



## HAYWARD AREA SHORELINE PLANNING AGENCY

City of Hayward  
East Bay Regional Park District  
Hayward Area Recreation and Park District

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April 11, 2024

- 3:00 PM -

In-Person and Remote Participation

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### HASPA Board of Trustees Meeting Agenda

A Joint Powers Authority comprised of the East Bay Regional Park District, Hayward Area Recreation and Park District, and the City of Hayward.

**Meeting location:** HARD District Office at 1099 E Street, Hayward, CA and online via Zoom  
Register for meeting link:

[https://ebparks.zoom.us/webinar/register/WN\\_9IzWmA6TSDO1XAsGCOMmFA](https://ebparks.zoom.us/webinar/register/WN_9IzWmA6TSDO1XAsGCOMmFA)

#### Special notice regarding public participation:

The Hayward Area Shoreline Planning Agency (HASPA) intends to hold meetings through a hybrid platform of in-person and remote attendance to allow members of the public to participate via remote attendance through the East Bay Regional Park District's (EBRPD) virtual platform, Zoom. The Board of Trustees and designated staff will, with limited exceptions, participate in-person at the office of Hayward Area Recreation and Park District (HARD), District Office at 1099 E Street, Hayward, or other designated public facility within the HASPA service area. Occasionally, members of the Board of Trustees may attend remotely as permitted by the Brown Act.

#### For those members of the public not attending in-person, public comments may also be submitted one of in the following ways:

1. Send an email to [asanders@ebparks.org](mailto:asanders@ebparks.org) by 12:00 p.m. the day of the meeting. Please identify the Agenda Item Number in the subject line of your email. Emails will be compiled into one file, distributed to the HASPA Board of Trustees and Technical Advisory Committee (TAC) staff, and published on the EBRPD Public Meeting Page (<https://www.ebparks.org/calendar/public-meetings>). Written comments received after 12:00 p.m. that address an item on the agenda will still be included as part of the record.

2. Live via Zoom. If you would like to make a live public comment during the meeting this option is available through the virtual meeting platform: \*Note: this virtual meeting preregistration link will have you preregister for the meeting and then provide you details to the virtual meeting for the purpose of providing a public comment. Registration required:

[https://ebparks.zoom.us/webinar/register/WN\\_9IzWmA6TSDO1XAsGCOMmFA](https://ebparks.zoom.us/webinar/register/WN_9IzWmA6TSDO1XAsGCOMmFA)

Comments received during the meeting and up until the public comment period on the relevant agenda item is closed will be provided in writing to the HASPA Board of Trustees. All comments received by the close of the public comment period will be available after the meeting as supplemental materials and will become part of the official meeting record. If you have any questions, please contact Amanda Sanders at [asanders@ebparks.org](mailto:asanders@ebparks.org) or (510) 544-2650.

**How to view the meeting virtually and provide live Public Comment during the meeting: Registration is required at below link. Meeting details will be provided when registration is completed.**

When: April 11, 2024 03:00 PM Pacific Time (US and Canada)

Topic: HASPA Board of Trustees Meeting

**Register in advance for this webinar:**

[https://ebparks.zoom.us/webinar/register/WN\\_9lzWmA6TSDO1XAsGCOMmFA](https://ebparks.zoom.us/webinar/register/WN_9lzWmA6TSDO1XAsGCOMmFA)

## **CALL TO ORDER**

## **ROLL CALL**

### **Public Comments**

*The Public Comment section provides an opportunity to address the Board on items not listed on the agenda. The Board welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits, and focus on issues which directly affect the Board or are within the jurisdiction of the Board. As the Board is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff.*

- 1. Approval of Minutes from the HASPA Meeting Held on March 21, 2024 - Draft Action Minutes of March 21, 2024 (Attachment 1)**
- 2. City of Hayward Project Updates (City Staff)**
- 3. Public Agency and Community Outreach Program Draft (Devan Reiff, EBRPD) (Attachment 2)**
- 4. Adoption of new Joint Powers Authority Agreement (HASPA Trustees Action Item) (Attachments 3, 4, 5, 6, 7)**
- 5. Old Business (TAC and Board):**
  - a. Recruitment Efforts for Additional Trustee Agencies**
  - b. Community Engagement Activities**
- 6. New Business (TAC and Board):**
  - a. Updates on Trustee Agency Capital Projects**
- 7. Board Member Announcements**

**8. Agenda Setting for Next Meetings**

- a. **May 9, 2024 HASPA Special Meeting Agenda**
- b. **July 11, 2024 HASPA Regular Meeting Agenda**
- c. **October 10, 2024 HASPA Regular Meeting Agenda**

**ADJOURNMENT**

*HASPA facilities and meetings comply with the Americans with Disabilities Act. If special accommodations are needed for you to participate, please contact EBRPD staff at (510) 544-2325 as soon as possible, but preferably at least three working days prior to the meeting.*

*Attachment 1: 3.21.2024 HASPA BOT Minutes*

**HAYWARD AREA SHORELINE PLANNING AGENCY  
City of Hayward  
East Bay Regional Park District  
Hayward Area Recreation and Park District**

Meeting of Board of Trustees  
Hybrid Meeting: Hayward Area Park & Recreation District & Zoom  
March 21, 2024

**DRAFT MINUTES**

**HASPA TRUSTEES PRESENT:**

Dennis Waespi, East Bay Regional Park District, HASPA Chair (Remote Attendance)  
Lou Andrade, Hayward Area Recreation and Park District  
Francisco Zermeño, City of Hayward

**HASPA PROSPECTIVE TRUSTEES PRESENT:**

Eric Hentschke, Alameda County Mosquito Abatement District  
Rita Duncan, Oro Loma Sanitary District

**HASPA TAC MEMBERS PRESENT:**

Devan Reiff, East Bay Regional Park District  
Eddie Willis, East Bay Regional Park District  
Taylor Richard, City of Hayward  
Erik Pearson, City of Hayward  
Brian Laczko, Hayward Area Recreation and Park District  
Erika Castillo, Alameda County Mosquito Abatement District  
Jackie Zipkin, East Bay Dischargers Authority  
Jimmy Dang, Oro Loma Sanitary District

**STAFF:**

Amanda Sanders, East Bay Regional Park District  
Jason Rosenberg, East Bay Regional Park District  
Robbie Parry, East Bay Regional Park District  
Makenna Colucci, City of Hayward  
David Donovan, City of Hayward

**VISITORS:**

Nicole Witt, Hanson Bridgett  
Maria Long, Alameda County Supervisor Marquez' office

Alex Ameri

**CALL TO ORDER:** A special meeting of the Hayward Area Shoreline Planning Agency (HASPA) was called to order at 3:00 P.M. by Chair Zermeño, and role was taken by Devan Reiff.

**1. Approval of Minutes from the HASPA Meeting held on February 8, 2024 - Draft Action Minutes of February 8, 2024 (Attachment 1)**

Trustee Andrade motioned the vote and Trustee Waespi seconded. Vote: Ayes Zermeño – Zermeño, Andrade, Waespi. Approved unanimously.

**Public Comments:** None

**2. Welcome Remarks from New HASPA Chair, Francisco Zermeño**

Chair Zermeño mentioned that he has large shoes to fill. He thanked the group for the opportunity to lead HASPA. Chair Zermeño said that he is looking forward getting the JPA language approved and starting HASPA projects.

**3. City of Hayward Project Update**

Taylor Richard provided a short update regarding the Stack Data Center project application. There will be a workshop meeting at the Hayward Planning Commission on April 11, 2024. Feedback from February HASPA meeting was given to the applicant.

**4. Update on JPA Agreement (Attachments 2, 3 and 4)**

Devan Reiff thanked the TAC members who have worked hard to create and update the language for the JPA Agreement, and now an updated version of the JPA Agreement has been prepared. One of the remaining issues was how many agencies would be needed to approve motions. There were changes from January 2024: HARD joining as a Tier 3 agency, approval for weighted voting is 51%, and surcharge allocations – a party must consent to a higher allocation (than the percentages in Schedule C). Three membership tiers, where operating budgets are the criteria for which tier an agency belongs to. Current suggested weighted voting percentages: ACMAD – 10%, Oro Loma – 18%, HARD – 24%, Hayward – 24%, EBRPD – 24%. We will bring a final draft JPA Agreement to the April 11<sup>th</sup> BOT meeting for a vote. Staff is currently preparing plans for two forms of engagement. Regarding weighted voting, the intent is that each Trustee would decide if they wanted weighted voting on any given action. The Trustee would need to request weighted voting before a motion is made. Trustee Waespi mentioned that TAC members should mention to HASPA Trustees if weighted voting is/isn't in their agencies' best interest.

Prospective Trustee Hentschke mentioned that Alameda County Mosquito Abatement District had several housekeeping items regarding the Draft JPA Agreement. Nicole Witt of Hanson Bridget requested that Prospective Trustee Hentschke email the list of items to herself and Devan Reiff as soon as possible for incorporation in the final draft. Prospective Trustee Hentschke asked

how percentages (in Schedule C) will be adjusted if another agency member joins HASPA. Nicole responded that if a new agency wanted to join the dues table (Schedule C) would need to be renegotiated for different percentages, and there are multiple possibilities for how to handle that if it happens.

Prospective Trustee Duncan stated that Oro Loma Sanitary District can't participate in HASPA with a financial commitment of 18% of the HASPA total operating budget. The Oro Loma Board would be willing to sign as a HASPA Trustee if the expected dues contribution was a flat amount, instead of a percentage of the budget. In addition, other shoreline owners like Alameda County Flood Control should be involved with HASPA. Devan mentioned that the HASPA TAC did consider a cap on annual dues increases, using the Consumer Price Index (CPI), but staff and legal counsel did not recommend this proposal because it wouldn't be flexible enough for needed agency expenses. Prospective Trustee Duncan stated that an option could be to raise the price to join HASPA now and then use CPI later. Taylor Richard commented that there are multiple protections for agencies regarding budgeting.

Trustee Andrade stated that HARD is okay with the JPA agreement language. Trustee Waespi said that HASPA needs to take advantage of the grants and money available for projects and get the JPA approved. Prospective Trustee Duncan reiterated that she has stated since Oro Loma started participating at HASPA Trustee meetings that there needed to be additional agencies in HASPA, and that efforts to encourage other agencies have only restarted recently. Trustee Andrade said that the HASPA JPA is changing from a debating agency to action agency.

Chair Zermeño mentioned some housekeeping items regarding the draft JPA Agreement. He then asked about the section on pages 16 and 17 which mentions ACMAD, HARD, Hayward, but doesn't mention EBRPD or Oro Loma. Nicole replied that they weren't left out, just didn't list their agency name in the Whereas section clauses. Trustee Waespi brought up that there was a HASPA Citizens Advisory Committee previously, in the future it might be nice to have such a group brought back as part of HASPA.

Devan Reiff thanked Prospective Trustee Duncan and Jimmy Dang for their participation and hard work. Trustee Waespi asked what the timeline is to have the JPA approved. Devan replied that the final clean copy will be brought forward at the April 11<sup>th</sup> BOT meeting, followed by an approval vote, then each Trustee agency seeks approval by their agency Boards by June.

## **5. Old Business (TAC and Board)**

### **a. Recruitment Efforts for Additional Trustee Agencies**

- Would like a list of prospective new agencies

### **b. Community Engagement Activities**

- Earth Day
- Cinco de Mayo
- Citizens Advisory Committee – look into possibility of starting one eventually

## **6. New Business (TAC and Board)**

**a. Updates on Trustee Agency Capital Projects**

- Trustee Waespi brought up the Stack Data Center project on the Hayward Shoreline that Taylor Richard previously updated the Board about. . He wants there to be more benefits for the community because of how large the visual impact will be. Taylor suggested that HASPA writes a letter to be turned in at the April 11<sup>th</sup> Hayward Planning Commission working session meeting. She mentioned that alternatively, someone from the BOT can go to the meeting to give comments. Erik Pearson added that the overall approval time is going to be long, possibly nine to ten months for a decision.

**7. Board Meeting Announcements**

Trustee Andrade said that KQED had a big feature on Oro Loma First Mile Levee Project.

Prospective Trustee Duncan mentioned that the Environmental Protection Agency staff recently visited Oro Loma, and there was a lot of press coverage.

Prospective Trustee Hentschke reminded everyone that it is mosquito season, drain your pots and standing water outside. Trustee Waespi asked if there are reports of West Nile Virus locally, and if ACMAD could do a presentation. Prospective Trustee Hentschke replied that they could in the future.

**8. Agenda Setting for Next Meeting**

- Presentation from One Shoreline – San Mateo County

Meeting adjourned at 4:00pm

*Attachment 2: HASPA Public Agency Engagement Plan***HAYWARD AREA SHORELINE PLANNING AGENCY****Memorandum**

**DATE:** April 11, 2024

**TO:** HASPA Board of Trustees

**FROM:** Devan Reiff (EBRPD) and TAC

**SUBJECT:** HASPA Public Agency and Community Engagement Strategy

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HASPA Technical Advisory Committee (TAC) staff have considered how to grow HASPA to include more public agencies to join either the Board of Trustees or the Technical Advisory Committee. This memo presents some ideas and goals to approach those agencies that might benefit from participation in HASPA, as it is the only “sub-regional” climate adaptation agency on the Hayward Shoreline, a long-standing JPA with an approved Master Plan.

**I. Public Agencies**

- a. HASPA Trustees have been either approached or in conversation with representatives of **Alameda County Board of Supervisors**, the **Alameda County Flood Control District**, the **City of San Leandro**.
- b. Joining the HASPA JPA as a member of the Board of Trustees is a legal commitment which requires the prospective agency to the payment of annual dues and certain obligations (such as naming a Trustee and an alternate for participation in regular quarterly Board meetings). The governing Board or Council of a prospective HASPA Trustee must take action to join HASPA, so it is the role of HASPA Board members to educate their peers at these elected bodies, and HASPA TAC staff’s role to educate the equivalent staff (such as Planning staff, or Sustainability staff).
- c. Table I lists public agencies and private companies that can be approached by staff and HASPA Trustees to consider joining either the Board or the TAC. Some of the agencies and companies were approached in a previous recruitment effort during the adoption of the Hayward Master Plan.



**Table I. Public Agencies and Private companies**

Agency	Board	TAC	Notes
<b>Public</b>			
1. Alameda County Board of Supervisors	X		
2. Alameda County Planning staff		X	Staff invited to both TAC and BOT
3. Alameda County Flood Control District	X		Staff and consultant both participate on TAC currently
4. City of San Leandro	X		Inquiry made by city staff
5. Castro Valley Sanitation District	X		
6. South Bay Salt Ponds		X	Administered by CA Coastal Conservancy
7. San Francisco Bay Restoration Authority		X	Administered by CA Coastal Conservancy
8. Capitol Corridor		X	Participates occasionally on TAC.
9. BCDC		X	Invited to TAC
10. Hayward Chamber of Commerce		X	For industrial property owners near the shoreline
<b>Private</b>			
Calpine	X		
Union Pacific RR	X		
San Lorenzo Village Homes Assoc.		X	Closest residential development to shoreline
Eden Shores Homeowners Assoc.		X	Residential development in South Hayward

- d. Approach: In general, elected officials should communicate directly with their counterparts at the public agencies’ boards or councils. And TAC staff should communicate with staff at those agencies to coordinate.
- e. Presentations: in addition to one -on-one communication, HASPA Trustees can make informational presentations to the public agency boards, after staff secures places on the agency meeting agendas. Private company outreach should probably be limited to one-on-one communication with executive leadership and the HASPA Trustees.

**2. Community engagement Strategy**

Table 2 lists current and future community engagement opportunities for HASPA TAC staff to have a table and present HASPA activities to the general public (attending the scheduled event).

**Table 2. Community engagement events**

<b>Agency/Event</b>	<b>Date</b>	<b>Venue</b>	<b>Notes</b>
<i>City of Hayward</i>			
Earth Day	April 20	Weekes Park, 27182 Patrick Ave, Hayward	HASPA table is confirmed. Staffing is being confirmed
Downtown Street Fairs	June-August	Downtown Hayward	3 events; HASPA table and staff not confirmed
Hayward Library events	TBD	Main library	HASPA events not confirmed
<i>HARD</i>			
Shoreline Center	TBD	Shoreline Center	Coordinate with HARD as a venue for future HASPA engagement events
<i>Other</i>			
<i>TBD</i>			

3. Graphics

HASPA needs good-quality brochures, maps and handouts for the public to be able to learn more information, with a QR code link to the HASA website (currently hosted by EBRPD).

*Attachment 3: HASPA JPA Report*



## HAYWARD AREA SHORELINE PLANNING AGENCY

### *Memorandum*

**DATE:** April 11, 2024

**TO:** HASPA Board of Trustees, TAC

**FROM:** Devan Reiff, EBRPD

**SUBJECT:** Proposed JPA Agreement for Adoption

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Since 2022, the Hayward Area Shoreline Planning Agency (HASPA) Board of Trustees, and prospective Trustees from Alameda County Mosquito Abatement District (ACMAD) and the Oro Loma Sanitary District (Oro Loma) have been deliberating on how to expand HASPA from a three agency Joint Powers Authority to a five or more member agency. A larger HASPA Board will accelerate the implementation of the Hayward Regional Shoreline Adaptation Master Plan (Master Plan), and measures to prepare for expected impacts from future sea-level rise, which necessitated the drafting of a new Joint Powers Authority Agreement (JPA Agreement).

At the March 21, 2024 HASPA Board of Trustees meeting, the HASPA Board prospective Trustees, and staff from the Board and prospective Trustees on the Technical Advisory Committee (TAC) discussed a new Joint Powers Authority Agreement (JPA Agreement).

The prospective Trustee from the Alameda County Mosquito Abatement District shared comments from that agency's counsel about suggested edits to the JPA Agreement; those comments have substantially been incorporated into the Agreement. The clean copy of the revised JPA agreement is Attachment I to this report.

The prospective Trustee from the Oro Loma Sanitary District noted that their Board was concerned about joining HASPA because of the prospect of committing to a fixed percentage of future operating costs for HASPA if those costs were as yet unknown, but expected to increase after year 1 (FY 2025). Further, their concern was that costs in HASPA weren't constrained by some metric, such as limiting future membership dues to the Consumer Price Index (CPI). Staff shared a slide in the presentation that responded

to the concern: that using a cap on dues increases (such as CPI or another metric), would limit the flexibility in budgeting to account for different activities of HASPA; also, there is a contradiction of both wanting HASPA to grow, but limiting its budget to do so. Oro Loma's Board is also concerned that more Hayward Shoreline public agency landowners aren't being approached to join the HASPA Board. Staff said they would bring a draft public agency and community engagement plan to this HASPA meeting.

After a year and a half of drafting, commenting, and editing, staff is bringing a clean copy of the JPA Agreement for approval by the Board and the Boards of prospective Trustees. Trustees and prospective Trustees have regularly expressed an interest in HASPA becoming a larger agency, ensuring its longevity to protect the Hayward Shoreline from the effects of climate change and sea level rise. The goals of this new JPA Agreement are to meet HASPA's evolving needs for the next 20+ years and to give the agency maximum flexibility to address possible future expansion in operations and management. This JPA Agreement seeks to balance the efficient functioning of the agency and adequate protections for the parties.

Staff recommends that the HASPA Board adopt the JPA Agreement, with its tables for membership tiers and weighted voting -- Schedules C and CI (Attachment 2).

Then, the Board can direct staff to work with the TAC to schedule adoption of the JPA Agreement at public meetings of the three Trustee Agencies (East Bay Regional Park District, City of Hayward, and the Hayward Area Recreation and Park District), and at public meetings of the prospective Trustees: (Alameda County Mosquito Abatement District, Oro Loma Sanitary District). With the agreement of these Boards and one Council, the new HASPA agency would hold its first meeting in July 2024 to adopt a budget and other administrative matters. The new HASPA Board could accept grants to fully implement the Master Plan, and to explore other governing options to expand HASPA's participation by other local agencies and private companies with an interest in the future of the Hayward Shoreline. The new HASPA Board could hire a consultant to operate HASPA with the most current best practices of JPA administration.

*Attachment 4: HASPA Amended and Restated JPA Agreement*

**AMENDED AND RESTATED HAYWARD AREA SHORELINE PLANNING AGENCY  
JOINT EXERCISE OF POWERS AGREEMENT**

**July 1, 2024**

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Schedule C-1: Example Annual Dues Table



**AMENDED AND RESTATED HAYWARD AREA SHORELINE PLANNING AGENCY  
JOINT EXERCISE OF POWERS AGREEMENT**

THIS AGREEMENT, dated for convenience as of July 1, 2024, 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 Oro Loma Sanitary District, a sanitary district (hereinafter referred to as “Oro Loma”), the Alameda County Mosquito Abatement District, a mosquito control district (hereinafter referred to as “ACMAD”), the Hayward Area Recreation and Park District, a California special district (hereinafter referred to as “HARD”); and the City of Hayward, a municipal corporation (hereinafter referred to as “Hayward”) (collectively “Parties” and individually “Party”); 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” or “Agency”), is a joint powers authority consisting of representatives from the Regional Park District, Oro Loma, ACMAD, HARD, and Hayward;

WHEREAS, HASPA was formed pursuant to the December 7, 1970 Joint Exercise of Powers Agreement (hereinafter the “Agreement”);

WHEREAS, the 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, June 30, 2015, December 1, 2015, January 1, 2021, January 1, 2022, June 30, 2022, and May 11, 2023;

WHEREAS, HASPA's original purpose, which has been fulfilled, 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 original parties so that the plans and actions of each party are compatible with those of the other parties;

WHEREAS, the Hayward Shoreline faces serious impacts to public health, infrastructure, and resources caused by sea level rise, groundwater intrusion, and storm surge (“Climate Change Impacts”);

WHEREAS, HASPA adopted the Hayward Regional Shoreline Adaptation Master Plan, which creates a framework for a region-wide response to Climate Change Impacts;

WHEREAS, the Parties wish to continue HASPA and its powers and functions in addressing the new mission of responding to Climate Change Impacts by promoting public health and climate adaptation measures, protecting critical infrastructure at the shoreline, and maintaining public access to the shoreline, as more particularly described herein;

WHEREAS, Climate Change Impacts create a unique challenge to the preservation of open space resources at the shoreline. Climate adaptation measures facilitate the conservation and restoration of park lands and habitat for threatened species in the East Bay;

WHEREAS, Climate Change Impacts threaten waste water treatment facilities located along the Hayward Shoreline. Addressing and mitigating sea level rise is necessary to ensure these sanitary sewer facilities remain functional and to prevent the sewer overflows into the San Francisco Bay in order to protect public health;

WHEREAS, the coastal inundation and flooding exacerbated by sea level rise increase the breeding habitat for mosquitoes and warmer temperatures associated with climate change can accelerate mosquito development. Engaging in preventative climate change efforts is a crucial way to combat and prevent the transmission of vector-borne diseases which will further ACMAD’s mission of improving the health and comfort of Alameda County residents;

WHEREAS, HARD is a recreational and park district established under Public Resources Code Section 5780 *et seq.* empowered to, among other things, acquire, operate, maintain, and improve recreational facilities and open space, which includes the authority to respond to Climate Change Impacts by implementing climate adaptation measures to safeguard its property;

WHEREAS, the City of Hayward, pursuant to Section 200 of the City Charter and Article XI, Section 5 of the California Constitution, may make and enforce all laws and regulations in respect to municipal affairs, and pursuant to Article XI, Section 7 of the California Constitution may exercise its police powers to make and enforce ordinances and regulations to promote the public health, safety, and welfare, which includes development and implementation of climate adaption measures to address Climate Change Impacts along the Hayward Shoreline, including sea level rise and/or inundation;

WHEREAS, the Parties desire that this Agreement supersede and supplant all previous iterations of the Agreement set forth above;

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein, the Parties agree as follows:

**Section 1. Definitions**

- a. “Agency” means HASPA.
- b. “Agreement” means this Amended and Restated Joint Exercise of Powers Agreement.
- c. “HASPA Board” means the Hayward Area Shoreline Planning Agency Board of Trustees, being the governing body of HASPA.
- d. “Controller” means the public officer performing the functions of auditor or controller as determined pursuant to the Act.

- e. “Hayward Shoreline” or “Service Area” means all areas of the City of Hayward and all areas of the unincorporated land in the Alameda County that are west of the Southern Pacific Railroad tracks and are between the boundaries of the City of San Leandro on the north and the City of Fremont on the south and all areas where the 100 year inundation line is currently shown on FEMA maps, as shown in Schedule A.
- f. “Manager” or “Managing Agency” means the Party, individual, or independent contractor, designated by the HASPA Board to act for and on behalf of the Agency, as the agent or representative of the Agency, pursuant to and within the scope of authority provided in this Agreement and delegated by the HASPA Board, as further described in Section 6.
- g. “Supporting Agency” means a Party that contracts for a project within the Service Area that is not otherwise supported by annual dues.
- h. “Surcharge” means funds required for any expenditure that is approved by the HASPA Board, but is not itemized in the annual budget.
- i. “Treasurer” means the public officer designated and performing the functions of as determined pursuant to Section 6505.5 or Section 6505.6 of the Act.

## 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.*; the "Act") and relates to the joint exercise of powers held by each of the Parties and as otherwise granted by the Act. The purpose of this Agreement is to jointly exercise the common powers of the Parties to address Climate Change Impacts on the Hayward Shoreline by promoting and implementing climate adaptation measures on the

Hayward Shoreline through shoreline planning activities, collaboration to advance projects, and seeking funding for projects.

### **Section 3. Creation of HASPA**

The Agency is a public agency separate from the Parties. The Agency will exercise the powers set forth in this Agreement. No debt, liability, or obligation of the Agency will constitute a debt, liability, or obligation of the Parties, except as expressly provided in this Agreement.

#### **Powers**

To the greatest extent permitted by law and in the manner provided herein, the Agency will exercise the powers which are common to each Party, or as otherwise permitted under the Act, and all incidental, implied, expressed, or necessary powers to accomplish the purposes of this Agreement. The Agency is hereby authorized, in its own name, to perform all acts necessary to fulfill the purposes of this Agreement, including but not limited to any or all of, the following:

- to make and enter into contracts;

- to employ agents and employees;

- to apply for and accept grants, advances and contributions

- to receive, accept, and expend or disburse monies by contract or otherwise for purposes consistent with this Agreement;

- to employ or contract for the services of planners, financial advisors, consultants, contractors, fiscal agents, and such other persons as the HASPA Board deems necessary and to establish compensation, salaries, and other benefits for such persons as are necessary to implement this Agreement;

- to make plans and conduct studies;

- to acquire, hold or dispose of property;

to sue and be sued in its own name;

to incur debts, liabilities or obligations and issue indebtedness;

to prepare and adopt a general budget for HASPA's functions;

to explore shoreline protection in conjunction with climate adaptation;

to develop and adopt bylaws and policies for the conduct of the business of the Agency;

to insure itself and the Parties from loss, liability, and claims arising out of or in any way

connected with the performance of this Agreement; and

To enter into joint exercise of powers agreements pursuant to the Act.

For the purposes of California Government Code Section 6509, the powers of the Agency will be exercised subject to the restrictions upon the manner of exercising such powers as are imposed on the City of Hayward, a charter city.

## **Organization**

a. HASPA Board

The Agency will be governed by the HASPA Board, which will exercise all powers and authority on behalf of the Agency except as otherwise provided herein. The HASPA Board is composed of representatives from each Party, who are known as trustees. Each Party to this Agreement will appoint one member of its governing body to be a trustee and will 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 will serve at the pleasure of his or her governing body, but in no event will either a trustee or alternate trustee serve on the HASPA Board if he or she is no longer a member of the governing body of a Party. Each trustee (or alternate trustee serving in the absence of the trustee) is allocated one vote on any matter before the HASPA Board. In

accordance with the Bylaws, the trustees will elect from among themselves, and establish the terms of office for, a Chair and such other officers, as they deem necessary or desirable.

b. Voting

1. Majority Vote and Weighted Voting. Generally, the affirmative vote of a majority of the total membership of the HASPA Board is required to adopt any action. However, any trustee may call for any motion to be subject to weighted voting. The call for weighted voting must be made before the motion is made. The weighted percentage of each trustee's vote will be as set forth in Schedule C. An affirmative vote of at least 51% is required to adopt any motion subject to weighted voting, subject to the consent requirement in Section 8(a) if applicable.

JPA Amendments.

Unless explicitly provided in the Agreement, the HASPA Board and the governing boards of the Parties must unanimously approve all amendments to the Agreement, including any amendments to the Agreement that effect the rights, obligations, or status of the Parties to this Agreement, add new parties to the Agreement, or alter the authority and purpose of the Agency.

Certain JPA Amendments Delegated to the Board.

The Parties have delegated to the HASPA Board the authority to make any revision to the provisions of the Agreement related to the operations of the Agency, which is necessary to affect the purpose of the Agency.

Certain JPA Amendments Delegated to the Manager/Managing Agency.

In addition, the Parties have delegated to the Manager/Managing Agency the authority to make such administrative revisions to the Agreement as described in Section 12.

c. Meetings

All meetings of the HASPA Board are public meetings and will be held subject to the requirements of the Ralph M. Brown Act, Section 54950 *et seq.* of the California Government Code, other applicable laws of the State of California, and the bylaws of the HASPA Board. A majority of the trustees will constitute a quorum.

d. Bylaws

The HASPA Board may adopt, and from time to time amend, bylaws of the HASPA Board as necessary or convenient in the determination of the HASPA Board to achieve its purposes. The bylaws may set forth how meetings of the HASPA Board will be conducted.

**Managing Agency/Manager**

e. Managing Agency

If the HASPA Board designates a Party as the Managing Agency, the duties of the Managing Agency will alternate among the Tier 3 Parties as set forth in Schedule C. The Tier 3 Parties will rotate the Managing Agency role as needed.

f. Manager

The HASPA Board may employ a staff member of one of the Parties or other individual to manage the Agency, or it may contract for the services of the Manager. In such case, the HASPA Board will prescribe the duties, compensation, and terms and conditions of employment, or of the contract, of the Manager. At a minimum, the Manager will coordinate the business of the Agency, hire and direct any Agency employees, attend HASPA Board meetings, prepare, distribute and maintain agendas and minutes of the HASPA Board meetings and official actions of the Agency, and carry out other duties as may be assigned by the HASPA Board. The Manager will serve at the pleasure of the HASPA Board. In the event the HASPA Board



employs or contracts for the services of a Manager, the Managing Agency will be responsible for supporting tasks such as administration of the contract for the services of a Manager and use of office resources.

**Employees**g. Agency Employees

The Agency may directly employ officers, agents, or employees, but none of the officers, agents, or employees directly employed by the Agency will be deemed, by reason of their employment by the Agency, to be employed by any Party or to be subject to any of the requirements of any Party. Any officer, employee, or agent of the Agency may also be an officer, employee, or agent of any Party, provided that the HASPA Board or Manager determines that the two positions are compatible.

h. Officers, Employees, Agents of the Parties

All privileges and immunities from liability, all exemptions from laws, ordinances and rules, and all pension, relief, disability, worker's compensation, and other benefits which apply to the activities of officers, agents, or employees of a Party when performing their respective functions will apply to them to the same degree and extent while engaged in the performance of any of the functions and other duties under this Agreement.

**Budget and Finance**Budget

The Agency may adopt a budget for activities consistent with its powers and may require the contribution of funds from the Parties for the expenditures included in that budget. As opportunities arise, the Board may approve the imposition of Surcharges to fund expenses that are not otherwise included in the adopted budget. Generally, Surcharges will be allocated to each

Party in accordance with the percentages in Schedule C. However, at the request of any Party, the Board may consider a different allocation for the Surcharge. At the Board's discretion, such allocation may be among all of the Parties or only a portion of the Parties. The intent of any such alternative allocation is to give Supporting Agencies and/or any Party that may receive unique benefits from the expense the opportunity to contribute at a higher level than the applicable percentage in Schedule C. If a Party's Surcharge allocation is higher than the percentage in Schedule C, the Party must consent in writing to the Surcharge allocation. The Board's decision on any allocation will be final.

i. Dues

On July 1 of each year, each Party will pay the annual dues to the Agency. The total amount of annual dues will equal the total adopted budget for that fiscal year. Each Party's allocation of the annual dues will be based on the percentages set forth in Schedule C.

j. Funding and Agency Financial Commitments

The Agency may apply for and receive grants and other funding from outside sources to support its purpose. The Agency may be the responsible fiscal agency for the funding or an appropriate Party may be selected. The Agency may not make any financial commitment that requires revenues in excess of those available to it.

### **Treasurer, Controller, Accountability, and Access to Property**

Treasurer

Pursuant to Government Code Section 6505.5, the treasurer of the Managing Agency, or other duly authorized staff person, is the Treasurer of the Agency. Alternatively, pursuant to Government Code Section 6505.6, the HASPA Board may appoint one of the Agency's officers

or employees as Treasurer of the Agency. The Treasurer will be the depository, and have custody of all the money of the Agency from whatever source. The Treasurer will:

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, 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.
6. Have the powers, duties, and responsibilities of the treasurer as specified in the Act, including, without limitation, Sections 6505 and 6505.5 thereof.

k. Controller

Pursuant to Government Code Section 6505.5, the auditor of the Managing Agency, or other duly authorized staff person, is the Controller of HASPA. Alternatively, pursuant to Government Code Section 6505.6, the HASPA Board may appoint one of the Agency's officers

or employees as Controller of the Agency. If an appointment is made pursuant to Government Code Section 6505.6, the offices of the Treasurer and Controller may be held by the separate individuals or the offices may be held by the same individual. The Controller will draw warrants to pay demands against the Agency when the demands have been duly authorized by the HASPA Board. The Controller will have the powers, duties, and responsibilities specified in the Act, including, without limitation, Sections 6505 and 6505.5 thereof.

l. Accountability of Funds

There will be strict accountability of all HASPA funds and report of all receipts and disbursements and compliance with the Act. The Controller will 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.

m. Access to Property and Funds

As provided in Section 6505.1 of the Act, the Treasurer is hereby designated as the person who has charge of, handles, and has access to the property of the Agency. The HASPA Board will require such person to file an official bond in an amount to be fixed by the HASPA Board and the cost of said bond will be paid by the Agency.

**Term, Termination, and Withdrawal of a Party**

n. Term

This Agreement is effective as of the date of execution by the last Party hereto and will continue in full force and effect until terminated by mutual agreement of the Parties.

o. Termination

Upon mutual agreement of the Parties to terminate the Agreement, the Agency will liquidate any assets. After the discharge of all enforceable liabilities, the liquidated assets will be

divided as agreed to by the Parties. In terminating this Agreement, the Parties agree to apportion any employee retirement obligations of the Agency equally among all Parties. All Parties will comply with all legal requirements related to the Agency's pension liabilities and obligations as specified in the Act and the Public Employees Retirement Law (California Government Code Section 20000 et seq.).

p. Withdrawal

Any Party may withdraw from the Agency by reaching an agreement with the remaining Parties, whereby the remaining Party(ies) acquires all of the rights in this Agreement and in the Agency and assumes all liability, including bonded indebtedness, of the withdrawing Party.

q. Reinstatement

A Party, subsequent to its filing of its notice of withdrawal or its actual withdrawal from the Agency, may seek reinstatement as a member of the Agency in accordance with the procedures for adding a new party as set forth in Section 14.

### **Elections**

For the purpose of holding any election within the Agency's boundaries, the HASPA Board may call and hold an election to submit propositions to the electors of the Agency in the same manner as the board of supervisors of a county may call and hold county elections, and the electors of the Agency will have the right to petition for referendum on any ordinance enacted by the HASPA Board in the same manner as the electors of a county, except that all computations referred to in those sections and the officers of the county mentioned in those sections will be construed to refer to comparable computations and officers of the Agency. For the purposes of any such election or referendum petition, the electors residing within the boundaries of the

Agency who would be qualified to vote for candidates for Governor at any general election will be the electors of the Agency.

**Boundaries and Service Area**

The boundary of the Agency will be the consolidated boundaries of all Parties, as may be amended from time to time. The current boundaries are shown in Schedule B. In the event the Agency's boundaries change, the Managing Agency or Manager will prepare an updated Schedule B, which will be automatically incorporated into this Agreement. For clarity, HASPA generally will exercise the common powers described in this Agreement within the Service Area, as shown in Schedule A. In the event the Service Area changes (e.g. due to the withdrawal of a Party, updates to the FEMA maps), the Managing Agency or Manager will prepare an updated Schedule A, which will be automatically incorporated into this Agreement. The Managing Agency or Manager will inform the Board of updates to Schedule A or B.

**Amendments**

The Parties authorize the HASPA Board to approve amendments to the Agreement as described in section 5(d) and the trustees are each authorized to execute any such amendments on behalf of their respective agencies. All other amendments to this Agreement require approval by unanimous vote of the total membership of the HASPA Board and a writing approved and executed by the governing bodies of all Parties.

**New Parties**

A new party may be added to this Agreement by forwarding a duly adopted resolution of its governing body to the Manager or Managing Agency. If approved by the HASPA Board, the

addition of the new party will be effective upon approval of the amendment by the governing bodies of all Parties.

**Dispute Resolution**

In the event of any dispute, the Parties will promptly meet and confer, first at a staff level and then elevated to a meeting of the HASPA Board, in a good faith attempt to resolve the dispute. In connection with such negotiations, the Party asserting the dispute must provide the other with a written description of the nature of the dispute, along with reasonable supporting documentation. If a dispute cannot be resolved by the Parties independently, they may agree to submit such dispute to non-binding mediation by a mutually agreed-upon neutral third Party with offices in the San Francisco Bay Area. The cost of mediation will be shared equally. In the alternative, a Party may choose to resolve questions or disputes arising under the Agreement through arbitration or judicial determination.

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

**Counterparts.**

This Agreement may be separately executed in any number of counterparts, and each counterpart signature page and the remainder of this Agreement will constitute the original Agreement. *Facsimile, electronic, or digital signatures will be treated in all respects as having the same effect as an original signature.*

**Successors; Assignment**

This Agreement will be binding upon and inure to the benefit of the successors of the Parties. No Party may assign any right or obligation hereunder without the consent of the others.

**Governing Law**

This Agreement will be governed by, and construed and enforced in accordance with, the laws of the State of California, without giving effect to conflict of law provisions.

**Joint Drafting**

All Parties participated in the drafting of this Agreement and the Agreement will not be construed against any Party as the drafter.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed and attested by their respective officers, duly authorized to so act, on the dates set forth.

**SIGNATURE BLOCKS ON FOLLOWING PAGES**



*Attachment 5: Schedule C & C1*

**Schedule C: Annual Dues Table/Weighted Voting Chart<sup>1</sup>**

Agency	Weighted Voting %
ACMAD (Tier 1)	10%
Oro Loma (Tier 2)	18%
HARD (Tier 3)	24%
Hayward (Tier 3)	24%
EBRPD (Tier 3)	24%
<b>TOTALS</b>	<b>100%</b>

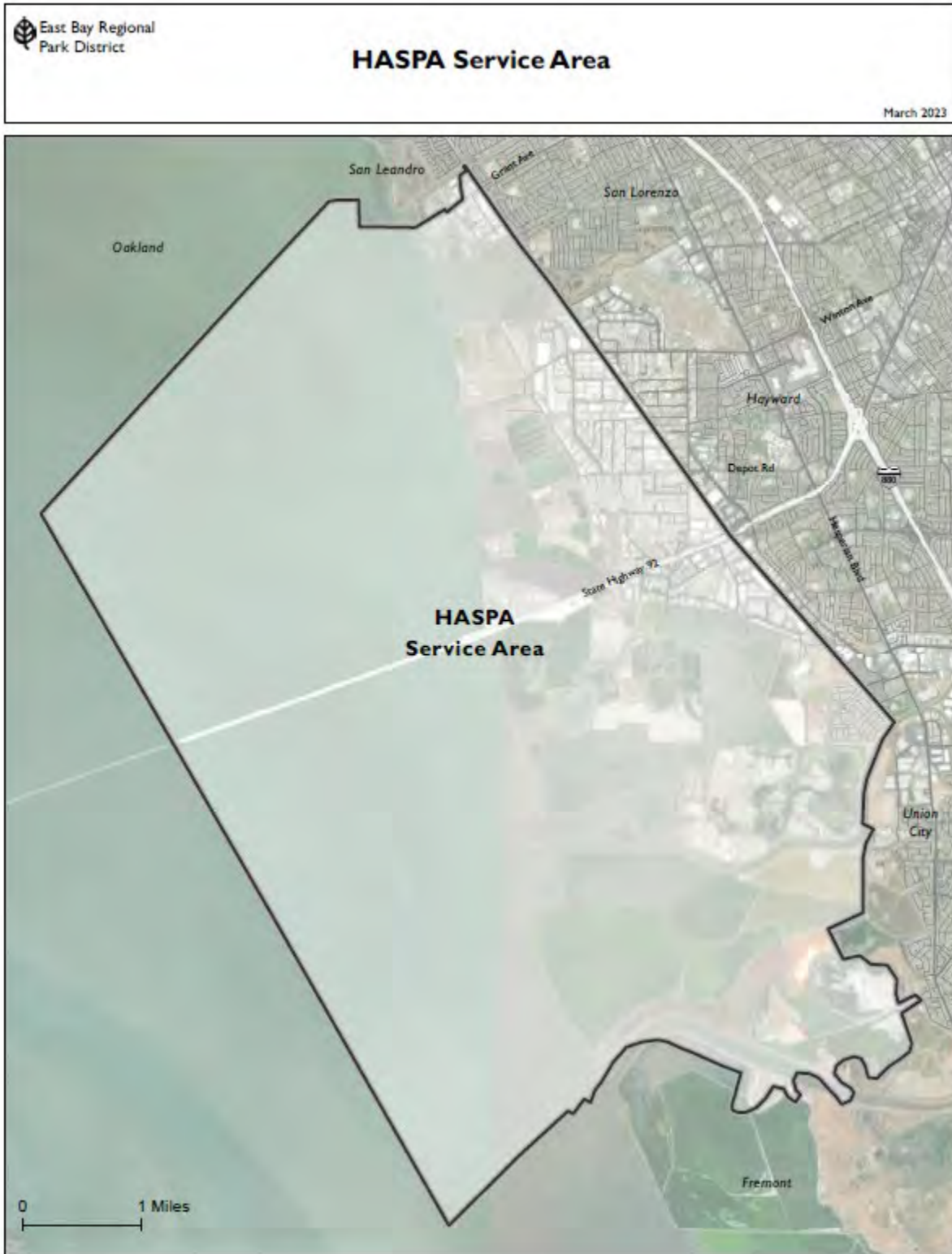
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<sup>1</sup> The weighted voting allocation described in this Schedule C is based on the agencies' annual operating budgets. Tier 1 agencies have an annual operating budget of less than \$10 million. Tier 2 agencies have an annual operating budget of between \$10 million to \$40 million, and Tier 3 agencies have an annual operating budget over \$40 million. The tiers described above are fixed and may not be modified except by amendment to the Agreement.

**Schedule C-1: Example Annual Dues Table**  
*For illustrative purposes only*

<b>Agency</b>	<b>Weighted Voting %</b>	<b>Example Annual Dues Allocation</b>
ACMAD (Tier 1)	10%	\$13,000
Oro Loma (Tier 2)	18%	\$23,400
HARD (Tier 3)	24%	\$31,200
Hayward (Tier 3)	24%	\$31,200
EBRPD (Tier 3)	24%	\$31,200
<b>TOTALS</b>	<b>100%</b>	<b>Example Annual Budget Total: \$130,000</b>

Attachment 6: HASPA Service Area



Attachment 7: HASPA Boundary

