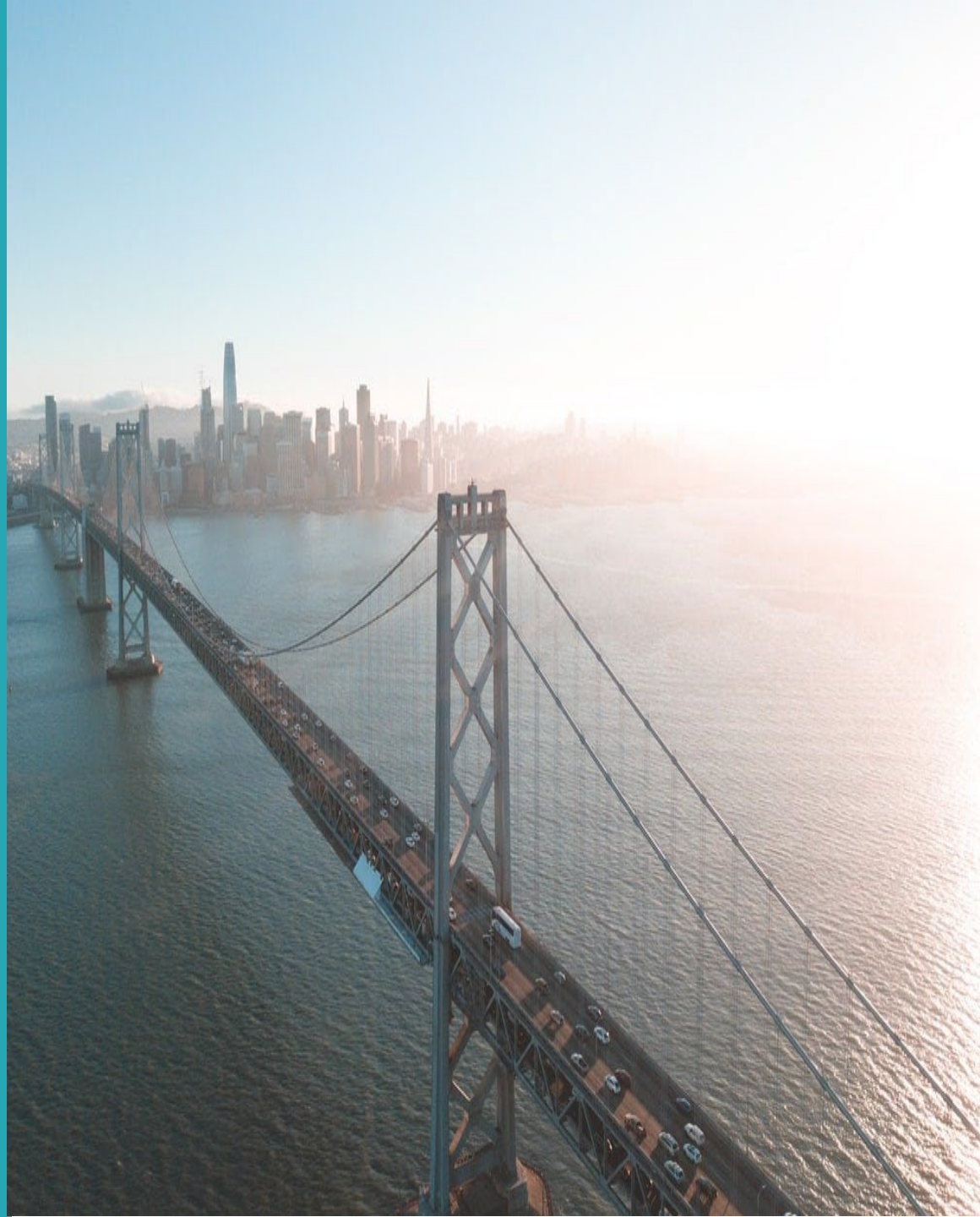
Contra Costa County Regional Alternative Compliance System

Workshop 2

March 2023

Introduction

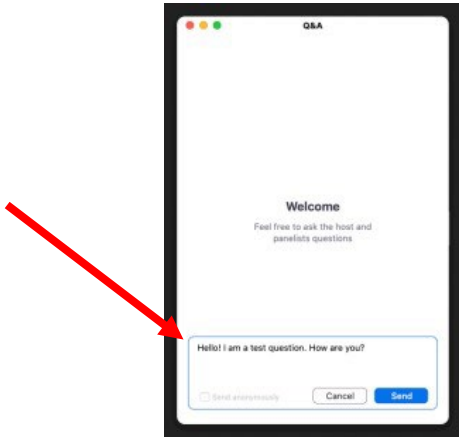


Web-Meeting Instruction

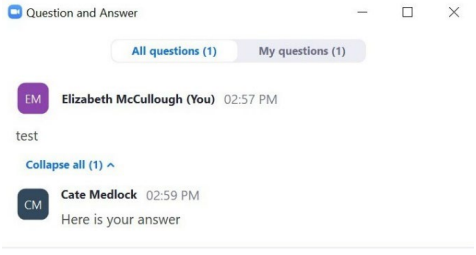
- All attendees will be on mute until we open up the line for comments and questions
- To speak anytime, use the 'Raise Hand' feature and the meeting facilitator will open your microphone
  - If you are on the phone, you can raise your hand with *9 and then unmute/mute using *6
- To comment or ask questions, type your question into the question bar

1. Click "Q&A" button at the bottom of the screen

2. Type your question here



3. We will answer your question in Zoom or live



Web-Meeting Instructions

- We will first address questions and comments received via the web-meeting forum and then open the line to oral comments and questions
- After the meeting you may email any comments/questions to Kelly Havens (khavens@geosyntec.com) and Amanda Booth (AmandaB@sanpabloca.gov)
- This meeting will be recorded and available at:

https://www.sanpabloca.gov/2685/Regional-Alternative-Compliance

Presenters

Amanda Booth
Senior Environmental Program Analyst, City of San Pablo Environmental Services Division; **Project Lead** for the Regional Compliance for a Sustainable Bay Project

Kelly Havens, P.E.
Senior Engineer, Geosyntec Consultants
Consultant Team Project Manager for the Regional Compliance for a Sustainable Bay Project

Tony Hale, Ph.D.
Program Director for Environmental Informatics, San Francisco Estuary Institute; **Tracking Tool Lead** for the Regional Compliance for a Sustainable Bay Project

Acknowledgements

USEPA Water Quality Improvement Fund Grant funded project

Agenda

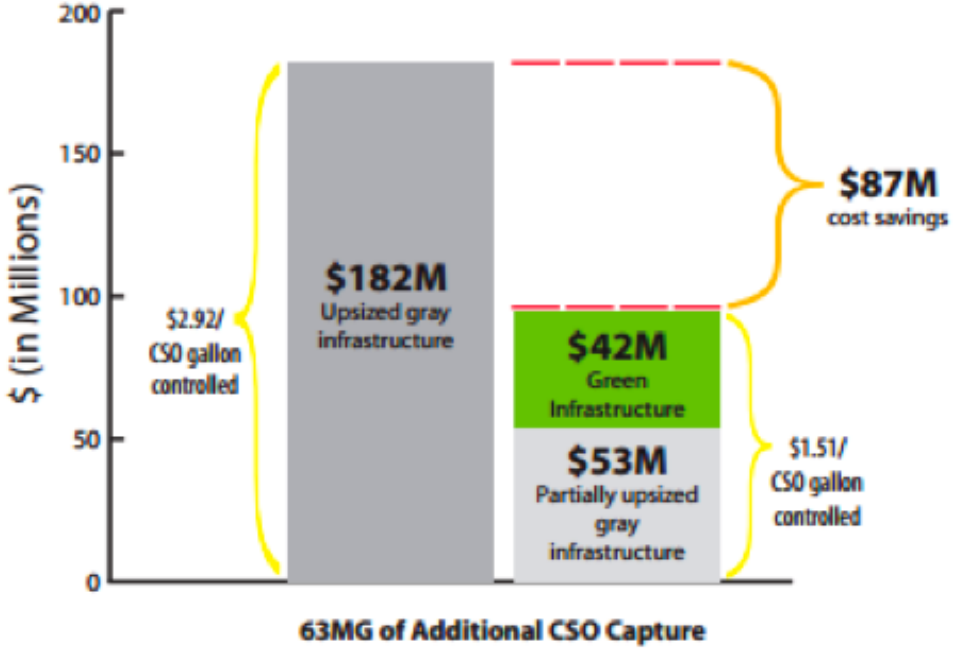
- Why Regional Alternative Compliance (RAC)
- RAC Development Process
- RAC System
  - System Overview, Roles, Verification, Ongoing O&M
- *1st Question & Answer Session*
- RAC System Units and Costs
- Alternative Compliance Example
- SFEI Tracking Tool Demonstration
- Next Steps
- CCCWP Permittee Information
- *2nd Question & Answer Session*
- Close Out

Why Regional Alternative Compliance?

What is an Alternative Compliance System?

- Flexible compliance programs that allow regulated dischargers to meet equivalent discharge reductions by investing in controls at other source locations

- The ultimate objective of an alternative compliance system is to achieve an overall environmental benefit at a reduced overall cost



What Are the Challenges with the Existing System?

- The Municipal Regional Stormwater Permit (MRP) Provision C.3 requires low impact development (LID)/green stormwater infrastructure (GSI) to be implemented:
  - On new development and redevelopment projects
  - To retrofit a proportion of permittee impervious surfaces (C.3.j)

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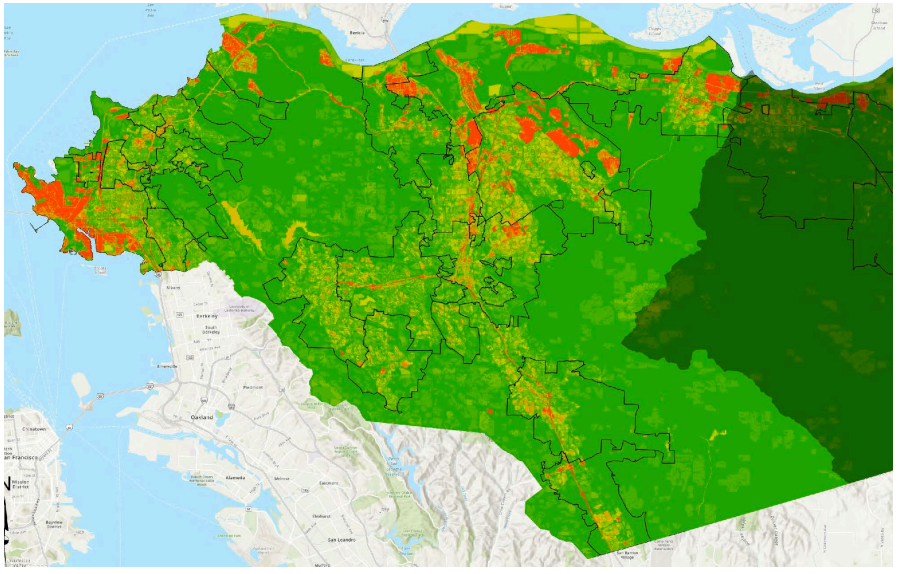
What Are the Challenges with the Existing System?

Challenges:

- Some re/development sites have physical or site use constraints to implement GSI
- Distributed GSI is costly and requires considerable effort to maintain
- Legacy pollution is concentrated in certain areas of Contra Costa County



How can Regional Alternative Compliance (RAC) address these challenges?

- The RAC System allows an **off-site option** for new and redevelopment projects to meet MRP C.3 requirements
  - Other regulated stormwater dischargers may also participate (e.g. Caltrans, Phase II permittees, etc.)
- The RAC System allows for investment in regional GSI projects that:
  - Are cheaper to implement and maintain per acre treated
  - Can be located to target legacy pollution in the County
  - Could provide additional multiple benefits

AND

- The RAC System establishes designated O&M funding to ensure long-term performance of facilities

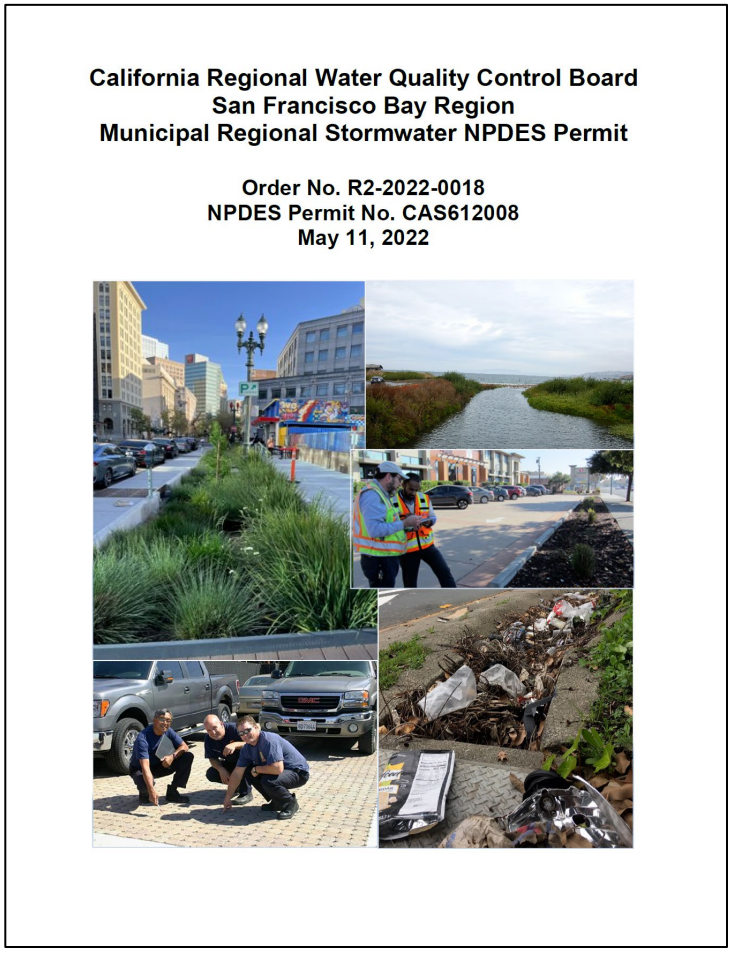
RAC System Development Process

What is the Legal Basis for Alternative Compliance?

- Alternative compliance systems are legally enabled through existing rules, guidance, and plans
- Contra Costa County (CCC) RAC System was developed in input from:
  - CCC Permittees
  - Advisory Committee made from nine SF Bay Area Counties + Caltrans + Port of Oakland
  - Water Quality Control Board and EPA
  - Internal and external Legal Reviewers

Regional Water Board

- The Water Board is in the process of approving the Contra Costa County RAC System under the current MRP Provision C.3.e
- C.3.e - "alternative compliance" for Regulated Projects
  - Option 1: In Lieu Fee
  - Option 2: Off-Site Treatment
- RAC System reporting will be delivered to Water Board at a specified frequency each permit term



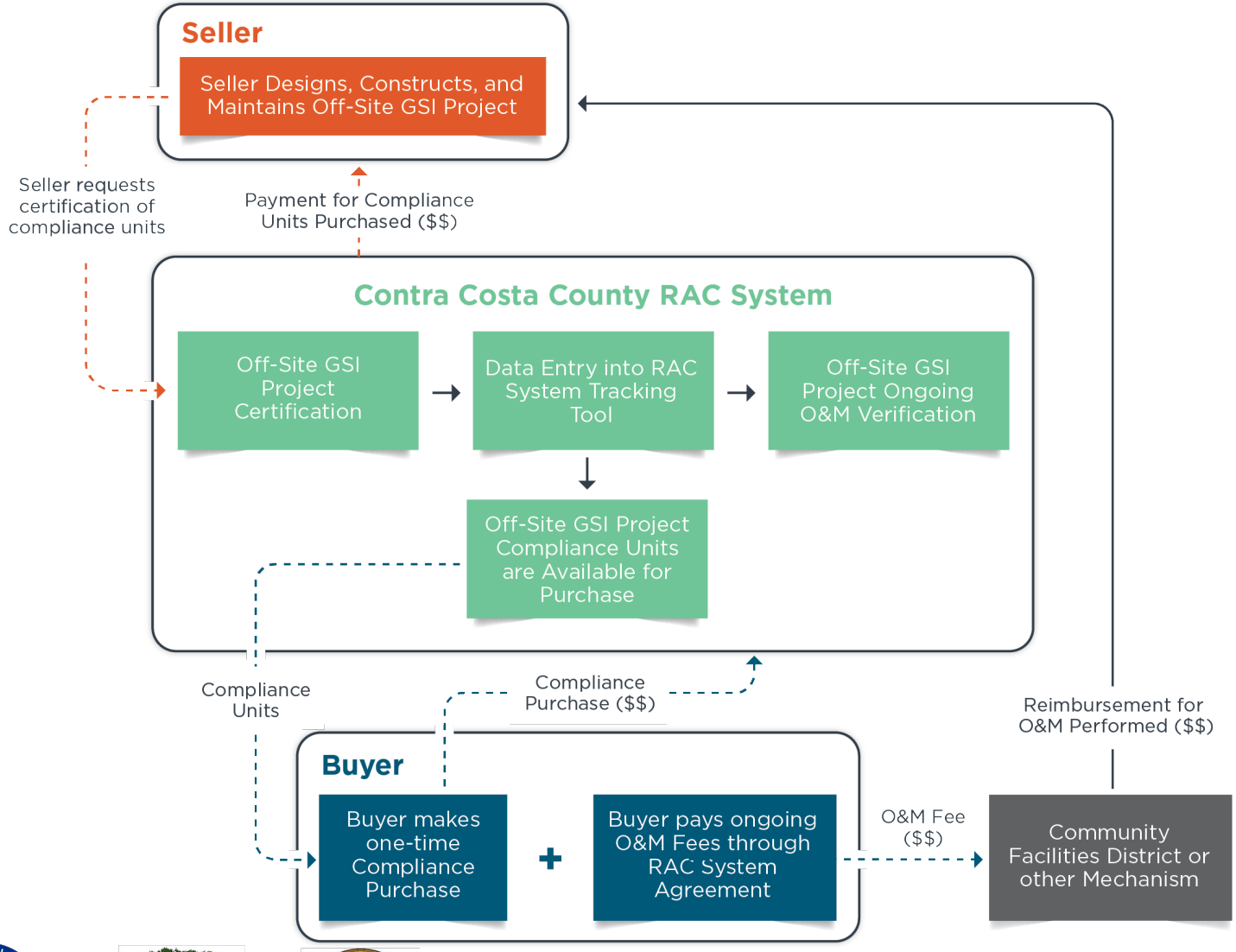
California Regional Water Quality Control Board
San Francisco Bay Region
Municipal Regional Stormwater NPDES Permit

Order No. R2-2022-0018
NPDES Permit No. CAS612008
May 11, 2022

RAC System Implementation Process

System Overview and Participant Roles

Contra Costa County RAC System



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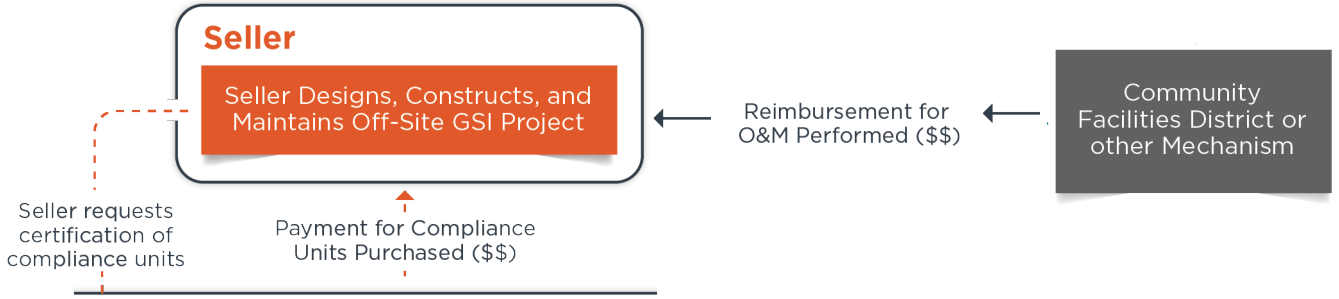
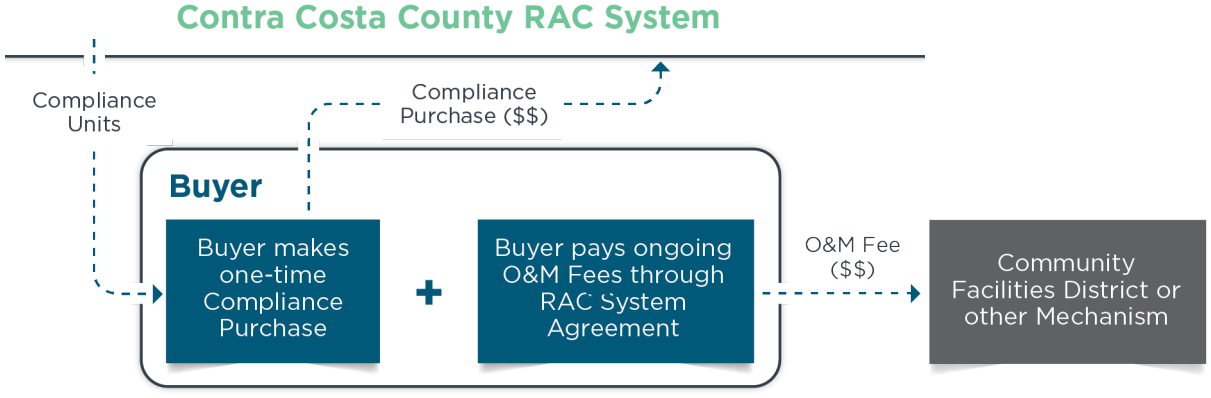
RAC System Participants - Sellers

- Design, construct, and maintain Off-Site GSI projects
- Request certification of compliance units by the RAC System
- Receive payment once compliance units are sold
- Receive reimbursement for O&M performed
- May include:
  - MRP Permittees
  - Contractors/Developers
  - Community Based Public-Private Partnerships (CBP3)



RAC System Participants - Buyers

- Purchase compliance units for their compliance purposes
- Pay an ongoing O&M Fee
- May include:
  - Developers
  - MRP Permittees
  - Other parties subject to NPDES Permits (Caltrans, Phase II permittees, etc.)



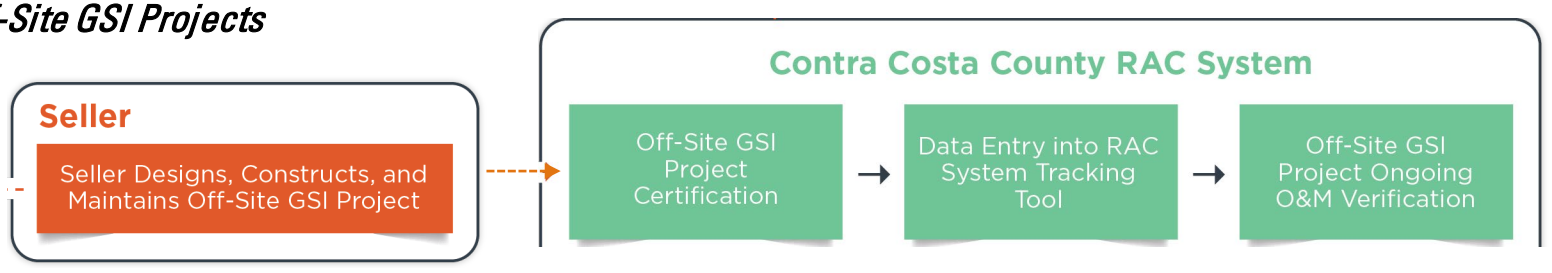
RAC System Participants – Jurisdictions/Permittees (Facilitator)

- ❖ Approve use of RAC System (i.e., City Council resolution)
- ❖ Update Stormwater Ordinance to include RAC system

For Off-Site Projects in their boundary:

- Conduct Off-Site GSI Project Certification
- Enter data into RAC System Tracking Tool
- Perform On-Going GSI Project Verification
- Receive payment for these duties

Off-Site GSI Projects



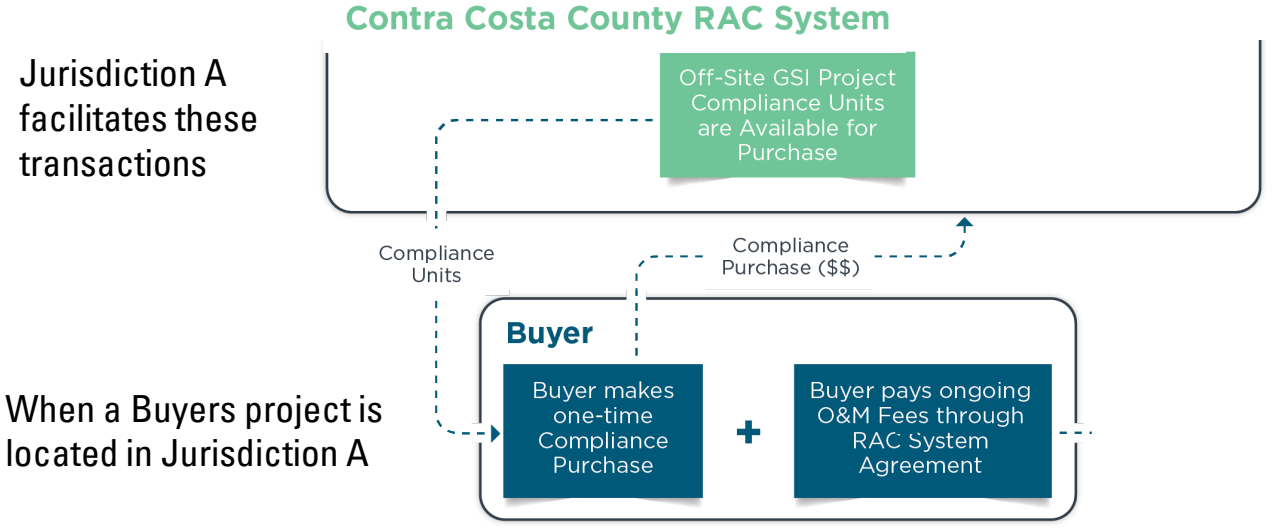
Off-Site GSI Project in Jurisdiction A

Jurisdiction A performs these actions

RAC System Participants – Jurisdictions/Permittees (Facilitator)

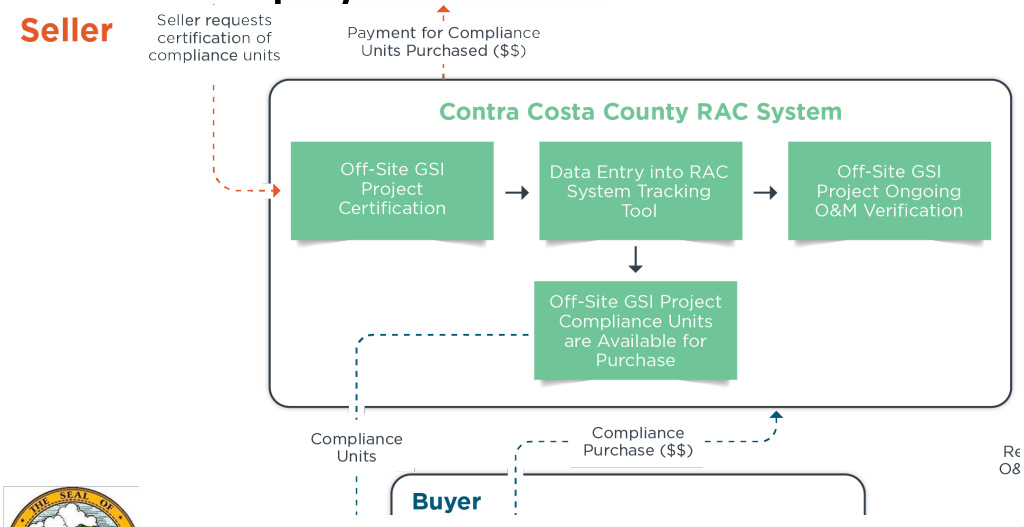
For Buyers:

- Approve use of RAC System by Buyer
- Help identify Compliance Units available for private Buyers
- Facilitate Compliance Purchase, Agreements, and Ongoing O&M Fee for these private Buyers
- Receive payment for these RAC System duties



RAC System Participants - Administrator

- Contra Costa County Clean Water Program
- Provides oversight for RAC System actions/transactions
- Oversight of the RAC System fund
- Manages Tracking Tool
- Manages annual reporting to Water Board
- Performs adaptive management of RAC System
- Receives administrative payments to cover these duties



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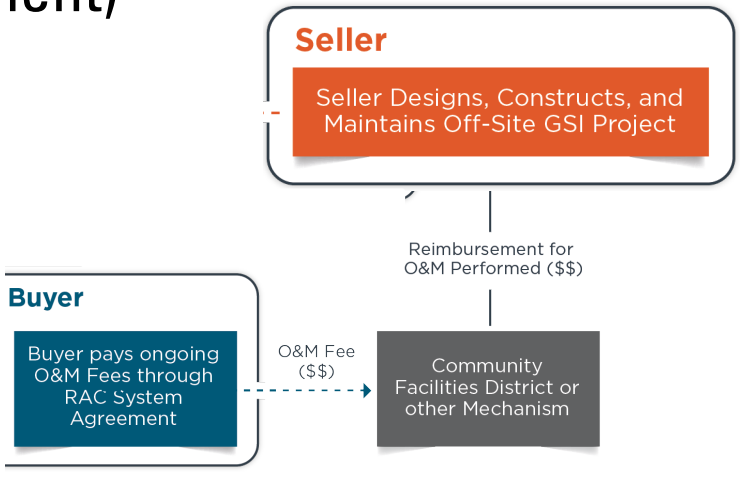
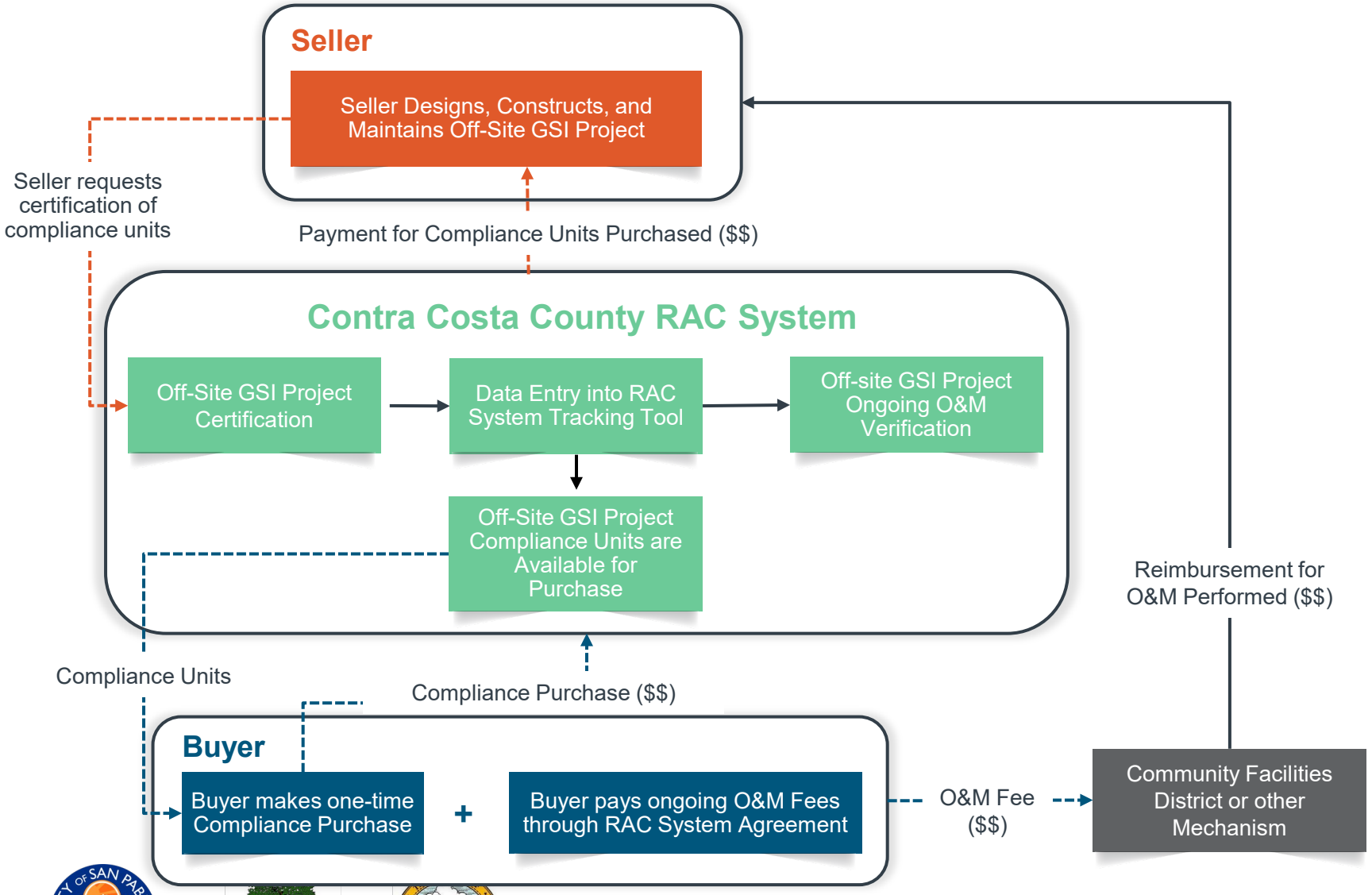
RAC System Participants – Community Facilities District*

- Collects ongoing O&M Fees from Buyers
- Manages O&M Fund
- Disburses payments for O&M performed on Off-Site GSI Projects
- CFD may not apply to permittee when acting as Buyers (would use agreement)



* Or Equivalent Mechanism

Public Agency to Developer Exchange



RAC System Implementation Process

Off-Site GSI Project Verification &

Buyer Approval

Off-Site Project Certification/Verification

- Off-Site GSI Project design and installation must be "certified" through inspection by local jurisdiction using current certification practices
- Off-Site GSI Projects generate compliance units based on the area treated by the Off-Site GSI Project
  - Must be "GSI" per the MRP (infiltration, capture and use, or bioretention)
  - Must meet MRP Provision C.3.d (i.e., 80% capture)

Off-Site Project Certification/Verification

- Off-Site GSI Project must undergo ongoing recurring verification to confirm it is performing as expected over time
  - Local jurisdiction would perform verification using current verification practices
  - Local jurisdiction would receive payment for these actions

Buyer Project Approval

- Developers/C.3 Regulated Projects that want to purchase compliance units will need to get approval from the relevant jurisdiction
  - This will be done through the development approval process
- Developers can use the system to address compliance for small portions of a C.3 regulated project

RAC System Implementation Process

Ongoing O&M

Community Facilities District*

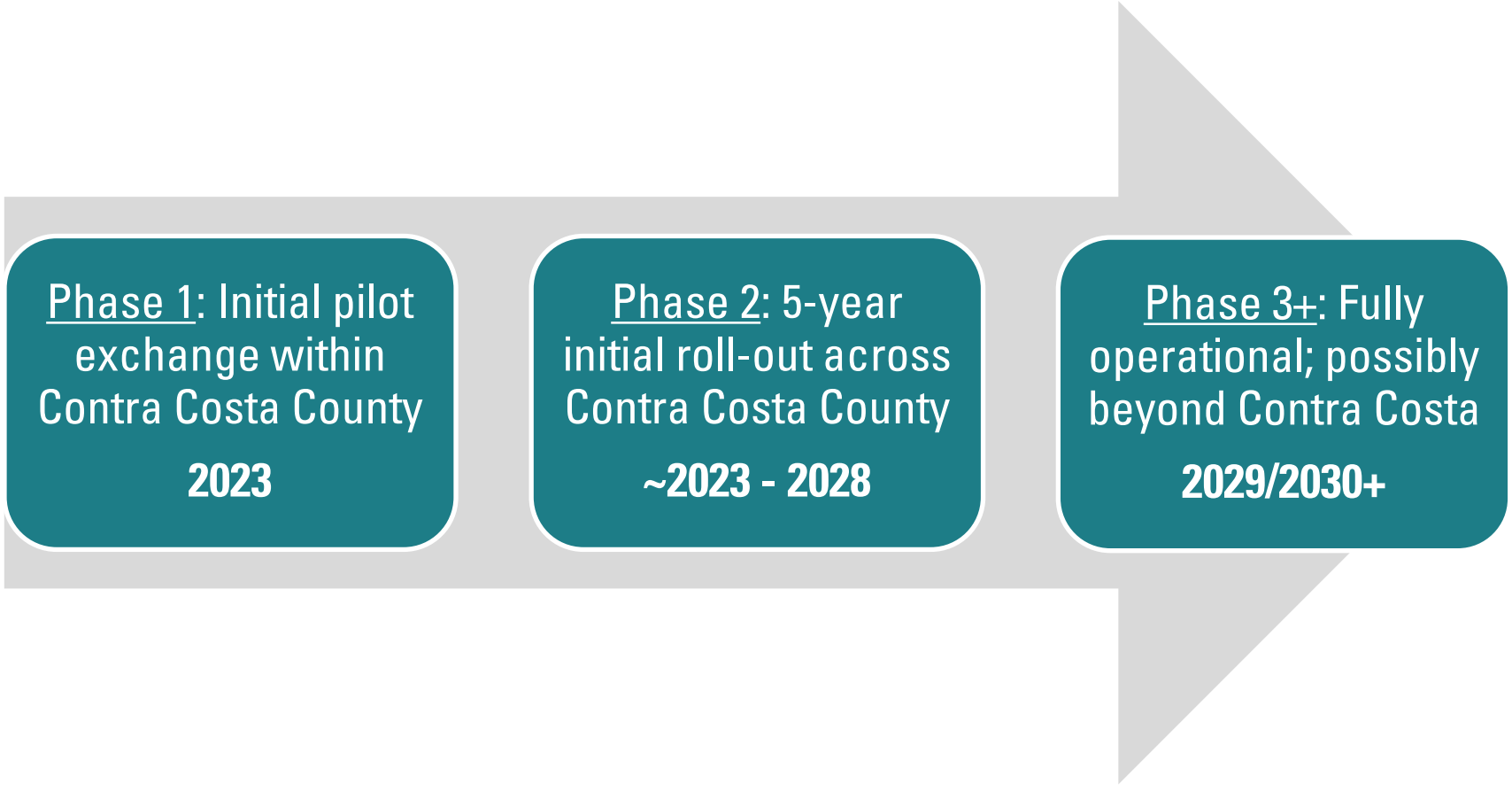
- CCCWP is investigating the development of a CFD
  - Development of Local Goals and Policies
  - Rate & Method Apportionment (RMA)
  - Resolution of Intention
  - Public Hearing Process

- Election: Each property that will use the RAC System for compliance will be required to "elect" to be part of the CFD.
- Special tax is levied by ordinance adoption by the relevant legislative body.

Community Facilities District

- Rate & Method Apportionment (RMA)- This would determine the ongoing O&M fee amount.
- Roles and responsibilities for O&M
  - Off-Site facilities will be required to maintain their facility in accordance with the Site's O&M Agreement
  - Permittees with Off-Site facilities in their jurisdiction will be required to inspect verify O&M compliance
- Funding
  - Once a facility is confirmed to meet their O&M requirement the Off-Site facility will submit O&M certification to RAC System
  - The O&M payment will be issued to the Off-Site facility

Contra Costa County RAC System Roll-Out



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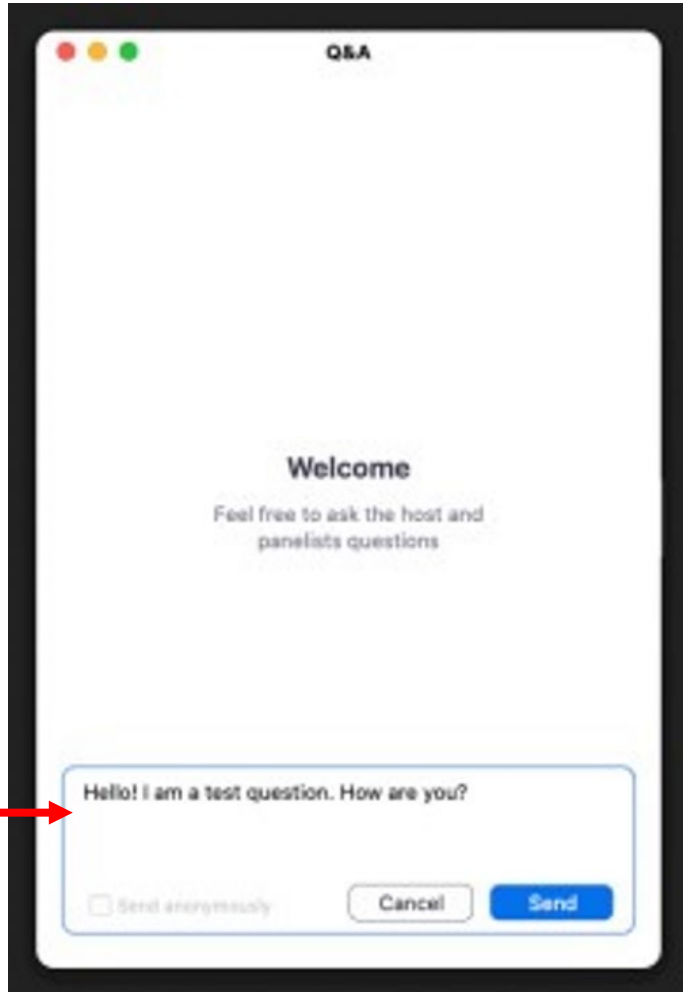
Question & Answer – Overview and Roles

Question and Answer Section

1. Click "Q&A" button at the bottom of the screen

2. Type your question here



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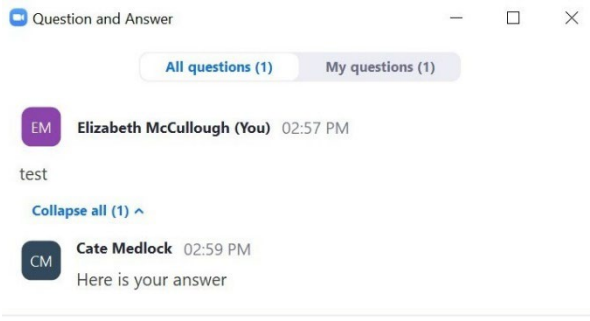


RAC System Implementation Process

Compliance Unit Calculation

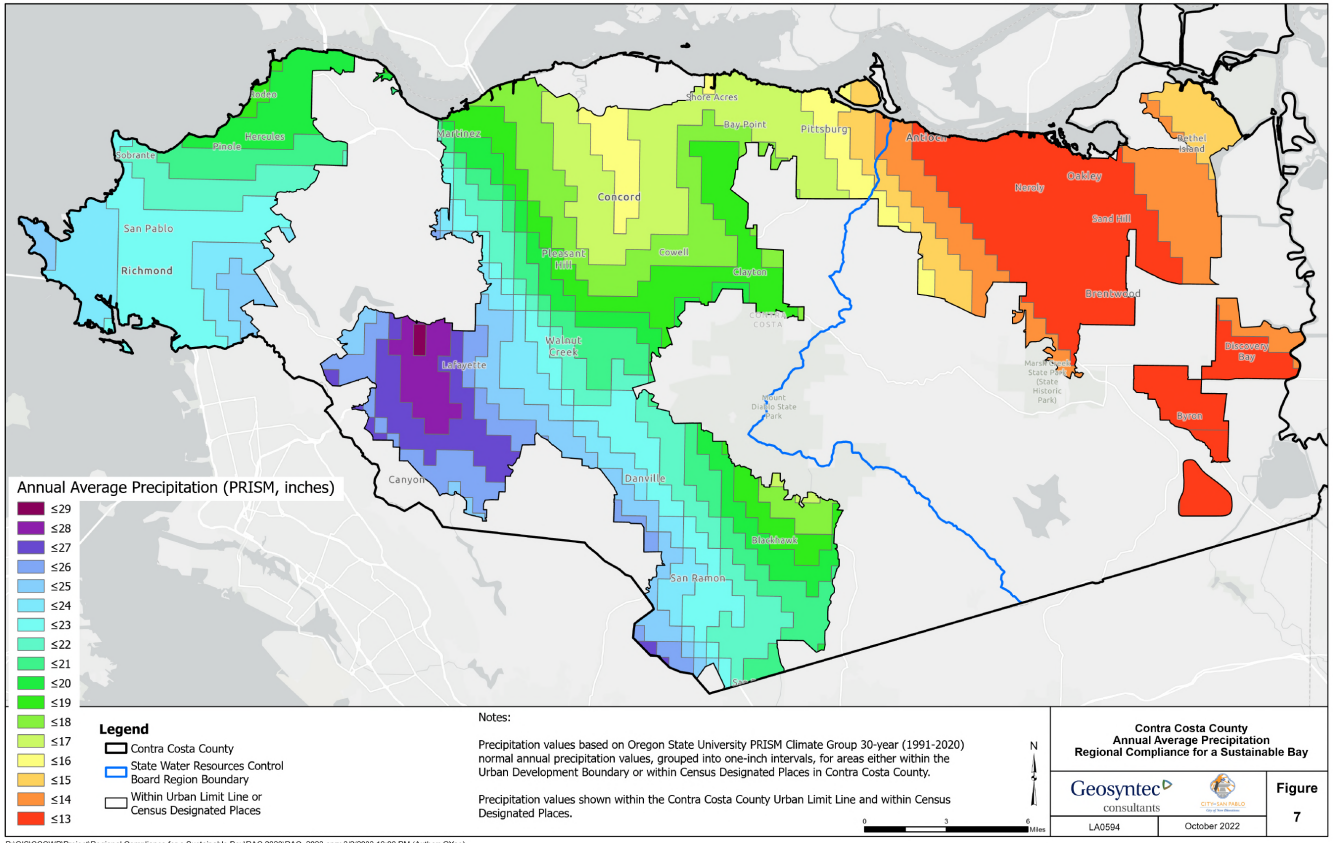
Compliance Unit Generation

- "Equivalent Acres Greened" compliance units
  - Calculated based on pollutant generating **area**
    - 100% impervious + 10% pervious area
  - Rainfall zone and land use associated with each unit

- For MRP C.3 Regulated Projects:
  - To meet "equivalency" and "Net Environmental Benefit" requirements of Provision C.3.e., there are three additional factors used to calculate total "Equivalent Acres Greened"
    1. Rainfall Ratio
    2. Pollutant Ratio
    3. Net Environmental Benefit (NEB) Ratio
  - These factors not required for permittee C.3.j retrofit compliance units

Compliance Unit Generation: Rainfall Zone

- Used PRISM data to map the County's Rainfall Zones
- Maps and tables were developed to represent the Rainfall Zones and calculate Rainfall Ratios



Compliance Unit Generation: Rainfall Zone

Exchange Ratio Matrix	Equivalent Acres Greened Annual Average Rainfall Zone[1] (inches)																			
Regulated Project Annual Average Rainfall Zone (inches)	≤13	≤14	≤15	≤16	≤17	≤18	≤19	≤20	≤21	≤22	≤23	≤24	≤25	≤26	≤27	≤28	≤29	≤30	≤31	≤32	≤33
≤13	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
≤14	1.1	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
≤15	1.2	1.1	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
≤16	1.2	1.1	1.1	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
≤17	1.3	1.2	1.1	1.1	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
≤18	1.4	1.3	1.2	1.1	1.1	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
≤19	1.5	1.4	1.3	1.2	1.1	1.1	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
≤20	1.5	1.4	1.3	1.3	1.2	1.1	1.1	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
≤21	1.6	1.5	1.4	1.3	1.2	1.2	1.1	1.1	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
≤22	1.7	1.6	1.5	1.4	1.3	1.2	1.2	1.1	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
≤23	1.8	1.6	1.5	1.4	1.4	1.3	1.2	1.2	1.1	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
≤24	1.8	1.7	1.6	1.5	1.4	1.3	1.3	1.2	1.1	1.1	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
≤25	1.9	1.8	1.7	1.6	1.5	1.4	1.3	1.3	1.2	1.1	1.1	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
≤26	2.0	1.9	1.7	1.6	1.5	1.4	1.4	1.3	1.2	1.2	1.1	1.1	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
≤27	2.1	1.9	1.8	1.7	1.6	1.5	1.4	1.4	1.3	1.2	1.2	1.1	1.1	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
≤28	2.2	2.0	1.9	1.8	1.6	1.6	1.5	1.4	1.3	1.3	1.2	1.2	1.1	1.1	1.0	1.0	1.0	1.0	1.0	1.0	1.0
≤29	2.2	2.1	1.9	1.8	1.7	1.6	1.5	1.5	1.4	1.3	1.3	1.2	1.2	1.1	1.1	1.0	1.0	1.0	1.0	1.0	1.0
≤30	2.3	2.1	2.0	1.9	1.8	1.7	1.6	1.5	1.4	1.4	1.3	1.3	1.2	1.2	1.1	1.1	1.0	1.0	1.0	1.0	1.0
≤31	2.4	2.2	2.1	1.9	1.8	1.7	1.6	1.6	1.5	1.4	1.3	1.3	1.2	1.2	1.1	1.1	1.1	1.0	1.0	1.0	1.0
≤32	2.5	2.3	2.1	2.0	1.9	1.8	1.7	1.6	1.5	1.5	1.4	1.3	1.3	1.2	1.2	1.1	1.1	1.1	1.0	1.0	1.0
≤33	2.5	2.4	2.2	2.1	1.9	1.8	1.7	1.7	1.6	1.5	1.4	1.4	1.3	1.3	1.2	1.2	1.1	1.1	1.1	1.0	1.0

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Compliance Unit Generation: Land Use Area

- Extensive analysis completed to develop ratios to represent the difference in urban pollutant loading between land uses

Exchange Ratio Matrix		Off-Site Project Land Use Category			
		Residential, Commercial, or Institutional [1]	Transportation [2]	New Industrial	Old Industrial and Source Areas
Regulated Project Land Use Category	Residential, Commercial, or Institutional [1]	1.0	1.0	1.0	1.0 [3]
	Transportation [2]	1.3	1.0	1.0	1.0 [3]
	Industrial	1.8	1.4	1.0	1.0 [3]

[1] Includes adjacent collector and local roadways.

[2] Transportation includes interstate highways, freeways, multilane highways, and principal arterials.

[3] Net environmental benefit discount applied to purchase, see RAC System Summary Report, section 4.3.

Compliance Unit Generation: Net Environmental Benefit

- The CCC RAC System has defined the standard Regulated Project NEB as a ratio of **1.1:1** (i.e., requiring purchase of 10% additional Equivalent Acres Greened)

Project Type	Compliance Unit Land Use	NEB Ratio
C.3.d Regulated Project	Residential, Commercial, Institutional or Transportation	Standard - 1.1:1
C.3.d Regulated Project	Old Industrial	Discounted - 1:1
C.3.j Retrofit Requirement	*N/A*	*NEB not required*

Compliance Unit Generation

- Detailed calculations on the compliance unit are provided in the System Summary Report and available on the project website (AC Meeting #5 presentation)

- Equivalent Acres Greened generated for Off-site GSI Projects and required purchase amount for Regulated Projects will be calculated through the RAC System Tracking Tool

RAC System Implementation Process

Compliance Units Costs

Buyer Compliance Purchase

- Buyer purchases Equivalent Acres Greened compliance units proportional to their compliance needs

$$Purchase_{Compliance} = (Equivalent\ Acres\ Greened \times NEB\ Ratio) \times Cost_{EAG} + Payment_{Administrative}$$

- The compliance purchase amount is determined by:
  - The cost per equivalent acre greened
  - An administrative payment

Equivalent Acres Greened Cost Basis: Capital Cost

- How much do we expect Equivalent Acres Greened compliance units to cost? Based on a preliminary cost study:
  - Regional Off-Site GSI Projects - estimated **$100,000** per EAG
  - Green Street/LID Off-Site GSI Projects - estimated **$500,000+** per EAG

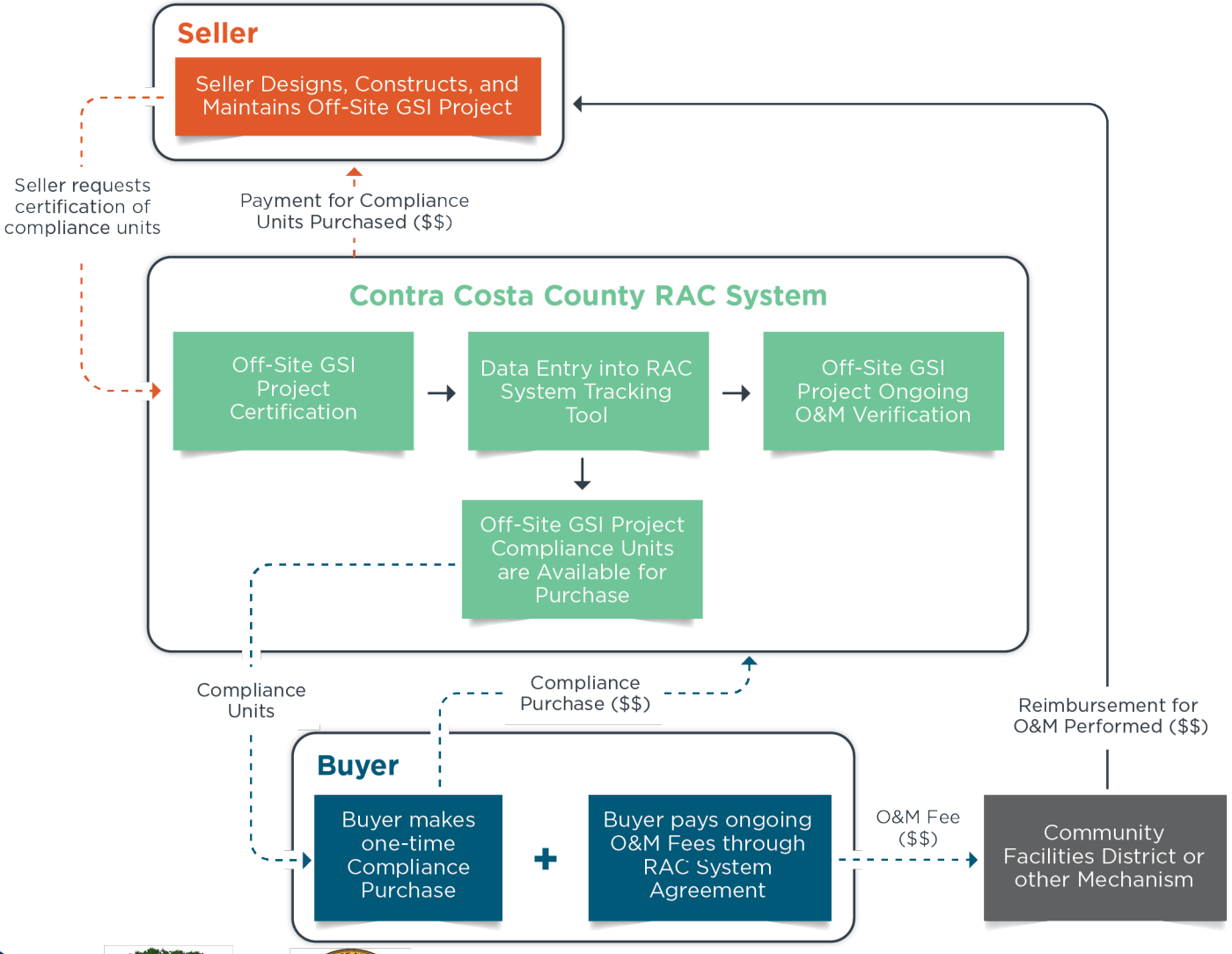
- A cost study will determine the administrative fees-
  - These are expected to be $2,000 - $6,000 per project and may vary by jurisdiction. These are preliminary estimates that need to be verified.

Equivalent Acres Greened Cost Basis: Ongoing O&M Fee

- If CCC permittees approves a CFD the Rate & Method Apportionment (RMA) would determine the ongoing O&M fee amount.
  - Currently being investigated as part of the next phase of the project
  - O&M costs would be collected via property taxes process for private properties
  - O&M costs would be collected by agreement for permittees

RAC System Exchange Examples

Contra Costa County RAC System

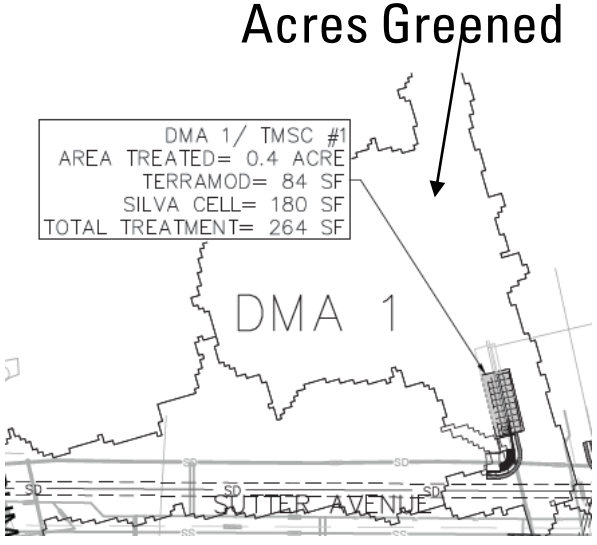


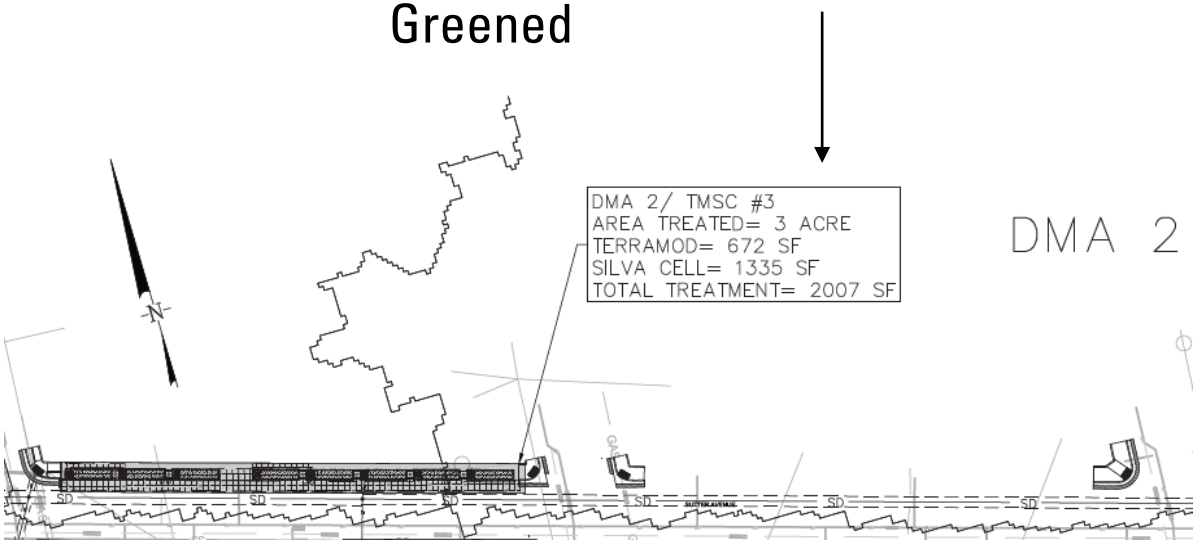
RAC Example: Off-Site GSI Project

- Example Off-Site GSI Project: Bay Area Ave Green Street Project
  - Meets C.3.d (80% capture) requirement
  - LID Project: Mix of Flow Through Biofilter and Silva Cells
  - Old Residential Land Use Area
  - Rainfall Zone: 24 inches/year
  - Total Impervious area 2.19 acres (51,836 SF)
  - **Total: 2.29 Acres (99,750 SF) of Equivalent Acres Greened compliance units**

RAC Example: Off-Site GSI Drainage Management Areas (DMA)

- DMA 1
  - 0.42 acres of capture area
  - 0.29 of impervious area
  - 0.27 acres of Equivalent Acres Greened
- DMA 2
  - 2.99 acres of total capture area
  - 1.91 impervious area
  - 2.02 Acres of Equivalent Acres Greened





Total Impervious area 2.19 acres

Total: 2.29 Acres of Equivalent Acres Greened compliance units

RAC Example: Regulated Projects Buyers

- Buyer #1-Regulated Project: Developer John Doe Construction
  - C.3.d requirement (100% impervious + 10% pervious area)
  - 1.15 acre total C.3.d area
  - Hydromodification requirements not applicable
  - Commercial Land Use Area
  - Rainfall Zone 24

- Buyer #2-Regulated Project: Developer Jane Doe Corporation
  - C.3.d partial requirement (right of way improvements)
  - 0.18 acre total C.3.d area
  - Transportation Land Use Area
  - Rainfall Zone 21

- Buyer #3-Permittee: City of Stormwater
  - C.3.j requirement: 0.76 acre of impervious area

RAC Example: Exchange #1 John Doe Construction

- Regulated Project: John Doe Construction
  - Developer notifies City with development authority that they would like to use the RAC System for C.3 compliance
  - Developer submits RAC System forms defining Regulated Project details
  - City looks at RAC System Tracking Tool to identify available compliance units: **Bay Area Ave Green Street Project**

RAC System	Bay Area Green Street	John Doe Project	Ratio
Rainfall Zone	24	24	1:1
Land Use	Old Residential	Commercial	1:1
NEB Discount	No	No	**1.1:1**
C.3.d Area (ac)	0	1.15	
EAG	2.29 (available)	1.27 (needed)	

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RAC Example: Compliance Unit Costs

- Buyer #1-Regulated Project: Developer John Doe Construction
  - EAG - **1.27**
  - Cost per EAG: $150,000*
  - Project EAG Cost: $190,500
  - Administrative Fee: $6,500*
  - **Total Capital Cost: $197,000**
  - **Ongoing O&M Fee: $4,320 per year**

**** preliminary costs for illustration only***

RAC Example: Exchange #2 Jane Doe Corporation

- Regulated Project: Jane Doe Corporation
  - City XYZ requires ROW improvements as part of development project. Project site unable to provide on-site.
  - Developer notifies City with development authority that they would like to use the RAC System for ROW requirement
  - Developer submits RAC System forms defining compliance unit needs
  - City looks at RAC System Tracking Tool to identify available compliance units: **Bay Area Ave Green Street Project**

RAC System	Bay Area Green Street	Jane Doe Project	Ratio
Rainfall Zone	24	21	1:1
Land Use	Old Residential	Transportation	1.3:1
NEB Discount	No	No	1.1:1
C.3.d Area (ac)	0	0.18	
EAG	1.02 (available)*	0.26 (needed)	

*Represents EAG remaining after exchange 1.

RAC Example: Compliance Unit Costs

- Buyer #2-Regulated Project: Developer Jane Doe Corporation
  - EAG – **0.26**
  - Cost per EAG: $150,000*
  - Project EAG Cost: $39,000
  - Administrative Fee: $6,500*
  - **Total Capital Cost: $45,500**
  - **Ongoing O&M Fee: $885 per year**

**** preliminary costs for illustration only***

RAC Example: Exchange #3 City of Stormwater

- Buyer #3-Permittee: City of Stormwater
  - C.3.j requirement: 0.76 acre of impervious area
  - Notify the RAC System of interest to purchase compliance units
  - Enter into an MOU for RAC payment

RAC System	Bay Area Green Street	City of Stormwater	Ratio
Rainfall Zone	N/A	N/A	1:1
Land Use	N/A	N/A	1:1
NEB Discount	N/A	N/A	1:1
Impervious Area (ac)	0	0.76	
EAG	0.76 (available)*	0.76	

*Represents EAG remaining after exchanges 1 and 2.

RAC Example: Compliance Unit Costs

- Buyer #3-Permittee: City of Stormwater
  - Impervious area requirement** of **0.76 acres**
  - Cost per EAG: $150,000*
  - Project EAG Cost: $114,000
  - Administrative Fee: $2,500*
  - **Total Capital Cost: $116,500**
  - **Ongoing O&M Fee: $2,585 per year**

**** preliminary costs for illustration only***

***assumes that permittee would only be sold impervious portion of EAG compliance units*

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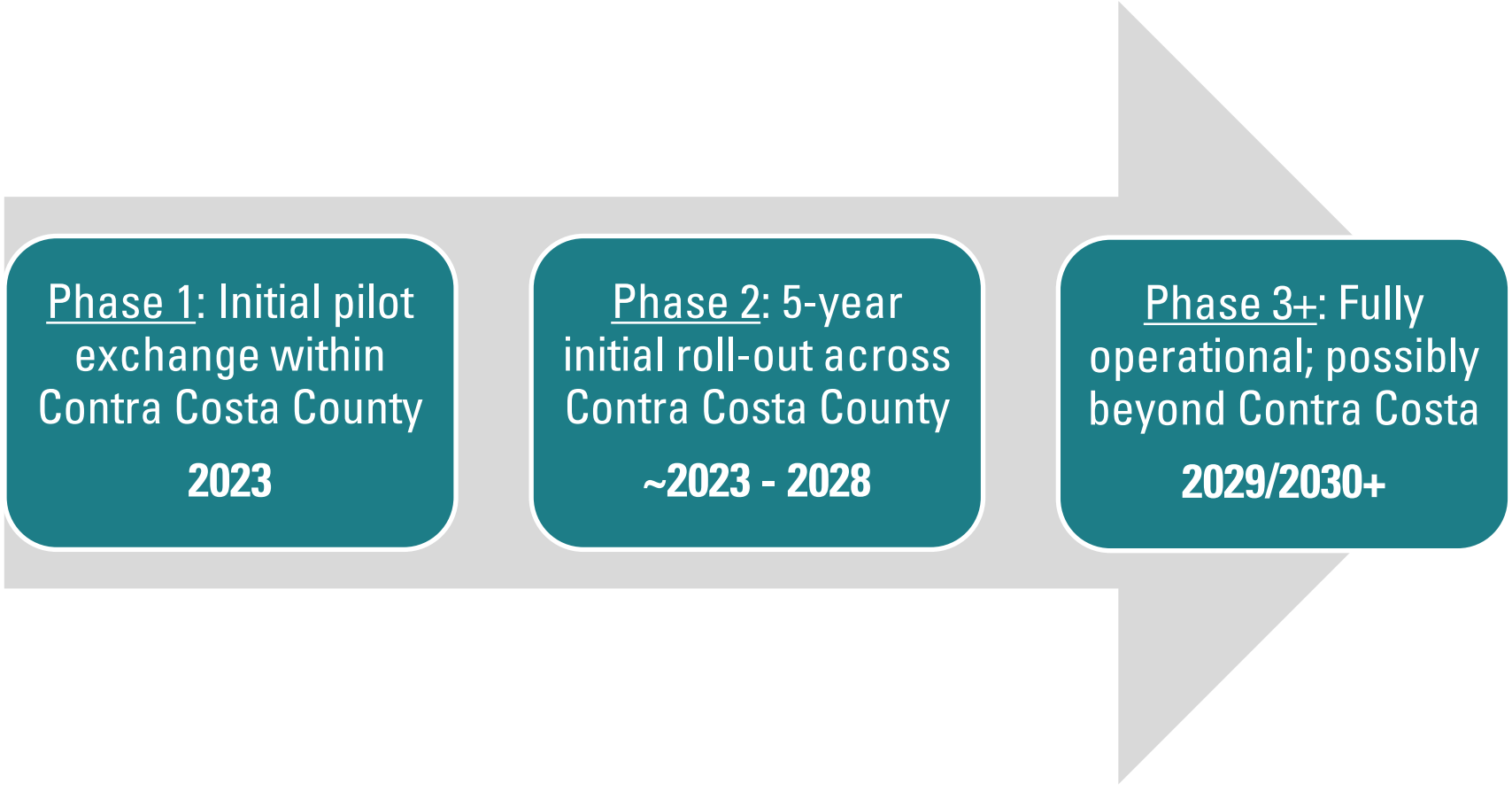
RAC System Tracking Tool

Overview of Tracking Tool

- Tracks compliance units generated and certified
- Tracks seller and buyer information
- Tracks exchanges, including number of compliance units purchased and total purchase amount
- Includes a ledger to track the compliance units sold and available for sale for each Off-Site GSI project
- Tracks O&M performed and reimbursements for O&M
- Tracks ongoing verification of compliance units
- Acts as a repository for documentation for all of the above

Next Steps for Implementation

Contra Costa County RAC System Roll-Out



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Pilot Exchange (Phase 1)

- A pilot Off-Site GSI Project has been identified in the City of San Pablo (seller). 100% design is complete, construction is funded and expected to be completed by 2024.
- A pilot permittee buyer is interested in purchasing the City of San Pablo's compliance units for Provision C.3.j compliance.
- The exchange will be piloted in 2023 and lessons learned will be documented in a memorandum.
- If changes to the RAC System result, they will be made in Phase 2 of the RAC System.

Permittee Regulator Focus Section

Next Actions for CCC Permittees

- CCCWP Permittees that would like to participate would next:
  - Get approval from City Council or similar body
  - Sign program agreement with CCCWP Administrator
  - Update Stormwater Ordinance
- There will be a training for CCCWP Permittees on the RAC System and the Tracking Tool
- As compliance units are generated and available, CCCWP Permittees could offer these as a compliance option to developers in their jurisdiction, or purchase those units

RAC System Development Details

- RAC System Development that is currently underway:
  - Pilot Exchange to pilot RAC System and document any lessons learned
  - Cost Study to estimate compliance unit price
  - Operational Document to describe standard operating practices for Administrator and permittees
- RAC System Development that will occur in near future:
  - Development of a funding and financing roadmap to identify how Off-Site GSI Projects could be implemented
  - Investigation into the O&M Community Facilities District
  - Identification and design of one regional Off-Site GSI Project to generate RAC System compliance units
  - All EPA WQIF funded tasks

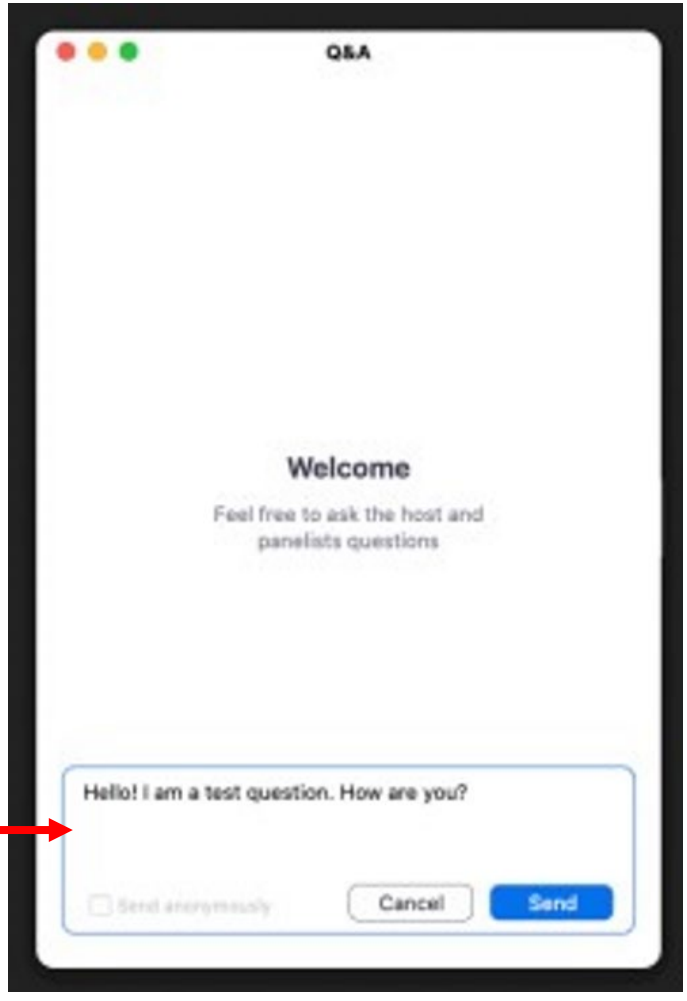
Obtaining Funding for Off-Site GSI Projects

- Sellers may choose to construct Off-Site GSI Projects upfront to receive payment through the RAC System
- If this does not cover market needs, a RAC System financing approach may be used to implement many projects up front
  - Such an approach may be conducted through a Public Private Partnership (P3) or Community Based P3
  - A P3 approach entails that the project design, construction, maintenance, administrative, and/or financial tasks be conducted by a private partner for public benefit
  - A Community Based P3 would include other requirements such as job force development or environmental benefits

Question & Answer

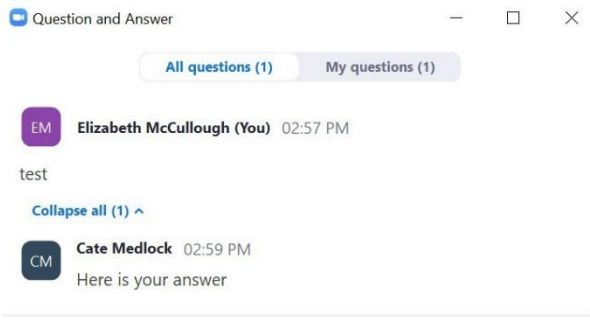
Question and Answer Section

1. Click "Q&A" button at the bottom of the screen



2. Type your question here

3. We will answer your question in Zoom or live



Closing

Image: San Mateo CWPPP

Thank You!

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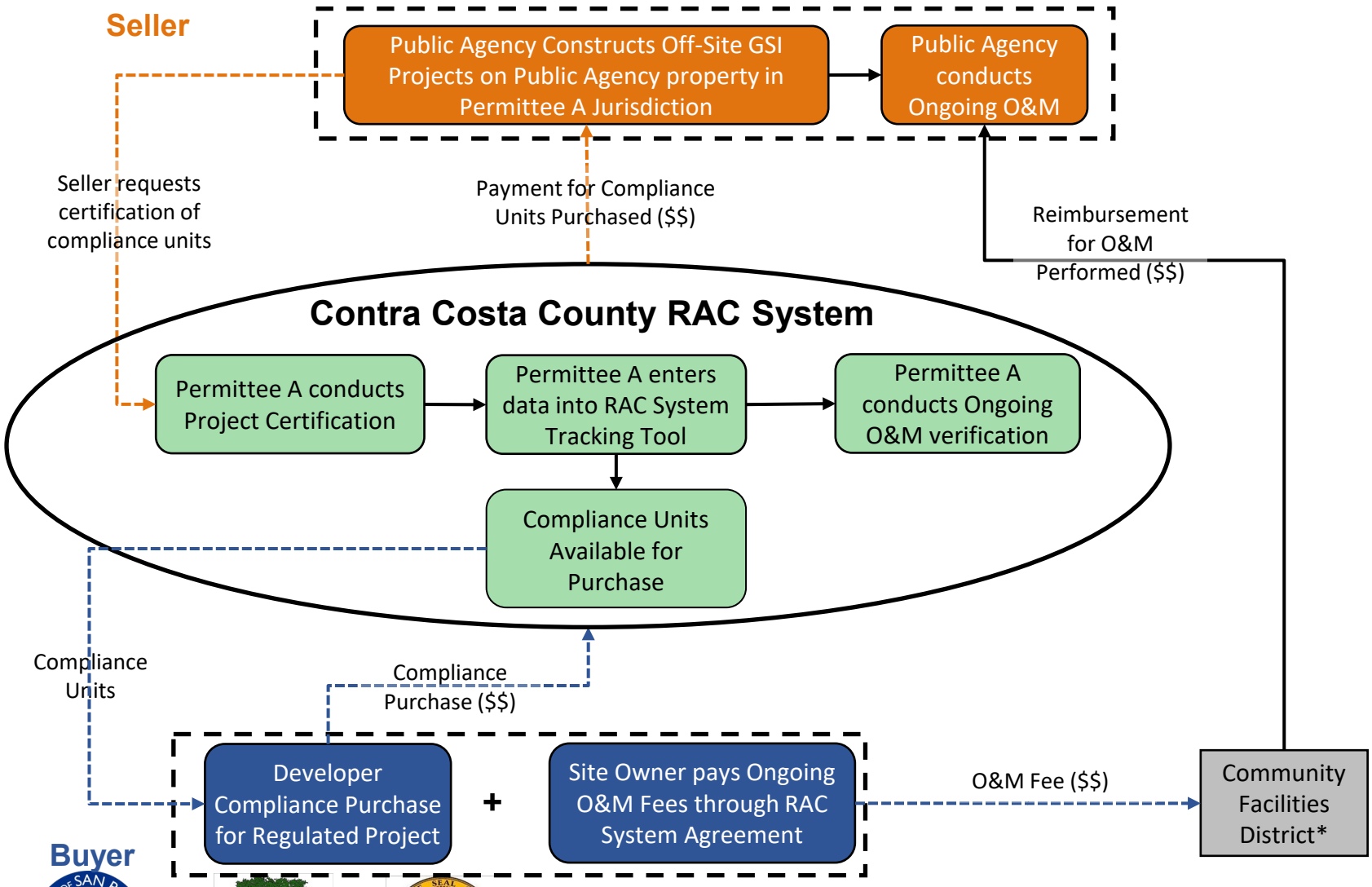
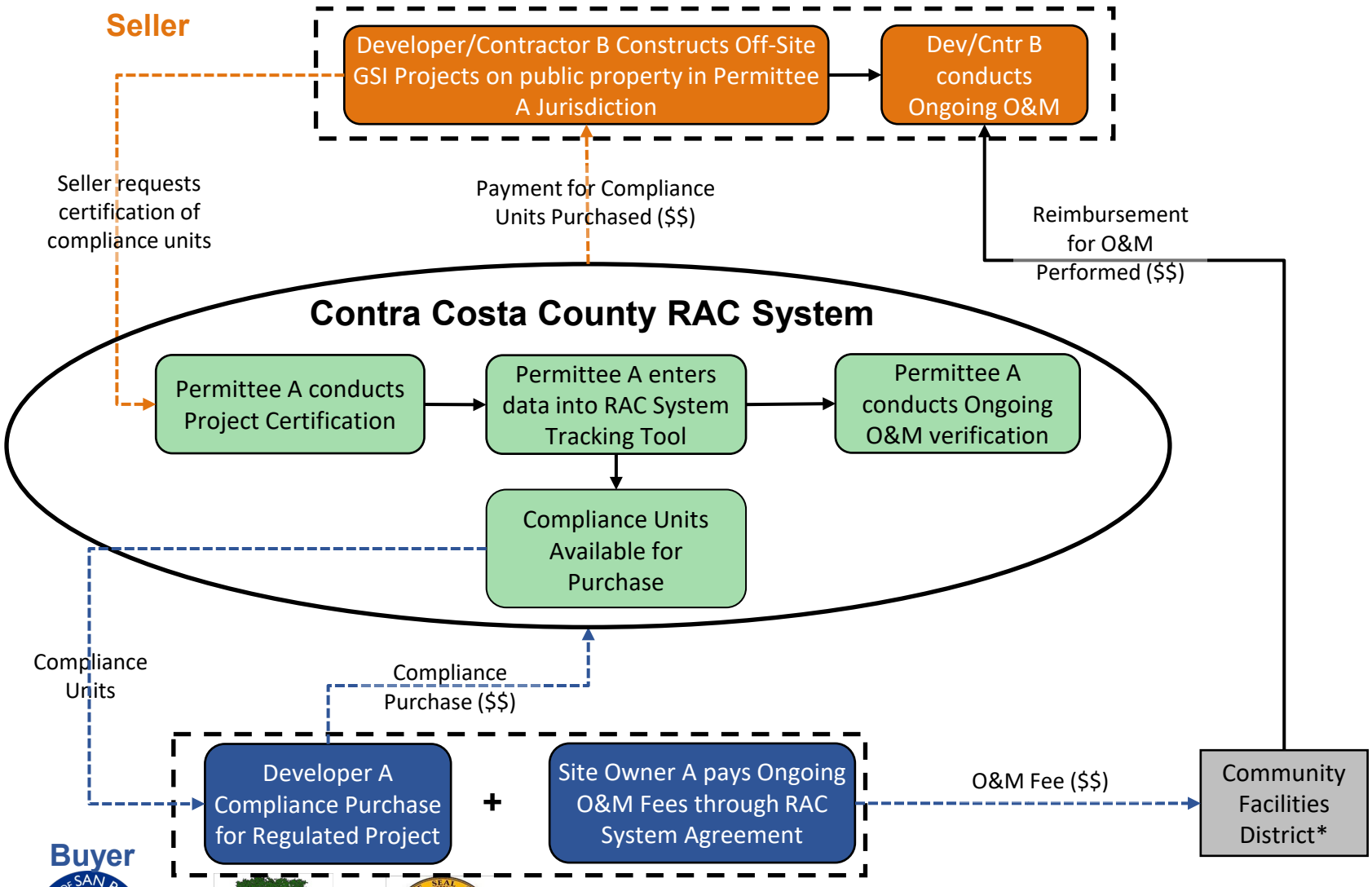
Supplemental Slides

RAC System Exchange Examples

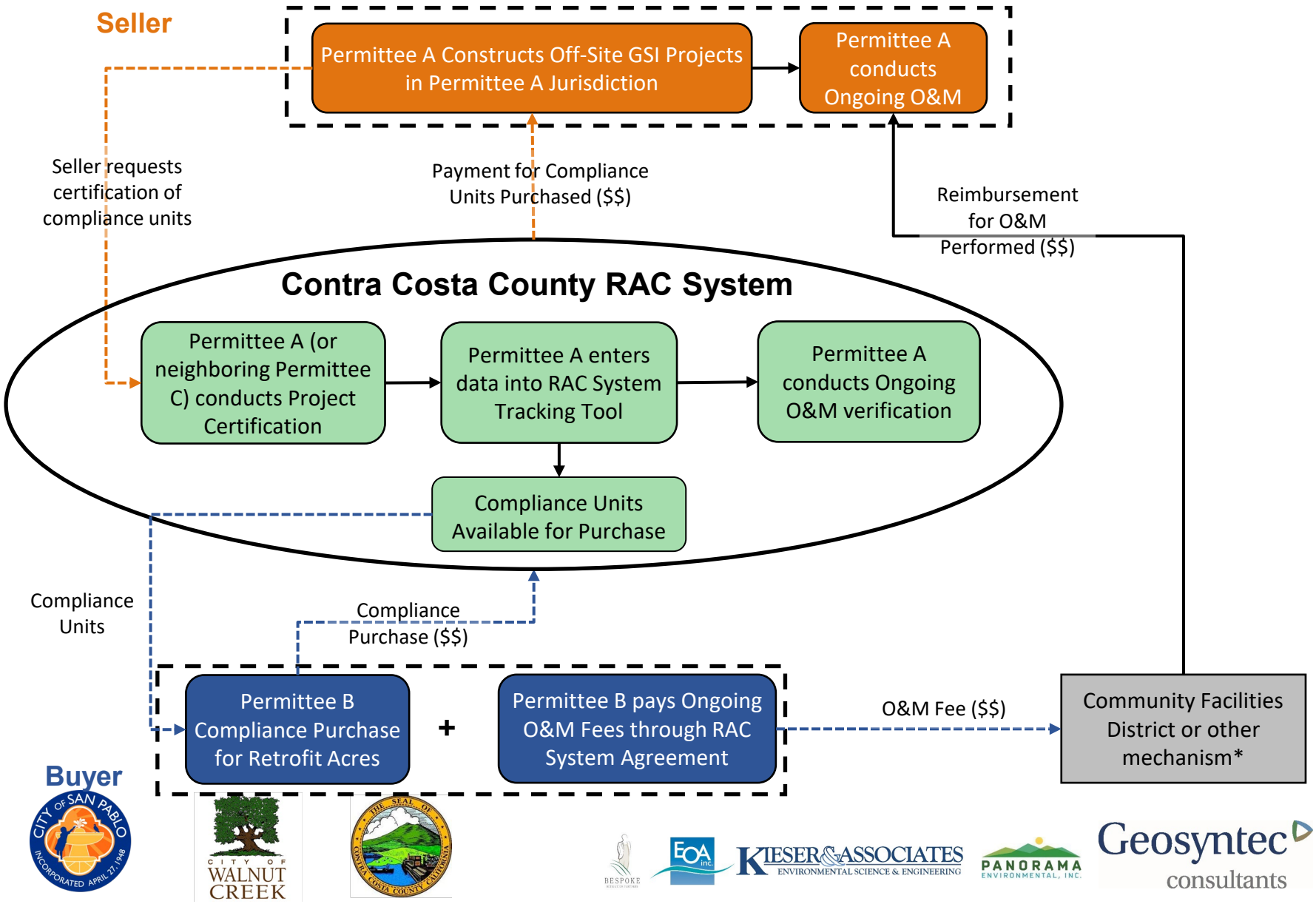
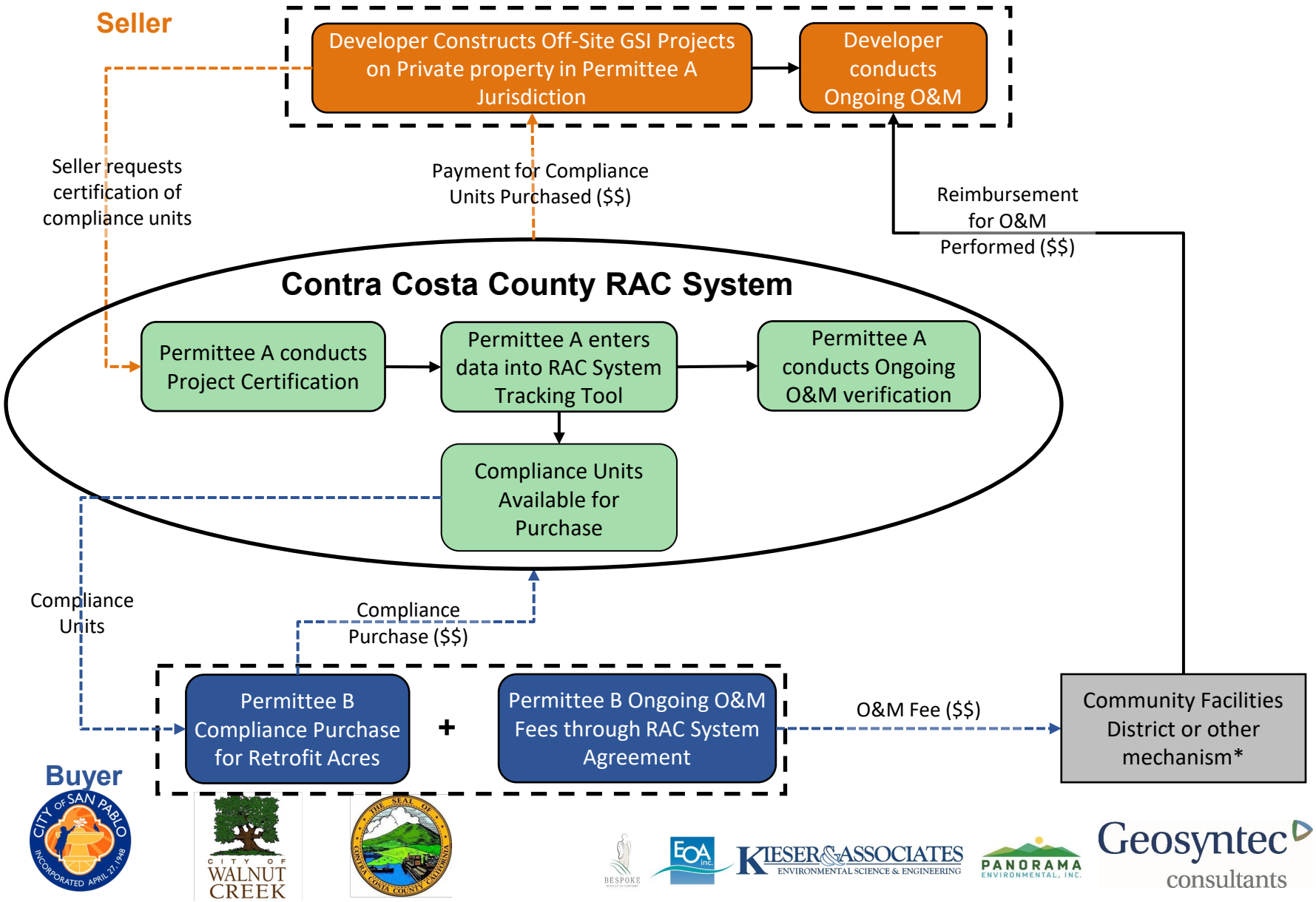
Public Agency to Developer Exchange



Private Entity to Developer Exchange



Public Agency to Public Agency Exchange



Private Entity to Public Agency Exchange