

**PROFESSIONAL ENGINEERING SERVICES AGREEMENT
BETWEEN THE TOWN OF PROSPER, TEXAS, AND KIMLEY-HORN AND ASSOCIATES, INC.
FOR THE ADA TRANSITION PLAN PROJECT (2215-ST)**

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 **ADA Transition Plan Project (2215-ST)**, 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 and Fifty Thousand Dollars (\$150,000) 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.
Matt Pool, Associate
801 Cherry St., Suite 1300, Unit 11
Fort Worth, TX
matt.pool@kimley-horn.com

Town of Prosper
Ron K. Patterson, Interim Town Manager
PO Box 307
Prosper, TX 75078
rpatterson@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. **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

By: _____
Signature

Scott Arnold
Printed Name

Vice President
Title

August 25, 2022
Date

Ron K. Patterson
Printed Name

Interim 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 ADA TRANSITION PLAN PROJECT (2215-ST)**

I. PROJECT DESCRIPTION

Kimley-Horn and Associates, Inc. ("Consultant") will provide professional services based on our project understanding as follows:

- The Town of Prosper, TX ("Town") wants to develop their Americans with Disabilities Act (ADA) Self-Evaluation and Transition Plan in multiple phases.
- This assignment will constitute the ADA Self-Evaluation and Transition Plan and will consist of the development of the Transition Plan framework, documentation of the Town's efforts to-date related to Title II compliance, inventory of Town programs, services, activities, and facilities to be evaluated in future phases, and development of a budget and schedule to complete the Town's Self-Evaluation. This assignment will also consist of an ADA compliance review of Town design standards, buildings and associated parking lots/paths of travel, parks and associated parking lots/paths of travel, park sidewalk and associated curb ramps, pedestrian bridges, signalized intersections, public rights-of-way sidewalks and associated curb ramps and railroad crossings. Possible solutions to bring any non-compliant elements that are not considered to be a de minimis barrier and are not "safe harbored" into compliance will be provided. An ADA Transition Plan document will be developed and consist of formal documentation of tasks and associated findings outlined in this Scope of Services.
- No evaluations of the Town's programs, services, or activities will be completed as part of this phase. The deliverable for this assignment will outline the remaining tasks to complete the Town's Self-Evaluation and Transition Plan.
- Future phases of this project could include, but are not limited to:
 - Additional physical evaluations of buildings, parks, public rights-of-way curb ramps, sidewalks and pedestrian crossings through cross streets and driveways, pedestrian equipment at signalized intersections, unpaved pedestrian trails, and pedestrian bridges including determination of compliance status, possible solutions, cost estimates to implement possible solutions, and prioritization of evaluated facilities for implementation;
 - Evaluations of programs, services, activities, employment practices, ordinances, emergency management plan, website, and design standards;
 - Update of Transition Plan to document additional work.

II. TASK SUMMARY

Task 1 – Project Management

- 1.1 The Consultant will maintain project records, budgets, and communications for the duration of the project. It is understood the project will have a 9-month duration.
- 1.2 The Consultant will prepare monthly progress reports for the duration of the project.

Task 2 – Project Kick-off Meeting

- 2.1 The Consultant will meet virtually with Town staff representing major program areas and orient them to the process that will be used to develop the Town's ADA Transition Plan and introduce the proposed project tasks and schedule. The Consultant will coordinate with Town staff to identify and obtain all necessary documents and materials to support the Self-Evaluation process. This will consist of a list of all Town sponsored programs and Town leased and owned facilities to be included in the project. The Consultant will produce meeting materials and handouts, conduct staff orientation, and prepare a summary of action items resulting from the meeting (2-hour meeting).

Task 3 – Self-Evaluation

- 3.1 ADA Liaison Committee. The Consultant will assist the Town in establishing an ADA Liaison Committee that will meet throughout the process of completing the Self-Evaluation and developing the Transition Plan and will continue to meet and actively participate after the completion of this project. The Consultant will work with the ADA Liaison Committee throughout the duration of the project to receive feedback and incorporate information from the ADA Liaison Committee into the project. Progress meetings between the Consultant and the ADA Liaison Committee are listed in **Task 6.1**.
- 3.2 Design Standards Review. The Consultant will review the current Town design standards and construction specifications with pedestrian elements for compliance with the ADA.
- 3.3 Summarize On-Going ADA/Accessibility Program. The Consultant will gather from the Town information related to the Town's on-going ADA/accessibility program. The Consultant will document Town efforts to-date regarding ADA compliance for pedestrian facilities within the Town's public rights-of-way and public facilities. These efforts may consist of, but are not limited to:
 - Sidewalk/curb ramp maintenance and repair projects;
 - Installation of accessible pedestrian signals (APS);
 - Capital Improvement Program projects with ADA and pedestrian facility improvements; and
 - Responses to citizen ADA/access concerns/complaints.
- 3.4 Programs, Services, and Activities Inventory. The Consultant will coordinate with the Town to gather information related to the Town's programs, services, and activities, including information available on the Town's website for Town boards, commissions, and departments. The Consultant will compile a list of core service areas, divisions, sections, and documents that need to be evaluated for compliance

under the ADA. Items to be identified for evaluation in future phases may consist of, but are not limited to:

- Programs, services, and activities;
- Policies, procedures, and guidance;
- Lease agreements;
- Contracts;
- Department-specific handbooks;
- Standard operating procedures;
- Meeting agendas;
- Meeting minutes;
- Online forms;
- Applications;
- PDF forms;
- Checklists;
- Videos;
- Employment practices;
- Design standards;
- Ordinances; and
- Emergency management documents.

3.5 Facilities Inventory.

3.5.1 Facilities Identification. The Consultant will coordinate with the Town to identify Town-maintained facilities to be evaluated for compliance under the ADA. The Consultant will document Town efforts to-date regarding ADA compliance for the following Town facilities:

- Signalized intersections
- Sidewalk corridors
- Unsignalized intersections and driveways along sidewalk corridors
- Railroad crossings along sidewalk corridors
- Buildings and associated parking lots and on-site sidewalk
- Parks and associated parking lots and on-site sidewalk
- Park unpaved trails
- Park pedestrian bridges

3.5.2 Facility Shapefiles Creation. The Consultant will either create Geographic Information System (GIS) shapefiles or update the Town's existing GIS shapefiles for the following facilities identified in **Task 3.5.1**:

- Signalized intersections
- Sidewalk corridors
- Unsignalized intersections and driveways along sidewalk corridors
- Railroad crossings along sidewalk corridors
- Buildings and associated parking lots and on-site sidewalk
- Parks and associated parking lots and on-site sidewalk
- Park unpaved trails
- Park pedestrian bridges

No attributes will be included for the shapefile creation of sidewalk corridors or associated unsignalized intersections or driveways. The shapefile creation for sidewalk corridors and associated unsignalized intersections and driveways in **Task 3.5.2** consists of 60 hours of effort. Effort above 60 will be

considered Additional Services.

3.6 Facilities Review. The Consultant will establish field teams which will conduct evaluations based on forms developed by the Consultant. The evaluation forms for facilities listed in **Tasks 3.6.1.1 – 3.6.1.4** will be based on the 2010 ADA Standards for Accessible Design and applicable access-related state and local standards. The evaluation forms for facilities listed in **Tasks 3.6.1.5 – 3.6.1.7** will be based on the 2011 Proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way (PROWAG) and applicable access-related state and local standards. All field data will be compatible with the Town's existing Geographic Information System (GIS).

3.6.1 Facilities Listing

3.6.1.1 Buildings and Parking Lots – The Consultant will evaluate up to three (3) Town buildings.

Building evaluations are limited to all common-use spaces, including common-use spaces located in employee-only areas. Areas used only by employees as work areas will not be evaluated.

3.6.1.2 Building Sidewalks – On-site building sidewalk (excludes perimeter sidewalk within the public right-of-way) and all associated curb ramps, ramps, stairs, and other paths of travel required to be ADA compliant will be evaluated.

3.6.1.3 Parks and Parking Lots – The Consultant will evaluate up to three (3) Town parks.

3.6.1.4 Park Sidewalks – Up to three (3) linear miles of park sidewalk will be evaluated. All curb ramps, ramps, stairs, and other paths of travel required to be ADA compliant along this sidewalk will be evaluated.

3.6.1.5 Signalized Intersections – Up to 17 signalized intersections will be evaluated. The Consultant estimates this task will consist of the evaluation of up to 140 curb ramps. Evaluation of additional curb ramps will be considered Additional Services

3.6.1.6 Sidewalk Corridors – Up to ten (10) linear miles of sidewalks will be evaluated.

3.6.1.7 Unsignalized Intersections and Driveways – Unsignalized intersections and driveways along the sidewalk in **Task 3.6.1.6** will be evaluated. The Consultant estimates this task will consist of the evaluation of up to 70 intersections and up to 210 curb ramps. Evaluation of additional curb ramps will be considered Additional Services.

Facility Reports. The Consultant will create a separate report for each facility type. Each facility report will identify compliance status of each facility and consist of the following:

- Listing of facilities that are in compliance with ADA requirements.
- Listing of facilities that are not in compliance with ADA requirements.
- Possible solutions to resolve non-compliance issues for each facility.
- Prioritized list of improvements using criteria developed by the Consultant.

- "Cost report" that assigns conceptual budget estimates to each possible solution. 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. If the Town wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Consultant's services required to bring costs within any limitation established by the Town will be paid for as Additional Services.
- Pay item descriptions, units, and unit prices will be based on current Town and TxDOT pay item unit prices and the Means ADA Compliance Pricing Guide. Changes to the pay item units after project commencement will be considered Additional Services.
- Photolog summary for each facility (photos for sidewalks can be hyperlinked in GIS but will not be provided on each facility report).
- Catalog of all field data compatible with the Town's existing GIS databases.
- The compliance status and possible solutions for building and park facilities will be based on the 2010 ADA Standards for Accessible Design and applicable access-related state and local standards. The compliance status and possible solutions for public right-of-way pedestrian facilities will be based on the 2011 Proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way (PROWAG) and applicable access-related state and local standards

Task 4 – Transition Plan Development

The Consultant will coordinate with Town staff in developing the Transition Plan as follows:

- 4.1 ADA/504 Coordinator. The Consultant will work with the Town to define the role and responsibilities of the ADA/504 Coordinator.
- 4.2 Grievance Policy and Procedure. The Consultant will assist the Town to develop an ADA grievance policy, procedure, and complaint form for Title II.
- 4.3 ADA Notice. The Consultant will assist the Town to develop an ADA Notice.
- 4.4 Evaluation and Prioritization Criteria. The Consultant will identify the standards from which facility evaluation criteria should be developed and recommend criteria to prioritize accessibility improvements identified in future phases.
- 4.5 Exceptions and Exemptions. The Consultant will evaluate and provide possible solutions for exceptions or exemptions that may apply under the terms of the ADA. This may consist of exemptions related to structures of historic significance, alterations affecting the fundamental nature of a program, service, or activity under financial and administrative burden, or structural changes.
- 4.6 Budget. The Consultant will assist the Town to develop the following budgets:
 - A multi-year budget needed to complete the Self-Evaluation of facilities identified in **Task 3.5**.

- A multi-year budget needed for accessibility improvements identified in **Task 3.6**.
- Possible funding sources to achieve compliance will be provided. It will be the Town's responsibility to confirm the Town's eligibility for each funding source.

The Consultant will develop an ESRI dashboard for viewing project data, including cost and priority.

4.7 Draft Transition Plan. Based on the Self-Evaluation, the Consultant will prepare a draft Transition Plan for the Town. The plan will consist of:

- Executive summary which will describe the project purpose, process, and most significant findings;
- Documentation of Town efforts to-date related to ADA compliance;
- Identification of the Town's ADA Coordinator;
- Documentation of the Town's ADA Public Notice of Non-discrimination and Grievance Policy / Procedure;
- Summary of Town programs, services, activities, and facilities to be evaluated in future phases;
- A budget and schedule for future phases;
- Summary and detailed findings of Self-Evaluation; and
- A phased schedule with cost estimates for the removal of facility barriers that cannot be resolved through relocation of services, the provision of auxiliary aids, or equivalent facilitation.

The Consultant will provide electronic copies of the Draft Transition Plan in Microsoft Word and Adobe PDF formats to the Town.

4.8 Final Transition Plan. The Consultant will address one (1) round of comments from Town staff to prepare a Final ADA Self-Evaluation and Transition Plan for the Town. The Consultant will provide the following deliverables to the Town:

- Electronic copies of the Final Transition Plan in Microsoft Word and Adobe PDF formats; and
- Electronic copies of the Appendices. Printed copies of the Appendices will be considered Additional Services.

Task 5 – Public Outreach

5.1 Online Public Outreach Program. The Consultant will facilitate an online public outreach program to potentially introduce the project, prioritize facilities to be evaluated in future phases, and/or gather input regarding accessibility concerns/issues throughout the Town. The Consultant will produce the materials listed below and prepare a summary of action items resulting from the public outreach.

- GIS/web-based map showing Town buildings, parks, and signalized intersections
- Public access survey in SurveyMonkey

Task 6 – Meetings

- 6.1 Progress Meetings. The Consultant will prepare for and attend up to two (2) virtual progress meetings with Town staff and the newly created ADA Liaison Committee. The Consultant will produce meeting materials and handouts and prepare a summary of action items resulting from the meetings (2-hour meetings).
- 6.2 Conference Calls. The Consultant will participate in up to two (2) conference calls with the Town to discuss the project (1-hour calls).

Services Not Included

Any other services, including but not limited to the following, are not included in this Agreement:

- Evaluation and reporting of facilities not listed in **Task 3.6**;
- Evaluation of areas used only by employees as work areas; and
- Providing printed copies of Appendices.

Additional Services

Any services not specifically provided for in the above scope will be billed as additional services and performed at our then current hourly rates.

Schedule: The Consultant will provide its services as expeditiously as practicable and work with the Town to develop a mutually agreeable schedule.

Deliverables: The Consultant will deliver the following materials to the Town:

- Electronic copies of the Draft Transition Plan in Microsoft Word and Adobe PDF formats;
- Electronic copies of the Final Transition Plan in Microsoft Word and Adobe PDF formats;
- Electronic copies of the Transition Plan Appendices in Adobe PDF format. Printed copies of the Appendices will be considered Additional Services.
- Field work data in GIS format, compatible with the Town's GIS system.
- An ESRI dashboard for viewing project data, including cost and priority.

**EXHIBIT B
COMPENSATION SCHEDULE**

**PROFESSIONAL ENGINEERING SERVICES AGREEMENT
BETWEEN THE TOWN OF PROSPER, TEXAS, AND KIMLEY-HORN AND ASSOCIATES,
INC. FOR THE ADA TRANSITION PLAN PROJECT (2215-ST)**

I. COMPENSATION SCHEDULE

Task	Completion Schedule	Compensation Schedule
Notice-to-Proceed	September 2022	
Task 1 – Project Management	June 2023	\$15,000
Task 2 – Project Kick-off Meeting	October 2022	\$2,800
Task 3 – Self-Evaluation	May 2023	\$88,700
Task 4 – Transition Plan Development	June 2023	\$29,800
Task 5 – Public Outreach	June 2023	\$4,300
Task 6 - Meetings	June 2023	\$9,400
Total Compensation		\$150,000

II. COMPENSATION SUMMARY

Basic Services (Lump Sum)	Amount
Task 1 – Project Management	\$15,000
Task 2 – Project Kick-off Meeting	\$2,800
Task 3 – Self-Evaluation	\$88,700
Task 4 – Transition Plan Development	\$29,800
Task 5 – Public Outreach	\$4,300
Task 6 - Meetings	\$9,400
Total Basic Services:	\$150,000

Special Services (Hourly Not-to-Exceed)	Amount
None	\$0
Total Special Services:	\$0

Direct Expenses	Amount
None	\$0
Total Direct Expenses:	\$0

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 E
CONFLICT OF INTEREST QUESTIONNAIRE**

CONFLICT OF INTEREST QUESTIONNAIRE		FORM CIQ
For vendor doing business with local governmental entity		
<p><small>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 176.003(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).</small></p> <p><small>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.</small></p> <p><small>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</small></p>	OFFICE USE ONLY <hr/> Date Received:	
<p>1 Name of vendor who has a business relationship with local governmental entity.</p> <p align="center"><i>Kimley-Horn and Associates, Inc.</i></p>		
<p>2 <input type="checkbox"/> 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.)</p>		
<p>3 Name of local government officer about whom the information is being disclosed.</p> <p align="center"><i>N/A</i></p> <p align="center">_____ Name of Officer</p>		
<p>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.</p> <p align="center"><i>N/A</i></p> <p>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?</p> <p align="center"> <input type="checkbox"/> Yes <input type="checkbox"/> No </p> <p>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?</p> <p align="center"> <input type="checkbox"/> Yes <input type="checkbox"/> No </p>		
<p>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.</p> <p align="center"><i>N/A</i></p>		
<p>6 <input type="checkbox"/> 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).</p>		
<p>7</p> <p align="center"> <i>[Signature]</i> <i>8/25/2022</i> Signature of vendor doing business with the governmental entity Date </p>		