

## Staff Report

**FITCH FAMILY INDOOR AQUATIC CENTER UPDATE**

May 10, 2022

**BACKGROUND:**

The City Council has made it a priority to construct a new warm-water Indoor Aquatic Center (IAC) at 122 North Oak Avenue, which is property currently owned by the Iowa Department of Transportation (IDOT). The last update regarding the project was given to Council on November 23, 2021, and the activity that has occurred since that time warrants an update.

City staff has been concentrating on five issues related to the IAC over the past several months, which are discussed in this report. Some issues indicated below may require City Council direction and these are identified under staff comments at the end of the report:

- Project cost estimate update
- RDG Planning and Design Contract Update
- Construction Manager Contract Update
- IDOT land acquisition update
- Environmental assessments conducted

**PROJECT COST ESTIMATE UPDATE:**

The table below shows two cost estimates for a one-level building with a 9,000 square foot east addition. The first estimate was provided in August 2021 by the consulting firm Stecker Harmsen. The second estimate is an update from Stecker Harmsen provided in April 2022.

Best Estimates -Subject to Change!	<b>August 2021 Stecker Harmsen Estimate</b>	<b>April 2022 Stecker Harmsen Estimate</b>
<b>Items</b>	<b>One Level w East Addition</b>	<b>One-Level w/East Addition</b>
Construction Cost	\$ 19,537,718	\$ 21,122,757
Estimate Contingency (15%)	\$ 2,930,658	\$ 3,168,414
Land	\$ 2,900,000	\$ 2,900,000
FFE	\$ 300,000	\$ 300,000
Construction Manager	\$ 1,400,000	\$ 1,323,984
Design Fees	\$ 1,702,000	\$ 1,798,250
Soils, Survey, Testing	\$ 390,000	\$ 390,000
Relocate Electric Lines	Not Included	\$ 75,000
<b>Subtotal</b>	<b>\$ 29,160,376</b>	<b>\$ 31,078,405</b>
Owner's Contingency	\$ 1,003,800	\$ 1,553,920
<b>Total</b>	<b>\$ 30,164,176</b>	<b>\$ 32,632,325</b>

With \$31,000,000 of available funding for this project, the new cost estimate results in a funding shortfall of \$1,632,325. **It must be emphasized that this is an estimate and with continuous increases in construction costs expected, this shortfall is likely to be higher when the final estimate is done prior to bidding.**

**Considering this information, staff is proposing a different approach to determine the budget for this project.** The first step is to determine and/or establish the costs that are known or where there is high confidence in the amount. These would include land cost, owner’s contingency, FFE (furniture, fixtures, and equipment), surveys and testing, relocation of overhead electric lines, design costs, and construction management costs.

The second step is to deduct those known costs from the total available funding to determine what funding remains. This remaining amount is the maximum amount allowed for construction and would cover building construction, general requirements, contractor’s markup, and an estimate contingency. Lastly, there may be some funding left over to cover high bids or add alternates.

It should be noted that the priority with this approach is to construct an indoor aquatic center with the east addition being bid as an add alternate. If funding is available when contracts are awarded to add the east addition, Council can do so. Following is a budget using this approach.

<b>TOTAL FUNDS AVAILABLE</b>	<b>\$31,000,000</b>
<b>Owner’s Soft and Direct Costs</b>	
Land acquisition	\$ 2,900,000
Owner’s contingency	2,100,000
FFE	500,000
Surveys and testing	390,000
Relocate overhead electric lines	75,000
Design costs	1,798,250
Construction Manager	1,323,984
<b>Sub-Total</b>	<b>\$ 9,087,234</b>
<b>Funds Available for Construction</b>	<b>\$21,912,766</b>
<b>Building Construction Costs (Based on Stecker Harmsen’s April 2022 Estimate)</b>	
Construction costs (excludes east addition)	\$17,000,000
General requirements (4.5%)	765,000
Contractor’s markup (6.5%)	1,105,000
Estimate contingency	1,630,000
<b>Sub-Total</b>	<b>\$20,500,000</b>
<b>Funds Remaining</b>	<b>\$1,412,766</b>

The east addition alone, which is excluded from the \$17 million construction cost estimate above, is estimated by Stecker Harmsen to cost \$2,973,702. With remaining funds of \$1,412,766, there is a funding shortfall of \$1,560,936 to complete the east addition component.

### **Two Approaches To Pursue:**

#### Approach 1

If it is Council's vision to have a quality, energy efficient indoor aquatic center, bidding the east addition as an alternate will best accomplish that vision. Only if favorable bids are received, the opportunity would exist to deliver the east addition in combination with the main aquatic facility.

#### Approach 2

Alternatively, if the aquatic portion and east addition must both be completed in order to achieve the City Council's vision, then quality, energy efficiency, and other features may be compromised in the overall facility in order to deliver the project within the current available funding.

**At the May 10 meeting, staff will be seeking Council's guidance regarding which of the two approaches presented above to pursue.**

### **RDG PLANNING AND DESIGN CONTRACT UPDATE:**

RDG Planning and Design was selected through a Request for Proposal (RFP) process to develop a conceptual design for the Healthy Life Center (HLC). When Council directed staff to apply for the Iowa Reinvestment District Program in 2021, it also approved using RDG to develop a conceptual design for the Indoor Aquatic Center (IAC) which was based on the aquatics portion of the HLC.

Through the development of the HLC and the IAC, RDG has developed a very good understanding of the City's goals as it relates to an aquatic facility. At its November 23, 2021 meeting, City Council approved hiring RDG Planning and Design to design the Fitch Family Indoor Aquatic Center.

**Since that time, staff has been meeting with RDG to agree on a scope of services, a contract, and a fee for their services. These items are being finalized and a contract hopefully will be presented to Council for award at its May 24, 2022 meeting. No action is required at the May 10 meeting regarding this item.**

### **CONSTRUCTION MANAGER CONTRACT UPDATE:**

At its January 25, 2022 meeting, City Council directed staff to issue a Request for Proposals (RFP) for Construction Management Services for the design and construction of the Fitch Family Indoor Aquatic Center. Services of the CM were to include Pre-Construction services (assist with design, provide cost estimates, and develop bid

packages) and construction services (managing all aspects of construction including contractors, coordination of tasks, review of shop drawings and submittals, etc.).

Four firms submitted RFP responses and were evaluated by City staff. Evaluation criteria included: 1) The firm’s qualifications and experience as a construction manager, 2) Experience with swimming pools and similar projects, 3) Team approach to pre-construction and construction services, 4) Knowledge of the public sector construction market in Iowa, 5) Organization, clarity, completeness, and responsiveness to the RFP, and 6) Cost proposal. The firms and their evaluation scores, with and without the costs included, are shown below:

<b>FIRM</b>	<b>RFP SCORE W/O COSTS</b>	<b>RFP SCORE WITH COSTS</b>
Story Construction	1520	1910
Henkel Construction	1325	1825
ICS Consulting, LLC	1190	1660
The Samuels Group	1090	1530

Based on these RFP Evaluation Scores, Story Construction and Henkel Construction were brought in for an interview on March 21, 2022. These interviews were evaluated by the same evaluation group. The interview scores were added to the RFP scores to obtain a total score for each firm as shown below:

<b>FIRM</b>	<b>RFP SCORE WITH COSTS</b>	<b>INTERVIEW SCORE</b>	<b>TOTAL SCORE</b>
Story Construction	1910	1705	3615
Henkel Construction	1825	1555	3380

A breakdown of the cost proposals for all four submittals is shown below:

	<b>The Samuels Group</b>	<b>Henkel Const. Company*</b>	<b>ICS Consulting, LLC</b>	<b>Story Construction</b>
<b>TOTAL COST</b>	<b>\$1,245,820</b>	<b>\$1,099,680</b>	<b>\$1,173,524</b>	<b>\$1,400,424</b>

When comparing Story Construction (Story) to Henkel Construction (Henkel), the following observations were made:

- Story’s fees include approximately \$100,000 more in pre-construction services, \$100,000 more in CM fees and \$100,000 more in staffing fees (Note: these figures have changed through the negotiation phase).
- Story is clearly providing more pre-construction services than Henkel and staff believes that the value of this work will provide the City with clearer bid documents, potentially more interested bidders, and appropriate bid packages.

- All of Henkel’s aquatic experience has been as a general contractor, while Story has served as a construction manager and a general contractor for aquatic projects. Both lack extensive indoor aquatic experience.
- Story has functioned as a construction manager more than Henkel (25 projects versus 11, respectively), and was evaluated as the top firm through the evaluation process.
- The largest construction manager project for Henkel in the last five years has been \$12 million, while Story has been the construction manager on five projects over \$20 million.
- **It should be noted that during the evaluation process, staff became aware that prior to the issuance of the Construction Management RFP, both Story and Henkel made monetary donations to the fundraising campaign for the Indoor Aquatic Center project. This fundraising campaign is being organized by the Ames Chamber, and therefore City staff was not aware of the donations at the time they were made, or when the RFP was issued. The City Attorney has reviewed this information and has determined that awarding a contract to either firm in light of these donations would not violate law or policy. However, it has the potential to appear to be a conflict of interest.**

For this type of contract, the City is not required to hire the low bid; instead, the City can award a contract to the company it determines will best provide the services requested. Although Story Construction’s cost proposal was the highest, staff feels the company brings the most competence as a construction manager for this project.

**As a result, staff began further discussions and negotiations to finalize the terms of a contract with Story Construction. Hopefully, a contract will be brought before Council on May 24, 2022. No action is requested at the May 10 meeting regarding this item.**

**IDOT LAND ACQUISITION UPDATE:**

Based on the City’s expressed interest in the property, the IDOT retained an independent appraiser to establish the market value of the 122 North Oak Avenue property. **The appraisal concluded that the market value of the property as of October 4, 2021, is \$2,900,000 for this 2.91 acre site.** The appraisal was then reviewed and certified by a second appraiser per IDOT policy on October 31, 2021.

The appraisal notes that it assumes the property “does not suffer from soil or groundwater contamination,” and the appraiser did not review reports of any asbestos or hazardous materials that may be present on the site. City staff has held several conversations with IDOT staff since the issuance of the appraisal report, in order to clarify details regarding the property, the environmental conditions, and other aspects of the appraisal. The IDOT has indicated from the start of the discussions that the property is being sold as-is.

DOT Policy allows the property to be first offered to governmental entities before it is made available for purchase by others. To accomplish this, the IDOT will deliver an invitation to the City to submit an "Offer to Buy." This offer must be returned to the IDOT within 30 days of notification of the opportunity. **According to DOT Policy, the offer must equal or exceed the fair market value of the property as determined in the appraisal.** If no valid offer is received within 30 days, the parcel is disposed of by public auction.

After the City submits the Offer to Buy, the City will receive a letter within several days indicating the offer has been accepted. Once accepted, the City would transfer the payment to the state no later than October 1, 2022. The property would be conveyed by State Land Patent.

Since the State Land Patent may take up to 45 days to be issued, there is language in the Offer to Buy agreement regarding a Mutually Beneficial Lease. This Lease will allow the City to treat the property as its own until the State Land Patent is issued. This is important; without the MBL, the City would not be able to make any alterations (remove hazardous fixtures, asbestos removal, etc.) to the building until the State Land Patent is received.

The IDOT has agreed to vacate the premises no later than September 30, 2022. **The Offer to Buy and Mutually Beneficial Lease are being finalized and staff hopes to bring these items before Council on May 24, 2022.**

**No action is being requested of the Council regarding this item at the May 10 meeting. However, before staff can recommend purchasing the land from the IDOT, Council direction will be required regarding the environmental assessments in the section of this report below.**

#### **ENVIRONMENTAL ASSESSMENTS CONDUCTED:**

The City retained a contractor, Impact7G, to complete an environmental analysis of the 122 North Oak Avenue property. This analysis reviewed the history of the sites, explored subsurface soil conditions, and investigated for any soil contamination issues that may require mitigation. Below is a listing of the reports completed and a summary of the findings:

#### **PHASE 1 ENVIRONMENTAL SITE ASSESSMENT (ESA)**

The ESA reviews records to determine the history of the site. Staff provided environmental reports received from the DOT regarding any activity on the property since the DOT purchased it in 1995.

Over the years, the site has contained residential development, a church, St. Cecilia school, and a gas filling station (northeast portion of the property). The surrounding area has consisted of residential development, industrial development, and commercial

businesses. Of concern is a coal gas company which was located north of the property along 2<sup>nd</sup> Street, as well as a variety of petroleum activities (bulk oil stations, filling stations, and several gasoline tanks) to the north and east.

The Assessment identified several Recognized Environmental Conditions (RECs) which are defined as *“the presence or likely presence of any hazardous substances or petroleum products in, on, or at a property: 1) due to release to the environment; 2) under conditions indicative of a release to the environment; or 3) under conditions that pose a material threat of a future release to the environment.”* The following RECs were identified:

- Historical records indicate that, for several decades in the 1900s, multiple sites north, northeast, and east of the Property were occupied by manufacturing, gas, and oil facilities. Fire insurance maps show the Property itself had a gas filling station and storage tanks near its northeastern corner between at least 1947 and 1963.
- A former Leaking Underground Storage Tank (LUST) site (821 Lincoln Way) was closed in the State regulatory program. Contaminant plume and pathways maps indicate contamination, or the potential for future contamination, to have reached the Property’s southeastern corner. Past reports show two soil samples and groundwater monitoring wells were installed immediately east of the Property. In 2001, the two samples indicated a low contaminant concentration in soil.
- Regulatory records for a State-regulated contaminated site immediately north of the Property (903 2nd Street) included a Phase II report that was conducted on the Property in 1994, which included nine testing locations that showed petroleum contamination in the northeastern corner of the Property. Investigations for the north-adjointing site included six monitoring wells to delineate contamination in the northeastern corner of the Property. **That case was closed in 2021, but with contaminants of concern exceeding Statewide Groundwater Standards in the far northeastern corner of the Property as recently as September 2020.** Impact7G considers the documented contamination a REC under a condition indicative of a release to the environment.

**As a result of these findings, Impact7G recommended additional investigation be performed.**

#### ASBESTOS CONTAINING MATERIAL (ACM) INSPECTION – NORTH ANNEX

This inspection found approximately 460 square feet of membrane adhesive and 70 linear feet of tar on the roof that contain asbestos. This will need to be removed prior to demolition. No other ACM was identified in this building.

#### ASBESTOS CONTAINING MATERIAL (ACM) INSPECTION – CONFERENCE CENTER

Twenty samples of materials were tested, and asbestos was not detected in any of the samples.

## HAZARDOUS MATERIAL INVENTORY

Hazardous materials were identified throughout the structures and items include materials that are classified as hazardous building materials/items (CFCs, hydraulic fluids, dielectric fluids, products containing mercury, radioactive materials, appliances, and electronic materials). Impact7G recommends the removal of all hazardous materials located within the structures slated for demolition.

The DOT has agreed to remove some, but not all, of these items prior to vacating the premises.

## GROUND PENETRATING RADAR SURVEY (GPRS)

When researching the site, it was noticed there is no record that the filling station's underground storage tanks were ever removed. This is not uncommon, thus a GPRS was conducted and no storage tanks were identified. It should be noted that because of the conditions (i.e. soil conditions) the radar was only able to penetrate 2-3 feet rather than the normal 8-9 feet. Staff asked Impact7G if this is a concern and the reply was to not be overly concerned as the radar would have detected filler pipes for the tanks. However, a DNR representative indicated GPR is ineffective in the state of Iowa due to the general soil composition.

## GEOTECH REPORT

Findings suggest the soils are suitable for all types of construction. However, groundwater was detected 7-10 feet below the surface and there are some sand seams in some of the borings. This may require special footings to be constructed which will increase cost. This will be accounted for in the project budget. It should be noted that only nine borings were completed over a nearly three-acre site (picture below). Unforeseen problems with soil conditions could arise once construction starts due to the limited number of borings.





### LIMITED SUBSURFACE INVESTIGATION (LSI) REPORT

Three environmental and Geotech borings (TMW-1, TMW-2, and TMW-3) were drilled on the east side of the property as shown in the above picture. The tests from these borings identified several contaminants that exceeded the limits included in the State Wide Standards (SWS). Additionally, DNR testing wells on the site detected contaminants that exceeded SWS as recently as 2020. These wells were abandoned in 2021.

Staff has contacted the DNR regarding the abandoned test wells and what to deduce from the decision to abandon them. The response from DNR is that considering the property use at the time, the contaminants may no longer have been a concern. **However, the repurposed use of the site for an indoor aquatic facility may now make the contaminants a concern. Staff is requesting additional time to review the report and confer with environmental and construction experts regarding the implications of these findings on the project.**

**It is possible that this additional investigation might indicate that additional sampling, mitigation efforts, or special construction techniques are required in order to build and operate the facility. If such efforts are required, staff would like to understand the feasibility and cost before recommending that the City Council commit to purchase the property.**

**Although the appraised value does not consider the need for any environmental clean-up, there is no obligation for the DOT to reimburse the City in the event the City purchases the property for \$2.9 million and later incurs substantial costs to mitigate environmental issues.**

**As a result of this information, staff is requesting that the Council direct that further investigation be conducted regarding the environmental reports and their impact on the project. This investigation would be conducted before staff could recommend proceeding with an Offer to Buy.**

**The Council should note that timing is a concern, because the first of the bond proceeds for the project are scheduled to be received in August. These proceeds need to be spent on the project in a timely manner; delaying the purchase of the property while these environmental issues are investigated could impact the project financing.**

### STAFF COMMENTS:

In summary of the information provided in this report, staff is seeking direction regarding the following issues:

1. Project Budget – With the latest cost estimate from Stecker Harmsen, staff supports bidding the east addition as an add alternate and focusing on building a quality indoor aquatic center.

**If Council agrees with this approach, staff will move forward with this in mind when finalizing contracts and agreements.**

2. Construction Manager – Staff supports finalizing a contract with Story Construction as they have the most experience as a CM and can provide the needed assistance during the pre-construction, bidding, and construction phases of this project.

**If Council concurs, staff will finalize the construction manager contract details prior to bringing to Council for approval.**

3. Offer to Buy and Environmental Concerns – Staff supports waiting to submit an Offer to Buy until environmental experts can be consulted to clarify the report findings and determine whether further testing or mitigation efforts will be required to ensure the safety of patrons and staff occupying the future facility.

**If Council agrees, staff will work as quickly as possible to determine the impacts.**