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Int. No. 936

By Council Member Abreu

A Local Law to amend the administrative code of the city of New York, in relation to mergers, acquisitions and combinations of awardees of agreements to provide commercial waste collection services

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 16-1002 of the administrative code of the city of New York, as added by local law number 199 for the year 2019, is amended to read as follows:

a. For each area designated as a commercial waste zone pursuant to section 16-1001, the department shall be authorized to select and to enter into agreements with no more than [three] 3 awardees per zone, permitting each awardee to provide for the collection, transport and removal of commercial waste within such zone as set forth in such agreement. Where a subsequent acquisition of an awardee by another awardee, or a subsequent merger or other combination of awardees results in any awardee providing services in more than 15 zones, or results in fewer than 3 awardees in any individual zone, the department may authorize 1 additional independent awardee in each affected zone for a 10-year term. The department shall be further authorized to select and enter into agreements with no more than [five] 5 awardees permitting each awardee to provide for the collection, transport and removal of containerized commercial waste from any commercial establishment within the city of New York as set forth in such agreement. The department shall only enter into an agreement pursuant to this subdivision with an awardee that has obtained a license issued by the business integrity commission pursuant to subdivision a of section 16-505 on or before the date of such agreement. A proposer that responds to the request for proposals authorized pursuant to subdivision b of this section that does not hold such a license at the time a proposal is submitted pursuant to this section must submit an application for such a

license to the business integrity commission no later than the date such proposal is submitted to the department. The initial term of any such agreement shall include authorization to collect, transport and remove commercial waste for [ten] 10 years in each zone covered by such agreement. The department shall have the option, at its sole discretion, to renew any such agreement for no more than [two] 2 additional terms of no more than [five] 5 years each, provided that prior to the expiration of any agreement entered into pursuant to this section, the commissioner shall provide the awardee with adequate written notice of whether it intends to renew such agreement. The department shall not enter into or renew any such agreement with an awardee that results in [such] any awardee providing services in more than [fifteen] 15 commercial waste zones, provided that any agreement to provide for the collection, transport and removal of containerized commercial waste citywide shall not count toward such limit.

§ 2. Subdivision c of section 16-1002 of the administrative code of the city of New York, as added by local law number 199 for the year 2019, is amended to read as follows:

c. Except as otherwise provided in subdivision d of this section, any agreement entered into pursuant to subdivision b of this section shall include:

1. A requirement that the awardee may not refuse commercial waste collection service to any commercial establishment within the commercial waste zone required to provide for the removal of such waste pursuant to the provisions of section 16-116, provided that such agreement may include provisions authorizing termination of service, refusal of service for good cause or setting forth other allowable measures to address default or non-payment by a commercial establishment;

2. A description of the maximum rate or rates that the awardee may charge customers for waste collection services, including any extra service fees or supplemental charges the awardee plans on including in the pricing structure, provided that extra service fees shall not be allowed for locking or unlocking gates or the rental of containers or dumpsters other than compactors and roll-offs;

3. A process by which awardees may petition the department for changes to the maximum rates

described in paragraph 2 of this subdivision, which may include the opportunity for public comment, as set forth in such agreement;

4. A requirement that the awardee provide each customer with a written service agreement, which shall be negotiated between the customer and the awardee, specifying rates, standards of service and such other provisions as may be set forth in the agreement entered into between the awardee and the department pursuant to this section or as otherwise specified in the rules of the department;

5. A requirement that the awardee provide organic waste collection services to all commercial establishments that: (i) are located within the commercial waste zone for which the awardee has been awarded an agreement pursuant to this section; (ii) are not designated covered establishments pursuant to subdivision b of section 16-306.1; (iii) select such awardee for removal of commercial waste or have been assigned such awardee pursuant to paragraph 4 of subdivision e of this section; and (iv) request organic waste collection services, provided that such agreement may authorize the awardee to implement such requirement on a graduated schedule or may otherwise set forth circumstances in which such provision of such services shall not be required, consistent with the purposes of this chapter;

6. Specifications regarding the GPS devices, capable of collecting, storing and transmitting geographical data, to be installed on commercial waste vehicles, and requirements regarding periodic reporting of data collected by such devices to the department for purposes consistent with this title;

7. Any additional reporting requirements that the department deems necessary to further the goals of this title, including but not limited to, (i) waste generation estimates or waste characterization studies; (ii) collection routes; (iii) rates charged to customers; (iv) investments in sustainable vehicles, facilities or infrastructure; (v) any warnings or violations issued from agencies for violating local, state or federal law; and (vi) workplace injuries and accidents;

8. A requirement that the awardee and any of its designated carters comply with the terms of the awardee's air pollution and greenhouse gas emission reduction plan, if any, customer service plan, waste

reduction plan, waste management plan and health and safety plan as described in subdivision b of this section;

9. A requirement that the awardee and any of its designated carters ensure that employees receive periodic training relating to health and safety, as set forth in the agreement;

10. A requirement that the awardee and any of its designated carters comply with the provisions of this title and all other applicable laws;

11. A requirement that the awardee prepare for submission and review by the department an emergency action plan detailing procedures to be deployed in emergency situations, including but not limited to, fires, evacuations, spills or weather emergencies, and addressing continuity and restoration of service;

12. Provisions addressing contingency planning to ensure (i) the orderly transition of services to a subsequent awardee upon the conclusion of the agreement, (ii) continuity of service in the case of an awardee or any of its designated carters being unable to provide commercial waste collection services or any other default by the awardee or any of its designated carters, and (iii) continuity of service in the case of a default by another awardee or designated carter;

13. The option for the awardee to subcontract with no more than [two] 2 designated carters in each zone for services in order to meet the requirements of the agreement, provided that: (i) any such designated carter must fully comply with all terms of such agreement and must be licensed by the business integrity commission or otherwise authorized to collect trade waste in accordance with the provisions of title 16-A and rules promulgated pursuant thereto; (ii) the agreement shall include a requirement that the department review and approve all contracts between the awardee and all designated carters for purposes of ensuring that the terms of such contracts are in accordance with the provisions of this chapter; and (iii) a subcontracting arrangement with a designated carter that collects waste exclusively using bicycles shall not count toward the numerical limit on designated carters as subcontractors provided in this paragraph;

14. A requirement that the awardee engage in public outreach and education efforts to address the transition to the commercial waste zone system;

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15. A requirement that the awardee and any of its designated carters utilize existing programs or resources developed by the department of small business services or any other relevant agency designed to promote employment opportunities for New York city residents, where applicable and appropriate; [and]

16. A requirement that the awardee pay liquidated damages as deemed appropriate by the department and set forth in the agreement; and

17. A requirement that an awardee refrain from acquiring, merging with or combining with any other awardee in a manner that results in (i) any awardee being in control of more than 1 agreement for any individual commercial waste zone, or (ii) any awardee, other than an awardee subject to an agreement to provide for the collection, transport and removal of containerized commercial waste citywide, providing services in more than 15 commercial waste zones.

§ 3. Section 16-1002 of the administrative code of the city of New York is amended by adding a new subdivision g to read as follows:

g. Where the department is aware that 1 or more awardees have violated the requirements of paragraph 17 of subdivision c of this section, the department shall:

1. Terminate any agreement entered into with such awardees pursuant to subdivision b of this section; or

2. Authorize 1 additional independent awardee in any zone where the awardees were in violation of paragraph 17 of subdivision c of this section for a 10-year term pursuant to subdivision a of this section.

§ 4. This local law takes effect immediately, except that this local law does not apply to any agreement executed or transaction initiated prior to such effective date.

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