

**PROFESSIONAL ENGINEERING SERVICES AGREEMENT  
BETWEEN THE TOWN OF PROSPER, TEXAS, AND [KIMLEY-HORN  
AND ASSOCIATES, INC.] FOR THE[DOE BRANCH PARK PROJECT  
(PRJ#-PK 202513)**

This Agreement for Professional Engineering Services, hereinafter called "Agreement," is entered into by the **Town of Prosper, Texas**, a municipal corporation, duly authorized to act by the Town Council of said Town, hereinafter called "Town," and **Kimley-Horn and Associates, Inc.**, a company authorized to do business in Texas, acting through a duly authorized officer, hereinafter called "Consultant," relative to Consultant providing professional engineering services to Town. Town and Consultant when mentioned collectively shall be referred to as the "Parties."

**WITNESSETH:**

**WHEREAS**, Town desires to obtain professional engineering services in connection with the **[Doe Branch Park] Project (Prj#-PK 202513)**, hereinafter called "Project";

For the mutual promises and benefits herein described, Town and Consultant agree as follows:

1. **Term of Agreement.** This Agreement shall become effective on the date of its execution by both Parties, and shall continue in effect thereafter until terminated as provided herein.
2. **Services to be Performed by Consultant.** The Parties agree that Consultant shall perform such services as are set forth and described in **Exhibit A - Scope of Services** and incorporated herein as if written word for word. All services provided by Consultant hereunder shall be performed in accordance with the degree of care and skill ordinarily exercised under similar circumstances by competent members of their profession. In case of conflict in the language of Exhibit A and this Agreement, this Agreement shall govern and control. Deviations from the Scope of Services or other provisions of this Agreement may only be made by written agreement signed by all Parties to this Agreement.
3. **Prompt Performance by Consultant.** Consultant shall perform all duties and services and make all decisions called for hereunder promptly and without unreasonable delay as is necessary to cause Consultant's services hereunder to be timely and properly performed. Notwithstanding the foregoing, Consultant agrees to use diligent efforts to perform the services described herein and further defined in any specific task orders, in a manner consistent with these task orders; however, the Town understands and agrees that Consultant is retained to perform a professional service and such services must be bound, first and foremost, by the principles of sound professional judgment and reasonable diligence.
4. **Compensation of Consultant.** Town agrees to pay to Consultant for satisfactory completion of all services included in this Agreement a total fee of [one hundred thirty-four thousand, six hundred dollars] (\$[134,600]) for the Project as set forth and described in **Exhibit B - Compensation Schedule** and incorporated herein as if written word for word. Lump sum fees shall be billed monthly based on the percentage of completion. Hourly not to exceed fees shall be billed monthly based on hours of work that have been completed. Direct Costs for expenses such as mileage, copies, scans, sub- consultants, and similar costs are included in fees and shall be billed as completed.

Consultant agrees to submit statements to Town for professional services no more than once per month. These statements will be based upon Consultant's actual services performed and reimbursable expenses incurred, if any, and Town shall endeavor to make prompt payments. Each statement submitted by Consultant to Town shall be reasonably itemized to show the amount of work performed during that period. If Town fails to pay Consultant within sixty (60) calendar days of the receipt of Consultant's invoice, Consultant may, after giving ten (10) days written



notice to Town, suspend professional services until paid.

Nothing contained in this Agreement shall require Town to pay for any work that is unsatisfactory as reasonably determined by Town or which is not submitted in compliance with the terms of this Agreement.

The Scope of Services shall be strictly limited. Town shall not be required to pay any amount in excess of the original proposed amount unless Town shall have approved in writing in advance (prior to the performance of additional work) the payment of additional amounts.

5. **Town's Obligations.** Town agrees that it will (i) designate a specific person as Town's representative, (ii) provide Consultant with any previous studies, reports, data, budget constraints, special Town requirements, or other pertinent information known to Town, when necessitated by a project, (iii) when needed, assist Consultant in obtaining access to properties necessary for performance of Consultant's work for Town, (iv) make prompt payments in response to Consultant's statements and (v) respond in a timely fashion to requests from Consultant. Consultant is entitled to rely upon and use, without independent verification and without liability, all information and services provided by Town or Town's representatives.

6. **Ownership and Reuse of Documents.** Upon completion of Consultant's services and receipt of payment in full therefore, Consultant agrees to provide Town with copies of all materials and documents prepared or assembled by Consultant under this Agreement and that Town may use them without Consultant's permission for any purpose relating to the Project. Any reuse of the documents not relating to the Project shall be at Town's risk. Consultant may retain in its files copies of all reports, drawings, specifications and all other pertinent information for the work it performs for Town.

7. **Town Objection to Personnel.** If at any time after entering into this Agreement, Town has any reasonable objection to any of Engineer's personnel, or any personnel, professionals and/or consultants retained by Engineer, Engineer shall promptly propose substitutes to whom Town has no reasonable objection, and Engineer's compensation shall be equitably adjusted to reflect any difference in Engineer's costs occasioned by such substitution.

8. **Insurance.** Consultant shall, at its own expense, purchase, maintain and keep in force throughout the duration of this Agreement applicable insurance policies as described in **Exhibit C - Insurance Requirements** and incorporated herein as if written word for word. Consultant shall submit to Town proof of such insurance prior to commencing any work for Town.

9. **Indemnification.** **CONSULTANT DOES HEREBY COVENANT AND AGREE TO RELEASE, INDEMNIFY AND HOLD HARMLESS TOWN AND ITS OFFICIALS, OFFICERS, AGENTS, REPRESENTATIVES, EMPLOYEES AND INVITEES FROM AND AGAINST LIABILITY, CLAIMS, SUITS, DEMANDS AND/OR CAUSES OF ACTION, (INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEY'S FEES AND COSTS OF LITIGATION), WHICH MAY ARISE BY REASON OF DEATH OR INJURY TO PROPERTY OR PERSONS BUT ONLY TO THE EXTENT OCCASIONED BY THE NEGLIGENT ACT, ERROR OR OMISSION OF CONSULTANT, ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES, INVITEES OR OTHER PERSONS FOR WHOM CONSULTANT IS LEGALLY LIABLE WITH REGARD TO THE PERFORMANCE OF THIS AGREEMENT.**

**IN THE EVENT THAT TOWN AND CONSULTANT ARE CONCURRENTLY NEGLIGENT, THE PARTIES AGREE THAT ALL LIABILITY SHALL BE CALCULATED ON A COMPARATIVE BASIS OF FAULT AND RESPONSIBILITY AND THAT NEITHER PARTY SHALL BE REQUIRED TO DEFEND OR INDEMNIFY THE OTHER PARTY FOR THAT PARTY'S NEGLIGENT OR INTENTIONAL ACTS, ERRORS OR OMISSIONS.**



10. **Notices.** Any notices to be given hereunder by either Party to the other may be affected either by personal delivery, in writing, or by registered or certified mail to the following addresses:

[Kimley-Horn and Associates, Inc.]  
[Leah Campbell, Project Manager]  
[6160 Warren Ave, Suite 200]  
[Frisco, TX 75036]  
[leah.campbell@kimley-horn.com]

Town of Prosper  
Mario Canizares, Town  
Manager PO Box 307  
Prosper, TX 75078  
[mcanizares@prospertx.gov](mailto:mcanizares@prospertx.gov)

11. **Termination.** The obligation to provide further services under this Agreement may be terminated by either Party in writing upon thirty (30) calendar days notice. In the event of termination by Town, Consultant shall be entitled to payment for services rendered through receipt of the termination notice.

12. **Sole Parties and Entire Agreement.** This Agreement shall not create any rights or benefits to anyone except Town and Consultant, and contains the entire agreement between the Parties. Oral modifications to this Agreement shall have no force or effect.

13. **Assignment and Delegation.** Neither Town nor Consultant may assign its rights or delegate its duties without the written consent of the other Party. This Agreement is binding on Town and Consultant to the extent permitted by law. Nothing herein is to be construed as creating any personal liability on the part of any Town officer, employee or agent.

14. **Texas Law to Apply; Successors; Construction.** This Agreement shall be construed under and in accordance with the laws of the State of Texas. It shall be binding upon, and inure to the benefit of, the Parties hereto and their representatives, successors and assigns. Should any provisions in this Agreement later be held invalid, illegal or unenforceable, they shall be deemed void, and this Agreement shall be construed as if such provision had never been contained herein.

15. **Conflict of Interest.** Consultant agrees that it is aware of the prohibited interest requirement of the Town Charter, which is repeated in **Exhibit D - Conflict of Interest Affidavit** and incorporated herein as if written word for word, and will abide by the same. Further, a lawful representative of Consultant shall execute the Affidavit included in the exhibit. Consultant understands and agrees that the existence of a prohibited interest during the term of this Agreement will render the Agreement voidable.

Consultant agrees that it is further aware of the vendor disclosure requirements set forth in Chapter 176, Local Government Code, as amended, and will abide by the same. In this connection, a lawful representative of Consultant shall execute the Conflict of Interest Questionnaire, Form CIQ, attached hereto as **Exhibit E - Conflict of Interest Questionnaire** and incorporated herein as if written word for word.

16. **Venue.** The Parties herein agree that this Agreement shall be enforceable in Prosper, Texas, and if legal action is necessary to enforce it, exclusive venue shall lie in Collin County, Texas.

17. **Mediation.** In the event of any disagreement or conflict concerning the interpretation of this Agreement, and such disagreement cannot be resolved by the signatories hereto, the signatories agree to submit such disagreement to non-binding mediation.

18. **Prevailing Party.** In the event a Party initiates or defends any legal action or proceeding to enforce or interpret any of the terms of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover its reasonable costs and attorney's fees (including its reasonable costs and attorney's fees on any appeal).

19. **"Anti-Israel Boycott" Provision.** In accordance with Chapter 2270, Texas Government Code, a Texas governmental entity may not enter into a contract with a company for the provision of goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. Chapter 2270 does not apply to a (1) a company that is a sole proprietorship; (2) a company that has fewer than ten (10) full-time employees; or (3) a contract that has a value of less than One Hundred Thousand Dollars (\$100,000.00). Unless the company is not subject to Chapter 2270 for the reasons stated herein, the signatory executing this Agreement on behalf of the company verifies by its signature to this Agreement that the company does not boycott Israel and will not boycott Israel during the term of this Agreement.

20. **IRAN, SUDAN AND FOREIGN TERRORIST ORGANIZATIONS.** If § 2252.153 of the Texas Government Code is applicable to this Contract, by signing below Contractor does hereby represent, verify and warrant that (i) it does not engage in business with Iran, Sudan or any foreign terrorist organization and (ii) it is not listed by the Texas Comptroller under § 2252.153, Texas Government Code, as a company known to have contracts with or provide supplies or services to a "foreign terrorist organization" as defined in § 2252.151 of the Texas Government Code.

21. **PROHIBITION ON CONTRACTS WITH CERTAIN COMPANIES PROVISION.** In accordance with Section 2252.152 of the Texas Government Code, the Parties covenant and agree that Contractor is not on a list maintained by the State Comptroller's Office prepared and maintained pursuant to Section 2252.153 of the Texas Government Code.

22. **Signatories.** Town warrants and represents that the individual executing this Agreement on behalf of Town has full authority to execute this Agreement and bind Town to the same. Consultant warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind Consultant to same.

**IN WITNESS WHEREOF**, the Parties, having read and understood this Agreement, have executed such in duplicate copies, each of which shall have full dignity and force as an original, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**[KIMLEY-HORN AND ASSOCIATES, INC.]**

**TOWN OF PROSPER, TEXAS**

By:



Signature

Bradley J. Hill

Printed Name

Regional Contract Lead

Title

January 6, 2025

Date

By:

Signature

Mario Canizares

Printed Name

Town Manager

Title

Date



## EXHIBIT A SCOPE OF SERVICES

### PROFESSIONAL ENGINEERING SERVICES AGREEMENT BETWEEN THE TOWN OF PROSPER, TEXAS, AND [KIMLEY-HORN AND ASSOCIATES, INC.] FOR THE [DOE BRANCH PARK] PROJECT (PRJ#-PK 202513)

#### **I. PROJECT DESCRIPTION**

[The approximately 170-acre site is located along Doe Branch Creek, North of University Drive and adjacent to Fishtrap Road along the West side of Windsong Ranch Development. There is an option for the Town to acquire and addition 120 acres of floodplain to add to the potential park area. The Client has requested landscape architecture services for the master planning of the subject property.]

#### **II. TASK SUMMARY**

##### **Task 1 - [Data Collection and Proposed Master Plan].**

**1.1, Project Kickoff and coordination.** In addition to the specific services detailed in this Scope of Services, Consultant will manage and monitor the project schedule and deliverables. Consultant will provide timely invoicing and reporting of project progress to the Town's Parks and Recreation Department.

A project kick-off initiation call between Town staff Consultant shall be conducted before commencement of Task 1.2. The call will occur within two (2) weeks of the Notice to Proceed (NTP). The preliminary agenda for the kickoff will consist of:

- Scope of Services and responsibilities
- Project objectives
- Information needs
- Schedule milestones
- Review of recommended comparisons

Note: Consultant will be responsible for meeting logistics such as online hosting (MS Teams or Zoom) and will document calls with meeting notes. Notes will be submitted to the Town for review.

**1.2, Physical Site Inventory and Base Map Preparation.** Consultant will prepare a base map illustrating the available published data reviewed during the data collection phase. The base map will consist of the following items:

- Base map with aerial; the study area will extend full extents of park property

- Easements, as shown in existing surveys and record drawings, if available
- Flood Hazard Areas (FEMA) as published on current FIRMette Maps, if available
- Soils (USDA) as noted on current USDA Soils Maps
- Vegetation including documented wetlands and water bodies, as documented in existing surveys and record drawings
- Utilities (from Town's GIS data)
- Connectivity and Circulation from existing plans (selected in conjunction with the Town of Prosper)
- Programmatic Functional Diagram

One (1) site visit will be performed to review base map, inventory elements, site and adjacent property zoning and land uses, transportation (roadway and greenway) connectivity, and park vicinity map. Consultant will rely on all material provided by the Town to be accurate and complete. Additional work due to incomplete or inaccurate information provided by the Town may be revised or corrected for additional services upon authorization by the Town.

**1.3, Research History of Park Location.** Consultant will research Doe Branch Park by reviewing existing maps, plans, exhibits, and any information pertaining to the improvement and addition to the park. The purpose of this task is to help inform the decision-making process by comparing other facilities of similar size and scope for information for the site and program needs. Consultant will prepare a summary of the findings for use in the next tasks.

**1.4, Research of Comparable Facilities.** Consultant will spend a maximum of twenty (20) hours conducting research on comparable parks and facilities in coordination with the Town. The Town will provide any facilities to Consultant that they wish to be included along with the ones identified by Consultant. Consultant will prepare a summary of research findings with images, diagrams, and lessons learned to be included in the draft Program Plan document as part of Task 1.6.

**1.5, Opportunities and Constraints Diagram.** Based upon the site investigation results, the Consultant will synthesize key findings and prepare a diagram and summary of opportunities and constraints for the proposed development site. The diagram will identify vehicular and pedestrian ingress and egress for the site, floodplains and floodways impacts or restrictions, potential utility connections, potential program limitations, steep slopes, identifiable wetlands, buffer, screening or setback requirements, vegetation types and recommendations for preservation, connections to existing park, and building programming.

Consultant will submit the draft Opportunities and Constraints Diagram to the Town for review prior to commencing public engagement. City staff will provide one (1) consolidated set of comments to



Consultant which will be incorporated into a final set of notes and diagram.

**1.6, Proposed Programmatic Plan.** Consultant will prepare a programmatic Plan that will identify relationships between program needs, demands, site constraints, and building needs. The plan will consist of a 'bubble' diagram that identifies form and function of the program, circulation, and sustainable park design including existing and proposed pedestrian and vehicular access points; existing and proposed pedestrian and vehicular circulation; existing and proposed trails; existing and proposed parking; existing and proposed amenity; and existing vegetation. Information will be provided to the Town staff for a review period and staff will provide a consolidated set of comments for revisions needed for the diagram. Consultant will provide one (1) round of revisions to the diagram(s) based upon written comments and authorization from the Town.

**1.7, Conceptual Master Plan Development.** As a derivative of the planning process to-date, Consultant will prepare one (1) conceptual plan package, highlighting a development based upon site analysis, public input, stakeholder input, and program definition. The package will consist of the following items:

- An illustrative concept plan
- Up to three (3) plan enlargements
- Up to three (3) perspectives renderings
- Up to three (3) cross-sections renderings
- Preliminary phasing diagram
- Summary of benefits and constraints of concept

Consultant will submit the package to the Town for review. Town staff will provide one (1) consolidated set of comments for review by Consultant prior to Task 2.

**1.8, Review Session.** Consultant will facilitate a meeting with the Town to review the conceptual plan package. Based upon input from the Town staff documented during the Review Session, Consultant will update materials into one (1) single, preferred plan which will be used to develop a final Master Plan.

Consultant will submit a draft Master Plan and PowerPoint presentation incorporating staff input to the Town one (1) time for review. The Town will provide consolidated written comments to Consultant. Consultant will revise materials one (1) time to incorporate comments and provide the Town with final updated materials.

## **Task 2 - [Final Master Plan].**

**2.1, Parks Advisory Meetings.** Consultant will attend one (1) in-person meeting during the course of the project to the Parks Advisory Board. The meeting will follow Task 1.6 prior to the public input presentation to review the site inventory findings, key findings and comparable research, opportunities and constraints diagram, and the proposed master plan for development

**2.2, Public Input/On-line Presentation.** Consultant will prepare a PowerPoint presentation that shows the above information along with options for different amenities. The PowerPoint presentation will be sent out by the Town with a survey to receive input from the public. The Consultant will work with the Town to review the responses in task 2.3.

**2.3, Review Session.** Consultant will meet with Town staff one (1) time to review feedback from the stakeholder engagement meetings and surveys. This meeting will determine if any changes should be made to the master plan. The Consultant will submit an updated draft Master Plan and PowerPoint presentation incorporating staff input to the Town. The Consultant will address one (1) round of consolidated written comments from the Town and provide a final package to the Town.

**2.4, Final Master Plan Materials.** Consultant will provide digital PDFs and original graphic files of the Master Plan and Implementation Plan. An updated presentation and display materials (if needed) will be provided to the Town for review and comments one (1) time.

**2.5, Cost Estimate and Phasing Diagram.** Consultant will develop a final cost estimate and recommend a final phasing diagram for the final master plan. Work will consist of a phasing diagram and MS Excel spreadsheet cost estimate. The Cost Estimate and Phasing Diagram will be submitted one (1) time for Town staff review and comment. Consultant will incorporate Town comments into a final Cost Estimate and Phase Diagram for inclusion in the Master Plan document.

Because the Consultant does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to opinions as to the costs of construction and materials, shall be made on the basis of its experience and represent its judgment as an experienced and qualified professional, familiar with the industry. The Consultant cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost.

**2.6, Implementation Plan.** Consultant will prepare an Implementation Plan for development of the final



document. The Implementation Plan will consist of

- Cost estimate
- Recommended construction phasing aligned with project funding goals
- Potential design fees
- A preliminary phasing schedule and diagram

Consultant will submit the Implementation Plan to the Town staff for one (1) review. The Town will provide Consultant with (1) set of consolidated comments for incorporation. Consultant will complete revisions to the Implementation Plan once.

**2.7, Final Master Plan.** Consultant will prepare a final Master Plan consisting of the following elements:

- Acknowledgements
- Project Process and Purpose
- Site Location
- Site Information
- Site History
- Adopted Master Plan
- Circulation Plan
- Opportunities and Challenges
- Comparable Projects
- Lessons Learned
- Public Input Survey Summaries
- Stakeholder Meeting Summaries
- Master Plan
- Phased Plan and Budget Level Cost Estimate
- Master Plan Approval

Final Master Plan material will reflect revisions or edits authorized by the Town in order to incorporate findings and recommendations from the project progress.

Updated presentation and display materials (if needed) will be provided to the Town one (1) time for review and comment prior to presentation to stakeholders and the public. A final PowerPoint presentation will be provided to the Town for project records.

### **Task 3 - [Additional Meetings/Coordination During Design].**

Consultant can be available to attend design team meetings, City meetings, and/or conference calls and any other project related meetings not listed in previous task items. This task includes up to twenty

(20) hours of Consultant meeting effort. Should additional meetings or coordination be required, this effort will be billed on an hourly basis in addition to the amount provided above.

**DELIVERABLES**

Task 1 - [Data Collection and Proposed Master Plan]	<ul style="list-style-type: none"><li>· One (1) digital PDF set kick-off meeting notes (Task 1.1)</li><li>· One (1) digital PDF Base Map (Task 1.2)</li><li>· One (1) digital PDF Summary of comparable facilities (Task 1.3, Task 1.4)</li><li>· One (1) digital PDF Opportunities and Constraints Diagram (Task 1.5)</li><li>· One (1) digital PDF Programmatic Plan (Task 1.6)</li><li>· One (1) digital PDF set of Conceptual Plan Packages (Task 1.7)</li><li>· One (1) digital PDF set of Review Session notes (Task 1.8)]</li></ul>
Task 2 - [Final Master Plan]	<ul style="list-style-type: none"><li>[One (1) digital PDF set of meeting notes for each meeting (Task 2.1)</li><li>· One (1) digital copy of PowerPoint and PDF (Task 2.2)</li><li>· One (1) digital copy of updated PowerPoint and PDF display materials (Task 2.3)</li><li>· One (1) digital PDF Final Conceptual Plan (Task 2.4)</li><li>· One (1) digital PDF of Cost Estimate and Phasing Diagram (Task 2.5)</li><li>· One (1) digital PDF Final Implementation Plan (Task 2.6)</li><li>One (1) digital PDF and final Master Plan Presentation Material (Task 2.7)]</li></ul>
Task 3 - [Additional Meetings/Coordination]	[Meetings as requested]



**EXHIBIT B  
COMPENSATION SCHEDULE**

**PROFESSIONAL ENGINEERING SERVICES AGREEMENT  
BETWEEN THE TOWN OF PROSPER, TEXAS, AND [KIMLEY-HORN  
AND ASSOCIATES, INC.] FOR THE [DOE BRANCH PARK]  
PROJECT ([PRJ#-PK 202513])**

**I. COMPENSATION SCHEDULE**

Task	Completion Schedule	Compensation Schedule
Notice-to-Proceed	Month Year	
Task 1 - [Data Collection and Proposed Master Plan]	March/April 2025	\$62,600
Task 2 - [Final Master Plan]	June/July 2025	\$67,000
Task 3 - [Additional Meetings/Coordination]	July 2025	\$5,000
<b>Total Compensation</b>		<b>\$134,600</b>

**II. COMPENSATION SUMMARY**

Basic Services (Lump Sum)	Amount
Task 1 - [Data Collection and Proposed Master Plan]	\$62,600
Task 2 - [Final Master Plan]	\$67,000
Task 3 - [Task Title]	\$0,000
Task 4 - [Task Title]	\$0,000
Task 5 - [Task Title]	\$0,000
Task 6 - Record Drawings	\$0,000
<b>Total Basic Services:</b>	<b>\$129,600</b>

Special Services (Hourly Not-to-Exceed)	Amount
Additional Meetings/Coordination	\$5,000
<b>Total Special Services:</b>	<b>\$5,000</b>

Direct Expenses	Amount
None	As Requested
<b>Total Direct Expenses:</b>	<b>As Requested</b>

## **EXHIBIT C**

### **INSURANCE REQUIREMENTS**

Service provider shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the vendor, his agents, representatives, employees or subcontractors. The cost of such insurance shall be borne by the service provider. A certificate of insurance meeting all requirements and provisions outlined herein shall be provided to the Town prior to any services being performed or rendered. Renewal certificates shall also be supplied upon expiration.

#### **A. MINIMUM SCOPE OF INSURANCE**

Coverage shall be at least as broad as:

1. ISO Form Number GL 00 01 (or similar form) covering Commercial General Liability. "Occurrence" form only, "claims made" forms are unacceptable, except for professional liability.
2. Workers Compensation insurance as required by the Labor Code of the State of Texas, including Employers' Liability Insurance.
3. Automobile Liability as required by the State of Texas, covering all owned, hired, or non-owned vehicles. Automobile Liability is only required if vehicle(s) will be used under this contract.
4. Professional Liability, also known as Errors and Omissions coverage.

#### **B. MINIMUM LIMITS OF INSURANCE**

Service Provider shall maintain throughout contract limits not less than:

1. Commercial General Liability: \$500,000 per occurrence /\$1,000,000 in the aggregate for third party bodily injury, personal injury and property damage. Policy will include coverage for:
  - a. Premises / Operations
  - b. Broad Form Contractual Liability
  - c. Products and Completed Operations
  - d. Personal Injury
  - e. Broad Form Property Damage
2. Workers Compensation and Employer's Liability: Workers Compensation limits as required by the Labor Code of the State of Texas and Statutory Employer's Liability minimum limits of \$100,000 each accident, \$300,000 Disease- Policy Limit, and \$100,000 Disease- Each Employee.
3. Automobile Liability: \$500,000 Combined Single Limit. Limits can only be reduced if approved by the Town. Automobile liability shall apply to all owned, hired, and non-owned autos.
4. Professional Liability aka Errors and Omissions: \$500,000 per occurrence and in the aggregate.

#### **C. DEDUCTIBLES AND SELF-INSURED RETENTIONS**

Any deductible or self-insured retentions in excess of \$10,000 must be declared to and approved by the Town.



**D. OTHER INSURANCE PROVISIONS**

The policies are to contain, or be endorsed to contain the following provisions:

1. General Liability and Automobile Liability Coverages

- a. The Town, its officers, officials, employees, boards and commissions and volunteers are to be added as "Additional Insured's" relative to liability arising out of activities performed by or on behalf of the provider, products and completed operations of the provider, premises owned, occupied or used by the provider. The coverage shall contain no special limitations on the scope of protection afforded to the Town, its officers, officials, employees or volunteers.
- b. The provider's insurance coverage shall be primary insurance in respects to the Town, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Town, its officers, officials, employees or volunteers shall be in excess of the provider's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the Town, its officers, officials, employees, boards and commissions or volunteers.
- d. The provider's insurance shall apply separately to each insured against whom the claim is made or suit is brought, except to the insured's limits of liability.

2. Workers Compensation and Employer's Liability Coverage:

The insurer shall agree to waive all rights of subrogation against the Town, its officers, officials, employees and volunteers for losses arising from work performed by the provider for the Town.

3. All Coverages:

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled or non-renewed by either party, reduced in coverage or in limits except after 30 days written notice to the Town for all occurrences, except 10 days written notice to the Town for non-payment.

4. Professional Liability and / or Errors and Omissions:

"Claims made" policy is acceptable coverage, which must be maintained during the course of the project, and up to two (2) years after completion and acceptance of the project by the Town.

**E. ACCEPTABILITY OF INSURERS**

The Town prefers that Insurance be placed with insurers with an A.M. Best's rating of no less than **A- VI**, or better.

**F. VERIFICATION OF COVERAGE**

Service Provider shall provide the Town with certificates of insurance indicating the coverages required. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf. Certificates of insurance similar to the ACORD Form are acceptable. Town will not accept Memorandums of Insurance or Binders as proof of insurance. The Town reserves the right to require complete, certified copies of all required insurance policies at any time.

Certificate holder to be listed as follows:

Town of Prosper  
P.O. Box 307  
Prosper, TX 75078

**EXHIBIT D  
CONFLICT OF INTEREST AFFIDAVIT**

**PROFESSIONAL ENGINEERING SERVICES AGREEMENT  
BETWEEN THE TOWN OF PROSPER, TEXAS, AND [KIMLEY-HORN  
AND ASSOCIATES, INC.] FOR THE [DOE BRANCH PARK]  
PROJECT ([PRJ#-PK 202513])**

THE STATE OF TEXAS                   §  
   §  
COUNTY OF TARRANT           §

I, Bradley J. Hill, a member of the Consultant team, make this affidavit and hereby on oath state the following:

I, and/or a person or persons related to me, have the following interest in a business entity that would be affected by the work or decision on the Project (Check all that apply):

- \_\_\_\_\_ Ownership of 10% or more of the voting shares of the business entity.
- \_\_\_\_\_ Ownership of \$25,000.00 or more of the fair market value of the business entity.
- \_\_\_\_\_ Funds received from the business entity exceed 10% of my income for the previous year.
- \_\_\_\_\_ Real property is involved, and I have an equitable or legal ownership with a fair market value of at least \$25,000.00.
- \_\_\_\_\_ A relative of mine has substantial interest in the business entity or property that would be affected by my decision of the public body of which I am a member.
- \_\_\_\_\_ Other: \_\_\_\_\_.
- X \_\_\_\_\_ None of the Above.

Upon filing this affidavit with the Town of Prosper, Texas, I further affirm that no relative of mine, in the first degree by consanguinity or affinity, as defined in Chapter 573 of the Texas Government Code, is a member of the public body which took action on the agreement.

Signed this 6th day of January, 2025.

Bradley J. Hill Regional Contract Lead  
Signature of Official / Title

BEFORE ME, the undersigned authority, this day personally appeared Bradley J. Hill and on oath stated that the facts hereinabove stated are true to the best of his / her knowledge or belief.

Sworn to and subscribed before me on this 6 day of January, 2025.



ER  
Notary Public in and for the State of Texas

My Commission expires: 02-03-2026



See Next Page

Revised 11/30/2015

# CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

## OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

Kimley-Horn and Associates, Inc.

2 ☐ Check this box if you are filing an update to a previously filed questionnaire. (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

N/A

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

N/A

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes

☒ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes

☒ No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

N/A

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7 

Signature of vendor doing business with the governmental entity

12/18/2024

Date



## **CONFLICT OF INTEREST QUESTIONNAIRE**

### **For vendor doing business with local governmental entity**

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

**Local Government Code § 176.001(1-a):** "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

**Local Government Code § 176.003(a)(2)(A) and (B):**

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

\*\*\*

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed;

or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

**Local Government Code § 176.006(a) and (a-1)**

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.