# City of Carroll

112 E. 5th Street Carroll, Iowa 51401-2799 (712) 792-1000 FAX: (712) 792-0139

**MEMO TO:** Honorable Mayor and City Council Members

**FROM:** Mike Pogge-Weaver, City Manager MPW

**DATE:** July 9, 2019

**SUBJECT:** Consider a resolution to approve a professional services agreement with Impact7G consultants for asbestos services related to the Library/City Hall project

As part of the due diligence process for the Library/City Hall Project, the City hired Barker Lemar Engineering in the spring of 2016 to complete an environmental site assessment at the current Commercial Savings Bank site along with completing an asbestos assessment at the Farner Government Building. For the asbestos work, Barker Lemar Engineering hired Impact7G to complete that portion of the work. Now that the project is moving forward, the asbestos will need to be remediated before renovations can start.

Overall, the asbestos is fairly limited in both buildings. At the Farner Government Building, it currently appears that asbestos is limited to tiles in one HVAC closet and the undercoating of two sinks. At the Commercial Savings Bank site, it currently appears that asbestos is limited to to the basement area in floor tile, pipe joints, and mastic puck (ceiling tile adhesive) and additionally on the second floor there is asbestos contained in window caulking in one area along with floor tiles in one closet.

Since Impact7G completed the initial work to identify asbestos in the two buildings, staff sought a professional services agreement from them to complete Asbestos Containing Material (ACM) bid specifications, bid management, project observation, and clearance for the abatement of ACMs from the two structures.

The contract calls for a total cost of $4,300 to complete the ACM bid specifications, bid management, and post remediation clearance sampling plus $900 per day for project observation during construction.

**RECOMMENDATION:** Mayor and City Council is asked to consider a resolution to approve a Professional Services Agreement with Impact7G to complete Asbestos Containing Material (ACM) bid specifications, bid management, project observation, and clearance for the abatement of ACMs from the two structures at 112 E 5th St and 627 N. Adams St for a total cost of $4,300 plus $900 per day for project observation during construction.

# RESOLUTION NO. _____

A RESOLUTION APPROVING PROFESSIONAL SERVICES AGREEMENT WITH IMPACT7G, INC.

WHEREAS, Chapter 17, of the Code of Ordinances of the City of Carroll, Iowa, provides that all contracts made by the City be approved by the City Council by resolution; and

WHEREAS, the Professional Services Agreement with Impact7G, Inc. is attached hereto as Exhibit "A"; and

WHEREAS, it is determined that the approval of the attached Agreement is in the best interest of the City of Carroll, Iowa;

NOW, THEREFORE, BE IT RESOLVED that the Professional Services Agreement with Impact 7G, Inc., attached as Exhibit "A", be authorized and approved, and that the Mayor and City Clerk are authorized to execute the contract on behalf of the City of Carroll.

PASSED AND APPROVED by the City Council of the City of Carroll, Iowa, this 9th day of July, 2018.

CITY COUNCIL OF THE
CITY OF CARROLL, IOWA

BY:_____
Eric P. Jensen, Mayor

ATTEST:

By:_____
Laura A. Schaefer, City Clerk

IMPACT7G

# Professional Services Agreement

| | | | |
|---|---|---|---|
| Project: | Asbestos Services | | |
| Property: | 112 E 5th Street & 627 N Adams Street, Carroll, IA | Date: | 06-07-2018 |

| | |
|---|---|
| Client: | City of Carroll |
| Contact: | Mike Pogge-Weaver |
| Address: | 112 E. 5th Street |
| City/State/Zip: | Carroll, IA 51401 |
| Email: | mpoggeweaver@cityofcarroll.com |

AGREEMENT made this 7th day of June, 2018, by and between the service provider, Impact7G, Inc. ("Provider"), and the Client, City of Carroll ("Client.").

WHEREAS, the Client intends to engage the services of the Provider to complete Asbestos Containing Material (ACM) bid specifications, bid management, project observation, and clearance for the abatement of ACMs from the two structures located at 112 E 5th Street and 627 N Adams Street in Carroll, IA;

WHEREAS, the Provider agrees to provide said services pursuant to the terms of this Agreement.

NOW THEREFORE, the parties agree as follows:

1. **Project**

Impact7G agrees to complete ACM bid specifications, bid management, project observations, and clearance for the abatement of ACM from the structures located at 112 E 5th Street and 627 N Adams Street in Carroll, IA.

2. **Scope of Services**

**ACM Bid Specifications**

Impact7G will complete bid specification and scope of work for abatement of ACM. The abatement design will meet all local, State, and Federal regulations and will include all materials being abated and applicable codes and regulations for proper abatement.

**Bid Management**

Impact7G will manage the bidding process which includes sending bid specifications to abatement contractors, attending a pre-bid meeting, and putting together the final bid list. Additionally, Impact7G will answer questions pertaining to the abatement for incorporation into an addendum. All contracts will be signed directly with the Client and not through Impact7G.

**Project Observation & Clearance**

Impact7G will provide daily project observation of the abatement project while contractors are on-site. Impact7G will conduct area air sampling around the perimeter of the project containment. The samples will be analyzed by the Phase Contrast Microscopy (PCM) method. Once abatement activities are complete, Impact7G will conduct a visual clearance to ensure all ACM has been removed. After the visual inspection and complete removal of the ACM from the project area, Clearance Air Sampling will be conducted. The clearance samples will also be analyzed by PCM and

should be completed to ensure the abatement project area is safe to reoccupy by other contractors. The scheduled observation as part of this scope of work is intended to be during normal business hours and excludes work at night/weekends. If non-normal work hours are required, additional compensation will be required.

3. **Provider Responsibilities**. Impact7G hereby agrees to:

(i) Provide the professional services as set forth in this Agreement; and
(ii) Perform said services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing at the same time and in the same or similar locality.

4. **Client Responsibilities.** Client hereby agrees to:

(i) Provide a knowledgeable representative of the subject property, who will be available to coordinate all on-site work;
(ii) Provide unrestricted access to the subject property for Impact7G to perform the services; and
(iii) Provide copies of any previously-completed reports that may be pertinent to this Project.

Initials City

5. **Schedule.** The bid specification portion of the project will commence after July 11, 2018 and immediately upon receipt of the Notice to Proceed ("NTP") from the Client. Impact7G understands the Client wishes to have one building demolished in early to mid-September, and the second building demolished in late September. Therefore, Impact7G shall have the bid specifications completed and reviewed by mid-July. Pre-bid activities (i.e. walkthrough) will be conducted in late July. It is anticipated that ACM abatement activities would be completed during the month of August for both structures.

Initials Impact7G

6. **Project Cost, Payment and Termination.** The Client shall pay Impact7G the Lump Sum Cost of Four Thousand, Three Hundred Dollars ($4,300.00) plus Nine Hundred ($900.00) per day for Project Observation during the abatement portion of the project for the performance of this Agreement. Direct costs such as communications, postage, routine printing and copying are not invoiced separately, but are included with the Lump Sum to streamline the accounting process and reduce overhead costs.

| Tasks | Cost |
|---|---|
| ACM Bid Specifications (two buildings) | $2,250.00 |
| Bid Management | $850.00 |
| Project Observation | $900.00/day |
| Clearance Sampling | $1,200.00 |
| **Total** | **$4,300.00 + Daily Project Observation** |

Invoices for Impact7G's services will be submitted upon project completion. Invoices shall be due and payable upon receipt. If any invoice is not paid within 30 days, Impact7G may, without waiving any claim or right against the Client, and without liability whatsoever to the Client, suspend or terminate the performance of services.

7. **Work Product**. All reports, plans, specifications, field data, field notes, laboratory test data, calculations, estimates and other documents including all documents on electronic media prepared by Impact7G as instruments of service shall remain the property of Impact7G.

All project documents including, but not limited to, plans and specifications furnished by Impact7G under this project are intended for use on this project only. Any reuse, without specific written verification or adoption by Impact7G, shall be at the Client's sole risk, and Client shall defend, indemnify and hold harmless Impact7G from all claims, damages and expenses including attorney's fees arising out of or resulting therefrom.

Under no circumstances shall delivery of electronic files for use by the Client be deemed a sale by Impact7G, and Impact7G makes no warranties, either express or implied, of merchantability and fitness for any particular purpose. In no event shall Impact7G be liable for indirect or consequential damages as a result of the Client's use or reuse of the electronic files.

Because electronic file information can be easily altered, corrupted, or modified by other parties, either intentionally or inadvertently, without notice or indication, Impact7G reserves the right to remove itself from its ownership and/or involvement in the material from each electronic medium not held in its possession. Client shall retain copies of the work performed by Impact7G in electronic form only for information and use by Client for the specific purpose for which Impact7G was engaged. Said material shall not be used by Client or transferred to any other party, for use in other projects, additions to this project, or any other purpose for which the material was not strictly intended by Impact7G without Impact7G's expressed written permission. Any unauthorized use or reuse or modifications of this material shall be at Client's sole risk. Furthermore, the Client agrees to defend, indemnify, and hold Impact7G harmless from all claims, injuries, damages, losses, expenses, and attorney's fees arising out of the modification or reuse of these materials.

8. **Project Site**. The Client agrees that it shall be solely responsible for job site safety, and warrants that this intent shall be made evident in the Client's agreements with any third parties. The Client also agrees that Impact7G and Impact7G's consultants shall be indemnified and shall be made additional insureds on the Client's general liability policies on a primary and non-contributory basis.

9. **Claims and Disputes**. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Client or Impact7G. Impact7G's services under this Agreement are being performed solely for the Client's benefit, and no other party or entity shall have any claim against Impact7G because of this Agreement or the performance or nonperformance of services hereunder. The Client and Impact7G agree to require a similar provision in all contracts with contractors, subcontractors, subconsultants, vendors and other entities involved in this Project to carry out the intent of this provision.

The Client shall make no claim for professional negligence, either directly or in a third party claim, against Impact7G unless the Client has first provided Impact7G with a written certification executed by an independent professional currently practicing in the same discipline as Impact7G and licensed in the State in which the claim arises.

10. **Limited Liability**. The Client agrees, to the fullest extent permitted by law, to limit the liability of Impact7G and Impact7G's officers, directors, partners, employees, shareholders, owners

and subconsultants to the Client for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorneys' fees and costs and expert witness fees and costs, so that the total aggregate liability of Impact7G and its officers, directors, partners, employees, shareholders, owners and subconsultants to all those named shall not exceed ~~$10,000~~. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law. $100,000

Initials City

Initials Impact7G

11. **Mediation**. In an effort to resolve any conflicts that arise during the design or construction of the project or following the completion of the project, the Client and Impact7G agree that all disputes between them arising out of or relating to this Agreement shall be submitted to non-binding mediation unless the parties mutually agree otherwise. The Client and Impact7G further agree to include a similar mediation provision in all agreements with independent contractors and consultants retained for the Project and to require all independent contractors and consultants also to include a similar mediation provision in all agreements with subcontractors, sub-consultants, suppliers or fabricators so retained, thereby providing for mediation as the primary method for dispute resolution between the parties to those agreements.

12. **Attorneys Fees**. If litigation arises for purposes of collecting fees or expenses due under this Agreement, the Court in such litigation shall award reasonable costs and expenses, including attorney fees, to the prevailing party. In awarding attorney fees, the Court shall not be bound by any Court fee schedule, but shall, in the interest of justice, award the full amount of costs, expenses, and attorney fees paid or incurred in good faith.

13. **Controlling Law**. This Agreement shall be construed and enforced in accordance with the laws of the state of Iowa.

14. **Assignment**. Neither the Agreement nor any of the rights or obligations arising under the Agreement may be assigned without prior written consent.

This agreement is approved and accepted by the Client and Impact7G upon both parties signing and dating the agreement. The effective date of the agreement shall be the last date entered below.

| City of Carroll | | IMPACT7G, Inc. | |
|---|---|---|---|
| Accepted by: | | Principal: | |
| Printed/ Typed Name: | | Printed/ Typed Name: | Brandon Neilson |
| Title: | | Date: | 06 - 07 - 2018 |
| Date: | | | |