



8B Dickeson St, Kaikohe, 0405
021 0291 9799
ana@akau.co.nz

21st February, 2020

Attn: Robert Willoughby
Far North District Council
5 Memorial Ave (Head Office)
Kaikohe 0405

Tēnā koe e Robert,

Offer of Services – Development of Memorial Park

During the development of the Basketball Court for Memorial park ĀKAU developed a masterplan for the area that integrated the aspirations and desires of the community. With the successful completion of the Basketball Court, we have outlined a scope of works to complete the developed design for this area. We will utilise the design concepts from the initial workshop and as inspiration for the remainder of the project.

In regards to the Wharepaku identified in the long-term plan for this area we are happy to include this on the plan where we think it would best be situated. In regards to the design of the wharepaku, we recommend having a kōrero with the facilities team about this. It might be that the standard FNDC design can be adapted to suit the context of this location or it might be that a unique wharepaku is designed.

There is also a desire for a 'Learn to Ride' Track to be positioned in Memorial Park. We have allocated an amount to design this through to construction drawings and propose including tamariki in the design of this process.

We would help develop a staged plan that includes works with a construction budget of approximately \$30,000 in the first stage, with subsequent stages outlined for the future when further funding becomes available.

PROFESSIONAL FEES

Developed Design:

Developed Design through to Construction drawings for the elements identified by the community for the development of Memorial Park (See Documentation attached.)

Whānau Zone

- Design and Documentation of Shade Structure
- Design and Specs of BBQ's, tables & seating

Exercise Zone

ĀKAU will hold a Hui with Local Sports Coaches/gyms to discuss the needs of this area and then design elements to suit these needs. We believe these elements should be unique urban street furniture rather than under-utilised off the shelf products but will work through this during this stage.

- Design and Specification of Exercise Equipment and Area.

'Learn to Ride' Bike Zone

ĀKAU will hold a workshop with local tamariki to develop creative ideas for how this park could be a unique design that represents Kaikohe and their whanau. ĀKAU will koha this workshop to this project free of cost.

- Design and Documentation of 'Learn to Ride' Bike Zone

Other

- Ground works throughout
- Tiered Seating for Basketball Court
- Placement and specs of rubbish bins, lighting, water fountains.
- Location of Pou part of Kaikohekohe Taonga Trail.
- Location of Wharepaku proposed for this area.

Total Developed Design Fixed Fee	excl. GST	\$17,000
---	------------------	-----------------

FEE SUMMARY

	Total fees
Developed Design	\$17,000.00
Less ĀKAU Koha for Tamariki Workshop	-\$3,000.00
<hr/>	
Sub-total Architectural Fees	\$14,000.00
Plus GST	\$2,100.00
Total Architectural Fees	\$16,100.00

If you would like to engage us for the services outlined above, we ask that you to please complete the attached form and either email or post it to our office. Your signature on this form acknowledges your understanding and agreement to these fees and the standard conditions outlined overleaf.

Please feel free to call if you have any queries whatsoever and we would be happy to meet with you in person to discuss this proposal further.

We look forward to hearing from you and welcome your feedback with regards to this fee proposal.

Ngā Mihi,



Ana Heremaia
Director
For & on behalf of ĀKAU Limited

I / we hereby authorise ĀKAU Limited to undertake the work outlined above in accordance with this fee proposal dated **21st February, 2020**

Signature

Name

Billing Entity

GST no. (if applicable)

Email address

Home telephone

Business telephone

Mobile telephone

Project Address

Date of Acceptance

client initiated changes

Should there be any client-initiated changes beyond the agreed design and documentation, we would implement our charge out rates as follows:

Senior Architect	\$100.00 + GST
Architectural designer/ draftsman	\$70.00 + GST

parties obligations

Agreed Services: ĀKAU Limited must perform the Agreed Services exercising the degree of skill, care and diligence normally expected of a competent architect.

Payment: The Client must pay ĀKAU Limited for the Agreed Services in accordance with the Fee summary table

brief

the Client agrees to provide ĀKAU Limited with a Brief and a Budget, which clearly defines the Client's requirements, preferences and priorities for the Project.

the Client acknowledges that the Budget excludes GST, Territorial Authority charges, the Architects Fee and consultants' fees, hard/soft fit-out, or items supplied by others that are not part of the Architects design.

ĀKAU Limited will use reasonable endeavours to design within the Budget to Concept Design stage but shall have no liability thereafter for the Project being able to be constructed within the Budget

stages of service

Written Approval to proceed with each stage must be provided by the Client before ĀKAU Limited is obliged to commence work on that stage.

Material change to ĀKAU Limited's Services Materials will not be made by the Client without ĀKAU Limited's written consent.

Unless Administration and/or Observation are included in the Agreed Services, ĀKAU Limited has no obligation to answer any questions or make site visits during/following construction. If ĀKAU Limited subsequently agrees to carry out such work, the work will be subject to all the conditions of this Agreement, and will be invoiced at the hourly rates specified above.

separate consultants

Separate Consultants (and their scope of services) must be disclosed to ĀKAU Limited before their appointment, and their conditions of engagement must include that:

- a) ĀKAU Limited is responsible only for coordinating their services, and
- b) The Client must give all instructions to the Separate Consultants through ĀKAU Limited.

ĀKAU Limited is entitled to rely on any information from, or services or work done by the Client, or for the Client, and has no responsibility to the Client or any other person in relation to that information, service or work.

invoices & payment terms

Invoices will be issued monthly by ĀKAU Limited or otherwise periodically. The Client must pay the account in full within 10 Working Days of the account or 20th of the month, whichever is later.

If an invoice is not paid within 10 Working Days of the due date, ĀKAU Limited shall be entitled to suspend performance of the Agreed Services until payment (including any costs incurred in relation to the suspension) is received in full. ĀKAU Limited shall not be liable to the Client or any other person for losses arising from suspension of the Agreed Services.

Interest shall be paid by the Client at the rate of 1.5% per month compounded monthly on all overdue accounts and the Client shall also pay any debt recovery costs.

Naturally if we are advised that a payment will be late, this interest charge may be waived and an alternative payment plan may be considered.

Invoiced amounts will include GST (Goods & Services Tax)

Intellectual property rights

All rights including copyright in the Services Materials belong to ĀKAU Limited. ĀKAU Limited grants the Client, a non-exclusive licence (which cannot be assigned) to use the Services Materials solely for purposes relating to the Project and for no other purpose ("the License").

The License is conditional upon the Client complying with all of the Client's obligations under this Agreement, including the payment of all fees and disbursements due.

If this Agreement ends before completion of the Agreed Services, the License will still apply but to the completed Services Materials only. Partially completed Services Materials cannot be used by the Client without ĀKAU Limited's prior written consent. Such consent will not be unreasonably withheld.

Future work on the Project using any part of the Services Materials for any alterations or extensions, without ĀKAU Limited being appointed to provide related services, will require the Client to obtain ĀKAU Limited's prior written consent. Such consent will not be unreasonably withheld.

Re-using ĀKAU Limited's Service Materials is acceptable only on the written consent of ĀKAU Limited who is entitled to receive a royalty at an agreed rate for each reuse. Such consent will not be unreasonably withheld.

Completion of the Agreed Services or the early termination of this Agreement entitles the Client to retain one copy of the completed Services Materials in printed or passive electronic form such as PDF. ĀKAU Limited will not be required to provide any of the Services Materials in any active electronic form.

Promotional credits

ĀKAU Limited must be credited by the Client or their representatives in any Project related brochure, or promotional material.

ĀKAU Limited can:

- a) Display an appropriate promotional sign on the Site or in a clearly visible place nearby; and
- b) Use the designs, drawings and photographs of the Project for ĀKAU Limited's own promotional and professional purposes (including appropriate awards), but only with the Client's written consent, which shall not be unreasonably withheld.

ĀKAU Limited's Liability

If ĀKAU Limited breaches this Agreement, ĀKAU Limited will only be liable to the Client (whether in contract, tort or otherwise) for damage caused directly by the breach. ĀKAU Limited shall not be liable to the Client (whether in contract, tort or otherwise) for the Client's loss of profits (whether caused directly or indirectly) and/or for the Client's indirect, consequential or special losses, howsoever arising

The extent of ĀKAU Limited's liability (whether in contract, tort or otherwise) is reduced proportionately to the extent that the Client and/or any other person (including any third party) has contributed to the claim, liability, damage, loss or expense and irrespective of whether such contribution arises in contract, tort or otherwise.

Any claim (whether in contract, tort or otherwise) must be filed in Court, or any Tribunal which has jurisdiction to determine such a claim, within six years of the date of this Agreement or within six years of the date of the act or omission giving rise to the claim, whichever is the earlier, otherwise ĀKAU Limited will have no liability to the Client.

Where the Agreed Services are reduced, limited or varied by later agreement, or this Agreement is ended prior to the completion of the Agreed Services, ĀKAU Limited's liability will attach only to the services actually performed and then only to the extent that the reduction of that part of the Agreed Services has not compromised or denied ĀKAU Limited the opportunity to correct the performed services or to otherwise

mitigate the Client's loss.

If any change is made by the Client or any other person to the Services Materials or to the Works or to the Project's resource consent or building consent without ĀKAU Limited's prior written approval, ĀKAU Limited shall not be liable for any damage, loss or expense incurred by the Client as a consequence of any such change.

ĀKAU Limited is only liable to the Client and disclaims responsibility in tort or otherwise for any liability, damage, loss or expenses suffered or incurred by any other person. In the event that the Project to which ĀKAU Limited's services relate is leased, transferred, sold, or otherwise disposed of in part or whole to any other person then the Client warrants that the person shall be advised in writing that ĀKAU Limited accepts no responsibility in law to them. In the event of a breach of this clause, the Client and in the case of a company, its directors, shall fully indemnify ĀKAU Limited against any such claim by such a person.

The maximum aggregate amount payable by ĀKAU Limited, whether in contract, tort or otherwise, in relation to claims, liabilities, damages, losses or expenses is limited to \$250,000 or five times ĀKAU Limited's Fee for the Agreed Services whichever is the lesser.

The Client shall fully indemnify ĀKAU Limited against the adverse effects of all claims including (but without limitation) claims in negligence or by third parties, which arise out of or have a connection with this Agreement and are made after the expiry of the 6 year period of liability referred to above

ĀKAU Limited's employees, directors, officers and agents, are acknowledged by the Client to have no personal liability to the Client in connection with this Agreement or the performance of the Agreed Services. The Client acknowledges also that no reliance has or will be placed on them personally.

The limitations of liability referred to in this Section will apply to the maximum extent permitted by law and will confer to any extent relevant a benefit on the employees, directors, officers, agents or sub-consultants of ĀKAU Limited.

Where the Agreed Services are provided for the Client's business purpose, the provisions of the Consumer Guarantees Act 1993 are excluded in relation to the Agreed Services.

insurance

ĀKAU Limited holds Professional Indemnity Insurance for a sum not less than \$250,000, subject to the various terms, exclusions and limitations of the policy. ĀKAU Limited will use its reasonable endeavours to obtain insurance on similar terms for 6 years from the date of expiry of its insurance cover.

If a greater amount of insurance indemnity is required by the Client, the cost of the additional amount will be at the Client's expense. Such increase in indemnity will increase ĀKAU Limited's maximum aggregate liability to the Client to the new indemnity amount.

Separate Consultants Professional Indemnity Insurance shall have similar terms and conditions to that of ĀKAU Limited, including an obligation to use reasonable endeavours to obtain insurance for 6 years from the expiry date of its existing insurance cover. It will be the Client's obligation to use reasonable endeavours to ensure that the Separate Consultants comply with this clause.

disputes

Resolution of disputes must be attempted in good faith between the Client and ĀKAU Limited. Failing resolution either party may require the matter to be referred to mediation.

If mediation has not occurred or settlement is not achieved within 30 Working Days of the notice requiring mediation, then the Client and ĀKAU Limited may agree to refer the matters to Arbitration or failing agreement, either party may refer the matters to the Courts for resolution.

In the event of a dispute ĀKAU Limited may by notice in writing to the Client suspend its obligations under this Agreement. In that event ĀKAU Limited will not be liable to the Client or any other person for losses arising from such suspension of the work.

Should a dispute arise for any reason, the Client cannot use any Services Materials for any purpose until the dispute is resolved.

notice of defects

Problems in design or any fault or defect that the Client becomes aware of shall be notified to ĀKAU Limited in writing not later than 30 Working Days after the Client becomes aware of it. If the Client does not do this, the Client waives any claim the Client may have against the ĀKAU Limited (in contract, tort or otherwise) in relation to the problem, fault or defect.

health and safety

ĀKAU Limited will ensure, so far as is reasonably practicable, that it, and that each person it engages in relation to the Contract Works, is aware of and complies with its obligations under health and safety-related Law.

The Client will ensure that each person who is provided with the design for the purpose of giving effect to it receives the health and safety information advised from time to time by ĀKAU Limited Architect to the Client (“H&S Information”)

ĀKAU Limited will make reasonable efforts to give current information on the H&S information to any person who carries out an Activity in respect of the structure, if ĀKAU Limited is requested to do so by the Client. ĀKAU Limited may invoice the Client for complying with the request at ĀKAU Limited’s hourly rates, unless agreed otherwise in writing.

Each party agrees to co-operate, consult and co-ordinate, so far as is reasonably practical, with each PCBU who has a duty in relation to the project and the workplace, to enable each of them to comply with their respective obligations under health and safety-related law. That obligation does not limit the Client’s or ĀKAU Limited’s other obligations in this clause

ĀKAU Limited and the Client agree that for the purpose of the Health and Safety-related law, ĀKAU Limited will not at any time have management or control of the workplace

variations

Any variations to this Agreement, including to the scope and nature of the Agreed Services, must be in writing and will be subject to all the terms and conditions of this Agreement.

Variations to the Agreed Services may be requested by the Client. In the event ĀKAU Limited agrees to undertake the variations then ĀKAU Limited will be entitled to charge on a time and cost basis at an hourly rate as stated above.

If the Agreed Services need to be delayed or accelerated because of changes in the Client's instructions or requirements, or due to any reasons beyond ĀKAU Limited’s reasonable control, then irrespective of the manner in which fees are being charged, ĀKAU Limited shall be entitled to additional fees on a time and cost basis.

assignment/ termination

This Agreement cannot be assigned or transferred without the prior written consent of ĀKAU Limited, not to be unreasonably withheld.

The Client or ĀKAU Limited may terminate this Agreement by writing to the other at their last known address. This Agreement will end 20 Working Days after the notice is sent.

In the event the Client terminates this Agreement for any reason other than the default of ĀKAU Limited, the Client must pay ĀKAU Limited any loss of profits resulting from the Agreement’s non-completion and any expenses and costs that ĀKAU Limited reasonably incurred relating to ending the Agreement.

New Zealand law

The laws of New Zealand shall govern this Agreement.

disbursements

Disbursements can be paid at cost as they occur and these disbursements include the following items:

- Postage
- Courier service
- Printing A4 and A3
- Printing A2 and A1
- Colour print out outs A4 and A3
- Material samples (if charges apply)

Any extraordinary items will still be invoiced at cost separately, and they could include the following items:

- Bulk A1 printing for tender or construction issue
- Bulk specification printing for tender or construction issue
- Colour print out A2 and A1
- Laminating
- Mounting
- Council fees
- Authority fees