

BOARD MEETING DATE: February 2, 2024

AGENDA NO. 5

PROPOSAL: Recognize Funds and Execute MOU with City of Irvine for Lawn and Garden Equipment Projects

SYNOPSIS: South Coast AQMD administers and implements both the Residential Electric Lawn Mower Rebate and the Commercial Electric Lawn and Garden Equipment Incentive and Exchange Program. The City of Irvine would like to partner with South Coast AQMD to fund zero-emission lawn and garden equipment replacement projects for residents and businesses operating within the City of Irvine. These actions are to: 1) authorize the Executive Officer to execute an MOU with the City of Irvine to contribute up to \$300,000 towards South Coast AQMD's programs that fund zero-emission lawn and garden equipment replacement projects for residents and businesses in the City of Irvine; and 2) recognize funds from the City of Irvine up to \$18,750 into the General Fund for administrative costs of implementing the MOU.

COMMITTEE: Technology, January 19, 2024; Recommended for Approval

RECOMMENDED ACTIONS:

1. Authorize the Executive Officer to execute an MOU with the City of Irvine to contribute up to \$300,000 towards South Coast AQMD's programs that fund zero-emission lawn and garden equipment replacement projects for residents and businesses residing and operating within the City of Irvine; and
2. Recognize funds, upon receipt, up to \$18,750 from the City of Irvine into the General Fund, to be used for administrative costs of implementing the MOU.

Wayne Nastri  
Executive Officer

## **Background**

South Coast AQMD administers and implements the Residential Electric Lawn Mower Rebate Program and the Commercial Electric Lawn and Garden Equipment Incentive and Exchange (eL&G) Program. The City of Irvine has proposed to phase-out gasoline- and diesel-powered lawn and garden equipment within its city limits by January 1, 2025. To assist in the transition, the City of Irvine proposes to contribute up to \$300,000 towards South Coast AQMD's programs to incentivize equipment replacement for residents and businesses in the City of Irvine and pay administrative fees of up to \$18,750. South Coast AQMD will assist the City of Irvine to replace lawn and garden equipment with electric equipment through South Coast AQMD's Residential Electric Lawn Mower Rebate and the eL&G Programs. South Coast AQMD may also identify technology demonstration and pilot projects that facilitate the shift from gasoline- or diesel-powered lawn and garden equipment to zero-emission technologies. South Coast AQMD staff will review program applications and submit a list of eligible program participants or qualified projects to the City of Irvine for funding. The City of Irvine will issue payments directly to the program participants and retailers, up to the total amount of \$300,000. Eligible applicants that reside or operate in areas outside the City of Irvine will continue to be funded through existing South Coast AQMD Lawn and Garden programs while funding is available.

## **Proposal**

This action is to authorize the Executive Officer to execute an MOU with the City of Irvine to contribute up to \$300,000 towards South Coast AQMD's programs that fund zero-emission lawn and garden equipment replacement projects for residents and businesses residing and operating within the City of Irvine. This action is to also recognize funds, upon receipt, up to \$18,750 from the City of Irvine into the General Fund for administrative costs.

## **Benefits to South Coast AQMD**

The successful implementation of this program is estimated to result in annual emission reductions of 0.08 tons of NO<sub>x</sub>, 0.64 tons of ROG, and 0.007 tons of PM. The transition from high polluting gasoline- or diesel-powered lawn and garden equipment to zero-emission equipment will result in direct air quality benefits to the community.

## **Resource Impacts**

This action will involve the receipt of revenues from the City of Irvine up to \$18,750 in administrative costs, which will be recognized into the General Fund. The amount up to \$300,000 will be paid by the City of Irvine directly to eligible program participants.

## **Attachment**

MOU

## MEMORANDUM OF UNDERSTANDING

**THIS MEMORANDUM OF UNDERSTANDING** (this “MOU”), is dated for reference purposes as of \_\_\_\_\_ between the SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT (“South Coast AQMD”) and the CITY OF IRVINE, CALIFORNIA, a municipal corporation. The aforementioned parties to this MOU shall be referred to individually herein as a “Party” and collectively herein as “Parties.”

### **RECITALS**

A. South Coast AQMD is the regulatory agency responsible for improving air quality for large areas of Los Angeles, Orange, Riverside and San Bernardino counties.

B. South Coast AQMD administers several programs that offer financial incentives for implementing clean air technologies, including a Residential Electric Lawn Mower Rebate Program using criteria set forth in established South Coast AQMD programmatic guidelines, and a Commercial Electric Lawn & Garden (eL&G) Equipment Exchange Program using criteria set forth in the California Air Resources Board’s (CARB) Carl Moyer Program Guidelines.

C. The City of Irvine, a city within Orange County, has proposed a transitional approach to phase-out gasoline- or diesel-powered lawn and garden equipment from both residential and commercial applications by January 1, 2025.

D. The City of Irvine and South Coast AQMD agree to collaborate and partner on projects and/or programs that assist with the transition to zero-emission lawn and garden equipment, and the City of Irvine agrees to commit funds to South Coast AQMD’s existing residential and commercial lawn and garden programs and other projects South Coast AQMD may identify that can assist in the transition from gasoline- or diesel-powered lawn and garden equipment to zero-emission technologies within the City of Irvine’s boundaries.

D. The Parties are entering into this MOU in order to clarify the obligations of the Parties, subject to the terms and conditions of the established South Coast AQMD programmatic guidelines and the Carl Moyer Program Guidelines.

In consideration of the foregoing, and the mutual undertakings contained herein, the Parties hereby agree as follows:

#### **1. DEFINED TERMS.**

As used herein, the following terms have the following meanings:

“**Award**” means either the rebate or voucher amount issued to a program participant under Residential Electric Lawn Mower Rebate Program, or the Commercial Lawn and Garden Equipment Exchange Program.

**“Commercial Battery-Powered Lawn and Garden Equipment”** means a commercial-grade, cordless and battery-powered lawn and garden equipment that may include, but is not limited to: lawn mowers (ride-on and stand/sit), leaf blowers, chainsaws, trimmers, edgers and brush cutters.

**“Electric Lawn and Garden Program”** means the lawn and garden programs administered by South Coast AQMD, consisting of both the Residential Electric Lawn Mower Rebate Program and the Commercial Lawn and Garden Equipment Exchange Program.

**“Program Participant”** means the end user of the battery-powered lawn and garden equipment that has been approved to receive either a rebate or incentive funding from the Electric Lawn and Garden Program.

**“Residential Battery-Powered Lawn and Garden Equipment”** means a residential-grade, cordless and battery-powered lawn and garden equipment that may include, but is not limited to lawn mowers, leaf blowers, chainsaws, trimmers, edgers and brush cutters.

## **2. PROGRAM FUNDS.**

- a. City of Irvine Funding. For the purpose of funding projects and/or programs that assist in the transition of gasoline- or diesel-powered lawn and garden equipment to zero-emission, the City of Irvine shall contribute a starting allocation of \$150,000 and not to exceed to \$300,000. The City of Irvine’s contribution under this MOU shall be applied to homeowners, commercial gardeners and landscapers, government agencies, school districts and colleges, non-profit organizations, and private entities with full time gardening/landscaping staff that reside or have a principal place of business within the City of Irvine. Additionally, funding from the City of Irvine may be applied towards technology demonstration and pilot projects of equipment that assist in the transition of gasoline- or diesel-powered lawn and garden equipment to zero emission technologies within the City of Irvine.
- b. Awards and Disbursement. For the Residential Electric Lawn Mower Rebate Program, rebates based on the most updated program rebate amounts shall be issued by the City of Irvine to program participants for residential-grade battery-powered lawn and garden equipment. For the Commercial Lawn and Garden Equipment Exchange Program, a voucher amount up to 85% or up to the funding caps identified in the Carl Moyer Program Guidelines (whichever is lesser) shall be reimbursed to South Coast AQMD-approved retailers from the City of Irvine. For the Commercial Lawn and Garden Equipment Exchange Program, approved retailers will serve only as passthrough entities, and the program participant will be the incentive funding beneficiary. Also, technology demonstration and pilot projects that provide lawn and garden care will be awarded based upon South Coast AQMD criteria, priorities and applicability with Carl Moyer Program and/or Clean Fuels Program Guidelines. With the exception of technology demonstration and pilot projects, South Coast AQMD will evaluate and administer projects under its Electric Lawn and Garden Program in coordination

with the City of Irvine pertaining to disbursement of awards to program participants and retailers. South Coast AQMD shall evaluate and determine eligibility of program participants and upon approval and completion of program transaction, will submit to the City of Irvine a list of program participants who will be qualified to receive awards. The City of Irvine will directly pay the program participants and retailers.

### **3. PROGRAM ADMINISTRATION.**

- a. Electric Lawn and Garden Program Applications. South Coast AQMD shall be responsible for receipt and processing of applications and for determining eligibility and award amounts for program participants.
- b. Reporting. After South Coast AQMD has identified and approved funding eligible projects, South Coast AQMD will submit to the City of Irvine a list of program participants who will be qualified to receive awards. The City of Irvine will issue payments to the participant or approved retailer as identified on the list submitted.
- c. Record Retention. South Coast AQMD agrees to maintain data, information, records and documents required to be maintained by applicable law for such time frames as may be required pursuant to the Carl Moyer Program Guidelines and South Coast AQMD's records retention policy.
- d. Administrative Fees/Costs. The City of Irvine shall be responsible for the payment or reimbursement of 6.25 percent of the total funding to South Coast AQMD for the cost of program/project administration.

### **4. PAYMENT OF CONTRIBUTIONS**

- a. The City of Irvine shall make payments directly to program participants and program approved retailers within 30 days of receipt of the eligible program participant list from South Coast AQMD.
- b. The City of Irvine shall make payment of the 6.25 percent administration costs on a quarterly basis to South Coast AQMD by check, wire transfer or other means agreed upon by the Parties prior to the start of any work until program funding have been depleted or the program has been terminated.
- c. The maximum total amount of the City of Irvine's contribution is \$300,000, with payments made directly to program participants and retailers under South Coast AQMD's Electric Lawn and Garden Program. For demonstration and pilot projects, payments will be made directly to the contract awardee. For administration costs, payments will be made directly to South Coast AQMD.
- d. If the Parties have any disagreement with respect to their respective obligations under this MOU, then each Party shall designate a duly-authorized representative to work in good faith with the other Party's designated representative(s) in an attempt to resolve such disagreement.

## 5. UNCOMMITTED FUNDS

Any uncommitted City of Irvine funds that remain after termination of this MOU shall be retained by the City of Irvine.

## 6. TERM AND TERMINATION.

- a. Term. This MOU shall become effective on the date that both Parties have signed it and all appropriate authorization has been completed by both Parties.
- b. Termination. Either Party may terminate this MOU by giving not less than thirty (30) days prior written notice to the other if any of the following occur: (i) there is a change in the law or any other event that would prohibit or restrict a Party's performance of its obligations under this MOU in any material way; (ii) in the event of a default of this MOU by either Party; or (iii) in the event there is an impasse under Section 4.d. of this MOU. In the event of a default, the non-defaulting Party shall give the defaulting Party written notice of the nature of the default and shall give the defaulting Party a 14-day period in which to cure the default specified in the notice. The Parties further agree that the expiration or termination of this MOU shall not affect the rights and obligations of the other Party with respect to transactions and commitments that take place during the Term and prior to termination.

## 7. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are part of this MOU:

- a. Amendments. No amendment, modification, consent or waiver to any provision of this MOU shall be effective unless the same shall be in writing signed by a duly authorized representative of each Party.
- b. Indemnification. Each Party agrees to indemnify, defend, and hold harmless the other Party with respect to any loss, cost, expense or liability incurred by such other Party with respect to the indemnifying Party's own obligations under this MOU; provided, however, that no Party shall be obligated to indemnify another Party for any loss, cost, expense, or liability that is caused by the gross negligence or willful misconduct of such other Party.
- c. Counterparts. This MOU may be signed in counterpart with the same effect as if the signatures thereto and hereto were on the same instrument. Further, the Parties agree that this MOU or any counterpart may be executed and delivered by DocuSign, or by transmitting a manual signature by fax or .pdf, which shall have the same force and effect as copies executed and delivered with original manual signatures.
- d. Entire Agreement. This MOU and any exhibits and other documents attached to or referenced herein shall constitute the entire agreement between the Parties relating to the subject matter hereof, and there are no representations, warranties or commitments except as set forth herein. This MOU supersedes

all prior understandings, negotiations and discussions, whether written or oral, between the Parties relating to the transactions contemplated hereby.

- e. Expenses and Costs. Unless specifically provided for elsewhere in this MOU, each Party will bear all costs and expenses incurred by it in connection with this MOU and transactions contemplated herein, including travel, entertainment, marketing promotions, legal fees, consulting fees, accounting fees and taxes which are or may be imposed upon that Party based upon its activities hereunder.
- f. No Third-Party Beneficiaries. Except as otherwise provided herein, nothing under this MOU is intended or shall be construed to create any rights in, or confer any benefits upon, any person or entity other than the Parties hereto.
- g. Notices. All notices required under this MOU shall be provided in the manner set forth herein, unless specified otherwise. Notice to party shall be delivered to the attention of the person listed below, or to such other person or persons as may hereafter be designated by that party in writing. Notice shall be in writing sent by email, U.S Mail, express, certified, return receipt requested, or a nationally recognized overnight courier service. In the case of email communications, valid notice shall be deemed to have been delivered upon sending, provided the sender obtained an electronic confirmation of delivery. Email communications shall be deemed to have been received on the date of such transmission, provided such date was a business day (Tuesday-Friday) and delivered prior to 5:30pm Pacific Standard Time. Otherwise receipt of email communications shall be deemed to have occurred on the following business day. In the case of U.S. Mail notice, notice shall be deemed to be received when delivered or five (5) business days after deposit in the U.S. Mail. In the case of a nationally recognized overnight courier service, notice shall be deemed received when delivered (written receipt of delivery).

If to South Coast AQMD:

South Coast AQMD, Technology Advancement Office  
21865 Copley Drive  
Diamond Bar, CA 91765  
Attention: Deputy Executive Officer  
Tel: (909)396-2105  
Fax: (909) 396-3525

With a copy to:  
Walter Shen, South Coast AQMD  
Yuh Jiun Tan, South Coast AQMD

If to City of Irvine: City of Irvine  
Address

With a copy to:  
Contact Info

- h. Severability. The provisions of this MOU are severable, and if any clause or provision of this MOU shall be held invalid or unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause provisions and shall not affect any other covenant, agreement, or condition.
  
- i. Force Majeure. Neither Party shall be liable for any failure to perform its obligations in connection with any action described in this MOU if such failure results from any act of God, riot, war, civil unrest, flood, earthquake, pandemics, or other cause beyond such Party's reasonable control (including any mechanical, electronic, or communications failure, but excluding failure caused by a Party's financial condition or negligence), for only so long as any such event shall be continuing.

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**IN WITNESS WHEREOF**, the parties hereto have caused this Memorandum of Understanding to be executed by their authorized representatives and delivered as of the date first above written.

**SOUTH COAST AIR QUALITY  
MANAGEMENT DISTRICT**

**CITY OF IRVINE,  
CALIFORNIA**

By \_\_\_\_\_  
Name: Wayne Nastri  
Title: Executive Officer

By \_\_\_\_\_  
Name:  
Title:

Date: \_\_\_\_\_, 2024

Date: \_\_\_\_\_, 2024

Attest

Attest

\_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Name:  
Title:

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Date: \_\_\_\_\_, 2024

Date: \_\_\_\_\_, 2024

By \_\_\_\_\_  
Name: Bayron Gilchrist  
Title: General Counsel

By \_\_\_\_\_