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TO: The Honorable Detroit City Council

FROM: David Whitaker, Director 
Legislative Policy Division Staff

DATE: January 24, 2023

RE: **REPORT ON WHEN THE LAW DEPARTMENT IS PERMITTED TO ENTER
CONTRACTS WITHOUT ENGAGING WITH THE OCP PROCESS**

Council Member Latisha Johnson requested that the Legislative Policy Division (LPD) provide a report on the circumstances under which the Law Department may enter into a contract without participating in the Office of Contracting and Procurement (OCP) process.

Section 17-5-153 of the Detroit City Code provides the requirements for the procurement of professional services. However, Section 17-5-154 states that the “procurement of legal services, regardless of amount, is exempt from all procedures set forth in Section 17-5-153.” Therefore, the procurement of legal services is exempt from the procurement process for professional services. The Code defines “legal services” as:

“... services provided to the City or any indemnified past or present employees for legal services with respect to the duties and authority conferred upon the Corporation Counsel by Section 7.5-201 of the Charter which relate to the selection of special counsel, or contracts for professional services by expert witnesses or expert consultants retained by the Corporation Counsel to assist in the legal representation of the City or contracts for an attorney to represent the City Council pursuant to Section 4-121 of the Charter or the Ombudsperson pursuant to Section 7.5-408 of the Charter.

Section 7.5-201 of the Detroit City Charter establishes the responsibilities and authority of the Law Department and Corporation Counsel. The Charter provides that “no branch or unit of government, department, agency, elected official, or employee required or allowed to receive legal services by law, Charter, ordinance, City policy or contract, may solicit or obtain formal legal advice, or retain services or representation from an outside law firm or attorney, in the execution of their duties, without requesting and receiving the approval of Corporation Counsel, unless expressly allowed by Charter.” As the official legal counsel for the City of Detroit, Corporation Counsel has the ultimate authority to approve the procurement of legal services on behalf of the City, subject to the approval of City Council under Section 17-5-91(b) of the City Code.

Aside from contracts for legal services, the Law Department must adhere to the normal OCP process to enter into a contract for goods or services.

Please contact our office if we can be of any further assistance.