

RESOLUTION 2022-15

A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH  
IMPACT 7G TO PREPARE AND SUBMIT AN APPLICATION FOR FUNDING IN THE  
AMOUNT OF \$500,000 TO THE IOWA FINANCE AUTHORITY

WHEREAS, The City of West Branch has interest in stream restoration of a tributary that discharges to Hoover Creek; and

WHEREAS, the Iowa Finance Authority Watershed Infrastructure Fund is offering a \$500,000 grant for Watershed Protection Projects; and

WHEREAS, Impact 7G identified The Meadows Subdivision for enhanced detention basin and wet swale improvements which will enhance connectivity between existing and future water quality improvement projects; and

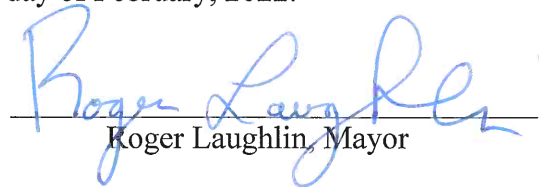
WHEREAS, Impact 7G will prepare and submit an application to request funding from the Iowa Finance Authority for a cost of \$10,000; and

WHEREAS, the City of West Branch, if approved for the grant will be required to match 5% (or \$25,000); and

WHEREAS, it is now necessary to approve said agreement.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of West Branch, Iowa that the aforementioned agreement is approved. Further, the Mayor is directed to execute the agreement on behalf of the City.

Passed and approved this 22nd day of February, 2022.

  
\_\_\_\_\_  
Roger Laughlin, Mayor

ATTEST:

  
\_\_\_\_\_  
Leslie Brick, City Clerk



<b>Professional Services Agreement</b>
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Project:	City of West Branch – Iowa Finance Authority Watershed Protection Fund Application		
Property:	West Tributary of Hoover Creek	Date:	1/ /2022

Client:	The City of West Branch		
Contact:	Adam Kofoed, City Administrator		
Address:	110 N. Poplar Street		
City/State/Zip:	West Branch, IA 52358		
Phone:	319-643-5888		
Email:	adam@westbranchiowa.org		

AGREEMENT made this January , 2022, by and between the service provider, Impact7G, Inc. (“Impact7G”) and the City of West Branch (“Client”).

WHEREAS, the Client intends to engage the services of Impact7G to: complete the scope of work outlined as follows.

WHEREAS, Impact7G agrees to provide said services pursuant to the terms of this Agreement.

NOW THEREFORE, the parties agree as follows:

1. **Project**  
Prepare an application to request funding from the Iowa Finance Authority Watershed Infrastructure Fund for Watershed Protection Projects in the amount of \$500,000.
2. **Scope of Services**  
This proposal provides for the services necessary to complete the project outlined in this agreement.

**Task 1 – Prepare and submit an application for funding in the amount of \$500,000 to the Iowa Finance Authority (IFA) Watershed Infrastructure Fund (WIF) to be considered for funding through the Watershed Protection Projects category.**

The project that will be proposed for funding includes stream restoration of a tributary that discharges to Hoover Creek, and incorporating water quality practices immediately upstream of the tributary within an existing swale. The swale improvements and stream restoration will be connected, further enhancing connectivity between existing and future water quality improvement projects. Previous

and future water quality projects within this stream corridor include the completed improvements to Hoover Creek led by the National Park Service, and planned restoration of Wapsinonoc Creek funded by the SRF Sponsored Projects program. The project proposed for IFA funding is located west of Dawson Drive, beginning at the intersection of Dawson Drive and W. Main Street, following the stream corridor to the north-northwest and through the north end of the existing drainage swale for a total of approximately 1,900 linear feet. Enhancements to the existing swale include the addition of a forebay, incorporating drop structures, and soil restoration. Drop structures in the swale will slow down runoff, and control head cuts caused by grade change. In addition, the water would pond behind the structures, allowing time for infiltration, which would be enhanced with soil quality restoration and the establishment of native or low-grow fescue. The design will ensure a smooth transition from the enhanced swale to stream channel, where restoration work will include floodplain reconnection, bank reshaping, and additional stream buffer. All of the proposed practices within the swale and stream channel will work to improve water quality and slow runoff entering Hoover Creek and Wapsinonoc Creek. Additionally, these projects present an opportunity for community education on water quality issues and practices.

The application will include the following components:

1. Detailed project summary that indicates the proposed project meets minimum requirements.
2. Estimated project costs.
3. Project proposal that addresses how this project will accomplish the water quality goals outlined in the Watershed Assessment.
4. Indicate how the project will implement the recommendations of the Watershed Assessment and/or addresses a cause of an impaired water.
5. Identify collaborating partner organizations and request Letters of Support. Organizations may include the following:
  - a. Lower Cedar River Watershed Management Authority (LCWMA)
  - b. Cedar County Board of Supervisors
  - c. Developer of The Meadows development
  - d. Other project advocates
6. Provide a schedule of completion that meets funding requirements.
7. Summary of supporting documentation, including the Watershed Assessment (also included as an attachment).
8. Supporting maps.
9. Resolution for approval by the City of West Branch that indicates approval of the application and ability to provide the required match of 5%.
10. Note in the application that the financial match commitment will be met through Sponsored Project funds previously awarded to the City.

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 Properties for Impact7G to perform the services; and
- (iii) Provide copies of any previously completed reports that may be pertinent to this Project.
- (iv) Allocate a 5% match as required by the funding program.

5. **Schedule**

The Project will commence immediately upon receipt of the executed Professional Services Agreement (PSA) from the Client. A tentative schedule will be delivered to the CLIENT for concurrence following the kick-off meeting.

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

The Client shall pay Impact7G the Lump Sum fee listed in the table 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.

TASK	TERMS	FEE
Task 1 – IFA Watershed Protection Project Funding Application	LS	\$10,000
	TOTAL	\$10,000

Invoices for Impact7G's services will be submitted monthly. Invoices for Lump Sum services will be based on percent work completed to date. Invoices for Time and materials will be invoices based on actual time and materials completed during that monthly billing cycle. 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 \$50,000. 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.

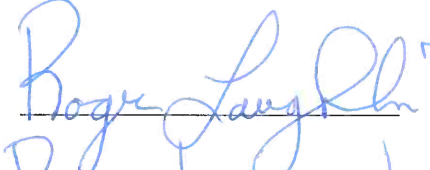
13. **Controlling Law** This Agreement shall be construed and enforced in accordance with the laws of the state of Iowa.

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 West Branch

Impact7G, Inc.

Accepted by: 

Project Manager: \_\_\_\_\_

Printed/  
Typed Name: ROGER LAUGHLIN

Printed/ Typed  
Name: Judith E. Joyce, Principal

Title: MAYOR

Date: 1/ /2022

Date: 2-22-22