

## Exhibit B

### Resolution No. 737(17)

**A RESOLUTION OF THE PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL OF THE CITY OF IRWINDALE AMEND SECTION 8.20.370 OF THE IRWINDALE MUNICIPAL CODE REGARDING SOLID WASTE FRANCHISES, AMEND CHAPTERS 17.56 AND 17.58 OF THE CITY OF IRWINDALE MUNICIPAL CODE REGARDING MATERIAL RECOVERY FACILITIES IN THE M-2 (HEAVY MANUFACTURING) ZONE AND ADD SECTION 17.56.025 REGARDING DISTANCE REQUIREMENTS FOR ALCOHOL BEVERAGE ESTABLISHMENTS**

WHEREAS, the City of Irwindale, 5050 Irwindale Avenue, Irwindale, CA 91706, the Applicant, has made a request for Zoning Ordinance Amendment No. 04-2016 (ZOA) to the Irwindale Municipal Code (IMC) regarding material recovery facilities and distance requirements for alcohol beverage establishment conditional use permits (CUPs), which will affect properties Citywide;

WHEREAS, the Irwindale City Council, in a prior action taken on June 8, 2016, certified Final Environmental Impact Report (FEIR) (SCH# 2013051029) which analyzed potential environmental impacts from the proposed Materials Recovery Facility and Transfer Station (MRF/TS) project; and

WHEREAS, Addendum No. 1 to the FEIR has been prepared to address minor, internal site plan adjustments made in the final design of the MRF/TS project; and

WHEREAS, pursuant to the authority and criteria contained in the California Environmental Quality Act ("CEQA") and the CEQA guidelines, it has been determined that the proposed amendment has been environmentally analyzed in the certified FEIR and Addendum No. 1; and

WHEREAS, the City, through this resolution, wishes to amend the Municipal Code to allow a Material Recovery Facility as a permitted use in the M-2 Zone, and to modify the distance requirements for alcohol beverage establishments; and

WHEREAS, on September 20, 2017, the Planning Commission conducted a duly noticed public hearing, as required by law, and recommended that the City Council approve the Zoning Ordinance Amendment; and

WHEREAS, all legal prerequisites to the adoption of this Ordinance have occurred.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF IRWINDALE DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission finds that the above recitals are true and correct and incorporated herein by this reference.

SECTION 2. The Planning Commission hereby specifically finds and determines that the project, as proposed, pursuant to the authority and criteria contained in the California Environmental Quality Act (CEQA) of 1970, as amended, and the City of Irwindale environmental guidelines, the City, as the Lead Agency, has analyzed the project and on June 8, 2016 certified the Final Environmental Impact Report (FEIR) (SCH#2013051029). A copy of the EIR and Mitigation Monitoring and Reporting Program was posted on the City's website.

SECTION 3. The Planning Commission hereby specifically finds and determines the project, as proposed, pursuant to the authority and criteria contained in CEQA of 1970, as amended, the 2017 State CEQA Guidelines Section 15164, and with reference to Section 15162, and the City of Irwindale environmental guidelines, the City, as the Lead Agency, has reviewed and considered the FEIR, including Addendum No. 1 to the FEIR and determines that the minor project modifications would not result in new significant impacts, increase the severity of significant impacts, or otherwise trigger additional review.

SECTION 4. The Planning Commission recommends that the City Council amend Municipal Code Section 8.20.370 of the Irwindale Municipal Code is removed and replaced to read, in its entirety, as follows:

**“8.20.370 - Right to grant franchise.**

A. In order to protect public health, safety, and welfare, to control pest and nuisance vectors and to carry out the mandatory duties imposed on the city by the State of California, the city council may authorize one or more contractors to make arrangements with generators of solid waste for the collection, transportation, recycling and disposal of solid wastes within and throughout the city. To this end, the city council, subject to all applicable state laws, specifically retains the right to grant a limited, non-exclusive or exclusive franchise or franchises for the (i) collection of solid waste from any residential unit or commercial premises, and/or (ii) operation of a Material Recovery Facility/Transfer Station (as such term is defined in Section 17.56.080).

B No solid waste enterprise or other person shall undertake the (i) collection of solid waste from any residential unit or commercial premises, and/or (ii) operation of a Material Recovery Facility/Transfer Station (as such term is defined in Section 17.56.080) without first obtaining a franchise granted by the city council, in writing, naming the contractor. Any specific exceptions to the foregoing franchise requirement may be designated in the city's duly-adopted franchise contract.

C. The term of each franchise shall be set forth in the franchise agreement. A reasonable franchise fee shall be included within every franchise granted pursuant to this chapter. The amount and payment thereof shall be determined by the city council, and shall be set forth in the franchise agreement. A penalty for late payments may be imposed.

D. A grant of franchise pursuant to this Section shall be made in the discretion of the city council and consistent with Irwindale City Charter Section 608.”

SECTION 5. Section 17.56.025 is added to the Irwindale Municipal Code to read, in its entirety, as follows:

**“17.56.025 – Uses requiring a development agreement.**

The uses listed below shall be allowed in the M-2 zone with either (A) a conditional use permit, or (B) a development agreement that (i) meets the requirements of Government Code sections 65864-65869.5, and (ii) includes development standards that ensure the public’s health, safety and welfare and that any development is consistent with the City’s General Plan and any other applicable land use plan(s):

1. Material Recovery Facility/Transfer Station, if said facility is also approved in conjunction with a franchise agreement granting a limited, non-exclusive or exclusive franchise for operation of said Material Recovery Facility/Transfer Station.
2. (Reserved).

When a use is allowed by development agreement or conditional use permit in this Section, all ancillary uses can be approved by such development agreement or conditional use permit so long as appropriate and required findings can be made. Approval of a development agreement pursuant to this Section shall also qualify as an entitlement approval equivalent to that of approval of a conditional use permit, and shall be treated as a conditional use permit approval, for the purposes of any other provisions of this Title 17. Nothing in this section is intended to limit other uses that may be included in a development agreement as otherwise allowed in Sections 17.56.010 and 17.56.020 for the M-2 zone.”

SECTION 6. Section 17.56.030, at Subsection A, of the Irwindale Municipal Code is amended to read, in its entirety, as follows (new text, if any, is identified in underlined, deleted text, if any, is identified in ~~strike through~~), with all provisions of Subsections B and C remaining unmodified and in full effect

**17.56.030 - Limitation on permitted uses.**

Every use permitted in the M-2 zone shall be subject to the following limitations:

A. Unless a specific provision of this Chapter 17.56 authorizes lesser setback requirements, the following general requirements apply. When an M-2 lot fronts or sides upon a street, public or private, when adjacent to residential and agricultural zones, there shall be maintained front and side yards of not less than fifty feet in depth along such thoroughfare. When an M-2 lot fronts or sides upon a street, public or private, when adjacent to commercial and M zones, there shall be maintained front and side yards of not less than twenty feet in depth along such thoroughfare. A landscaping area, not less than twenty feet in width, shall be maintained along all street frontage of such lots. The following accessory uses shall be permitted in such front or side yard areas:

1. Landscaping;
2. Passenger vehicle parking (only if surfaced in such manner as to eliminate dust or mud);
3. Employees' recreational area without structures;
4. An ornamental, open type fence, not over eight feet in height, made of material such as woven wire, wood, welded wires, chain link, or wrought iron.
5. Utility or other easements.

....”

SECTION 7. Section 17.56.070 of the Irwindale Municipal Code is amended to read, in its entirety, as follows (new text, if any, is identified in underlined, deleted text, if any, is identified in ~~strike-through~~):

**“17.56.070 - Recycling facilities—Definitions.**

For the purpose of carrying out the purpose of this code, the words, phrases and terms included in this title shall have the meaning ascribed to them in this chapter. The use of the terms "collection facilities" or "processing facilities" herein, whether large or small, shall not apply to ~~either (i) materials recovery facilities and transfer stations (MRF/TS), which are facilities operated by a city franchised waste hauler for the recovery of recyclable materials from the municipal waste stream, including its city-approved related or incidental uses; (ii) auto dismantling/recycling facilities or junk/salvage/scrap yards; (iii) asphalt plants; (iiiiv) concrete plants; (iv) concrete product manufacturing, (vi) rubberized materials/tire recycling and (vii) landfills.~~

A. Large Collection Facilities. A center for the acceptance by donation, redemption or purchase of recyclable materials from any person. Such a facility uses power driven processing equipment.

Large collection facilities have storage areas that occupy more than five hundred square feet.

B. Large Processing Facilities. A facility used for the collection and processing of recyclable materials that occupies twenty-five thousand square feet or more of gross collection, processing and storage area.

C. Small Collection Facilities. A center for the acceptance by donation, redemption or purchase of recyclable materials from the public. Such a facility does not use power driven processing equipment. Small collection facilities have storage areas that occupy no more than five hundred square feet.

D. Small Processing Facilities. Same as large processing facility, but occupies twenty-four thousand nine hundred ninety-nine square feet or less of gross collection, processing and storage area.

E. Material Recovery Facilities/Transfer Stations (MRF/TS). Facilities operated by a city-franchised waste hauler for the recovery, processing and/or transfer of recyclable materials, refuse and solid waste from the municipal waste stream, including its city-approved related or incidental uses.”

SECTION 8. Section 17.56.090 of the Irwindale Municipal Code is amended to add a new subsection C to read as follows, with all provisions of Subsections A and B remaining unmodified and in full effect:

**“17.56.080 - Recycling facilities—Criteria and standards.**

.....

C. Material Recovery Facilities/Transfer Stations (MRF/TS).

1. Must be approved by development agreement and limited, non-exclusive or exclusive franchise agreement, pursuant to which additional standards beyond those required in this subsection C may apply.

2. Any storage containers or other equipment or materials must be stored in a manner so as to be adequately screened from the public right of way.

3. Any storage container must be located a minimum of ten feet from any property line.

4. Containers must be constructed and maintained with durable waterproof and rustproof materials, adequately painted and maintained in good condition.

5. Sufficient parking for operator’s commercial and employee vehicles, as well as visitor parking, in the amount required per Section 17.64 shall be provided.

6. Must have all applicable permits from the California Department of Conservation and meet the requirements of the California Beverage Container Recycling and Litter Reduction Act of 1986.
7. The facility shall be clearly marked with the name and telephone number of the facility operator and the hours of operation. Identification and informational signs shall be subject to the sign standards applicable to the zone in which the facility is located. Onsite directional signs, bearing no advertising message, may be installed with the approval of the planning director, if necessary, to facilitate traffic circulation or if the facility is not visible from the public right-of-way. Directional signs shall include the city's logo.
8. The City of Irwindale must receive the source credit for the collections and processing.
9. No hazardous materials, including but not limited to, automotive fluids shall be permitted on site. Any hazardous materials inadvertently introduced into the site shall be disposed of immediately per state law requirements.
10. The facility is subject to annual inspections by the city to verify compliance with approved conditions of approval and applicable law.
11. The facility must submit reports for yearly disposal and diversion amounts to be reviewed by the planning department and finance department. Diversion activities must be in accordance with all applicable federal, state and local requirements.
12. The facility is required to obtain a city business license.
13. Except for small quantities of CRV materials, if warranted as determined by the community development director and in accordance with state law requirements, the facility will be required to maintain a customer log; at which time the customer must show valid identification, such as a state issued driver's license, identification card and/or thumb print where applicable.
14. All portions of the lot, other than approved landscaping areas, shall be paved.
15. Adequate security measures shall be established, including but not limited to, cameras with recording capabilities, motion sensors and lighting.
16. Any request for expansion of an existing facility requires a modification of the previously approved development agreement or conditional use permit, unless such modification meets criteria for minor modifications per the development agreement or conditional use permit conditions.

17. Hours of operation shall be established in the development agreement or conditional use permit.
18. Minor repairs shall be permitted for fleet vehicles and machinery only. All repairs must be done within an enclosed building or shielded from the public right of way and be limited to oil changes, tire changes and the like.
19. Recycling activities must be in accordance with all applicable federal, state and local requirements.
20. Minimum landscaping requirements shall be per the approved site plan and shall not be subject to the minimum requirements otherwise applicable in the M-2 zone.
21. Must comply with all applicable environmental mitigation measures at all times, including odor and noise, and promptly and adequately address all complaints received from the general public and report same to the community development director within 48 hours.
22. To the extent a duly-approved development agreement or conditional use permit contains terms or conditions more specific than the ones contained in this Section or elsewhere in the Code, the more specific terms shall control.”

SECTION 9. Section 17.56.020 of the Irwindale Municipal Code is amended to add the following numbered item to the list of uses requiring a conditional use permit: “43. Material Recovery Facilities/Transfer Stations (MRF/TS), conditional use permit or development agreement, if said facility is also approved in conjunction with a franchise agreement and subject to all requirements of Section 17.56.025”. Other provisions of Section 17.56.020 shall remain unchanged.

SECTION 10. Subsection A of Section 17.58.040 of the Irwindale Municipal Code is amended to read, in its entirety, as follows (new text, if any, is identified in underlined, deleted text, if any, is identified in ~~strike-through~~):

“A conditional use permit shall not be issued to a proposed on-sale or off-sale alcoholic beverage establishment if the proposed establishment would be located within three hundred feet from another such establishment or any residential use, church or other place of worship, or hospital; or within one thousand feet from an educational institution, nursery school, day camp, day care center, public park, or playground, as such distances are measured from the closest property line of each use. Notwithstanding any provision in this chapter to the contrary, an "existing deemed approved alcoholic beverage establishment" which is seeking to obtain a conditional use permit shall not be required to comply with these distance requirements as part of

the conditional use permit process. In addition, these distance requirements shall not apply to the location of any proposed on-sale or off-sale alcoholic beverage establishment within a bona fide restaurant or specialty food store as such terms are defined in Section 17.58.020.

The minimum distance requirement provided in this section may be waived by the development services director or the decision-making body, if in his/her/its reasonable judgment, it is determined that a substantial physical obstruction or barrier exists, such that it is practically infeasible for an individual to travel the distance (including by foot, bicycle or vehicle) as measured by property lines and the actual distance travelled would in reasonable likelihood be in excess of the minimum distance requirement. The substantial physical obstruction or barrier may be natural or man-made, provided it existed before submission of the application for the conditional use permit or development agreement. Examples of types of physical obstructions or barriers that may support a waiver include but are not limited to, restricted access highways or freeways, rivers or creeks, stormwater channels, large embankments or soundwalls."

SECTION 11. The Planning Commission hereby finds that the proposed Zoning Ordinance Amendment has been environmentally analyzed under the certified FEIR (SCH#2013051029) and Addendum No. 1 to the FEIR.

SECTION 12. The Secretary shall certify to the adoption of this Resolution.

ADOPTED AND APPROVED this 20<sup>th</sup> day of September 2017.

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Chair

ATTEST:

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Secretary

I, William Tam, Development Services Director/City Engineer of the City of Irwindale, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the Planning Commission of the City of Irwindale held on the 20<sup>th</sup> day of September 2017, by the following vote:

AYES:            COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

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Secretary