

COUNCIL ACTION FORM

SUBJECT: DOT OFFER TO BUY AGREEMENT FOR PROPERTY AT 122 NORTH OAK FOR FITCH FAMILY INDOOR AQUATIC CENTER

BACKGROUND:

On August 23, 2022, the City Council directed staff to pursue a project to construct a new indoor aquatic facility at a site owned by the Iowa Department of Transportation (DOT), located at 122 North Oak Avenue. The property is 2.91 acres in size and contains two buildings – a 17,694 office building referred to as the North Annex, and a 3,752 square foot building referred to as the Conference Center. To facilitate the construction of the indoor aquatic facility, both structures and the other improvements on the property would be demolished.



DOT PROPERTY DISPOSAL PROCESS:

The DOT utilizes a formalized process to dispose of excess property. This process is guided by specific state law requirements for the disposal of excess right of way, and applies a separate set of requirements for the disposal of non-right of way properties, such as the 122 North Oak property.

DOT's process requires an independent appraisal to establish the fair market value of the property. The completed appraisal is then reviewed by DOT staff or another appraiser. DOT then notifies state agencies, counties, or cities and gives them an opportunity to purchase the property.

An "Offer to Buy" form is completed by the entity wishing to purchase the property, and must be returned to the DOT within 30 days of notification of the opportunity. **The offer must equal or exceed the fair market value of the property as determined in the appraisal.** Preference is given to the highest timely offer received by the DOT. If no valid offer is received within 30 days, the parcel is advanced to public auction.

APPRAISAL:

Based on the City's expressed interest in the property, the DOT 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.** The appraisal was then reviewed and certified by a second appraiser per DOT 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. The City retained a contractor, Impact7G, to complete an environmental analysis of the property. This analysis reviewed the history of the site and adjacent sites, explored subsurface soil conditions, and investigated for any soil contamination issues that may require mitigation. Testing confirmed the presence of contaminated soils which are isolated to the northeast corner of the property.

City staff has held several conversations with DOT staff regarding the property, the environmental conditions, and other aspects of the appraisal. These discussions included requests by the City to have the DOT reduce the purchase price of the property; have a second appraisal done; or to have the DOT reimburse the City for the cost of remediation/mitigation efforts related to the contaminated soils. The DOT has indicated from the start that the property is being sold as is, and denied all requests by the City. Thus, the purchase price remains at \$2,900,000.

OFFER TO BUY:

The IDOT has delivered an "Offer to Buy", Attachment A, to the City which must be returned to the IDOT within 30 days of notification of the opportunity. The action being requested of the City Council is to authorize the submittal of an offer to buy the property at 122 North Oak Avenue in the amount of \$2,900,000.

After the City submits the Offer to Buy, the City will receive within several days, a letter indicating the offer has been accepted. Once accepted, the City would transfer payment of \$2,900,000 to the state no later than January 5, 2023. After the payment has been accepted, the ownership of the property is conveyed by a State Land Patent. This

document requires review by DOT and State Land Office officials and is then signed by the Governor.

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

The Offer to Buy includes the legal description of the property, the purchase price, and other items. A few items to highlight are shown below:

- **Mutual Benefit Sales Lease** – this is referenced in the Offer to Buy and the document is included in Attachment A. The lease details what can and cannot be done with the property until the State Land Patent is issued. The City also agrees to furnish the DOT with a Certificate of Insurance for liability in the minimum amount of \$2,900,000.
- **Removal of Items** – Exhibit 1 is a listing of items the DOT must remove (i.e. all moveable equipment and furniture, etc.), as well as items the DOT reserves the right to remove (i.e. light fixtures, door closures, etc.). There is a provision requiring a walkthrough with City and DOT staff on January 4 to determine if the DOT has removed all required items. If the City finds items that were to be removed but were not, the DOT will remove them prior to January 5.
- **ICN Fiber** – The DOT shall remove the ICN Fiber serving the DOT facilities on the property and re-route the ICN Fiber to the Right-of-Way on the east side of North Oak Avenue at the DOT's expense.

ALTERNATIVES:

1. City Council may:
 - a. Authorize submittal to the Iowa Department of Transportation of an Offer to Buy the property located at 122 North Oak Avenue, Ames, in the amount of \$2,900,000.
 - b. Approve entering into the Mutual Benefit Sales Lease Agreement with the Iowa Department of Transportation until such time the State Land Patent for 122 North Oak Avenue is delivered to the City.
2. Do not authorize submission of an Offer to Buy this property, and do not proceed with the indoor aquatic center project at this location.

CITY MANAGER'S RECOMMENDED ACTION:

The construction of the Fitch Family Indoor Aquatic Center (FFIAC) is a high priority for City Council, Parks and Recreation Commission, and Ames residents. This facility will

provide warm water aquatic opportunities for all ages which are currently lacking in Ames and Story County. By authorizing the submittal of the Offer to Buy, the City is completing the first necessary step in bringing the FFIAC to fruition. Therefore, it is the City Manager's recommendation that the City Council approve Alternative #1 as stated above.

The purchase of the land from DOT is available from the Geitel Winakor donation (\$1,950,000) and recently issued G.O. Bonds (\$1,000,000).

MEMO



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TO: Members of the City Council
FROM: John A. Haila, Mayor
DATE: December 13th, 2022
SUBJECT: Fitch Family Indoor Aquatic Center

Contract with Iowa Department of Transportation coming Monday, December 12, 2022

JAH/rh