

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
SAN ANGELO DIVISION

REPUBLIC WASTE SERVICES OF  
TEXAS, LTD.,  
Plaintiff,

v.

TEXAS DISPOSAL SYSTEMS, INC.  
Defendant.

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Cause No. 6:14-CV-00067-C

**DEFENDANT TEXAS DISPOSAL SYSTEMS, INC.’S  
SUPPLEMENT TO SUMMARY JUDGMENT RESPONSE**

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes Defendant Texas Disposal Systems, Inc. (“Texas Disposal”) and files this Supplement to its Summary Judgment Response, and in support would show as follows:

Plaintiff Republic Waste Services of Texas, Ltd. (“Republic”), in its Reply in support of its summary judgment motion, asserted that Texas Disposal has no “form of franchise or authorization from the City” of San Angelo to “provide any type of waste collection services within the City of San Angelo” (Doc. 25 at 7). This issue was not raised in Republic’s initial summary judgment motion; the first mention of the issue was in the Reply.

Texas Disposal does, in fact, have a permit issued by the City of San Angelo for the collection of solid waste. A true and correct copy of that permit, with its most recent renewal, is attached hereto as Exhibit A. The permit allows Texas Disposal to provide any service “that does not conflict with the City’s contract with Republic Waste Services.” As Texas Disposal argues in this case, the provision of the contract between the City and Republic that purports to grant Republic exclusive rights to provide temporary waste disposal services to a construction project is invalid under Texas law. Because Texas Disposal’s collection of construction waste does not conflict with any valid provision of the contract between the City of San Angelo and

Republic, the permit issued to Texas Disposal by the City of San Angelo confers authority on Texas Disposal to provide temporary waste disposal services to a construction project within the City.

Wherefore, premises considered, Texas Disposal prays that the Court deny Republic's motion for summary judgment, and grant Texas Disposal all relief to which it may show itself justly entitled.

Respectfully submitted,

/s/ James A. Hemphill

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COUNSEL FOR DEFENDANT

TEXAS DISPOSAL SYSTEMS, INC.

**CERTIFICATE OF SERVICE**

I hereby certify that this document was served on counsel of record for Plaintiff via CM/ECF, with courtesy copies transmitted via email, on this 18th day of February, 2015, as follows:

Don W. Griffis  
Jackson Walker L.L.P.  
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San Angelo, Texas 76903  
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*/s/ James A. Hemphill*

\_\_\_\_\_  
James A. Hemphill



City of San Angelo  
Solid Waste Hauling Permit

CICO: 7-16-13  
Scanned: 12-18-13

Permit Number: 2013-01

Permit Date: July 16, 2013


Activity and Location: Transportation and disposal of garbage, trash and debris within the San Angelo city limits and any service that is allowed by state law or city ordinance that does not conflict with the City's contract with Republic Waste Services of Texas and the exclusive rights granted by that contract to Republic Waste Services of Texas.

Initial Permit Fee: \$200.00 (Two Hundred and No/100 Dollars)/Paid February 8, 2013

Permittee/Operator: Texas Disposal Systems, Inc.  
Attn: Paul Gregory, Director of Recycling  
P.O. Box 17126  
Austin, Texas 78760-7126  
Phone: (512) 421-1300

Guidelines: Permittee/Operator is authorized to operate under this permit for a period of one (1) year from the permit date.  
  
This permit may be renewed annually upon payment of an annual fee as provided for in Appendix A, Section 8.1600, on or before the expiration date. This permit shall be non-transferable and may be revoked in accordance with Article 11.403(c).  
  
Permittee/Operator shall provide vehicle identification and license plate numbers, vehicle year, make and model of all vehicles used for activities under this permit, and shall maintain and provide proof insurance for such vehicles, to the Director of Operations.

Permit Approved By City Council for Execution by City Manager on July 16, 2013

Executed By:   
Daniel Valenzuela, City Manager

9-17-13  
Date

City of San Angelo  
Solid Waste Hauling Permit  
Permitee/Operator  
Texas Disposal Systems, Inc.

Approved as to Content:

By:   
Shane Kelton, Director of Operations

Approved as to Form:

By:   
Lysia H. Bowling, City Attorney

Approved as to Insurance Requirements:

By:   
John Scaton, Risk Management



City of San Angelo  
Solid Waste Hauling Permit

1<sup>st</sup> Annual Renewal

JUL 14 2014

**Permit Number:** 2013-01

**Permit Date:** Permit Approved by City Council July 16, 2013

**Renewal Date:** 1<sup>st</sup> Annual Renewal Effective July 16, 2014

**Renewal Period:** July 16, 2014 to July 15, 2015

**Activity and Location:** Transportation and disposal of garbage, trash and debris within the San Angelo city limits and any service that is allowed by state law or city ordinance that does not conflict with the City's contract with Republic Waste Services of Texas and the exclusive rights granted by that contract to Republic Waste Services of Texas.

**Renewal Fee:** \$1,827.27 (One Thousand Eight Hundred Twenty-Seven and 27/100 Dollars)/Paid July 9, 2014

**Permittee/Operator:** Texas Disposal Systems, Inc.  
Attn: Paul Gregory, Director of Recycling  
P.O. Box 17126  
Austin, Texas 78760-7126  
Phone: (512) 421-1300

**Guidelines:** Permittee/Operator is authorized to operate under this permit for a period of one (1) year from the date of the 1<sup>st</sup> renewal herein.

This permit may be renewed annually upon payment of an annual fee as provided for in Appendix A, Section 8.1600, on or before the expiration date. This permit shall be non-transferable and may be revoked in accordance with Article 11.403(c).

Permittee/Operator shall provide vehicle identification and license plate numbers, vehicle year, make and model of all vehicles used for activities under this permit, and shall maintain and provide proof insurance for such vehicles, to the Director of Operations.

Executed By:   
Shane Kelton, Director of Operations

7-11-14  
Date

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NORTHERN DISTRICT OF TEXAS  
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Cause No. 6:14-CV-00067-C

**DECLARATION**

I, Jennifer Thomas, do hereby declare the following, which is within my personal knowledge:

I am employed as Admin. Assistant for Texas Disposal Systems, Inc. ("Texas Disposal"). In my employment, I am a custodian of records for Texas Disposal. The document attached as Exhibit A to Defendant Texas Disposal Systems, Inc.'s Supplement to its Summary Judgment Response is a true, correct, and authentic copy of the City of San Angelo Solid Waste Hauling Permit granted to Texas Disposal on July 16, 2014 and annually renewable. This document is a record of the grant to Texas Disposal by the City of San Angelo of a permit to collect solid waste; it was made at or near the time of the grant by someone with knowledge of the grant; making such records was a regular practice; and the document is kept in the regular course of business and is a public record.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 2-17-2015  
(date)

  
(signature)