

**RESOLUTION NO. 2021-**

**A RESOLUTION EXPRESSING THE TOWN'S CONCURRENCE WITH  
THE DETERMINATION OF THE LOWEST RESPONSIBLE BIDDER  
FOR THE SOUTH & WILCOX ROUNDABOUT IMPROVEMENT  
PROJECT; AUTHORIZING THE EXPENDITURE AND PAYMENT OF  
FUNDS FOR SUCH PROJECT; AND APPROVING A VARIANCE  
PURSUANT TO SECTION 9.16.070.E OF THE CASTLE ROCK  
MUNICIPAL CODE FOR NIGHTTIME CONSTRUCTION ACTIVITIES  
RELATED TO SUCH PROJECT**

**WHEREAS**, on September 3, 2019, the Town Council approved Ordinance No. 2019-021 authorizing the execution of a Redevelopment and Financing Agreement (the "RDA") between the Town of Castle Rock (the "Town"), the Castle Rock Downtown Development Authority, the Town of Castle Rock Festival Park Commons General Improvement District, and CD-Festival Commons, LLC ("CDFC") for the Encore CR Downtown mixed-use development; and

**WHEREAS**, Section 2.03.A of the RDA provides that CDFC will design and construct a roundabout and associated improvements at the intersection of South Street and Wilcox Street (the "South & Wilcox Roundabout Improvement Project" or "Project"), the cost of which shall be borne entirely by the Town; and

**WHEREAS**, Section 2.03.C of the RDA provides that CDFC shall undertake a competitive bidding process and select the lowest responsible bidder to construct the Project; and

**WHEREAS**, Section 2.03.C of the RDA further provides that CDFC's determination of the lowest responsible bidder shall require the concurrence of the Town; and

**WHEREAS**, after a competitive bidding process undertaken in accordance with the provisions of the RDA, CDFC has determined that Elite Surface Infrastructure (ESI) (the "Project Contractor") is the lowest responsible bidder, bringing the project bid total to \$1,896,435; and

**WHEREAS**, Section 2.03.D of the RDA requires that, concurrently with the execution of the construction contract for the Project, the Town place funds into escrow in the amount of such contract, plus a five percent contingency, for progress payments to the Project Contractor; and

**WHEREAS**, Section 9.16.030.B.5. of the Castle Rock Municipal Code expressly prohibits "[o]perating or permitting the operation of any tools or equipment in connection with construction, drilling or demolition work between the hours of 7:00 p.m. and 7:00 a.m. the following day on weekdays and between the hours of 6:00 p.m. and 8:00 a.m. on weekends or holidays such that the sound therefrom creates a noise disturbance across a residential real property boundary, except for ... work exempted ... by variance issued pursuant to Subsection 9.16.070.E."; and

**WHEREAS**, the Project Contractor is planning to undertake and complete construction within an accelerated 60-day schedule that will require multiple daily work shifts during weekdays, including nighttime work; and

**WHEREAS**, the Town's Public Works Department has submitted an application for a variance to the Town's noise ordinance pursuant to Section 9.16.070.E of the Castle Rock Municipal Code, so that the Project may be completed within the expedited schedule proposed by the Project Contractor.

**NOW, THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO AS FOLLOWS:**

**Section 1. Concurrence.** The Town Council hereby approves with CDFC's determination that Elite Surface Infrastructure (ESI) is the lowest responsible bidder for the South & Wilcox Roundabout Improvement Project.

**Section 2. Encumbrance and Authorization for Payment.** In order to meet the Town's obligation to escrow funds for the South & Wilcox Roundabout Improvement Project pursuant to the RDA and Ordinance No. 2019-021, the Town Council authorizes an expenditure and payment of funds appropriated for the 2021 fiscal year appropriation from account no. 135-3175-431.79-10 in an amount not to exceed \$2,270,243, which amount includes the accelerated schedule costs of \$167,422 and a contingency of \$206,385, unless otherwise authorized in writing by the Town.

**Section 3. Approval of Variance.** The application for a variance from the Town of Castle Rock's Public Works Department for the South & Wilcox Roundabout Improvement Project is hereby approved. The variance shall be in effect between April 15, 2021, and June 14, 2021. The variance shall apply only to that work which is performed by the Project Contractor to complete the South & Wilcox Roundabout Improvement Project within the expedited 60-day construction schedule.

**PASSED, APPROVED AND ADOPTED** this 6<sup>th</sup> day of April, 2021 by the Town Council of the Town of Castle Rock, Colorado, on first and final reading by a vote of \_\_\_\_ for and \_\_\_\_ against.

**ATTEST:**

**TOWN OF CASTLE ROCK**

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Lisa Anderson, Town Clerk

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Jason Gray, Mayor

**Approved as to form:**

**Approved as to content:**

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Michael J. Hyman, Town Attorney

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Dan Sailer, Director of Public Works