

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERCULES APPROVING THE JOINT POWERS AGREEMENT BETWEEN PARTICIPATING CITIES, CONTRA COSTA COUNTY, AND THE CONTRA COSTA FLOOD CONTROL AND WATER CONSERVATION DISTRICT TO CONSTITUTE THE CONTRA COSTA COUNTY REGIONAL ALTERNATIVE COMPLIANCE JOINT POWERS AUTHORITY AND IMPLEMENT THE CONTRA COSTA COUNTY REGIONAL ALTERNATIVE COMPLIANCE SYSTEM; APPOINTING A BOARD MEMBER AND ALTERNATE; AUTHORIZING THE JOINT POWERS AUTHORITY TO ESTABLISH ONE OR MORE COMMUNITY FACILITIES DISTRICTS, ACCEPT APPLICATIONS FROM PROPERTY OWNERS, ANNEX PROPERTIES TO THE CFD, AND LEVY SPECIAL TAXES TO FINANCE ON-GOING MAINTENANCE COSTS FOR OFF-SITE GSI PROJECTS CONSTRUCTED PURSUANT TO THE REGIONAL ALTERNATIVE COMPLIANCE SYSTEM WITHIN OR OUTSIDE THE TERRITORY OF THE CITY OF HERCULES; AND APPROVING A JOINT COMMUNITY FACILITIES AGREEMENT

WHEREAS, the City of Hercules is a “public agency,” as defined in the Joint Exercise of Powers Act, California Government Code Section 6500, et seq., and is authorized to enter into an agreement to exercise powers common to the member public agencies;

WHEREAS, the City of Hercules desires to participate in the Contra Costa County Regional Alternative Compliance (“RAC”) System, which is a program designed to offer a flexible, cost-effective, and scientifically defensible compliance option for the Municipal Regional Stormwater National Pollutant Discharge Elimination System (“NPDES”) Permit issued by the San Francisco Bay Regional Water Quality Control Board, Permit No. CAS612008;

WHEREAS, the proposed joint powers authority (“JPA”) is being formed to (i) establish a community facilities district (“CFD”) pursuant to the Mello-Roos Community Facilities Act of 1982, as amended (“Mello-Roos Act”) in order to finance on-going maintenance costs for “Off-Site GSI Projects” constructed pursuant to the RAC System, and (ii) take other actions in furtherance of the RAC System;

WHEREAS, a joint exercise of powers agreement between participating cities, Contra Costa County, and the Contra Costa Flood Control and Water Conservation District has been prepared to establish the proposed JPA that will implement the RAC System;

WHEREAS, the proposed agreement will take effect on the earlier of July 1, 2026, provided that two proposed member agencies have executed the agreement by such date, or when all proposed member agencies have executed the agreement;

WHEREAS, each member of the proposed JPA may appoint a representative to serve on the JPA’s Board and an alternative member to serve in the absence of the appointed representative;

WHEREAS, the City of Hercules's legislative body desires to participate in the RAC System and to adopt the Agreement; and

WHEREAS, with respect to the CFD:

(1) the JPA may establish the CFD to finance the maintenance of Off-Site GSI Projects pursuant to Section 53313.5(f) of the Mello-Roos Act, which authorizes community facilities districts to finance the acquisition, improvement, rehabilitation, or maintenance of any real or other tangible property, whether privately or publicly owned, for flood and storm protection services, including, but not limited to, storm drainage and treatment systems;

(2) the City of Hercules desires to allow the owners ("Participating Owners") of property being developed within its jurisdiction ("Participating Properties") to participate in the CFD in order to finance on-going maintenance costs for Off-Site GSI Projects constructed pursuant to the RAC System, whether those Off-Site GSI Projects are located within the boundaries of the City of Hercules or not, and to allow the JPA to conduct proceedings to form the CFD, annex Participating Properties to the CFD and levy special taxes on such Participating Properties;

(3) both the JPA and the City of Hercules are "local agencies" under the Mello-Roos Act;

(4) the Mello-Roos Act permits two or more local agencies to enter into a joint community facilities agreement or joint exercise of powers agreement to exercise any power authorized by the Mello-Roos Act;

(5) the City of Hercules desires to enter into such an agreement with the JPA to authorize the JPA to form the CFD and annex to the CFD Participating Properties located within the territorial limits of the City of Hercules for the purpose of financing the maintenance of Off-Site GSI Projects, whether those Off-Site GSI Projects are located within the boundaries of the City of Hercules or not; and

(5) the City of Hercules will not be responsible for the conduct of any proceedings to form the CFD, annex Participating Properties to the CFD, levy or collect special taxes, or any required remedial action in the case of delinquencies in such special tax payments.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HERCULES DOES HEREBY DETERMINE, FIND AND RESOLVE AS FOLLOWS:

SECTION 1. The City Council hereby approves the "Joint Powers Agreement Between Participating Cities, Contra Costa County, and the Contra Costa Flood Control

and Water Conservation District for Implementation of the Contra Costa County Regional Alternative Compliance System,” attached hereto as Exhibit “A” to this Resolution.

SECTION 2. Prior to the effective date of the Agreement, the City Council hereby authorizes minor and technical revisions to the Agreement approved in Section 1 that do not change the overall intent of the Agreement or increase liability or cost exposure.

SECTION 3. The City Council appoints Jose Pacheco, Associate Engineer, as the representative on the JPA’s Board and Frank Kennedy or his designee from Kennedy & Associates as the alternative representative on the JPA’s Board.

SECTION 4. The City Council authorizes the City Manager to execute the Agreement.

SECTION 5. Direct staff to take such actions as necessary to participate in the RAC System, including preparation of an ordinance to revise the City’s stormwater ordinance to incorporate participation in the RAC System as an approved alternative compliance for meeting applicable stormwater treatment requirements.

SECTION 6. Authorize staff to collaborate with the RAC JPA Administrator to support RAC System implementation.

SECTION 7. The Agreement, together with the terms and provisions of this Resolution, shall together constitute a separate joint community facilities agreement between the City of Hercules and the JPA under the Mello-Roos Act for the CFD. The City Council hereby authorizes the JPA to form one or more community facilities districts to accomplish the purposes of this Resolution, and each such community facilities district shall constitute a CFD as that term is used in this Resolution.

The adoption by the JPA of a resolution of intention to form the CFD under the Mello-Roos Act to finance on-going maintenance costs for Off-Site GSI Projects constructed pursuant to the RAC System shall constitute acceptance by the JPA of the terms of this Resolution with respect to such CFD.

This Resolution shall constitute full approval under Section 8.2 of the Agreement for the JPA to undertake and conduct proceedings under the Mello Roos Act to form the CFD with boundaries that include Participating Properties within the City of Hercules’s jurisdiction, to annex Participating Properties within the City of Hercules’s jurisdiction to the CFD, and to levy a special tax on such Participating Properties; provided that the Participating Owners, who shall be the legal owners of such property at the time of formation of the CFD or annexation to the CFD, as applicable, execute a ballot or unanimous approval in favor of the levy of the special tax in accordance with the Mello-Roos Act.

The City Council hereby determines that the Agreement, together with the terms and provisions of this Resolution, are beneficial to the residents/customers of the City Council and of the future residents of the area within the CFD.

The City Council hereby determines that all of the Off-Site GSI Projects constructed pursuant to the RAC System that will be maintained by Participating Properties within the City of Hercules's jurisdiction are necessary to meet increased demands placed upon the City of Hercules as a result of development occurring or expected to occur within the City of Hercules.

The City Council hereby consents to the formation of, and annexation of Participating Properties to, the CFD in accordance with this Resolution, and consents to the assumption of jurisdiction by the JPA for the proceedings respecting the CFD with the understanding that the JPA will hereafter take each and every step required for or suitable for consummation of the proceedings to form the CFD or annex Participating Properties to the CFD, and the levy, collection and enforcement of the special tax, all at no cost to the City of Hercules and without binding or obligating the City of Hercules's general fund or taxing authority.

The City Council hereby authorizes and directs appropriate officials and staff of the City of Hercules to execute and deliver such certificates, agreements and documents, and to take all such other lawful actions, as are reasonably required by the JPA in accordance with the formation of the CFD, the annexation of Participating Properties to the CFD, the levy of special taxes and the financing of on-going maintenance costs for Off-Site GSI Projects constructed pursuant to the RAC System.

The foregoing Resolution was duly and regularly adopted at a regular meeting of the City Council of the City of Hercules held on the 26th day of May, 2026 by the following vote of the Council:

AYES:
NOES:
ABSTAIN:
ABSENT:

The foregoing Resolution was ratified at a regular meeting of the City Council of the City of Hercules held on the 28th day of July, 2026 by the following vote of the Council:

AYES:
NOES:
ABSTAIN:
ABSENT:

Chris Kelley, Mayor

ATTEST:

Eibleis Melendez, City Clerk

EXHIBIT A

FORM OF AGREEMENT