



MEETING DATE: 11/7/05

ITEM NO. 4

## COUNCIL AGENDA REPORT

DATE: OCTOBER 19, 2005

TO: MAYOR AND TOWN COUNCIL

FROM: DEBRA J. FIGONE, TOWN MANAGER

SUBJECT: PROJECT 04-26 - FY 04-05 RETAINING WALL REPLACEMENT  
ADOPT RESOLUTION ACCEPTING WORK OF ANDERSON PACIFIC  
ENGINEERING CONSTRUCTION, INC. AND AUTHORIZING THE  
TOWN MANAGER TO EXECUTE CERTIFICATE OF ACCEPTANCE  
AND NOTICE OF COMPLETION FOR RECORDING BY THE CLERK  
ADMINISTRATOR

### RECOMMENDATION:

Adopt resolution accepting work of Anderson Pacific Engineering Construction, Inc. and authorizing the Town Manager to execute Certificate of Acceptance and Notice of Completion for recording by Clerk Administrator.

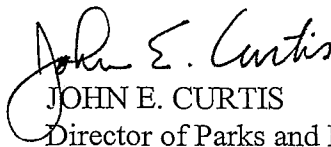
### BACKGROUND:

On May 2, 2005, the Town Council approved the plans and specifications for the FY 04-05 Retaining Wall Replacement Project and authorized staff to advertise the project for bids. This project repaired and reconstructed a failed retaining wall along Oak Hill Way near the intersection of Grove Street, a failed roadway section next to the retaining wall, and drainage improvements on this site.

On June 20, 2005, the Council awarded a construction contract for this work to Anderson Pacific Engineering Construction, Inc., as the lowest responsible bidder.

On September 9, 2005, the project was substantially completed. The execution and recordation of the Certificate of Acceptance is now required to finalize the Town's acceptance of the project.

PREPARED BY:

  
JOHN E. CURTIS  
Director of Parks and Public Works

Reviewed by: RSJ Assistant Town Manager OK Attorney \_\_\_\_\_ Clerk Administrator W/SC  
Finance \_\_\_\_\_ Community Development \_\_\_\_\_ Revised: 10/19/05 9:35 am

PAGE 2

MAYOR AND TOWN COUNCIL

SUBJECT: PROJECT 04-26 - FY 04-05 RETAINING WALL REPLACEMENT

OCTOBER 19, 2005

DISCUSSION:

The contracted work has been completed by Anderson Pacific Engineering Construction, Inc. and is accepted by the Parks and Public Works Department. Ten percent (10%) of the faithful performance bond will remain in effect for a period of two years to guarantee any needed repair and/or replacement caused by defective materials and workmanship. Staff recommends that the Certificate of Acceptance and Notice of Completion be executed and recorded.

ENVIRONMENTAL ASSESSMENT:

This project is defined under CEQA but is Categorical Exempt (Section 15301(c)). A Notice of Exemption will not be filed.

FISCAL IMPACT:

The original construction contract approved by the Town Manager was for \$244,595, with a contingency budget of \$4,000, bringing the total authorized budget for this project to \$248,595. The project was completed for \$248,595, the authorized amount budgeted.

RETAINING WALL REPAIR PROJECT			
<b>FY 2005/06 Fiscal Impact</b>	<b>Budget Funding</b>	<b>Expended/ Encumbered To Date</b>	<b>Remaining Balance</b>
<b>Project: 400-0406</b>	274,361	248,595	25,766
<b>TOTALS</b>	<b>274,361</b>	<b>248,595</b>	<b>25,766</b>
<b>TOTAL EXPENDITURES BY CATEGORY:</b>			
Staff Labor		-	
Materials		-	
Engineering Design		-	
Construction Management		-	
Construction		244,595	
Construction Contingency		4,000	
<b>TOTALS</b>		<b>248,595</b>	

Attachments:

Resolution accepting work of Anderson Pacific Construction, Inc. (with Exhibit A) Certificate of Acceptance and Notice of Completion.

## **RESOLUTION**

**RESOLUTION OF THE TOWN COUNCIL  
OF THE TOWN OF LOS GATOS  
ACCEPTING WORK OF ANDERSON PACIFIC ENGINEERING CONSTRUCTION, INC.  
FOR PROJECT 04-26 - FY 04-05 - RETAINING WALL REPLACEMENT AND  
AUTHORIZING THE TOWN MANAGER TO EXECUTE  
CERTIFICATE OF ACCEPTANCE AND NOTICE OF COMPLETION  
FOR RECORDING BY THE CLERK ADMINISTRATOR**

**WHEREAS**, on May 2, 2005 the Town Council approved plans and specifications for Project 04-26 - FY 04-05 - Retaining Wall Replacement.

**WHEREAS**, on June 20, 2005, the Town Council awarded the contract for this work to Anderson Pacific Engineering Construction, Inc., as the lowest responsible bidder; and

**WHEREAS**, Town Council authorized staff to issue change orders to the construction contract up to an amount of \$4,000.

**WHEREAS**, Anderson Pacific Engineering Construction, Inc. substantially completed the project in conformance with the plans and specifications pursuant to Council approval; and

**WHEREAS**, ten percent of the performance bond provided by Anderson Pacific Engineering Construction, Inc. shall remain in place for two years until November 7, 2007, to guarantee the work; and

**WHEREAS**, the work on Project 04-26 - FY 04-05 Retaining Wall Replacement is hereby accepted as complete pursuant to the plans and specifications for the project.

**NOW THEREFORE BE IT RESOLVED**, that the Town Manager is authorized and directed to execute the Certificate of Acceptance and Notice of Completion attached as (Exhibit A) hereto.

**BE IT FURTHER RESOLVED**, that the Clerk Administrator is directed to transmit this Certificate of Acceptance and Notice of Completion to the Recorder of Santa Clara County for recording.

**PASSED AND ADOPTED** at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the       day of       , 2005 by the following vote.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR OF THE TOWN OF LOS GATOS  
LOS GATOS, CALIFORNIA

PLEASE RECORD AND RETURN TO:

Clerk Administrator  
P.O. Box 949  
Los Gatos, CA 95031

**CERTIFICATE OF ACCEPTANCE AND NOTICE OF COMPLETION**  
**PROJECT 04-26 - FY 2004-05 RETAINING WALL REPLACEMENT**

TO WHOM IT MAY CONCERN:

We do hereby certify that **Anderson Pacific Engineering Construction, Inc.** substantially completed the work on September 9, 2005 called for in the agreement with the Town of Los Gatos dated **July 7, 2005**. The work is listed in the specifications prepared by the Town of Los Gatos and generally consisted of furnishing all labor, materials, tools, equipment, and services required for completion of FY 2004-05 Retaining Wall Replacement Project located in the TOWN OF LOS GATOS, County of Santa Clara, State of California and was completed, approved and accepted **November 7, 2005**.

The Surety on the bond accompanying the contract/agreement is the Safeco Insurance Company of America.

Bond No.: 6311337  
Date: June 24, 2005

TOWN OF LOS GATOS

By: \_\_\_\_\_  
Director of Parks and Public Works

By: \_\_\_\_\_  
Town Manager

I, DEBRA J. FIGONE, the Town Manager of the Town of Los Gatos, have read the foregoing CERTIFICATE OF ACCEPTANCE AND NOTICE OF COMPLETION and know the contents thereof. The same is true of my own knowledge, except as to the matters which are therein alleged on information or belief, and as to those matters I believe it to be true.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on \_\_\_\_\_ 2005 at Los Gatos, California.

\_\_\_\_\_  
DEBRA J. FIGONE, TOWN MANAGER  
Town of Los Gatos

**RECOMMENDED BY:**

\_\_\_\_\_  
John E. Curtis  
Director of Parks and Public Works

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

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Town Attorney

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

**TOWN OF LOS GATOS, CALIFORNIA, ACKNOWLEDGMENT**

State of California

County of Santa Clara

On            before me, **MARLYN RASMUSSEN, Clerk Administrator**, personally appeared **DEBRA J. FIGONE, Town Manager**, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the within instrument the entity upon behalf of which the person acted, **The Town of Los Gatos**, executed the instrument.

**WITNESS** my hand and official seal.

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Clerk Administrator of the Town of Los Gatos  
Los Gatos, California

**CAPACITY CLAIMED BY SIGNER:**

Municipal Officer of the Town of Los Gatos

**DESCRIPTION OF ATTACHED DOCUMENT:**

**Title of Document:** Certificate of Acceptance and Notice of Completion  
Project 04-26 - FY 2004-05 Retaining Wall Replacement

**Number of Pages:**            2

**Date of Document:**

**Signer(s) Other than Named Above:** None