File #: 020163, **Version:** 0

Amending Title 17 of The Philadelphia Code, entitled "Contracts and Procurement," by adding Chapter 17-1100, entitled "Ban on Purchase of Motor Vehicle Fuels Containing MTBE," prohibiting the City from entering into contracts for the purchase of motor vehicle fuel containing Methyl Tertiary-Butyl Ether ("MTBE") under certain terms and conditions.
THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 17 of The Philadelphia Code is hereby amended as follows:

TITLE 17. CONTRACTS AND PROCUREMENT

* * *

CHAPTER 17-1100. BAN ON PURCHASE OF MOTOR VEHICLE FUEL CONTAINING MTBE

§17-1101. Legislative Findings.

(1) The Council of the City of Philadelphia finds that:

(a) Methyl Tertiary-Butyl Ether (MTBE) is an additive in motor vehicle gasoline and is one of a group of chemicals known as "oxygenates."

(b) Oxygenates raise the oxygen content of gasoline and result in more complete fuel combustion thereby reducing harmful tailpipe emissions.

(c) On July 27,1999, a panel of the Environmental Protection Agency recommended that the use of MTBE be reduced as an additive in gasoline because of the toxic risk it poses to drinking water.

(d) Ethanol is an oxygenate which is an alternative to MTBE and is non-toxic, water soluble and quickly biodegradable.

(e) Under this Chapter, the City Council ensures that public moneys are not used in a manner which further endangers the City's drinking water supply through the use of MTBE blended gasoline in its fleet of motor vehicles.

§17-1102. Definitions.

In this Chapter, the following definitions apply:

(1) City. The City of Philadelphia, or any department, board, commission or agency thereof.

(2) Contract. An agreement by the City with a Contractor for the purchase of Motor Vehicle Fuel.

(3) Contracting Officer. Any officer or employee of the City authorized to enter into a contract on behalf of the City.

(4) Contractor. Any person who enters into a contract for the provision of Motor Vehicle Fuel to the City.

(5) Motor Vehicle. A vehicle having its own motor and not running on rails or tracks.

(6) Motor Vehicle Fuel. Any substance that can be used as an energy source to power motor vehicles. Motor Vehicle Fuel shall include but is not limited to gasoline and diesel fuel.

(7) MTBE. The chemical commonly known as Methyl Tertiary-Butyl Ether.

(8) Person. A natural person, firm, joint stock company, business concern, association, partnership, or corporation, its or their successors or assigns, or agents.

§17-1103. Prohibiting Purchase of Motor Vehicle Fuel Containing MTBE.

(1) The City shall not enter into any new Contracts, nor amend or extend the terms of any existing Contracts, for the purchase of Motor Vehicle Fuel which permit such Fuel to contain MTBE; provided, however, that said Contracts may require Fuel to contain other oxygenates such as Ethanol.

§17-1104. Contracts.

Every Contract for Motor Vehicle Fuel entered into by the City shall provide that:

(1) the Fuel supplied will not contain MTBE;

(2) failure of the Contractor to comply with the foregoing requirement shall constitute a material breach by the Contractor of the terms of the Contract, authorizing the imposition of such remedies as the City deems appropriate, including but not limited to the remedies set forth in Section 17-1105(2).

§17-1105. Administration and Enforcement.

Whenever the City discovers, after an investigation by the Contracting Officer:

(1) that a person or entity being considered for a Contract with the City has, in connection with the bidding of any Contract, falsely represented to the City the nature, character or content of the Motor Vehicle Fuel offered to the City, the Contracting Officer shall refuse to award the Contract.

(2) that in connection with the performance of any Contract with the City, a Contractor has

powered by Legistar™

violated this Ordinance, the rules and regulations adopted pursuant to this Ordinance, or contract provisions required by this Ordinance, the Contracting Officer shall impose such sanctions or take such other actions against such Contractor as he or she deems necessary or appropriate to insure compliance, including, but not limited to:

(a) terminating or suspending the Contract;

(b) ordering the withholding of funds due the Contractor under such Contract; and

(c) barring the Contractor from entering into new Contracts with the City for a period of up to five (5) years.

§17-1106. Severability.

If any section, subsection, clause, sentence or phrase of this Chapter is found to be unlawful by reason of other superior laws of the United States or the Commonwealth of Pennsylvania, such a determination shall not affect the validity of the remaining portions of this Chapter.

SECTION 2. This Ordinance shall take effect immediately.

Explanation:

Italics indicate new matter added.

powered by Legistar™