



TEXAS DISPOSAL SYSTEMS

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

P.O. Box 17126
Austin, TX 78760-7126
512.421.1300
www.texasdisposal.com

September 22, 2020

Bert Lumbreras
City Manager, City of San Marcos
630 E. Hopkins
San Marcos, TX 78666

Dear City Manager,

I am writing this letter in response to discussions at the City Council meeting on September 15, 2020 concerning the contract between the City of San Marcos (City) and Texas Disposal Systems, Inc. (TDS). I request that the City approve the available five year contract extension and rely upon the contract provisions and the longstanding positive relationship the City and TDS have enjoyed for many years to negotiate any proposed contract revisions going forward.

Overview and History

The City and TDS have a longstanding partnership that dates back some twenty years. We certainly appreciate the opportunity extended to us to serve the City and its residents in our partnership. We have accomplished many goals together and TDS certainly has always appreciated the trust the City has placed in our hands to work with you to achieve your goals.

San Marcos was the first city to have single stream recycling in the Austin MSA area. TDS was the only provider with a single stream recycling facility at that time and this was a joint effort to launch this program. TDS had made a large investment for the future of our customers to divert more types of waste items from the landfill. San Marcos, at that time, wanted to lead the way and be on the forefront of innovation. Additionally, San Marcos wanted to divert even more from the landfill stream than it could several years ago. The City was only the second city in the Austin MSA area to have three carts, adding the third cart for green waste. TDS has a multi-million dollar active windrow composting facility on site to process the green waste from the City. We also operate Garden-Ville outlets to market the compost and related soil blend products. This partnership is another example of maximizing material diverted from the landfill.

This three cart collection program may seem to be the standard for all communities since it has been the standard in San Marcos for many years and since it has such a high level of acceptance from the community. I can assure you it is not the norm for most communities. The City of San Marcos is ahead of most communities in the area of landfill diversion. TDS serves over 200 communities with residential service and only two of those communities have a third cart for green waste. None of the other potential private service providers in the Austin MSA area offer this level of service, and none of them have the facility to process green waste.

In addition to the City, TDS services all the schools in Hays County with a similar program. TDS provides three containers for each school that match the three cart residential program in the City. TDS actively teaches and trains the students and staff in how to maximize diversion at each school. TDS provides free reporting and TEKS approved curriculum for Elementary school students to learn about handling their waste in the most environmentally responsible manner.

After the residential services and school services were established, the City added single stream recycling to every multi family unit in the City. San Marcos was the first and remains one of the only communities in the area to do so. TDS also works very closely with City Staff to make the public gatherings in the City as green as possible.

This has given the City a comprehensive landfill diversion plan for residential, multi family, schools, and City sponsored events that is like no other city in the state of Texas that I am familiar with. These are cohesive and complementary programs that have highlighted the core values of San Marcos.

San Marcos Values

Historically, San Marcos has actively sought more options to maximize landfill diversion because of the high commitment the City has to environmental stewardship. Because of this San Marcos leads the area in almost every category.

TDS has been a partner who owns not just the trucks and containers to service your citizens at the curb, but all the facilities needed to process the landfill, recyclable, and compostable materials as well. TDS was excited to hear how our partnership in this contract, during the last five years with the third cart and the green waste cart has been successful and has made a difference in landfill diversion. According to the presentation made by City Staff at the September 1, 2020 City Council Workshop, the tonnage in the compost cart increased from 137 tons in the first year of this renegotiated contract (2015) to 1700 tons in 2019. That is more than a twelve-fold increase in the diversion from the addition of this service to the current contract.

Also, the overall diversion increased from 22% in the first year of this contract (2015) to 34% in 2019.

The partnership with the City of San Marcos and TDS increased the overall residential landfill diversion rate (including recyclables) by over 54%.

TDS is proud to partner with San Marcos for this unique success story in helping create a cleaner, greener, more sustainable San Marcos.

Compare Similar Services to Evaluate the Value of TDS as a Contractor

It was alarming to me to hear the statement by one of our competitors at the City Council meeting stating they could offer the same services to the City, even though, to my knowledge, they do not have one customer who composts, have no experience in educating residents in these type services in Texas, and have no facility to compost any of the materials.

Additionally, this same person commented on the recent RFP with the city of Luling. It was stated that TDS provided a much lower charge for services to Luling for the "same services". His comment was misleading and his insinuation that the city of Luling receives a better deal than San Marcos was also false. The representative from CTR stated (transcript is attached) "just because we don't offer green waste service does not mean we are incapable". He added an RFP process would give "an oranges to oranges comparison". Those two sentences contradict themselves unless the City desires to go backwards in diversion programs or unless the City is interested in entering into an experiment with a service provider with no area experience and no control over a processing facility to handle close to 2,000 tons per year of compostable materials.

In regard to the recent RFP the city of Luling issued for services and mentioned by this same individual, the city of Luling has no recycling in the city and no composting in the city at this time. Five companies responded to the RFP including TDS and CTR, the company represented by the speaker at the last City Council meeting. TDS was the choice of the Luling staff. TDS was the choice of the Luling Evaluation Committee. TDS was also the

unanimous choice of the Luling City Council. This was an RFP process where TDS was chosen over four other companies to provide the best value to Luling for the rate quoted. The staff talked about all the additional components TDS brought to the table that none of the other respondents did, which apparently made the value proposition by TDS the obvious choice.

The requirements in the RFP for Luling are dramatically different than the San Marcos contracted requirements.

- Luling included all the commercial business accounts in the city to be serviced exclusively by TDS, which San Marcos does not. This typically lowers the cost for residential service.
- Luling has far fewer city services included in the contract than the San Marcos contract does.
- Luling has less overall service - two carts instead of three carts as San Marcos does.
- There are several other differences that all are weighted in favor of San Marcos in related to the provisions of additional services.

I am enclosing a residential rate comparison chart of the only three cities in the Austin MSA who have a three cart compost residential system. The City of San Marcos is well ahead of most cities in the area in diversion as is in keeping with the values of the people of San Marcos. This rate comparison shows the citizens of San Marcos have the lowest rate of any of the three cities. Additionally, San Marcos has more bulky call-ins and more free city services included in the rate from the contractor than any of the other cities. The contractor rate for San Marcos is less than half of the Austin rate. As an additional value, all residents can come to the TDS landfill and drop off up to 5 cubic yards of waste each month.

These are very different services and they are priced accordingly. If the City of San Marcos would like to amend services, TDS is always open to adding or reducing services (and the corresponding rates for those services) in order to help provide the best overall value to San Marcos.

Reasons for the Contract Terms of 5 years

In regards to the contract extension, this is a capital intensive business and TDS has invested millions of dollars in order to be a high performing partner with the City. Some trucks used in servicing the City each cost over \$400,000. Labor costs and health care costs for employees servicing the City have increased over the years. TDS has never approached the City with an unexpected rate increase for any reason. TDS has never approached the City with a landfill disposal cost increase. TDS has never approached the City with proposed service changes to decrease acceptable recycling materials as many of our competitors have with other cities. TDS has never approached the City with rate increases to offset lower commodity values in the City's single stream recycling program as some of our competitors have done. TDS has diligently worked with the City to be a good partner.

I am enclosing an article from only a few days ago illustrating how one of our competitors, Waste Management, Inc., will be landfilling recyclables because they have not invested in a recycling facility in that area and are dependent on third party processors who will no longer accept them. The article also mentions the possibility of a rate increase to reinstate the recycling services.

I have also enclosed an October 21, 2019 story of one of our competitors, CTR, landfilling recyclables.

In order to respond to the question posed by the mayor in the September 15, 2020 City Council meeting, as to the reasons why the contract was not submitted for an RFP process 18 – 24 months ago, it perhaps should be noted that this contract was renegotiated only 5 years ago. This new contract was negotiated with a 5 year term and two 5 year renewal option terms. Often when long periods of negotiation occur for a new contract it

is unusual for the contract to be prepared for an RFP only a couple years later. It is typical to exercise the renewal terms if the quality of the services and rates continue to be agreeable to both parties.

The current contract was negotiated in good faith by both parties. There are reasons for five-year terms and even longer in these types of agreements. TDS has a capital investment in only the trucks and containers to service the City in excess of \$5 million. This does not come close to the investment in processing facilities that handle the materials collected and delivered to TDS from the City. TDS has continued to invest large sums of money into equipment in order to maintain the high standards within the City. The longer-term contract is a way to incur the lowest overall cost to the citizens.

TDS was surprised to hear of the question of an RFP due to the fact this had been on two previous agenda items with no mention of anything related to concern about value to the citizens. Additionally, on the September 1, 2020 presentation by City staff, the mayor (transcript enclosed) commented that “y’all have negotiated in recent years adding way more value to that monthly fee, that monthly fee is not that bad”. There was no mention of any issue of concern with TDS service or rate in that or any other meeting prior to the most recent council meeting.

Acceptance of the 5 year Contract Extension and the potential Negotiation of Changes going forward is the Best Way to Achieve the City’s Goals

TDS is always willing to negotiate lower rates with the City for removal or decrease of services, removal of free city services included in the contract, or adding additional services to the contract such as the exclusive service of commercial accounts within the City that could lower the residential rate.

These discussions and negotiations do not have to happen in an RFP. They can occur at any time during the course of the contract provided five-year extension.

TDS will continue to offer a freeze on the current rate for a period of one year in the new five year extension provision in the contract. This is, and has been, an effort of good faith extended on behalf of TDS to continue to foster our relationship with the City.

TDS is not agreeable to a two-year extension. This is not an option in the current contract and was only mentioned in the most recent council meeting, just two weeks prior to the expiration of the current five-year contract term.

TDS will continue to service the City without interruption until October 31, 2020 unless the renewal term in the contract is renewed.

We are available to meet with anyone on the City Council or City Staff in order to discuss these items or any other issue the City would like to discuss. If the City would like to explore the numerous options related to potential changes in service, as the City’s needs may have evolved over time, we are available to do so at any time.

Sincerely,

Rick Fraumann
Director of Sales
Texas Disposal Systems, Inc.