

October 23, 2018
New Business

**NEIGHBORHOOD
AND COMMUNITY
SERVICES
STANDING
COMMITTEE**

20

CITY CLERK 2018 OCT 19 PM 2:27

David Whitaker, Esq.
Director
Irvin Corley, Jr.
Executive Policy Manager
Marcell R. Todd, Jr.
Senior City Planner

City of Detroit CITY COUNCIL

LEGISLATIVE POLICY DIVISION
208 Coleman A. Young Municipal Center
Detroit, Michigan 48226
Phone: (313) 224-4946 Fax: (313) 224-4336

Deborah Goldstein
Christopher Gulock
Derrick Headd
Marcel Hurt, Esq.
Kimani Jeffrey
Anne Marie Langan
Jamie Murphy
Analine Powers, PhD
Sabrina Shockley
Thomas Stephens, Esq.
David Teeter
Theresa Thomas
Kathryn Lynch Underwood

LaKisha Barclift, Esq.
M. Rory Bolger, PhD, AICP
Timothy Boscarino, AICP
Elizabeth Cabot, Esq.
Janese Chapman
Tasha Cowen
Richard Drumb
George Etheridge

TO: Detroit City Council
FROM: David Whitaker, Director
Legislative Policy Division Staff

DATE: October 19, 2018

RE: **Definition of Term Construction as it Relates to Executive order 2016-1**

The Legislative Policy Division (LPD) has received a request from Council President Pro-Tem, Mary Sheffield to provide a definition of the term "construction" as it relates to Executive Order 2016-1 and whether that term typically encompasses demolition activity within its meaning.

The term in question relates to the following language in Executive Order 2016-1:

A "publicly-funded construction project." For purposes of this Executive Order, means (a) any **construction** contract for more than \$3,000,000.00 (Three Million Dollars) made by the City with any person or entity; and any **construction** project for which the City, affiliated public or quasi-public entities of the city, or any of their agents or contractors provides funds or financial assistance via any of the following methods where the total assistance from the City or its affiliated entities is over \$3,000,000.00 (Three Million Dollars)... (Emphasis added)

At issue is the use and meaning of the term "construction" and whether the term includes demolition activities within the definition. The general definition of the term "construction" according to Merriam Webster, as used in the context at issue provides:

a : the process, art, or manner of constructing something
Construction of the new bridge will begin in the spring.
also : a thing constructed.

b : the construction industry working in construction.

More closely associated with the issue at hand is the definition of construction provided under the Michigan Construction Code, MCL 125.1502(a)(n):

"Construction" means the construction, erection, reconstruction, alteration, conversion, **demolition**, repair, moving, or equipping of buildings or structures.
(Emphasis added)

Similarly, according to the Occupational Safety Health Administration:

"Construction is a high hazard industry that comprises a wide range of activities involving construction, alteration, and/or repair. Examples include residential construction, bridge erection, roadway paving, excavations, **demolitions**, and large scale painting jobs." (Emphasis added)

In furtherance of the idea that the term "construction" includes the component of demolition activities, the definition of construction provided by USLegal.com provides:

Construction, involving any improvement or alteration to real property ("real estate"), including **demolition** work to clear a site, is subject to all of the principles and doctrines of law, under the broad, general classification of Construction Law.
(Emphasis added)

As there is no one specific definition of the term "construction", LPD believes when utilizing the term, the intended use should be clearly delineated to alleviate any confusion, however, it would be reasonable to conclude that the term undefined, could be interpreted to include demolition activities within its meaning.

If we can be of further assistance please call upon us.



21

City of Detroit

CITY COUNCIL

MARY SHEFFIELD
PRESIDENT PRO TEMPORE
DISTRICT 5

MEMORANDUM

TO: Atty. Lawrence Garcia, Corporation Counsel
Law Department

FROM: President Pro Tempore Mary Sheffield *MS*

DATE: October 18, 2018

RE: **Request for the Law Department to Provide an Opinion on Qualifying Projects under Executive 2016-1**

I am requesting that the Law Department opine on whether a City-funded contract over \$3 million triggers Executive Order 2016-1 if no other public support, discounted land sale or tax incentive is present in the contract.

Thank you.

cc: Honorable Colleagues
Hon. Janice Winfrey, Detroit City Clerk
Stephanie Grimes, Liaison to Council, Mayor's Office



22

City of Detroit

CITY COUNCIL

MARY SHEFFIELD
PRESIDENT PRO TEMPORE
DISTRICT 5

MEMORANDUM

TO: Mr. David Whitaker, Director
Legislative Policy Division

FROM: President Pro Tempore Mary Sheffield *MS*

DATE: October 18, 2018

RE: Request for LPD to Provide an Opinion on Qualifying Projects under Executive 2016-1

I am requesting that the Legislative Policy Division opine on whether a City-funded contract over \$3 million triggers Executive Order 2016-1 if no other public support, discounted land sale or tax incentive is present in the contract.

Thank you.

cc: Honorable Colleagues
Hon. Janice Winfrey, Detroit City Clerk
Stephanie Grimes, Liaison to Council, Mayor's Office