, White Paper Prepare for ICC Conference, Baltimore, MD, November 2009
- **“Siphonic Roof Drainage- The Unresolved questions ”-** White Paper for ICC-OC/LA Chapter Joint Meeting, Buena Park, Ca 2008.
- **“Review of Siphonic Systems- Critique on ASPE 45”**, White Paper for ASPE 45 Committee, December 2006.
- **Seismic Support Systems**, Dr. Saum K. Nour, P.E., Ph.D., CPD, Plumbing Systems, American Society of Plumbing (ASPE)- Data Book. ASPE Publications, 2009-2010, Volume 1.
- **FOG and Restaurant Plumbing Design**, Dr. “Saum” K. Nourmohammadi, PE, CPD, CFPE, Plumbing Systems & Design, April 2008.
- **Fault Current Analysis- An Inspectors' Guideline**, K. Nour, PE, Ph.D., 2007.
- **PhotoVoltaic Codes and Installation Guideline**, K. Nour, PE, Ph.D., 2007.
- **Grey Water (Ruse Water) Systems**, Saum K. Nour, P.E., Ph.D., CPD, Plumbing Systems, American Society of Plumbing (ASPE)- Data Book. ASPE Publications, 2005-2006, Volume 2, Chapter 2.
- **Storm Drainage Systems**, Saum K. Nour, P.E., Ph.D., CIPE, and Michael Frankel, CIPE, Plumbing Systems, American Society of Plumbing (ASPE)- Data Book. ASPE Publications, 2005-2006, Volume 2, Chapter 4.
- **Grey Water (Ruse Water) Systems**, Saum K. Nour, P.E., Ph.D., CIPE, Plumbing Systems, American Society of Plumbing (ASPE)- Data Book. ASPE Publications, 1998, Chapter 2.
- **Kitchen Plumbing Design**, ASPE Symposium, Atlanta, Ga, November 2007
- **Seismic Analysis: Part and Pieces**. ASPE Orange County, Santa Ana, Ca, August 2007.
- **Fault Current Analysis**. IEAI Meeting, Santa Ana, Ca, June 2007.
- **New Plumbing 2008 UPC Code**, Southern Chapter of IAPMO, Cerritos. Ca February 2007.
- **Acoustics**, American Society of Plumbing Engineers- Seminars. September 2005, Los Angeles, Ca
- **Plumbing and Electrical Systems in Food Facilities**. University of Wisconsin- Madison Lecture Series. May 17-19th, 2004. Chicago, Illinois.

- **Specifications.** American Society of Plumbing Engineers- Los Angeles. April 2nd, 2002, Los Angeles, Ca
- **Biological Effects of Electromagnetic Fields (EMF)- Current Findings.** Chairman: Dr. Saum K Nour, Consulting Engineer. Workshop. 1992 IEEE International Symposium on Electromagnetic Compatibility. Anaheim, California, August 1992.
- **Automation in Design,** Dr. K. Nour, American Society of Plumbing Engineers- LA Chapter, Los Angeles, California, March 4th, 1992.
- **Turbulent Flow over Rough Surfaces,** K. Nourmohammadi Invited Speaker, North Carolina State University, Raleigh, North Carolina, February, 1986.
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- **Plumbing and Electrical Systems in Food Facilities**. University of Wisconsin- Madison Lecture Series. May 17-19th, 2004. Chicago, Illinois.
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- **Biological Effects of Electromagnetic Fields (EMF)- Current Findings**. Chairman: Dr. Saum K Nour, Consulting Engineer. Workshop. 1992 IEEE International Symposium on Electromagnetic Compatibility. Anaheim, California, August 1992.
- **Automation in Design**, Dr. K. Nour, American Society of Plumbing Engineers- LA Chapter, Los Angeles, California, March 4th, 1992.
- **Turbulent Flow over Rough Surfaces**, K. Nourmohammadi, Invited Speaker, North Carolina State University, Raleigh, North Carolina, February, 1986.
- **The Deposition of Radon Daughters and Daughter-Laden Aerosols on Rough Wall Surfaces**, P.K. Hopke, J.J. Stukle, K.H. Leong, A. Hubbard, and K. Nourmohammadi, Proceedings of International Conference on Radiation Hazards in Mining: Controls, Measurements, and Medical Aspects, American Institute of Mining, Metallurgical, and Petroleum Engineering, Inc., New York, 1981, pp 1014-1221.\
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- **Design of Solar Heated House-Computer code "NOUR"**, Nourmohammadi, ASHRAE Conference, Oklahoma City Chapter of American Society of Heating, Refrigerating, and Air-Conditioning, Oklahoma City, Oklahoma, July, 1977.

- **Comparison of Thermal and Fast Breeder Reactors, K.**
Nourmohammadi, Proceeding of American Nuclear Society Student Conference - Midwest Region, University of Illinois, Urbana, Illinois, 1977.

List of Blog Publications @Greenerade.com

- USC ARE- Architectural Registration Exam- Building Design and Construction Systems
- USC Architectural Registration Exam- Construction Document and Services CDS
- AIA.OC New 2014 California Lighting Title-24 (T24) Effective July 1st, 2014. LTG
- AIA OC New California Green Code 2014 CalGreen 2014 Changes effective 1/1/2014
- NFPA 99 and Engineering Concerns- Coordinations, AHJ, NFPA 2012 vs 2005
- Building Design and Construction Systems- USC ARE Exam Series
- AIA.OC New 2014 California Lighting Title-24 (T24) Effective July 1st, 2014. LTG
- Construction Documentation and Services- USC Lecture -ARE Exam Guide
- "The Battle of" Medical Gas, NFPA 99 and Plumbing Codes. Basic Chemistry- Gas Laws
- Medical Gas (Med Gas) Basics. Types. Properties. Piping.
- OSHPD Facility categories. Office of Statewide Health Planning and Development
- NFPA99- 2005 Categories. Med Gas Outlet Required. Vacuum Piping Systems
- Medical Gas (Med Gas) Systems- International Fire code – Section 2006
- CALGreen July 2012 Non-Residential: 5.106.10 Grading and Paving
- CALGreen July 2012 Non-Residential: 5.710.6.1 Storm water pollution prevention.
- CalGreen July 2012 Non-Residential: 5.106.4 Bicycle parking
- CalGreen July 2012 Non-Residential: 5.106.5.2 Designated parking.
- CalGreen July 2012 Non-Residential: 5.106.8 Light pollution reduction
- CalGreen July 2012 Non-Residential: 5.106.10 Grading and Paving.
- CalGreen July 2012 Non-Residential: 5.303.1 Meters.
- CALGreen July 2012 Non-Residential: 5.303.2 20% reduction in indoor water use.
- CALGreen July 2012 Non-Residential: 5.303.2.1 Multiple showerheads serving one shower.
- CALGreen July 2012 Non-Residential: 5.407.1 Weather protection.
- CALGreen July 2012 Non-Residential: 5.407.2 Moisture control.
- CALGreen July 2012 Non-Residential: 5.408.1 and 5.408.2 Construction waste management.
- CALGreen July 2012 Non-Residential: 5.408.3 Excavated soil and land clearing debris
- CALGreen July 2012 Non-Residential: 5.410.1 Recycling by occupants- 30% addition
- CALGreen July 2012 Non-Residential: 5.410.2.4 Functional performance testing
- CALGreen July 2012 Non-Residential: 5.503 – FIREPLACES
- CALGreen July 2012 Non-Residential: 5.504.1.3 Temporary ventilation.
- CALGreen July 2012 Non-Residential: 5.504.3 Covering of duct openings and protection of mechanical
- CALGreen July 2012 Non-Residential: 5.504.4 Finish material pollutant control.

- CalGreen July 2012 Non-Residential: 5.504.4.6. Resilient flooring systems.
- CalGreen July 2012 Non-Residential: 5.504.5.3 Filters.
- CalGreen July 2012 Non-Residential: 5.504.7 Environmental tobacco smoke (ETS) control
- CalGreen July 2012 Non-Residential:5.505.1 Indoor moisture control.
- CalGreen July 2012 Non-Residential: 5.506.1 Outside air delivery.
- CalGreen July 2012 Non-Residential: 5.506.2 Carbon dioxide (CO2) monitoring
- CalGreen July 2012- Non Residential: - Draft
- CalGreen July 2012- Non Residential: 5.507.4 Acoustical control
- CalGreen July 2012- Residential: Most Importance Changes: List
- CalGreen July 2012- Residential: Construction Documentation & FAQ 3
- CalGreen July 2012- Residential: 4.106.3. Grading and paving.
- CalGreen July 2012 – Residential: 4.303.1 Twenty percent Water savings.
- CalGreen July 2012 – Residential: 4.303.2 Multiple showerheads serving one shower
- CalGreen July 2012 – Residential: 4.406.1 Rodent proofing.
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- CaGreen July 2012 – Residential: FAQ 2
- CalGreen July 2012- Residential: 4.504.1 Covering of duct openings and protection of mechanical equipment
- CalGreen July 2012 – Residential: 4.504.3 Carpet systems.
- Cal Green July 2012: 4.504.4 Resilient flooring systems.
- Cal Green July 2012- Residential: 4.504.5.1 Documentation.
- Cal Green July 2012- Residential: SECTION 4.505 INTERIOR MOISTURE CONTROL
- Cal Green July 2012- Residential: 4.505.3 Moisture content of building materials.
- Cal Green July 2012- Residential: 4.506.1 Bathroom exhaust fans.
- Cal Green July 2012 – Residential: FAQ – Frequently Asked Questions
- Cal Green 2012- Residential: 4.504.1 Covering of duct openings and protection of mechanical equipment during co
- Cal Green July 2012- Residential: 4.507.2 Heating and air-conditioning system design.
- Cal Green July 2012- Residential- Forms- Hyperlink
- LEED Existing Building: Operations and Maintenance- LEED EB:OM Check List
- New Changes to CalGreen Code July 2012- Residential
- New Changes to Cal Green Code- Non Residential: July 2012
- ARE 4.0 Architectural Exam PPP, SPD, Building Systems, Structural
- ARE 4.0 Structural Systems V- Truss
- ARE 4.0 Structural Systems III Basics- Strength of Materials
- ARE 4.0 Structural Systems- II Who is a Structural Engineer?
- ARE 4.0 Structural Systems Scores- Part I
- Effect of Cooking Oil on ABS, PVC, or CPVC
- ARE Building Systems Divisions and Scores

- HVAC: ARE Building Systems
- Electrical/Lighting ARE Building Systems
- Specialties: ARE Building Systems
- Contracts: ARE PPP Programming Planning Practice
- Costs: ARE PPP Programming Planning Practice
- Codes: ARE PPP Programming Planning Practice
- Codes/Laws: ARE PPP Programming Planning Practice
- Programs: Programming Planning Practice
- Programming Planning Practice ARE4 Architectural Registration Exam
- Where does product liability begin and end?
- How to you process a new innovation to industry?
- Architectural Registration Examination SPD- Environmental Site Selection Questions
- Architectural Registration Examination SPD- LEED Sustainability Life Cycle Questions
- Architectural Registration Exam- Climate- Wind- ... questions
- Architectural Registration Examination SPD- Landscape Handicap and City Planning
- Architectural Registration Examination SPD- Parking Questions
- Architectural Registration Examination SPD- Topography Questions
- Architectural Registration Examination SPD- Zoning Legal Ordinances Questions
- Architectural Registration Examination SPD- Slopes Related Questions
- Architectural Registration Examination SPD- Drainage Questions
- Architectural Review Examination SPD- Footings
- Architectural Registration Examination SPD- Soil Questions
- Architectural Registration Examination SPD- Soil Damage Questions
- Seismic Testing Requirements of Nonstructural Components
- New Safety Cloth-washer Device- Home Flood Prevention
- Coordination between Architects and Engineers
- Plastic Piping in Homes- Is it Safe?
- POWERING THE CALL CENTER- High Availability
- (3) 1500G Interceptor-Basement of High Rise
- Anatomy of ANSI A117.1 (ADA) and ICC Codes:
- Green Act on Grocery Market Stores
- Grease Interceptor Codes – IV
- Grease Collection- III
- Water Heaters, Gas Piping, Water Softner- III
- Restaurant Design- Part I- Intro
- When is a Woodshop Dust Hazardous?
- Insulating Pipes/Freon Lines- Very Green Act
- Use of Aluminum Wires! Green?!
- Analysis of UL508C versus ISO 9001 Standards
- Tank-less Water Heaters- Newest dilemma- 3.
- Number of Plumbing Fixtures and My issue- 1

- Water Pressure- What are the issues?- 2
- May the 3rd AIA Class- Residential Green
- Energy Audit What are the first Steps?
- Data Centers.... Beware: A Major Energy User
- Solar Farm Project? Detail Please
- Orange County Cal Green Forum 2010- Feb. 2nd, 2011
- CalGreen 2010 AIA Class November 29th
- AIA OC First Cal-Green 2010 Class
- (no title)
- New Cal Green Code Class 3 Hours
- Cal Green 2010 Class- Thanks
- My First Blog
- Saum's Blog

Academic Lectures

From 2003 to Present

1. **LEED V2.2 USGBC LEED Test Saum K. Nour LEED Series Two Terms 2009**
2. **Surveying B.S. Surveying by Kavanaugh UCI Civil Engineering
Spring 2007**
3. **Hydraulics and Hydrology PE Civil Review Civil Engineering CAPECC Review
Program by Lindeburg from 2003 to Present**
4. **Thermodynamics EIT Review EIT by Lindeburg CAPECC Review Program
From 2003 to Present**
5. **Electrical Engineering EIT Review EIT by Lindeburg CAPECC Review Program
From 2003 to Present**
6. **Dynamics EIT Review EIT by Lindeburg CAPECC Review Program From 2003 to
Present**
7. **Plumbing and Electrical in /kitchens May 17th 2004 Personal Notes
University of Wisconsin- Chicago, Illinois**

Up to 2003

1. **Aerodynamics B.S. Aerodynamics by J.E. Allen**
2. **Advanced Heat Conduction M.S. Conduction Heat Transfer by Arpaci**
3. **Boundary Layer Theory M.S. Boundary Layer Theory by Schlichting**
4. **Research Methodology M.S. An Introduction to Design**
5. **Heat Exchangers B.S. Heat Exchangers by Kakac**
6. **Advanced Heat Transfer M.S. Convective Heat And Mass Transfer by Kays**
7. **Fluid Mechanics B.S. Mechanics of Fluids (Mechanical Engineering) by Shames**
8. **Fluid Mechanics B.S. Mechanics of Fluids (Civil Engineering) by McDonald/Fox**
9. **Fluid Mechanics B.S. Fluid Flow for Chemical (Chemical Engineering) Engineers
by Holland**
10. **Steam Power Plant B.S. Steam by Babcox and Wilson**
11. **Hydraulics B.S. Open Channel Flow by Chow**
12. **Strength of Materials B.S. Mechanics of Materials by Beer and Johnston**
13. **Material Science B.S. Material Science and Their Applications By Flinn and Trojan**

EXHIBIT C
FEE SCHEDULE

PAYMENT SCHEDULE

For the above services, the payment schedule is as follows:

- Retainer..... 34%
- First Submittal..... 33%
- Prior to Final Submittal document phase 33%

1. For additional services such as major changes to the scope of work after commencement of contract documents (excludes minor drawing changes normally associated with this type of work) or preparation of as-built drawings of existing conditions, the Architect (Owner) shall pay the Engineer on an hourly basis as follows:

Principals:	\$165.00 per hour
Engineers:	\$145.00 per hour
Designers:	\$129.00 per hour
CADD:	\$99.00 per hour
Technical assistants:	\$79.00 per hour

2. The above proposal assumes a maximum construction document phase of 12 months from the commencement date to the building department approval. Extension, beyond the schedule limitation, shall be considered an additional service.

Please Read and Sign:

Acceptance of proposal: The above prices, specifications, and conditions are satisfactory and are hereby accepted. Absolute Consulting Engineers is authorized to do the work as specified. Payment will be made to Absolute Consulting Engineers as outlined above.

Scot Wolf, City of Costa Mesa

Date

Dr. Saum Nour, Partner

Date

THANK YOU FOR THE OPPORTUNITY TO SUBMIT A FEE PROPOSAL FOR THIS PROJECT.
NOTE: THIS PROPOSAL MAY BE WITHDRAWN BY ABSOLUTE CONSULTING ENGINEERS IF NOT ACCEPTED WITHIN 30 DAYS

Absolute Consulting Engineers

Absoluteco.com

3839 Birch Newport Beach, Ca 92660. 949 852 8700. 949 852 1918 Fax

EXHIBIT E
CITY COUNCIL POLICY 100-5

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	1 of 3

BACKGROUND

Under the Federal Drug-Free Workplace Act of 1988, passed as part of omnibus drug legislation enacted November 18, 1988, contractors and grantees of Federal funds must certify that they will provide drug-free workplaces. At the present time, the City of Costa Mesa, as a sub-grantee of Federal funds under a variety of programs, is required to abide by this Act. The City Council has expressed its support of the national effort to eradicate drug abuse through the creation of a Substance Abuse Committee, institution of a City-wide D.A.R.E. program in all local schools and other activities in support of a drug-free community. This policy is intended to extend that effort to contractors and grantees of the City of Costa Mesa in the elimination of dangerous drugs in the workplace.

PURPOSE

It is the purpose of this Policy to:

1. Clearly state the City of Costa Mesa's commitment to a drug-free society.
2. Set forth guidelines to ensure that public, private, and nonprofit organizations receiving funds from the City of Costa Mesa share the commitment to a drug-free workplace.

POLICY

The Chief Executive Officer, under direction by the City Council, shall take the necessary steps to see that the following provisions are included in all contracts and agreements entered into by the City of Costa Mesa involving the disbursement of funds.

1. Contractor or Sub-grantee hereby certifies that it will provide a drug-free workplace by:
 - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in Contractor's and/or sub-grantee's workplace, specifically the job site or location included in this contract, and specifying the actions that will be taken against the employees for violation of such prohibition;

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	2 of 3

- b. Establishing a Drug-Free Awareness Program to inform employees about:
 - 1. The dangers of drug abuse in the workplace;
 - 2. Contractor's and/or sub-grantee's policy of maintaining a drug-free workplace;
 - 3. Any available drug counseling, rehabilitation and employee assistance programs; and
 - 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by subparagraph A;
- d. Notifying the employee in the statement required by subparagraph 1 A that, as a condition of employment under the contract, the employee will:
 - 1. Abide by the terms of the statement; and
 - 2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- e. Notifying the City of Costa Mesa within ten (10) days after receiving notice under subparagraph 1 D 2 from an employee or otherwise receiving the actual notice of such conviction;
- f. Taking one of the following actions within thirty (30) days of receiving notice under subparagraph 1 D 2 with respect to an employee who is so convicted:
 - 1. Taking appropriate personnel action against such an employee, up to and including termination; or
 - 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health agency, law enforcement, or other appropriate agency;

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	3 of 3

- g. Making a good faith effort to maintain a drug-free workplace through implementation of subparagraphs 1 A through 1 F, inclusive.
- 2. Contractor and/or sub-grantee shall be deemed to be in violation of this Policy if the City of Costa Mesa determines that:
 - a. Contractor and/or sub-grantee has made a false certification under paragraph 1 above;
 - b. Contractor and/or sub-grantee has violated the certification by failing to carry out the requirements of subparagraphs 1 A through 1 G above;
 - c. Such number of employees of Contractor and/or sub-grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor and/or sub-grantee has failed to make a good faith effort to provide a drug-free workplace.
- 3. Should any contractor and/or sub-grantee be deemed to be in violation of this Policy pursuant to the provisions of 2 A, B, and C, a suspension, termination or debarment proceeding subject to applicable Federal, State, and local laws shall be conducted. Upon issuance of any final decision under this section requiring debarment of a contractor and/or sub-grantee, the contractor and/or sub-grantee shall be ineligible for award of any contract, agreement or grant from the City of Costa Mesa for a period specified in the decision, not to exceed five (5) years. Upon issuance of any final decision recommending against debarment of the contractor and/or sub-grantee, the contractor and/or sub-grantee shall be eligible for compensation as provided by law.