

**HAYWARD AREA SHORELINE PLANNING AGENCY
JOINT EXERCISE OF POWERS AGREEMENT**

THIS AGREEMENT, dated for convenience as of January 1, 2016, is made and entered into by and among the East Bay Regional Park District, a special district (hereinafter referred to as "Regional Park District"); the Hayward Area Recreation and Park District, a public corporation (hereinafter referred to as "HARD"); and the City of Hayward, a municipal corporation (hereinafter referred to as "Hayward"); each duly organized and existing in the County of Alameda under the constitution and laws of the State of California.

WITNESSETH:

WHEREAS, the Hayward Area Shoreline Planning Agency (hereinafter referred to as "HASPA"), is a joint powers agency consisting of representatives from the Regional Park District, HARD, and Hayward.

WHEREAS, HASPA was formed pursuant to the December 7, 1970 Joint Exercise of Powers Agreement (hereinafter the HASPA Agreement), for the purpose, among others, of preparing a comprehensive statement of planning policy for the area referred to as the Hayward Shoreline, as more particularly described herein; and,

WHEREAS, the HASPA Agreement was subsequently extended on October 7, 1975, November 13, 1979, June 10, 1985, September 11, 1990, September 21, 1995, August 25, 2000, July 1, 2005 June 30, 2010 and June 30, 2015; and,

WHEREAS, the 2015 HASPA Agreement is currently due to terminate on January 1, 2016, and the parties wish to continue HASPA and its powers and functions, to focus on responding to sea level rise since coordinating Shoreline planning activities and carrying out previously adopted policies for the Shoreline area have already been fulfilled.

NOW, THEREFORE, in consideration of the mutual promises and agreements

contained herein, the three parties agree to continue HASPA with the organization, powers, and functions that are set forth in the following.

Section 1. Definitions

- a. "Agency" shall mean HASPA.
- b. "Agreement" shall mean this Joint Exercise of Powers Agreement.
- c. "Hayward Shoreline" and "Shoreline" shall mean all areas of the City of Hayward and all areas of the unincorporated land in the Alameda County that are between the boundaries of the City of San Leandro on the north and the City of Fremont on the south and the boundary as identified by the scientific community that shows projected sea level rise for the next 100 years.
- d. "Host Agency" shall mean the member agency responsible for coordinating all meetings, preparing meeting materials, taking meeting minutes, serving as the lead on HASPA's major projects, and providing all treasurer and controller functions as indicated in this document. Host Agency duties shall rotate between the three member agencies every five years.
- e. "Parties" shall mean the Regional Park District, HARD, and Hayward.
- f. "Party" shall mean either the Regional Park District, HARD, or Hayward.

Section 2. Authority and Purpose

This Agreement is made pursuant to Chapter 5, of Division 7, Title 1 of the California Government Code (Sections 6500 et seq.) and relates to the joint exercise of powers held by each of the parties. The purpose of this Agreement is to jointly exercise the common powers of the parties to undertake all planning activities associated with sea level rise since HASPA has fulfilled the original mission, which was to study, plan, and adopt policies concerning the land uses in the Shoreline area, in order to develop a comprehensive plan for the governing bodies of the parties so that the plans and actions of each party are compatible with those of the other parties.

Section 3. Continuation of HASPA

The parties agree to continue in existence the Hayward Area Shoreline Planning

Agency to exercise the powers hereinafter set forth. The Agency shall continue to be a public entity separate from the parties.

Section 4. Powers

Subject to limitations set forth herein, the Agency shall have the power to develop plans for, prepare studies and reports, and make recommendations for the Hayward Shoreline. Specifically, HASPA shall have the following powers:

- a. To recommend appropriate revisions or additions to the parties' adopted Shoreline plans and conduct studies related thereto.
- b. To study and prepare recommendations concerning the implementation of the parties' adopted Shoreline plans.
- c. To seek funds from public and private sources for the purpose of assisting to achieve the goals of HASPA.
- d. To coordinate the implementation of the parties' adopted policies.
- e. To advise the parties regarding Shoreline issues that may affect the implementation of the parties' adopted plans.
- f. To provide public education on the parties' adopted plans and promote their implementation.
- g. To present positions on legislative matters that affects the Hayward Shoreline.
- h. The Agency is hereby authorized, in its own name, to perform all acts necessary to the fulfillment of its powers, including the following:
 1. to make and enter into contracts;
 2. to apply for and accept grants, advances and contributions;
 3. to employ or contract for the services of planners, financial; consultants, fiscal agents, and such other persons as it deems necessary;
 4. to make plans and conduct studies;
 5. to acquire, hold or dispose of personal property;
 6. to sue and be sued in its own name;
 7. to incur debts, liabilities or obligations.
- i. To explore shoreline protection in conjunction with sea level rise.

Section 5. Organization**a. HASPA Board**

The Agency shall be governed by the HASPA Board, which shall exercise all powers and authority on behalf of the Agency except as otherwise provided herein. The Board shall be composed of three (3) members who shall be known as trustees. Each party to this Agreement shall appoint a member of its governing body to be a trustee and shall appoint a second member of its governing body to be an alternate trustee to serve in the absence of that party's trustee. Each trustee and alternate shall serve at the pleasure of his or her governing body, but in no event shall either a trustee or alternate trustee serve on the Board if he or she is no longer a member of the governing body of a party. The trustees shall elect from among themselves such officers and establish therefore such terms, as they deem necessary or desirable. Meetings of the HASPA Board shall be called by the chairperson or by any two (2) other trustees. Written notice of a meeting shall be provided to all trustees at least seven (7) days prior to a meeting. At least two (2) trustees or their alternate must be present for the Board to take any action, except to adjourn from time to time. All meetings are public meetings subject to the Ralph M. Brown Act, or California's open meeting laws pursuant to Government Code Section 54950-54963. The Board of Trustees may adopt bylaws that set forth how meeting will be conducted including the time allowed for public comments on agendized matters before the Board, time and place of regularly scheduled meetings, etc.

b. Technical Advisory Committee

A Technical Advisory Committee shall provide staff support services to the HASPA Board. The Technical Advisory Committee shall be composed of three (3) members. The chief executive officer of each party shall appoint a staff member and an alternate staff member, who shall serve in the absence of the staff member, to act as that party's representative to the Technical Advisory Committee. The chairperson of the HASPA Board shall appoint one member of the Technical Advisory Committee as the chairperson of the committee. The

Technical Advisory Committee shall meet at the call of its chairperson or at the call of the chairperson of HASPA Board. The Technical Advisory Committee shall review and discuss matters related to sea level rise since the original goals and objective of HASPA have been fulfilled. These previous goals and objectives involved the coordination of Shoreline activities and implementation of the parties' adopted Shoreline plans. The Technical Advisory Committee shall make recommendations to the HASPA Board regarding the new mission of sea level rise. Questions presented to the Technical Advisory Committee shall be resolved upon the basis of one vote for each party represented. The chairperson of the Technical Advisory Committee may invite any person, group, or agency to participate in the discussions of the Technical Advisory Committee when such participation would aid its deliberations. Without limiting the discretion of the chairperson to extend such invitations, the participation of representatives from Hayward Unified School District, San Lorenzo Unified School District, Alameda County Flood Control and Water Conservation District, Alameda County Mosquito Abatement District, San Francisco Bay Conservation and Development Commission, State of California Department of Fish and Wildlife, State Coastal Conservancy, Soil Conservation Service of the United States, Department of Agriculture, United States Army Corps of Engineers, United States Fish and Wildlife Service, United States Environmental Protection Agency are particularly encouraged.

Section 6. Budget and Finance

a. Budget

HASPA may adopt a budget for activities consistent with its powers and may request the contribution of funds for the expenditures included in that budget.

b. Financial Commitments, Debts, and Surplus Funds

HASPA shall not make any financial commitment that requires revenues in excess of those available to it. Under no circumstances shall the debts, liabilities, and obligations of HASPA be the debts, liabilities or obligations of

any party to this Agreement. If there is any surplus money on hand following the termination of this Agreement, the surplus shall be returned to the parties that are members of HASPA on the date the Agreement is terminated in proportion to their previous contributions.

Section 7. Treasurer, Controller, Accountability, and Access to Property

a. Treasurer

The Host Agency shall be the treasurer of HASPA, be the depository, and have custody of all the money of the Agency from whatever source. The treasurer shall:

1. Receive and receipt for all money of the Agency and place it in the treasury of the Treasurer to the credit of HASPA.
2. Be responsible upon his or her official bond for the safekeeping and disbursement of all Agency money, and personal property.
3. Pay, when due, out of money of the Agency, all sums due from the Agency from Agency money, or any portion thereof, only upon warrants of the public officer performing the functions of Controller of the Agency.
4. Verify and report in writing on the first day of July, October, January, and April of each year to the Agency, and to each of the parties, the amount of money held for HASPA, the amount of receipts since the last report, and the amount paid out since the last report.
5. Invest all of the Agency's funds not currently required in the manner provided by law including but not limited to Government Code sections 6509.5 and 53601 and collect interest thereon for account of the Agency.

b. Controller

The Host Agency shall be the controller of HASPA. The controller shall draw warrants to pay demands against the Agency when the demands have been duly authorized by the Board.

c. Accountability of Funds

There shall be strict accountability of all HASPA funds and report of all receipts and disbursements and compliance with Article 1, Chapter 5, Division 7, Title 1 of the California Government Code (Section 6500 et seq.). The controller shall either make or arrange for a contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of the Agency. In each case, the audit shall conform to generally accepted auditing standards. The records and accounts of the agency shall be audited annually, and a report thereof shall be filed as a public record with the Board of Trustees, each party, and the Alameda County Auditor not later than six months following the end of the fiscal year under examination.

d. Access to Property

The treasurer is hereby designated as the person who has charge of, handles, and has access to the property of the Agency.

e. Reporting Requirements in the Absence of HASPA Held Funds

Notwithstanding Section 7(a) - (d) and provisions of Government Code Section 6500 et seq., all parties hereto agree that the reporting and audit requirements of Section 7(a) - (d) shall not apply if HASPA holds no funds under its own name.

Section 8. Effective Date and Withdrawal of a Party

This Agreement shall be in full force and effect upon the date of execution by the last party hereto and shall terminate on January 1, 2021, or upon such earlier date, which the parties mutually establish by resolution of their governing bodies. Any party may withdraw from HASPA by resolution of its governing body. The remaining members shall determine the disposition or retention of all funds committed to HASPA.

Section 9. Severability

If any one or more of the covenants or agreements set forth in this Agreement should be contrary to any provision of law or contrary to the policy of law to such an extent as to be unenforceable in any court of competent jurisdiction then such covenant or covenants, or such

agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements and shall in no way affect the validity of remaining portions of this Agreement.

Section 10. Counterparts.

This Agreement may be separately executed in any number of counterparts, and each counterpart signature page and the remainder of this Agreement shall constitute the original Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers.

EAST BAY REGIONAL PARK DISTRICT

Date of Approval: _____

Resolution No. _____

President

Clerk of the Board

HAYWARD AREA RECREATION AND PARK DISTRICT

Date of Approval: _____

Resolution No. _____

President, Board of Directors

Secretary, Board of Directors

CITY OF HAYWARD, A Municipal Corporation

Date of Approval: _____

Resolution No. _____

Fran David, City Manager

City Clerk

APPROVED AS TO FORM

Michael Lawson, City Attorney