

Very truly yours,

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Chapter 2-92 of the Municipal Code of Chicago is hereby amended by adding a new Section 2-92-413, as follows:

2-92-413 Contracts-Bid incentives for alternatively powered vehicles.

(a) For purposes of this section only, the following definitions apply:

"Alternative fuel" has the meaning ascribed to that term in the Energy Policy Act of 1992, and the rules promulgated by the United States Department of Energy pursuant to that Act. The term "alternative fuel" includes but is not limited to natural gas, liquefied petroleum gas, hydrogen, ethanol E85 or electricity;

"Alternatively powered vehicle" means a vehicle that:

(1) is fueled by alternative fuel; provided that if a vehicle is capable of being powered by alternative fuel and traditional petroleum-based gasoline or petroleum-based diesel fuel, the vehicle must be powered by the alternative fuel for no less than 80% BTUs consumed during the three months prior to the submission of the bid; or

2) is commonly referred to as a hybrid vehicle that is capable of being powered by a combination of any fuel and an alternative power source and the alternative power source includes an energy storage system to store generated or accumulated energy which substantially reduces the fuel use and emissions when compared to a standard vehicle of the same age, type and size; or

3) is fueled by a biodiesel blend; provided that the vehicle is powered by the biodiesel blend for no less than 80% of the gallons consumed during the three months prior to the submission of the bid; or

4) is fueled by traditional petroleum-based gasoline or petroleum-based diesel fuel, but powered by an engine substantially more efficiently designed than a standard vehicle of the same age, type and size; provided that the vehicle is rated by the United States Environmental Protection Agency in the top 5% for fuel efficiency for similar vehicles.

An "Alternatively powered vehicle" does not include any vehicle which is: (i) primarily used in a warehouse or similar type of enclosed structure; (ii) required to use, or given credit for using, alternative fuel by any federal, state or local law; or (iii) subject to section 2-92-595.

"Bid incentive" means an amount deducted, for bid evaluation purposes only, from the contract base bid in order to calculate the bid price to be used to evaluate the bid on a competitively bid contract.

"Biodiesel blend" has the meaning ascribed to that term in section 2-92-595. "Construction project" has the meaning ascribed to that term in section 2-92-335. "Contract" means any contract, purchase order, construction project, or other agreement

(other than a delegate agency contract or lease of real property or collective bargaining agreement) awarded by the city and whose cost is to be paid from funds belonging to or administered by the city.

"Contract base bid" means the total dollar amount a contractor bids on a contract without factoring any bid incentive or percentage reductions in the bid amount.

"Eligible business" means a business located within the counties of Cook, DuPage, Kane, Lake, McHenry or Will in the State of Illinois (the "Six County Region"), and as to which: (1) a majority of the business' fleet is located and used within the Six County Region; and (2) a majority of those vehicles located and used within the Six County Region are alternatively powered vehicles.

"Fleet" means 10 or more vehicles that are owned, operated, leased or otherwise controlled by a business.

"Vehicle" means every device powered by a motor or engine and by, upon, or in which any person or property is or may be transported or drawn upon a street or highway, except a "vehicle" shall not include motorized wheelchairs, golf carts, neighborhood electric vehicles, as that term is defined in section 9-4-010, devices moved solely by human power, devices used exclusively upon stationary rails or tracks, or snowmobiles, as defined in the Snowmobile Registration and Safety Act of Illinois.

b) (1) Unless otherwise prohibited by any federal, state or local law, for any contract having an estimated contract value of \$100,000 or more advertised, or if not advertised awarded, after the effective date of this ordinance, the chief procurement officer shall allocate a bid incentive of 14% of the contract base price to a qualified bidder when the qualified bidder is an eligible business.

The bid incentive is used only to calculate an amount to be used in evaluating the bid to determine the low bidder, and it does not affect the contract price.

For purposes of this section the total dollar value of a construction project contract includes both materials and labor.

2) The chief procurement officer may forego awarding the bid incentive under this section, under the following conditions:

- (i) an emergency exists;
- (ii) for cooperative purchasing or cooperative construction contracts;
- iii) where an eligible business is determined by the chief procurement officer to be unqualified, unable, or ineligible to perform the contract; or
- iv) for any other factor the chief procurement officer deems to be in the city's best interest.

3) For all contracts advertised after the effective date of this section, the chief procurement officer shall include the bid incentive provision consistent with this section in all such advertising.

4) As a condition of being awarded the bid incentive, the eligible business shall continue to meet the definition of an eligible business during the term of the contract for which the bid incentive was awarded.

c) The contractor shall maintain adequate records necessary to monitor compliance with this section and shall submit such reports as required by the chief procurement officer. Full access

to the contractor's and subcontractors' records shall be granted to the chief procurement officer, the commissioner of the supervising department, the inspector general, or any duly authorized representative thereof. The contractor and subcontractors shall maintain all relevant records for a period of no less than 7 years after final acceptance of the work.

d) A bidder desiring to receive an incentive pursuant to this section shall include with its bid submission, an affidavit and other supporting documents demonstrating that the bidder satisfies all pertinent requirements as an eligible business.

e) Upon completion of the work, any eligible business that receives a bid preference but that fails to meet the definition as an eligible business during the term of the contract for which the bid incentive was awarded shall be fined in an amount equal to three times the amount of the bid incentive awarded.

(f) The chief procurement officer is authorized to adopt, promulgate and enforce reasonable rules and regulations pertaining to the administration and enforcement of this section.

(g) This section shall not apply to any contract to the extent that the requirements imposed by this section are inconsistent with procedures or standards required by any law or regulation of the United States or the State of Illinois to the extent such inconsistency is not permitted under law or the home rule powers of the city.

SECTION 2. This ordinance shall take effect after its passage and approval.

