

**CITY OF BALTIMORE
COUNCIL BILL 17-0008R
(Resolution)**

Introduced by: Councilmembers Stokes, Clarke, Middleton, President Young, Councilmembers
Dorsey, Scott, Burnett, Bullock, Henry, Pinkett, Costello, Schleifer, Cohen, Sneed, Reisinger
Introduced and read first time: February 6, 2017

Assigned to: Taxation, Finance and Economic Development Committee

REFERRED TO THE FOLLOWING AGENCIES: Department of Public Works, Department of General
Services, Department of Transportation, Minority and Women’s Business Opportunity Office,
Wage Commission, Department of Finance, Department of Housing and Community
Development

A RESOLUTION ENTITLED

1 A COUNCIL RESOLUTION concerning

2 **Investigative Hearing – Late Payments to Subcontractors on City Contracts**

3 FOR the purpose of calling on representatives from the Finance Department, the Office of Civil
4 Rights and Wage Enforcement, the Minority and Women’s Business Opportunity Office, and
5 the Departments of Public Works, General Services, and Transportation to appear before the
6 City Council to discuss problems with late payments to subcontractors on City contracts, and
7 what steps the City can take to ensure that these problems do not endanger the ability and
8 willingness of subcontractors to work on City projects.

9 **Recitals**

10 Often City contracts are simply too large and complex to be handled by a single business out
11 of its own resources alone. When this is the case, prime contractors must put together teams of
12 subcontractors to assist them with bidding on, and ultimately implementing, City contracts.

13 Without a large pool of subcontractors willing and able to work on large City contracts it
14 would be difficult, sometimes even impossible, for the City to meet many of its goals effectively
15 and at a reasonable cost. Anything that serves to reduce the pool of available subcontractors for
16 City jobs is therefore cause for serious concern.

17 Late payments to these subcontractors can be especially problematic. Businesses are unlikely
18 to sign-on for jobs that they don’t believe they will receive timely payment for. And small
19 businesses, a category that many subcontractors fall into, are particularly vulnerable to the cash
20 flow disruptions that late payments cause.

21 Recognizing the threat posed by late payments to subcontractors, City Code Article 5,
22 § 28-55(a) flatly states that a contractor on a City contract “must pay its subcontractors in a
23 timely fashion for satisfactory work”. Related provisions in the law provide the City with the
24 means to enforce and track compliance with this legal requirement.

25 Despite these provisions of City law, subcontractors on City projects often complain about
26 late payments. Some are reluctant to work on City contracts because of this, and others could

EXPLANATION: Underlining indicates matter added by amendment.
~~Strike out~~ indicates matter deleted by amendment.

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1 have the survival of their business imperiled if late payments prevent them from paying
2 suppliers, landlords, or employees when needed.

3 Even more troubling are reports that some frequent City prime contractors repeatedly fail to
4 pay subcontractors in a timely manner while the City takes no action against them to protect
5 these more vulnerable small businesses. If some contractors are adopting late payments as a
6 business practice, despite timely City payments to them, why do they continue to get City work?
7 Why isn't § 28-55(a) being enforced if this is the case? And if the problem is with City
8 payments instead, how can this be remedied?

9 If late payment to subcontractors on City contracts is in fact as widespread and persistent of a
10 problem as alleged, it represents a serious threat to the City's ability to procure effective and
11 affordable work, grow small businesses to encourage competitive markets, and see that more jobs
12 go to disadvantaged populations within Baltimore. It is therefore important that the Council
13 discuss this problem with the City agencies best placed to examine and act on it so that workable
14 solutions can be found.

15 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BALTIMORE,** That the
16 Council calls on representatives from the Finance Department, the Office of Civil Rights and
17 Wage Enforcement, the Minority and Women's Business Opportunity Office, and the
18 Departments of Public Works, General Services, and Transportation to appear before it to
19 discuss problems with late payments to subcontractors on City contracts, and what steps the City
20 can take to ensure that these problems do not endanger the ability and willingness of
21 subcontractors to work on City projects.

22 **AND BE IT FURTHER RESOLVED,** That a copy of this Resolution be sent to the Mayor, the
23 Director of Finance, the Director of the Office of Civil Rights and Wage Enforcement, the
24 Director of the Minority and Women's Business Opportunity Office, the Director of Public
25 Works, the Director of General Services, the Director of Transportation and the Mayor's
26 Legislative Liaison to the City Council.