



Himalaya Street Right of Way Vacation Narrative

I. Overview

Allied Waste Systems of Colorado, LLC (“Allied Waste”), an affiliate of Republic Services (“Republic”) currently owns and operates the Tower Landfill located at the southeast corner of Tower Road and E. 88th Avenue in Commerce City, Colorado (the “Tower Landfill”). Allied Waste is concurrently processing a land use map amendment, annexation and planned unit development zone document amendment applications for approximately 110 acres of land located adjacent to the Tower Landfill to the east (the “Annexation Property”). This is an application for the vacation of the Himalaya right of way (“Himalaya ROW”), which lies between the existing Tower Landfill Property and the Annexation Property (“Vacation Application”).

Republic’s Tower Landfill has been operated in a safe and sustainable manner for over forty years and provides a cost effective and safe disposal option to the Denver metropolitan and Front Range areas. Republic operates facilities in forty-six states, employs over 40,000 people, operates 208 active landfills, and provides responsible disposal and recycling services to over 14 million customers. In Commerce City, Allied Waste employs over 330 people at two different locations; the Tower Landfill currently employs thirty-five people and generates over \$1.5 million in revenue per year for Commerce City through the applicable host fees, with a total projected 2024 financial impact of approximately \$2.675 million when including the related franchise/municipal fees, household hazardous round-up sponsorship, and property/sales/use taxes. Allied Waste is the franchise waste and recycling hauler for all Commerce City residents and municipal facilities, which serves over 20,500 residential homes per week.

Approval of all Allied Waste’s pending applications will increase the Tower Landfill capacity by approximately three to five years and could generate over \$10 million in additional host fee and use tax revenue for Commerce City. The annexation and PUD Amendment will also enable Allied Waste to relocate the current Tower Landfill entrance on E. 88th Avenue to a new location on the Annexation Property, which will improve traffic flow. Allied Waste will also reconfigure certain elements of the existing Tower Landfill, resulting in less offsite visibility of the operations.

II. Himalaya Street ROW Vacation Rationale

Upon annexation, the PUD Amendment will expand the boundaries of the existing Allied Waste Systems of Colorado, LLC PUD Zone Document, as amended (the “Allied Waste PUD”) to include the Annexation Property. Upon approval of the PUD Amendment, and as discussed in those application documents provided to the City, Allied Waste will: (1) remove the existing buildings on the Annexation Property and some of the overhead electrical utilities; (2) relocate the Tower Landfill entrance to the Annexation Property; (3) relocate the existing modular office and

establish a modular shop to the Annexation Property; (4) relocate scales and scale houses to the Annexation Property; (5) provide additional storage and staging areas for the Tower Landfill on the Annexation Property; (6) utilize a portion of the Annexation Property for soil stockpiles; (7) establish an inert liquid evaporation pond on the Annexation Property; and (8) establish a customer drop off area for household waste, appliances and organics on the Annexation Property.

To create a contiguous and congruent use of the Tower Landfill and the Annexation Property for all of the proposed changes and uses discussed above, Allied Waste desires to vacate the existing Himalaya ROW because having the Himalaya ROW bisect the Tower Landfill and its ancillary uses would be operationally infeasible. Currently, the Himalaya ROW is unimproved (i.e. it has never been constructed) and only provides legal access to the Annexation Property and one additional parcel to the south of the Annexation Property (“DEN Parcel”), currently owned by the City and County of Denver’s Denver International Airport department (“DEN”). Upon relocation of the Tower Landfill entrance, the Annexation Property will have adequate alternative legal access. Furthermore, as discussed below, DEN is supportive of this vacation application because Allied Waste and DEN will agree upon satisfactory alternative access to the DEN Parcel.

III. Himalaya Street ROW Vacation Approval Criteria Compliance

The Vacation Application meets all of the Commerce City Land Development Code Approval Criteria contained in Section 21-3233(3)(b), as follows:

- i. The vacation is consistent with the comprehensive plan and any other applicable city-approved plan;*

The Tower Landfill property has a future land use designation of Utility, which specifically contemplates active and future landfill uses. The Annexation Property abuts the Tower Landfill property and currently has a future land use designation of DIA Technology, which provides that no residential uses are allowed and contemplates employment and certain industrial land uses. Contemporaneously with this Vacation Application, Allied Waste has submitted a Land Use Plan Amendment to change the Annexation Property’s future land use designation from DIA Technology to Utility.

The Annexation Property will enhance and extend the employment opportunities available at Tower Landfill. Secondly, the Annexation Property will provide for solid waste disposal infrastructure to allow for continued economic growth of Commerce City. Additionally, the Vacation Application meets the Comprehensive Plan’s Public Facilities and Infrastructure Policy 1.11 which is to “promote the provision of adequate buffers for the Tower [] Landfill to prevent the encroachment of incompatible land uses” because the expansion onto the Annexation Property will enable Allied Waste to re-contour the northern slope of the Tower Landfill, which will likely result in operations that are less visible to future residential and commercial development to the north and west of the site, but will not increase the maximum currently permitted height of the landfill. Lastly, expanding the Tower Landfill to the east onto the Annexation Property will result

in the Tower Landfill being a standalone use between Tower Road and E-470; thus, preventing other potentially incompatible land uses on the Annexation Property, which is adjacent to the existing Tower Landfill. E-470 will act as a natural buffer to all other future uses to the east.

ii. The land to be vacated is no longer necessary for the public use and convenience;

As a preliminary manner, the Himalaya ROW has never been improved as an actual right of way/street for public use and convenience and therefore, this Vacation Application will not eliminate any actual roadway improvements currently used by the public. Furthermore, the Himalaya ROW is no longer necessary as public right of way because, upon approval of all associated applications (annexation, Land Use Map Amendment and PUD Amendment), Allied Waste will construct a new entrance from E 88th Avenue on the Annexation Property, which will provide the Annexation Property direct access from E 88th Avenue, thus, eliminating the need for public right of way along the western boundary of the Annexation Property.

iii. The vacation will not create any landlocked properties;

As explained above, there are currently no roadway improvements within the Himalaya ROW. The Himalaya ROW abuts only two properties: (1) the Annexation Property and (2) the DEN Parcel. DEN is supportive of the Vacation Application, as shown by the letter of support attached hereto as **Exhibit A**. As discussed in DEN's letter of support, Republic and DEN are currently discussing a variety of alternative access solutions for the DEN Parcel which will ensure the DEN Parcel is not landlocked.

iv. The vacation will not render access to any parcel unreasonable or economically prohibitive;

The Vacation Application will not render access to either the Annexation Property nor the DEN Parcel unreasonable nor economically prohibitive. Specifically, and as discussed above, because there are no existing roadway improvements within the Himalaya ROW, but Allied Waste proposes to construct a new entrance to the Annexation Property along E 88th Avenue, the access to both the Annexation Property and the DEN Parcel will be improved from their existing condition following the approval of this Vacation Application.

v. The vacation will not reduce the quality of public services to any parcel of land; and

The Vacation Application will not reduce the quality of public services to any parcel of land because, currently, there are no public services to either the Annexation Property nor the DEN Parcel, which are the only two properties impacted by the Vacation Application. The Vacation Application will permit the development of the Annexation Property in a manner that will enable additional public services to be provided to both the Annexation Property and the DEN Parcel

because of the relocation of the Tower Landfill entrance to the Annexation Property and the construction of a new access road thereon.

- vi. A separate plat to replat the vacated area into a larger, usable piece of land has been submitted;*

Allied Waste has submitted a subdivision plat application, known as Case Number S-840-24, thus meeting this criterion.

EXHIBIT A

May 13, 2024

Via Regular Mail and Email (dguerra@c3gov.com)

Dalton Guerra, City Planner
City of Commerce City
7887 E. 60th Avenue
Commerce City, CO 8002

Re: Referral Response – Allied Waste Vacation of ROW Application – V-93-22

Dear Mr. Guerra:

The City and County of Denver, through its Department of Aviation (“Denver”) provides this referral response to Allied Waste Systems of Colorado, LLC’s (“Allied Waste”) Vacation of ROW Application – V-93-22 (the “Vacation Application”).

Denver has reviewed the Vacation Application and the Commerce City’s comments regarding the need for proof of legal access to the property south of the proposed annexation property (“Southern Parcel”). Denver owns contiguous property south of the Southern Parcel and is also in communication with Allied Waste’s representatives to discuss possibilities for alternative access to the Southern Parcel.

Denver and Allied Waste will continue to pursue and explore various alternative options for access to the Southern Parcel; the parties have entered into a term sheet addressing such alternative options. Please consider this letter DEN’s support for Commerce City to approve the Vacation Application. Please note that Denver’s support for the vacation of the Vacation Application is conditioned upon Denver and Allied Waste reaching a final agreement regarding the alternative access to the Southern Parcel.

Please do not hesitate to contact us with questions or to further discuss.

Sincerely,

Ken Cope

Ken Cope
Senior Vice President, Real Estate
Denver International Airport