



## ENGINEERING SERVICES

**To: Mayor and Town Council**

**From: Hulon T. Webb, Jr., P.E., Director of Engineering Services**

**Through: Mario Canizares, Town Manager  
Chuck Ewings, Assistant Town Manager**

**Re: Amended Escrow Agreement: Founders Academy**

**Town Council Meeting – June 13, 2023**

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**Agenda Item:**

Consider and act upon authorizing the Town Manager to execute an Amended Escrow Agreement between Responsive Education Solutions, and the Town of Prosper, Texas, related to the construction of an exit-only driveway onto Custer Road to serve the Founders Classical Academy of Prosper.

**Description of Agenda Item:**

Responsive Education Solutions opened the Founders Classical Academy of Prosper, located on the southwest corner of First Street and Custer Road, in 2021, and is nearing completion of the construction of the high school on the same property. The high school is scheduled to open this upcoming 2023/24 academic school year. Per the terms of a 2022 Escrow Agreement between the Town and Responsive Education Solutions, they are required to either have constructed certain improvements along Custer Road or provided proof of payment to incorporate those improvements into TxDOT's Custer Road project, prior to being issued a temporary certificate of occupancy for the high school. The improvements along Custer Road include a driveway connection with deceleration lane, and a six-foot (6') sidewalk along the frontage of the property.

Shortly after the execution of the 2022 Escrow Agreement, Responsive Education Solutions requested consideration of an alternative driveway design that would eliminate the need for the deceleration lane along Custer Road. To eliminate the deceleration lane, the driveway connection to Custer Road was redesigned as an exit-only and angled in a way to prevent vehicles from being able to turn into the driveway from Custer Road. With the Town and TxDOT's approval of the alternative driveway connection to Custer Road, the deceleration lane was no longer required and TxDOT agreed to construct the sidewalk along Custer Road adjacent to Founders Academy with the Custer Road project.

The remaining obligation to construct the exit-only driveway onto Custer Road is anticipated to be complete late July/early August, and Responsive Education Solutions anticipates the need to request a temporary certificate of occupancy prior to the completion of the driveway. In order for the Town to not deny the request based on the status of the improvements along Custer Road, the 2022 Escrow Agreement must be amended. The attached amended escrow agreement provides the revisions necessary to allow the Town to issue a temporary certificate of occupancy for the high school prior to the exit-only driveway onto Custer Road being complete.

**Budget Impact:**

The total estimated cost for the Custer Road improvements is \$68,407.82. In accordance with the 2022 Escrow Agreement, Responsive Education Solutions provided the Town with the payment of these funds as escrow to be returned to Responsive Education Solutions upon the Town's acceptance of the improvements along Custer Road. TxDOT has since included the construction of the sidewalk along Custer Road adjacent to Founders Academy at no cost to Responsive Education Solutions, and Responsive Education Solutions will be paying the actual costs for the construction of the exit-only driveway onto Custer Road.

**Legal Obligations and Review:**

Terrence Welch of Brown & Hofmeister, L.L.P., has reviewed the agreement as to form and legality.

**Attached Documents:**

1. 2022 Escrow Agreement
2. Amended Escrow Agreement

**Town Staff Recommendation:**

Town staff recommends that the Town Council authorize the Town Manager to execute an Amended Escrow Agreement between Responsive Education Solutions, and the Town of Prosper, Texas, related to the construction of an exit-only driveway onto Custer Road to serve the Founders Classical Academy of Prosper.

**Proposed Motion:**

I move to authorize the Town Manager to execute an Amended Escrow Agreement between Responsive Education Solutions, and the Town of Prosper, Texas, related to the construction of an exit-only driveway onto Custer Road to serve the Founders Classical Academy of Prosper.