

THE BOARD OF COUNTY COMMISSIONERS  
FOR THE COUNTY OF TILLAMOOK IN THE STATE OF OREGON  
SITTING AS THE BOARD OF THE SOLID WASTE SERVICE DISTRICT

JAN 11 2018

TASSI O'NEIL  
COUNTY CLERK

AA 8:45

In the Matter of Amending a Solid Waste Collection Franchisee with Collection Franchisee, Oceanside Sanitary Service	)	ORDER #18- <u>008</u>
	)	
	)	SWSD #18- <u>005</u>
	)	

This matter came before the Tillamook County Board of Commissioners, sitting as the governing body of the Solid Waste Service District (SWSD), on January 10, 2018 at the request of David McCall, Solid Waste Program Manager. The Board of Commissioners, being fully apprised of the representations of the above-named person, the records and files herein, finds as follows:

1. A Solid Waste Collection Franchise was awarded on June 22, 2005, under Board Order 05-67, SWSD Order #05-14, and subsequently transferred to Ken & Nonda Zwald, LLC, dba Oceanside City Sanitary Service.
2. The proposed amendment is the result of multiple discussions including representatives of the franchised collection franchisees, Solid Waste Advisory Committee members, consultants, and staff.
3. The Tillamook County Solid Waste Advisory Committee discussed this proposed amendment at their meeting on November 14, 2017 and there was consensus to recommend that this amendment be approved.
4. The Tillamook County Board of Commissioners finds that the proposed amendment specifies conditions necessary to protect the public health, safety and welfare of the people of Tillamook County and provide efficient and orderly collection of solid waste.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:


5. The Tillamook County Solid Waste Franchisee Reporting Policy, as described in Appendix "C", is hereby adopted as part of the Solid Waste Collection Franchise conditions with Ken & Nonda Zwald, LLC, dba Oceanside Sanitary Service effective immediately.

///

///

DATED this 10<sup>th</sup> day of January, 2018.

THE BOARD OF COMMISSIONERS  
FOR TILLAMOOK COUNTY, OREGON

  
\_\_\_\_\_  
Tim Josi, Chair

Aye    Nay    Abstain/Absent

  
\_\_\_\_\_  
David Yamamoto, Vice-Chair

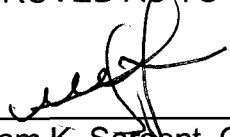
  
\_\_\_\_\_  
Bill Baertlein, Commissioner

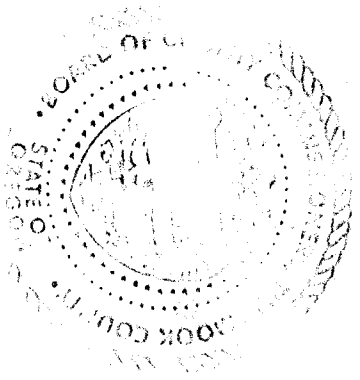
      

ATTEST: Tassi O'Neil  
County Clerk

APPROVED AS TO FORM:

By:   
\_\_\_\_\_  
Special Deputy

  
\_\_\_\_\_  
William K. Sargent, County Counsel





I, on behalf of Ken & Nonda Zwald, LLC, dba Oceanside Sanitary Service, do hereby acknowledge the addition of Tillamook County Franchisee Reporting Policy as described in Appendix "C" as part of the conditions of the Solid Waste Collection Franchise granted by Tillamook County Board of Commissioners.

Franchisee

Ken & Nonda Zwald LLC, dba: Oceanside Sanitary Service

By Ken Zwald

Date 12-10-2017

**Appendix “C”  
Tillamook County Solid Waste Franchisee Reporting Policy**

The following policy for solid waste franchise reporting has been developed as collaborative effort between the Tillamook County franchised haulers and Solid Waste Department staff.

Franchisees agree to provide the County with annual reporting related to their solid waste franchise activities in the unincorporated areas of Tillamook County. The annual report shall include a summary of the franchisee’s operations and structure, including any significant changes that occurred during the reporting period.

Franchisees will use a standardized reporting form, as found in Attachment 1, which may be updated from time to time by mutual agreement of both parties.

The following provides guidance agreed to by the parties in the interpretation of these reporting requirements.

**Supplemental information regarding franchise reporting**

**REVENUE DEFINED**

For purposes of this section the rates shall include all monies collected by Franchisee for the services provided under this franchise, including, but not limited to, charges for collection of solid waste and recyclable materials, revenue from the sale of recycled material, disposal charges, surcharges, fees and taxes. Revenue shall also include any other monies received by Franchisee from any other entity as compensation for the services provided hereunder, allocated fairly and reasonably to the jurisdiction and customers receiving said services.

Revenue data should be provided not only as a whole, but as it relates to the areas covered under this county franchise agreement.

**ALLOWABLE EXPENSES**

For purposes of this section, expenses shall be allowable to the extent they are known and measurable, calculated in accordance with Generally Accepted Accounting Principles (GAAP), do not exceed the fair market value of like services, are fair and equitable, and are reasonably and prudently incurred by the Franchisee in the course of performing its obligations under this Franchise.

- a) Allowable expenses shall include but not be limited to the following:
  - 1) The costs of complying with all laws, regulations or orders applicable to the obligations of Franchisee hereunder, as now or hereafter amended.
  - 2) Disposal fees.

- 3) Labor costs, including supervisory labor, associated with provision of services under the Franchise, including workers compensation insurance and benefits and third party transportation costs.
- 4) All expenses of maintaining and replacing capital equipment, and assets, including straight-line depreciation, registration fees, fuel, oil, tires, repair and maintenance. Capital equipment includes sufficient "back-up" equipment as required to ensure the Franchisee's ability to meet operational requirements.
- 5) Performance bonds and insurance, at a minimum, in the amounts and coverage required by the county.
- 6) Administrative costs including but not limited to officer salaries, administrative staff, data processing, postage, billing and supplies.
- 7) Utilities.
- 8) Training and worker safety.
- 9) Marketing, promotion and public education costs.
- 10) Property or facility depreciation, rental or lease costs necessary to the provision of services required by the franchise agreement. Rental or lease costs shall comply with the Equipment policy.
- 11) Professional fees and costs.
- 12) Interest expenses other than any interest expenses associated with purchases of routes or business purchases.
- 13) Any expense incurred in the collection, handling, processing, storing, transporting, marketing, or sale or other disposition of recyclable materials.
- 14) All surcharges, taxes or fees, other than state or federal income taxes , which are imposed upon Franchisee or levied by federal, state or local governments in connection with Franchisee's provision of Solid Waste collection, transportation, disposal and resource recovery services.
- 15) Any other expense determined in advance by the County and Franchisee to be reasonable and necessary to the provision of the services required under the franchise agreement.

- 16) The compensation of owners and related parties shall comply with the principles outlined in the Related Party Compensation policy.
- 17) Franchise fees.

#### NOT ALLOWABLE EXPENSES

- b) Under no circumstances will the following expenses be counted as Allowable Expenses:
  - 1) Interest and amortization on the purchase of the franchise routes or other franchise routes, buyout of partners, redemption of shares, or other financial transactions not directly related to the operation of the collection company.
  - 2) Political and charitable cash contributions.
  - 3) Federal, state, and local income taxes.
  - 4) Loss on sale of assets.
  - 5) Life insurance on the owners to provide funds to liquidate the owners' interest in the business upon their death. These premiums are for the benefit of the owners and are non-allowable.
  - 6) Director fees: Shareholders employ directors to oversee their interests in an organization. These directors will set policy, hire officers, etc. Any fees paid to these directors are for the benefit of the owners and are non-allowable.
  - 7) Interest on the purchase of equipment or facilities to the extent that the purchase price exceeds the fair market value of the asset at the time of purchase.
  - 8) Penalties and fines.

#### ALLOCATION OF SHARED MANAGEMENT & ADMINISTRATIVE EXPENSES

- a) The Franchisee and its affiliates may use common resources (equipment, fuel, labor, etc.) to service the County and other nearby jurisdictions. In such cases, it will be necessary to allocate the costs of such resources among the jurisdictions they serve. Franchisee and the County shall mutually agree upon an allocation formula. An example of factors in such an allocation formula can be found below. Such allocation formula may be amended upon the mutual consent of the Franchisee and the County and shall be applied, as amended, to determine Allowable Expenses throughout the term of the Franchise.

- b) Where the Franchisee shares management and general and administrative resources with its affiliates, in lieu of the Allocation Method, the Franchisee and the county agree that the charges for such services shall be determined as a percentage of gross revenues which may be adjusted by mutual agreement between the county and the Franchisee. Charges for these services shall be equal to or less than the cost of procuring such services from third party service providers.

### **EXAMPLE - THREE FACTOR ALLOCATION METHOD**

The majority of expenses in providing refuse collection are in Labor, Disposal, and Vehicle expenses. The Franchisee could operate separately in each jurisdiction, and keep detailed cost accounting records of all expenses incurred on a Franchise Area and service type basis. However, it is the desire of the County to have the Franchisee perform collection services and maintain records in a more cost-effective manner.

In order to allocate common expenses incurred in the provision of refuse collection services between service types and service areas, a three factor allocation method may be used, such as follows:

The three factors that will be used to allocate these costs are:

- Labor hours - Used to allocate labor costs. Vehicle costs will also be allocated on labor hours as a substitute for engine hours. If, in the opinion of the operator, these hours would not be materially similar, then a four-factor formula would need to be implemented which would include engine hours to allocate the cost of vehicles.
- Weight - Average Vessel Weights used to allocate disposal.
- Customer Base - Weighted customer counts used to allocate general and administrative and management expenses.

Currently, the methods for collecting this data are:

- Labor hours - Franchisee shall make use of a computerized tracking program that monitors and allocates route time by jurisdiction for each route. If the computerized system becomes unavailable for an extended time, a manual form will be completed by route drivers at regular intervals. This data will then be summarized and averaged for

application to the annual accounting data, or summarized and applied to the specific quarterly accounting data.

Weight - Franchisee shall make use of a computerized tracking program that monitors and allocates weight by jurisdiction for each load. If the computerized system becomes unavailable for an extended time, manual auditing of containers weights will be performed to obtain representative weights. These weights will then be applied to route list customer data to obtain relative weights per route. These relative weights per route will then be applied to the cost of disposal.

Customer Base - This data is readily available from computer reports generated in conjunction with billing and route list preparation.

Data collected in this manner shall be compared to prior years to assure consistency of allocation.

To perform the actual allocations, a model will be developed, with the factors applied to the appropriate accounting line items.

### **Equipment Policy**

The county recognizes that it may be advantageous for a franchisee to procure equipment through various financial means, sometimes involving related or unrelated third parties. Franchisees are allowed to use third party or related parties for equipment procurement and financing. Related party operating leases are not allowable. If using related parties, the franchisee agrees to the "arm's length" principle, so that terms and conditions are similar to that offered by an unrelated third party. For example, upon expiration of a lease, the same equipment cannot be repurchased or released again. The County does not want to deprive franchisees of such opportunities, but in the interest of ensuring that the ratepayers are not subjected to additional expenses, the following depreciation schedules shall be used for equipment:

New trucks: seven (7) years

Used trucks: five (5) years



Containers & Equipment: seven (7) years

Buildings: twenty (20) years

The franchisee will maintain a depreciation schedule listing all trucks, equipment and buildings included in the franchisee's rate reporting. The depreciation schedule shall contain, at a minimum, the type of truck/equipment, license number, date placed in service (or activated in the books), estimated salvage value, and the amount of depreciation used in the report. Straight line depreciation method will be used.

Related party equipment financing will allow for an annual interest rate equivalent to Prime + 2% for the entirety of the depreciation schedule (determined at the time of the procurement/activation of the equipment).

### **Compensation Policy**

The franchisee will complete an annual Compensation report, as found in Attachment 2. This reporting form may be updated from time to time by mutual agreement of both parties.

The County shall treat any information marked "Confidential" as such, and shall not subject the confidential information to public disclosure except as required by law. Both the County and the Franchisee agree that the Compensation report will be treated with confidentiality: neither party will publicize or make available the content of the report, or disclose the report to any third party, without a minimum of ten (10) days' notice to the other party. To the extent that the County is subject to disclosure requirements under the Oregon Public Records and Public Meetings Laws and other applicable federal, state, and local public record laws (Disclosure Laws), in the event the County receives a request for disclosure, the County will provide the Franchisee with at least ten (10) days' notice of the request prior to disclosing the information or documentation. If the Franchisee claims the information or documentation is exempt from disclosure under the Disclosure Laws, the Franchisee must obtain a protective order, injunctive order, or other appropriate remedy from an Oregon court of law before the date by which the County must respond to the request to comply with the Disclosure Laws. If the Franchisee fails to obtain such judicial relief within that time, the County may disclose the requested information without any penalty or liability to the Franchisee.

Related parties include the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-

law, aunt, uncle, niece, nephew, cousin, step-parent, or stepchild of the individual owner or owners. Related parties should meet the same criteria as other parties.

### **Acceptable Rate of Return**

Rates shall be adequate to provide an Operating Margin equal to eight to twelve percent (8-12%) of Franchise-wide Gross Revenues. The eight to twelve percent target return on Gross Revenues is considered sufficient to reflect the level of business risk assumed by the Franchisee, to allow investment in equipment, and to ensure quality collection service. This target rate of return is agreed to be a goal, and no penalties or rate changes are intended or required for minimally falling outside of this range during a given year.

**Tillamook County Franchise Hauler Rate Review Report**

edited July 2017

Franchisee:

Franchise name here

	Total				Allocation method	Tillamook County franchise				Allocation method/comments
	2017 actual	7/1/18-6/30/19 projected w/o rate change	7/1/18-6/30/19 projected w/ rate change	% change		2017 actual	change	7/1/18-6/30/19 projected w/o rate change	7/1/18-6/30/19 projected w/ rate change	
<b>REVENUE</b>										
Route collection Services				#DIV/0!					#DIV/0!	
Drop Box Services										
Rental revenue				#DIV/0!					#DIV/0!	
Non-franchised revenue & pass-through revenue				#DIV/0!					#DIV/0!	
Recycling revenues				#DIV/0!					#DIV/0!	
Other revenue				#DIV/0!					#DIV/0!	
<b>Total revenue</b>	\$0	\$0	\$0	#DIV/0!		\$0	\$0	\$0	#DIV/0!	
Number of regular route customers as of January 1, 2017*										
Number of regular route customers as of July 1, 2017*										
Number of regular route customers as of January 1, 2018*										
Regular route tonnage for 2017:				tons					tons	
<i>*Regular route customers are usually cans, carts, dumpsters, based on service listings.</i>										
Number of drop box pulls in 2017:				tons					tons	
Drop box tonnage for 2017:				tons					tons	
<b>EXPENSES</b>										
<b>Operational expenses</b>										
Disposal expense (franchised)				#DIV/0!					#DIV/0!	
Disposal expense (other)				#DIV/0!					#DIV/0!	
Recycling collection expense				#DIV/0!					#DIV/0!	
Recycling processing expense				#DIV/0!					#DIV/0!	
Labor-related expenses										
Labor expense				#DIV/0!					#DIV/0!	
Taxes, insurance				#DIV/0!					#DIV/0!	
Other labor-related expense				#DIV/0!					#DIV/0!	
Operations-related expenses										
Fuel				#DIV/0!					#DIV/0!	
Repairs and Maintenance				#DIV/0!					#DIV/0!	
Depreciation and Amortization				#DIV/0!					#DIV/0!	
Equipment Lease and/or Rent				#DIV/0!					#DIV/0!	
Property Lease and/or Rent				#DIV/0!					#DIV/0!	
Equipment expense (eg. short-term rental)				#DIV/0!					#DIV/0!	
Insurance expense				#DIV/0!					#DIV/0!	
Other operational expense (incl. franchise fees)				#DIV/0!					#DIV/0!	
<b>Total operational expenses</b>	\$0	\$0	\$0	#DIV/0!		\$0	\$0	\$0	#DIV/0!	
Number of route collection trucks as of January 1, 2017										
Number of route collection trucks as of January 1, 2018										
Number of drop box collection trucks as of January 1, 2017										
Number of drop box collection trucks as of January 1, 2018										
<b>Administrative expense</b>										
Management services				#DIV/0!					#DIV/0!	
Administrative services				#DIV/0!					#DIV/0!	
Postage, phones, office supplies, utilities, etc.				#DIV/0!					#DIV/0!	
Advertising and outreach expenses				#DIV/0!					#DIV/0!	
Education, Training, Publications, dues				#DIV/0!					#DIV/0!	
Bad debts				#DIV/0!					#DIV/0!	
Other admin. Expenses				#DIV/0!					#DIV/0!	
<b>Total administrative expenses</b>	\$0	\$0	\$0	#DIV/0!		\$0	\$0	\$0	#DIV/0!	
Return on income before taxes (revenue - allowable costs)	\$0	\$0	\$0	#DIV/0!		\$0	\$0	\$0	#DIV/0!	
<b>Operating margin</b>	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!		#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!	

**Tillamook County franchise data only!**

**Current and Proposed Rates**

	Current	Proposed
<b>Trash Cans/Rollcarts</b>		
	(32-36 gallon cans/rollcarts)	
Curbside weekly pickup		
Curbside twice weekly pickup		
Curbside every Other Week pickup		
Curbside Once a Month pickup		
Each Additional Can		
In Yard weekly pickup		
In Yard twice weekly pickup		
In Yard every Other Week pickup		
In Yard Once a Month pickup		
Each Additional Can		
Rental Fees		
Trash Cans/Rollcarts (per month)		

	Current	Proposed
	(60-65 gallon cans/rollcarts)	
Curbside weekly pickup		
Curbside twice weekly pickup		
Curbside every Other Week pickup		
Curbside Once a Month pickup		
Each Additional Can		
In Yard weekly pickup		
In Yard twice weekly pickup		
In Yard every Other Week pickup		
In Yard Once a Month pickup		
Each Additional Can		
Rental Fees		
Trash Cans/Rollcarts (per month)		

	Current	Proposed
	(90-95 gallon cans/rollcarts)	
Curbside weekly pickup		
Curbside twice weekly pickup		
Curbside every Other Week pickup		
Curbside Once a Month pickup		
Each Additional Can		
In Yard weekly pickup		
In Yard twice weekly pickup		
In Yard every Other Week pickup		
In Yard Once a Month pickup		
Each Additional Can		
Rental Fees		
Trash Cans/Rollcarts (per month)		

**Containers**

	Current	Proposed
	1 cubic yard container	
Weekly pickup		
Each additional stop per week		
Rental Fees		
	3 cubic yard container	
Weekly pickup		
Each additional stop per week		
Rental Fees		
	6 cubic yard container	
Weekly pickup		
Each additional stop per week		
Rental Fees		

	Current	Proposed
	1 1/2 cubic yard container	
Weekly pickup		
Each additional stop per week		
Rental Fees		
	4 cubic yard container	
Weekly pickup		
Each additional stop per week		
Rental Fees		
	8 cubic yard container	
Weekly pickup		
Each additional stop per week		
Rental Fees		

	Current	Proposed
	2 cubic yard container	
Weekly pickup		
Each additional stop per week		
Rental Fees		
	5 cubic yard container	
Weekly pickup		
Each additional stop per week		
Rental Fees		
	2 cubic yard container	
Weekly pickup		
Each additional stop per week		
Rental Fees		

Roll-off/Drop Box containers (please list charges)

**Extra/Additional charges (eg. Go Back, On Call, Extra Stop, NSF check, replacement, etc.): Please list!**

- 1
- 2
- 3
- 4

