



WINTER PARK TOWN COUNCIL SPECIAL MEETING

Winter Park Town Hall – 50 Vasquez Road

Thursday, July 12, 2018 – 9:00 a.m.

AGENDA

1. Meeting Call to Order
 - a. Pledge of Allegiance
 - b. Roll Call of Council Members

2. Action Items
 - a. Lion's Gate Drive Improvements Project Contract

MEMO

TO: Town Council
FROM: Gerry Vernon
DATE: 07/12/2018
RE: Lions Gate Drive – Consideration of contract termination

BACKGROUND

The approved 2018 Capital Improvement Budget included an aggressive list of projects that included: Old Town Improvements; Ski Idlewild Road; Lion’s Gate Drive; Winter Park Drive; Baker Drive; and miscellaneous smaller projects. Staff split project bidding into two segments to better manage the projects. Request for Proposal #1 included; Old Town Phases, Ski Idlewild Road, and Lion’s Gate. Request for Proposal #2 was to include Winter Park Drive and Baker Drive.

The Lions Gate Drive Project was the most complex with coordination with Mountain Parks Electric and the Arrow Development Group. The Mountain Parks Electric work includes the undergrounding of their electrical lines off of Highway 40 for this two-block stretch. The Arrow Development Group was to share the roadwork costs associated with their portion of road improvements. Staff conducted a “request for bids” process for the project through the Rocky Mountain E-Purchasing System from February 2 to March 9, 2018.

ANALYSIS

On March 9, 2018, Town Staff received and publicly opened two bids for the Lions Gate Drive Improvements. According to the E-Purchasing site, 91 contractors downloaded at least one document from the published set. While many were sub-contractors and consultants, this reveals that our request for bids were well advertised. The bid result is as follows:

<u>Bidder</u>	<u>Bid Amount</u>	<u>2018 Budget</u>	<u>Comment</u>
Anson Excavating, Inc.	\$499,084.71	\$351,700.00	Costs split with Arrow Development and below budget
Colt & Steel Corp.	\$707,887.55	\$351,700.00	On budget

Staff recommended that the bid be awarded to Anson Excavating as the lowest and best responsible bidder. The Council awarded the bid to Anson during the April 3, 2018 Council meeting and staff set about getting the contract executed.

It is Staff's understanding that the Arrow Development Group was aware of the project RFP but did not bid due to extenuating circumstances. Staff met with the developers on April 30, 2018 to discuss their concerns about the project that included the project schedule, the high costs associated with the Anson bid, and construction issues on the west side.

Anson Excavating wanted to start the project in May but due to coordination issues with Mountain Parks Electric and to allow the Arrow Developers time to vacate the Town easement, they were delayed until July 23, 2018.

RECOMMENDATION

While the Council needs to hear from all the stakeholders, I have developed the following pros and cons of terminating the contract and delaying the project:

Pros

Allows developer to finish street side construction.
Future street cuts may be reduced and minimized.

Cons

Possibly increases costs.
Delays future phases of Lion's Gate Drive Improvements.
Delays Town's 5 Year CIP.
Delays the finishing of High Country Drive started by Anson in 2017.
Impacts Mountain Parks Electric and the undergrounding of their power lines.
Impact future bids and bidders by making contractors nervous about Town's commitment to contracts.
Adds restoration costs to Lion's Gate Drive to ensure the road remains safe and passable this winter.
Would have to store ordered pipe and supplies for delay period.

Please review the attached letter from Anson Excavation and Pipe, Inc. that details the additional costs of termination/postponement. There are the following three options for the Council to decide on:

1. Continue as scheduled. – No additional costs
2. Postpone until May, 2019. – Additional cost of \$25,500.00
3. Terminate the contract. - Additional cost of \$104,000.00

These additional costs do not include any added costs to the Mountain Parks Electric portion of the project.

Staff recommends the Town Council not terminate or postpone the contract with Anson Excavating and continue with the project as scheduled by making the following motion:

I move to continue the contract and project schedule with Anson Excavating for the Lion's Gate Drive Project.

Alternative Motion

In the event the Town Council wishes to not continue or to postpone the contract, staff recommends the Town Council make the following motion:

I move to terminate/postpone the construction contract by approving Resolution # _____ with Anson Excavating, Inc. due to the following findings of fact:

- _____
- _____
- _____



TOWN OF WINTER PARK

RESOLUTION NO. 1626
SERIES OF 2018

CONTRACT TERMINATION WITH ANSON EXCAVATING

WHEREAS, the Town enter into a contract with Anson Excavating for certain improvements to Lion's Gate Drive in the amount of \$499,084.71; and

WHEREAS, the Town does not want to proceed with said improvements;

NOW THEREFORE, BE IT RESOLVED that the Town Council of Winter Park, Colorado, hereby terminates the contract with Anson Excavation for the Lion's Gate Drive Improvements.

APPROVED AND PASSED this 12TH day of July, 2018 by a vote of _____
to _____

TOWN OF WINTER PARK

Jimmy Lahrman, Mayor

ATTEST:

Danielle Jardee, Interim Town Clerk



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July 10, 2018

Town of Winter Park
Attn: Town Council
P.O. Box 3327
Winter Park, CO 80482

RE: Cancellation of Lions Gate Drive Drainage Improvements

Town Council:

It has been brought to our attention that Winter Park Town Council is considering canceling the Lions Gate Drive Drainage Improvements Project that was awarded to Anson Excavating and Pipe, Inc. (AEP) on April 3, 2018. This project is in the amount of \$499,084.71 with an original Notice to Proceed date of May 1, 2018.

On May 1, 2018 at the Pre-Construction meeting, AEP delivered payment and performances bonds for this project with the idea that a notice to proceed was going to be presented at this meeting and work could begin later that week or Monday May 7, 2018. However, at this Pre-Construction meeting, AEP was informed that a development project adjacent to the Lions Gate Drive was behind schedule and had not installed the utilities needed in the Lions Gate ROW. The City of Winter Park determined that the project's notice to proceed would be pushed back to a mid-July start time.

This sudden and unexpected short-notice change to the project start time put AEP and its subcontractors in a real predicament. Based on the original timeline for the project, AEP stopped bidding on or accepting jobs needing completion in the May-June timeframe in order to make sure appropriate resources were available to complete the Lions Gate project in approximately 6 to 8 weeks. AEP had already setup rental accommodations and deposits (\$500.00) were paid for the AEP employees scheduled to work on the project. In addition, the subcontractors for this project had been scheduled to be on site at the time of their phase of work and were potentially not scheduling any other jobs during this time as well.

In order to adjust to this unexpected and sudden new mid-July start time, AEP scrambled to find work for the May and June timeframe to recover some of the lost funds that were expected to be generated by completing the Lions Gate project during this timeframe. In addition, AEP held off bidding on or accepting work from the Mid-July through early September timeframe, per previous practice discussed, to make sure appropriate resources were available to complete the project in a timely fashion.

Now we are in early July and I'm being told that the project may be cancelled altogether! We are a smaller firm and are limited to the amount of work we can commit to in the short summer construction season. By postponing a job in the order of magnitude of \$499,084.71 with-in a couple days of starting as was done in May caused AEP financial loss. Now that there is a possibility of postponing it again or cancelling it all together, AEP will suffer substantial financial hardship.

If the project is cancelled altogether, AEP will seek damages in the amount of what the anticipated profits would have been for AEP and its subcontractors. These amounts would be as follows:

Anticipated Profits:

Anson Excavating & Pipe, Inc.	\$ 74,862.71
Western Milling, Inc.	\$ 3,200.00
Baker & Associates Surveyors	\$ 6,000.00
New West Paving	<u>\$ 20,000.00</u>
Total Anticipated Profit	\$104,062.71

AEP offers that if the Town Council is willing to postpone work until May 1, 2019, instead of cancelling it altogether, AEP would request that Town of Winter Park only pay the following delay fees and additional costs to cover expected pricing increases on materials. These would be as follows:

Anson Excavating & Pipe, Inc.	\$20,000.00
Western Milling, Inc.	\$ 1,500.00
Baker & Associates Surveyors	\$ 1,500.00
New West Paving	<u>\$ 2,500.00</u>
Total Anticipated Profit	\$25,500.00

If the Town Council still wishes to complete the project in this calendar year, AEP does not guarantee completion of the project by year's end if the project start date is delayed any later than August 6 given winter's onset. AEP may seek damages for such additional delays.

Because of the financial impacts occurring to AEP with each days delay, I ask that the Town Council provide a final decision within the next 10 days.



Mike Anson
President

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