

Texas Disposal Systems Initial Response to
Special Exclusive Contract for Solid Waste Collection
Between City of San Angelo and Republic Waste Services of Texas, Ltd.

MAJOR ISSUES

1. Agenda Posting
Section 13.L Amendments

Agenda Item 15, if approved by City Council would delegate to the City Manager the authority to complete the negotiations and execute the final agreement without coming back to Council for review and approval.

2. The City Council would be remiss if it did not give the commercial customers the opportunity to select its own waste hauler. This is the only way for these customers to be satisfied they are receiving the best service at the best price. The City should add to the exclusions from this contract all entities that have received a permit to haul waste from the City.
3. Section 3 A 10 year term with a possible 10 years of additional extensions is much too great of a reward to a company accused of overcharging all commercial customers for 14 years, not abiding by reporting requirements under the current contract, having a significant number of unsatisfied customers, failing to efficiently and professionally operate the City's landfill, and generally abusing its monopolistic position.
4. Section 8A(i) As it is written, allows Republic to delay implementation of the cart system for up to 18 months. However, the contract allows the citizens to be charged for full cart service starting August 1, 2014. The rates should be reduced for any period of time the cart service is delayed.
5. Section 8.B(i) Says that Republic shall also dispose of all residential recyclables. This surely does not mean Republic can landfill, incinerate, or use waste-to-energy technology on the recyclables collected from residents. This is a terrible message to send to the citizens.
6. Section 8.B(iv) This section gives Republic an exclusive contract for all Acceptable Waste which includes grease trap waste, grit trap waste, and liquid waste (including portable restrooms), essentially putting companies currently providing these services in San Angelo out of business as of August 1, 2014. It also purports to grant Republic the exclusive right to temporary construction debris. However, state law in Health and Safety Code Section 364.034(h) exempts temporary solid waste disposal services to a construction project from any governmental exclusive contract.
7. Section 8.O Requires Republic to submit operational reports to the City only upon request of the City. This creates an opportunity for problems to slip by the City if there is not constant oversight by City staff. The 20 days Republic has to provide such reports will frustrate citizens who make open records request that should be provided within 10 days.

8. Section 9.A(iv) Increases the City's share of the residential billing fee from 4% to 5% and the Contract Fee from 4% to 5%. So the City's share of each residential fee has increased by 25% under this contract.
9. Section 9.B Still allows Republic to bill and collect for non-residential services with no oversight by the City to prevent incorrect charges as occurred with unauthorized overcharges over the past 14 years. The City has forced its citizens and businesses to use Republic and then left the citizens on their own to fend for themselves against unauthorized charges.
10. Section 9.D Allows Republic to increase the collection rates each year by the annual landfill rate increase, plus an automatic 2.9% price adjustment, plus a fuel surcharge adjustment. There are not many entities that have automatic annual revenue increases without regard to the actual increase in cost and performance.
11. Section 9.G Essentially provides an automatic 50¢ per month per home. This is estimated to be 33,000 homes x \$0.50 x 12 months equals \$198,000 per year extra for Republic. This 50¢ is required when recyclables collected are less than 500 tons in a month. With glass excluded from the list of acceptable recyclables and the minimum tonnage amount being tied to actual recyclables, rather than a single stream mix of recyclables and residuals, the weight will be far less than 500 tons per month. Furthermore, if Republic has a significant amount of recyclables collected declared to be residual waste due to an inefficient and wasteful recycling facility operation, it can reduce the weight even more.

OTHER ISSUES

12. Section 7 Exclusions to the exclusive contract should be added for any waste excepted by law or not covered by the exclusive contract and recyclables (to be consistent with Section 8.E).
13. Section 8.A(ii) Requiring once per week collection of residential recyclables in a 96 gallon cart is an unnecessary expense to the citizens. Once every two weeks is the industry standard and should be implemented in San Angelo to reduce the cost of residential collection.
14. Section 8.G Does not require Republic to notify the City of any investigation enforcement action against Republic for its conduct in San Angelo. So how is the City going to have reason to believe Republic is unable or unwilling to comply with regulatory requirements in order to implement an "Alternative Plan"?
15. Section 8.Q Republic Services, Inc. the parent company of Republic Waste Services of Texas, Ltd., is guaranteeing performance of the subsidiary company under the Special Contract. This is meaningless. It has as much value as an individual saying my right hand will guarantee my left hand will behave.
16. Section 10.D Requires Republic to retroactively indemnify the City for claims which occurred under previous contracts with the City. Does this mean Republic is responsible for any portion of the unauthorized overcharges received by the City?
17. Section 12.B(ii) This is an easy way for Republic to get out of this contract, if it decides that option is more beneficial. Republic can simply request an unreasonable rate adjustment, which is predictably denied. Republic can then terminate the contract with no recourse by the City.

18. Exhibit A Definitions.

Terms are defined, but appear not to be used in the contract. Is this meant to confuse the public by indicating these issues were addressed when they were not? The terms include:

“City Fault”

“City of San Angelo Waste”

“City Waste”

“Environmental Laws”

“Government Approvals”

“Pass-Through Expense”

“Processing Facility”

“Suspicious Waste”

“USC”

19. Exhibit C Letter of Credit. There is no LOC form attached in order to review the conditions upon which the City might draw on the Republic Letter of Credit.

20. Exhibit D Liquidated Damages. There is no way for the City to collect liquidated damages because the Contract does not require Republic to track these items and no requirement to report these problems to the City.