

Attachment No. PC 1

Draft Resolution to Approve the Project
and Adopt the IS/MND

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RESOLUTION NO. PC2025-008

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, ADOPTING A MITIGATED NEGATIVE DECLARATION AND APPROVING A CONDITIONAL USE PERMIT TO CONSTRUCT AND OPERATE A LANDFILL-GAS-TO-ENERGY FACILITY AT 20662 NEWPORT COAST DRIVE (PA2022-063)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Biofuels Coyote Canyon Biogas LLC, on behalf of Archaea Energy Inc. ("Applicant"), concerning property located at 20662 Newport Coast Drive, and legally described as a Portion of Block 128, Tract No. 361 of Irvine's Subdivision ("Project Site"), requesting approval of a conditional use permit ("CUP").
2. The Project Site is located within the greater boundary of the closed Coyote Canyon Landfill ("CCL"), which received municipal solid waste from 1963 to 1990 and officially closed on May 7, 2003. CCL is owned by the County of Orange ("Owner") and is maintained by Orange County Waste & Recycling ("OCWR"). The CCL boundary occurs on both sides of Newport Coast Drive and consists of four distinct areas: (1) the main canyon landfill, located immediately west of Newport Coast Drive and addressed as 20661 Newport Coast Drive; (2) and (3) the east and south canyon landfilling areas, located east of Newport Coast Drive and with no specific address; and (4) the Project Site, also located east of Newport Coast Drive and at the top of a ridge. The Project Site has historically been the primary location for dealing with landfill gas ("LFG"), including a former LFG-to-energy operation.
3. The previous LFG-to-energy facility operated from 1988 to 2015. It was removed as part of the Coyote Canyon Gas Recovery Demolition and Telecom Update (PA2016-091) (SCH number 2016081012) as the quality of the LFG became inadequate for conversion to energy with the technology of the time.
4. The Project Site is currently improved with emergency generators, above ground storage tanks, two 65-foot faux eucalyptus cell towers ("Telecom Facilities"), power panel and switchgear, a blower pad, and flares that currently burn off the LFG generated by CCL. There is a small operational support building in the center of the site used by OCWR staff and three parking spaces. The Project Site is surrounded by a 12-foot-tall perimeter block wall, trees, with coastal sage scrub beyond.
5. The Applicant proposes the construction and operation of a new renewable natural gas ("RNG") processing plant and a pipeline interconnection facility (collectively referred to as the "RNG Facility"). The RNG Facility will convert LFG generated by CCL into a pipeline-quality natural gas equivalent. This RNG would be transferred from the facility into SoCal Gas infrastructure through an existing onsite tie-in point. Other project components include

a new control room building, new internal access routes, utility upgrades including installation of an additional fire hydrant, a water tank, a septic tank, oil/water separator, a storm drain for off-site disposal of stormwater, and new underground power and telecommunication lines. The RNG Facility would operate 24 hours per day, seven days a week, with an annual scheduled shutdown for plant maintenance. The Telecom Facilities would be protected in place and not affected by the current application ("Project").

6. The Project Site is categorized as Open Space (OS) by the Land Use Element of the General Plan and is located within the Open Space (OS) Zoning District.
7. The Project Site is not located within the coastal zone and no coastal development permit is required.
8. Additionally, the entire Coyote Canyon Landfill, including the Project Site, are located within the Central Subregion of the Natural Communities Conservation Plan/Habitat Conversation Plan (NCCP/HCP) for the Central and Coastal Subregions of Orange County. The NCCP/HCP is a multi-species habitat conservation plan designed to protect sensitive plant and animal species by preserving existing habitat areas in response to the construction of State Route 73. The Project Site is designated as an existing use by the NCCP/HCP.
9. A Public Hearing with the Planning Commission was previously scheduled and noticed for May 22, 2025, to review the Project. However, the Project was removed from the agenda and the meeting was cancelled.
10. A public hearing was held on July 17, 2025, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of the time, place, and purpose of the hearing was given in accordance with Government Code Section 54950 *et seq.* ("Ralph M. Brown Act") and Chapter 20.62 (Public Hearings) of the Newport Beach Municipal Code ("NBMC"). Evidence, both written and oral, was presented to and considered by the Planning Commission at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. A draft Initial Study and Mitigated Negative Declaration (State Clearinghouse Number 2024120012) ("IS/MND") have been prepared in compliance with the California Environmental Quality Act ("CEQA") set forth in Public Resources Code Section 21000 *et seq.*, the State CEQA Guidelines set forth in Title 14 in the California Code of Regulations Section 15000 *et seq.*, and City Council Policy K-3.
2. The draft IS/MND were circulated for a 45-day comment period beginning on November 27, 2024, and ending on January 13, 2025.
3. Pursuant to Public Resources Code Section 21080.3.1, the City provided formal notice on December 5, 2023, to Native American tribes that are traditionally and culturally affiliated with the geographic area of the Project Site. The City received no responses within the 30-day period, however, a tribal contract for the Gabrieleño Band of Mission

Indians – Kizh Nation, requested consultation during the public comment period of the IS/MND. Mitigation Measures have been included in the Mitigation Monitoring and Reporting Program (“MMRP”) to the satisfaction of the tribe to address potential concerns regarding the protection of Tribal Cultural Resources.

4. The MND, which includes the IS, public comments, and responses to comments as of the public hearing date, is being considered by the Planning Commission in its review of the Project.
5. The Planning Commission finds that the MND has been prepared and completed in compliance with CEQA and City Council Policy K-3.
6. The Planning Commission finds that the MND reflects the independent judgment and analysis of the City.
7. Based on the entire environmental review record, the Project, with mitigation measures, will have a less than significant impact on the environment and there are no known substantial adverse effects on human beings that would be caused. Additionally, there are no long-term environmental goals that would be compromised by the project, nor cumulative impacts anticipated in connection with the project. The MMRP are feasible and will reduce the potential environmental impacts to a less than significant level.
8. The IS/MND, MMRP, and Response to Comments attached as Exhibits “A”, “B,” and “C” respectively, are hereby adopted. The document and all material, which constitute the record upon which this decision was based, are on file with the Planning Division, City Hall, 100 Civic Center Drive, Newport Beach, California.
9. The Planning Commission finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time-consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenge, and bear the responsibility for any costs, attorneys' fees, and damages that may be awarded to a successful challenger.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020(F) (Conditional Use Permits and Minor Use Permits) of the NBMC, the following findings and facts in support of such findings are set forth:

Finding:

A. The use is consistent with the General Plan and any applicable specific plan;

Facts in Support of Finding:

1. The Project Site is categorized as Open Space (OS) by the Land Use Element of the General Plan. The Open Space (OS) land use designation is intended to provide areas appropriate for a range of public and private uses to protect, maintain, and enhance the community's natural resources. This designation may also include incidental buildings, such as maintenance equipment and supply storage, which are not traditionally included in determining intensity limits.
2. The Project is consistent with the Open Space (OS) categorization, as it introduces new equipment and limited incidental structures within an already improved area of the CCL. The Project comprises less than one acre of the 375-acre CCL footprint and preserves the community's natural resources because it does not expand the footprint of the building pad and perimeter block wall at the top of the ridge. Additionally, the RNG Facility provides a net benefit to the existing Open Space (OS) by converting LFG generated by CCL into a pipeline-quality natural gas equivalent.
3. Additionally, the Project is consistent with the following policies of the General Plan:
 - a. **LU 1.3 (Natural Resources) and NR 17.1 (Open Space Protection):** *Requires the preservation of open space and habitat resources.* The Project comprises less than one acre of the 375-acre CCL site and preserves the community's natural resources because it does not develop current open space and instead sites the new improvements adjacent to existing improvements within the existing walled-off area. All Project components are proposed within the perimeter wall. Additionally, the RNG Facility provides a net benefit to the existing Open Space (OS) by converting LFG generated by CCL into a pipeline-quality natural gas equivalent.
 - b. **LU 1.6 (Public Views):** *Requires protection, and where feasible, enhancement of significant scenic and visual resources that include open space, mountains, canyons, ridges, ocean, and harbor from public vantage points* and **NR 21.1 (Signs and Utility Siting and Design)** *which requires signs, utilities, and antennas be designed and sited to minimize visual impacts:* The City's policies related to public reviews include Land Use Policy LU 1.3 which aims to preserve open space resources, beaches, harbors, parks, bluffs, preserves, and estuaries as visual, recreational, and habitat resources; Land Use Policy LU 1.6 which requires public views, including scenic and visual resources such as open space, mountains, canyons, ridges, the ocean, and the harbor, be preserved and where possible, enhanced from public vantage points; and Natural Resources Policy NR 23.1. The IS/MND analyzed views from three different viewpoints including looking southeast from Newport Coast Drive (just south of Sage Hill High School), northeast from Newport Coast Drive (just northeast of San Joaquin Hills Road), and north from the residences at Renata Street. Of note, Newport Coast Drive, the primary location for two of the three viewshed locations, is not a scenic highway and has motorists driving at higher rates of speed along this area. The viewshed simulations demonstrate that the Project design blends within the existing topography such that the Project complies with these policies. Additionally, Condition of Approval No. 5 requires the Applicant to provide enhanced aesthetic treatment of the equipment to ensure the RNG Facility blends in with its surroundings.

- c. **General Plan Policy LU 3.3 (Opportunities for Change - Coyote Canyon Landfill):** *Intends for the CCL to support a comprehensive vision that balances future land uses with environmental stewardship and public access. Future development should adapt the closed landfill as an area that supports a variety of outdoor recreational uses such as golf, hiking, and nature interpretation alongside housing opportunities with complementary nonresidential uses.* The Project is proposed within an area of CCL where there are existing utilities, such as telecom facilities, and existing infrastructure for LFG collection and flaring. The Project is not located in an area of the CCL that is conducive for redevelopment into any of the aforementioned uses without the removal of the existing infrastructure. The Project does not prohibit the implementation of Policy LU 3.3 within other areas of CCL and instead sites new improvements in a complementary fashion with existing improvements.
- d. **NR 3.9 (Water Quality Management Plan) and NR 4.4 (Erosion Minimization):** *Requires new development applications to include a Water Quality Management Plan ("WQMP") to demonstrate how runoff and erosion shall be minimized both during construction and post-construction.* A WQMP was prepared for the Project by BKF Engineers, dated December 14, 2023. The Project implements Best Management Practices and is designed to prevent surface water from flowing over slope faces.
- e. **NR 10.2 (Orange County Natural Communities Conservation Plan):** *Requires compliance with the policies of the NCCP/HCP.* The Project is within an area of the NCCP/HCP that is acknowledged as an existing use and does not expand the use beyond the existing perimeter wall. Temporary staging areas that will be used during construction of the Project for material deliveries and parking have been sited to avoid impacts to avoid coastal sage scrub, chaparral, and other native plant communities. The primary laydown area is proposed on the Project Site and the secondary laydown area is proposed within an already disturbed portion of the main landfill area, across Newport Coast Drive. Vehicle parking for construction employees will be provided in the secondary laydown area, and a shuttle would transport crews daily to and from the Project Site. A number of mitigation measures are incorporated in the MMRP, set forth in Exhibit B, to ensure the Project complies with the policies of the NCCP/HCP.

4. The Project is not located within a specific plan area.

Finding:

B. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code;

Facts in Support of Finding:

1. The Project Site is within the Open Space (OS) Zoning District. The OS District is intended to both provide areas to maintain and protect the community's natural open space resources; and maintain and protect landscaped open space areas located within residential and non-residential developments, where no further development is allowed.
2. Pursuant to Table 2-14 (Allowed Uses and Permit Requirements) of Section 20.26.020 (Special Purpose Zoning Districts Land Uses and Permit Requirements) of the NBMC, "Major Utilities" are allowed within the OS District, subject to the approval of a CUP. The Project meets the definition of a "Major Utility," as provided in Chapter 20.70 (Definitions) of the NBMC and is therefore allowed upon approval of this CUP.
3. Section 20.26.030 (Special Purpose Zoning Districts General Development Standards) of the NBMC specifies that development standards in the Open Space (OS) District shall be established during review of the required permit. The RNG Facility would have a total footprint of approximately 38,500 square feet and would be composed of pipe racks, various vessels and tanks, new flare tower, thermal oxidizer, and other miscellaneous processing equipment. Equipment ranges in height from approximately 5-foot, 6-inches above the existing grade to a maximum height of 60 feet above the existing grade. Apart from the vessels, tanks, flare, and pipe rack, which range in height from 30 feet to 40 feet above finish grade, most of the equipment will be screened by the existing perimeter wall. The tallest piece of RNG Facility equipment, the thermal oxidizer, is proposed at a height of 60 feet above finish grade. All equipment will be below the 65-foot height of the Telecom Facilities. Condition of Approval No. 4 has been included to set height limits for specific equipment that exceeds 35 feet in height.
4. Given the Project is entirely within the perimeter of the wall and most equipment is setback approximately 12 feet from the wall to allow sufficient site circulation, no additional setbacks are proposed. Requiring additional setbacks from the property line would further constrain the layout of the RNG Facility and would likely result in taller equipment. As such, it is most appropriate to allow development to span the entire Project Site behind the perimeter wall.
5. The approximately 500-square-foot control room building is the only enclosed floor area proposed with the Project. Given it is clearly incidental to the RNG Facility, no maximum floor-area-to-land ratio is proposed.
6. The control room building will be staffed by one to two employees, per shift. Two parking spaces are proposed to accommodate the anticipated parking demand. There are access roads within the Project Site which provide sufficient vehicle staging areas in the event additional workers are ever required during a maintenance event or plant shut down.

Finding:

- C. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity;*

Facts in Support of Finding:

1. The Project Site is located within the greater boundary of the closed CCL. The Project Site itself has historically been the primary location for dealing with LFG, including a former LFG-to-energy operation which operated from 1988 to 2015. While the quality of the LFG became inadequate for conversion to energy with the technology of the time, new technology is now available which allows for LFG to once again be utilized.
2. Land uses that are immediately adjacent to the Project Site include the landfill areas described above in Statement 2 of Section 1, an Irvine Ranch Water District ("IRWD") pumping station, and open space.
3. The nearest sensitive receptors to the Project Site are the existing Sage Hill School, located approximately 1,400 feet to the north, and single-unit residences in the Tesoro Community, located approximately 1,250 feet to the south.
4. A Noise Impact Analysis was prepared for the Project by LSA, dated July 17, 2024. The study found that neither the construction of the Project nor the long-term operation of the Project would result in noise impacts to the nearby sensitive receptors.
5. Long term operation of the Project will result in a negligible increase in the number of vehicles traveling to the Project Site. The Project is anticipated to generate eight average daily trips, well below the 300 average daily trip threshold provided in Chapter 15.40 (Traffic Phasing Ordinance) of the NBMC to require the preparation of a traffic study.
6. Vehicle traffic will increase during the 9-to-12-month Project construction period. To reduce the temporary impacts to a less than significant level, the Project includes four traffic mitigation measures, which are included in the MMRP. For example, the Applicant must prepare a traffic control plan for demolition and construction which staggers truck trips throughout the day on Newport Coast Drive so that the minimum practicable number of truck trips will occur during the AM peak period (i.e., during student drop off for Sage Hill School). Through the implementation of these mitigation measures, the Project is not anticipated to negatively impact traffic within the surrounding area.
7. The Project is not anticipated to generate objectionable odors to the nearby community due to Project design and distance from sensitive receptors. While the RNG will be odorized prior to injection into SoCal Gas infrastructure, the odorization process is a sealed-loop system and there should be no release of odors. Construction activities may generate odors, but they would be temporary and typically confined to the immediate vicinity of the construction equipment. By the time any odorous emissions reach the nearby sensitive receptors, they would likely be diluted to be below the level of detection.
8. The Project introduces additional lighting for security purposes but is not anticipated to adversely affect ambient light conditions. The 12-foot perimeter wall and trees surrounding the project site should help shield lighting that could emanate from the Project Site. To ensure Section 20.30.070 (Outdoor Lighting) of the NBMC, which

requires all outdoor lighting be designed, shielded, aimed, located, and maintained to shield adjacent properties and to not produce glare onto adjacent properties or roadways, is implemented, Condition of Approval No. 10 allows the Community Development Director to order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.

9. The historic use of the Project Site is LFG collection and processing. The previous LFG-to-energy facility operated at the Project Site from 1988 to 2015 and without notable incidents or code enforcement issues. The historic use of the site suggests the RNG Facility should also operate in a compatible way with the surrounding uses.

Finding:

- D. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities;*

Facts in Support of Finding:

1. The Project was reviewed by the City's Utilities Department, Public Works Department, and Building Division. All input and recommendations provided on implementation of the project if approved have either been incorporated into project design or have been included in the Conditions of Approval, attached as Exhibit "D."
2. The Project was also reviewed by the Newport Beach Fire Department ("NBFD"). The NBFD provided recommendations and conditions, including vegetation removal, to ensure that the necessary fire prevention and emergency response features are incorporated. All recommendations are included in the MMRP and the Conditions of Approval, attached as Exhibits "B" and "D," respectively.
3. OCWR currently maintains the planted area outside the perimeter wall. As required by the NBFD, the Project would likely remove 28 trees to reduce the risk of fire associated with the Project. Condition of Approval No. 29 requires a Fuel Modification Plan to be reviewed and approved by the NBFD prior to the issuance of a building permit.
4. An additional fire hydrant will be added to the Project Site to ensure the hydrant layout can meet hose-pull requirements and allow fire apparatus equipment and firefighting crews to deploy at a safe distance from the RNG Facility. The hydrant location was reviewed and accepted by the NBFD.
5. The Project includes a new, enclosed, flare tower to burn off-specification gas generated from the RNG refining process. The combustion of off-specification gas will occur within the flare tower, and no flames will be visible. The four existing OCWR flares will be protected in place and will be used to combust any excess LFG that is not sent to the RNG Facility or as a backup in the event the RNG Facility goes offline. The existing OCWR flares will not be retrofitted to conceal flames. The NBFD acknowledges that calls for service may be received related to the occasional visible flaring in the existing

OCWR flares but does not anticipate calls for service to increase over what they receive under existing conditions.

6. The Project is required to comply with the most current adopted fire codes, building codes, and nationally recognized fire and life safety standards. These codes impose design standards and requirements to minimize and mitigate fire and emergency response risk. Compliance with these codes and standards is ensured through the City's building permit review process. All construction would be subject to review and approval by the City's Building Division and NBFD prior to building permit and certificate of occupancy issuance.

Finding:

- E. *Operation of the use at the proposed location would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding:

1. LFG is currently being flared off by existing site infrastructure. The Project will divert the LFG from the flares and into the RNG Facility to convert it into RNG through a proprietary process. The LFG will undergo moisture, particulate, and contaminant removal to be upgraded and compressed into pipeline quality RNG. Contaminants removed from the LFG will be destroyed in the thermal oxidizer. While the Project generally replaces existing LFG flaring, the Project still has the potential to release gaseous emissions of criteria pollutants and dust into the ambient air.
2. An Air Quality Impact Analysis ("AQIA") was prepared for the Project by SCS Engineers, dated December 2023. The AQIA evaluated the offsite concentrations of criteria air pollutants that would be emitted by the Project. The net change in emissions from implementation of the Project would be lower than significance thresholds established by the South Coast Air Quality Management District ("SCAQMD"). Projects below the SCAQMD significance thresholds are not expected to generate sufficient criteria pollutant emissions to violate any air quality standards and should not be a risk to the health or general welfare of people residing or working nearby.
3. The operation of the Project would require the use of hazardous materials such as maintenance products, oils, acids, and gases. A full list of materials and quantities are included in Table 10 of the IS/MND. The Project will store hazardous materials in small enough quantities as to not require registration with the California Accidental Release Program and is not anticipated to endanger, jeopardize, or otherwise constitute a hazard to the public. Furthermore, specific protocols for the storage of hazardous materials are provided in Appendix H of the IS/MND and incorporate the use of double-walled tanks and secondary containment to conform with existing hazardous materials and hazardous waste laws and regulations set at the State and Federal level.

4. Construction activities would use hazardous materials including gasoline, diesel fuel, motor oil, hydraulic fluid, solvents, cleaners, sealants, welding flux, various lubricants, paint, and paint thinner. The materials used would be in small enough quantities and stored in accordance with best management practices, such as secondary containment, to not pose a significant safety hazard. Additionally, these activities would also be short-term, or once off, and would cease upon completion of the Project's construction phase.
5. A Preliminary Site Consequence Assessment was prepared for the Project to outline the potential for flammable vapor clouds, jet fire, and toxic vapor clouds and the possible effect they pose on the surrounding vegetation; public; the control room, and the existing OCWR building. The analysis found that through the implementation of emergency response procedures and compliance with applicable laws and regulations, potential impacts would be less than significant.
6. To help lessen any impacts to the surrounding area, the Applicant is required to notify neighboring residential community members at least one week prior to the start of construction. Broader notifications will be made through various means, including placing signs at road crossings in advance of construction.
7. Facts 4 and 7 in Support of Finding C are hereby incorporated by reference.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby adopts the Mitigated Negative Declaration (SCH NO. 2024120012) attached hereto as Exhibit "A", the Mitigation Monitoring and Reporting Program attached hereto as Exhibit "B", and the Response to Comments attached hereto as Exhibit "C", all of which are attached hereto and incorporated herein by reference.
2. The Planning Commission of the City of Newport Beach hereby approves the CUP filed as PA2022-063, subject to the conditions set forth in Exhibit "D," which is attached hereto and incorporated herein by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the NBMC.

PASSED, APPROVED, AND ADOPTED THIS 17TH DAY OF JULY 2025.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Mark Rosene, Chair

BY: _____
David Salene, Secretary

EXHIBIT A

**INITIAL STUDY/MITIGATED NEGATIVE DECLARATION
SCH NO. 2024120012**

File available via link due to size:

[https://www.newportbeachca.gov/pln/CEQA_REVIEW/Coyote%20Canyon%20Landfill%20Gas%20to%20Energy%20Plant%20Project%20\(P2022-063\)/PA2022-063_PublicReview_InitialStudy_MND.pdf](https://www.newportbeachca.gov/pln/CEQA_REVIEW/Coyote%20Canyon%20Landfill%20Gas%20to%20Energy%20Plant%20Project%20(P2022-063)/PA2022-063_PublicReview_InitialStudy_MND.pdf)

EXHIBIT B

MITIGATION MONITORING AND REPORTING PROGRAM

EXHIBIT C

Response to Comments

File available via link due to size:

[https://www.newportbeachca.gov/pln/CEQA_REVIEW/Coyote%20Canyon%20Landfill%20Gas%20to%20Energy%20Plant%20Project%20\(P2022-063\)/PA2022-063_Response-to-Comments.pdf](https://www.newportbeachca.gov/pln/CEQA_REVIEW/Coyote%20Canyon%20Landfill%20Gas%20to%20Energy%20Plant%20Project%20(P2022-063)/PA2022-063_Response-to-Comments.pdf)

EXHIBIT D**CONDITIONS OF APPROVAL**

(Project-specific conditions are in italics)

Planning Division

1. The development shall be in substantial conformance with the approved site plan and elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
3. The Applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may cause the revocation of this Conditional Use Permit.
4. *No equipment shall exceed 35 feet in height above the finish grade, with the exception of the thermal oxidizer and the flare tower, which shall be limited to 60 feet and 40 feet above finish grade respectively.*
5. *RNG Facility equipment shall be coated with camouflage paint as an enhanced aesthetic treatment.*
6. *Prior to final building permit inspection, the Applicant shall schedule an inspection with the Planning Division to verify the aesthetic treatment applied to the RNG Facility is acceptable.*
7. *Two parking spaces shall be provided for control room employees.*
8. *Secure and functional short-term bike parking shall be provided for control room employees.*
9. *Prior to building permit final inspection, the Applicant shall schedule an evening inspection with the Code Enforcement Division to confirm the facility is not excessively lit, except as deemed necessary for security lighting.*
10. *If in the opinion of the Director of Community Development, site illumination creates an unacceptable negative impact on surrounding land uses or environmental resources, the Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.*
11. Project signage shall be in conformance with Chapter 20.42 (Signs) of the NBMC.

12. PA2022-063 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 (Time Limits and Extensions) of the NBMC, unless an extension is otherwise granted.
13. This Conditional Use Permit may be modified or revoked by the Planning Commission should they determine that the proposed uses or conditions under which it is being operated or maintained are detrimental to the public health, welfare, or materially injurious to property or improvements in the vicinity or if the property is operated or maintained to constitute a public nuisance.
14. Any change in operational characteristics, expansion in the area, or other modification to the approved plans, shall require subsequent Planning Division review and may require the processing of an amendment to this Use Permit or the processing of a new Use Permit.
15. Prior to the issuance of a building permit, a copy of the Resolution, including Conditions of Approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
16. Prior to the issuance of a building permit, the Applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Use Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Use Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
17. *All landscape materials and irrigation systems shall be maintained by the approved fuel modification plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.*
18. Prior to the issuance of a building permit, the Applicant shall prepare a photometric study in conjunction with a final lighting plan for approval by the Planning Division. The survey shall show that lighting values are "1" or less at all property lines.
19. Prior to the issuance of a building permit, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
20. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 (Community Noise Control), under Sections 10.26.025 (Exterior Noise Standards) and 10.26.030 (Interior Noise Standards), and other applicable noise control requirements of the NBMC.

21. Construction activities shall comply with Section 10.28.040 (Construction Activity – Noise Regulations) of the NBMC, which restricts hours of noise-generating construction activities to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday, and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays, or Holidays.
22. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or leasing agent.
23. All trash shall be stored within the building or within dumpsters stored in a trash enclosure (three walls and a self-latching gate) or otherwise screened from the view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
24. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and Saturdays and between the hours of 10:00 p.m. and 9:00 a.m. on Sundays and Federal holidays unless otherwise approved by the Director of Community Development and may require an amendment to this Conditional Use Permit.
25. A Special Events Permit is required for any event or promotional activity outside the normal operating characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the NBMC to require such permits.
26. To the fullest extent permitted by law, the applicant shall indemnify, defend and hold harmless the City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs, and expenses (including without limitation, attorney's fees, disbursements, and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of **Coyote Canyon Landfill Gas to Energy Facility** including, but not limited to, the **Conditional Use Permit filed as PA2022-063**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney's fees, and other expenses incurred in connection with such claim, action, causes of action, suit, or proceeding whether incurred by the applicant, City, and/or the parties initiating or bringing the such proceeding. The applicant shall indemnify the City for all the City's costs, attorneys' fees, and damages that which City incurs in enforcing the indemnification provisions outlined in this condition. The applicant shall pay to the City upon demand any amount owed to the City under the indemnification requirements prescribed in this condition.

Fire Department

27. *The Applicant is required to obtain all applicable permits from the City's Fire Department.*
28. *Prior to the issuance of a building permit, a Fire Master Plan showing fire department vehicle access, turn-around, fire hydrants, and other Fire Department appliances as applicable shall be submitted for review and approval.*
29. *The Project is located within a Very High Fire Hazard Severity Zone (VHFHSZ). The Project is required to comply with the following for development in a wildland fire prone area:*
- a. All new structures shall comply with Chapter 7A of the California Building Code for construction in a designated wildland area.*
 - b. A defensible space landscape plan/fuel modification plan is required to protect the facility from wildfires in accordance with City Guideline G.02 (Fuel Modification Plans and Maintenance Standards for Developments). The plan must include the area immediately outside the 12-foot perimeter wall.*
30. *A Hazardous Materials Inventory document is required. Both a paper and electronic version will be required for review by NBFD.*
31. *The flare tower shall be designed so that flames are not visible above the structure nor visible from the public right of way including Newport Coast Drive and State Route 73.*

Building Division

32. The Applicant is required to obtain all applicable permits from the City's Building Division. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements.
33. The Applicant shall employ the following best available control measures ("BACMs") during construction:

Dust Control

- Water all active construction areas at least twice daily.
- Cover all haul trucks or maintain at least two feet of freeboard.
- Pave or apply water four times daily to all unpaved parking or staging areas.
- Sweep or wash any site access points within two hours of any visible dirt deposits on any public roadway.
- Cover or water twice daily any on-stockpiles of debris, dirt, or other dusty material.
- Suspend all operations on any unpaved surface if winds exceed 25 mph.

Emissions

- Require 90-day low-NOx tune-ups for off-road equipment.
- Limit allowable idling to 30 minutes for trucks and heavy equipment

Off-Site Impacts

- Encourage carpooling for construction workers.
- Limit lane closures to off-peak travel periods.
- Park construction vehicles off traveled roadways.
- Wet down or cover dirt hauled off-site.
- Sweep access points daily.
- Encourage receipt of materials during non-peak traffic hours.
- Sandbag construction sites for erosion control.

Fill Placement

- The number and type of equipment for dirt pushing will be limited on any day to ensure that SCAQMD significance thresholds are not exceeded.
- Maintain and utilize a continuous water application system during earth placement and compaction to achieve a 10% soil moisture content in the top six-inch surface layer, subject to review/discretion of the geotechnical engineer.

34. Prior to the issuance of a building permit, a Storm Water Pollution Prevention Plan (SWPPP) and Notice of Intent (NOI) to comply with the General Permit for Construction Activities shall be prepared, submitted to the State Water Quality Control Board for approval and made part of the construction program. The project applicant will provide the City with a copy of the NOI and their application check as proof of filing with the State Water Quality Control Board. This plan will detail measures and practices that will be in effect during construction to minimize the project's impact on water quality.
35. Prior to the issuance of a building permit, the applicant shall prepare and submit a final Water Quality Management Plan (WQMP) for the proposed project, subject to the approval of the Building Division and Code and Water Quality Enforcement Division. The WQMP shall provide appropriate Best Management Practices (BMPs) to ensure that no violations of water quality standards or waste discharge requirements occur.
36. A list of "good housekeeping" practices will be incorporated into the long-term post-construction operation of the site to minimize the likelihood that pollutants will be used, stored, or spilled on the site that could impair water quality. These may include frequent parking area vacuum truck sweeping, removal of wastes or spills, limited use of harmful fertilizers or pesticides, and the diversion of stormwater away from potential sources of pollution (e.g., trash receptacles and parking structures). The Stage 2 WQMP shall list and describe all structural and non-structural BMPs. In addition, the WQMP must also identify the entity responsible for the long-term inspection, maintenance, and funding for all structural (and if applicable Treatment Control) BMPs.

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