



## Climate Victory Gardens Program Property Owner Project Agreement

To participate in the Climate Victory Gardens Program (Program), this Agreement is made between Ecology Action (EA) and

\_\_\_\_\_ /  
(First and Last Name)

hereafter referred to as the 'Property Owner'.

**PURPOSE:** The Property Owner has been selected to receive technical assistance from Ecology Action to design and apply for rebate funding for a Climate Victory Garden Project (the 'Project').

The Project is located at:

\_\_\_\_\_ /  
(Address, City, Zip)

hereafter referred to as the 'Property' and will be constructed in a location that is visible to the general public.

The Project will conserve our community's water resources and reduce greenhouse gas emissions. The Project will be installed in compliance with the Water Efficient Landscape Ordinance and all applicable sections of the California Uniform Plumbing Code (CPC).

**PROJECT DESCRIPTION:** The Project will include the following elements (check all that apply):

- Climate Victory Garden Landscape Conversion: Replacement of \_\_\_\_\_ square feet of irrigated turf with low-water use plants and drip irrigation
- Stormwater redirection to a rain garden
- Downspout redirection to a rain barrel (less than 200 gallons)
- Rainwater harvesting system with \_\_\_\_\_ gallons of storage capacity
- Laundry to landscape graywater irrigation system
- Replacement of \_\_\_\_\_ square feet of impervious pavement with permeable materials

**STATEMENT OF COMMITMENT:** The Property Owner agrees as follows:

Initial	<p><b>1.</b> The Property Owner shall provide written comments and/or approval of a Project design provided by Ecology Action (EA), attached hereto as Exhibit A and incorporated herein, within 5 business days of receipt. The Property Owner will have the opportunity to provide written comments on one draft Project design before approving the final Project design.</p>
Initial	<p><b>2.</b> The Property Owner authorizes EA to apply for all applicable rebates on behalf of the Property Owner to offset the total cost of the Project as designed in Exhibit A and will provide signatures on rebate applications within 5 business days of EA’s request. Rebates will be paid directly to the Property Owner by Valley Water (Santa Clara Valley Water District) after a final inspection of the Project determines that the Project has been constructed according to the Project design in Exhibit A and the requirements of the rebate program.</p>
Initial	<p><b>3.</b> The Property Owner understands that rebates \$600 or greater may be considered taxable income and a signed W-9 form must be provided with the rebate application.</p>
Initial	<p><b>4.</b> The Property Owner shall construct the Project as designed in Exhibit A within 90 days of rebate application approval.</p>
Initial	<p><b>5.</b> The rebate payment to the Property Owner may not cover the full Project cost. As such, the Property Owner is responsible for constructing the Project design in Exhibit A using <b>one</b> of three options (check one):</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> <b>No or Low-Cost Installation:</b> Property Owner will purchase materials and complete the Climate Victory Garden Landscape Conversion Work Tasks described in Item II (below) with their own labor and up to 4 hours of on-site technical assistance provided by Ecology Action.</li> <li><input type="checkbox"/> <b>Direct Installation:</b> Property Owner will pay a cost-share to EA, or contract with EA’s recommended landscape contractor to construct the Project according to the cost schedule described in section III (below).</li> </ul>



	<ul style="list-style-type: none"> <li>□ <b>Property Owner’s Contractor Installation:</b> Property Owner will contract with a landscape contractor of their choosing to construct the Project. The cost of all Project elements shall be negotiated directly between the contractor and Property Owner.</li> </ul>
Initial	<b>6.</b> If the Property Owner chooses to hire a landscape contractor to complete the Project, the Property Owner will sign an agreement with the contractor, which shall be solely between the contractor and the Property Owner.
Initial	<b>7.</b> Property Owner shall retain all Project expense receipts and invoices and provide electronic or paper copies of receipts and invoices to EA within 5 business days of EA’s request for the purpose of rebate processing. Property Owner understands that failure to produce copies of receipts and invoices may result in delays or cancellation of rebate payment(s).
Initial	<b>8.</b> The Property Owner understands that in-kind labor contributions by the Property Owner, or Property Owner’s friends and family members are not reimbursable by the Program or rebates.
Initial	<b>9.</b> Ecology Action will provide the Property Owner with maintenance instructions for the Project that include an ‘as-built’ diagram of all system components, inspection and maintenance frequencies, and a method of contacting Ecology Action and the contractor. The Property Owner shall maintain the Project according to the maintenance instructions provided.
Initial	<b>10.</b> The Property Owner shall provide access to the property to Ecology Action, the City of Cupertino or Santa Clara Valley Water District staff to verify work completed or in progress within 10 business days of such request.
Initial	<b>11.</b> For the purposes of evaluating water savings from the Project, the Property Owner shall give permission to Ecology Action to 1) access historical and future water use records from the Property's local water retailer, and 2) Share information with the Property’s water retailer about the Property Owner’s participation the Program.



Initial	<b>12.</b> The Property Owner grants permission to Ecology Action, the City of Cupertino and/or Santa Clara Valley Water District to publish photos and data from the Project in publications, websites, and other forums available to the public.
Initial	<b>13.</b> The Project address will be reported to the Santa Clara Valley Water District through the rebate application process; as such, the address of the Project site may be subject to release pursuant to the California Public Records Act. The Project address will not be used in publications or other forms of media.

**I. MINIMUM QUALIFICATIONS OF LANDSCAPE CONTRACTORS SELECTED BY PROPERTY OWNER**

To ensure public and environmental health and safety, and guarantee water and greenhouse gas reduction benefits, it is critical that Project be installed as designed per Exhibit A. Ecology Action strongly recommends that the Property Owner hire a landscaping contractor that has invested in training staff and/or has construction experience with ecological landscaping practices and green infrastructure projects.

- A list of landscape contractors that have completed the Green Gardener Certification Program and/or have experience with Valley Water’s rebate programs can be found at <https://www.valleywater.org/node/585>.
- A list of qualified graywater installation professionals can be found at [www.centralcoastgreywater.org](http://www.centralcoastgreywater.org).

These lists are intended to help Property Owners find landscape professionals who have ecological landscaping experience, but are not intended to be an endorsement of any one company by Ecology Action

**II. CLIMATE VICTORY GARDEN LANDSCAPE CONVERSION WORK TASKS**

When the Climate Victory Garden Project includes Landscape Conversion, the following work tasks shall be required to be completed by the Property Owner or Contractor.

**Phase 1:** Contacting 811 to locate underground utilities before project begins, hardscape edging and soil grading, spray head capping and drip riser conversion (if applicable), equipment and materials delivery to work site, physical turf removal and/or cardboard application for sheet mulching, applying mulch and compost (optional) to minimum 4” depth.

**Phase 2:** Planting according to planting plan in Exhibit A, installing drip irrigation to new plantings, and reprogramming existing irrigation controller with a weather-based schedule for the new landscape (applicable if the Property has an existing irrigation system and controller)



### III. DIRECT INSTALLATION COST SCHEDULE

If the Property Owner has selected Direct Installation in Statement of Commitment-Item 5, the Property Owner will pay Ecology Action or a Program Contractor to construct the Project as designed in Exhibit A according to the following fixed cost schedule:

Project Type	Fixed Cost	Estimated Project Cost
Landscape Conversion*	\$500 deposit (no matter the project size) plus \$5/ft <sup>2</sup> , paid to Program Contractor upon Work Task completion (see Section II above).	\$
Rain Garden + Rain Barrel	\$1,000	\$
Laundry-to-Landscape Graywater System	\$1,500	\$
Rainwater Harvesting System	Total labor and materials cost will depend on the size and scope of the Project. Program Contractor will provide a specific quote to Property Owner.	
Hardscape Conversion		
<b>Total Estimated Project Cost Before Rebates</b>		<b>\$</b>

*\*The cost of any work items requested by the Property Owner not included in the Climate Victory Garden Landscape Conversion Work Tasks in Section II (installation of permeable pavement, benches, masonry work, etc.) are to be determined between Contractor and Property Owner in a separate agreement, which shall be solely between the Contractor and the Property Owner.*

### IV. ESTIMATED REBATE PAYMENT

Ecology Action will assist the Property Owner to claim all applicable rebates from Santa Clara Valley Water District/City of Cupertino, subject to maximum rebate program limits. Ecology Action will submit rebate applications for the following Project elements, subject to rebate program maximum limits: [\(check all that apply\)](#):

Project Type	Rebate Amount	Total Units	Estimated Project Rebate
Landscape Conversion	\$2/ft <sup>2</sup> of lawn converted	ft <sup>2</sup>	\$
Rain Barrel	\$70/barrel	#	\$
Rain Garden	\$2/ ft <sup>2</sup> of runoff redirected	xx ft <sup>2</sup>	\$
Rainwater Harvesting System	\$1/gallon	gallons	\$
Laundry-to-Landscape Graywater System	\$400	1	\$
Hardscape Conversion	\$3/ ft <sup>2</sup>	ft <sup>2</sup>	\$
<b>TOTAL ESTIMATED REBATE PAYMENT</b>			<b>\$</b>

**V. CANCELLATION OR MODIFICATION OF AGREEMENT**

Prior to construction of the Project described in Exhibit "A", this Agreement may be terminated in whole or in part by either Party upon written notice for any reason, including, but not limited to:

- a. Contractor estimate(s) for the Project exceed the Property Owner’s budget or ability to pay;
- b. Ecology Action or the City of Cupertino determine that the Project is not feasible because of specific site conditions;
- c. Property Owner is not responsive to Ecology Action’s requests for information.

**VI. DISPUTES**

In the event of any dispute arising out of or relating to this Agreement, the parties shall attempt, in good faith, to promptly resolve the dispute mutually between themselves. If the dispute cannot be resolved by mutual agreement, nothing herein shall preclude either party’s right to pursue remedy or relief by civil litigation, pursuant to the laws of the State of California.

**VII. LIMITATION OF LIABILITY**

Both Parties agree that the City of Cupertino is not liable to either Party for any losses or damages, including incidental or consequential damages, arising from this Agreement. City of Cupertino makes no representation or warranty, and assumes no liability with respect to quality, safety, performance, or other aspect of any design, system or appliance installed pursuant to this Agreement, and expressly disclaims any such representation, warranty or liability.

Both Parties agree neither Party shall be liable to the other or to the City of Cupertino for any incidental, special or consequential damages. Property Owner agrees to indemnify, defend and hold EA and the City of Cupertino harmless for any claims arising from, connected to, or caused in whole or in part by any act or omission of the Property Owner. This section shall survive the termination of this Agreement.

**VIII. ENTIRE AGREEMENT AND AMENDMENTS**

This "Climate Victory Gardens Project Agreement" constitutes the entire Agreement between the parties and outlines in full all the responsibilities each party has to the other. Any change to this Agreement must be in writing signed by both parties. Unless otherwise cancelled or modified as described above, this Agreement is effective on the date of Property Owner signature and terminates on June 30, 2021.

\_\_\_\_\_  
Property Owner Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Property Owner Printed Name and Contact Phone Number

\_\_\_\_\_  
Ecology Action Signature

\_\_\_\_\_  
Date

