



CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

FROM THE DEPARTMENT OF PUBLIC WORKS/ENGINEERING DIVISION

Sent by Certified Mail and by E-Mail to
ben@accandengineering.com
office@accandengineering.com

December 4, 2025

Ben Hamed
ACC & Engineering, LLC
1130 N. Kraemer Blvd #I
Anaheim, CA, 92806

**SUBJECT: REJECTION OF BID FOR SHALIMAR PARK IMPROVEMENT PROJECT -
CITY PROJECT NO. 25-06**

Dear Mr. Ben Hamed:

The City of Costa Mesa has completed its review of the bids submitted on October 27, 2025, in response to the Notice Inviting Bids for the Shalimar Improvement Project (the "Project"). Your firm, ACC & Engineering, LLC ("ACC"), submitted a bid that City staff has determined to be non-responsive to the City's requirements. Specifically, ACC's bid was found to be non-responsive for each of the following reasons:

1. Missing Required Initials on Bid Forms: Section 1-6 of the "Bidding and Submission of the Bid" requires each bidder to initial each sheet of the proposal forms in the bottom right-hand corner. ACC failed to initial the following pages:

- Bid Proposal Page P-5a (R.E. Shultz Construction) – bidder's initials missing.
- Bid Proposal Page P-5a (Marina Landscape, Inc.) – bidder's initials missing.

2. Failure to Submit Required Schedule of Values: The "Instructions to Bidders" require all contractors to submit the Schedule of Values for bid items marked with double asterisks ("**") no later than 4:00 p.m. on the fifth business day following bid opening, which was Monday, November 3, 2025.

ACC did not submit the required Schedule of Values by the specified deadline, nor was it submitted thereafter.

3. Unsigned Addenda: Addenda Nos. 1, 2, and 3 were included with the bid package; however, ACC did not include the signed addenda acknowledgments within the proposal forms as required. Although signed copies were provided via email before bid opening, the bid package

itself must contain executed addendum acknowledgments at the time of bid submission.

4. Unbalanced Bid: Under FAR 14.408-2, a public agency may reject a bid that contains materially unbalanced or unreasonably low unit pricing. The unit prices submitted by ACC for Bid Item No. 5 – Site Hardscape, Fencing & Walls and Bid Item No. 6 – Site Furnishings are significantly below reasonable and verifiable material and labor costs.

For Bid Item No. 5, the description clearly specifies all costs that must be included. This bid item requires the purchase of all materials and supplies from the designated vendors listed in the specifications and shown on the plans—including concrete paving, unit pavers with base, play surfacing with base, mini-pitch soccer surfacing, steel edging, curbs, the handball wall, the seat wall with re-purposed tile artwork, greenscreens, variable-height chain-link fence gates, decorative fencing from specified vendors, and variable-height retaining curbs. This bid item also includes rough and fine grading, subgrade preparation, and the required Maintenance Period Cost.

The cost of the majority of the fencing materials alone is approximately \$230,000, and the concrete materials utilized under this bid item exceed \$90,000. These costs do not include labor, installation, overhead, or contractor markup. Several of these items also require a 50% vendor deposit, which the City does not pay upfront; per the specifications, the City only pays for fully installed materials. In addition to these material costs, the contractor is required to include all labor, installation, overhead, and contractor markup, along with completing all grading, subgrade preparation, and maintenance period components associated with this bid item.

ACC's proposed price for Bid Item No. 5 is \$285,000, which does not cover the verified cost of the materials alone. The average cost submitted by the 12 bidders for this bid item is \$620,000, which is approximately 118% higher than ACC's submitted amount. This substantial discrepancy demonstrates that the proposed unit price is unreasonably low and materially unbalanced.

For Bid Item No. 6, the description similarly specifies all required costs, including the purchase of bike racks, trash and recycling receptacles, swing gliders with covers, soccer bollards, drinking fountain, entry arbor, game table, and all other specified site furnishings from the designated vendors. The total cost of the majority of these materials is approximately \$118,000.00, excluding labor, installation, overhead, or contractor markup. Several items require a 50% vendor deposit, which the City does not pay; the City only pays for fully installed materials.

ACC's proposed price for Bid Item No. 6 is \$44,000, which is approximately 63% lower than the verified material cost alone. This significant discrepancy indicates that the bid is unreasonably low and materially unbalanced. These prices are substantially below reasonable material and labor cost expectations and render the bid unbalanced, posing financial and

performance risks, potentially resulting in construction delays, and preventing equitable comparison with other bids.

Bid Items No. 5 and No. 6 are critical items in the project and must reflect accurate and complete pricing to ensure proper delivery of the work.

5. *Insufficient Qualifications and Experience:* Per the project specifications and Page B-1, bidders must demonstrate that they are responsible and responsive by providing references for Public Works construction projects completed or in progress within the last five (5) years (Page B-1), and listing similar projects completed within the last 24 months (Page P-4). Per page P-4: This information will be used to evaluate whether the bid is responsive and or responsible to the call for bids. The required information is used to evaluate whether the bidder is responsive and responsible.

City review of the reference list submitted by ACC revealed:

- The listed projects are not comparable in scope, complexity, or value. The majority involve small-scale work, such as office improvements, HVAC projects, and building renovations. The only related projects completed in 2024—Anaheim Elementary School District Shade Structures (\$631,836.92), Ponderosa Elementary School Fencing (\$363,000), and Riverside County Mead Valley Tennis & Pickleball Court Resurfacing (\$159,962.50)—are significantly smaller and less complex than the required work. Comparable experience is essential to ensure a contractor has the expertise, staffing, equipment, and financial capacity to successfully complete the Project.
- Prior experience performed while employed by another entity (e.g., as a project manager under Horizon) cannot be submitted as qualifying experience for ACC & Engineering, LLC, as it does not demonstrate the bidder's own corporate capabilities, resources, or experience.

6. *Failure to Identify Subcontractors for Specialized Work:* Bid Proposal Page P-5 states that each bidder must list subcontractors performing work exceeding statutory thresholds under the Subletting and Subcontracting Fair Practices Act.

The Project includes demolition, chain link fencing, and metal fence installation work. The specifications require a minimum of five (5) years of documented experience for these trades:

- Section 02 41 00 – Demolition, Paragraph 1.5: “Engage an experienced firm that has successfully completed selective demolition work similar to that indicated, with a minimum of five (5) years of experience.”
- Section 32 31 00 – Chain Link Fencing, Paragraph 1.06(B): “Fence contractor: Contractor having five (5) years’ experience installing similar projects in accordance with ASTM F567.”
- Section 32 31 16 – Metal Fence, Paragraph 1.5(B): “Installation company experienced in manufacturer’s products for a minimum of five (5) years. Contractor shall provide

trained laborers with prior experience in the type of construction and materials specified."

ACC did not list subcontractors for demolition, fencing, or gate installation, indicating this work would be self-performed. ACC's contractor license was issued on March 5, 2021, and therefore does not meet the minimum five-year experience requirement for these specialized tasks.

7. Failure to Submit the Required City of Costa Mesa Bidders List: Bid Proposal Page P-5a requires bidders to submit a complete "City of Costa Mesa Bidders List" identifying all DBE and non-DBE subcontractors and suppliers who submitted bids, quotes, or were contacted. This information was required to be submitted no later than the fourth business day following bid opening.

ACC did not submit the required Bidders Lists for suppliers by the deadline, nor were they submitted afterward. Page P-5a expressly states: "*Failure to submit the required Bidders List information by the time specified will be grounds for finding the bid or proposal non-responsive.*"

Based on the above, ACC does not meet the mandatory qualifications needed to perform the full scope of work, either directly or through qualified subcontractors.

The discrepancies identified above are material, inhibit the City's ability to evaluate bids equitably, and demonstrate non-responsiveness to the requirements of the bid package. Accordingly, City staff has determined that the bid submitted by ACC & Engineering, LLC is non-responsive.

The Project is scheduled to be presented to the City Council on January 20, 2026, at 6:00 p.m., meeting of the City Council for award to the lowest responsible bidder. City staff will recommend the rejection of ACC's bid at that date and time. If ACC wishes to be heard, protest or otherwise object to the City's determination of non-responsiveness as set forth herein, ACC must be present at the Council Meeting and must submit any written objection and/or evidence to the City Clerk's office, City Hall, 77 Fair Drive, Costa Mesa, CA 92626 on or before January 6, 2026.

Sincerely,



Seung Yang
City Engineer

cc: Raja Sethuraman, Public Works Director
Irina Gurovich, Associate Engineer
Tarquin Preziosi, Assistant City Attorney
File