

September 23, 2011

Dear Springwoods Residents,

Several residents have contacted TDS Customer Care representatives with questions and concerns regarding information they have received from the City of Austin about your options for solid waste collection and recycling services after September 30, 2011. I have attached a copy of today's letter and its attachments from our TDS General Counsel to City of Austin staff challenging the City's written and verbal statements which we believe have caused the confusion and frustration expressed by residents over the past few days. I hope this letter and the attached letter will address any concerns you may have and allow you the time needed to make an informed decision as to whom you would like to be your service provider.

You can rest assured that TDS will continue to offer each resident the same quality services to which you have become accustomed, until you notify TDS that you wish to terminate those services to your residence or until December 31, 2012, whichever occurs sooner.

Simply stated, the choice is yours as to who will provide your solid waste collection and recycling services. The City cannot force you to use or to pay for their solid waste collection and recycling services until January 1, 2013. However, if you prefer to convert your service from TDS to the City earlier than that, all you have to do is contact TDS to terminate service and the City of Austin to begin servicing your account. Those few residents who have called TDS to terminate their service, after telling TDS representatives that they were told by City representatives that they would be charged the City's full service charge beginning next month even if they continue to be serviced by TDS and pay the TDS rate, hopefully will consider the facts and the protection they enjoy under state law and reconsider that decision. We hope that no residents will allow the City to intimidate them into changing service providers unnecessarily.

Please note the difference in the solid waste cart size for standard service provided by TDS (96 gallon) and the City of Austin (64 gallon). It is important to also note that TDS will collect up to three additional bags of solid waste each collection day at no additional charge, while the City charges \$4.00 per bag with an "extra garbage sticker" and \$8.00 per bag without a City sticker.

We hope you will consider the quality of service you have received from TDS in the past, as well as the significant investment TDS has made over the past year to purchase and deliver containers and to provide Springwoods residents the three cart service. We also hope you will allow TDS to recoup its investment and to continue to be your service provider. Please feel free to access our website (www.texasdisposal.com) or to contact me or one of our TDS Customer Care representatives to answer any question.

Sincerely,

Bob Gregory
Chairman and CEO
Texas Disposal Systems



WE'RE
**CHANGING
THE FACE**
OF RESPONSIBLE WASTE SERVICES



TEXAS DISPOSAL SYSTEMS

TEXAS DISPOSAL SYSTEMS, INC. • TEXAS DISPOSAL SYSTEMS LANDFILL, INC.

P.O. BOX 17126
AUSTIN, TEXAS 78760-7126
512-421-1300
512-243-4123 (FAX)
www.texasdisposal.com

September 23, 2011

Bob Gedert, Director
City of Austin
Solid Waste Services Department
PO Box 1088
Austin, Texas 78767

Re: Springwoods

Dear Mr. Gedert:

I am writing to you in response to your letter dated September 20, 2011 (Attachment 1), which was received by email September 22, 2011, because it contains several inaccuracies as it relates to state law, it places inappropriate demands upon both Texas Disposal Systems (TDS) and the Springwoods residents (residents), and it misrepresents TDS' efforts to continue providing services to the residents. I also wish to address recorded complaints TDS has received from Springwoods residents about how City staff members have threatened to charge residents for solid waste collection and recycling services starting October 1, 2011, regardless of whether they continue to use TDS' services. As you should know, state law protects both TDS and customers recently annexed from just this type of heavy-handed approach by a City, and prohibits the City of Austin from not allowing the continuation of services by TDS in this case, or from imposing a fee for solid waste management services on a person who continues to use the TDS services. See state statute below:

Texas Local Government Code Sec.43.056.(n): "Before the second anniversary of the date an area is included within the corporate boundaries of a municipality by annexation, the municipality may not (1) prohibit the collection of solid waste in the area by a privately owned solid waste management service provider; or (2) impose a fee for solid waste management services on a person who continues to use the services of a privately-owned solid waste management service provider."

Texas Local Government Code section 43.056(n) allows private solid waste service providers (in this case TDS) to continuing servicing residents for up to two years after the annexation. The Springwoods annexation occurred on December 31, 2010. Therefore, TDS can continue legally serving all the residents in Springwoods until December 31, 2012. The City's website notice to Springwoods residents (Attachment 2) confirms that residents have the option to continue service with TDS through December 31, 2012. The Springwoods Limited District, September 21, 2011 notice to Springwoods Residents (Attachment 3) also makes this clear. The Service Plan agreement between the City and the Springwoods District does not override state law. Any

Bob Gedert, Director
City of Austin
September 23, 2011
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attempt by the City to enforce an arbitrary service termination and/or cutoff date of October 1, 2011 for TDS to provide service to residents or to sign contracts with residents and provide them to the City violates the Local Government Code provision. Your attempt to require TDS or the residents to notify the City that they have signed a contract with TDS by October 1 or 3, 2011 is therefore not legally enforceable. Therefore, TDS will continue to consider Springwoods residents to be TDS customers until they notify TDS that they would prefer to be serviced by the City of Austin or until December 31, 2012, whichever comes sooner. As you know, TDS has a large investment in the trucks, the containers, the composting and recycling facilities, and the commitment to provide these services as promised, to residents for as long as the law allows and for as long as they wish to continue our service. TDS hopes to retain as many residents as possible as TDS customers.

TDS has also been informed by some Springwoods residents that City staff told them they had to use the City solid waste service beginning in October 2011 or pay for it anyway. Not only does state law allow Springwoods residents to continue using TDS for two years from the annexation, it specifically prohibits the City from charging Springwoods residents during this time if they are using TDS services. If City staff has made these representations, as indicated by recorded complaints, it is false and misleading. I request you direct City staff to refrain from any false and misleading statements such as residents must use City services, that they must pay the City even if they do not use City services, they only have until October 1, 2011 to decide between TDS and the City service, that TDS must remove its containers from residents' properties or any similar deceptive comment. I also request that you direct City staff who may have made these false and misleading statements to residents, in order to encourage them to terminate service with TDS, to contact those residents and inform them that in fact they do have a choice to allow TDS to continue to provide them services until January 1, 2013, and that the City will not consider the residents to be City solid waste collection and recycling services customers and bill the residents for solid waste collection and recycling services until the residents make the choice to begin service with the City or until after December 31, 2012, whichever comes sooner.

You also misrepresent what was said in the September 12, 2011 (Attachment 4) TDS letter to the residents. Contrary to your assertion, the TDS letter does not say "residents are required to continue trash service with TDS unless the resident calls for cancellation". What it does say is TDS will continue to provide the same weekly services for trash, recycling, and composting it has been providing unless the resident contacts TDS to terminate services. Nowhere in the letter does it state or imply the residents are contractually obligated to continue service with TDS at this time. The residents have the freedom of choice as to who will be their service provider until December 31, 2012. TDS will respect each resident's decision.

After TDS has had an opportunity to communicate with residents who have terminated service due to City staff threats, TDS will ask those residents to reconsider their decision. By separate letter before October 1st, TDS will notify the City of the residents TDS has received final termination of service notices and the rest of the customers TDS will continue to serve. TDS will then update the list on a timely basis to notify the City of all residents who terminate service with

Bob Gedert, Director
City of Austin
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TDS. TDS has no intention of leaving any resident without service, and will work closely with the City to allow time for container delivery and an orderly transition of services between now and January 1, 2013. To accomplish this, we have disseminated factual information to assist the residents in this process. Please act quickly to alleviate the residents' documented confusion and frustration as a result of your letter and the telephone conversations they have had with City representatives.

If you have any questions or comments, please contact me or others you normally deal with at TDS.

Sincerely,


Gary Newton
General Counsel

cc: Chad Shaw, City of Austin Legal Department
Gregg Krumme, Counsel for Springwoods Limited District
David B. Armbrust, Armbrust & Brown, P.L.C.C.

ATTACHMENT 1



September 20, 2011

via e-mail and letter

Bob Gregory
Texas Disposal Systems, Inc.
12200 Carl Road
Creedmoor, TX 78610-2184

Dear Mr. Gregory:

In response to Texas Disposal Systems (TDS) letter to Springwood residents, dated September 12, the City of Austin is notifying TDS of the inaccurate statement in the letter that residents are contractually required to continue trash service with TDS unless the resident calls for cancellation. The TDS contract with the Springwood annexation area is by written agreement with the Springwood Limited District Board of Directors. That District Board authority dissolves on October 1st, 2011, thereby dissolving the District contract with TDS.

The Springwoods Municipal Utility District (MUD) was annexed by the City of Austin on December 31, 2010. The MUD was dissolved and a Limited District was created to assume some MUD functions, such as provision of trash collection. The terms of the Annexation Service Plan specify that the City will assume trash service to the area upon the District's dissolution, which occurs October 1, 2011.

As stated in my July 21st letter to TDS, the last day of TDS's exclusive service to the Limited District will be Saturday, October 1st, 2011. The Austin Resource Recovery Department (formally Solid Waste Services Department) will deliver carts on September 30th and October 1st and will begin 3-cart collection service on Wednesday, October 5th 2011.

State law allows residents to continue with private sector service for up to two years from the date of annexation. The annexation date of Springwoods MUD was December 31, 2010, placing the two year anniversary at December 31, 2012. Residents choosing to contract with a private service provider must notify the city by October 1, 2011 and provide evidence of an individual contract with that hauler with an expiration date of December 31, 2012.

The City requires that TDS collect all its carts from the Springwood annexation area on or around October 1st, 2011, except for addresses that have verified with the City of exemption from City service as described above.

We desire a smooth transition for the customers of the Springwood Limited District, as noted in previous discussions with TDS staff. Please provide me with a list of all residents who choose to contract with TDS by October 3, 2011, in order to avoid duplication of services and billing of customers.

A handwritten signature in blue ink that reads "Bob Gedert".

Robert Gedert, Director
Austin Resource Recovery Department
(512) 974-1926

Attachments: July 21st letter to TDS
September 19th letter to Springwood residents

Cc: Gregg Krumme, Springwoods Limited District Attorney

ATTACHMENT 2



Springwoods Municipal Utility District

[Limited District Dissolution Information](#)
[Creation of the Limited District](#)
[Notice of Public Hearing for Annexation](#)
[Annexation and Strategic Partnership Agreement Terms Documents](#)
[City of Austin Response to Questions from Open House](#)
[Invitation to the City Services Open House](#)
[Notice of Public Hearings for Strategic Partnership Agreement](#)

LIMITED DISTRICT DISSOLUTION INFORMATION

The Springwoods Limited District will dissolve on **October 1, 2011**. At that time, the City will assume all of the District's assets and liabilities, including Springwoods Park and Springwoods Pool. The City will operate and maintain the park in accordance with the [annexation service plan](#). The pool is already in the city limits.

The City will also begin providing solid waste services, including **garbage, recycling, and organic materials (compost)** collection. The pick-up day for Springwoods will be **Wednesday**. Three carts will be delivered to each household by October 2nd, and the first pick-up will take place on October 5th. Residents will receive additional information by mail from the Austin Resource Recovery Department (formerly known as Solid Waste Services).

Alternatively, individual residents may choose to subscribe to solid waste services from Texas Disposal Systems (TDS), the private waste hauler currently serving residents under a district-wide contract. In

order to exercise this option, each household must contact TDS by **October 1st** to sign up for services. Contact TDS Customer Care at (800) 375-8375 or customercare@texasdisposal.com. Be prepared to provide **written documentation** of your TDS contract to the City to avoid paying City fees.

If you prefer to receive City services, please contact the Austin Resource Recovery Department's **annexation hotline** at **974-1945**. It is also a good idea to **contact TDS** to ask them to pick up their carts as soon as possible after the City carts are delivered.

By **December 31, 2012**, all private solid waste services to homes in the area must cease, and all residents will receive services from the City.

CREATION OF THE SPRINGWOODS LIMITED DISTRICT

The Springwoods Limited District was created automatically when the City annexed the Springwoods Municipal Utility District for full purposes on December 31, 2010, by ordinance [20101118-028](#). The Limited District operated under the terms of the amended [Strategic Partnership Agreement](#).

The Limited District held a ratification election on May 14, 2011. At that election, a majority of voters were not in favor of ratifying the District. As a result, the District was to dissolve on July 13th, 2011, sixty days after the election.

The City and the Limited District agreed to delay the dissolution of the District to October 1st to ensure the smoothest possible transition to City services. The delay also provides more time to ensure that all of the District's assets are transferred to the City with appropriate documentation. The District Board of Directors approved the delay when it approved the Second Amendment to the Strategic Partnership Agreement on June 21, 2011. The City Council approved the Second Amendment on June 23, 2011 by [Ordinance 20110623-038](#).

NOTICE OF PUBLIC HEARING FOR ANNEXATION

A Public Hearing will be held by the City Council of Austin, Texas, for the annexation area described in this notice. At the hearing, the City Council will hear and consider comments on issues related to the limited and full purpose annexation of land in Williamson County.

The date and location for the hearing are as follows:

Thursday, September 23, 2010 at 4:00 p.m. in the Council Chambers of City Hall
301 West 2nd Street, Austin, Texas

Tentative Approval Date:

City Council consideration of the annexation ordinance is tentatively scheduled for September 23, 2010,

ATTACHMENT 3

SPRINGWOODS LIMITED DISTRICT

9117 ANDERSON MILL ROAD
AUSTIN, TEXAS 78729

September 21, 2011

Springwoods Resident

Re: **IMPORTANT INFORMATION ABOUT YOUR
RECYCLING AND SOLID WASTE DISPOSAL
SERVICES**

Dear Springwoods Resident:

As you are aware, Springwoods Limited District has been annexed by the City of Austin and is dissolving effective October 1, 2011. Your solid waste, composting, and recycling services pick up must be transitioned either to Texas Disposal Services, your current provider, or to the City of Austin. Either way, you will be billed monthly for this service.

Each Springwoods resident **MUST** contact Texas Disposal Services and the City of Austin before September 30, 2011 to make your choice as to whether you will remain at Texas Disposal System and receive a \$21 monthly bill for the same service you have been receiving, **OR** elect service with the City of Austin. You can contact Texas Disposal System by calling 1-800-375-8375 or emailing customercare@texasdisposal.com and you can contact the City of Austin by calling the annexation hotline at 974-1945 or email via the http://www.ci.austin.tx.us/sws/customer_service.htm.

If you elect service with Texas Disposal Services:

- You can keep that service until January 1, 2013, at which time you must transition to City of Austin service
- There will be no switch out of Carts
- Curbside pickup will remain on Saturday mornings and except for billing, service will remain the same.

If you elect service with the City of Austin:

- Texas Disposal Services will pick up your carts on October 1 or shortly thereafter and the City of Austin will drop off three new Carts of the same size.
- Curbside pickup will be on Wednesday
- You will initially receive the same size Carts but will have the option to have the City swap out for one of the smaller carts offered by the City. The size of the Cart you choose will determine the amount of your monthly bill.
- The City of Austin will bill residents for trash and include it with the electric and water utility bills that you already receive.
- For more information on City of Austin trash options, go to http://www.ci.austin.tx.us/sws/customer_service.htm.



TEXAS DISPOSAL SYSTEMS, INC. - TEXAS DISPOSAL SYSTEMS LANDFILL, INC.

P.O. Box 17126, Austin, TX 78760-7126
Phone 1-800-375-8375
www.texasdisposal.com

September 12, 2011

Dear Current TDS Customer,

We have been privileged to be the exclusive curbside waste removal and recycling provider for the Springwoods Municipal Utility District since 2002. During May of this year, residents of the Springwoods MUD voted to discontinue as a limited district in the annexation of the community by the City of Austin. As a result, this will change how your waste and recycling services are handled.

WHAT IS CHANGING?

In January 2013 your solid waste services will begin to be serviced by the City of Austin. Until that time, you can continue to receive the same TDS services that you are accustomed to. TDS will notify the City of Austin Solid Waste Services that you are continuing to use TDS' expanded services.*

In the past, the fee for your solid waste services was included in your annual assessments to the MUD district. Our services were paid through the end September 2011. Beginning in October, TDS will continue to provide the same weekly services for trash, recycling, and composting that you are accustomed to receiving. We will bill you directly each month for the services at a rate of \$21.00 unless you contact our offices to terminate services. TDS accepts all major credit cards and offers services such as recurring monthly payment and online bill pay at no additional costs. Please contact our Customer Care department at 800-375-8375 to set up automatic remittance.

WHAT DO YOU NEED TO DO?

Please contact our offices at 800-375-8375 so we can update your account with current name and contact information. You can email us this information at customer-care@texasdisposal.com.

TDS values you as a customer and appreciates the opportunities to serve your community over the years. We look forward to serving your waste, single stream recycling, and compostable recycling needs in the future.

Sincerely,

Sarah Smith
Customer Experience Director
Texas Disposal Systems

**This transition from TDS to City services is managed in accordance with the Texas Local Government Code Sec.43.056.(n): "Before the second anniversary of the date an area is included within the corporate boundaries of a municipality by annexation, the municipality may not (1) prohibit the collection of solid waste in the area by a privately owned solid waste management service provider; or (2) impose a fee for solid waste management services on a person who continues to use the services of a privately-owned solid waste management service provider."*

WERE
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