

APPROVAL OF AN AGREEMENT WITH THE MUNICIPAL WATER
DISTRICT OF ORANGE COUNTY FOR THE PARTICIPATION IN
THE TURF REMOVAL REBATE PROGRAM

August 27, 2013

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Conservation District (MRCD), are responsible for conducting both inspections. If agencies select the consultant a funding cap must be provided in the agreement. Due to limited staff time and expertise, the City has chosen to obtain MRCD's services to perform both inspections and has designated a funding cap of \$8,000.

FINANCIAL IMPACT

This program will be funded from the Water Enterprise Fund. There is no impact to the General Fund. Garden Grove's contribution to the program will not exceed \$8,000.

RECOMMENDATION

It is recommended that the City Council:

- Approve the attached agreement with the Municipal Water District of Orange County (MWDOC) for the City's participation in the Turf Removal Rebate Program;
- Authorize the Mayor to execute the agreement on behalf of the City and to make minor modifications as appropriate thereto; and
- Authorize the Finance Director to approve payment to participate in the Turf Removal Rebate Program to MWDOC over a two-year period, not to exceed \$8,000.


WILLIAM E. MURRAY, P.E.
Director of Public Works/City Engineer


BY: Katie Victoria
Administrative Analyst

Attachment 1: Agreement
Attachment 2: Ordinance No. 2770

Recommended for Approval


Matthew Feral
City Manager

**Agreement for Participation
in
Municipal Water District of Orange County's
Turf Removal Program**

This agreement for participation and, where indicated, co-funding ("Agreement") is made on the last date signed below by and between MUNICIPAL WATER DISTRICT OF ORANGE COUNTY ("MWDOC") and the CITY OF GARDEN GROVE ("Participant"). When executed, this Agreement provides for participation in the Turf Removal Program ("Program") administered by MWDOC in Participant's service area, as described herein.

1. **Rebate Program.** MWDOC has developed and arranged funding for the Program through the Metropolitan Water District of Southern California ("Metropolitan"). The Program will provide financial incentives on a first come, first served basis while Metropolitan funding lasts for the removal of turf by residential and small commercial water users within Participant's service area. Turf removal projects must meet Program guidelines to be eligible for financial incentives in the form of a cash payment for each square foot of removed turf. The Program's objectives are to achieve savings in water consumption, reduce water runoff to storm drains and natural water bodies, and promote the goals of the applicable Best Management Practices.
2. **Site Inspection; Election by Participant.** Participant must either (1) conduct pre- and post-turf removal site inspections for all Program Applications submitted to MWDOC from within the Participant's service area, or (2) provide funding to MWDOC, as set forth in Section 2.1.3 below, for the cost of MWDOC's site installation inspection consultant, Mission Resource Conservation District (MRCD), to conduct both pre- and post-turf removal inspections.

By its initials below, Participant hereby elects to either:

(1) Conduct its own inspections, as described herein:

Initials Here

or

(2) Provide funding to MWDOC to conduct inspections, as described herein:

Initials Here

2.1. If Participant elects to provide funding to MWDOC for MRCD inspection services for the pre- and post-turf removal inspections, Participant shall be responsible for the following activities.

2.1.1. Upon receipt of a completed application, MWDOC will contact MRCD to request a pre-turf removal inspection. At the conclusion of the pre-turf removal inspection, and from the results of the pre-turf removal inspection, MWDOC will notify Participant of MWDOC's preliminary determination that the application under consideration should be approved or denied. Participant shall promptly review MWDOC's determination and inform MWDOC whether it agrees or disagrees. MWDOC will work with Participant in good faith to resolve differences of opinion regarding the status of a particular application, but the final decision on issuing a Notice to Proceed lies with MWDOC.

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Once MWDOC has made a final decision on an application, MWDOC will issue a Notice to Proceed or a Participation Denial Notice to the applicant.

2.1.2. Participant shall be responsible for the actual cost charged to MWDOC by MRCD for pre- and post-turf removal inspections, which will be invoiced to Participant on a monthly basis by MWDOC. MRCD inspection costs are invoiced to MWDOC pursuant to a services agreement between MRCD and MWDOC. At the time this Agreement is executed, the residential turf removal inspection cost as charged to MWDOC by MRCD is \$105 per residential inspection. The total cost for both pre and post-turf removal residential inspections is thus \$210.00. The current commercial inspection cost as charged to MWDOC by MRCD is approximately \$165.36 per inspection, based on an average of four (4) hours for a small commercial site at \$37.84 per hour, plus \$28 per hour for inspection verification administration. Again, two commercial inspections are required, for a total estimated cost of \$330.72. Should the MRCD costs decrease or increase, MWDOC will pass these changes through to Participant.

2.1.3. **Inspection Funding Cap.** Participant agrees to provide inspection funding for inspections conducted by MRCD as requested by Participant, up to \$8,000.00. MWDOC agrees that it shall inform Participant when that cap has been reached. At that point, Participant shall have the following options and shall immediately inform MWDOC of its decision to: (1) elect to perform the pre- and post-turf removal inspections, (2) increase the funding cap via letter from Participant's General Manager, or (3) end its participation in the Program. Selecting option #3 will not eliminate Participant's responsibility to perform or fund pre-and post-turf removal inspections underway (in the queue).

2.2. If Participant elects to perform the pre- and post-turf removal inspections, Participant shall be responsible for the following activities.

2.2.1. Upon receipt of a Program Application, MWDOC shall enter the application information into its database and issue a pre-turf removal inspection work order to Participant. Participant shall schedule and conduct the pre-turf removal inspection, complete the pre-turf removal work order as provided by MWDOC with the required data and site photographs, and establish that the applicant's proposed project and site are consistent with the intent of the Program. The pre-turf removal inspection shall establish that the applicant's site consists of between 250 and 10,000 square feet of live turf being irrigated with potable water. Participant must notify MWDOC if any site is being irrigated with recycled water.

2.2.2. At the conclusion of the pre-turf removal inspection, Participant shall submit the completed work order and site photographs to MWDOC. The pre-turf removal inspection work order shall contain Participant's recommendation to approve or deny the application. If MWDOC staff agrees with the recommendation, it shall approve the application, designate the site as an eligible Program turf removal project, and issue a Notice to Proceed to the applicant, or reject the application and issue a Participation Denial Notice to the applicant. The post-turf removal inspection work order shall be the basis for calculating the rebate incentive.

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2.2.3. If MWDOC staff disagrees with Participant’s recommendation, MWDOC will so notify Participant. Participant may renew its recommendation and submit it to MWDOC for reconsideration, but the final decision on a Notice to Proceed lies with MWDOC.

2.2.4. It will be the responsibility of applicant to notify MWDOC that the work has been completed at the site. Upon notification from the applicant that the work has been completed, MWDOC shall issue a post-turf removal work order to Participant. Participant shall schedule and conduct the post-turf removal inspection, complete the post-turf removal work order as provided by MWDOC with the required data and site photographs, and establish that the applicant’s completed project and site are consistent with the intent of the Program.

2.3. The post-turf removal inspection, whether completed by Participant or MRCD, shall establish the items set forth in Sections 2.3.1- 2.3.6 below. At the conclusion of the post-turf removal inspection, MWDOC will direct its accounting department to issue a rebate incentive check to the party listed on the Program application within a ten (10) week period. Rebate incentive shall be based on the square footage calculation listed on the post-turf removal work order.

2.3.1. The site’s precise turf removal area in square feet as removed in association with this Program. This shall be the basis for calculating the amount of each site’s rebate, not to exceed initial pre-turf removal inspection measurements and the total turf removal project cost.

2.3.2. The site’s turf removal area does not include any live turf.

2.3.3. The converted area’s irrigation system, if any, is a low flow system (drip, bubblers, or low-precipitation high-efficiency rotating nozzles). If part of a lawn is converted, the sprinkler system must be properly modified to provide adequate coverage to the remaining lawn without spraying the converted area.

2.3.4. All exposed soil in the converted area is covered with a 2-3” layer of mulch, except in areas planted with creeping or rooting groundcovers.

2.3.5. Converted area is permeable to air and water. Weed barriers must be permeable. Pavers must have sufficient spacing to allow water to permeate project area. Concrete, plastic sheeting or other impermeable surfaces do not qualify for incentives under the Program.

2.3.6. No invasive plant species are used.

3. Optional Requirements for Participants Providing Supplemental Funding For Rebate Incentives. Participant has the option to provide supplemental funding to customers in its service area to further incentivize participation. Supplemental funding for rebate incentives on behalf of Participant, if any, is set forth in Table 3.1 below. If Participant has elected not to provide additional funding upon initial execution of this Agreement, Table 3.1 below will contain “\$0” funds:

TABLE 3.1 – OPTIONAL SUPPLEMENTAL FUNDING

Agency: City of Garden Grove	
Supplemental Funding Levels	
Incentive per Square Foot/site	\$0
Not to Exceed Funding Cap	\$0

Agreement for Participation MWDOC Turf Removal Program

Without formal written amendment of this Agreement, Participant (if no supplemental funding is initially provided) may at any time during the term of the Agreement notify MWDOC that it will begin providing supplemental funding. In addition, at any time during the term of the Agreement, Participant may make additional supplemental funding available. Both changes may be accomplished by written notice to MWDOC in the form of a letter from Participant's General Manager.

If Participant notifies MWDOC of its intent to terminate its supplemental funding, or the maximum supplemental funding amount is exhausted, Participant will be responsible for all supplemental funding for those applicants approved in the Program. Once supplemental funding is exhausted, MWDOC will continue to offer the basic incentives provided herein.

4. MWDOC's Obligations. In addition to the obligations stated above, under this Agreement MWDOC shall be responsible to Participant for the following:

- 4.1. Providing a base incentive of up to \$0.30 per square foot of verified removed turf on a first come first served basis while Metropolitan funds exist during the term of this Agreement to the eligible applicants who successfully complete the participation process. MWDOC does not guarantee the Metropolitan funding will last the entire term of the Agreement;
- 4.2. Databasing all applications received on Participant's behalf;
- 4.3. Ensuring that timely reports on the Program's results are prepared by MWDOC's staff;
- 4.4. Developing a database of information regarding participation in the Program and providing monthly electronic and written reports of activity to Participant. The electronic reports will include, without limitation, Participant's customer account number, customer name, service address, quantity of turf removed, Participant's level of supplemental funding provided (if any), and base incentive paid;
- 4.5. Invoicing Participant for its supplemental funding obligation and monitoring the number of rebate applications approved in Participant's service territory to ensure that it is within the "Optional Supplemental Funding" as provided in Table 3.1 of this Agreement. MWDOC does not guarantee any minimum number of rebates will be available for Participant's service area.
- 4.6. Invoicing Participant for Participant's obligation for inspection services as performed by MWDOC's inspection contractor, MRCD.
- 4.7. Reporting to Metropolitan on a monthly basis, detailing the Program's activity and requesting reimbursement for those activities at a rate of up to \$0.30 per square foot of removed turf.

5. Participant's Obligations. In addition to the obligations stated above, under this Agreement Participant shall be responsible to MWDOC for the following:

- 5.1. Based on invoicing from MWDOC, paying MWDOC for the amount of supplemental funding(s) expensed on its behalf within thirty (30) days of the date of the MWDOC invoice.
- 5.2. Based on invoicing from MWDOC, paying MWDOC for the inspection services MWDOC's inspection contractor, MRCD, performed for Participant.
- 5.3. Working with MWDOC in good faith to evaluate each site's qualifications for participation in the Program.
- 5.4. Working in an expedient manner to process all applicants through the Program.

**Agreement for Participation
MWDOC Turf Removal Program**

- 6. **Confidentiality.** MWDOC agrees to maintain the confidentiality of Participant's customer names, addresses and other information about participants in the Program gathered in connection with the Program, and MWDOC will not cause or permit the disclosure of such information except as necessary to carry out the Program or as required by law. To the extent MWDOC contracts with third party contractors to carry out all or any portion of the Program, MWDOC will require such contractors to maintain the confidentiality of such customer information.
- 7. **Indemnification.** MWDOC has designed the Program so that the applicant is solely responsible for the manner in which the turf is removed and selection of the landscape contractor, if any, that will remove it, and each applicant will be required to sign a release and waiver of any claims against MWDOC and/or Participant. MWDOC will require applicants to indemnify MWDOC and Participant against claims arising out of the turf removal. Nevertheless, to the extent that MWDOC or Participant or their respective staffs perform any activities in connection with the Program, each agrees to indemnify and hold the other harmless from any and all liability, claims, obligations, damages and suits arising out of such activities.
- 8. **Term.** This Agreement shall commence on the last date signed below and continue until June 30, 2015 ("Program Expiration"), unless extended by the parties.
- 9. **Early Termination.** Participant may terminate this Agreement at any time upon thirty (30) days' written notice to MWDOC. MWDOC may terminate this Agreement prior to the Program Expiration date without prior notice in the event funding for the Program is exhausted, reduced, eliminated or unavailable from any funding source, for any reason. If MWDOC deems it necessary to terminate this Program for any other reason, MWDOC shall give Participant thirty (30) days' written notice. In the event of termination by either party, Participant shall be responsible for payment of its supplemental funding contribution (if provided), and any pre and post turf removal inspection costs, as performed by MRCD, for all applications for which MWDOC has issued a Notice to Proceed prior to the effective date of the termination.

MUNICIPAL WATER DISTRICT OF
ORANGE COUNTY

CITY OF GARDEN GROVE

Karl W. Seckel, P.E. Interim General Manager

Bruce A. Broadwater, Mayor

Approved as to Form

James H. Eggen

City Attorney
8-8-13

Date

Attest

City Clerk

Date

ORDINANCE NO. 2770

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE APPROVING CODE AMENDMENT NO. A-153-10, TO ALLOW THE USE OF ARTIFICIAL TURF WITHIN THE R-2 (LIMITED MULTIPLE RESIDENTIAL), R-3 (MULTIPLE-FAMILY RESIDENTIAL), O-P (OFFICE PROFESSIONAL), C-1 (NEIGHBORHOOD COMMERCIAL), C-2 (COMMUNITY COMMERCIAL), C-3 (HEAVY COMMERCIAL), M-1 (LIMITED INDUSTRIAL), M-P (INDUSTRIAL PARK), O-S (OPEN SPACE) ZONES

City Attorney Summary

The City of Garden Grove has previously authorized the use of artificial turf in the R-1 (single family residential) zone. This Ordinance expands the authorization for use of artificial turf to the remaining zones in the city, subject to specified standards. These standards include the following: (1.) Artificial turf shall have a minimum 8-year "no fade" warranty; (2.) Installation shall be by a licensed professional and pursuant to manufacturer's requirements; (3.) Artificial turf shall be installed and maintained to effectively simulate the appearance of a well-maintained lawn; (4.) Use of indoor or outdoor plastic or nylon carpeting as a turf replacement is prohibited; (5.) Areas of living plant material must be incorporated into the landscape design; (6.) A barrier must separate the artificial turf from flower beds to prevent intrusion of living plant material into the artificial turf; and (7.) Landscape and irrigation plans must be submitted to the City's Planning Division, in advance of installation, for review and approval.

WHEREAS, the case, initiated by City of Garden Grove, proposes amending Title 9 of the Garden Grove Municipal Code, Sections 9.12.40.090H, Ground Cover; 9.12.40.090L, Substitute Landscaping; 9.16.40.070H, Ground Cover; and 9.16.40.070L, Substitute Landscaping; to allow artificial turf within the R-2 (Limited Multiple Residential), R-3 (Multiple-Family Residential), O-P (Office Professional), C-1 (Neighborhood Commercial), C-2 (Community Commercial), C-3 (Heavy Commercial), M-1 (Limited Industrial), M-P (Industrial Park), O-S (Open Space) zones, subject to special standards;

WHEREAS, the Planning Commission, at a Public Hearing held on January 21, 2010, determined that this project is exempt pursuant to Section 15304, Minor Alterations to Land, of the California Environmental Quality Act (CEQA);

WHEREAS, pursuant to Resolution No. 5704, the Planning Commission, at a Public Hearing held on January 21, 2010, recommended approval of Amendment No. A-153-10;

WHEREAS, pursuant to a legal notice, a Public Hearing was held by the City Council on March 9, 2010, and all interested persons were given an opportunity to be heard; and

WHEREAS, the City of Garden Grove City Council, in regular session assembled on March 9, 2010, does hereby determine that this project is exempt pursuant to Section 15304, Minor Alterations to Land, CEQA.

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES ORDAIN AS FOLLOWS:

Section 1. The City of Garden Grove City Council has considered the proposed Code Amendment together with comments received during the public review process. The record of proceedings on which the City of Garden Grove City Council decision is based is located at the City of Garden Grove, 11222 Acacia Parkway, Garden Grove, California. The custodian of record of proceedings is the Director of Community Development. The City of Garden Grove City Council finds on the basis of the whole record before it, including comments received, that the project is exempt pursuant to Section 15304, Minor Alterations to Land, CEQA.

Section 2. Amendment No. A-153-10 is hereby approved, pursuant to the facts and reasons stated in Planning Commission Resolution No. 5704, a copy of which is on file in the Office of the City Clerk and incorporated herein by reference with the same force and effect as if set forth in full; and Title 9 is amended as follows with the bold text denoting additions, and the strike-through text as deletions:

"Chapter 9.12: Multi-Family Residential Development Standards

Section 9.12.40.090.H Groundcover

1. All areas required to be landscaped shall be covered with turf, non-deciduous groundcover or other types of plantings. **Artificial turf may be used as an alternative ground cover, subject to the standards in Section 9.12.40.090.L, Substitute Landscaping.**

Section 9.12.40.090.L Substitute Landscaping

1. Materials such as crushed rock, redwood chips, pebbles and stone may not be used in lieu of live plant materials, although their limited use may be approved by the hearing body through the site plan review process. ~~Artificial plants and synthetic groundcovers are prohibited.~~ **Artificial plants, with the exception of artificial turf, are prohibited. Artificial turf shall be allowed within the R-2 and R-3 Multiple-Family Residential zones, subject to the following standards:**
 - (a.) **Artificial turf shall be permitted within the front and rear yards and shall comply with the following criteria:**

- (1.) Artificial turf shall have a minimum 8-year "No Fade" warranty.**
- (2.) Artificial turf shall be installed by a licensed professional and shall be installed pursuant to manufacturer's requirements.**
- (3.) Artificial turf shall be installed and maintained to effectively simulate the appearance of a well-maintained lawn. The turf shall be maintained in a green fadeless condition and shall be maintained free of weeds, debris, tears, holes, and impressions.**
- (4.) The use of indoor or outdoor plastic or nylon carpeting as a replacement of artificial turf or natural turf shall be prohibited. Artificial shrubs, flowers, trees, and vines in-lieu of living plant material shall be prohibited.**
- (5.) Areas of living plant material (i.e., flower beds, tree wells, etc.) within the front yard, side, rear, and common areas shall be included within the overall landscape design when installing artificial turf. Living plant material shall include shrubs, vines, trees, and flowering ground covers.**
- (6.) Artificial turf shall be separated from flower beds by a concrete mow strip, bender board, or other barrier acceptable to the City in order to prevent intrusion of living plant material into the artificial turf.**
- (7.) Three sets of detailed landscape and irrigation plans shall be submitted to the Planning Division for review and approval prior to installation of the artificial turf in order to confirm compliance with City Code and any valid land use entitlement for the property.**

Chapter 9.16: Commercial, Office Professional, Industrial, and Open Space
Development Standards

Section 9.16.40.070.H Groundcover

1. All areas required to be landscaped shall be covered with turf, non-deciduous groundcover or other types of plantings. **Artificial turf may be used as an alternative ground cover, subject to the standards in Section 9.16.40.070.L, Substitute Landscaping.**

Section 9.16.40.070.L Substitute Landscaping

1. Materials such as crushed rock, redwood chips, pebbles and stone may not be used in lieu of live plant materials, although their limited use may be approved by the hearing body through the site plan review process. ~~Artificial plants and synthetic groundcovers are prohibited.~~ **Artificial plants, with the exception of artificial turf, are prohibited. Artificial turf shall be allowed within the O-P (Office Professional), C-1 (Neighborhood Commercial), C-2 (Community Commercial), C-3 (Heavy Commercial), M-1 (Limited Industrial), M-P (Industrial Park), O-S (Open Space) zones, subject to the following standards:**
 - (a.) **Artificial turf shall be permitted within the front and rear yards and shall comply with the following criteria:**
 - (1.) **Artificial turf shall have a minimum 8-year "No Fade" warranty.**
 - (2.) **Artificial turf shall be installed by a licensed professional and shall be installed pursuant to manufacturer's requirements.**
 - (3.) **Artificial turf shall be installed and maintained to effectively simulate the appearance of a well-maintained lawn. The turf shall be maintained in a green fadeless condition and shall be maintained free of weeds, debris, tears, holes, and impressions.**
 - (4.) **The use of indoor or outdoor plastic or nylon carpeting as a replacement of artificial turf or natural turf shall be prohibited. Artificial shrubs, flowers, trees, and vines in-lieu of living plant material shall be prohibited.**
 - (5.) **Areas of living plant material (i.e., flower beds, tree wells, etc.) within the front yard, side, rear, and common areas shall be included within the overall**

landscape design when installing artificial turf. Living plant material shall include shrubs, vines, trees, and flowering ground covers.

- (6.) Artificial turf shall be separated from flower beds by a concrete mow strip, bender board, or other barrier acceptable to the City in order to prevent intrusion of living plant material into the artificial turf.**
- (7.) Three sets of detailed landscape and irrigation plans shall be submitted to the Planning Division for review and approval prior to installation of the artificial turf in order to confirm compliance with City Code and any valid land use entitlement for the property."**

Section 3. Severability. If any section, subsection, subdivision, sentence, clause, phrase, word or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

Section 4. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.

The foregoing Ordinance was passed by the City Council of the City of Garden Grove on the 23rd day of March 2010.

ATTEST:

/s/ WILLIAM J. DALTON
MAYOR

/s/ KATHLEEN BAILOR
CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS:
CITY OF GARDEN GROVE)

I, KATHLEEN BAILOR, City Clerk of the City of Garden Grove, do hereby certify that the foregoing Ordinance was introduced and presented on March 9, 2010, with a vote as follows:

AYES: COUNCIL MEMBERS: (3) JONES, NGUYEN, DALTON
NOES: COUNCIL MEMBERS: (1) BROADWATER
ABSENT: COUNCIL MEMBERS: (1) DO

and was passed on March 23, 2010, by the following vote:

AYES: COUNCIL MEMBERS: (4) DO, JONES, NGUYEN, DALTON
NOES: COUNCIL MEMBERS: (1) BROADWATER
ABSENT: COUNCIL MEMBERS: (0) NONE

/s/ KATHLEEN BAILOR
CITY CLERK