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 MTP-W

DATE: December 4, 2019

SUBJECT: Consider a Resolution to approve a Professional Services Agreement with Impact7G Consultants for asbestos services related to the property at 224 N Main Street

As the City works to demolish the property at 224 N Main Street, asbestos removal is required. Prior to the purchase of the property, Impact7G completed a Phase I Environmental Site Assessment (ESA) and an Asbestos Containing Materials (ACM) Survey for the property for the City. Overall, the asbestos is fairly limited in the building. Inside the building asbestos is located in flooring glue and pipe fitting in the basement and first floor. On the outside, asbestos is located in the siding and roofing.

Since Impact7G completed the initial work to identify asbestos in the building, 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 $3,500 to complete the ACM bid specifications, bid management, and post remediation clearance sampling; $1,000 per day for project observation during construction; $15.00 per PCM air sample; and $1,000 for a project closure report.

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 for property at 224 N Main Street.

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 December, 2019.

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 Consulting Services		
Property:	224 North Main Street, Carroll, IA	Date:	12/4/2019

Client:	City of Carroll
Contact:	Mike Pogge-Weaver
Address:	627 N Adams Street
City/State/Zip:	Carroll, IA 51401
Phone:	712-775-7505
Email:	mpoggeweaver@cityofcarroll.com

AGREEMENT made this 4th day of December 2019, by and between the service provider, Impact7G, Inc. ("Impact7G") and City of Carroll ("Client").

WHEREAS, the Client intends to engage the services of Impact7G to: complete asbestos consulting services

WHEREAS, Impact7G 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 the below listed Asbestos Consulting Services in accordance with federal, state, and local regulations for the above referenced property. It is our understanding that the above property will be demolished.

2. **Scope of Services**

Bidding and Contract Documents

Impact7G will assist with the preparation of bidding documents, including an asbestos project design and contract documents for the abatement of identified asbestos containing materials. A State of Iowa licensed asbestos Project Designer will prepare the asbestos project design. The project design will detail the required removal techniques, requirements for notification to the State and the EPA, disposal requirements, worker training requirements, bonding requirements, and all other Federal and State requirements for the proper removal of asbestos containing materials. Impact7g will conduct a pre-bid site meeting and require that bidders must be present to be considered for the work. Impact7G will require bidder must be qualified by experience, have adequate bonding capability (if required), and have required insurance to be considered for the work. Once competitive bids are received, Impact7G will make a recommendation of award to the Client and issue contract documents to be executed by both the Client and abatement contractor.

Air Monitoring & Project Observation
Impact7G will provide air monitoring services and project observation, which will include the collection and analysis of all personal air samples, short term excursion limit air samples, and field blanks as required by OSHA. In addition, area air samples by each removal area, air samples at each entrance to a containment area, and HEPA exhaust air samples will be collected and analyzed daily in order to document any potential fiber releases. These samples will be analyzed via the Phase Contrast Microscopy (PCM) method. At the completion of the asbestos removal and upon the passing of a visual inspection, final clearance air samples will be collected and analyzed using the PCM method as required by AHERA.

Closure Report
Upon completion of clearance sampling and receipt of analytical data, Impact7G will prepare a Closure Report for the project summarizing abatement activities. The report will consist of asbestos worker logs, abatement procedures, copies of notifications and disposal records (if made available from abatement contractor) and copies of all air monitoring results.

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

5. **Schedule**

The Project will commence immediately upon receipt of the executed Professional Services Agreement (PSA) from the Client. Impact7G anticipates being able to complete the Asbestos Project Design within approximately two weeks of receiving the PSA.

6. **Project Cost, Payment and Termination**

The Client shall pay Impact7G the itemized costs as detailed below 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 – 224 North Main Street, Carroll, IA	Cost
Bidding and Contract Documents	$3,500.00
Air Monitoring and Project Observation (Monday-Friday 7:00 AM-5:00 PM)	$1,000.00 / day
Air Monitoring and Project Observation (Saturday-Sunday 7:00 AM-5:00 PM)	$1,300.00 / day
PCM Air Samples	$15.00 / each
Closure Report	$1,000.00

*Hours worked outside of 7:00 am – 5:00 pm (or in excess of 10/day) will be billed at an hourly rate of $95.00/hour.

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 $100,000. 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.

11. **Mediation** In an effort to resolve any conflicts that arise during 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. **Attorney's 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:	_____	Project Manager:	Kim Crosser
Printed/ Typed Name:	_____	Printed/ Typed Name:	Kim Crosser
Title:	_____	Date:	12/4/2019
Date:	_____		