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MEMORANDUM

TO: Board of County Commissioners

FROM: Dan Johnson – DTD Director

CC: Eben Polk, Rick Winterhalter – DTD Sustainability & Solid Waste

Date: January 4, 2022

RE: Ridwell, Inc. (subscription-based curbside collection for select recycling of discarded items)

Recently, a company known as Ridwell Inc, has begun offering service in the Portland metro area including urban Clackamas County. Ridwell, launched initially in the Seattle area, is a venture capital start-up that offers subscription-based collection and recycling of hard to recycle materials such as plastic film, Styrofoam, batteries, electronic waste, and textiles for approximately \$12-16 per month. The materials collected for recycling by Ridwell are defined in state law (ORS 459.005 24) and County Code (10.03.030 59) as solid waste rather than recyclable material because the cost to recycle the materials is greater than the cost to discard them. Our code requires that the collection of solid waste for a fee occur only by franchised haulers or their subcontractors (County Code, Section 10.03.140), and does not actually contemplate a service such as the one Ridwell provides. As a result, Ridwell's business model is arguably not allowed by our current Code.

Clackamas County has supported recycling in our code and programs for decades. Historically, recycling opportunities have been provided through a combination of regular 'curbside' collection of glass, metal, paper and certain plastic containers, complemented by free drop-off recycling locations for electronics, plastic bags/film, paint, batteries, textiles and more. Sustainable, affordable and environmentally responsible recycling is core to our mission.

Earlier this year, based upon staff's understanding of County Code, Ridwell was sent a cease and desist letter outlining an alleged Code violation, expectations under County code, and inviting the company to dialogue. Ridwell responded that they disagreed with our interpretation of County and State Codes that regulate services like theirs. After it was confirmed Ridwell was continuing to provide services, the County sent a second cease and

desist letter in November. Based upon this letter Ridwell informed the County that they temporarily suspended their fee, thus placing them temporarily in compliance, and then initiated an e-mail campaign at the County urging their supporters to ask County commissioners to allow Ridwell to operate.

Staff have researched policy options for providing Ridwell type services in Clackamas County. Staff intend to present these options to the County's Solid Waste Commission, and are requesting a policy session to provide these options for consideration by the Board of Commissioners. The current policy options include:

- **Recycling License.** Amending the County's existing definition of recyclable materials and the recycling license system to allow providers such as Ridwell to offer service for compensation, with appropriate fees and conditions.
- **Expanding Franchise Collection.** Directing existing franchised collectors to expand the services available to subscribers to accept materials similar to those accepted by Ridwell (as outlined in a recent proposal from existing franchised collectors).

Attachment A provides additional background information, including how other local governments have addressed Ridwell's services.

In Oregon, local governments' right to regulate solid waste collection is a well-established right in state law and in court. The public benefit of regulation of garbage and recycling services beyond the franchise system is also identified in the Regional Waste Plan. An underlying, primary objective is that any process we pursue affirms the County's authority to regulate the collection of garbage and recycling materials for public benefit.

Going forward staff will be engaging in a discussion with the Solid Waste Commission to develop a recommendation for future consideration by the Board of County Commissioners. This process will include discussions with current franchisees around the provision of these services.

Request of the Board: Before engaging in these discussions is there anything the Board may wish staff to consider?

Attachment A. Additional Background and History Ridwell

Clackamas County, through its code, programs and participation in state and regional efforts, supports recycling for its environmental and economic benefits. From time to time, opportunities arise to assess recycling options available. Over time our community has seen a gradual increase in recycling opportunities. As a public agency with an environmental and customer service mission, we balance objectives that include public health, convenience, affordability, stability, and environmental value. For this reason curbside collection focuses on materials with a stable economic value and markets. Materials that we do not collect through regular curbside service are typically not collected for one or more reasons including: safety risks, sorting capabilities, cost, lack of marketable or environmental value. Some such materials still have environmental or market value if properly sorted, such as electronics and plastic film, and can be recycled through a free drop-off at various sites.

What is Ridwell, Inc.

- Ridwell, is a venture capital-backed startup, that began offering a subscription service, in the region, to collect materials, for recovery, at subscribers' homes:
 - The materials the company collects are those the County (and many other regional cities and counties) have historically promoted as drop-off items, encouraging consumers to take items to select locations as they conduct other household business;
 - Core items offered to subscribers for collection: plastic film, clothing, fabric, shoes, household batteries, light bulbs, clear plastic take-out clamshells
 - Featured items (availability varies in time): Ridwell offers to pick up additional waste items periodically such as: corks, towels & linens (reuse options), electronics, seasonal specials (string lights, winter coats, back-to-school gear, Halloween candy)
 - Add-on categories: expanded polystyrene (\$9 per trash bag); items that don't fit in bag, i.e. fluorescent light tubes
- How collection works:
 - The customer is provided with a metal box approximately 9 gallons in size to place on their porch, walkway, or curb;
 - Customer places their core materials in a box for biweekly collection;
 - The company employs and contracts drivers to perform the collection services;
 - The drivers use a mix of company owned trucks and their own vehicles;
- Fees:
 - Core items \$12-\$16 month, every 2 week collection (34% the cost of Urban weekly collection of garbage, recyclables, and yard debris), clamshells an additional \$1 per bag when present;
 - Featured Categories: some may have additional cost, above the monthly subscription, based on the type and quantity of material collected; some are donated for reuse i.e. eye glasses for the Lions;
- Ridwell material processing:

- Ridwell uses a warehouse facility in NE Portland to sort and bale or otherwise prepare the material to meet the specifications of the intended end markets

Regional and State Permitting

- The company is required to obtain a solid waste facility permit from the DEQ and a solid waste facility license from Metro for this facility;
 - The company has submitted an application for a license to Metro and has been allowed to operate their recycling processing while the license is pending.
 - A key requirement of the Metro license process is the company must have received or co-applied for a solid waste permit from the DEQ, this has not yet occurred but appears to be happening soon.
 - The DEQ and Metro inspectors have visited the site and the materials collected are being sent to appropriate end markets.
- State law defines the material Ridwell is collecting as solid waste, which is mirrored by County code.
- State statute provides Counties the authority to regulate collection and hauling of solid waste, and thus the County has authority to regulate Ridwell and other similar business models.

What the code says about this type of service.

- The purpose and policy of the County Code 10.03 Solid Waste and Wastes Management is to regulate solid waste and waste recycling, resource recovery, reuse and utilization for public benefit.
- The code promotes affordable and accessible service for all, and the efficient use of highways and roads in connection with the collection of solid wastes and wastes, including recyclables through franchises and licenses.
- Historically and at present, County code accomplishes these purposes by authorizing and regulating specific service providers, and prohibiting the collecting solid waste for compensation otherwise:
 - 10.03.140 A.: it is “...unlawful for any person to store, collect, transport, or dispose of any solid waste or wastes for compensation unless such person is franchised...or a subcontractor of a Collection Service Franchise holder...”
- The materials Ridwell offers to collect are solid wastes under State and County’s definitions. (ORS 459.005 24; County Code 10.03.030 59.)

What other jurisdictions are doing in response.

- State of Washington has interpreted their laws to allow Ridwell to operate.
- City of Lake Oswego has sent a cease and desist violation notice to Ridwell. The City noted Ridwell had an opportunity to seek a subcontract from the City’s franchised collector. The negotiations were not successful.
- Washington County

- Washington County’s code has a provision to allow exemptions to their requirement that only certificate holders collect solid waste for compensation.
 - Ridwell requested consideration for this exemption process. Washington County staff presented the case for an exemption to the Garbage and Recycling Advisory Committee (GRAC serves the same functions as our Solid Waste Commission). The GRAC voted not to allow the exemption for these services—a binding decision
- Staff has sent a cease and desist letter to Ridwell.
- Washington County staff is working with their certificated collectors to present a program offering similar services through the garbage and recycling collectors, to their Garbage & Recycling Advisory Committee, and Board. Other code change options will be presented as well.
- City of Gresham
 - The City of Gresham has sent a violation letter to Ridwell.
 - They have facilitated meetings with their franchisees and Ridwell in an effort to allow Ridwell to operate under their Code.
- City of Beaverton
 - City staff presented the Ridwell case to their Council. Council expressed interest in upholding the code, not allowing Ridwell to operate in the City. Council directed staff to develop a similar program, to be provided to all the citizens, through the existing solid waste collection franchisees. The program is to be presented to the council at a future date.
- City of Portland
 - Created additional exceptions to the residential franchise to allow services like Ridwell and to recognize other aspects of the waste system;
 - The code amendment allows for small businesses to compete for and provide junk removal services and special items collection, including collection service for reusable products and recycling options not provided in the blue carts.
- City of Hillsboro, City of Beaverton and Washington County are considering allowing their solid waste collection franchisees/certificate holders to provide a collection service similar to Ridwell’s.

Summary of Policy Options

Regardless of the option chosen staff believes it is important to uphold and clarify the authority of the County to regulate solid waste collection.

- New service through collectors—Direct existing regulated garbage and recycling collectors to offer additional subscription-based recycling services to all customers directly (franchised collectors have submitted a draft concept for such a service.) In this scenario the service would be available to all interested customers and fees would be determined by the County.
- New service through other regulated providers—Authorize collection services such as Ridwell or James’ Recycling through code amendment. In this scenario multiple

businesses could offer service including potentially existing collectors. This option would be compatible with the Regional Waste Plan.

- Amend the Recycling License system in code to allow licensing and operation with certain requirements in place to help ensure public benefit and environmental and social value.
- Other options such as releasing an RFP for a franchise to offer this service, or directing existing collectors to subcontract for the service, are believed to have a much lower feasibility.
- Benefits of allowing alternate collection (not exhaustive):
 - Allowing opportunities for smaller companies, with diverse ownership, to enter the solid waste system;
 - Clackamas County would be positioned with another tool in the regulated collection system when the Extended Producer Responsibility provisions of the Recycling Modernization Act are implemented, thus leveraging producer funds to promote all aspects of the system;
 - Allowing multiple providers, with variety of services, for customers to choose at their discretion;
 - Clackamas County can, with a code amendment, establish reasonable oversight to ensure public and environmental value;
 - The County could require, as a condition of license, the companies to perform weekend drop off events to serve customers unable to pay for subscription;
 - The County could use the license to collect data on material collected, point of disposal, vehicles used for collection and end markets to ensure the public is receiving the services they have subscribed to