



## STAFF REPORT TO THE CITY COUNCIL

**DATE:** Regular Meeting of May 26, 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:** Approve participation in the Contra Costa County Regional Alternative Compliance Joint Powers Authority to perform city stormwater obligation and authorize execution of the Joint Powers Agreement

### RECOMMENDED ACTION:

1. Adopt the attached Resolution approving and authorizing execution of the Joint Powers Agreement for the City's participation in the Regional Alternative Compliance Joint Powers Authority.
2. Appoint a Board Member to the RAC JPA and an Alternate.
3. Authorize staff to collaborate with the Regional Alternative Compliance Joint Powers Authority Administrator to support Regional Alternative Compliance System implementation.
4. Direct staff to revise the City's stormwater ordinance to incorporate participation in the Regional Alternative Compliance System as an approved alternative compliance for meeting applicable stormwater treatment requirements.
5. Authorize staff to assign funds already allocated in the fiscal year (FY) 2026-27 Capital Improvement Plan and FY 2026-27 Capital Budget to the Green Infrastructure Project – Public ROW Bioretention for use in RAC JPA participation and purchase of Green Stormwater Infrastructure credits.

## **BACKGROUND:**

Council received a presentation on the Contra Costa County Regional Alternative Compliance (RAC) Joint Powers Authority (JPA) at the April 28, 2026 City Council meeting. Additional background on the purpose and intent of the RAC JPA, including a RAC System Overview, a RAC System Fact Sheet, and a Presentation on the RAC JPA, may be found in the April 28, 2026 staff report.

The RAC JPA offers an alternative mechanism to member agencies for achieving compliance with Municipal Regional Stormwater Permit (MRP) provisions related to Low Impact Development (LID) or Green Stormwater Infrastructure (GSI) necessary to treat stormwater before it reaches local waterways (Provisions C.3.d and C.3.j) and pollutant load reduction targets under the PCBs TMDL (Provision C.12.c).

The RAC JPA will be responsible for administering Off-Site Green Stormwater Infrastructure (GSI) certification, compliance unit accounting, project verification, long-term operation and maintenance funding mechanisms, and annual reporting to the Regional Water Quality Control Board. The JPA formation is in progress, with the goal of having all participating agencies adopt and approve the JPA by the end of May 2026 and JPA formation in June 2026.

While the City can achieve compliance with Provision C.3.j independently, it is not clear at this time whether compliance with Provision C.12.c is achievable as an independent entity. There are numerous other advantages associated with JPA membership that make this alternative worthy of consideration.

## **ANALYSIS:**

Presented below are summaries of an independent compliance approach and compliance achieved through participation in the RAC JPA.

### **Independent Compliance**

MRP Provision C.3.d requires regulated new development and redevelopment projects incorporate on-site 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. This potential constraint may limit private development opportunities at select parcels.

MRP Provision C.3.j requires the City design and fully fund GSI to handle 1.58 acres of public right of way on or before June 30, 2027. The City has a project in the FY 2026-27 Capital Improvement Program, Green Infrastructure Project – Public ROW Bioretention, to achieve compliance with the C.3.j provision independent of the RAC approach. The conceptual design is for the facility to be located on the south side of John Muir Parkway between Tsushima Street and Bayfront Loop, however alternative locations may be considered during the design phase. This Public ROW Bioretention project is currently funded with \$400,000 of General Fund/Capital Reserves.

The City has solicited proposals for design of the bioretention facility and has received two proposals ranging in cost from \$195,000 to \$221,000. The proposals for a GSI design suggest that timely compliance is achievable, however additional funding will likely be necessary to fully fund the project. Additionally, unforeseen conditions such as utility conflicts may arise during design or construction that may increase the overall project cost. Staff involvement will be needed to complete the design procurement and manage the design. Subsequent staff involvement will be needed when the project is bid for construction and to oversee construction activity.

Completing the design and fully funding the construction costs will enable the City to demonstrate to the Regional Board that the project is designed and fully funded on or before the June 30, 2027 compliance deadline. Should the City opt instead to join the RAC, the CIP project can be deferred or closed and the funds can be applied towards funding the City's JPA obligations.

The deadline for compliance with Provision C.12.c is March 2030. The City does not have old industrial areas with moderate PCB loads that will provide suitable locations for a project to address the Provision C.12.c requirement to mitigate PCBs. Therefore, the City will need to identify and fund a regional agency with a PCB-compliant project. Additional work is needed to identify a potential partner and the actual costs associated with compliance are not known at this time.

### **Participation in the RAC JPA**

The RAC System creates a countywide marketplace in which offsite GSI projects intentionally constructed with excess treatment capacity generate standardized 'compliance units.' These units are quantified by JPA staff based on the drainage area treated, pollutant removal performance, rainfall zone, and land use characteristics.

Once certified by the local jurisdiction where they are located, offsite 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. The purchaser also pays an ongoing operations and maintenance (O&M) fee designed to ensure the long-term performance of the Off-Site GSI facility.

The 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.

The CFD provides a stable, predictable revenue stream to maintain offsite 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.

The RAC System offers the following advantages that would not be achievable under the Independent Compliance approach:

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.
3. RAC participation aligns with regional water quality goals. Offsite GSI facilities can be strategically located in areas with high legacy pollutant loads, helping the City make measurable progress toward compliance with Provision C.12.c for treatment of PCBs.
4. RAC participation reduces City staff administrative burden associated with overseeing design, construction, and O&M of new GSI facilities as well as administration of associated regulatory reporting requirements.

### **FISCAL IMPACT:**

Presented below and in Table 1 are summaries of costs associated with compliance of MRP Provision C.3.j for either the independent compliance approach or compliance achieved through participation in the RAC JPA. Costs to address Provision C.12.c, or to fund any additional Provision C.3.j requirements that may be added in future MRP updates, are not known at this time. A recommendation for the preferred method of MRP compliance is provided based on the comparison of estimated Provision C.3.j compliance costs.

#### **Independent Compliance Approach**

Since the Public ROW Bioretention project intended to address compliance with Provision C.3.j included in the CIP is currently at a concept level, there remains significant uncertainty in the total implementation costs. Current understanding of the costs associated with the independent pursuit of a C.3.j bioretention project include the following:

- Design costs up to \$225,000 based on proposals received to date (originally estimated at \$40,000 in the 10-year CIP Public ROW Bioretention project),
- A capital cost of approximately \$375,000 (the 10-year CIP Public ROW Bioretention project capital cost escalated by 50% to reflect the significant increase in estimated design cost noted above),
- An additional 30 percent of capital cost to cover construction contingency and construction management.
- O&M costs are assumed to be identical to that of an equivalent RAC GSI system.

A lifecycle cost (capital outlay plus net present value of ongoing annual costs) of approximately \$876,000 is estimated for this alternative.

## **Participation in the RAC JPA**

The City will incur the following costs if it participates in the RAC JPA:

- JPA annual operating cost member agency contribution, which under the Draft JPA Agreement is shared equally among all member agencies. This cost is currently estimated at approximately \$93,500 of initial costs and \$26,500 of annual costs.
- GSI credits estimated to be \$236,000 per acre based on a recent transaction for the City of San Pablo's GSI system.
- An additional \$11,000 in annual operating expenses based on a recent transaction for the City of San Pablo's GSI system.

A lifecycle cost (capital outlay plus net present value of annual costs) of \$1,010,000 is estimated for C.3.j compliance under the RAC alternative.

## **Comparison of MRP Compliance Approaches**

On the basis of C.3.j compliance alone, a comparison of lifecycle costs for the Independent Compliance Approach and the RAC JPA approach suggests that the independent project is approximately 15 percent less costly than participation in the RAC. However, City staff time to manage design, construction and O&M is not accounted for in the cost estimates. On this basis alone, the RAC JPA approach for MRP compliance is likely more favorable to the City. Additionally, at this conceptual level of costing, a 15 percent difference in cost is practically negligible, as unforeseen conditions can easily increase the actual costs incurred.

It is recommended that the Council approve participation in the RAC JPA and authorize execution of the Joint Powers Agreement. Initial JPA membership costs incurred in FY 2026-27, estimated at \$93,500, and annual membership and GSI credit costs incurred in FY 2027-28, estimated at \$93,500, respectively can be funded from a combination of the \$400,000 of General Fund/Capital Reserves currently reserved for the Public ROW Bioretention Project supplemented by the City's existing stormwater program operating budget.

## **ATTACHMENTS:**

Attachment 1	Resolution
Attachment 2	RAC JPA Agreement