



## STAFF REPORT TO THE CITY COUNCIL

**DATE:** Regular Meeting of April 28, 2026

**TO:** Mayor and Members of the City Council

**VIA:** Patrick Tang, Interim City Manager

**SUBMITTED BY:** Glenn Dombeck, Public Works Director/City Engineer

**SUBJECT:** Presentation from Contra Costa County Representative on the Contra Costa County Regional Alternative Compliance (RAC) Joint Powers Authority

### RECOMMENDED ACTION:

Council is asked to receive the presentation on the Contra Costa County Regional Alternative Compliance (RAC) Joint Powers Authority.

### BACKGROUND:

The Municipal Regional Stormwater Permit (MRP) imposes several obligations on local governments. Under Provision C.3.d, regulated new development and redevelopment projects must incorporate on-site Low Impact Development (LID) or Green Stormwater Infrastructure (GSI) to treat stormwater before it reaches local waterways. Many sites—particularly small infill properties, parcels with steep slopes, or locations with underground utility conflicts—face serious constraints that make on-site treatment difficult or infeasible (refer to Attachment 1, CCC RAC System Overview, pp. 3–4).

In addition, under Provision C.3.j, municipalities must retrofit a quantifiable amount of existing impervious surface with GSI over the permit term. The City of Hercules C.3.j requirement is to design and fully fund GSI to handle 1.58 acres of public right of way on or before June 30, 2027. This requirement can be costly and resource-intensive when implemented through numerous small, distributed projects (refer to Attachment 1, CCC RAC System Overview, p. 3). Moreover, cities must comply with pollutant load reduction targets under the PCBs TMDL (Provision C.12.c), which require locating stormwater treatment facilities in areas with historically high pollutant loads.

To address these challenges, Contra Costa County, the Cities of San Pablo and Walnut Creek, and the County Flood Control District partnered with the EPA to pilot the Regional Alternative Compliance System (refer to Attachment 2, Fact Sheet, p. 1). Existing rules and guidance authorizing alternative compliance pathways legally support the RAC System. The San Francisco Bay Water Board reviewed and approved the RAC System under MRP Provision C.3.e, the section explicitly devoted to alternative compliance (refer to Attachment 1, CCC RAC System Overview, p. 8).

To effectively manage the RAC System, participating agencies are forming a JPA responsible for administering Off-Site GSI certification, compliance unit accounting, project verification, long-term O&M funding mechanisms, and annual reporting to the Water Board (refer to Attachment 3, Draft JPA Term Sheet, Sections 6 & 11). The JPA formation is in progress, with the goal of having all participating agencies adopt and approve the JPA by the end of April 2026 and JPA formation in May 2026.

## **ANALYSIS:**

### ***How the RAC System Works.***

The RAC System creates a countywide marketplace in which Off-Site GSI projects—facilities intentionally constructed to treat stormwater from areas beyond their immediate footprint—generate standardized “compliance units.” These units are quantified based on the drainage area treated, pollutant removal performance, rainfall zone, and land use characteristics (CCC RAC System Overview, pp. 33–38).

Once certified by the local jurisdiction where they are located, Off-Site GSI projects can make their compliance units available for purchase. Public agencies or private developers who cannot feasibly meet on-site stormwater retention requirements may instead purchase sufficient units to meet their MRP obligations (Fact Sheet, p. 1). The purchaser also pays an ongoing Operations & Maintenance fee designed to ensure the long-term performance of the Off-Site GSI facility.

### ***Why a JPA is Needed***

The Draft Joint Powers Agreement establishes a governance structure for administering the RAC System. The JPA is authorized to manage the financial, administrative, and regulatory responsibilities that accompany the program, including forming a Community Facilities District (CFD) under the Mello-Roos Act to collect O&M fees from private buyers (Draft JPA Recitals; Sections 6 & 8).

The CFD provides a stable, predictable revenue stream to maintain Off-Site GSI facilities, which is essential to ensuring the continued functionality of systems relied upon for compliance. Public agencies that purchase compliance units pay directly to the JPA rather than through property tax mechanisms, which simplifies public-sector participation.

### ***Benefits of RAC Participation to the City of Hercules***

The RAC System offers several benefits that are particularly important for agencies seeking flexible, affordable ways to meet stormwater regulations.

1. It provides a solution for constrained project sites where onsite GSI is impractical. Rather than granting variances or requiring redesigns, staff can direct applicants to a consistent, regionally approved alternative compliance mechanism.
2. This approach supports more cost-effective stormwater treatment. Large regional GSI facilities can achieve economies of scale, reducing both upfront construction and ongoing O&M costs per acreage treated compared to multiple small installations dispersed across the city (Fact Sheet, p. 2).
3. RAC participation aligns with regional water quality goals. Off-Site GSI facilities can be strategically located in areas with high legacy pollutant loads, helping the City make measurable progress toward PCBs and other TMDL targets.
4. RAC participation reduces local administrative burden. The RAC Tracking Tool—maintained by the JPA—stores compliance unit records, tracks buyer/seller transactions, ensures proper verification and O&M documentation, and houses all regulatory reporting materials (CCC RAC System Overview, p. 40). Without participation in the JPA, these administrative tasks would fall solely on local staff.

### ***Consistent with Regional Regulations***

Participation in the RAC JPA would fulfill the City's obligation to comply with state and federal water quality regulations. Furthermore, the program supports regional GSI planning efforts and sustainability practices that encourage multi-benefit infrastructure projects, pollutant reduction, and improvements in water quality.

### ***Alternative to the RAC JPA***

The City has already incorporated a project in the FY 2026-27 Capital Improvement Program that could achieve compliance with the C.3.j provision independent of the RAC approach. It is possible that the City could fulfill all of its RAC obligations on its own and thus would not need to join the RAC JPA. Staff is currently conducting a cost-benefit analysis to determine whether it would be fiscally prudent or otherwise advisable to forego membership in the RAC JPA. Staff plans to bring back a thorough analysis of the City's options in May so that the Council can consider joining the JPA or directing staff to proceed with planned capital projects without JPA membership.

### **FISCAL IMPACT:**

#### **RAC Alternative**

Participation in the RAC JPA will require the City to contribute to the JPA's annual operating cost, which, under the Draft JPA Agreement, is shared equally among all member agencies unless modified by agreement (Draft JPA Agreement, Section 17). The amount of this cost will be presented separately upon confirmation of the final annual budget from the JPA Board, but is currently projected at approximately \$93,500 of initial costs plus \$26,500 of annual costs.

Furthermore, there are additional costs to acquire GSI credits and at this time, the precise amount is unknown. For context, the cost of credits for the City of San Pablo's GSI system

is estimated to be \$236,000 per acre, with an additional \$11,000 in annual operating expenses.

At this time, staff anticipates that the up-front cost for initial JPA membership and GSI credits can be absorbed within the City's existing stormwater program budget with supplement from the \$400,000 of General Fund/Capital Reserves currently reserved for the Public ROW Bioretention Project. If adjustments or supplemental appropriations become necessary, staff will return to the Council with recommendations.

### City Alternative

If the City did not join RAC and pursued its own C.3.j bioretention project, staff estimates that it would cost up to \$225,000 in design costs, \$375,000 in capital costs, and an additional 30 percent to cover contingency and construction management. Additional analysis and a comparison of this alternative with RAC JPA membership will be included in the May 2026 staff report when the Council formally considers approval of JPA membership.

### **ATTACHMENTS:**

Attachment 1	RAC System Overview
Attachment 2	RAC System Fact Sheet
Attachment 3	RAC JPA Agreement
Attachment 4	Presentation