

# REPORT

To the Honorable Mayor and City Council  
From the City Manager

May 8, 2006

**Subject**

Cost Shared Sidewalk Repair Project

**Recommendation**

By Motion, accept completed improvements for the 2004-2005 Cost Shared Sidewalk Repair Project, and release the contract retention to Vanguard Construction.

**Background**

The contract was duly advertised and three sealed bids were received and opened at the Office of the City Engineer on May 25, 2004. On September 13, 2004, the City Council approved the contract documents and specifications and awarded the contract to the low bidder J.W. Riley and Son of Emeryville, who subsequently failed to follow through on the project. On November 22, 2004, the project awarded to J.W. Riley was annulled by City Council and the contract was awarded to Vanguard Construction, Inc. of Oakland, the second lowest bidder in the amount of \$336,250.00.

Vanguard was already committed to completing other cities' contract work when they received the award and had a difficult time following through on the different phases of the project. The work they did perform was completed to City standards. Additionally, they did not provide a quote for installing rubber sidewalk panels and did not perform this portion of their site work. The rubber sidewalks for these sites were installed by another contractor.

Final Contract Amount

Original Contract Amount	\$336,250.00
Completed contract work	- <u>\$146,342.00</u> (43.5%)
<b>CIP Balance retained</b>	<b>\$ 189,908.00</b>

The contractor performed sidewalk, curb and gutter, and driveway repairs at locations where property owners paid one-half the cost of repairs. Tree grates were installed at locations to plant new trees.

During this contract, the following repairs were completed:

- 62 cost shared sidewalk repairs
- 0 wheel chair ramps
- 24 trees root pruned
- 1 tree removed
- 2 new tree grates
- 12 rubber sidewalks

Vanguard was unable to schedule the remainder of the work to staff's satisfaction. Staff continued to negotiate with Vanguard to perform the full project agreement, however, no resolution to the schedule and performance issues was achieved. Vanguard did not submit a bid for the 05-06 project.

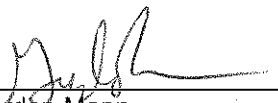
Vanguard has completed the work that they did perform to City specifications and staff recommends accepting the improvements. There is a one-year guarantee on the concrete improvements written into the contract agreement.

**Alternatives**

- (1) Do not to accept the project and do not release the retention. Staff believes that all known requests for punch list items have been corrected. The work should be accepted. The contractor is due his retention for this project.
  
- (2) Pursue legal action and damages for the work that was not completed (i.e. the 66.5% of the work that never was started) per General Conditions Sections 7.09 Liquidated Damages and 7.11 Termination of Contract for Cause. Staff recommends not pursuing this option at this time. The term of the agreement has expired. All 30-day phases that were assigned by a notice to proceed were completed.

**Fiscal Impact**

Adequate funds have been encumbered in the Capital Improvement Program (CIP), Tree Preservation and Sidewalk Repair funding to cover the release of retention. The 2004-2005 balance of funds will be rolled into the subsequent projects for the Cost Shared Sidewalk Repair Project.

  
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Gordon Mann  
Public Works Superintendent

  
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Peter Ingram  
Public Works Services Director

  
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Ed Everett  
City Manager

**Attachments:** None