

Ord. No. 1122-18,**By Council Member Kelley.**

An emergency ordinance to amend Section 185.36 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 792-03, passed June 10, 2003, relating to subcontractors.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That Section 185.36 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 792-03, passed June 10, 2003, is amended to read as follows:

Section 185.36 Subcontractors

(a) The contractor shall not sublet nor shall any subcontractor commence performance of any part of the work included or any materialman deliver or fabricate materials, plant or equipment to be incorporated in the contract without the previous written consent of the Board of Control. Subletting, if permitted, shall not relieve the contractor or his or her surety of any of his, her or its obligations under the contract.

(b) Failure by the contractor to obtain consent of the Board of Control for any subcontractor or materialman shall be a breach of the contract for which the contractor may incur a penalty.

(c) The contractor shall be and remain solely responsible to the City for the acts or faults of his or her subcontractor and of such subcontractor's officers, agents and employees, each of whom shall, for this purpose, be deemed to be the agent or employee of the contractor to the extent of his or her subcontract. The contractor shall promptly, on request of the City file a confirmed copy of the subcontract with prices deleted, as a condition precedent to the approval of a subcontract. The contractor and subcontractor shall jointly and severally agree that subcontracting does not obligate the City to pay, or to see to the payment of any sums to any subcontractor.

(d) The contractor shall report immediately to the City Tax Administrator any and all complaints of improper or irregular payment by subcontractor to subcontractor's employees. The City Tax Administrator or designee shall immediately investigate such reports, and shall take such action as may be deemed necessary under these Codified Ordinances or relevant state or federal laws.

Section 2. That existing Section 185.36 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 792-03, passed June 10, 2003, is repealed.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed October 1, 2018.

Effective October 2, 2018.