



## Memorandum

**Date:** 11/24/2020

**Meeting of:** Committee of the Whole - Finance, Administration, and Communications

**File No.** CM 20-340

**Type:** Committee Memo

**TO:** Committee of the Whole - Finance, Administration, and Communications

**FROM:** Mayor Angela Birney

**DEPARTMENT DIRECTOR CONTACT(S):**

Fire	Acting Deputy Chief Todd Short	425-556-2242
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**DEPARTMENT STAFF:**

Fire	Rich Gieseke	Acting Fire Marshal
Fire	Scott Turner	Assistant Fire Marshal

**TITLE:**

Willow Run, LLC/Building X Contract for Outside Technical Review

**OVERVIEW STATEMENT:**

This is a request for approval of a Three-Party Contract for technical review and inspection of performance-based design elements for a new high-rise building as authorized in 2015 IFC 104.7.2. All fees incurred by the city shall be reimbursed by the permit applicant.

Willow Run, LLC is currently in the building permit phase for a new high-rise building located in the 10300 block of Willows Road known as Building X. As part of the building design, non-fire rated structural steel supporting columns and beams and a multi-story atrium with a performance-based smoke control system have been proposed. These design elements are not covered by prescriptive code and can only be approved in a performance-based design and review process. This process requires specialized engineering, fire modeling and smoke control evaluation to ascertain that the proposed alternate methods and materials are at least equivalent to protection provided in prescriptive code.

This request is for Council to approve a contract for outside technical review for an amount to not exceed \$200,000, with the City to be reimbursed for all costs by the applicant, Willow Run, LLC. This will cover the reviewing and rendering an opinion on the equivalency of the applicants proposed designs, review of any modifications during the construction process and conduction of special inspections related to the approved designs prior to the final building inspections.

The building and fire code allow for non-prescriptive building methods when the method meets the minimum safety requirements of the prescriptive code. This can be done by using alternative methods and materials and performance-based design alternatives. When an applicant chooses this method, there may be the need for staff to consult with professional experts that can evaluate the proposed design and ensure that the minimum level of equivalent safety is being provided. The code allows for the cost of this evaluation to be provided by the applicant. This contract is being proposed to hire a professional expert to evaluate and inspect the alternative building methods. The three-party agreement has two benefits:

- 1) We maintain the City's ability to contract directly with our expert contractor and avoid any conflict of interest between the applicant and our contractor. The benefit of this method allows for our contractor to act solely in our best interests.

- 2) We also contract for the terms of payment to avoid issues related to collecting the incurred costs of hiring the contractor by the applicant.

This type of contract is our preferred method because it avoids having our plan reviewer/inspector having a direct contractual relationship with the applicant. This contract requires a specific expertise to evaluate smoke control systems and structural fire resistive elements used in constructing the building. The selection of contractor adheres to the procurement rules required by municipalities to advertise, evaluate and select the specific contractor. All costs associated with this contract are paid by the applicant, however, because the amount of the contract exceeds \$50,000, this contract requires Council approval. The contract is specific to the Building permit application only and does not have any impact on the Planning permit which is required for the development of the property. If the Council does not approve the contract, then the most likely option would be to allow the contractor and applicant to enter into an agreement to provide plan review and inspection services to the City without the benefit of having the City in the contract.

☒ **Additional Background Information/Description of Proposal Attached**

**REQUESTED ACTION:**

☐ **Receive Information**

☒ **Provide Direction**

☐ **Approve**

**REQUEST RATIONALE:**

- **Relevant Plans/Policies:**  
2015 International Fire Code allows alternate methods and materials to provide equivalency to prescriptive code.
- **Required:**  
N/A
- **Council Request:**  
N/A
- **Other Key Facts:**  
N/A

**OUTCOMES:**

Due to the complexity of the applicant's request, hiring an outside engineer is necessary to support the Fire and Building Officials' determination that the proposal is at least equivalent to the prescribed code in the areas of quality, strength, effectiveness, fire resistance, durability and safety.

- 1) Timely review of applicant plans by utilizing a competent fire protection engineering firm
- 2) Accurate
- 3) Timely approval of building permits by consulting with a qualified fire protection engineer on performance-based design
- 4) Increase efficiency at time of inspection by utilizing the technical expertise of a fire protection engineer.

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**COMMUNITY/STAKEHOLDER OUTREACH AND INVOLVEMENT:**

- **Timeline (previous or planned):**  
N/A
- **Outreach Methods and Results:**  
N/A
- **Feedback Summary:**  
N/A

**BUDGET IMPACT:**

**Total Cost:**

\$200,000 fully reimbursed by the applicant, Willow Run LLC

**Approved in current biennial budget:**

☐ Yes

☒ No

☐ N/A

**Budget Offer Number:**

N/A

**Budget Priority:**

NA

**Other budget impacts or additional costs:**

☐ Yes

☒ No

☐ N/A

*If yes, explain:*

N/A

**Funding source(s):**

All expenditures by city shall be reimbursed by the applicant per attached contract

**Budget/Funding Constraints:**

None

☐ Additional budget details attached

**COUNCIL REVIEW:**

**Previous Contact(s)**

Date	Meeting	Requested Action
11/17/2020	Committee of the Whole - Public Safety	Provide Direction

**Proposed Upcoming Contact(s)**

Date	Meeting	Requested Action
12/1/2020	Business Meeting	Approve

**Time Constraints:**

Willow Run LLC has submitted the building permit for this project. However, the permit cannot be approved until the technical review of this alternate methods and materials has been evaluated and deemed satisfactory for code equivalency.

**ANTICIPATED RESULT IF NOT APPROVED:**

If this contract is not approved there will be a delay in the project design until one of the following options can be selected and implemented:

- 1) Staff can create two separate two-party contracts
- 2) The applicant and the City selected engineering firm can contract directly for services without involving the City
- 3) Staff could conduct the review of the proposed alternative design

**ATTACHMENTS:**

Attachment A - Three Party Consultant Agreement Contract for Building X