



CITY OF CRANBROOK

Request for Proposals

Consulting Services - Childcare Facility Planning

RFP NO.: CRA2024-R-001

**Issue Date:
December 19, 2023**

**Closing Time:
January 19, 2024 by 2:30 PM
Mountain Time (MT)**

**Closing Location:
City Hall**

**Attention: Melissa Smith, Financial Services Manager
40-10th Ave S, Cranbrook, BC V1C 2M8**

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1. REQUEST FOR PROPOSALS AND SUBMISSION INSTRUCTIONS

1.1 Request for Proposals

The Corporation of the City of Cranbrook is seeking proposals from qualified parties for the provision of consultation services in the planning and design of childcare facilities.

1.2 Definitions

Throughout this Request for Proposals, the following definitions apply:

- a) “Addenda” means all additional information regarding this RFP including amendments to the RFP;
- b) “BC Bid” means the BC Bid website located at www.bcbid.ca;
- c) “City” means the Corporation of the City of Cranbrook;
- d) “Closing Location” includes the location indicated on the cover page of this RFP or BC Bid, as applicable;
- e) “Closing Time” means the closing time and date for this RFP as set out on the cover page of this RFP;
- f) “Contract” means the written agreement resulting from the RFP executed by the City and the successful proponent;
- g) “Contract Administrator” means the City staff member who has been duly hired by the City of Cranbrook to fulfill the duties of that position or his/her designated representative;
- h) “Contractor” or “Consultant” means the successful proponent selected from this RFP who enters into a contract with the City;
- i) “Must”, “mandatory”, or “required” means a requirement that must be met in order for a proposal to receive consideration;
- j) “Proponent” means a person or entity with the legal capacity to contract, that submits, or intends to submit, a proposal in response to this RFP;
- k) “Proposal” means a written response to the RFP that is submitted by a Proponent;
- l) “Request for Proposals” or “RFP” means the solicitation described in this document, including any attached or referenced appendices, schedules or exhibits and as may be modified in writing from time to time by the City by Addenda; and
- m) “Should”, “may” or “weighted” means a requirement having a significant degree of importance to the objectives of the RFP.

1.3 Delivery of Proposals

Proposals **MUST** be in English and **MUST** be submitted using one of the submission methods below:

BC Bid Electronic Submission: Proponents may submit an electronic proposal using BC Bid. Proposals must be submitted in accordance with BC Bid and e-bidding key requirements (found at www.bcbid.ca). Only pre-authorized electronic bidders registered on the BC Bid system can submit an electronic proposal. Use of an e-bidding key is effective as signature.

Hard Copy Submission: Proponents may submit three (3) hard-copies of their proposal as outlined in Section 1.4 (f) of this RFP.

Email and facsimile submissions will not be accepted.

All proposal submissions **MUST** include a completed and signed *Summary Form of Proposal* plus the information required as described in Section 1.5 of this RFP.

Proposals received after the Closing Time will not be accepted.

There will be no public opening for this RFP.

1.4 **Submission of Proposals**

- a) Proposals **MUST** be submitted before the Closing Time to the Closing Location using one of the submission methods set out in Section 1.3 of this RFP. The Proponent is solely responsible for ensuring that, regardless of submission method selected, the City receives a complete proposal, including all attachments or enclosures, before the Closing Time.
- b) For BC Bid electronic submissions, the following applies:
 - i. File uploads are limited to 500 MB per file. There are an unlimited number of attachments.
 - ii. Proponents submitting by electronic submission are solely responsible for ensuring that any attachments are not corrupted. The City may reject proposals that are compressed, cannot be opened or that contain viruses, malware or corrupted attachments.
 - iii. The closing time on BC Bid is shown in Pacific Time (PT). The City's Closing Time in this RFP is in Mountain Time (MT). Proponents must ensure their submission is uploaded and completed prior to the Closing Time.
- c) Only pre-authorized e-bidders registered on BC Bid can submit electronic bids on BC Bid. BC Bid is a subscription service (\$150 per year) and the registration process may take two business days to complete. If using this submission method, Proponents should refer to the BC Bid website or contact the BC Bid Helpdesk at 1-800-663-7867 for more information. An electronic proposal submitted on BC Bid must be submitted using the e-bidding key of an authorized representative of the Proponent. Using the e-bidding key of a subcontractor is not acceptable.
- d) The City strongly encourages Proponents using electronic submissions to submit proposals with sufficient time to complete the upload and transmission of the complete proposal and any attachments before the Closing Time.

- e) The Proponent bears all risk associated with delivering its Proposal by electronic submission, including but not limited to delays in transmission between the Proponent’s computer and BC Bid.
- f) Hard copy submissions **MUST** be received in a sealed envelope at the Closing Location by registered mail, courier, or hand delivery before the Closing Time.

(TO HELP IDENTIFY YOUR SUBMISSION, WE ASK THAT YOU PLEASE CUT OUT THE LABEL BELOW AND AFFIX THIS LABEL TO THE OUTSIDE OF YOUR PROPOSAL SUBMISSION)

 <p style="text-align: center;">MOUNTAINS OF OPPORTUNITY CRANBROOK</p> <p>City of Cranbrook 40 10th Avenue South Cranbrook, BC V1C 2M8</p>	
Attention: Melissa Smith, Financial Services Manager	
REFERENCE NUMBER:	CRA2024-R-001
PROJECT NAME:	Consulting Services - Childcare Facility Planning
CLOSING DATE: January 19, 2024	CLOSING TIME: 2:30:00 P.M. MOUNTAIN TIME

1.5 **Proposal Submission Format and Checklist**

The following format and sequence should be followed in order to provide consistency in Proponent response and ensure each proposal receives full and fair consideration. All pages should be consecutively numbered.

- a) Title Page, showing Proponent's name, contact person and title, address and contact information;
- b) Completed *Summary Form of Proposal* (**Mandatory Form - signature required**) as described in Fees for Service Section 3.3;
- c) Qualifications and Experience as described in Section 3.1;
- d) Approach and Methodology as described in Section 3.2; and
- e) References as described in Section 3.4.

1.6 **Contact**

Enquiries related to this RFP, including any requests for information or clarification may only be directed in writing to the following person who will respond if time permits before the Closing Time. Information obtained from any other source is not official and should not be relied upon. Enquiries and any responses providing new information will be recorded and posted to BC Bid and on the City website.

Melissa Smith, Financial Services Manager
Phone: (250) 489-0265
Email: msmith@cranbrook.ca

The cut-off for submitting any questions relating to this RFP will be 48 hours before the Closing Time. Questions received after this time may not be answered.

1.7 **Environmental Considerations for Proposal Delivery:**

The City encourages Proponents to consider submitting an electronic proposal. When submitting in hard copy, the City encourages Proponents to consider environmental stewardship, as per the following:

- Hard copy proposals should be double side printed on paper that is post-consumer recycled content or forest stewardship certified;
- Thin proposals should be stapled rather than bound;
- Binding, where required, should be comb-type rather than plastic or wire spiral for ease of separating to shred and recycle; and
- Binders, where required, should be free from adhered labels (for ease of re-use), and/or be made of post-consumer recycled content.

2. PROJECT OBJECTIVES AND SCOPE OF WORK

2.1 Project Description

The City wishes to develop a childcare centre utilizing vacant property it owns or renovating an existing building that will ensure appropriate indoor and outdoor spaces that is well designed, aligns with the Child Care Needs Assessment and increases access to quality, inclusive child care located in priority areas.

The City requires professional consulting services to review the City's available assets "Site Profiles Review and Summary" to determine the site location, consider locations that may currently also be in a City park or other City land not in the inventory as second options, prepare a schematic design and a Class D cost estimate. The consultant will also complete the ChildCareBC New Spaces Fund Grant Application.

The facility will provide spaces for holistic childcare programming to support the needs of families and provide children with consistent, quality care.

2.2 Information Provided by the City

The following is a list of resource material that will be provided to the Successful Proponent by the City in order to undertake the work, assuming all documents can be obtained, for any site that the Consultant selects during the term of the contract.

1. Childcare Action Plan 2020;
2. Hazardous materials inventory pertaining to a potential building;
3. Records of inspection and maintenance activities over the past 5 years;
4. Any available past study or reports that are related to the potential building; and
5. Land inventory data for parcels identified.

Should additional information, clarification, or confirmation of provided information be necessary to complete the work, the Consultant shall notify the City in writing immediately.

All information is provided on an as-is basis, and although the City of Cranbrook has compiled and reviewed the information for general accuracy and correctness, the City offers no guarantees that the information or any portion thereof is correct and will not retain any liability as a result of its use. Any design assumptions using this information must be checked against all other available data. Assumptions for critical infrastructure elements where failure or reduced infrastructure capacity would put the City at risk must be clearly communicated to the City of Cranbrook in each instance to determine where additional investigation may be required.

2.3 **Deliverables**

2.3.1 **General Requirements**

This section will define the general requirements for the delivery of design and project administration requirements.

- i. The City requires professional services to assist with site selection that is conducive to housing quality childcare, create a conceptual design and a Class D estimate based on the site that is selected and prepare the ChildCare BC Grant Application.
- ii. The City requires design services that are both effective and efficient in their delivery and incorporate energy efficient materials and construction methods into the design. Where possible, design scopes will be provided by the City, along with all other available information (See Section 2.2 above), in order for the Consultant to immediately undertake design work. Where design scopes are not defined by the City, the Consultant shall submit a proposed design scope for review by the City prior to proceeding with the work. The design scope shall include any investigation or information gathering work that may be required.
- iii. The design process will start in Q1 of 2024 and project deliverables are to be completed prior to April 30, 2024.
- iv. The Consultant will be responsible for reviewing, understanding and incorporating all information provided by the City of Cranbrook or made readily available by visiting and investigating the project site.
- v. The Consultant will not be compensated for any extra or additional work undertaken as a consequence of errors or omissions due to failure to incorporate any information provided by the City of Cranbrook or made readily available by visiting and investigating the project site and adjacent areas.
- vi. The Consultant may not incorporate, add, affix or include any disclaimers or qualifying statements to any drawings or submissions to the City of Cranbrook that would remove themselves from being professionally responsible for the work that they will undertake.
- vii. The City of Cranbrook is the rightful owner of all designs, drawings, surveys, studies, models, documents and data created for the City for the City's benefit as a result of any work undertaken by the proponent for the City.
- viii. Follow Interior Health and Province of BC Childcare Guidelines.

2.3.2 **Scope of Work**

This Section will define the tasks and components required for the delivery of design and project management services related to the project. The professional services required will entail the following:

Site Selection

- Review “Site Profiles Review and Summary”
- With the potential identified site, indicate the type and number of childcare spaces that would support the priority areas in Cranbrook that aligns with the *Province of British Columbia and Interior Health Authority’s Community Care and Assisted Living Act* and *Child Care Licensing Regulation*.

Design

- Draft site and building plans to include schematic design with specifications and details such as architectural, structural, mechanical, landscape and civil estimates in order to prepare a Class D cost estimate.
- Consultant must be familiar with, and strictly adhere to all Province of British Columbia regulations regarding operation of a licensed daycare.

BC Childcare Grant Application

- Prepare the ChildCare BC New Spaces Fund Application

3. **PROPOSAL**

The proposal should be prepared simply and economically. While additional data may be presented, the following Sections 3.1 – 3.4 **MUST** be included. They represent the criteria against which the Proposal will be evaluated.

3.1 **Qualifications and Experience**

Proponents should provide a general overview of their organization including its structure, size, length of time in operation, services provided, and capability to perform the work required as described in Section 2.

Proponents should outline the qualifications, experience and training of employees to be assigned to this project including the team lead.

Proponents should provide examples of projects of similar size and scope undertaken by their organization. Examples from British Columbia or Canadian municipalities are preferred.

3.2 **Approach and Methodology**

Proponents should provide a general overview of how they intend to undertake the project as outlined in Section 2 of this RFP, including a statement of the understanding of the work to be done and the approach and methodology used to complete the project.

3.3 **All-Inclusive Maximum Fees for Services**

Proponents **MUST** complete the All-Inclusive Maximum Fees for Services section on the *Summary Form of Proposal* included with this RFP.

Each bid should include all pricing information relative to performing the services as described in this RFP. The total all-inclusive maximum fees for services are to contain all direct and indirect costs including all out-of-pocket expenses.

3.4 **References**

Proponents should provide a minimum of three (3) references for whom they have provided similar services. Please include the name, email, and telephone number of the principal client contact. References for Canadian municipalities and/or regional districts are preferred.

4. **EVALUATION CRITERIA**

Evaluation of proposals will be by a committee formed by the City and may include employees and contractors of the City and other appropriate participants.

The City's intent is to enter into a Contract with the Proponent who has met all mandatory criteria and minimum scores (if any) and who has the highest overall ranking.

Proposals will be assessed in accordance with the entire requirement of the RFP, including all Mandatory and Weighted Criteria.

4.1 **Mandatory Criteria**

Proposals not clearly demonstrating that they meet the following Mandatory Criteria will be excluded from further consideration during the evaluation process.

Mandatory Criteria
a) The proposal must be received at the Closing Location before the Closing Time.
b) The proposal must be in English.
c) The proposal must be submitted using one of the submission methods set out in Section 1.3 of this RFP.
d) Hard copy submissions must be received in a sealed envelope.
e) The proposal must include a signed copy of the <i>Summary Form of Proposal</i> .

4.2 **Evaluation Criteria**

Proposals meeting all of the Mandatory Criteria outlined in 4.1 will be further assessed against the following Weighted Criteria.

Weighted Criteria	Weight
Qualifications and Experience	20
Approach and Methodology	30
References	10
Fees for Services	20
TOTAL	80

4.3 **Price Evaluation**

Only proposals that meet all mandatory requirements and minimum scores will be evaluated. The lowest overall price will be awarded all the points allocated to price. All other proposals will be evaluated using the following formula:

$$\frac{\text{Lowest Overall Price}}{\text{This Proposal's Overall Price}} \quad \times \quad \text{Maximum points available}$$

5. **TERMS AND CONDITIONS**

5.1 **Acceptance of Terms and Conditions**

Submitting a proposal indicates acceptance of all of the terms and conditions set out in the RFP, including those that follow and that are included in all appendices and any Addenda.

5.2 **Additional Information**

All Addenda will be posted on the City's website and BC Bid. It is the sole responsibility of the Proponent to check for Addenda. Proponents are strongly encouraged to subscribe to BC Bid's email notification service to receive notices of Addenda.

5.3 **Late Proposals**

Proposals will be marked with their receipt time at the Closing Location. Only complete proposals received and marked before the Closing Time will be considered to have been received on time. Proposals received after the Closing Time will be marked late and not considered or evaluated. In case of a dispute, the proposal receipt time as recorded by the City at the Closing Location will prevail whether accurate or not

5.4 **Proposal Validity**

Proposals will be open for acceptance for at least ninety (90) days after the Closing Time.

5.5 **Firm Pricing**

Hourly rates will be firm for the entire Contract period unless the RFP specifically states otherwise.

5.6 **Completeness of Proposal**

By submitting a proposal the Proponent warrants that, if the RFP is to design, create or provide a system or manage a program, all components required to run the system or manage the program have been identified in the proposal or will be provided by the Contractor at no additional charge.

5.7 **Changes to Proposals**

By submitting a clear and detailed written notice, the Proponent may amend or withdraw its proposal before the Closing Time. Unless the RFP otherwise provides, Proponents should use a consistent submission method for submitting proposals and any amendments or withdrawals. Upon Closing Time, all proposals become irrevocable. The Proponent will not change any part of its proposal after the Closing Time unless requested by the City for purposes of clarification.

5.8 **Liability for Errors**

While the City has used considerable efforts to ensure information in the RFP is accurate, the information contained in the RFP is supplied solely as a guideline for Proponents. The information is not guaranteed or warranted to be accurate by the City, nor is it necessarily comprehensive or exhaustive. Nothing in the RFP is intended to relieve Proponents from forming their own opinions and conclusions with respect to the matters addressed in the RFP.

5.9 **Proponents' Expenses**

Proponents are solely responsible for their own expenses in participating in the RFP process, including the costs in preparing a proposal and for subsequent finalizations with the City, if any. The City will not be liable to any Proponent for any claims, whether for costs, expenses, damages or losses incurred by the Proponent in preparing its proposal, loss of anticipated profit in connection with any final Contract or any other matter whatsoever.

5.10 **No Commitment to Award**

The RFP should not be construed as an agreement to purchase goods or services. The lowest priced or any proposal will not necessarily be accepted. The RFP does not commit the City in any way to award a Contract.

5.11 **Reservation of Rights**

In addition to any other reservation of rights set out in the RFP, the City reserves the right, in its sole discretion:

- a) to modify the terms of the RFP at any time prior to the Closing Time, including the right to cancel the RFP at any time prior to entering into a Contract with a Proponent;
- b) in accordance with the terms of the RFP, to accept the proposal or proposals that it deems most advantageous to itself;
- c) to waive any non-material irregularity, defect or deficiency in a proposal;
- d) to request clarifications from a Proponent with respect to its proposal, including clarifications as to provisions in its proposal that are conditional or that may be inconsistent with the terms and conditions of the RFP, without any obligation to make such a request to all Proponents, and consider such clarifications in evaluating the proposal;
- e) to reject any proposal due to unsatisfactory references or unsatisfactory past performance under contracts with the City, or any material error, omission or misrepresentation in the proposal;
- f) at any time, to reject any or all proposals; and
- g) at any time, to terminate the competition without award and obtain the goods and services described in the RFP by other means or do nothing.

5.12 **Contract**

By submitting a proposal, the Proponent agrees that should its proposal be successful, the Proponent will enter into a Contract with the City.

Written notice to a Proponent that it has been identified as the successful Proponent and the subsequent full execution of a written Contract will constitute a Contract for the goods or services, and no Proponent will acquire any legal or equitable rights or privileges relative to the goods or services until the occurrence of both such events.

If a written Contract cannot be finalized with provisions satisfactory to the City within thirty (30) days of notification of the successful Proponent, the City may, at its sole discretion at any time thereafter, terminate discussions with that Proponent and either commence finalization of a Contract with the next qualified Proponent or choose to terminate the RFP process and not enter into a Contract with any of the Proponents.

5.13 **No Guarantee of Volume of Work or Exclusivity of Contract**

The City makes no guarantee of the value or volume of work to be assigned to the successful proponent. The agreement to be negotiated with the successful proponent will not be an exclusive contract for the provision of the goods or services described in Section 2 of this RFP. The City may contract with others for goods or services the same as or similar to those described in Section 2 or may obtain such goods or services internally.

5.14 **Solicitation**

Any attempt by Proponents to influence the outcome of the RFP process by engaging in solicitation, either directly or indirectly, of any employee, contractor or representative of the City, including members of the evaluation committee and any elected or appointed officials of the City, or with the media, may result in disqualification of the Proponent.

5.15 **Workers Compensation Act**

The Contractor must provide to the City their Worksafe BC registration number and a Letter of Clearance. The Contractor must ensure compliance on their part with the Workers' Compensation Act and the Occupational Health and Safety Regulations. This will extend to any subcontractors hired by the successful Proponent, who will be on City property.

In any case where pursuant to the provisions of the Workers' Compensation Act, the Workers' Compensation Board orders the Contractor, in respect of their operations under the RFP, to cease operations because of failure to install or adopt safety devices or appliances directed by the order of the said Board, or required under said Act or Regulations thereunder or because said Board is of the opinion the conditions or immediate danger exist that would be likely to result in injury to any person, or because of lack of payment of an account due to the Board, the City, on 24 hours written notice to the Contractor, may terminate the Contract.

5.16 **Indemnity and Liability Insurance**

For the purpose of any Contract the City may enter into with the successful Proponent, the Contractor must indemnify and hold harmless the City, its employees and agents, from any or all claims, demands, actions, and costs whatsoever that may arise, directly or indirectly out of any act or omission of the Contractor, its employees, or agents, in the performance by the Contractor of this RFP. Such indemnification must survive termination of the Contract.

The Contractor must provide to the City proof of \$2 million General Liability Insurance with the City named as an additional insured party. The City reserves the right to modify the type of insurance coverage and amount coverage (which may include increasing the amount of coverage) required to be carried by the Contractor.

5.17 **Compliance with Laws and Permits**

The Contractor must apply and pay for all necessary permits or licenses, including City of Cranbrook Business License, required for the execution of the work. The Contractor must give all necessary notices and pay for all fees required by law and comply with all laws, ordinances, rules and regulations relating to the work and to the preservation of the public health. The Contractor must be responsible for the safety of all workmen and equipment on the project in accordance with all applicable safety legislation passed by Federal, Provincial and Local Authorities governing safety.

5.18 **Trade Agreements**

This RFP has been issued in compliance with the City of Cranbrook Purchasing Policy No. 40-501 and meets the requirements of the Canadian Free Trade Agreement and the New West Partnership Trade Agreement.

5.19 **Freedom of Information**

Without limiting other obligations under the *Freedom of Information and Protection of Privacy Act* and any other enactments that may apply to the City or the Proponent or to both, and despite any promises or commitment by the City to preserving the confidentiality of information to the extent permitted by law, the Proponent acknowledges that any information provided to the City in relation to this RFP, or that is created, produced, negotiated or otherwise comes within the City's custody or under its control pursuant to this RFP, may be subject to a legal requirement to disclose the information pursuant to a request for access under that Act.

5.20 **Conflict of Interest**

A Proponent may be disqualified if the Proponent's current or past corporate or other interests, or those of a proposed subcontractor, may, in the City's opinion, give rise to an actual, perceived or potential conflict of interest in connection with the services described in the RFP. This includes, but is not limited to, involvement by a Proponent in the preparation of the RFP or a relationship with any employee, contractor or representative of the City involved in preparation of the RFP, participating on the evaluation committee or in the administration of the Contract.

A Proponent must disclose in its proposal any actual or potential conflict of interest and any existing business relationships it may have with the City of Cranbrook, its elected or appointed officials or employees. The City has the right to reject any proposal submitted by a Proponent who in the City's determination, has, or if awarded the Contract would have, an actual, perceived or potential conflict of interest.

If a Proponent is in doubt as to whether there might be a conflict of interest, the Proponent should consult with the City Contact prior to submitting a proposal. By submitting a proposal, the Proponent represents that it is not aware of any circumstances that would give rise to a conflict of interest that is actual or potential, in respect of the RFP.

5.21 **Intellectual Property**

All drawings, plans, models, designs, specifications, maps, images, data, reports and other documents, including both digital and hard copy documents, commissioned by the City of Cranbrook as a result of this RFP, shall remain the property of the City of Cranbrook into perpetuity.

CITY OF CRANBROOK

SUMMARY FORM OF PROPOSAL

RFP NO: CRA2024-R-001

NAME OF PROJECT: Consulting Services - Childcare Facility Planning

DESCRIPTION

All-Inclusive Maximum Fees for Services (excluding taxes): \$ _____

CONFIRMATION OF THE PROPONENT'S INTENT TO BE BOUND:

The enclosed Proposal is submitted in response to the referenced Request for Proposals, including any Addenda. By submitting a Proposal the Proponent agrees to all of the terms and conditions of the RFP including the following:

- a) The Proponent has carefully read and examined the entire Request for Proposals;
- b) The Proponent agrees that they have reviewed and considered all Addenda (if any) and have taken that into account with determining the price(s) proposed above;
- c) The Proponent has conducted such other investigations as were prudent and reasonable in preparing the Proposal; and
- d) The Proponent agrees to be bound by the statements and representations made in its Proposal.

Proponent Name (please print): _____

Name & Title of Authorized Representative (please print): _____

Signature of Authorized Representative: _____

Address: _____

Telephone: _____ **Email:** _____

Executed this _____ **day of** _____, **20** _____

APPENDIX 1
SAMPLE PROFESSIONAL SERVICES AGREEMENT

V 2240.55

AGREEMENT

BETWEEN: **THE CORPORATION OF THE CITY OF CRANBROOK**
 40 – 10th Avenue South
 Cranbrook, BC
 V1C 2M8

OF THE FIRST PART

AND: **(SUCCESSFUL PROPONENT)**

OF THE SECOND PART

RE: **(NAME OF PROJECT REQUIRING PROFESSIONAL SERVICES HERE)**

TERM: **XXXX to XXX**

APPENDIX 1
SAMPLE PROFESSIONAL SERVICES AGREEMENT

AGREEMENT

FOR

PROFESSIONAL CONSULTING SERVICES

MEMORANDUM OF AGREEMENT dated the _____ day of A. D. 20__

-BETWEEN-

THE CORPORATION OF THE CITY OF CRANBROOK

Hereinafter called the 'Client'

THE PARTY OF THE FIRST PART

-AND-

[SUCCESSFUL PROPONENT]

Hereinafter called the 'Consultant'

THE PARTY OF THE SECOND PART

WHEREAS the Client intends to

hereinafter called the 'Project' and has requested the Consultant to furnish professional services in connection therewith;

NOW THEREFORE WITNESSETH that in consideration of the covenants contained herein, the Client and the Consultant mutually agree as follows:

APPENDIX 1
SAMPLE PROFESSIONAL SERVICES AGREEMENT

ARTICLE 1 - GENERAL CONDITIONS

1.01 Retainer

The Client hereby retains the services of the Consultant in connection with the Project and the Consultant hereby agrees to provide the services described herein under the general direction and control of the Client.

In this Agreement the word Consultant shall mean professionals and other specialists engaged by the Client directly and whose names are party to this Agreement.

1.02 Services

The services to be provided by the Consultant and by the Client for the Project are set forth in Article 2 and such services as changed, altered or added to under Section 1.08 are hereinafter called the 'Services'.

1.03 Compensation

The Client shall pay the Consultant in accordance with the provisions set forth in Article 3. For purposes of this agreement, the basis of payment shall be as specified in Article 3.X.X.

1.04 Staff and Methods

The Consultant shall perform the services under this agreement with that degree of care, skill and diligence normally provided in the performance of such services as contemplated by the agreement at the time such services are rendered and as required by the _____ (*for example - Engineers' and Geosciences Act*). The Consultant shall employ only competent staff who will be under the supervision of a senior member of the Consultant's staff.

1.05 Drawings and Documents

Subject to Section 3.2.4 of Article 3, drawings and documents or copies thereof required for the Project shall be exchanged between the parties on a reciprocal basis. Documents prepared by the Consultant for the Client, including record drawings, may be used by the Client, for the Project herein described. In accordance with Article 1.06, the Client indemnifies the Consultant for unauthorized use of the documents and deliverables.

1.06 Intellectual Property

All concepts, plans, drawings, specifications, designs, models, reports, photographs, computer software, surveys, calculations, construction and other data, documents, and processes produced by the Consultant in connection with the Project (the "Instruments of Service"), including all copyright and other intellectual property therein, are and shall at all times remain the property of the Consultant unless otherwise agreed in writing between the parties.

The Client shall have permanent exclusive royalty-free license to use any concept, product or process, which is patentable, capable of trademark or otherwise produced by or resulting from the Services rendered by the Consultant in connection with the Project and for no other purpose or project.

1.07 Records and Audit

- (a) In order to provide data for the calculation of fees on a time basis, the Consultant shall keep a detailed record of the hours worked by staff employed for the Project.
- (b) The Client may inspect timesheets and record of expenses and disbursements of the Consultant during regular office hours with respect to any item which the Client is required to pay on a time scale or disbursement basis as a result of this Agreement.
- (c) The Consultant, when requested by the Client, shall provide copies of receipts with respect to any disbursement for which the Consultant claims payment under this Agreement.

APPENDIX 1
SAMPLE PROFESSIONAL SERVICES AGREEMENT

1.08 Changes and Alterations and Additional Services

With the consent of the Consultant the Client may in writing at any time after the execution of the Agreement or the commencement of the Services delete, extend, increase, vary or otherwise alter the Services forming the subject of the Agreement, and if such action by the Client necessitates additional staff or services, the Consultant shall be paid in accordance with Section 3.2.1 for such additional staff employed directly thereon, together with such expenses and disbursements as allowed under Section 3.2.4. In the event that the client delays the project then the consultant shall have the right to renegotiate the agreement.

1.09 Suspension or Termination

Either Party may at any time by notice in writing to the other party, suspend or terminate the Services or any portion thereof at any stage of the project. Upon receipt of such written notice, the Consultant shall perform no further Services other than those reasonably necessary to close out his Services. In such an event, the Consultant shall be entitled to payment in accordance with Section 3.2. for any of the Consultant's staff employed directly thereon together with such expenses and disbursements allowed under Section 3.2.

If the Consultant is practicing as an individual and dies before his Services have been completed, this Agreement shall terminate as of the date of his death, and the Client shall pay for the Services rendered and disbursements incurred by the Consultant to the date of such termination.

1.10 Indemnification

The Consultant shall indemnify and save harmless the Client from and against all claims, actions, losses, expenses, costs or damages of every nature and kind whatsoever which the Client, his employees, officers or agents may suffer, to the extent the Consultant is legally liable as a result of the negligent acts of the Consultant, his employees, officers or agents in the performance of this Agreement.

The Client agrees to hold harmless, indemnify and defend the Consultant from and against any and all claim, losses, damages, liability and costs of defense arising out of or in any way connected with the presence, discharge, release or escape of contaminants of any kind, excluding only such liability as may arise out of the negligent acts of the Consultant in the performance of consulting services to the Client within this project.

1.11 Insurance

The Client will accept the insurance coverage amount specified in this clause section (a) as the limit of liability of the Consultant and its employees for the Client's damages.

a) Commercial General Liability and Automobile Insurance

The Insurance Coverage shall be no less than \$2,000,000 per occurrence and in the aggregate for General Liability and \$2,000,000 per occurrence and in the aggregate for products and completed operations with respect to Commercial General Liability and no less than \$2,000,000 per occurrence for Automobile Insurance. Prior to commencement of the project, the Consultant shall provide the Client with proof of Comprehensive General Liability and when requested, Automobile Insurance (Inclusive Limits) for both owned and non-owned vehicles.

b) Professional Liability Insurance

The Insurance Coverage shall be in the amount of \$2,000,000 per claim and in the aggregate. Prior to commencement of the Project, the Consultant shall provide to the Client proof of Professional Liability Insurance carried by the Consultant.

c) Change in Coverage

If the Client requests to have the amount of coverage increased or to obtain other special insurance for this Project then the Consultant shall endeavour forthwith to obtain such increased or special insurance at the Client's expense as a disbursement allowed under Section 3.2.

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It is understood and agreed that the coverage provided by these policies will not be changed or amended in any way nor cancelled by the Consultant until thirty (30) days after written notice of such change or cancellations has been personally delivered to the Client.

1.12 Contracting for Construction

Neither the Consultant nor any person, firm or corporation associated or affiliated with or subsidiary to the Consultant shall tender for the construction of the Project, or have an interest either directly or indirectly in the construction of the Project.

1.13 Assignment

Neither party may assign this Agreement without the prior consent in writing of the other.

1.14 Previous Agreements

This Agreement supersedes all previous agreements, arrangements or understandings between the parties whether written or oral in connection with or incidental to the Project.

1.15 Approval by Other Authorities

Unless otherwise provided in this Agreement, where the work of the Consultant is subject to the approval or review of an authority, department of government, or agency other than the Client, such applications for approval or review shall be the responsibility of the Consultant, but shall be submitted through the offices of the Client and unless authorized by the Client in writing, such applications for approval or review shall not be obtained by direct contact by the Consultant with such other authority, department of government or agency.

1.16 Principals and Executives

The use of Principals and Executives on a time basis by the Consultant, will be in accordance with Section 1.23.1 (c).

1.17 Sub-Consultants

The Consultant may engage others as sub-consultants for specialized services provided that prior approval is obtained, in writing, from the Client and may add a mark-up of not more than 5% of the cost of such services to cover office administration costs when claiming reimbursement from the Client plus the cost of the additional insurance incurred by the Consultant for the specialized services.

1.18 Inspection

The client, or persons authorized by the Client, shall have the right, at all reasonable times, to inspect or otherwise review the Services performed, or being performed, under the Project and the premises where they are being performed.

1.19 Publication

The Consultant agrees to obtain the consent in writing of the Client before publishing or issuing any information regarding the Project.

1.20 Confidential Data

The Consultant shall not divulge any specific information identified as confidential, communicated to or acquired by him, or disclosed by the client in the course of carrying out the Services provided for herein. These obligations of confidentiality shall not apply to information which is in the public domain, which is provided to the Consultant by a third party without obligation of confidentiality which is independently developed by the Consultant without access to the Client's information, or which is required to be disclosed by law or by court order. No such information shall be used by the Consultant on any other project without the approval in writing of the client.

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1.21 Dispute Resolution

- (a) If requested in writing by either the Client or the Consultant, the Client and the Consultant shall attempt to resolve any dispute between them arising out of or in connection with this Agreement by entering into structured non-binding negotiations with the assistance of a mediator on a without prejudice basis. The mediator shall be appointed by agreement of the parties. If a dispute cannot be settled within a period of ninety (90) calendar days with the mediator, the dispute shall be referred to and finally resolved by arbitration under the rules of the province having jurisdiction or by an arbitrator appointed by the agreement of the parties.
- (b) No person shall be appointed to act as mediator or arbitrator who is in any way interested, financially or otherwise, in the conduct of the work on the Project or in the business or other affairs of either the Client or the Consultant.
- (c) The provisions of Commercial Arbitration Act, R.S.B.C. 1996. c. 55.as amended shall apply.

1.22 Time

The Consultant shall perform the Services expeditiously to meet the requirements of the Client and shall complete any portion or portions of the Services in such order as the Client may require. .

The Client shall give due consideration to all designs, drawings, plans, specifications, reports, tenders, proposals and other information submitted by the Consultant, and shall make any decisions which he is required to make in connection therewith within a reasonable time so as not to delay the work of the Consultant.

1.23 Estimates, Schedules and Staff List

1.23.1 Preparation of Estimate of Fees, Schedule of Progress and Staff List

When requested by the Client, and where payment is calculated on a time basis, the Consultant shall provide, for approval by the Client:

- (a) An estimate of the total fees to be paid for the Services.
- (b) A Schedule showing an estimate of the portion of the Services to be completed in each month and an estimate of the portion of the fee which will be payable for each such month.
- (c) A Staff list showing the number, classifications and hourly rate ranges for staff, Principals and Executives, for which the Consultant will seek payment on a time basis. The Consultant shall relate such information to the particular type of work that such staff is to perform, while employed on the Project. Such list shall designate the member of the Consultant's staff who is to be the liaison person between the Consultant and the Client.

1.23.2 Subsequent Changes in the Estimate of Fees, Schedule of Progress and Staff List

The Consultant will require prior written approval, from the Client for any of the following changes:

- (a) Any increase in the estimated fees beyond those approved under Subsection 1.23.1 (a).
- (b) Any change in the schedule at progress which results in a longer period than provided in Subsection 1.23.1 (b).
- (c) Any change in the number, classification and hourly rate ranges of the staff provided under Subsection 1.23.1 (c).

1.23.3 Monthly Reporting of Progress

When requested by the Client, the Consultant shall provide the Client with a written report showing the portion of the Services completed in the preceding month.

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1.24 Additional Conditions

ARTICLE 2 - SERVICES

2.01 Services to be provided by Consultant

2.02 Services to be provided by Client

ARTICLE 3 - FEES AND DISBURSEMENTS

3.1 Definitions

For the purpose of this Agreement, the following definitions shall apply:

(a) **Cost of the Work:**

- (i) The “Cost of the Work” shall mean the total cost of the Project including all materials, equipment, sales taxes, labour and contractor’s overhead and profit, necessary to complete the work for which the Consultant prepares designs, drawings or specifications, for which he is responsible. Where sales taxes are not included in the cost of the work, the fee shall be adjusted upwards by the factor equivalent to the sales taxes. The adjusted fee may be computed to the nearest one-tenth of one percent (1/10%).
- (ii) Wherever the Client furnishes labour or other service which is incorporated in the work, the current price of labour or other service when the work was executed shall be used to compute the Cost of the Work.
- (iii) Whenever used materials or equipment is furnished by or on behalf of the Client, the fair market value of such materials or equipment, as though it was purchased new, shall be used to compute the Cost of the Work.
- (iv) The Cost of the Work shall not include any fees and disbursements due to the Consultant, the Client’s engineering and office expenses, or cost of land.

(b) **Site:**

Site includes the actual work site and other locations where the checking of materials, equipment and workmanship is carried out.

3.2 Basis of Payment (STRIKE OUT INAPPLICABLE PARAGRAPHS)

3.2.1 Fees Calculated on a Percentage of Cost Basis

The Client shall pay the Consultant fees to be calculated as a percentage of the Cost of the Work for normal projects as follows:

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CALCULATION OF FEE

TYPE OF SERVICE	PERCENTAGE
_____	_____
_____	_____
_____	_____

3.2.2 Fees Calculated on a Time Basis

The Client shall pay the Consultant a fee, calculated on a time basis, for that part of the Services described in Article 2. Fees on a time basis for all staff shall be hourly rates based on job classifications as follows:

Classification: Hourly Rate:

For a project of over one (1) year duration, or for projects which become extended beyond one (1) year in duration, the consultant may from time to time seek approval from the client to adjust hourly rates and such approval shall not be unreasonably withheld.

3.2.2.2 Time Expended

All time expended on the assignment, whether in the Consultant's office, at the Client's premises, or elsewhere, and including travel time, shall be chargeable. This also includes, but is not limited to, stenographic and clerical staff engaged in the preparation of documents such as reports and specifications.

3.2.3 Lump-Sum Fee / Negotiated Fee

3.2.3.1 Lump-Sum Fee Basis

- (a) Fees for the scope of work covered under this Agreement will be on a Lump-Sum Fee Basis, inclusive for labour and reimbursable expenses.
- (b) Monthly progress invoices will be based on the percentage of project completed or milestone achieved. Invoices for fees are due upon presentation. Accounts unpaid after 30 days are subject to monthly interest charges at a rate of ___% per annum. The Consultant reserves the right, without penalty, to discontinue services in the event of non-payment.
- (c) If the project is abandoned or delayed for any reason beyond the Consultant's control, the Client shall pay a fee for services rendered to that date, plus the termination expenses reasonably incurred by the Consultant in winding down the project.
- (d) GST will be added to the Lump-Sum Fee.

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3.2.4 Reimbursable Expenses

In addition to the fee, the Consultant shall be reimbursed at cost plus an administrative charge of 5%, plus the cost of additional insurance incurred by the Consultant, for all expenses properly incurred by him in connection with the project, including but not limited to: vehicle use charges, travelling and living expenses, long distance telephone charges, facsimile transmission charges, printing and reproductions, progress photography, advertising for tenders, special delivery and express charges, overtime premium costs, and the cost of providing and maintaining site offices, supplies and equipment, chemical and physical tests.

3.2.4.1 Information Technology and Reprographic (ITR) costs incurred by the Consultant shall be reimbursed at a standard charge rate of \$____ per labour hour expended. The assessment shall include all information technology resources required for purposes of providing the services contemplated under this agreement, including: computer equipment/systems, computer software, computer supplies, networking (local and wide area), and labour associated with computer management, administration and support. Computer systems include all types of computers, such as: general purpose microcomputers, PC-CADD microcomputers, graphic design workstations, and notebooks. The ITR charge shall also include all regular in-house convenience copying and printing. Cost for reproducing specifications and drawing set shall not be included in this rate.

3.2.4.2 Telecommunication costs (COM) other than video-conferencing incurred by the Consultant shall be reimbursed at a standard charge rate of \$____ per labour hour expended. The assessment shall include in-house costs for use of telephone/telecommunication services (including maintenance and support) and facsimile transmissions.

3.3 Payment

3.3.1 Fees Calculated on a Time Basis

The Consultant shall submit an invoice to the Client for all Services completed in the immediately preceding month. Interest at the annual rate of ____ percent (____ percent monthly) will be paid on the total outstanding unpaid balance commencing 30 days after the Client has received the Consultant's invoice.

3.3.2 Fees Calculated on a Percentage of Cost Basis

(a) Monthly Payment

The Consultant shall submit an invoice to the Client for that part of the design of the Project completed in the immediately preceding month calculated upon the basis of the Consultant's estimate of the cost of that part of the Project, and, if the Client agrees with such estimate and that such part has been completed, the Consultant will be paid the amount of the fee so invoiced. Interest at the annual rate of ____ percent (____ percent monthly) will be paid on the total outstanding unpaid balance commencing 30 days after the Client has received the Consultants' invoice.

(b) On Award of Contract

Following the award of the contract for the construction of the Project, the Consultant shall recalculate his fee on the basis of the tender quantities and prices on which the contract for the construction of the Project was awarded, plus the estimated cost of materials and other services supplied by the Client and upon such recalculation, the amount paid to the Consultant shall be adjusted to equal the full amount of the recalculated fee including the repayment by the Consultant of any overpayment made to the Consultant.

(c) Delay of Award of Contract

In the event the contract for construction of the Project is not awarded within ____ months of the acceptance of the Design by the Client the final fee for design shall be determined as in paragraph (a) above, and paragraph (b) shall not apply.

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Further services for the Project beyond the ____ months will be undertaken on a time basis.

(d) On Completion of the Work

Following Completion of the Work, the Consultant shall recalculate his fee on the basis of the actual cost of the work and upon such recalculation the amount paid to the Consultant shall be adjusted to equal the full amount of the recalculated fee including the repayment by the Consultant of any overpayment to the Consultant.

3.3.3 Lump Sum Fee/Negotiated Fee

(a) Compensation

The Client will compensate the Consultant in accordance with the fees and charges for services as set out in the proposal or as otherwise mutually agreed. All fees and charges will be payable in Canadian funds unless noted otherwise. Invoices will be due and payable, as presented and without hold backs, by the Client upon receipt. Interest on overdue accounts will be charged at the rate of __% per annum.

Any notice forwarded by prepaid registered mail shall be deemed to have been received on the fourth day following mailing thereof.

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day and year first above written.

Per: _____ Title
Consultant
(I have the authority to bind the Consultant)

Chief Administrative Officer

City of Cranbrook			
Approved		Date	Ini.
Municipal Clerk	Legal & Form		
Chief Administrative Officer	Principle		
Department Head	Content		