



## **CITY MANAGER'S OFFICE**

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## **CITY COUNCIL STAFF REPORT**

Meeting: January 17, 2023

### Subject

Consider an amendment to the Cost Sharing Agreement between the City of Cupertino and the Santa Clara Valley Water District (Valley Water) for water conservation programs.

### Recommended Action

1. Authorize the City Manager to execute the Sixth Amendment to the Cost Sharing Agreement between the City of Cupertino and Valley Water, increasing the amount by \$165,000, for a total amount not to exceed \$395,500, and extending the Term of the Agreement to end on June 30, 2024; and
2. Adopt resolution XX-23 approving budget modification 23-XXX increasing appropriations by \$90,000 in City Manager, Sustainability budget.

### Background

In June 2015, the City Council launched a cost sharing program with Valley Water to support water conservation rebates for Cupertino property owners (CC Resolution No. 15-057). In this agreement, the City contributed a total of \$115,000 to add \$1 per square foot to Valley Water's Landscape Conversion Rebate for residential and commercial applicants in Cupertino.

In July 2016, the City and Valley Water entered into an updated agreement for the cost sharing program with a not to exceed cost of \$115,000 (CC Resolution No. 16-074). As Valley Water expanded its rebate offerings over the years, the City adjusted the cost sharing program, adding funds and program elements to the agreement. The cost sharing program was further augmented by the launch of the Climate Victory Gardens Pilot, a Fiscal Year 2019 to 2020 City Work Program project. Below is summary history of this agreement. The original contract is included as Attachment B.

**Brief history of the current cost sharing agreement and amendments**

<b>Agreement / Amendment</b>	<b>Date Executed</b>	<b>Adjustments</b>
Original cost sharing agreement	July 1, 2016	City costs not to exceed \$115,000 to support Valley Water's Landscape Conversion Rebate Program.
First Amendment	May 3, 2017	<ul style="list-style-type: none"><li>▫ Added \$5,000, for a new contract total of \$120,000.</li><li>▫ Added Graywater Laundry to Landscape rebates to the scope.</li></ul>
Second Amendment	June 1, 2018	Extended agreement through July 30, 2019.
Third Amendment	May 14, 2019	<ul style="list-style-type: none"><li>▫ Added Rainwater Capture Program rebates to the scope.</li><li>▫ Extended agreement through June 30, 2020.</li></ul>
Fourth Amendment	June 22, 2020	Extended agreement through June 30, 2021.
Fifth Amendment	May 25, 2021	<ul style="list-style-type: none"><li>▫ Added \$110,500, for a new contract total of \$230,500.</li><li>▫ Capped City's cost for the Rainwater Capture Program not to exceed \$25,000 for the two-year period.</li><li>▫ Extended agreement through June 30, 2023.</li></ul>
Sixth Amendment	(proposed)	<ul style="list-style-type: none"><li>▫ Add \$165,000, for a new contract total of \$395,500.</li><li>▫ Extend the agreement through June 30, 2024.</li></ul>

Below are the elements of the City’s obligation under the cost sharing program currently in effect:

<b>Customer type</b>	<b>Landscape Conversion Program match</b>	<b>Rainwater Capture Program match</b>	<b>Graywater Rebate Program match</b>
Single-family and small multi-family sites	Up to \$1 per each square foot of turf removed  <i>Program maximum: up to \$1,000 per site</i>	<u>Rain garden</u> : \$1 per square foot of roof area for a maximum of \$300 per site <u>Rain barrel</u> : Up to \$35 per rain barrel <u>Cisterns</u> : Up to \$0.50 per gallon  <i>Program maximum: up to \$1,000 per site</i>	\$200 for each system installed
Commercial and large multi-family sites	Up to \$1 per each square foot of turf removed  <i>Program maximum: Up to \$10,000 total for combination of landscape conversion and rainwater capture rebates</i>	<u>Rain garden</u> : \$1 per square foot of roof area for a maximum of \$300 per site <u>Rain barrel</u> : Up to \$35 per rain barrel <u>Cisterns</u> : Up to \$0.50 per gallon	\$200 for each system installed

### Funding Sources

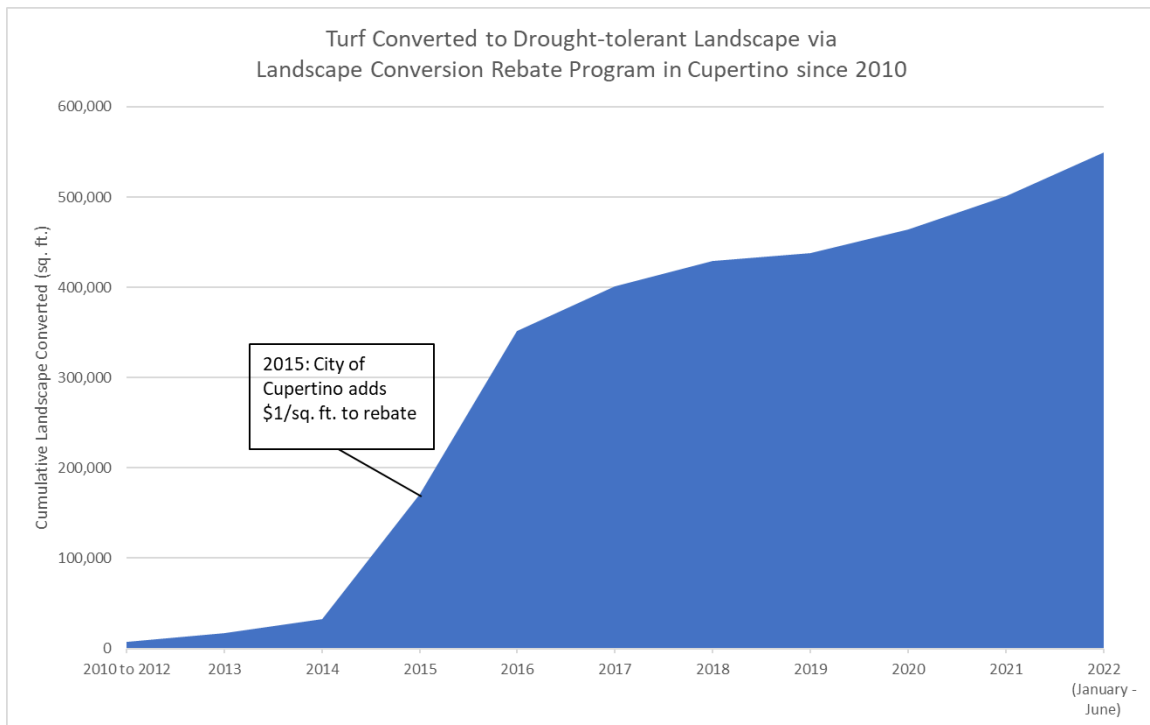
The cost sharing agreement is supported in part by Clean Water and Storm Protection Fee (CWSPF) collected from property owners. The CWSPF provides \$12,500 in annual funding, and the remainder of the agreement is funded by the General Fund. Under Municipal Code section 3.38.010, the CWSPF must be “used for the acquisition, construction, reconstruction, maintenance, and operation of the storm drainage system of the City or related green infrastructure or other activities required by the City’s NPDES permits, to repay principal and interest on any bonds which may hereafter be issued for said purposes, to repay loans or advances which may hereafter be made for said purposes, and for any other purpose set forth in Section 3.38.160 [i.e., certain administrative costs].” To date, CWSPF funds have been made available for rainwater capture projects only.

The current Municipal Regional Stormwater NPDES Permit (No. CAS612008) requires all permittees “to implement a pesticide toxicity control program that addresses, within their jurisdictions, their own and others’ use of pesticides that pose a threat to water quality and that have the potential to enter the municipal conveyance system.” Landscape conversion away from turf reduces or eliminates the need for fertilizers and pesticides used on turf that would flow into the storm drain system and out to the creeks, consistent with the City’s permit obligations. Accordingly, the \$12,500 in annual

CWSPF funding can be made available for landscape conversion as well as for rainwater capture projects.

### Participation Rates

The cost sharing program was part of the City's response to the extreme drought conditions of 2015 to 2016 and the State's call to conserve 20% water usage over 2013 levels. As reflected in the chart below, the City's rebate matching program significantly increased participation of Cupertino property owners in Valley Water's water saving rebates.



At the current rate of participation, the cost sharing agreement will run out of funds before the contract end date of June 30, 2023. In the current drought and declared water shortage emergency condition, this program continues to be a critical piece of the City's commitment to saving potable water in the community. The cost sharing agreement supports other water conservation and climate action programs, such as the Climate Victory Gardens pilot program. Valley Water estimates a total budget of \$165,000 will be needed to cover the increase in participation, including a 20% buffer, through an extension of 18 months of the current agreement.

### References:

Climate Victory Gardens Pilot: [cupertino.org/climategarden](http://cupertino.org/climategarden)

Climate Action Plan 2.0: [cupertino.org/climateaction](http://cupertino.org/climateaction)

Drought webpage: [cupertino.org/drought](http://cupertino.org/drought)

CWSPF: [cupertino.org/cleanwater](http://cupertino.org/cleanwater)

### Discussion

The City of Cupertino has an existing agreement with Valley Water, which contributes City funds to increase the value of water conservation incentives for Cupertino residents and businesses. This cost sharing arrangement has been successful in stimulating water conservation activity in the community. Increased uptake by the community in Summer 2022 will likely drain the budgeted funds ahead of the contract end date of June 30, 2023. For this reason, staff is asking for Council consideration to increase the budgeted amount at this time. Valley Water estimates a total budget of \$165,000 will be needed to cover the increase in participation, including a 20% buffer, through an extension of 18 months of the current agreement.

The Cost Sharing Agreement is supported in part by the Clean Water and Storm Protection Fee. Going forward, these funds would be used to support landscape projects, to reduce General Fund expenditures.

### Next Steps

- **January 17:** Council considers a Sixth Amendment to add \$165,000 and extend the cost sharing agreement through June 30, 2024.
- **February 2023:** The Sustainability Division will negotiate a final agreement with Valley Water on an amended cost sharing agreement, including enhancements that can increase customer uptake of these incentives.
- **March 2023:** As part of the budget process, City staff will bring forward a plan to develop a permanent Climate Victory Gardens program for Council consideration.

### Sustainability Impact

The cost sharing program supports Measures WW-1 and AR-1 in the Climate Action Plan 2.0 to promote water conservation and increase biodiversity. Conversion of turf to drought tolerant and California native plant landscapes has a beneficial impact to wildlife, water quality, and water conservation. Rain gardens have stormwater benefits and increase recharge of underground water reserves. Increased participation in all of Valley Water's rebates via the cost sharing agreement furthers Cupertino's goal to reduce communitywide water usage by 15% compared to 2019 levels.

### Fiscal Impact

\$165,000 to execute the Sixth Amendment, appropriated from the General Fund and the Environmental Management/Clean Creeks Fund (Clean Water and Storm Protection fees).

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Approved for Submission by: Matt Morley, Acting Assistant City Manager

Attachments:

A – Draft Sixth Amendment

B – Valley Water Cost Sharing Agreement and Amendments 

C – Resolution