

**FUNDING AGREEMENT BETWEEN
THE BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
AND CITY/COUNTY ASSOCIATION OF GOVERNMENTS
FOR A RAIN BARREL REBATE PROGRAM**

RECITALS

This Funding Agreement (Agreement) is entered into this 1st day of July 2024 between the Bay Area Water Supply and Conservation Agency (BAWSCA) and City/County Association of Governments of San Mateo County (C/CAG) for the purpose of implementing a rain barrel rebate program to reduce stormwater runoff and facilitate water conservation (Program).

WHEREAS, BAWSCA administers conservation rebate programs; and

WHEREAS, BAWSCA's members (Participating Member Agencies) are water agencies that also desire to provide a voluntary rebate program, which encourages customers being served by such agency to conserve water resources by purchasing and installing rainwater harvesting barrels; and

WHEREAS, the Parties have in partnership provided monetary rebates to customers in San Mateo County who purchase rain barrels under the "Pilot Rain Barrel Rebate Program" since 2014; and

WHEREAS, in 2020, the Parties agreed to modify the Program Terms and Conditions to allow for a tiered rebate structure for different capacities of rain barrels and cisterns and to include a "stacked" incentive, offering up to an additional \$300 for participants of BAWSCA's existing Lawn Be Gone! turf replacement program for turf replacement projects that include a qualifying rain garden; and

WHEREAS, given the significant success of the Pilot Rain Barrel Rebate Program, the Parties wish to establish an ongoing partnership-based rebate program to facilitate payments of monetary rebates to customers in San Mateo County who purchase rain barrels and/or install rain gardens pursuant to the Program; and

WHEREAS, the Parties designate BAWSCA as the entity responsible for administering the Program on a day-to-day basis, including the paying out of rebate monies to customers; and

WHEREAS, each of the Parties desire to enter into this Agreement to set forth the rights and responsibilities of each Party, including the funding of the Program.

NOW THEREFORE, BAWSCA and C/CAG hereby agree as follows:

1. SCOPE OF SERVICES

The Parties will partner to offer the Program, which will be managed and administered by BAWSCA. The Program will provide rebates for the purchase and installation of rain barrels, cisterns and rain gardens to collect and use rainwater from gutters and downspouts to minimize the amount of water and pollutants flowing into storm drains and local waterways while also

providing a water conservation benefit. The specific roles and responsibilities of each Party are set forth in Attachment (1), Rain Barrel Rebate Program: Roles and Responsibilities, which is attached hereto and incorporated herein.

2. TERM

This Agreement is effective July 1, 2024 and shall expire on June 30, 2027, unless extended by mutual agreement by the Parties. Either party may terminate this agreement for any reason by providing 60 days' written notice. Termination shall be effective on the date specified in the written notice. In the event of termination under this paragraph, all compensable costs incurred prior to the written notice and reimbursement obligations incurred through the termination date shall be fulfilled.

3. FUNDING AND METHOD OF PAYMENT

For customers in San Mateo County, BAWSCA will provide a rebate of up to \$150 per rain barrel (based on rain barrel capacity, and for up to the cap on the number of barrels allowed per customer type) and \$300 per qualifying residential rain garden project (as detailed in Attachment 1), to be reimbursed by C/CAG's San Mateo Countywide Water Pollution Prevention Program for a total amount not to exceed \$75,000 minus administrative costs for the three-year Agreement term. BAWSCA member agencies electing to participate in the program (Participating Agencies) will provide an additional \$50 per rain barrel for qualifying rain barrel rebates and if participating in the Lawn Be Gone! program and rain garden incentive, will provide the associated variable turf replacement rebate amount for qualifying lawn replacement projects on a dollar per square foot basis, according to their respective program agreements.

C/CAG will reimburse BAWSCA for Program administration costs, including BAWSCA staff time, database management, and rebate processing, for an amount not to exceed \$1,250 each Fiscal Year during the Agreement term.

BAWSCA will invoice C/CAG on a monthly basis for Program expenditures. C/CAG will submit payment for such invoices within 30 days of receipt.

BAWSCA shall update C/CAG on a monthly basis and provide documentation detailing Program expenditures, deposit account balance, and details on rebates issued, including numbers and locations of installed rain barrels.

All updates/invoices shall be emailed to C/CAG as follows:

Attention: Reid Bogert, Stormwater Program Director
rbogert@smcgov.org

Subject to duly executed amendments, it is expressly understood and agreed that in no event will C/CAG's total funding commitment under this Agreement exceed \$75,000, unless revised in writing and approved by C/CAG and BAWSCA. Rebates will be provided on a first-come-first-served basis as program funding is available.

4. INDEMNITY

BAWSCA and C/CAG each agrees to mutually indemnify and defend at its own expense, including attorneys' fees, and hold the other, their officers, directors, employees and agents, harmless from and against all claims, costs, penalties, causes of action, demands, losses and liability of any nature whatsoever, including but not limited to liability for bodily injury, sickness, disease or death, property damage (including loss of use) or violation of law, caused by or arising out of or related to any negligent act, error or omission, or willful misconduct of itself, its officers, directors, employees and agents acting pursuant to this Agreement. This section shall survive termination or expiration of this Agreement.

5. MODIFICATION

This Agreement may be modified or amended only by a written document signed by both parties.

6. DISPUTE RESOLUTION

In the event of any dispute, the parties will promptly meet and confer, first at a staff level and then elevated to a meeting of executives, in a good faith attempt to resolve the dispute. If a dispute cannot be resolved by the parties independently, they may agree to submit such dispute to non-binding mediation by a mutually agreed-upon neutral third party with offices in the San Francisco Bay Area. The cost of mediation will be shared equally.

7. NOTICE

All notices required to be given, or which may be given by either party to the other, shall be deemed to have been fully given and fully received when made in writing and deposited in the United States mail, registered and postage prepaid and addressed to the respective parties as follows:

If to Agency: Bay Area Water Supply & Conservation Agency
155 Bovet Road, Suite 650
San Mateo, CA 94402
Attention: Chief Executive Officer/General Manager

If to C/CAG: City/County Association of Governments
555 County Center, 5th Floor
Redwood City, CA 94063
Attention: Reid Bogert, Stormwater Program Director

Notification of a change in the name of the contact person shall be in writing.

8. WAIVER

A waiver of any requirement of this Agreement must be in writing by an authorized representative of the party waiving the requirement. The waiver by either party of a breach of any requirement of this Agreement will not be deemed a waiver of any such breach in the future or of a breach of any other requirement.

9. INTERPRETATION

Section headings are solely for convenience and are not intended to affect the interpretation of the Agreement. The Agreement will be interpreted reasonably, not in favor of or against either party.

10. NO THIRD PARTY RIGHTS

The parties do not intend this Agreement to create rights in any third parties and nothing in this Agreement should be construed to do so.

11. SEVERABILITY

If any provision of this Agreement or any portion thereof is held to be invalid or unenforceable for any reason, that provision will be reformed and/or construed consistently with applicable law as nearly as possible to reflect the original intentions of this Agreement, and in any event such provision will be severable and will not affect the validity or enforceability of any other provision.

12. APPLICABLE LAW

This Agreement, its interpretation and all work performed under it will be governed by the laws of the State of California.

13. ENTIRE AGREEMENT

This Agreement including any exhibits or attachments, constitutes the complete agreement between the parties and supersedes any prior agreements, promises, and understandings whether written or oral. This Agreement may be modified or amended only by written instrument signed by both parties.

14. ATTACHMENTS TO THIS AGREEMENT

- (1) Rain Barrel Rebate Program: Roles and Responsibilities (Updated May 2024)
- (2) Rain Barrel Rebate Program Terms and Conditions (Updated June 2020)
- (3) Bay Area Stormwater Management Agencies Association's Rain Barrels and Cisterns: Stormwater Control for Small Projects
- (4) Bay Area Stormwater Management Agencies Association's Rain Gardens: Stormwater Control for Small Projects

IN WITNESS WHEREOF the parties have executed this Agreement by their duly authorized officers as of the day and year first above written.

BAY AREA WATER SUPPLY & CONSERVATION AGENCY

By:  Date: May 24, 2024

Title: CEO/General Manager

CITY/COUNTY ASSOCIATION OF GOVERNMENTS

By: _____ Date: _____, 2024

Title: _____

ATTACHMENT 1

Rain Barrel Rebate Program Roles and Responsibilities (Updated May 2024)

The following provisions set forth the roles and responsibilities of BAWSCA and C/CAG in their partnership to provide a rebate program for the purchase and installation of rain barrels, cisterns and rain gardens to collect and use rainwater from gutters and downspouts for lawns and gardens.

General Description of the Rain Barrel Rebate Program

The Rain Barrel Rebate Program (Program) will provide a rebate of up to \$200 to San Mateo County customers for the installation of rain barrels, cisterns and rain gardens, which minimize the amount of water and pollutants flowing into storm drains and local waterways while also providing a water conservation benefit. Participation in this program will provide BAWSCA members with a cost-effective way to offer their customers a rebate for rain barrel purchases and rain garden installations.

The rain barrel rebate structure is as follows:

- Rain Barrels with a 50-99 gallon capacity are eligible to receive \$50 (+\$50 from participating member agencies) totaling up to \$100 per rain barrel.
- Rain Barrels with a 100-199 gallon capacity are eligible to receive \$100 (+\$50 from participating member agencies) totaling up to \$150 per rain barrel.
- Rain Barrels with a 200+ gallon capacity are eligible to receive \$150 (+\$50 from participating member agencies) totaling up to \$200 per rain barrel.

For customers in San Mateo County, C/CAG will provide a rebate of \$150 per rain barrel per customer, with a limit of 2 rain barrels per water account for single-family residential customers and 4 rain barrels per water account for multi-family residential and commercial accounts, which will be funded by C/CAG's San Mateo Countywide Water Pollution Prevention Program. BAWSCA member agencies electing to participate in the Program (Participating Agencies) will provide an additional \$50 per rain barrel for a total rebate of \$100 per customer.

The rain garden incentive structure is as follows:

- Up to \$300 per qualifying Lawn Be Gone! project that includes a qualifying rain garden limited to one rain garden per residential property.

BAWSCA will administer and manage the Program and process and issue all C/CAG rebates for San Mateo County residents who are not within the service area of a Participating Agency.

BAWSCA will set up a separate agreement with Participating Agencies in San Mateo County,

whereby such Participating Agencies will process all rebate applications from customers within their service area, including issuing rebate payments for both the C/CAG (up to \$150) and Participating Agency's (\$50) share of each rain barrel rebate (\$200 total), and for rain garden rebates provided by C/CAG (up to \$300). BAWSCA will then reimburse each Participating Agency within San Mateo County for the C/CAG share of the rain barrel rebate or the full rebate amount for rain garden rebates.

C/CAG will reimburse BAWSCA for Program administration costs, including BAWSCA staff time, database management, and rebate processing, for an amount not to exceed \$1,250 each Fiscal Year during the Agreement term.

Below is a description of the Program roles and responsibilities of BAWSCA, C/CAG, and the Participating Agencies.

BAWSCA's Role and Responsibilities:

1. Overall Program management and coordination.
2. Coordination of Program material production and distribution of Program materials to C/CAG and Participating Agencies.
3. Receipt of customer applications, entering specific data into the database, and distribution of applications to respective Participating Agencies.
4. Maintain database of Program-wide data with tracking and reporting by Participating Agency.
5. Issue rebate reimbursements to Participating Agencies in San Mateo County for the C/CAG share of each rebate.
6. In-house rebate processing (payment of rebates, issue problem and denial letters, respond to Program-related customer service calls) for San Mateo County customers that are not within a Participating Agency's service area.
7. Provide monthly invoice and back up data on rain barrel and rain garden rebates to C/CAG for reimbursement to BAWSCA detailing Program expenditures.
8. Maintain and update as needed the Program Terms and Conditions (Attachment 2) in coordination with C/CAG.

C/CAG's Role and Responsibilities:

1. Funding BAWSCA's costs to initiate, administer, and manage the Program.
2. Funding rebates of up to \$150 per rain barrel for customers in San Mateo County.
3. Funding rebates of up to \$300 per rain garden as part of qualifying Lawn Be Gone! turf replacement projects for customers in San Mateo County.
4. Review and approval of Program marketing materials and support with promoting rain barrel rebates throughout San Mateo County (including developing marketing materials via the Flows To Bay outreach program of the San Mateo Countywide Water Pollution Prevention Program.
5. Distribution of Program materials to the public and local rain barrel retailers.

Participating Agency's Role and Responsibilities:

1. Execution of an agreement with BAWSCA setting forth the terms and conditions for participation in the Program.
2. Distribution of Program materials to customers and local rain barrel and landscaping retailers.
3. Funding rebates up to \$50 per rain barrel for customers in their service territory.
4. Funding variable rebate amounts for qualifying Lawn Be Gone! turf replacement projects for customers in their service territory.
5. In-house rebate processing (payment of rebates, issue problem and denial letters, responding to all program related customer service calls pertaining to their agency that are forwarded by BAWSCA) for customers in its service area.
6. Submission of Program data (including information pertaining to requests for rebate reimbursements from BAWSCA) to BAWSCA via online database on a regular, bi-monthly basis.
7. Conduct all field services such as post-installation inspections (at Participating Agency discretion).

ATTACHMENT 2

Rain Barrel Rebate Program Terms and Conditions (Updated June 2020)

Program Requirements

C/CAG and BAWSCA agree the following requirements shall apply to the Program:

1. Rebates are up to the maximums shown in Attachment 1 per qualifying rain barrel or cistern up to the total cost of the rain barrel or cistern, not including sales tax, whichever is less.
2. Rebates are up to the maximum shown in Attachment 1 per qualifying rain garden up to the total cost of the components of the rain garden, not including tax, whichever is less.
3. Qualifying rain barrels or cisterns must be newly purchased, a minimum size of 50 gallons, and designed for the intended purpose of rain capture.
4. Rain barrels or cisterns must have a secure lid for child safety and rust-proof screening for vector control (mosquito, rodent) and debris control.
5. Rain barrels, cisterns, and rain gardens must be connected to a rain gutter downspout, rain chain, or other effective means of capturing concentrated flow from roofs or other impervious surfaces.
6. Rain barrels or cisterns must not be connected to the (potable water) irrigation system and collected rainwater must be utilized via a hose or bucket only.
7. Rain barrels or above-ground cisterns must be placed on a solid and level foundation, such as concrete pad, pavers, or bricks for appropriate stability.
8. Rain barrels or cisterns must not block or restrict access to walkways or pathways, which may become a safety/emergency access issue.
9. Rain barrels or cisterns must be algae and UV-resistant or specially constructed sun barriers must be used.
10. Rain gardens must be sited at adequate distances from building foundations, neighboring properties, and public rights-of-way in accordance with attached guidance documents.
11. Copper materials (including downspouts) are not allowed due to potential leaching concerns.
12. Overflow pipe from rain barrels or cisterns or from rain gardens must be directed away from buildings and/or adjacent properties and may flow to landscape (preferred).
13. Manufacturer's installation and maintenance instructions must be followed.
14. The rain barrel rebate application must be postmarked within 90 days of rain barrel or cistern purchase date. Rain garden rebates must be submitted with a qualifying Lawn Be Gone! rebate application in applicable service areas.
15. The original rain barrel or cistern purchase receipt must be included with the application.
16. Pre-installation and post-installation photos must be included with the application. At least two clear photos of each barrel, cistern, or rain garden must be submitted, showing

- downspout connections, secured lid and overflow valve, and an 8 1/2 x 11 sheet showing the date and water account number (include photos taken from at least two directions).
17. All sites are subject to post-installation inspection at the discretion of the Participating Agency or the San Mateo County Mosquito and Vector Control, where applicable. The Participating Agency that serves the site in question will contact the customer and, at the agency's discretion, perform the post-installation inspection.
 18. A separate application must be submitted for each metered address.
 19. Rain barrels, cisterns, or rain gardens must be installed within the County of San Mateo to be eligible for a rebate from C/CAG.
 20. All rebates are subject to availability of funds.
 21. Rebates may take up to eight (8) weeks to process.
 22. If customer needs their original receipt(s) returned, they must enclose a self-addressed, stamped envelope with their application.
 23. Applicants shall certify that necessary permissions have been obtained from the property owner, if applicant is not the owner.
 24. Limit of two rebates per single-family residential account or four rebates per commercial account for rain barrels or cisterns, and a limit of 1 rebate per single-family residential account for rain gardens. Applications for more than four rebates for a commercial account will be considered on a case by case basis. If more than four rebates are requested for a commercial account, pre-approval is required but not necessarily guaranteed.
 25. Rain barrels or cisterns must be maintained for a minimum of three years upon receipt of rebate, including ongoing maintenance to ensure that the barrel does not become a breeding site for mosquitos and thereby a public health threat.
 26. Rebates may be issued as checks or as credits to the customer's water service account, at the discretion of the participating BAWSCA agency.
 27. Participants must allow BAWSCA and C/CAG to reference the project and use photos submitted with the application in outreach materials and must respond to minimal requests for information about the project for purposes of Program reporting.

Installation Recommendations

The Program will include the following installation recommendations:

1. Refer to the Bay Area Stormwater Management Agencies Association's Rain Barrels and Cisterns: Stormwater Control for Small Projects (Attachment 3) for installation guidance.
2. Refer to the Bay Area Stormwater Management Agencies Association's Rain Gardens: Stormwater Control for Small Projects (Attachment 4) for installation guidance.
3. Locate the rain barrel or cistern on a raised foundation to accommodate a watering can and increase gravity flow.
4. Placement of the outlet pipe/faucet a maximum of 6 inches from the bottom of rain barrel or cistern.
5. Consider strapping rain barrel or cistern similar to earthquake straps for hot water heaters, or per manufacturer recommendations.
6. Consider limiting height:width ratio of the rain barrel or cistern to 2:1 to prevent instability.

ATTACHMENT 3

- (1) Bay Area Stormwater Management Agencies Association's Rain Barrels and Cisterns: Stormwater Control for Small Projects



ATTACHMENT 4

Bay Area Stormwater Management Agencies Association's Rain Gardens: Stormwater Control
for Small Projects

