

**CITY COUNCIL MEETING  
TUESDAY, JULY 17, 2018**

**DOCUMENTS RECEIVED  
AFTER PUBLISHED AGENDA**

**ITEM #18 LB 18-045**

**ADOPTION OF RESOLUTIONS ESTABLISHING  
NOVEMBER 6, 2018 AS THE  
DATE FOR TWO PROPOSED BALLOT  
MEASURES, 1) ASKING HAYWARD  
VOTERS TO APPROVE AN INCREASE IN THE  
REAL PROPERTY TRANSFER  
TAX; AND, 2) ASKING HAYWARD VOTERS TO  
APPROVE AN INCREASE IN  
THE TRANSIENT OCCUPANCY TAX**



# CITY OF HAYWARD

Hayward City Hall  
777 B Street  
Hayward, CA 94541  
www.Hayward-CA.gov

---

**File #:** LB 18-044

---

**DATE:** July 17, 2018

**TO:** Mayor and City Council

**FROM:** City Manager

**SUBJECT**

Adoption of Resolutions Establishing November 6, 2018, as the date for Two Proposed Ballot Measures: 1) Asking Hayward Voters to Approve an Increase in the Real Property Transfer Tax; and, 2) Asking Hayward Voters to Approve an Increase in the Transient Occupancy Tax

**RECOMMENDATION**

That Council takes the following actions to place: 1) an increase in the City's Real Property Transfer Tax from \$4.50 per \$1,000 of property value to \$8.50 per \$1,000 of property value (Attachment II); and, 2) an increase in the City's Transient Occupancy Tax from 8.5 percent to 12 percent (Attachment III), before the voters of Hayward at the November 6, 2018, election:

1. Adopts the attached resolutions approving the ballot questions as they will appear on the ballot, and the underlying ordinances to be enacted, and requesting the Alameda County Board of Supervisors to authorize the County Clerk and Registrar of Voters to provide election services and canvass the returns; and
2. Directs the City Attorney to develop an impartial analysis of each proposed measure.

The purpose of this item is for the Council take the necessary steps to place two revenue measures on the November 6, 2018, ballot to increase the tax rates related to the Real Property Transfer Tax (RPTT) and Transient Occupancy Tax (TOT), respectively. These steps include adopting two resolutions calling for elections on the respective measures and directing the City Attorney to prepare an impartial analysis of each proposed measure.

**ATTACHMENTS**

|                |                   |
|----------------|-------------------|
| Attachment I   | Staff Report      |
| Attachment II  | Resolution RPTT   |
| Attachment III | Exhibit A to RPTT |
| Attachment IV  | Resolution TOT    |

---

**File #:** LB 18-044

---

Attachment V

Exhibit A to TOT



**DATE:** July 17, 2018

**TO:** Mayor and City Council

**FROM:** City Manager

**SUBJECT:** Adoption of Resolutions Establishing November 6, 2018, as the date for Two Proposed Ballot Measures: 1) Asking Hayward Voters to Approve an Increase in the Real Property Transfer Tax; and, 2) Asking Hayward Voters to Approve an Increase in the Transient Occupancy Tax

### **RECOMMENDATION**

That Council takes the following actions to place: 1) an increase in the City's Real Property Transfer Tax from \$4.50 per \$1,000 of property value to \$8.50 per \$1,000 of property value (Attachment II); and, 2) an increase in the City's Transient Occupancy Tax from 8.5 percent to 12 percent (Attachment III), before the voters of Hayward at the November 6, 2018, election:

1. Adopts the attached resolutions approving the ballot questions as they will appear on the ballot, and the underlying ordinances to be enacted, and requesting the Alameda County Board of Supervisors to authorize the County Clerk and Registrar of Voters to provide election services and canvass the returns; and
2. Directs the City Attorney to develop an impartial analysis of each proposed measure.

### **SUMMARY**

The purpose of this item is for the Council take the necessary steps to place two revenue measures on the November 6, 2018, ballot to increase the tax rates related to the Real Property Transfer Tax (RPTT) and Transient Occupancy Tax (TOT), respectively. These steps include adopting two resolutions calling for elections on the respective measures and directing the City Attorney to prepare an impartial analysis of each proposed measure.

### **BACKGROUND**

At the July 10, 2018, meeting, the City Council considered a report from staff regarding two possible ballot measures to be submitted to Hayward voters at the November 6, 2018, general municipal election. The July 10, 2018 report can be found here [Staff Report](#). After discussion, the Council, on a vote of 6-1, directed staff to prepare resolutions formally submitting said measures to Hayward voters. The resolutions are attached (Attachments II

and III). The proposed measures are general tax measures requiring simple majorities for approval.

**DISCUSSION**

The attached resolutions set forth the questions that would be included on the ballots Hayward voters would approve or reject by voting ‘yes’ or ‘no.’ Following are the ballot questions:

|  |                            |
|--|----------------------------|
| <p>Shall the measure increasing the existing real property transfer tax be adopted?</p> <p>To support City of Hayward services, with revenue that cannot be taken by the State, including: repairing streets and sidewalks; 911 emergency and firefighter response times; neighborhood police patrols; disaster preparedness; extended library hours and after-school programs; and unrestricted general revenue purposes; shall Hayward increase the rate of its real property transfer tax, collected once upon purchase of real estate, from \$4.50 to \$8.50 per \$1,000, providing \$13,000,000 annually, until repealed by voters, all funds benefiting Hayward?</p> | <p>YES</p> <hr/> <p>NO</p> |
| <p>Shall the measure increasing the existing transient occupancy tax be adopted?</p> <p>To support City of Hayward services, with revenue that cannot be taken by the State, including: repairing streets and sidewalks; 911 emergency and firefighter response times; neighborhood police patrols; disaster preparedness; extended library hours and after-school programs; and unrestricted general revenue purposes; shall the City of Hayward increase the transient occupancy tax paid only by hotel and motel guests from 8.5% to 12%, providing \$3,000,000 annually, until repealed by voters, all funds benefiting Hayward?</p>                                   | <p>YES</p> <hr/> <p>NO</p> |

The resolutions, pursuant to direction by the City Clerk, also ask the Alameda County Board of Supervisors to authorize the County Clerk and Registrar of Voters to provide election services and to canvass the returns.

Further, the resolutions direct the City Attorney to prepare impartial analyses of each measure, which would be printed in the voter information handbook.

**ECONOMIC AND FISCAL IMPACT**

Based on staff analysis, the increase in the RPTT would result in approximately \$6,492,000 of additional revenues, that is, revenues would increase from approximately \$7,303,000 annually to approximately \$13,795,000 annually.

Based on staff analysis, the increase in the TOT would result in approximately \$986,000 of additional revenues, that is, revenues would increase from approximately \$2,395,000 annually to approximately \$3,381,000 annually.

The City's Finance Director updated the revenue estimates for the two measures so the figures above differ slightly from the numbers presented in the July 10, 2018 report to Council.

The cost of the November 6, 2018 is estimated to be \$277,000, which would include these two measures, two seats on the Council, and the mayor's seat.

**STRATEGIC INITIATIVES**

This agenda item is a routine operational item and does not relate to one of the Council's Strategic Initiatives.

**PUBLIC CONTACT**

This agenda item was published in compliance with the requirements of the Brown Act.

**NEXT STEPS**

The calendar below outlines key dates related to these measures.

| DATE                        | ACTION  |
|-----------------------------|---|
| July 31, 2018               | Semi-Annual Campaign Statement Deadline.<br>FPPC Form 460 - Period covers 1/1/18 - 6/30/18  |
| July 17, 2018               | Council approves resolution requesting the County Board of Supervisors consolidation of a municipal election. Resolution must include calling of the election, ballot measure question, and ballot measure full text. |
| July 20 – July 30, 2018     | Public review period for Impartial Analysis.  |
| July 31, 2018               | Last day to file Direct Arguments (EC 9286).  |
| July 31 – August 10, 2018   | Public review period for Direct Arguments (EC 9295).  |
| August 10, 2018             | Last day to file with the County Board of Supervisors a Council resolution requesting consolidation.  |
| August 10, 2018             | Last day to file Rebuttal Arguments (EC 9285).  |
| August 10 – August 20, 2018 | Public review period for Rebuttal Arguments (EC 9295).  |
| August 27, 2018             | Last day to submit direct and rebuttal argument materials to the Registrar of Voters office.  |
| September 27, 2018          | First Pre-Election Campaign Statement Deadline  |

| DATE               | ACTION  |
|--------------------|---|
|                    | FPPC Form 460 - Period covers 7/1/18 - 9/22/18  |
| September 27, 2018 | First day to mail Voter Information Pamphlets.  |
| October 8, 2018    | First day to mail Vote By Mail (VBM) Ballots.   |
| October 22, 2018   | Last Day to Register to Vote<br>(for the November 6, 2018 General Election)                         |
| October 25, 2018   | Second Pre-Election Campaign Statement Deadline<br>FPPC Form 460 - Period covers 9/23/18 - 10/20/18 |
| November 6, 2018   | ELECTION DAY Polls open at 7am and close at 8pm   |
| January 31, 2019   | Semi-Annual Filing<br>FPPC Form 460 – Period covers 10/21/18 - 12/31/18                             |

*Prepared and Recommended by:* Chuck Finnie, Communications and Marketing Manager  
John Stefanski, Management Analyst II

Approved by:




---

Kelly McAdoo, City Manager





SECTION 5. The City Attorney is hereby authorized and directed to prepare and transmit to the City Clerk the impartial analysis and the official ballot title.

- a) The City Attorney shall prepare an impartial analysis of the measure not exceeding 500 words showing the effect of the measure on the existing law and the operation of the measure.
- b) The analysis shall include a statement indicating whether the measure was placed on the ballot by a petition signed by the requisite number of voters or by the governing body of the city.
- c) In the event the entire text of the measure is not printed on the ballot, nor in the voter information portion of the voter information guide, there shall be printed immediately below the impartial analysis, in no less than 10-point type, the following: "The above statement is an impartial analysis of Ordinance or Measure\_. If you desire a copy of the ordinance or measure, please call the election official's office at (510) 583-4400 and a copy will be mailed at no cost to you."
- d) The impartial analysis shall be filed by the date set by the City Clerk.

SECTION 6. That the City Clerk is directed to publish a synopsis of the measure pursuant to Elections Code Section 12111 and Government Code Section 6061.

SECTION 7. That the City Council shall meet at a regular meeting to review the canvass of the returns of the Municipal Election and declare the results thereof.  
IN COUNCIL, HAYWARD, CALIFORNIA July 17, 2018.

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:  
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

---

City Attorney of the City of Hayward

ORDINANCE NO.

ORDINANCE OF THE CITY OF HAYWARD, CALIFORNIA AMENDING SECTION 8-6.05 OF THE HAYWARD MUNICIPAL CODE RELATING TO REAL PROPERTY TRANSFER TAX

THE PEOPLE OF THE CITY OF HAYWARD DO ORDAIN AS FOLLOWS:

Section 1. Section 8-6.05 of the Hayward Municipal Code is hereby amended to read as follows:

**SEC. 8-6.05 - IMPOSITION OF TAX.**

A tax is hereby imposed on each transfer, by deed, instrument, or writing, by which any lands, tenements, or other real property located in the City are sold, granted, assigned, transferred, or otherwise conveyed to, or vested in, a purchaser or purchasers thereof, or any other person or persons at or by the direction of said purchaser or purchasers, when the value of the consideration exceeds one hundred dollars (\$100.00), said tax to be at the rate of ~~four dollars and fifty cents (\$4.50)~~ eight dollars and fifty cents (\$8.50) for each one thousand dollars (\$1,000.00) or fractional part of one thousand dollars (\$1,000.00) of the value of the consideration.

As used herein, 'value of the consideration' shall mean the total consideration, paid or delivered, or contracted to be paid or delivered, in return for the transfer of real property, including the amount of any indebtedness, existing immediately prior to the transfer which is secured by a lien, deed of trust or other encumbrance on the property conveyed and which continues to be secured by such lien, deed of trust, or encumbrance after said transfer, and also including the amount of any indebtedness which is secured by a lien, deed of trust, or encumbrance given or placed upon the property in connection with the transfer to secure the payment of the purchase price or any part thereof which remains unpaid at the time of the transfer. Value of the consideration also includes the amount of any special assessment levied or imposed upon the property by a public body, district, or agency, where said special assessment is a lien or encumbrance on the property and the purchaser or transferee agrees to pay such special assessment or takes the property subject to the lien of such special assessment. The value of any lien or

encumbrance of a type, other than those which are hereinabove specifically included, existing immediately prior to the transfer and remaining after said transfer, shall not be included in determining the value of the consideration. If the value of the consideration cannot be definitely determined or is left open to be fixed by future contingencies, value of the consideration shall be deemed to mean the fair market value of the property at the time of transfer after deducting the amount of any lien or encumbrance, if any of a type which would be excluded in determining the value of the consideration pursuant to above provisions of this section.

Section 2. To the extent allowed under Article XIII C of the California Constitution, this Ordinance may be amended by the City Council without a vote of the people, except that voter approval shall be required for any amendment that increases the tax, within the meaning of Government Code section 53750(h), beyond the levels authorized by this chapter.

Section 3. California Environmental Quality Act (CEQA). The City Council independently finds and determines that this action is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines, as an activity that is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The general exemption applies in this instance because it can be seen with certainty that there is no possibility that the proposed amendments could have a significant effect on the environment, and thus are not subject to CEQA. Thus, it can be seen with certainty that the proposed project would not have a significant effect on the environment.

Section 4. If any section, subsection, paragraph or sentence of this Ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid or beyond the authority of the City of Hayward by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

Section 5. This Ordinance shall become effective 10 days after the certification of its approval by the voters at the Election pursuant to Elections Code section 9217.

Section 6. Upon approval by the voters, the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause it to be published according to law.

\*\*\*\*\*

It is hereby certified that this Ordinance was duly adopted by the voters at the November 6, 2018 Election and took effect 10 days following adoption of a resolution declaring the results of the election at a regular meeting of the Hayward City Council held on \_\_\_\_\_, 2018 by the following vote:

AYES:            COUNCIL MEMBERS:  
                      MAYOR:

NOES:            COUNCIL MEMBERS:

ABSTAIN:        COUNCIL MEMBERS:

ABSENT:         COUNCIL MEMBERS:

APPROVED: \_\_\_\_\_  
                                 Mayor of the City of Hayward

DATE: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
                                 City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward

HAYWARD CITY COUNCIL

RESOLUTION NO. 18-    

Introduced by Council Member                     

RESOLUTION CALLING A MUNICIPAL ELECTION IN THE CITY OF HAYWARD FOR THE PURPOSE OF SUBMITTING TO THE VOTERS A MEASURE RELATING TO AN INCREASE IN THE EXISTING TRANSIENT OCCUPANCY TAX; SETTING FORTH THE STATEMENT OF THE MEASURE TO BE VOTED UPON; FIXING THE DATE AND MANNER OF HOLDING THE ELECTION; AND REQUESTING THE BOARD OF SUPERVISORS OF ALAMEDA COUNTY TO PROVIDE FOR THE CONSOLIDATION OF THE MUNICIPAL ELECTION WITH THE GENERAL ELECTION TO BE HELD ON NOVEMBER 6, 2018, AND TO PROVIDE ELECTION SERVICES.

WHEREAS, the City Council of Hayward desires to call a Municipal Election to be held on November 6, 2018, for the purpose of submitting to the voters a ballot measure.

SECTION 1. That a measure is to appear on the ballot as follows:

|   |     |
|---|-----|
| Shall the measure increasing the existing transient occupancy tax be adopted?   |     |
| To support City of Hayward services, with revenue that cannot be taken by the State, including: repairing streets and sidewalks; 911 emergency and firefighter response times; neighborhood police patrols; disaster preparedness; extended library hours and after-school programs; and unrestricted general revenue purposes; | YES |
| shall the City of Hayward increase the transient occupancy tax paid only by hotel and motel guests from 8.5% to 12%, providing \$3,000,000 annually, until repealed by voters, all funds benefitting Hayward?   | NO  |

SECTION 2. That the proposed complete text of the measure (Ordinance) submitted to the voters is attached as Exhibit A.

SECTION 3. That the vote requirement for the measure to pass is a majority (50%+1) of the votes cast.

SECTION 4. That the City Clerk is authorized and directed to certify the adoption of this resolution and to transmit a copy thereof so certified to the County Clerk of the County of Alameda. The City Clerk is further authorized and directed to prepare, execute and transmit to the County all documents necessary to carry out the purposes of this resolution.

SECTION 5. The City Attorney is hereby authorized and directed to prepare and transmit to the City Clerk the impartial analysis and the official ballot title.

- a) The City Attorney shall prepare an impartial analysis of the measure not exceeding 500 words showing the effect of the measure on the existing law and the operation of the measure.
- b) The analysis shall include a statement indicating whether the measure was placed on the ballot by a petition signed by the requisite number of voters or by the governing body of the city.
- c) In the event the entire text of the measure is not printed on the ballot, nor in the voter information portion of the voter information guide, there shall be printed immediately below the impartial analysis, in no less than 10-point type, the following: "The above statement is an impartial analysis of Ordinance or Measure\_. If you desire a copy of the ordinance or measure, please call the election official's office at (510) 583-4400 and a copy will be mailed at no cost to you."
- d) The impartial analysis shall be filed by the date set by the City Clerk.

SECTION 6. That the City Clerk is directed to publish a synopsis of the measure pursuant to Elections Code Section 12111 and Government Code Section 6061.

SECTION 7. That the City Council shall meet at a regular meeting to review the canvass of the returns of the Municipal Election and declare the results thereof.

IN COUNCIL, HAYWARD, CALIFORNIA July 17, 2018.

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:  
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:



ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward

ORDINANCE NO.

ORDINANCE OF THE CITY OF HAYWARD, CALIFORNIA AMENDING SECTION 8-4.20 OF THE HAYWARD MUNICIPAL CODE RELATING TO TRANSIENT OCCUPANCY TAX

THE PEOPLE OF THE CITY OF HAYWARD DO ORDAIN AS FOLLOWS:

Section 1. Section 8-4.20 of the Hayward Municipal Code is hereby amended to read as follows:

**SEC. 8-4.20 - TAX IMPOSED.**

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of ~~eight and one-half percent (8½%)~~ [***twelve percent (12%)***] of the rent charged by the operator. Said tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the Tax and License Administrator may require that such tax shall be paid directly to the Tax and License Administrator.

Section 2. To the extent allowed under Article XIII C of the California Constitution, this Ordinance may be amended by the City Council without a vote of the people, except that voter approval shall be required for any amendment that increases the tax, within the meaning of Government Code section 53750(h), beyond the levels authorized by this chapter.

Section 3. California Environmental Quality Act (CEQA). The City Council independently finds and determines that this action is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines, as an activity that is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The general exemption applies in this instance because it can

be seen with certainty that there is no possibility that the proposed amendments could have a significant effect on the environment, and thus are not subject to CEQA. Thus, it can be seen with certainty that the proposed project would not have a significant effect on the environment.

Section 4. If any section, subsection, paragraph or sentence of this Ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid or beyond the authority of the City of Hayward by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

Section 5. This Ordinance shall become effective 10 days after the certification of its approval by the voters at the Election pursuant to Elections Code section 9217.

Section 6. Upon approval by the voters, the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause it to be published according to law.

\*\*\*\*\*

It is hereby certified that this Ordinance was duly adopted by the voters at the November 6, 2018 Election and took effect 10 days following adoption of a resolution declaring the results of the election at a regular meeting of the Hayward City Council held on \_\_\_\_\_, 2018 by the following vote:

AYES: COUNCIL MEMBERS:  
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED: \_\_\_\_\_  
Mayor of the City of Hayward

DATE: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward

# **AGENDA QUESTIONS & ANSWERS**

**Items 9, 11, 14, 19, and 20**

**AGENDA QUESTIONS & ANSWERS**

**MEETING DATE: July 17, 2018**

Item #9: Recycled Water Storage and Distribution System Project: Authorization to Execute an Amendment to Professional Services for Recycled Water Customer Retrofit Conversions to Increase the Contracted Amount for Additional Services

Is the 1.5-year delay in recycled water implementation, noted in the staff report due, to the need to create our own recycled water treatment facility?

The 1.5 year delay in implementing the recycled water project is a result of delays in completing the recycled water distribution pipelines system. The original project schedule anticipated completing construction of the recycled water pipelines in late summer 2018. However, additional time has been needed due to the complexity of the design and traffic restrictions, which limit the contractor's work hours and construction methods. The current schedule anticipates construction of the recycled water pipelines being completed in late 2019, with customer connections to the recycled water system beginning at the end of 2019 and extending into early 2020. Implementation of the City's recycled water treatment facility largely matches the schedule for the construction of the recycled water distribution pipelines system and is not expected to delay the project.

Item #11: Approval of Final Map Tract 8434 (Spindrift II), Associated with the Previously Approved Vesting Tentative Map Tract 8148 and Proposed Development of 52 Single-Family Homes on a 6.18-Acre Site Located at the North-East Corner of Marina Drive and Eden Park Place; Pulte Group (Applicant/Owner)

Is the development in Item 11 - Final Tract Map for Spindrift II - one of the developments that is tied to developing commercial space? If so, has that requirement been met?

The project is Phase II of the Spindrift residential development that is tied to the construction of shell buildings for the non-residential development. The Business Park development proposed by Steelwave is near complete and the retail shell buildings are well under construction. This approval will allow for the Final Map for Phase II to be approved and recorded. Building permits for the new homes in Phase II will not be released until the construction of shell buildings is complete, which is anticipated in the next couple of months.

Item # 14: Authorization to Enter into an Exclusive Negotiating Rights Agreement for Caltrans Parcel Group 3, Generally Bounded by East 16th Street, Tennyson Road and Calhoun Street; and, Parcel Group 4, Generally Bounded by Westview Way, Harder Road and Calhoun Street; and a portion of Parcel Group 2 at Tennyson Road

|  |  |
|--|--|
| <p>Regarding Item 14 - ENRA for parcel groups 3 &amp; 4. Is there any latitude to require a few of the units be at 20% AMI in exchange for waiving some or all fees for just those units?</p> <p>Also on this item, we'd be requiring the open space to be dedicated, in lieu fees to be paid, and a maintenance district to be established with an ongoing fee?</p> <p>What is the percentage of affordable units proposed and has there been consideration of integrating the affordable units into the overall complex rather than being a stand-alone building?</p> <p>Lastly, as a second priority for renting (after individuals displaced from other parcel groups), is it possible to require priority for Hayward residents and teachers?</p> | <p>We can ask the developer if this is feasible as part of the exclusive negotiations. It may affect the financing. Waiving one-time fees may not offset the on-going reduction of income over a long period. However, we can look at it.</p> <p>Yes, we will require open space to be retained by City (not dedicated) but paid for by developer; Yes in-lieu fees will be paid; Yes, maintenance district will be established. Developer has already agreed to these requirements with the qualification that the assessment district fees are reasonable (the lower we drive down the income of the project with deeply affordable units the less capacity they will have for making assessment district payments).</p> <p>The mix of affordable units is negotiable and will be negotiated during the ENRA period. The location of the units (integrated verses stand-alone) will also be negotiated during the ENRA period. Attached is a table from the Eden proposal which has 100% of the units affordable from 40% to 80% AMI. There may be some teachers that are moderate income (above 80%) and if we target that group we may need to add a higher income category to the mix. We may also need to add higher income to offset lost income if we ask for lower than 40% affordability.</p> <p>We will ask during negotiations for preference language to be included in the disposition agreement for Hayward residents, teachers, and persons displaced from other 238 Parcel Groups (Bunker Hill) within the limits of state law. The City Attorney will help us define how binding this language can be during negotiations.</p> |
| <p>Item #19: Approval of Commercial Cannabis Permits for Retail Cannabis Dispensaries</p>  |  |
| <p>Did any of the non-selected applicants have higher scores than the three recommended applicants?</p> <p>Will all the cannabis permit applicants received their scores and feedback by tomorrow?</p> <p>Also, is there a summary sheet of the dispensary applications already created that could be made available to Council?</p>   | <p>There was only one instance where a non-selected applicant had a higher score than the three recommended. It was Harborside, which was the second highest ranked proposal behind Aunty Honeys and scored higher than Jiva and Hayward Station.</p> <p>All retail applicants will have received their score reports. The remaining will receive their score reports this week.</p> <p>This is not something that is already available. The score sheets have been provided to Council. Anyone below a score of 800 did not advance to the interview phase of the process.</p>  |

Item # 20: Informational Report on Pacific Gas & Electric's Community Pipeline Safety Initiative Project

Thank you for the informational report regarding the PG&E project at Skywest. Has or will the Skywest HOA receive a copy of the report or similar communication?

spoke with Marvin Nushwat with PG&E and he indicated that residents were notified by PG&E some weeks ago and in addition, PG&E staff will be canvassing the neighborhood over the next few days to continue to bring awareness about the tree removal at Skywest.



## B. Affordability

The apartment houses will be affordable to households earning 40% to 80% of the Alameda County area median income (AMI). The table below shows the distribution of the units by unit size and AMI level. With recently enacted federal legislation, the low-income housing tax credit program can now serve households earning up to 80% of the area median income, which means that many occupations, such as teachers, government officials, and other important public servants can now reside in an affordable community.

| AMI        | 1 bedroom | 2 bedroom | 3 bedroom | Totals     |
|------------|-----------|-----------|-----------|------------|
| 40%        | 6         | 9         | 7         | <b>22</b>  |
| 50%        | 5         | 5         | 5         | <b>15</b>  |
| 60%        | 23        | 37        | 30        | <b>99</b>  |
| 80%        | 6         | 9         | 7         | <b>22</b>  |
| Mgrs. Unit |           |           | 1         | <b>1</b>   |
| Totals     | <b>40</b> | <b>60</b> | <b>50</b> | <b>150</b> |

To better understand the income levels of the workforce to be served the following table is helpful:

| Household Size | 40% AMI  | 50% AMI  | 60% AMI  | 80% AMI   |
|----------------|----------|----------|----------|-----------|
| 1 Person       | \$32,560 | \$40,700 | \$48,840 | \$65,120  |
| 2 Person       | \$37,200 | \$46,500 | \$55,800 | \$74,400  |
| 3 Person       | \$41,840 | \$52,300 | \$62,760 | \$83,680  |
| 4 Person       | \$46,480 | \$58,100 | \$69,720 | \$92,960  |
| 5 Person       | \$50,200 | \$62,750 | \$75,300 | \$100,400 |
| 6 Person       | \$53,920 | \$67,400 | \$80,880 | \$107,840 |

**ITEM #2 – CONS 18-519**

**An Ordinance Amending Chapter 10,  
Article 1 (Zoning  
Ordinance) of the Hayward Municipal  
Code by Rezoning  
Certain Property to Planned Development  
District in  
Connection with Zone Change and  
Vesting Tentative Map  
Application No. 201704074 to  
Accommodate 41-Single Family  
Dwellings at 22626 4th Street**



**DATE:** July 16, 2018

**TO:** Mayor and City Council

**FROM:** City Manager

**THROUGH:** Development Services Director

**SUBJECT** An Ordinance Amending Chapter 10, Article 1 (Zoning Ordinance) of the Hayward Municipal Code by Rezoning Certain Property to Planned Development District in Connection with Zone Change and Vesting Tentative Map Application No. 201704074 to Accommodate 41-Single Family Dwellings at 22626 4<sup>th</sup> Street

**RECOMMENDATION**

That Council accepts the amendment to agenda item #2, CON 18-519, regarding the associated Resolution, which has been revised to accurately reflect the outcome of the Planning Commission hearing held on June 28, 2018.

*Recommended by:* Jay Lee, Associate Planner

Approved by:

Kelly McAdoo, City Manager

HAYWARD CITY COUNCIL

RESOLUTION NO. 18-

Introduced by Councilmember \_\_\_\_\_

RESOLUTION ADOPTING THE MITIGATED NEGATIVE DECLARATION AND THE MITIGATION MONITORING AND REPORTING PROGRAM AND APPROVING THE PLANNED DEVELOPMENT REZONE WITH TENTATIVE TRACT MAP AND SITE PLAN REVIEW PERTAINING TO CONSTRUCTION OF 41 NEW SINGLE-FAMILY RESIDENCES AT 22626 4<sup>th</sup> STREET

WHEREAS, On July 12, 2017, Tony Dutra (Applicant) submitted a Planned Development Rezone, Vesting Tentative Tract Map No. 8427, and Site Plan Review Application No. 201704074 to subdivide five existing parcels totaling 5.1 acres into 45 parcels to allow the construction of 41 single-family residences with common open space areas and related site improvements at 22626 4<sup>th</sup> Street (APNs 427-0036-033-05, 427-0036-033-06, 427-0036-033-07, 427-0036-055-19, and 427-0036-085-01); and

WHEREAS, An Initial Study and Mitigated Negative Declaration were prepared to assess the potential environmental impacts of the Project; and

WHEREAS, The Planning Commission considered the Planned Development Rezone with Tentative Tract Map No. 8427, Site Plan Review Application No. 201704074, and the associated Mitigated Negative Declaration with the Mitigation Monitoring and Reporting Program ~~Project~~ at a public hearing held on June 28, 2018, and did not obtain the majority of votes required to recommend either approval or denial of the Project ~~recommended that the City Council adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, and approve the Planned Development Rezone with Tentative Tract Map No. 8427 and Site Plan Review Application No. 201704074;~~ and

WHEREAS, Notice of the hearing was published in the manner required by law and the hearing was duly held by the City Council on July 10, 2018.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and determines as follows:

**VESTING TENTATIVE TRACT MAP FINDINGS**

Pursuant to Section 10-3.150 of the Hayward Municipal Code (HMC), the City Council may conditionally approve a Vesting Tentative Tract Map application when all the following findings are met:

**A. The proposed subdivision is not in conflict with the General Plan and applicable specific plans and neighborhood plans;**

The project site has two General Plan land use designations: Low Density Residential (LDR) and Medium Density Residential (MDR). The project is proposing a total net density of approximately 9.9 dwelling units per net acre, which is within the allowed density range in the *Hayward 2040 General Plan*. The LDR land use designation allows for single-family residences and the MDR land use designation allows for a mix of housing types including detached, single-family homes. Anticipated future changes include additional residential development, building and landscaping improvements, and neighborhood enhancements that create more complete, walkable, and sustainable neighborhoods. The project is considered an in-fill development, which will increase the housing inventory for the City of Hayward and result in a more complete neighborhood. The project is also consistent with the following General Plan policies:

- H-3.1 Diversity of Housing Types: *The City shall implement land use policies that allow for a range of residential densities and housing types, prices, ownership, and size, including low-density single family uses, moderate-density townhomes, and higher-density apartments, condominiums, transit-oriented developments, live-work units, and units in mixed-use developments.*

The project will allow for 41 new single-family homes, which provide additional single-family housing opportunities in the City.

- H-3.4 Residential Uses Close to Services: *The City shall encourage development of residential uses close to employment, recreational facilities, schools, neighborhood commercial areas, and transportation routes.*

The project is located in an established neighborhood near Downtown Hayward and a commercial corridor along B Street. Furthermore, recreational facilities such as the Hayward Japanese Gardens and San Felipe Community Park and educational facilities such as Hayward High School and Faith Ringgold School of Arts and Science are nearby.

- Land Use Policy LU-1.3 Growth and Infill Development: *The City shall direct local population and employment growth toward infill development sites within the city, especially the catalyst and opportunity sites identified in the Economic Development Strategic Plan.*

The project is surrounded by development on all sides, including other single-family homes, multi-family residential developments, and various commercial uses. As such, the project is considered an in-fill project, which is appropriate for new housing development.

In addition, the project is not located within any specific plan area but is located within the Hayward Foothills Trail Special Design Overlay District and the Upper B Street Neighborhood Plan area and is consistent with those relevant policies.

Therefore, the proposed subdivision is not in conflict with the General Plan and applicable specific plans and neighborhood plans.

**B. The proposed subdivision meets the requirements of the City Zoning Ordinance; and**

The project requires a Planned Development (PD) Rezone to provide flexibility in the site layout and allow for exceptions to certain development standards related to lot size, lot coverage, and setbacks. With the PD Rezone, the proposed subdivision will provide modified development standards of the new PD District related to lot size, lot coverage, and setbacks. PD Districts are also subject to the development standards of the zoning district most similar to the proposed use, which is the RS (Single-Family Residential) District in this case. As proposed, the project meets the development standards of the RS District related to building height, off-street parking, and landscaping. The subdivision will also allow for the construction of 41 new detached single-family homes, which is a permitted land use in the RS District.

**C. No approval of variances or other exceptions are required for the approval of the subdivision.**

As proposed, the new Planned Development district would establish the zoning development standards for this project and as conditioned, the project will comply with those standards. In addition, the project will also meet the requirements of the Subdivision Ordinance. Therefore, the project will not require a variance or any other exceptions from the requirements of the HMC.

**PLANNED DEVELOPMENT REZONE FINDINGS**

Pursuant to Section 10-1.2535 of the HMC, the City Council may conditionally approve a Planned Development Rezone application when all the following findings are met:

**A. The development is in substantial harmony with the surrounding area and conforms to the General Plan and applicable City policies;**

The project is considered an in-fill development and will complete the neighborhood, which primarily consists of commercial development and a mix of housing types including detached single-family homes and multi-family residential developments. The project proposes detached single-family homes, which is compatible with the surrounding neighborhood. Additionally, the project is consistent with the LDR and MDR land use designations and policies in the *Hayward 2040 General Plan*. The proposed density is within the density range allowed by the LDR and MDR land use designations and compatible with the overall density of the surrounding residential neighborhood.

**B. Streets and utilities, existing or proposed, are adequate to serve the development;**

The existing utilities that serve the project site, including sanitary sewer, water, and storm drain systems, have sufficient capacity to adequately serve the proposed development. On-site sewer and water utilities will be installed within new public utility easements within the project site and connect to the existing utilities on 4<sup>th</sup> Street and B Street. The project will be served by new private streets that will

provide direct access to B Street and Chestnut Street. While the existing roadways are sufficient to accommodate the additional traffic generated from the project, frontage improvements will be required, including the reconstruction and repair of the existing road and sidewalks along 4<sup>th</sup> Street, B Street, and Chestnut Street to meet the City's current roadway standards.

- C. **In the case of a residential development, that the development creates a residential environment of sustained desirability and stability, that sites proposed for public facilities, such as playgrounds and parks, are adequate to serve the anticipated population and are acceptable to the public authorities having jurisdiction thereon, and the development will have no substantial adverse effect upon surrounding development;**

The project is considered an in-fill development and will replace a vacant site with attractive single-family homes to complete the neighborhood. The scale and design of the homes are compatible with the existing neighborhood. The homes will also be served by both private and public open space within the development. Each home will have usable private outdoor yards and the project will provide a 7,065-square-foot group open space area. The development will also be well-integrated into the existing neighborhood since it will be served by new private streets with street parking and sidewalks providing vehicular and pedestrian access to and from B Street and Chestnut Street.

- D. **In the case of nonresidential uses, that such development will be in conformity with applicable performance standards, will be appropriate in size, location, and overall planning for the purpose intended, will create an environment of sustained desirability and stability through the design and development standards, and will have no substantial adverse effect upon surrounding development;**

The project does not include any nonresidential uses and as such, this finding is not applicable to this project.

- E. **In the case of a development in increments, each increment provides a sufficient proportion of total planned common open space, facilities, and services so that it may be self-contained in the event of default or failure to complete the total development according to schedule; and**

The project will be developed in one phase, ensuring that the infrastructure, facilities, and services will be available to all future residents in a timely manner.

- F. **Any latitude or exception(s) to development regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards.**

The project requires a PD Rezone to provide flexibility in the site layout and allow for exceptions to certain development standards related to lot size, lot coverage, and setbacks. To offset these requested exceptions, the project proposes to add rooftop solar panels on each home; a bedroom suite on the first floor of 14 homes to allow

for aging in place and multigenerational lifestyles; and 7,065 square feet of group, common open space, which is not required for detached single-family homes. The rooftop solar panels result in a more environmentally-sensitive development and the multigenerational-friendly floor plan allows the homes to accommodate a more diverse population. The group open space, which will be maintained by a homeowner's association, provides the future residents a usable, outdoor space for recreation and public interaction.

### **SITE PLAN REVIEW FINDINGS**

Pursuant to Section 10-1.3025 of the HMC, the City Council may conditionally approve a Site Plan Review application when all the following findings are met:

**A. The development is compatible with on-site and surrounding structures and uses and is an attractive addition to the City.**

The proposed 41 single-family residences would be compatible with on-site and surrounding structures and uses and would be an attractive addition to the City in that it would be consistent with the developmental pattern of the Upper B Street neighborhood, which is characterized by single-family and multi-family residences and commercial buildings that are one to two stories in height. The neighborhood consists of a mix of traditional architectural styles, including Cottage, Craftsman, and Victorian homes. The new homes would be similar in scale to other homes nearby. The development provides a diverse range of home sizes ranging from 1,452 to 2,223 square feet in size, which is consistent with the neighborhood. In addition, the new homes incorporate Victorian and Craftsman architectural styles to blend in with the existing neighborhood character. The building facades are articulated to provide visual interest from all sides of the homes, especially the front elevations, which incorporate recesses and projections through exterior shutters, window sill treatments, front entry porches, detailed garage doors, and stone veneer. The new homes will have tile roofing and stucco exteriors with full wrap siding and the development provides a varied color palette, which provide additional architectural detailing and contribute to a diverse and interesting street scene. Overall, the homes are attractively designed and will improve the neighborhood by replacing a vacant, underutilized site associated with illegal trash dumping and homeless encampment with new development that is compatible with the neighborhood character.

**B. The development takes into consideration physical and environmental constraints.**

The project takes into consideration physical and environmental constraints in that the scale and character of the new homes are consistent with the size and scale of homes in the surrounding neighborhood, which consists of Cottage, Craftsman, and Victorian homes that vary in size, height, and color. The new lots range between 2,012 or 5,020 square feet in size and the new homes will be two stories in height. The architectural design of the new homes and proposed lot sizes are compatible with the design and scale of the existing homes nearby and as such, the new development will blend into the existing neighborhood. In addition, the project is an in-fill development with minimal impact on the existing development pattern.



Private streets will also provide access to the new homes, which will allow for safe and efficient vehicular circulation. The project is also required by the Hayward Foothills Trail Special Design Overlay District to incorporate a trail along the project frontage on 4<sup>th</sup> Street, which will help complete the envisioned trail network within the Hayward Foothills and provide pedestrian access along the east side of 4<sup>th</sup> Street, which currently does not exist. Furthermore, the project proposes to create a parcel along the northern end of the site adjacent to the creek that would remain free from development and be maintained by a homeowner's association and the new homes near the San Lorenzo Creek are located outside the required 20-foot creek setback area.

**C. The development complies with the intent of City development policies and regulations.**

As previously discussed, the project is consistent with the LDR and MDR land use designations in the *Hayward 2040 General Plan*. The LDR land use designation is intended for single-family residential development and the MDR land use designation is intended for a mix of housing types including single-family residences. Additionally, the proposed density is within the allowable density range. The project is also consistent with the goals and policies of the *Hayward 2040 General Plan*, which encourage a diverse housing inventory and in-fill development. Furthermore, with the PD Rezone, the project meets all the applicable regulations of the Zoning Ordinance, including the development standards of the new PD District and applicable standards of the RS District. Therefore, the project complies with the intent of City development policies and regulations.

**D. The development will be operated in a manner determined to be acceptable and compatible with surrounding development.**

The project will operate in a manner determined to be acceptable and compatible with surrounding development in that the project will comply with all applicable zoning regulations, building codes, and other regulations in the HMC. The proposed site improvements will also have to meet all City standards and details to the satisfaction of the Director of Public Works as shown on the final map and improvement plans. The project will also be subject to various conditions of approval intended to protect the surrounding neighborhood from any potentially harmful impacts. In addition, the project includes guest parking spaces and private streets, which will minimize potential parking and traffic impacts on 4<sup>th</sup> Street, B Street, and Chestnut Street after construction of the homes.

**CALIFORNIA ENVIRONMENTAL QUALITY ACT**

- A. Pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15220, an Initial Study was prepared for this project with the finding that a Mitigated Negative Declaration was appropriate because all potential impacts could be mitigated to a level of less than significant with the implementation of mitigation measures.
- B. The proposed MND was prepared by Rincon Consultants on behalf of the City of Hayward, Lead Agency, and the MND was circulated to the State, all interested parties,

and posted in the newspaper with a minimum 30-day public review period between May 18, 2018 and July 2, 2018.

- C. The proposed MND was independently reviewed, considered and analyzed by the Planning Commission and reflects the independent judgement of the Planning Commission; such independent judgement is based on substantial evidence in the record (even though there may be differences between or among the different sources of information and opinions offered in the documents, testimony, public comments and such responses that make up the proposed MND and the administrative record as a whole); the Planning Commission recommends the City Council adopt the proposed MND and its findings and conclusions as its source of environmental information; and the proposed MND is legally adequate and was completed in compliance with CEQA.
- D. The proposed MND identified all potential adverse impacts and based on the MND and the whole record before the Planning Commission, there is no substantial evidence that the Project, with mitigation measures incorporated, will have a significant effect on the environment.
- E. The project complies with CEQA, and the proposed MND was presented to the Planning Commission, which reviewed and considered the information contained therein prior to recommending approval of the Project. The custodian of the record of proceedings upon which this decision is based is the Development Services Department of the City of Hayward located at 777 B Street, Hayward, CA 94544.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward, based on the foregoing findings, hereby adopts the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program, and approves the Planned Development Rezone with Tentative Tract Map No. 8427 and Site Plan Review Application No. 201704074, subject to the adoption of the companion ordinance (Ordinance No. 18-\_\_\_) rezoning the property located at 22626 4<sup>th</sup> Street to Planned Development District, Assessor Parcel Numbers (APNs) 427-0036-033-05, 427-0036-033-06, 427-0036-033-07, 427-0036-055-19, and 427-0036-085-01, subject to the attached conditions of approval.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2018

ADOPTED BY THE FOLLOWING VOTE:

AYES:           COUNCIL MEMBERS:  
                  MAYOR

NOES:           COUNCIL MEMBERS:

ABSTAIN:       COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_  
          City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward

**CITY OF HAYWARD PLANNING DIVISION  
APPLICATION NO. 201704074  
PD REZONE, VESTING TENTATIVE TRACT MAP 8427, SITE PLAN REVIEW AND  
MITIGATED NEGATIVE DECLARATION WITH MITIGATION MONITORING AND  
REPORTING PROGRAM  
CONDITIONS OF APPROVAL**

**General**

1. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
2. Vesting Tentative Tract Map (VTTM) 8427 and the Preliminary Development Plan and Site Plan Review application are approved subject to the vesting tentative tract map and project plans date stamped May 10, 2018, except as modified by the conditions listed below.
3. In accordance with Hayward Municipal Code (HMC) Section 10-3.246, approval of VTTM 8427 and the Preliminary Development Plan and Site Plan Review application shall expire 36 months after the effective date of approval subject to statutory and discretionary extensions as allowed by the HMC and Subdivision Map Act.
4. All permit charges accrued in the processing of VTTM 8427 and the Preliminary Development Plan and Site Plan Review application shall be paid in full prior to consideration of a request for approval extensions and/or submittal of building permits for the development.
5. Applicant shall apply for all necessary building permits and/or all other related permits from the Building Division. All structures shall be constructed and installed in accordance with the California Building Code, Uniform Mechanical and Plumbing Code, National Electrical Code, and the California Fire Code as adopted by the City of Hayward.
6. If determined to be necessary for the protection of the public peace, safety and general welfare, the City of Hayward may impose additional conditions or restrictions on this permit. Violations of any approved land use conditions or requirements will result in further enforcement action by the Code Enforcement Division. Enforcement includes, but is not limited to, fines, fees/penalties, special assessment, liens, or any other legal remedy required to achieve compliance including the City of Hayward instituting a revocation hearing before the Planning Commission.
7. Prior to final inspection, all pertinent conditions of approval and all other improvements shall be completed to the satisfaction of the Planning Director.

8. Failure to comply with any of the conditions set forth in this approval, or as subsequently amended in writing by the City, may result in failure to obtain a building final and/or a Certificate of Occupancy until full compliance is reached. The City's requirement for full compliance may require minor corrections and/ or complete demolition of a non-compliant improvement regardless of costs incurred where the project does not comply with design requirements and approvals that the applicant agreed to when permits were pulled to construct the project.
9. Affordable housing in-lieu fees shall be paid either prior to issuance of a building permit or prior to approval of a final inspection or issuance of an occupancy permit. Regardless of the option chosen, no final inspection will be approved, and no occupancy permit will be issued for any Dwelling Unit unless all required affordable housing impact fees have been paid in full.
10. The applicant shall contribute \$50,000 towards the restoration of San Lorenzo Creek. The applicant shall coordinate with the City of Hayward and Alameda County Flood Control and Water Conservation District to develop a creek restoration and maintenance plan to determine how the funds will be utilized to support restoration and maintenance efforts.
- 9.11. No rear yard fences shall be placed within the 20-foot setback area of Lots 3 through 12 along San Lorenzo Creek as measured from the 2:1 slope line reflected in the project plans dated May 10, 2018. The Precise Development Plan shall include a revised site plan showing that no fences are proposed within this area.
- 10.12. The applicant shall be responsible for adhering to the Mitigation Monitoring and Reporting Program (MMRP) for the adopted Mitigated Negative Declaration in compliance with the California Environmental Quality Act (CEQA) Guidelines. The applicant shall provide a copy of the adopted MMRP with the building permit submittal.

### **Mitigation Measures**

#### **11.13. Mitigation Measure BIO-1: Invasive Weed Protection**

All efforts shall be made to avoid the spread or introduction of invasive weeds during construction and operation of the project. Appropriate best management practices that are intended and designed to curtail the spread of invasive plant species shall be implemented during construction, and operational practices shall be incorporated into the Homeowner's Association (HOA) CC&Rs. These include the following:

- A. During construction, the project shall limit the use of imported soils for fill. Soils currently existing on site shall be used to the extent possible for fill material. If the use of imported fill material is necessary, the imported material shall be obtained from a source that is known to be free of invasive plant species.

- B. Equipment and vehicles shall be free of caked on mud and weed seeds/propagules before accessing the project site.
- C. As the site already contains invasive species (rated by the California Invasive Plant Council [Cal-IPC]), all equipment and vehicles shall be free of caked on mud and weed seeds/propagules before leaving the project site.
- D. Landscaping materials and plants for lots adjacent to the creek corridor shall not include invasive, non-native ornamentals as identified by the Cal-IPC Inventory. This requirement shall be included in the CC&Rs.
- E. Use of herbicides and other plant pesticides shall be prohibited during construction and for the duration of operation of the residential community. This requirement shall be included in the CC&Rs.

#### 12.14. **Mitigation Measure BIO-2: Designated No-Access Area**

To prevent impacts to San Lorenzo Creek during construction or operation of the project, no work or general access shall be permitted along the top of bank of San Lorenzo Creek beyond the rear property lines of Lots 3 through 12~~designated six-foot wood fence along the property boundary~~.

- A. Updated site plans shall be provided prior to issuance of a grading permit that clearly indicate the property limits, the distance of the rear property lines of Lots 3 through 12~~six-foot wood fence setback~~ from the measured top of bank of San Lorenzo Creek, and the designated “no access” area between the rear property lines of Lots 3 through 12~~six-foot wood fence~~ and the top of bank of San Lorenzo Creek.
- B. Posted “no access” signs shall be placed along the rear property lines of Lots 3 through 12~~six-foot wood fence~~ and along the bank of San Lorenzo Creek at the intersection of A Street and 4th Street to prevent access along the top of back along San Lorenzo Creek.
- C. All “no access” signage shall be permanent, and the no access zone shall be described in the CC&Rs.

#### 13.15. **Mitigation Measure BIO-3: San Lorenzo Creek Avoidance**

No activities associated with project implementation shall result in cut, fill, erosion, sedimentation, or other impacts to San Lorenzo Creek or bank or any modification to the top of bank of San Lorenzo Creek.

If it is not possible to avoid impacts to San Lorenzo Creek as outlined above, a jurisdictional delineation study shall be conducted by a qualified wetlands biologist prior to any project ground breaking and a determination of USACE, RWQCB, and/or CDFW jurisdiction shall be obtained. If any of the above agencies is determined to have jurisdiction of San Lorenzo Creek, permits shall be obtained from the relevant agency prior to any project ground

breaking and shall be provided to the City of Hayward to demonstrate compliance with CWA and CFGC.

**14.16. Mitigation Measure BIO-4: Nesting Bird Avoidance and Minimization Efforts**

If project construction activities occur between February 15 and August 31, a qualified biologist shall conduct a pre-construction survey for nesting birds no more than 14 days prior to construction. The survey shall include the entire project site and a 300-foot buffer to account for nesting raptors. If nests are found the qualified biologist shall establish an appropriate species-specific avoidance buffer of sufficient size to prevent disturbance by project activity to the nest (up to 300 feet for raptors, up to 150 feet for all other birds). The qualified biologist shall perform at least two hours of pre-construction monitoring of the nest to characterize "typical" bird behavior.

During construction, if active nests are present, the qualified biologist shall monitor the nesting birds to determine if construction activities are causing any disturbance to the bird and shall increase the buffer if it is determined the birds are showing signs of unusual or distressed behavior associated with project activities. Atypical nesting behaviors that may cause reproductive harm include, but are not limited to, defensive flights, vocalizations directed towards project personnel/activities, standing up from a brooding position, and flying away from the nest. The qualified biologist shall have authority, through the resident engineer, to order the cessation of all project activities if the nesting birds exhibit atypical behavior that may cause reproductive failure (nest abandonment and loss of eggs and/or young) until a refined appropriate buffer is established. To prevent encroachment, the established buffer(s) should be clearly marked by high visibility material. The established buffer(s) should remain in effect until the young have fledged or the nest has been abandoned as confirmed by the qualified biologist. Any sign of nest abandonment should be reported to the City and CDFW within 48 hours. The monitoring biologist, in consultation with the resident engineer and project manager shall determine the appropriate protection for active nests on a case by case basis using the criteria described above.

**15.17. Mitigation Measure BIO-5: Tree Replacement**

As required by the HMC, the applicant shall replace removed protected trees with like-size, like-kind trees or an equal value tree, or implement alternative forms of mitigation as determined by the City's Landscape Architect. The City's Landscape Architect shall review the final landscape plan to confirm that the proposed mitigation cost matches or exceeds the appraised value of the removed trees prior to the issuance of building permit.

**16.18. Mitigation Measure BIO-6: Tree Preservation Measures**

Tree Preservation measures are required to protect trees that will be preserved in place and replacement trees that will be planted as required under Mitigation Measure BIO-5.

#### Design Recommendations

- A. Establish a tree protection zone around each tree to be preserved. No grading, excavation, construction, or storage of materials shall occur inside this zone. No underground services including utilities, sub-drains, water, or sewer shall be placed in the tree protection zone. For design purposes, the tree protection zone shall be as follows:
  - i. 2 feet behind the limit of soil remediation or grading for trees #8, 16-18, 20, 22-29, 32, and 48.
  - ii. The existing property line for trees #8, 16, 17, and 56.
  - iii. 2 feet behind the limit of grading or construction for trees #57 and 58.
  - iv. 14 feet from the trunk of tree #68.
  - v. 1 foot behind the limit of excavation or grading for street trees #102, 104-107, and 109.
- B. Any herbicides placed under paving materials must be safe for use around trees and labeled for that use.
- C. As trees withdraw water from the soil, expansive soils may shrink in the root area. Therefore, foundations, footings and pavements on expansive soils near trees should be designed to withstand differential displacement.
- D. Apply and maintain 4-6 inches of wood chip mulch within the TPZ or tree-well area. Keep mulch 2 inches from the base of the tree.
- E. Tree Preservation Guidelines prepared by the Project Arborist, which include specifications for tree protection during demolition and construction, should be included on all plans.

#### Pre-Demolition and Pre-Construction Treatments and Recommendations

- A. The demolition and construction superintendents shall meet with the Project Arborist before beginning work to review all work procedures, access routes, storage areas, and tree protection measures.
- B. The tree protection zone shall be fenced at prior to demolition, grubbing or grading. Fences shall be 6-foot chain link or equivalent as approved by the City.
- C. Structures and underground features to be removed in the tree protection zone shall use equipment that will minimize damage to trees above and below ground and operate from outside the tree protection zone. Tie back branches and wrap trunks with protective materials to protect from injury as directed by the Project Arborist.



The Project Arborist shall be on-site during all operations within the tree protection zone to monitor demolition activity.

- D. All tree work shall comply with the Migratory Bird Treaty Act as well as California Fish and Wildlife code 3503-3513 to not disturb nesting birds. To the extent feasible tree pruning and removal should be scheduled outside of the breeding season. Breeding bird surveys should be conducted prior to tree work. Qualified biologists should be involved in establishing work buffers for active nests.

Recommendations for Tree Protection during Construction

- A. Any approved grading, construction, demolition or other work within the tree protection zone should be monitored by the Project Arborist.
- B. All contractors shall conduct operations in a manner that will prevent damage to trees to be preserved.
- C. Tree protection devices are to remain until all site work has been completed in the work area. Fences or other protection devices may not be relocated or removed without permission of the Project Arborist.
- D. Construction trailers, traffic and storage areas must remain outside tree protection zone at all times.
- E. No excess soil, chemicals, debris, equipment or other materials shall be dumped or stored within the tree protection zone.
- F. Any root pruning required for construction purposes shall receive the prior approval of and be supervised by the Project Arborist. Roots should be cut with a saw to provide a flat and smooth cut. Removal of roots larger than 2 inches in diameter should be avoided.
- G. If roots larger than 2 inches in diameter are encountered during site work and must be cut to complete the construction, the Project Arborist must be consulted to evaluate effects on the health and stability of the tree and recommend treatment.
- H. All trees to be retained shall be irrigated on a schedule to be determined by the Project Arborist (every 3 to 6 weeks is typical). Each irrigation shall wet the soil within the tree protection zone to a depth of 18 to 30 inches.
- I. If injury should occur to any tree during construction, it should be evaluated as soon as possible by the Project Arborist so that appropriate treatments can be applied.
- J. Any additional tree pruning needed for clearance during construction must be performed by a Certified Arborist and not by construction personnel.

- K. Prior to grading or trenching, trees may require root pruning outside the tree protection zone. Any root pruning required for construction purposes shall receive the prior approval of, and be supervised by, the Project Arborist.
- L. No excess soil, chemicals, debris, equipment or other materials shall be dumped or stored within the tree protection zone.
- M. Trees that accumulate a sufficient quantity of dust on their leaves, limbs and trunk as judged by the Project Arborist shall be spray-washed at the direction of the Project Arborist.

#### 17-19. **Mitigation Measure BIO-7: Tree Replacement and Maintenance**

Replacement trees shall be planted with sufficient space to accommodate the mature size of the species and maintained sufficiently to ensure establishment. Preserved trees shall also be maintained to ensure the continued long-term health of the tree. Trees on-site shall be monitored and routine maintenance, such as occasional pruning, fertilization, mulch, pest management, replanting, and irrigation, shall be conducted by a landscape specialist.

#### 18-20. **Mitigation Measure CUL-1: Worker's Environmental Awareness Program (WEAP)**

A qualified archaeologist shall be retained who meets the Secretary of the Interior's Professional Qualifications Standards for archaeology to conduct a WEAP training for archaeological sensitivity for all construction personnel prior to the commencement of any ground disturbing activities. Archaeological sensitivity training should include a description of the types of cultural material that may be encountered, cultural sensitivity issues, regulatory issues, and the proper protocol for treatment of the materials in the event of a find.

#### 19-21. **Mitigation Measure CUL-2: Archaeological and Native American Monitoring**

Initial project-related ground-disturbing activities shall be observed by a qualified archaeological monitor under the direction of an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for prehistoric archaeology (NPS 1983). Initial ground disturbance is defined as activities within previously undisturbed native soils. Monitoring activities shall be coordinated with the Federated Indians of Graton Rancheria and a Native American monitor shall be retained for the duration of project ground disturbance. If archaeological resources are encountered during ground-disturbing activities, work in the immediate area must halt and the find evaluated for significance under CEQA. Monitoring may be reduced or halted at the discretion of the monitors as warranted by conditions such as encountering bedrock, sediments being excavated are fill, soils occur within

formations unlikely to yield cultural resources (e.g., soils formations predating human occupation of the region), or negative findings during the first 60 percent of rough grading. If monitoring is reduced to spot-checking, spot-checking shall occur when ground-disturbance moves to a new location in the project site and when ground disturbance will extend to depths not previously reached (unless those depths are within bedrock).

### 20-22. **Mitigation Measure CUL-3: Unanticipated Discovery of Cultural Resources**

If cultural resources are encountered during ground disturbing activities, work in the immediate area shall be halted and an archaeologist meeting the Secretary of the Interior's Professional Qualification Standards for archaeology (NPS 1983) shall be contacted immediately to evaluate the find. If necessary, the evaluation may require preparation of a treatment plan and testing for the California Register of Historical Resources (CRHR) eligibility. If the discovery proves to be significant under CEQA and cannot be avoided by the project, additional work, such as data recovery excavation, may be required to mitigate potentially significant impacts to historical resources.

### 21-23. **Mitigation Measure GEO-1: Geotechnical Considerations**

The project applicant shall implement all measures and recommendations set forth in ENGEO's January 2017 Preliminary Geotechnical Assessment and June 2017 Supplemental Conceptual Slope Stabilization Recommendations (Appendix B to the Initial Study). These recommendations include but are not limited to:

- A. Grading (demolition and stripping, existing fill removal, selection of materials, differential fill thickness, fill placement, and surface venting mitigation)
- B. Slope setback
- C. Slope stabilization for Lots 3 through 10
- D. Building code seismic design
- E. Foundation design
- F. Pavement design
- G. Drainage
- H. Stormwater bioretention areas

In addition, a comprehensive site-specific design-level geotechnical exploration shall be prepared for review and approval by the City of Hayward as part of the design process. The exploration may include borings and laboratory soil testing to provide data for preparation of specific recommendations regarding grading, foundation design, corrosion potential, and drainage for the proposed project. The recommendations set forth in the design-level geotechnical exploration shall be implemented.

**22-24. Mitigation Measure HAZ-1: Site Risk Management Plan**

Prior to issuance of permits allowing any earth-disturbing activity, the developer shall prepare a site risk management plan (SRMP). The SRMP will address known and unknown environmental issues that may be encountered during development. The plan shall identify appropriate measures to be followed if contaminants are encountered during excavation including health and safety measures to reduce exposure to potentially impacted soil for construction workers and dust control measures to reduce exposure to contaminated dust particles for nearby residents. Health and safety measures shall include the required personal protective equipment (PPE) to be used by site personnel, including action levels and decision criteria for upgrading the levels of PPE. The SRMP shall also identify personnel to be notified, emergency contacts, and a sampling protocol if impacted media is encountered. The excavation and demolition contractors shall be made aware of the possibility of encountering known and unknown hazardous materials including impacted soil, soil vapor, and groundwater (if encountered), and shall be provided with appropriate contact and notification information. The plan shall include a provision stating at what point it is safe to continue with the excavation or demolition, and identify the person authorized to make that determination. Removal, transportation, and disposal of impacted soil shall be performed in accordance with applicable federal, state, and local laws, regulations, and ordinances. The plan shall be submitted for City of Hayward for review and approval.

**23-25. Mitigation Measure HYD-1: Design-Level Drainage Analysis and Minimization of Runoff**

The applicant shall conduct a design-level drainage analysis prior to issuance of a grading permit that shall identify existing drainage patterns across the project site and existing off-site stormwater discharge locations. The drainage analysis shall quantify the existing and predicted post-construction peak runoff rates and amounts both on-site and off-site immediately downgradient of the project site. The drainage analysis shall identify any changes to the location of down-gradient discharge of stormwater runoff and any potential impacts on off-site property that would result from those changes. Stormwater control measures shall be developed to maximize on-site infiltration of stormwater and minimize off-site stormwater discharge. These stormwater control measures shall be designed to achieve conformance with MRP C.3 requirements and to ensure that post-development stormwater discharge rates and amounts to off-site locations, including San Lorenzo Creek, are maintained at or below pre-development levels. In addition, on-site drainage improvements shall be designed to ensure that runoff leaving the project site does not flow over the bank of San Lorenzo Creek. The stormwater control measures may include, as necessary, additional or expanded above-ground retention and/or detention basins, stormwater collection tanks, subsurface infiltration devices such as cisterns

with permeable bottoms or perforated pipes, permeable pavement, and vegetated swales. The stormwater control measures required by this mitigation may be used, in whole or in part, to satisfy the erosion and runoff control standards of the NPDES-required SWPPP.

The design-level drainage analysis shall be submitted to and approved by ACPWA prior to issuance of a grading permit. The design-level drainage analysis shall be accompanied by a Drainage Review Checklist provided by ACPWA. The drainage analysis and Drainage Review Checklist shall demonstrate that curb elevations are not less than 1.25 feet above the hydraulic grade line and not lower than the energy grade line, that the MRP C.3 requirements are met, that required riparian setbacks have been implemented, that no surface runoff will flow over the existing bank of San Lorenzo Creek, that outfall structures to the channel conform to ACFC standards, and that the rates and amounts of post-development stormwater discharge are maintained at pre-development levels.

#### 24.26. **Mitigation Measure HYD-2: Stormwater Control Plan, Operation and Maintenance Plan, and Maintenance Agreements**

Prior to issuance of grading permits, the applicant shall submit a Stormwater Control Plan, prepared by a registered professional engineer, addressing the MRP C.3 post-construction runoff requirements. The plan shall include the location of the drainage facilities and the materials used to construct those facilities. A report with supporting calculations shall also be provided. The Stormwater Control Plan shall be reviewed by a licensed Geotechnical Engineer to ensure conformance with the Preliminary Geotechnical Investigation (ENGEO 2017) or Engineering Geology Report. Prior to issuance of grading permits, the applicant shall submit an Operation and Maintenance Plan to ACPWA for review and approval. The plan shall be prepared by a registered Professional Engineer and include, at a minimum, the following:

- A. A site map identifying all structural Stormwater Control Measures requiring O&M practices to function as designed
- B. O&M procedures for each structural Stormwater Control Measure including, but not limited to, LID facilities, retention/detention basins, and proprietorship devices, and
- C. The O&M plan shall include short- and long-term maintenance requirements, recommended frequency of maintenance, and estimated cost for maintenance.

Prior to issuance of grading permits, the applicant shall enter into a Maintenance Agreement with Alameda County. The applicant shall submit a signed and notarized Maintenance Agreement to ACPWA for review and approval. The agreement shall clearly identify the responsible party for ongoing maintenance of structural Stormwater Control Measures. The Agreement shall contain provisions for an annual report to be prepared by a registered Professional Engineer. The annual report shall be submitted to

ACPWA, for review and approval, no later than August 15th. All recommended maintenance shall be completed by October 15th of that same year. If maintenance is required, certification shall be provided that all recommended maintenance has been completed before the start of the rainy season.

#### 25.27. **Mitigation Measure N-1: Construction Noise Reduction Measures**

The applicant shall apply the following measures during construction of the project.

- A. **Mufflers.** Construction equipment shall be properly maintained and all internal combustion engine driven machinery with intake and exhaust mufflers and engine shrouds, as applicable, shall be in good condition and appropriate for the equipment. During construction, all equipment, fixed or mobile, shall be operated with closed engine doors and shall be equipped with properly operating and maintained mufflers, consistent with manufacturers' standards.
- B. **Electrical Power.** Electrical power, rather than diesel equipment, shall be used to run compressors and similar power tools and to power any temporary structures, such as construction trailers or caretaker facilities.
- C. **Equipment Staging.** All stationary equipment shall be staged as far away from noise-sensitive receptors as feasible.
- D. **Equipment Idling.** Construction vehicles and equipment shall not be left idling for longer than five minutes when not in use.
- E. **Workers' Radios.** All noise from workers' radios shall be controlled to a point that they are not audible at sensitive receptors near construction activity.
- F. **Smart Back-up Alarms.** Mobile construction equipment shall have smart back-up alarms that automatically adjust the sound level of the alarm in response to ambient noise levels. Alternatively, back-up alarms shall be disabled and replaced with human spotters to ensure safety when mobile construction equipment is moving in the reverse direction.
- G. **Disturbance Coordinator.** The applicant shall designate a disturbance coordinator who shall be responsible for responding to any local complaints about construction noise. The noise disturbance coordinator shall determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and shall require that reasonable measures warranted to correct the problem be implemented. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site.

#### 26.28. **Mitigation Measure T-1: B Street Roadway Striping and Signage**

Prior to issuance of a certificate of occupancy, the project applicant shall install cautionary signage warning of the new driveway locations on B Street approaching the project site. In addition, the project applicant shall fund roadway striping along the project's B Street frontage that shall display a prohibition against vehicles blocking access to the project driveways (Keep Clear) when waiting at a red light.

**27-29. Mitigation Measure T-2: Driveway Signage**

The project applicant shall install caution signage, stop bars, and marked crosswalks at the project driveways on B Street to ensure that vehicles stop before exiting the driveways and entering B Street.

**28-30. Mitigation Measure T-3: 4<sup>th</sup> and B Street Pedestrian Improvements**

The project applicant shall coordinate with City of Hayward Transportation Department staff to design and fund installation of a marked crosswalk, pedestrian bulbouts, curb ramps, and a pedestrian countdown signal on the eastern leg of 4th Street and B Street. This includes expanding the traffic signal hardware to add a pedestrian phase, a pedestrian signal head, and a pedestrian push button.

**29-31. Mitigation Measure T-4: B Street Roadway Striping and Signage**

The project applicant shall coordinate with the City of Hayward and AC Transit to install a bus bulbout at the bus stop along the project site's B Street frontage at the southern quadrant of 4th Street and B Street. The applicant shall also install signage warning pedestrians of entering and exiting vehicles at the project driveways.

**30-32. Mitigation Measure TCR-1: Unanticipated Discovery of Tribal Cultural Resources**

In the event that cultural resources of Native American origin are identified during construction, all earth-disturbing work in the vicinity of the find must be temporarily suspended or redirected until an archaeologist has evaluated the nature and significance of the find and an appropriate Native American representative, based on the nature of the find, is consulted. If the City determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with state guidelines and in consultation with Native American groups. The plan would include avoidance of the resource or, if avoidance of the resource is infeasible, the plan would outline the appropriate treatment of the resource in coordination with the archeologist and the appropriate Native American tribal representative.

**Precise Plan Submittal**

**31-33.** In accordance with Section 10-1.2550 of the Hayward Municipal Code (HMC) and prior to submitting a building permit application, a Precise Development

Plan shall be submitted for review and approval.

~~32.34.~~ The Precise Development Plan shall be in substantial conformance with the approved Preliminary Development Plan and incorporate conditions herein and shall be submitted in advance of or in conjunction with the subdivision improvement plans and Final Map.

~~33.35.~~ The project approval includes the following project amenities to support the finding required to be made that “any latitude or exception(s) to development regulations or policies is adequately offset or compensated for by providing functional facilities or amenities not otherwise required or exceeding other required development standards”.

- A. Photovoltaic systems shall be installed on the rooftops of all units.
- B. A minimum of 14 units shall provide a bedroom suite on the first floor.
- C. The project shall provide a 7,065-square-foot group open space area with landscaping, an outdoor seating area, exercise stations, and a pedestrian pathway.

~~34.36.~~ The Precise Development Plan shall include the following information and/or details:

- A. A copy of these conditions of approval shall be included on a full-sized sheet(s).
- B. Proposed location for construction staging, designated areas for construction employee parking (on- and off-site), construction office, sales office (if any), hours of construction, provisions for vanpooling construction workers or having them use transit to access the site, provisions for noise and dust control, and common area landscaping.
- C. Details of address numbers shall be provided. Address numbers shall be decorative and comply with the size requirements of the Fire Department.
- D. Proposed locations, heights, materials and colors of all walls and fences.
- E. A minimum of one exterior hose bib shall be provided for each residential unit.
- F. Proposed pavement materials for all drive aisles, parking areas, and pedestrian paths. All surfaces should be enhanced with decorative pavement materials such as colored, stamped concrete (bomanite or equal), brick, concrete interlocking pavers or other approved materials.
- G. Proposed mailbox design and locations, subject to Post Office approval. All mailboxes shall be locking mailboxes.
- H. A final lighting plan prepared by a qualified illumination engineer



shall be included to show exterior lighting design. The final lighting plan shall incorporate pedestrian scale lighting along the sidewalk within and adjacent to the development (4<sup>th</sup> Street, B Street, and Chestnut Street). All lighting shall be erected and maintained so that adequate lighting is provided along the private street. The Planning Director shall approve the design and location of lighting fixtures, which shall reflect the architectural style of the building(s). Exterior lighting shall be shielded and deflected away from neighboring properties and from windows of houses within the project.

- I. All air conditioners and utility connections for air conditioners shall be located behind solid board fences or walls and shall not exceed the height of the fence or wall, unless otherwise approved. Infrastructure for air conditioning systems is required to be installed as a standard feature.
- J. Proposed color and materials board for all buildings, fences and walls. No changes to colors shall be made after construction unless approved by the Planning Director.
- K. All above-ground utility meters, mechanical equipment and water meters shall be enclosed within the buildings or shall be screened with shrubs and/or an architectural screen.
- L. No mechanical equipment, other than solar panels, shall be placed on the roof unless it is completely screened from view by the proposed roof structure. All roof vents shall be shown on roof plans and elevations. Vent piping shall not extend higher than required by building code. Roof apparatus, such as vents, shall be painted to match the roof color.
- M. Large expanses of blank wall shall not be allowed. Articulate or otherwise treat such expanses to avoid bulkiness.
- N. An area within each garage for individual garbage and recycling receptacles shall be provided and shall be clear of the required area for two cars. As an alternative, an area within the fenced side yard may be used for the garbage and recycling containers but shall be shown.
- O. All parking stall dimensions shall conform to the City's Off-street Parking Ordinance. All two car garages shall have minimum interior dimensions of 20-foot width by 19-foot depth. The dimensions shall be shown on plans. No doors, stairs, landings, laundry facilities, trash/recycle containers or HVAC shall project within the required interior parking areas.

35-37. Any proposal for alterations to the proposed site plan and/or design which does not require a variance to any zoning ordinance standard must be approved by the Development Services Director or his/her designee, prior to implementation.

~~36.38.~~ Details of all project amenities shall be submitted for review and approval by the Planning Director during the Precise Plan phase of the project.

~~37.39.~~ The project shall comply with the provisions of the 2016 California Energy Code section 110.10.

**Development Review Services Engineering / Public Works Engineering**

~~38.40.~~ **Homeowner's Association (HOA):** Prior to the sale of any parcel, or prior to the acceptance of site improvements, whichever occurs first, Conditions, Covenants and Restrictions (CC&R's), creating an HOA for the property, shall be reviewed and approved by the Planning Director and City Attorney and recorded. The CC&R's shall describe how the stormwater BMPs associated with privately owned improvements and landscaping shall be maintained by the association. The CC&Rs shall include the following provisions:

- A. The CC&R's shall state that the City of Hayward has the right to abate public nuisance conditions in the common area if the association or corporation fails to do so, and to assess the cost to the association, corporation or individual unit owners. In order to accomplish this, the CC&Rs shall contain the following typical statements:
  - i. In the event the Board fails to maintain the exterior portions of the common area so that owners, lessees, and their guest suffer, or will suffer, substantial diminution in the enjoyment, use or property value of the project, thereby impairing the health, safety, and welfare of the residents in the project, the City of Hayward, by and through its duly authorized officers and employees, shall have the right to enter upon the real property described in Exhibit "A" and to commence and complete such work as is necessary to maintain said exterior portions of the common area. The City shall enter and repair only if, after giving the Board written notice of the Board's failure to maintain the premises, the Board does not commence correction of such conditions in no more than 30 days from delivery of the notice and proceed diligently to completion. The Board agrees to pay all expenses incurred by the City of Hayward within 30 days of written demand. Upon failure by the Board to pay within said 30 days, the City of Hayward shall have the right to impose a lien for the proportionate share of such costs against each condominium or community apartment in the project.
  - ii. It is understood that by the provisions hereof, the City of Hayward is not required to take any affirmative action, and any action undertaken by the City of Hayward shall be that which, in its sole discretion, it deems reasonable to protect the public health, safety, and general welfare, and to enforce it and the

regulations and ordinances and other laws.

- iii. It is understood that action or inaction by the City of Hayward, under the provisions hereof, shall not constitute a waiver or relinquishment of any of its rights to seek redress for the violation of any of the provisions of these restrictions or any of the rules, regulations, and ordinances of the City, or of other laws by way of a suit in law or equity in a court of competent jurisdiction or by other action.
  - iv. It is further understood that the remedies available to the City by the provision of this section or by reason of any other provisions of law shall be cumulative and not exclusive, and the maintenance of any particular remedy shall not be a bar to the maintenance of any other remedy. In this connection, it is understood and agreed that the failure by the Board to maintain the exterior portion of the common area shall be deemed to be a public nuisance, and the City of Hayward shall have the right to abate said condition, assess the costs thereof and cause the collection of said assessments to be made on the tax roll in the manner provided by Chapter 4, Article 1, of the Hayward Municipal Code or any other applicable law.
  - v. The City Council of the City of Hayward may, at any time, relinquish its rights and interest in the project as herein set forth by appropriate resolution. Any such relinquishment by the City Council shall be effective on the date that the resolution is adopted, and a copy thereof is placed in the United States mail, postage prepaid, addressed to the Board. The Board shall execute and record a declaration reflecting such relinquishment within 10 days of receipt of a copy of the resolution.
- B. Each owner shall automatically become a member of the association(s) and shall be subject to a proportionate share of maintenance expenses.
  - C. A reserve fund shall be maintained to cover the costs of improvements and landscaping to be maintained by the Association(s).
  - D. The HOA shall own and maintain the private access roads and on-site storm drain systems in the development, excluding those located within the public right-of-way. The HOA shall also own and maintain the trail along the project frontage on 4<sup>th</sup> Street.
  - E. A provision that the building exteriors and fences shall be maintained free of graffiti. The owner's representative shall inspect the premises on a weekly basis and any graffiti shall be removed within 48 hours of inspection or within 48 hours of notification by the City.
  - F. The HOA shall maintain the common area irrigation system and

maintain the common area landscaping in a healthy, weed-free condition at all times. The HOA representative(s) shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30% die-back) shall be replaced within fifteen days of notification to the homeowner. Plants in the common areas shall be replaced within two weeks of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to the Hayward Municipal Code.

- G. The HOA shall conduct at least semi-annual inspections to confirm that all residents are using their garages for parking their cars and not for storage. Residents shall make garages available for such inspections, as appropriate. An automatic garage door opening mechanism shall be provided for all garage doors.
- H. Individual homeowners shall maintain in good repair the exterior elevations of their dwelling. The CC&Rs shall include provisions as to a reasonable time period that a unit shall be repainted, the limitations of work (modifications) allowed on the exterior of the building, and the right of the home owners association to have necessary work done and to place a lien upon the property if maintenance and repair of the unit is not executed within a specified time frame. The premises shall be kept clean and free of debris at all times. Color change selections shall be compatible with the existing setting.
- I. The HOA shall maintain all fencing, parking surfaces, common landscaping, lighting, drainage facilities, project signs, exterior building elevations, etc. The CC&Rs shall include provisions as to a reasonable time period that the building shall be repainted, the limitations of work (modifications) allowed on the exterior of the buildings, and its power to review changes proposed on a building exterior and its color scheme, and the right of the homeowner's association to have necessary work done and to place a lien upon the property if maintenance and repair of the unit is not executed within a specified time frame. The premises shall be kept clean.
- J. Any future major modification to the approved site plan shall require review and approval by the City.
- K. On-site streetlights and pedestrian lighting shall be owned and maintained by the HOA and shall have a decorative design approved by the Planning Director and the City Engineer.
- L. Street sweeping of the private street and private parking stalls shall be conducted at least once a month.
- M. The association shall ensure that no less than 75 percent of the units shall be owner-occupied. The CC&Rs shall further provide that the leasing of units as a regular practice for business, speculative

investment or other similar purpose is not permitted. However, to address special situations and avoid unusual hardship or special circumstances, such as a loss of job, job transfer, military transfer, change of school or illness or injury that, according to a doctor, prevents the owner from being employed, the CC&Rs may authorize the governing body to grant its consent, which consent shall not be unreasonably withheld, to a unit owner who wishes to lease or otherwise assign occupancy rights to a specified lessee for a specified period.

#### Final Map

39.41. Final Map shall include offers for easement dedications to the City and its acceptance or rejection statements for the City's water distribution, sewer collection, emergency vehicle access, public utilities and other public services in formats acceptable to the City Engineer.

40.42. Final Map shall be prepared in compliance with the Subdivision Map act and the City of Hayward Municipal code. It shall be submitted for the City Engineer's approval together with its related property documents and survey calculations.

41.43. Final Map shall include the formation of an HOA to own and maintain private drive, storm drain facilities and common areas. Final Map shall show the limits of the common areas for HOA ownership and maintenance. HOA documents and the related covenants, conditions and restrictions shall be submitted for the City's review and approval.

#### Infrastructure Improvement and Engineering Reports

42.44. Any work within the existing City street right-of-way or easement shall be per the plans approved by the City and in compliance with its permit.

43.45. Public infrastructure improvements, including sewer collection mains, water mains and meter boxes, water service laterals from water main and meter box and fire hydrant assemblies shall be offered to the City for its maintenance and shall be shown on the site improvement plan. The improvements intended for the City's maintenance shall comply with the City standards.

44.46. Public infrastructure improvements intended for the City's maintenance shall be constructed within existing public street rights-of-way or new easements acceptable to the City. Such new easements shall be offered for the City's acceptance on the Final Map.

45.47. Grading, landscaping, utilities and on/off-site improvement plans, and their related engineering studies and design documents shall be submitted to the City Engineer for review and approval prior to requesting any map approval or building permit. Subject plans shall, in addition to the standard

improvements, incorporate the following design requirements:

- A. Grind and overlay 2" AC pavement full street width along B Street property frontage from 4<sup>th</sup> Street to 100 feet east of 4<sup>th</sup> Street.
- B. Chestnut Street pavement shall be repaired where damaged and resurfaced with hot-mix asphalt concrete across the development frontage and half-street widths to provide Traffic Index 5 and as per plans approved by the City Engineer. Pavement markings shall be installed as required by the City Engineer.
- C. 4<sup>TH</sup> Street pavement shall be repaired where damaged and resurfaced with hot-mix asphalt concrete across the development frontage and its full widths to provide Traffic Index 7 and as per plans approved by the City Engineer. Pavement markings shall be installed as required by the City Engineer.
- D. Underground existing utility poles along property frontage at Chestnut Street, 4<sup>th</sup> Street and B Street.
- E. Install new curb gutter and sidewalk along property frontage at Chestnut Street.
- F. Remove existing driveway cuts and replace with new curb, gutter and sidewalk along project frontage.
- G. Remove and replace uplifted or broken curb gutter and sidewalk along property frontage.
- H. Install standard barricade at the terminus of Court A and Court B.
- I. Install street trees per plans approved by the City's Landscape Architect along property frontage.
- J. New City standard LED streetlights shall be installed on public streets fronting the property to provide average illumination of one foot-candle and meet other City street lighting standards.

46.48. The project geotechnical consultant shall review and approve the final grading, site improvements and building plans.

47.49. Protected species and archeological resource protection studies shall be completed before start of any construction and their recommendations shall be complied with.

#### Grading

48.50. A copy of the Notice of Intent (NOI) receipt from the State Water Resource Control Board shall be provided to the City Engineer.

49.51. A grading permit shall be secured before starting any grading operation. Grading shall be per plans prepared by a State licensed engineer and approved by the City Engineer and the project geotechnical engineer. Grading plans shall be submitted together with its related geotechnical and

engineering reports, plans for required retaining structures and required Storm Water Pollution Prevention Plans.

50.52. Prior to the issuance of a grading permit and/or the beginning of any on-site construction activity, the Developer's Engineer shall submit a completed Development Building Application Form Information comprising of: 1) Impervious Material Form, and 2) Operation and Maintenance Information Form.

51.53. A Construction Noise Management Plan shall be prepared and implemented. Such plan must be approved by the City Engineer prior to issuance of grading permits and shall contain, at minimum, a listing of hours of construction operations (which shall be in accordance with the City's construction hours), use of mufflers on construction equipment, limitation of on-site speed limits, identification of haul routes to minimize travel through residential areas and identification of noise monitors. Specific noise management measures shall be included in appropriate contractor specifications.

52.54. Prior to the start of any construction or grading activity, including hauling of material to or from the project site, a mitigation plan approved by the Bay Area Air Quality Management District (BAAQMD) shall be implemented and followed throughout the duration of construction or grading activity. The dust mitigation plan must specify dust mitigation practices which are sufficient to ensure that no equipment or operation emits dust that is visible and crossing the property line.

53.55. Any land disturbing activity shall comply with plans approved by the City Engineer. The erosion and sediment control plans must be prepared by a licensed engineer, comply with the local and regional regulations and must address each of the following topics:

- A. Track-out prevention and control measures;
- B. Control for traffic traveling on project site unpaved driveways, parking lots, and staging areas;
- C. Control for earth moving activities;
- D. Post construction stabilization of disturbed areas; and
- E. Frequency of reporting.

#### Storm Drain System

54.56. The storm drain facilities shall be designed to comply with the 2015 Municipal Regional Permit (MRP) of the San Francisco Regional Water Quality Control Board (RWQCB) and the Alameda Countywide Clean Water Program C.3 Guidelines.

55.57. The development project shall provide Low Impact Development (LID) Source Control Measures as per MRP Provision C.3.c for Regulated Projects

(C.3.b) and Hydromodification Management as per MRP Provision C.3.g.

~~56-58.~~ A Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) shall be prepared and submitted to RWQCB for review and approval. The SWPPP documents shall also be submitted along with the improvement plans to the City for review by the City Engineer. The certification page of the SWPPP shall be signed by the owner/developer and the person who prepared the report. The SWPPP and Storm Water Management Plan (SWMP) reports are to be submitted to the State and City in bound form. The Soil Report and SWMP shall be wet-stamped and signed by the project QSD/QSP. Documents that are clipped or stapled will not be accepted.

~~57-59.~~ The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to limit the entry of pollutants into storm water runoff to the maximum extent practicable. Storm water treatment areas shall be created with engineered soil fill to intercept the surface runoff and provide bio-treatment and a minimum ground infiltration rate of 5 inches per hour.

~~58-60.~~ The latest edition of the Alameda County Flood Control and Water Conservation District's Hydrology and Hydraulics Manual dated 2016 shall be used to design the storm drain system. A detailed grading and drainage plan with supporting calculations and a completed Drainage Review Checklist shall be reviewed and approved by the City Engineer.

~~59-61.~~ The on-site storm drains and storm water treatment systems shall be owned-and-maintained by the property owner. The owner shall execute a maintenance agreement with the City as stated below.

~~60-62.~~ An erosion and sedimentation control plan shall be developed and implemented to prevent soil, dirt, debris and contaminated materials from entering the storm drain system. The plans shall be approved by the City Engineer.

~~61-63.~~ The project shall not block runoff from, or augment runoff to, adjacent properties. The drainage area map developed for the hydrology design shall clearly indicate all of area tributary to the project site. The developer is required to mitigate augmented runoffs with on-site improvements.

~~62-64.~~ All storm drain inlets must be labeled "No Dumping - Drains to Bay" using the City approved specifications.

#### Stormwater Quality Requirements

~~63-65.~~ On sheet C-7, Preliminary Storm Water Treatment Plan, Lots A and E shall be identified how the water from these areas are treated. Include on the table and designate on the plan DMA (Drainage Management Areas) and TCM (Treatment Control Measures).



~~64.66.~~ The following materials related to the Storm water quality treatment facility requirements shall be submitted with improvement plans or the grading permit application:

- A. Complete the City of Hayward, Stormwater Requirements Checklist and submit plans addressing the requirements for the City Engineer's review and approval.
- B. The storm water pollution prevention plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to limit the entry of pollutants into storm water runoff to the maximum extent practicable.
- C. The proposed BMPs and storm water pollution prevention measures shall be designed to comply with the hydraulic sizing criteria listed in Provision C.3 of the Alameda County Clean Water Program (ACCWP). In addition, the California Stormwater Quality Association's Stormwater Best Management Practice Handbook for New Development and Redevelopment, Subsection 5.5 on pages 5-12 has a section titled "BMP Design Criteria for Flow and Volume". These materials are available on the internet at [www.cabmphandbooks.com](http://www.cabmphandbooks.com).
- D. The following documents shall be completed and submitted with the improvement and/or grading plans:
  - i. Hydromodification Management Worksheet;
  - ii. Updated Stormwater Requirements Checklist; and
  - iii. Numeric Sizing Criteria used for stormwater treatment (Calculations).

~~65.67.~~ The developer shall be responsible for ensuring that all contractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction BMPs will result in the issuance of correction notices, citations or a project stop order.

~~66.68.~~ The City's standard "Stormwater Treatment Measures Maintenance Agreement" (prepared by the City and is available in the Engineering and Transportation Division) shall be executed by the property owner. The Maintenance Agreement shall be recorded with the Alameda County Recorder's Office concurrently with the Final Map recording. This agreement will bind the current and future property owner(s) with responsibility for continued operations, inspections, reporting and maintenance of the stormwater pollution prevention improvements constructed on-site.

### **Landscape**

~~67.69.~~ The storm drain easement through group open space shall be relocated between two existing trees to be preserved. The proposed location shall have

- irreversible impact to the Oak tree for preservation. The effort shall be coordinated with the project engineer.
- 68-70. Bio-treatment areas next to hardscape (curb, paving, structure etc.) shall have minimum two feet of undisturbed leveled soil surface before side slope could begin. The small bio-treatment area Lot 23 and 24 shall be eliminated and the alley way shall be paved with permeable pavers for the required treatment. In order to provide undisturbed and leveled two feet wide surface behind the curb, the treatment area west of Lot 3 shall be reduced. The stem roadway to Lot 1 through 3 shall be considered for permeable paving as well as the driveway for Lot 8 through 12 and Lot 14 through 16 to compensate for the reduction in size for the treatment area. The effort shall be coordinated with the project engineer.
- 69-71. Water meters and sewer cleanouts shall be located in the driveway when the driveway depth is less than thirteen feet.
- 70-72. Proposed upsized trees for the tree mitigation shall be realistic and doable. In order to plant a sixty-inch-box tree, minimum ten feet by ten feet of planting hole needs to be dug. The planting hole shall not be dug against the paving that may compromise the integrity of the paving section.
- 71-73. All proposed trees are deciduous. It would be desirable to have mix of evergreen and deciduous trees.
- 72-74. Existing tree number 66, twenty-six-inch diameter Silver Dollar Gum, seems to be located too close to the proposed fence for Lot 38. This Silver Dollar Gum may not have fully matured, the tree may damage the fence as it matures. It is recommended for removal and revise the mitigation summary chart accordingly.
- 73-75. Though Gleditsia t. 'Shademaster' is considered one of the better species among Gleditsia, it produces long seed pods and could be messy to be street trees. Locations where this tree species are used shall be provided.
- 74-76. Enhanced paving at all entrances shall be provided.
- 75-77. Proposed plant spacing shall not be less than minimum spread at maturity. Reference source books for water use and plant maturity size shall be provided on the plan.
- 76-78. Enlarged plans for the group open space shall be provided showing proposed amenities like par course stations to see how the par course fits into the overall design. Proposed par course doesn't seem to be engaging. Turf shall not be placed within the dripline or near two Oak trees for preservation.

- ~~77.79.~~ Three water meters are located in the group open space, and only one is identified in the utility and landscape Plans as an irrigation meter. Please identify the other two meters. All three meters' size information shall be provided.
- ~~78.80.~~ If proposed, view fences shall be decorative wrought iron or metal fence.
- ~~79.81.~~ Rain barrel shall be located where it will be easily accessible for use.
- ~~80.82.~~ Upon approval of Precise Plan, landscape improvement plans shall be submitted for approval. Improvement plans shall provide lines for City's approval signatures and dates on the right side of the plan: One for City Landscape Architect and other for City Engineer.
- ~~81.83.~~ Once approved, wet-stamped and wet-signed Mylar of the approved improvement plans shall be submitted to City Landscape Architect for signatures. Copies of signed Mylar shall be submitted as a part of the building permit submittal set.
- ~~82.84.~~ Mylar size shall be twenty-two inches by thirty-four inches without exception. A graphic bar scale shall be provided.

### **Public Works Transportation**

- ~~83.85.~~ Applicant shall install "Bike Route" signage and "Sharrow" pavement markings on 4th Street along project frontages. Proposed signage and pavement marking locations shall be included in the Signing and Striping plans.
- ~~84.86.~~ Applicant shall install a pedestrian crosswalk on the east side of the 4th Street/B Street intersection and make all necessary modifications to the existing traffic signal to accommodate the new pedestrian crosswalk. Crosswalk design and Signal Modification plans shall be included with Improvement Plans and shall be approved by Public Works and the City Engineer prior to issuance of building permits.
- ~~85.87.~~ Applicant shall install bulb-outs on the east side of the 4th Street/B Street intersection to accommodate the new pedestrian crossing. Bulb-out design and layout shall be included in Improvement Plans and shall be approved by Public Works-Engineering and the City Engineer prior to issuance of building permits.
- ~~86.88.~~ Applicant shall install standard streetlights along project frontages on B Street and 4th Street at 125' spacing. Proposed streetlight locations shall be included in Improvement Plans.

~~87-89.~~ Applicant shall stripe "25" pavement markings on B Street east of 4th Street along project frontage. Pavement marking shall be included in the Signing and Striping plans.

~~88-90.~~ Applicant shall submit a Photometric Plan to be included with Improvement Plans that shall be approved by Public Works-Transportation and the City Engineer prior to issuance of building permits.

~~89-91.~~ Applicant shall submit a Signing & Striping Plan to be included with Improvement Plans that shall be approved by Public Works-Transportation and the City Engineer prior to issuance of building permits.

### **Utilities and Environmental Services**

~~90-92.~~ At the time of your building permit, please indicate where each home will store the trash, recyclables, and organics containers (a 9-foot by 3-foot space is required), either in the garage or side yard, that has an accessible pathway to the driveway. Also ensure cart storage will be out of public view.

~~91-93.~~ Please submit the Construction and Demolition Debris Recycling Statement at the time of your building permit (section 4). You only need to submit the top "applicant" half of the form during the building permit. The bottom half of the form should be completed upon completion of the project to receive final building inspection approval. You can find the form online at <http://www.hayward-ca.gov/services/city-services/construction-and-demolition-debris-disposal>.

~~92-94.~~ The Precise Development Plan shall incorporate the following revisions:

- A. On the utility plan, show the location and the size of the irrigation meter, service line, and backflow device. Revise to show the irrigation meter located before the RP device.
- B. Relocate meter boxes to be in the sidewalk where applicable per Standard Details SD-213 to SD-218.
- C. Show the sewer lateral for lot 3 on the utility plan.

~~93-95.~~ The development's water mains shall be public, owned and maintained by the City. If the water mains are located in a private roadway, either the entire roadway shall be a public utility easement or a minimum 10' wide easement shall be granted to the City.

~~94-96.~~ All public water mains shall be constructed in accordance with the City's "Specifications for the Construction of Water Mains (12" Diameter or Less) and Fire Hydrants," latest revision at the time of permit approval. (available on the City's website at <https://www.hayward-ca.gov/your-government/departments/engineering-division>).

- ~~95.97.~~ All water mains must be looped. Dead end water mains will not be allowed. Water mains must be connected to other water mains, via dedicated easements if necessary.
- ~~96.98.~~ Where a public water main is in an unpaved easement or under decorative, stamped, or colored concrete (including turf-blocks), the water main shall be constructed of ductile iron. Shut-off valves are required where a water main transitions from a paved area to an unpaved easement.
- ~~97.99.~~ Existing water services, if any, that cannot be reused for the proposed development shall be abandoned by City Water Distribution Personnel at the applicant's/developer's expense.
- ~~98.100.~~ Each residential dwelling unit shall have an individual domestic water meter. Facilities fees for residential connections are based on the domestic demand for the home. A larger water meter may be installed if the service is combined with a private fire service. The developer is required to pay water facilities fees and installation charges for connections to water mains and work performed by City forces.
- ~~99.101.~~ The development could use combined residential domestic and fire services for each residence. Residential combined domestic and fire services are allowed, per City Standard SD-216 (copy attached). Per SD-216, flow-through fire sprinkler systems do not require the installation of an above ground backflow prevention assembly. They do require the installation of a N36 meter box or a B16 and a B9 meter box.
- ~~100.102.~~ A separate irrigation water meter must be installed to serve the property's landscape. The size of the irrigation meter will be determined by the gallon per minute demand of the irrigation system. An above ground Reduced Pressure Backflow Prevention Assembly (RPBA) shall be installed on each irrigation water meter, per SD-202. Backflow prevention assemblies shall be at least the size of the water meter or the water supply line on the property side of the meter, whichever is larger.
- ~~101.103.~~ All water services from existing water mains shall be installed by City Water Distribution Personnel at the applicant's/developer's expense.
- ~~102.104.~~ All domestic and irrigation water meters shall be radio-read type.
- ~~103.105.~~ Water meters and services are to be located a minimum of two feet from top of driveway flare as per SD-213 thru SD-218.
- ~~104.106.~~ Water mains and services, including the meters, must be located at least 10 feet horizontally from and one-foot vertically above any parallel pipeline conveying untreated sewage (including sanitary sewer laterals), and at least four feet from and one-foot vertically above any parallel pipeline

conveying storm drainage, per the current California Waterworks Standards, Title 22, Chapter 16, Section 64572. The minimum horizontal separation distances can be reduced by using higher grade (i.e., pressure) piping materials.

~~105.107.~~ The development's sanitary sewer mains and manholes shall be public, owned and maintained by the City. If the sewer mains are located in a private roadway, either the entire roadway shall be a public utility easement or a minimum 10' wide easement shall be granted to the City. All sewer mains and appurtenances shall be constructed in accordance to the City's "Specifications for the Construction of Sewer Mains and Appurtenances (12" Diameter or Less)," latest revision at the time of permit approval (available on the City's website at <https://www.hayward-ca.gov/your-government/departments/engineering-division>). Sewer cleanouts shall be installed on each sewer lateral at the connection with the building drain, at any change in alignment, and at uniform intervals not to exceed 100 feet. Manholes shall be installed in the sewer main at any change in direction or grade, at intervals not to exceed 400 feet, and at the upstream end of the pipeline.

~~106.108.~~ Each residential dwelling unit shall have an individual sanitary sewer lateral. Each sanitary sewer lateral shall have at least one cleanout and be constructed per SD-312.

~~107.109.~~ The developer is responsible for payment of sewer connection fees at the current rates at the time the application for building permits are submitted.

### **Fire Department**

~~108.110.~~ Design of the public streets and private streets and courts shall meet all City of Hayward and California Fire Code Standards.

~~109.111.~~ All public and private streets and private courts shall be designed with an all-weather surface pavement.

~~110.112.~~ Parking of vehicles is allowed one-side parking on 30-foot-wide road. No parking is allowed on 24-foot-wide road. Where there is no on-street parking, fire lane signage shall be installed in locations required by the Hayward Fire Department. "No Parking" sign shall meet the City of Hayward Fire Department fire lane requirements.

~~111.113.~~ All public streets, private streets and private courts shall be designed and engineered to withstand 75,000 lbs. gross vehicle weight of fire apparatus. Such standard is also applicable to pavers or decorative concrete.

~~112.114.~~ Spacing and locations of fire hydrants shall be subject to review and approval by the Hayward Fire Department. The type of fire hydrant shall be

- Modified Steamer Hydrant (Flow Valve Co. Model LB 614 with one 2-1/2" outlet and one 4-1/2" outlet) in single-family residential area, capable of flowing 1,500 gallons per minute. The design and layout of the hydrants shall be reviewed and approved by the Fire Department.
- ~~113-115.~~ Blue reflective pavement markers shall be installed at fire hydrant locations. If fire hydrants are located so as to be subjected to vehicle impacts as determined by the Hayward Fire Department, crash posts shall be installed around the fire hydrant(s).
- ~~114-116.~~ Submit for proper building permits for the construction of the building to the Building Department.
- ~~115-117.~~ Buildings are required to install fire sprinkler systems in accordance with NFPA 13D Standards. A separate plan/permit is required prior to the installation of the overhead fire sprinkler system.
- ~~116-118.~~ Maximum 80 PSI water pressure should be used when water data indicates a higher static pressure. Residual pressure should be adjusted accordingly.
- ~~117-119.~~ Underground fire service line serving NFPA 13D sprinkler system shall be installed in accordance with NFPA 24 and the Hayward Public Work Department SD-216. Water meter shall be minimum one-inch in diameter for residential application or four-inch for a (NFPA 13) commercial grade system.
- ~~118-120.~~ An audible alarm bell (device) shall be installed to sound on the exterior of each individual building. The device shall activate upon any fire sprinkler system waterflow activity.
- ~~119-121.~~ An interior audible alarm device shall be installed within the dwelling in a location so as to be heard throughout the home. The device shall activate upon any fire sprinkler system waterflow activity.
- ~~120-122.~~ All bedrooms and hallway areas shall be equipped with smoke detectors, hard-wired with battery backup. Installation shall conform to the California Building Code (CBC).
- ~~121-123.~~ When a flow switch is not installed on the riser of a flow thru sprinkler system, smoke alarms shall be interconnected to sound an audible alarm in all sleeping areas within the dwelling unit.
- ~~122-124.~~ CO detectors should be placed near the sleeping area on a wall about 5 feet above the floor. The detector may be placed on the ceiling. Each floor needs a separate detector.

- ~~123-125.~~ An approved type spark arrestor shall be installed on any chimney cap.
- ~~124-126.~~ A minimum 4" self-illuminated address shall be installed on the front of the dwelling in a location so as to be visible from the street. Otherwise, a minimum 6" address shall be installed on a contrasting background and shall be in a location approved by the Fire Department.
- ~~125-127.~~ Submit a phase 1 Environmental assessment and any other records regarding site contamination, investigation, remediation, or clearances from other regulatory agencies. Submit final clearance shall be obtained from either the California Regional Water Quality Control Board or Department of Toxic Substance Control to ensure that the property meets residential development investigation and cleanup standards. Allowance may be granted for some grading activities if necessary to ensure environmental clearances.
- ~~126-128.~~ The Hayward Fire Department's Hazardous Materials Office shall be notified immediately at (510) 583-4900 if hazardous materials or associated structures are discovered during demolition or during grading. These shall include but shall not be limited to: actual/suspected hazardous materials, underground tanks, or other vessels that may have contained hazardous materials.
- ~~127-129.~~ Prior to grading: Structures and their contents shall be removed or demolished under permit in an environmentally sensitive manner. Proper evaluation, analysis and disposal of materials shall be done by appropriate professional(s) to ensure hazards posed to development construction workers, the environment, future residents and other persons are mitigated.
- ~~128-130.~~ Discovery of Potentially Hazardous Materials or Vessels/Containers shall be reported to the Hayward Fire Department's Hazardous Materials Office shall be notified immediately at (510) 583-4900 if hazardous materials are discovered during demolition or during grading. These shall include, but shall not be limited to, actual/suspected hazardous materials, underground tanks, vessels that contain or may have contained hazardous materials.
- ~~129-131.~~ Use of Hazardous Materials or Generation of Hazardous Waste – During construction, hazardous materials used, and hazardous waste generated shall be properly managed and disposed.
- ~~130-132.~~ Upon next submittal, please provide the water/fire flow test data information on the plan, including static pressure, residual pressure, pitot pressure, test flow, calculated available water flow at 20 PSI and test date. This information may be requested from the Hayward Public Works Department. A new test should be requested to the Hayward Public Works



Department (Michelle Tran, [michelle.tran@hayward-ca.gov](mailto:michelle.tran@hayward-ca.gov), 510-583-4722)  
if updated data is not available.

**ITEM #6 – CONS 18-356**

**COVER MEMO - REPORT AND SPECIAL  
ASSESSMENT FOR COMMUNITY  
PRESERVATION  
FEES PAST DUE**



**DATE:** July 17, 2018  
**TO:** Mayor and City Council  
**FROM:** City Manager  
**THROUGH:** Director of Development Services  
**SUBJECT** Report and Assessment of Community Preservation Fees Past Due

**RECOMMENDATION**

That Council accepts an amendment to agenda item #6, CONS 18-356, removing invoice #340164 in the amount of \$4,426.83 issued to the property located at 30230 Cedarbrook Rd – APN#078G-2654-091-00.

*Recommended by:* Eusebio Espitia, Code Enforcement Manager

Approved by:

---

Kelly McAdoo, City Manager

**PUBLIC COMMENT**

**ITEM #14**

**MARY ANN HIGGS EMAIL**

---

**From:** Mary Ann Higgs []  
**Sent:** Monday, July 16, 2018 10:35 AM  
**To:** List-Mayor-Council <List-Mayor-Council@hayward-ca.gov>  
**Subject:** Fw: City Council Meeting July 17, 2018, Item 14

Dear Mayor and City Council,

The below message did not reach you when originally sent and I am therefore forwarding. Please note that Kelly McAdoo has forwarded my email to the correct individual in the City to answer my questions.

Mary Ann Higgs

---

**From:** Mary Ann Higgs <>  
**Sent:** Sunday, July 15, 2018 10:06 AM  
**To:** [mayorcouncil@hayward-ca.gov](mailto:mayorcouncil@hayward-ca.gov); Kelly McAdoo  
**Subject:** City Council Meeting July 17, 2018, Item 14

Dear Mayor, City Council and City Manager,

I am reviewing the City Council agenda for this coming Tuesday, July 17, 2018 and I notice that item 14 pertains to RFP's that were received and reviewed by the City for Parcel 3, Parcel 4, and remaining properties in Parcel 2 of the former 238 Bypass. As I review the staff notes about the RFP's, I can't help but notice how detailed the RFP's are. As the RFP's are so detailed, it seems to me that plans for these parcels are pretty much decided. Which leads me to the questions, "Was a public comment period held about these parcels? Has the public had opportunity to weigh in on how they would like to see their neighborhoods developed before a developer submits their RFP?".

I ask this question as I repeatedly add my name to lists to be informed about route 238 Bypass topics and actions being hosted by the City of Hayward. I've been adding my name to lists for 26 years. And, I repeatedly contact the City and complain that communication is not sent when I learn about something when the decision is essentially made. In this particular case, I am concerned as parcel 4 covers the Hayward hills, crosses Harder Road and ends just 3 properties from my home. I have repeatedly reached out to the City of Hayward regarding the parcels on the corners of Westview and Harder asking when there would be public comments that involve these pieces of land and I'm repeatedly told, we have your name, address, email and phone number, we'll contact you (See emails below from March 30 regarding this very topic). Yet, here we are, a couple of days before a City council vote about what developer will become responsible for developing this land and I've not received notification through City of Hayward channels about Public Comments nor have I seen anything on the website (and I check regularly).

Again, I ask what do I need to do differently? Based on the fact that the RFP's are so detailed, I'm guessing if there are any amendments made to them going forward, they will be minor. Basically, it looks like a done deal from where I sit. Also, I see that no one has bid on Parcel 4 but one developer who bid on Parcel 3 has said they will also take Parcel 4 if they are chosen to develop Parcel 3. Regarding item 14 on the City Council agenda, the only comment I have is that if Parcel 4 is awarded to a developer I ask that significant efforts to involve the public on any development of this parcel. Whether it's a residence, access to a hillside trail, or something else. Because there are two currently empty lots on the corners of Westview and Harder, any development of this parcel has the potential to impact the entrance to our unique neighborhood and we should have a say in what happens there.

Finally, I feel helpless about the development that is going on around me and I'm particularly distressed about how the process will proceed regarding the development of Parcel 5. So, I'm going to stop waiting for the City to notify me and I'm asking the questions I have. I expect a response to each with the information that you have today.

1. What is the status of the process to develop Parcel 5? Please share the outline of the process and where we are in the process.
2. When is the public comment period? Please provide specific dates. If not yet scheduled, please provide target dates so I can follow up as we get closer to those dates
3. What information regarding Parcel 5 is available for me to review right now and how can I access it?
4. Who can I (and my neighbors) meet with now to discuss Parcel 5 before the City decides to rezone the hillside? (a council member recently shared with a neighbor that the City Council is considering rezoning the hillside to allow for greater density).
5. What can I do to improve the City's ability to communicate with it's citizens? The assurances of "we'll contact you" never seem to play out. This leads me to believe there's something that needs to be improved in the City's communication efforts. I have 20+ years experience working with corporate communication plans, perhaps I can help.

I look forward to your prompt response to my questions.

Mary Ann Higgs

---

**From:** Mary Ann Higgs <>  
**Sent:** Friday, March 30, 2018 2:37 PM  
**To:** Kelly McAdoo  
**Subject:** Re: City Council Meeting April 3 and Public Comments in General

Thank you for your prompt response. I appreciate it.

---

**From:** Kelly McAdoo <[Kelly.McAdoo@hayward-ca.gov](mailto:Kelly.McAdoo@hayward-ca.gov)>  
**Sent:** Friday, March 30, 2018 2:21 PM  
**To:** Mary Ann Higgs  
**Cc:** List-Mayor-Council; Patrick O'Keeffe; Maria Hurtado  
**Subject:** Re: City Council Meeting April 3 and Public Comments in General

Good afternoon Ms. Higgs-

I'm sorry for your frustrations. However, this is the first time you are hearing anything because this is the first time the Council has considered any public action regarding Parcel Group 4. This is simply the first step in the process which will allow the City to release the Request for Proposals for the potential sale of the property. No development is proposed at this time.

Once the City receives any proposals, these will be brought back for consideration and the community will again receive notice of that action.

If you have questions about the RFP or the process, I would encourage you to reach out to Pat O'Keeffe, the City's project manager, who is copied on this email.

I am also happy to answer any other questions you have.

Thank you-  
Kelly

Kelly McAdoo  
City Manager  
510-583-4305 office

Sent from my iPhone - pardon any typos!

On Mar 30, 2018, at 2:11 PM, Mary Ann Higgs <> wrote:

I've recently received the email with the City Council Agenda for April 3. I see that there are 2 agenda items regarding the Former Route 238 Parcels. While I'm happy to see the city is moving forward with the former route 238 Parcels, I'm curious as to why this is the first I'm seeing of this. I subscribe to all of the types of communication the City allows citizens to subscribe. Yet, somehow, I have received no notifications about information about these parcels even though I've checked the box saying I want to be kept apprised of actions related to the former route 238 Parcels. I'm particularly angry as some of the area in parcel 4 which is being discussed on the April 3 council agenda is within 100 yds of my home. Seems like I should have been given some kind of heads up on this, don't you think?

I'm angry because I'm doing all the things the City tells me to do to stay informed. I subscribe to all the communications. I review the agendas when I get them. I follow the City of Hayward on Twitter. Yet, despite these efforts, I've received no notification about progress regarding the former route 238 parcels. I received no notification about the building of the CVS Pharmacy on the corner of Harder and Mission and now every night, their lights that stay on 24 hours a day light up my bedroom and the back of my house. I'm tired of not being able to have a voice in things when I am doing everything that I'm being told to do. Earlier this month, I was having an exchange with a City employee regarding public comments for the downtown specific plan that has apparently been going on for 2 years. How is it that I subscribe to everything, but was not aware of a plan that has been underway for 2 years.

All that being said, I'm concerned about the two plots of Parcel 4 former route 238 that are on the North side of Harder Road. These two plots make up the corners of Westview Way and Harder Road. The neighbors on Westview Way and Central Blvd would like to see the plot on the West (downhill) side be developed into a fenced dog park or some kind of community park space. The uphill side has less options because of the terrain. If the park/dog park scenario is not possible, we would like the downhill plot to be turned into parking as the City has painted red curbs on a good portion of our streets in the last year literally taking away 20-30 street parking spaces on a street where parking is limited and there's no option to "park around the corner" or on an adjacent street. If our neighbors had been consulted, we would have told you this.



Finally, as you are well aware, our neighborhood has a vested interest in what happens with the former route 238 properties that are on Central Blvd, Maitland Dr, Bunker Hill Drive, Bunker Hill Ct. Based on the fact that I have not received notifications about route 238 properties, I'm extremely skeptical that I or any of my neighbors will be notified when it's time for public comments for the parcel that makes up our neighborhood. For 26 years I have owned my home on Westview Way. I have tried to be an active participant in what happens with the 238 parcels. Multiple times I've put my name and contact information on lists only to not be notified. WHAT AM I SUPPOSED TO DO DIFFERENTLY?! I am scared that the City will pull an end run and decide on a plan for the plots of land in my unique neighborhood without the input of those of us who live here who have put up with the squatters, the people who dump trash at these vacant properties, the grafitti, and other issues we've dealt with over the years. Tell me how I can be sure that there will be a public comment period that is publicized more the 12 hours before the event. Assure me, with specifics, about how I and my neighbors will be involved in the development of our neighborhood. Right now, I and a good portion of my neighbors do not believe you will make effort to involve us. That's a hard thing for me to write, but it's the truth and you need to know that. So, I'm asking once again, what do I need to do to ensure I'm notified of the opportunity to have input? And if your answer is, "sign up for our communications", know that I've done that, multiple times and I get sporadic communications. I get some that my neighbor doesn't get. My neighbor gets some that I don't get. And we've verified that we subscribe to the same communications through the City. Tell me something that's going to make me feel better.

Mary Ann Higgs

**PUBLIC COMMENT**

**ITEM #14**

**ZACHARIAH OQUENDA EMAIL**

---

**From:** Zachariah Oquenda [mailto:]  
**Sent:** Monday, July 16, 2018 10:33 AM  
**To:** List-Mayor-Council <List-Mayor-Council@hayward-ca.gov>  
**Subject:** Public Comment (Item #14) - Parcel Group 3 - Surplus Land Act

Dear Mayor and City Council,

I thought it may be useful to share some information about the Surplus Land Act, which provides some additional support for staff's recommendations to enter into an ENRA with Eden Housing and Pacific Companies. I'm excited about the potential for Parcel Group 3 and other opportunities to use Hayward public land for public good. Please see my very brief public comment attached below.

I appreciate your time and consideration.

Thanks in advance,

Zachariah  
Oquenda  
Pronouns: he/him/his  
J.D. / Master of Public Policy (MPP)

Candidate  
University of California, Berkeley,  
School of Law / Goldman School of Public Policy

"When we give cheerfully and accept gratefully, everyone is blessed."  
— Maya Angelou

## PUBLIC COMMENT

**DATE:** July 17, 2018  
**TO:** Hayward City Council  
**FROM:** Zachariah Oquenda  
**SUBJECT:** Parcel Group 3 (ITEM# 14) – Public Land for Public Good; Surplus Land Act

### PUBLIC LAND FOR PUBLIC GOOD

Public land should be used to promote the public good. Given the low-income affordable housing crisis we are experiencing, one of the greatest public goods may be providing equitable access to affordable housing.

### SUMMARY

The Surplus Land Act requires local government agencies to prioritize affordable lower-income housing development on surplus public land (i.e., land that cities are no longer using and intend to sell). The City of Hayward owns several parcels, including those in Parcel Group 3, which the City aims to sell for residential development. In addition to the Affordable Housing Ordinance, the City of Hayward should comply with (if not aim to exceed) the standards set in the Surplus Land Act. Staff's recommendations would exceed these standards. I ask City Council to approve staff recommendations, amend ENRA Term 8 to expand affordability, and add a Term deed-restricting the affordable units for at least 55 years.

### SURPLUS LAND ACT (Gov. Code §§ 54220–54233)

Whenever a local agency (i.e., City of Hayward) sells or leases surplus property (land it is not using), it must do the following.

- The City “shall give *first priority*” to an entity that will build at least 25% affordable housing to lower-income households (80% AMI or below). *Gov. Code § 54222.5*. Priority can mean entering into an Exclusive Negotiating Rights Agreement (ENRA) with priority proposals or creating scoring criteria that heavily favors affordability.
- If more than one entity proposes at least 25% of units affordable to lower-income households (80% AMI or below), then priority must be given for the greatest number of affordable units at the most deeply affordable levels. *Gov. Code § 54227(a)*.
- Whatever entity comes out to offer the most affordability gets 90 days for good faith negotiations with the City. *Gov. Code § 54223*.
- If the City cannot agree to price and terms in those 90 days, then the City may sell the property to an entity that “shall provide no less than 15 percent” affordable housing for lower-income households (80% AMI or below) for 55 years. *Gov. Code § 54233*.

### CONCLUSION

First, I respectfully ask City Council to authorize the City Manager to enter into an ENRA with Eden Housing and Pacific Co. because they provide the most affordable units with the deepest affordabilities.

Second, I ask the City Council to approve staff's recommended ENRA Terms 1-28 relating to Parcel Group 3, as they would exceed the requirements of the Surplus Land Act. However, perhaps City Council could consider amending staff's recommended ENRA Term 8 to expand the range of income affordability to include 30% to 80% AMI. This threshold will allow for some units to be affordable to many more Section 8 voucher holders, who tend to be seniors and people with disabilities on fixed incomes.

Third, I ask City Council to consider adding an ENRA Term for Parcel Group 3 that makes explicit that all affordable units must be deed-restricted for at least 55 years, if not in perpetuity.

**PUBLIC COMMENT**

**ITEM #17**

**RANDY EMAIL**

---

Begin forwarded message:

**From:** "RandyAndAndyLive" <>  
**To:** "List-Mayor-Council" <[List-Mayor-Council@hayward-ca.gov](mailto:List-Mayor-Council@hayward-ca.gov)>  
**Subject:** Fwd: Opp Research

I will not be able to make the meeting tonight but please consider my letter before making your decision. Thank you.

----- Forwarded message -----

From: Admin <>  
> Date: Mon, Jul 16, 2018, 8:49 PM  
Subject: Opp Research  
To: <>

Yooooo Randy,

Send the attached PDF to the email below which will reach all council members:  
[List-Mayor-Council@hayward-ca.gov](mailto:List-Mayor-Council@hayward-ca.gov)<<mailto:List-Mayor-Council@hayward-ca.gov>>

Subject: Urgent. Read before Approving Cannabis Applicants

Message: (You can pretty much write whatever you want. Just include some sort of reference that you are a Hayward Local and that you will be speaking on tomorrows agenda regarding this file and just wanted to give it to them for courtesy)

Hello City Council and Staff,

I am writing to express my opposition to Hayward Station being granted a Commercial Cannabis Permit. While I am not opposed to Cannabis in Hayward, I am opposed to opportunistic companies deceiving their way into our community. Before you make a decision to grant this group a license, I highly recommend you read the full contents attached below including the supplemental materials. This will allow you to make an informed decision regarding the Applicant teams experience within the cannabis industry and the type of risk Hayward will take by granting them a license.

**See Exhibit A for Applicant Names and Affiliations.**

**See Exhibit B for Share Structure after Blum Merger**

## **Relationship between Green Door, Blum Oakland, and Terra Tech**

### **OPERATIONS AND ASSET MANAGEMENT AGREEMENT**

This Operations and Asset Management Agreement (this "Agreement") is made and entered into this 31<sup>st</sup> day of March, 2016 (the "Effective Date"), by and among Terra Tech Corp., a Nevada corporation ("Terra Tech"), Black Oak Gallery, a California corporation (the "Owner"), and Platinum Standard, LLC, a California limited liability company ("Operator") (each a "Party" and, collectively, the "Parties").

### **RECITALS**

A. The Owner is the owner of that certain licensed medical cannabis dispensary business (the "Business") located at 578 W. Grand Avenue, in the City of Oakland, State of California, commonly known as Blum Oakland (the "Property").

B. Owner's Business includes a cultivation center, located on the property of the Business (the "Cultivation Center") located at 556 - 578 W. Grand Avenue, in the City of Oakland, State of California.

C. Operator is an experienced medical cannabis dispensary operator.

D. Since approximately October 1, 2012, Owner has engaged Operator in the financing and operation of the Business.

E. As of the Effective Date, Owner is a wholly-owned subsidiary of Terra Tech.

F. Terra Tech engages in the business of managing and operating cultivation businesses, among other business activities.

G. Terra Tech hereby desires to engage and appoint Operator as the sole and exclusive operator and asset manager of the Business for the benefit of Terra Tech and Owner, and Operator desires to accept such appointment, all upon and subject to the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the foregoing recitals and the mutual covenants, promises and conditions herein contained, Terra Tech and Operator agree as follows:

**Source:** [https://www.sec.gov/Archives/edgar/data/1451512/000147793216010217/trtc\\_ex1029.htm](https://www.sec.gov/Archives/edgar/data/1451512/000147793216010217/trtc_ex1029.htm)

Applicants listed as involved with Terra Tech Merger in their Hayward Station application:

|                  |              |            |
|------------------|--------------|------------|
| Miguel Rodriguez | Justin Jarin | David Kang |
|------------------|--------------|------------|

### **Operations and Asset Management Agreement Effective March 31, 2016**

Claims that since approximately October 1, 2012. Owner has engaged Operator in the financing and operations of the Business.

## **Termination of Contract (May 11, 2017) Between Terra Tech and Green Door Partner**

### **Item 1.02 Termination of a Material Definitive Agreement.**

On May 11, 2017 Terra Tech Corp. (the "Company") terminated the Operations and Asset Management Agreement (the "Agreement") by and among the Company, Black Oak Gallery (the "Black Oak"), and Platinum Standard, LLC ("Platinum"), dated March 31, 2016. Black Oak is a wholly-owned subsidiary of the Company. There is no relationship between the Company or its affiliates and Platinum, other than pursuant to the Agreement. Pursuant to the Agreement, the Company hired and appointed Platinum as the operator and asset manager of the Company's licensed medical cannabis dispensary business located at 578 W. Grand Avenue, in the City of Oakland, State of California, commonly known as Blüm Oakland, in exchange for certain payments to be made by the Company to Platinum, all as more fully set forth in the Agreement. The Company terminated the Agreement as a result of the default by Platinum in the performance of certain of its material obligations under the Agreement. The Company did not incur any early termination penalty in connection with terminating the Agreement. A copy of the Agreement was filed as Exhibit 10.29 to the Company's Form 10-Q for the quarterly period ended March 31, 2016.

**Source:** <https://seekingalpha.com/filings/pdf/12070575.pdf>

The reason for the contract termination is underlined in blue and reads:

**"The Company terminated the Agreement as a result of the default by Platinum in the performance of certain of its material obligations under the Agreement. The Company did not incur any early termination penalty in connection with terminating the Agreement."**

**Why did Platinum Standard LLC default in the performance of certain of its material obligations one year into a ten-year contract?**

## **Misclassifying Corporate Relationship to Council Members**

### **San Leandro Public Hearing (Blum SL or DSWC Selection) (07/18/2016)**

At the hearing for approval for Blum San Leandro, attended by Salwa Ibrahim and Alicia Darrow, Ms. Ibrahim claimed Blum San Leandro was its own separate entity when questioned about Terra Tech Corps involvement.

Source: [http://sanleandro.granicus.com/MediaPlayer.php?view\\_id=2&clip\\_id=834](http://sanleandro.granicus.com/MediaPlayer.php?view_id=2&clip_id=834)

Council Questions Begin: (03:50:30)

### **Terra Tech Form 10-K Annual Report For the Fiscal year Ended December 31, 2016**

#### **Our Business**

We are a vertically integrated cannabis-focused agriculture company that is committed to cultivating and providing the highest quality medical cannabis, as well as other agricultural products, such as herbs and leafy greens that are grown using classic Dutch hydroponic farming methods. We have seven wholly-owned subsidiaries, GrowOp Technology, Edible Garden, Black Oak, Blüm San Leandro, IVXX LLC, IVXX Inc. and EG Transportation, as well as ownership interests in MediFarm, MediFarm I, MediFarm II, and MediFarm I RE.

Source: [https://ir.terratechcorp.com/annual-reports/content/0001477932-17-001483/trtc\\_10k.htm](https://ir.terratechcorp.com/annual-reports/content/0001477932-17-001483/trtc_10k.htm)

**Why did Blum San Leandro misrepresent the true nature of their relationship with Terra Tech and insinuate they are a separate entity knowing they are a wholly owned subsidiary?**



While one may think this was just a mistake in statement, Terra Tech CEO Derek Peterson hinted at his strategy during the Q4 2016 Earnings Call. In it he stated:

"Philip Carlson

Okay. And last question will Terra Tech's percentage of ownership of 60%, 50% and 55% respectively change in the future and all of three of the MediPharm Nevada subdivisions?

Derek Peterson

Okay, that's a great question. It's actually I mean it's a relatively complex question, but the short of it is this. Our Reno dispensary is a true 50-50 partnership. We get a 100% of the revenue **we are 50% essentially of the profits to our partner up there.** The other locations according to the operating agreements we basically have the right to a 100% of the revenue and 100% of the profits as the majority interest holder of those subsidiaries, we have a right to buy out the membership interest of the other holders at a value associated with our capital accounts.

And what that means in English is right now because we've spent a tremendous amount of money in Nevada, sales are just starting to ramp up, we have a historical expense in the state that hasn't been made up yet by net income, we think that obviously will be fixed as time goes on with the implementation of recreational cannabis. But what that does it allows us to buy out the membership interest of our partners for basically at zero value.

So one of the reasons we wanted to keep those partnerships in place was because of the local ownership regard that the local community have but we built enough credibility with a local government, the state where Nevada Corporation ourselves – continue to value add to have the partnership like that.

So something that we're working on is to assume a 100% of those entities it's not going the cost us any capital to do that according to the operating agreement that we put forth. And that being said, I guess that's something that we're going to be executed, I think on over the next quarter or two just to clean up the accounting associated with that.

So those ones with the exception of the Reno dispensary will be a 100% owned by the company but as we sit right now we're entitled to 100% of the revenue and 100% of the profits that come out of that entity."

Philip Carlson

Source: <https://seekingalpha.com/article/4059567-terra-techs-trtc-ceo-derek-peterson-q4-2016-results-earnings-call-transcript>

Are these the business principles that Hayward wants for its cannabis businesses?

### **Terra Tech and Blum under Applicant Management Lose Millions**

The applicant team claims they have helped grow Blum into a Multi-Million-dollar business but neglect to mention that they have accumulated expenses at a larger rate. The merger between Blum and TerraTech happened on March 31, 2016 and revealed an operation with significant financial trouble. (Years 2015, 2016, 2017 Included)

(See Next Page)

# 2015

**Terra Tech Corp and Blum Oakland**  
**Pro Forma Statement of Operations**  
**For the Year Ended December 31, 2015**

|   | <u>Terra Tech Corp</u> | <u>Blum Oakland</u> | <u>Pro Forma Adjustments</u> | <u>Pro Forma</u> |
|---|------------------------|---------------------|------------------------------|------------------|
| Total Revenues  | \$ 9,975,346           | \$12,983,824        | \$ (683,516)(1)              | \$ 22,275,654    |
| Cost of Goods Sold  | 8,958,475              | 10,709,576          | (512,803)(1)                 | 19,155,248       |
|   | 1,016,871              | 2,274,248           | (170,713)                    | 3,120,406        |
| Selling, general and administrative expenses                            | 9,833,646              | 2,213,742           | 108,000(2)                   | 12,155,388       |
| Loss from operations  | (8,816,775)            | 60,506              | (278,713)                    | (9,034,982)      |
| Other Income (Expenses)   |                        |                     |                              |                  |
| Amortization of debt discount   | (696,180)              | -                   | -                            | (696,180)        |
| Loss on extinguishment of debt  | (619,444)              | -                   | -                            | (619,444)        |
| Loss from derivatives issued with debt greater than debt carrying value | (561,000)              | -                   | -                            | (561,000)        |
| Gain (Loss) on fair market valuation of derivatives                     | 1,800,100              | -                   | -                            | 1,800,100        |
| Interest Income (Expense)   | (469,576)              | 1,236               | -                            | (468,340)        |
| Total Other Income (Expense)  | (546,100)              | 1,236               | -                            | (544,864)        |
| Loss before Provision of Income Taxes                                   | (9,362,875)            | 61,742              | (278,713)                    | (9,579,846)      |
| Provision for income taxes  | 44,000                 | 636,628             | -                            | 680,628          |
| Net Loss  | (9,406,875)            | (574,886)           | (278,713)                    | (10,260,474)     |
| Net Loss attributable to non-controlling interest                       | 181,295                | -                   | -                            | 181,295          |
| Net Loss attributable to Terra Tech Corp.                               | \$(9,225,580)          | \$ (574,886)        | \$ (278,713)                 | \$(10,079,179)   |

Note 1 - The revenue and cost of goods sold between Blum and IVXX have been eliminated.

Note 2 - The salaries to the Blum partners have been eliminated and replaced with the Platinum management agreement.

Source: <http://www.otcmartets.com/edgar/GetFilingHtml?FilingID=11432288>

# 2016

|   | <u>Year Ended December 31, 2016</u> |                          |                               |                |
|---|-------------------------------------|--------------------------|-------------------------------|----------------|
|   | <u>Hydroponic Produce</u>           | <u>Cannabis Products</u> | <u>Eliminations and Other</u> | <u>Total</u>   |
| Total Revenues  | \$ 12,000,423                       | \$13,207,327             | \$ 120,014                    | \$ 25,327,764  |
| Cost of Goods Sold  | 11,021,449                          | 11,664,737               | 68,894                        | 22,755,080     |
| Gross Profit  | 978,974                             | 1,542,590                | 51,120                        | 2,572,684      |
| Selling, General and Administrative Expenses                            | 2,520,061                           | 5,729,884                | 12,470,590                    | 20,720,535     |
| Loss from Operations  | (1,541,087)                         | (4,187,294)              | (12,419,470)                  | (18,147,851)   |
| Other Expense:  |                                     |                          |                               |                |
| Amortization of Debt Discount   | -                                   | -                        | (1,414,202)                   | (1,414,202)    |
| Loss on Extinguishment of Debt  | -                                   | -                        | (5,382,813)                   | (5,382,813)    |
| Loss from Derivatives Issued with Debt Greater than Debt Carrying Value | -                                   | -                        | (1,487,500)                   | (1,487,500)    |
| Loss on Fair Market Valuation of Derivatives                            | -                                   | -                        | (1,844,500)                   | (1,844,500)    |
| Interest Income (Expense)   | -                                   | -                        | (377,349)                     | (377,349)      |
| Gain on Fair Market Valuation of Contingent Consideration               | -                                   | -                        | 668,694                       | 668,694        |
| Total Other Expense   | -                                   | -                        | (9,837,670)                   | (9,837,670)    |
| Loss Before Provision for Income Taxes                                  | \$ (1,541,087)                      | \$ (4,187,294)           | \$(22,257,140)                | \$(27,985,521) |

Source: <https://ir.terratechcorp.com/all-sec-filings/content/0001477932-17-001483/0001477932-17-001483.pdf>

# 2017

|   | For the Year Ended December 31, 2017 |   |                        |                 |
|---|--------------------------------------|---|------------------------|-----------------|
|   | Herbs and Produce Products           | Cannabis Dispensary, Cultivation and Production | Eliminations and Other | Total           |
| Total Revenues  | \$ 5,701,233                         | \$ 30,031,046                                   | \$ 68,565              | \$ 35,800,844   |
| Cost of Goods Sold  | 5,211,658                            | 25,112,113                                      | -                      | 30,323,771      |
| Gross Profit  | 489,575                              | 4,918,933                                       | 68,565                 | 5,477,073       |
| Selling, General and Administrative Expenses              | 3,123,037                            | 10,843,210                                      | 11,390,844             | 25,357,091      |
| Loss from Operations                                      | (2,633,462)                          | (5,924,277)                                     | (11,322,279)           | (19,880,018)    |
| Other Income (Expense):                                   |                                      |   |                        |                 |
| Amortization of Debt Discount                             | -                                    | -   | (2,138,762)            | (2,138,762)     |
| Impairment of Property                                    | -                                    | -   | (138,037)              | (138,037)       |
| Impairment of Intangibles                                 | (757,467)                            | -   | -                      | (757,467)       |
| (Loss) Gain on Extinguishment of Debt                     | (18)                                 | 187   | (7,144,457)            | (7,144,288)     |
| Loss on Fair Market Valuation of Derivatives              | -                                    | -   | (3,494,550)            | (3,494,550)     |
| Interest (Expense) Income                                 | -                                    | 110   | (542,774)              | (542,664)       |
| Gain on Settlement of Contingent Consideration            | -                                    | 4,991,571                                       | -                      | 4,991,571       |
| Loss on Fair Market Valuation of Contingent Consideration | -                                    | (4,426,047)                                     | -                      | (4,426,047)     |
| Total Other Income (Expense)                              | (757,485)                            | 565,821   | (13,458,580)           | (13,650,244)    |
| Loss Before Provision for Income Taxes                    | \$ (3,390,947)                       | \$ (5,358,456)                                  | \$ (24,780,859)        | \$ (33,530,262) |

Source: [https://ir.terratechcorp.com/annual-reports/content/0001477932-18-002991/trtc\\_10ka.htm](https://ir.terratechcorp.com/annual-reports/content/0001477932-18-002991/trtc_10ka.htm)

If applicants are as experienced as they claim, why does their operation lose millions yearly?

## Context Regarding the Applicant Teams Experience in Other Localities

- The majority of the applicants Cannabis experience stems from an unregulated market.
  - CCPC Inc. (Registered in 2010)
  - Black Oak Gallery (Registered 2011)
  - Platinum Standard LLC (Registered 2015)

The registration dates of these businesses conflict with the applicants claim about their experience unless they admit they were running an illicit cannabis business.

### GreenDoor SF (CCPC Inc.)

Michael Nolin, Miguel Rodriguez, Justin Jarin, David Kang

### Blum Oakland- 2012 (Black Oak Gallery)

Salwa Ibrahim & Martin Kaufman & Derek Peterson (Assistance from Green Door Staff)

The applicant teams' associates (Salwa Ibrahim, Marin Kaufman, Derek Peterson) attained their Blum license in 2012. The nature by which they attained their local license as well as their state license raises ethical concerns.

- Local License:

FBI: Marijuana Union Organizer Took Bribes, Rigged Process

- ❖ <https://archives.sfweekly.com/thesnitch/2015/08/13/fbi-marijuana-union-organizer-took-bribes-rigged-process>

Oakland Pot Union Bribery Scandal Exposed

- ❖ <https://www.eastbayexpress.com/LegalizationNation/archives/2015/08/13/breaking-oakland-pot-union-bribery-scandal-exposed>

▪ State License:

Oakland's Revolving Door of Weed Lobbying

- ❖ <https://www.eastbayexpress.com/oakland/oaklands-revolving-door-of-weed-lobbying/Content?oid=13057408>

**Blum Berkeley Application- 2013(Rejected):**

**Salwa Ibrahim & Lillian Kang**

Dan Rush Signed LPA for UFCW on 08/22/13

- By this time, Mr. Kaufman had already lent Rush \$600,000 and Kaufman did not start cooperating with the FBI until October 2013. He received immunity for the previous laundering of the illicit cannabis proceeds in exchange for cooperation in wiretapping Rush and his lawyer.

**Blum San Leandro (Approved)**

**Salwa Ibrahim (Exec. Dir.) & Michael Yoell & Antony Fabrizio & Alicia Darrow (COO)**

Granted permit on October 17, 2016. Not yet open.

Further Analysis on Current State of Terra Tech:

**Summary**

- We uncovered lawsuits against TRTC from alleged unpaid suppliers.
- Toxic Convertible Debt provides significant potential for shareholder dilution.
- The company paid \$51.5m for a dispensary in a related-party transaction; first dispensary license was received via bribery.
- The auditor has an adverse opinion on financial controls, and financials show a declining business that burns cash.
- All of the management team has past personal bankruptcies or a shareholder wipeout. CEO and Treasurer filed personal bankruptcy. CEO was allegedly involved in Mazzuto Scam and paid a settlement.

<https://seekingalpha.com/article/4184736-terra-tech-complete-smokeshow-questionable-management-poorly-run-business-dilution-risk>

# City of Hayward City Staff Selection Criteria

## Hayward Station (City Staff Recommended)

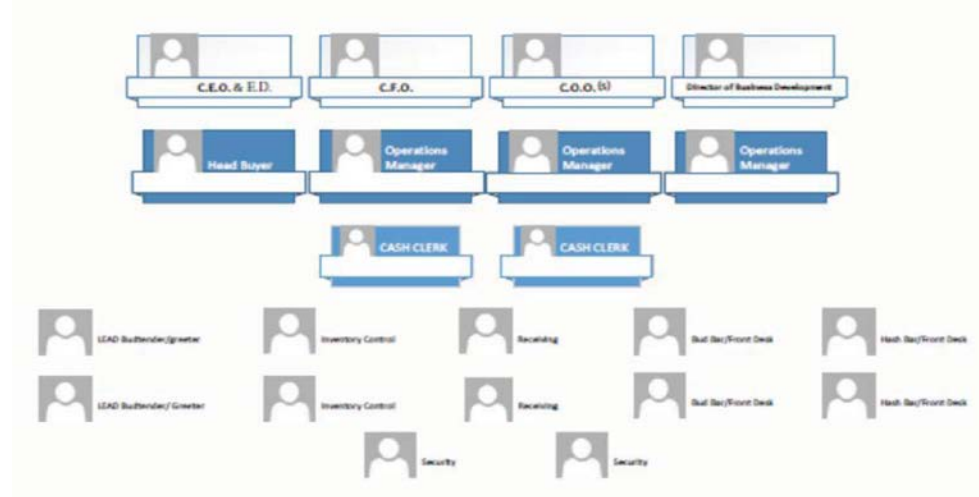
|               |                  |              |
|---------------|------------------|--------------|
| Alicia Darrow | Miguel Rodriguez | Justin Jarin |
| David Kang    | Sid Afshar       | Pat Doherty  |

City of Hayward staff wants to recommend the following applicants based on their belief that:

The applicants that are being recommended to the City Council demonstrated an ability to have their dispensary operational within the next year, have management teams in place currently and demonstrated they had experienced teams ready to operate in the City, have local experience in Hayward and the surrounding community, and articulated a thorough vision for user experience.

- Ability to have dispensary operational within next year
  - Alicia Darrow (COO Blum SL) has been unable to open Blum SL with her team within one year.
  - The listed property owner for 1004 B St. Hayward has a history of cannabis property violations in Bay Area. (Berkeley 2013) – See Property Section
- Management teams in place currently with experienced teams ready to operate in the City
  - Platinum Standard LLC was terminated one year into a ten-year contract by Terra Tech because of default in operating standards.
    - Miguel Rodriguez is Manager for Platinum Standard LLC
    - Alicia Darrow listed as partner in latest Statement of Information.
  - Pixelated organizational chart that did not assign roles to individuals. With so many dispensaries ran by the same group, how will they be able to ensure the quality standard in Hayward when they have struggled in their own operations?

## ORG CHART 2018



□ **Local experience in Hayward and the surrounding community**

- The applicant’s community service experience is minimal at best. While the applicants provided an article about a gun buyback program as their main highlight, they appear to donate minimally to the organization.

**The Green door SF – SF Mayor's Gun Buy back**

[thegreendoorsf.com/portfolio-posts/sf-mayors-gun-buy-back/](http://thegreendoorsf.com/portfolio-posts/sf-mayors-gun-buy-back/) ▼

**Green Door** and Boss Enterprises raised over 10,000.00 for The **San Francisco Mayor's Gun buy back program**. The efforts were aimed at reducing gun violence ...

It is clear the applicant does not know or even bothered to research the Hayward community past a superficial Wikipedia factoid for their name selection. That explains why the applicant simply stated it would help further the City’s “Complete Communities Strategic Initiative” instead of specifying what those initiatives were.

Instead of writing a detailed community Benefit Plan, they relied on a newspaper article which demonstrates how much effort they put into the application.

### **Concerns Regarding Property Owner**

| <b>Property Owner</b>                          |  |
|--|--|
| <b>Al Antonini<br/>Gelso Investments V LLC</b> | <ul style="list-style-type: none"><li>• Felony Record for “Check Kiting” that resulted in prison time. (2001) Resulted in 60 Months in Prison and 175K fine.</li><li>• 1515 Dwight Way Berkeley – Antonini fined by City of Berkeley Planning Department for allowing illegal dispensary to operate from his property. (2013)</li><li>• Gelso Investments V LLC was the owner of the property cited in 1515 Dwight Way in Berkeley and the proposed 1004 B St. Hayward location.</li></ul> |

Check Kiting Prison Sentence

<https://www.chron.com/news/houston-texas/article/Landlord-reports-to-prison-2047235.php>

Gelso Investment V LLC Non-Permitted Cannabis Dispensary Fine

[https://www.cityofberkeley.info/Planning\\_and\\_Development/Zoning\\_Adjustment\\_Board/1515\\_Dwight.aspx](https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/1515_Dwight.aspx)

**Should the city choose to award a CCP to Hayward Station, we shall circulate all the details of the information contained above to local residents to ensure full transparency about the types of businesses we introduce into our communities.**

**Exhibit A. Green Door VS Blum Oakland VS Terra Tech Overlap**

| <b>Applicant Name</b>  | <b>Green Door (CCPC Inc.)</b>   | <b>Blum Oakland (Black Oak Gallery Inc.)</b>   | <b>Terra Tech Corp. (OTC)</b>   |
|--|---|--|---|
| <b>Miguel Rodriguez</b>  | <ul style="list-style-type: none"> <li>• Manager – (2003)</li> </ul>  | <ul style="list-style-type: none"> <li>• Blum Oakland – (2012)</li> </ul>  | <ul style="list-style-type: none"> <li>• Management Contractor for Terra Tech. (Platinum Standard LLC)</li> </ul>                 |
| <b>Justin Jarin</b>  | <ul style="list-style-type: none"> <li>• Security Guard - (2003)</li> <li>• Budtender – (2005)</li> <li>• GD President – (2009)</li> <li>• Helped with TGD SAC and TGD SD*[Closed]</li> </ul> | <ul style="list-style-type: none"> <li>• Partnered with Permit Holder to Open Blum Oakland (Salwa) - 2012</li> </ul> | <ul style="list-style-type: none"> <li>• Management Contract to Operate Blum (2016)</li> <li>• Working with IVXX Brand</li> </ul> |
| <b>David Kang</b>  | Stated Affiliation  | Stated Affiliation for helping Blum reach 8 figure annual volume   | Stated Affiliation for Merger with Terra Tech   |
| <b>Alicia Darrow **</b>  | CFO of GD 06/03/18<br>COO of Blum SL 07/18/16   | Stated Affiliation with Blum   | Performance based compensation on Terra Tech  |
| <b>Non-Applicants Closely Associated with Applicants Cannabis Experience as mentioned in their application</b> |   |  |   |
| <b>Michael Nolin</b>   | Founder of Green Door<br>Day to Day Op. Manager   | Day to Day Operation<br>Manager  | Previous Preferred Q<br>Share Holder  |
| <b>Salwa Ibrahim</b>   | NA  | Founder of Blum<br>(Spouse of Martin Kaufman)  | Preferred B Share<br>holder   |
| <b>Martin Kaufman</b>  | NA  | Founder of Blum<br>(Spouse of Salwa)   | Preferred B Share<br>holder   |
| <b>Derek Peterson</b>  | Entered into Management contract with Platinum Standard LLC to run Blum Oakland Operations (Terminated in a year for operator default)  | Founder of Blum<br>Relationship with Kaufman in running Blum & responsible for Blum Nevada                           | CEO of Terra Tech and led acquisition of Blum.  |

\*The Green Door SD is no longer operational

\*\* Industry has only been regulated since 2018 so 15 years' experience is subjective. Manages multiple dispensaries including Blum

## Exhibit B. Terra Tech Share Structure

| Name and Address of Beneficial Owner                               | Title of Class           | Amount and Nature of Beneficial Ownership | Percent of Series B Preferred Stock(1) |
|--|--------------------------|---|--|
| Derek Peterson   | Series B Preferred Stock | 2,330,489 <sup>(2)</sup> <sub>(3)</sub>   | 50.56%                                 |
| Amy Almsteier  | Series B Preferred Stock | 3,575,000 <sup>(4)</sup>                  | 14.40%                                 |
| Kenneth P. Krueger   | Series B Preferred Stock | 0   | *%                                     |
| Michael James  | Series B Preferred Stock | 1,000,000                                 | 4.03%                                  |
| Michael A. Nahass  | Series B Preferred Stock | 3,825,000                                 | 15.41%                                 |
| Steven Ross  | Series B Preferred Stock | 0   | 0%                                     |
| Kenneth Vande Vrede  | Series B Preferred Stock | 1,759,500                                 | 7.09%                                  |
| Steven Vande Vrede   | Series B Preferred Stock | 1,759,500                                 | 7.09%                                  |
| Michael Vande Vrede  | Series B Preferred Stock | 1,759,500                                 | 7.09%                                  |
| <b>All directors and executive officers as a group (9 persons)</b> |                          | <b>16,008,989</b>                         | <b>64.50%</b>                          |
| Salwa Ibrahim  | Series B Preferred Stock | 3,814,227 <sup>(5)</sup> <sub>(6)</sub>   | 15.37%                                 |
| Martin Kaufman   | Series B Preferred Stock | 2,773,984 <sup>(7)</sup> <sub>(8)</sub>   | 11.18%                                 |

| Name and Address of Beneficial Owner                               | Title of Class           | Amount and Nature of Beneficial Ownership | Percent of Series Q Preferred Stock(1) |
|--|--------------------------|---|--|
| Derek Peterson   | Series Q Preferred Stock | 0   | *%                                     |
| Amy Almsteier  | Series Q Preferred Stock | 0   | *%                                     |
| Kenneth P. Krueger   | Series Q Preferred Stock | 0   | *%                                     |
| Michael James  | Series Q Preferred Stock | 0   | *%                                     |
| Michael A. Nahass  | Series Q Preferred Stock | 0   | *%                                     |
| Steven Ross  | Series Q Preferred Stock | 0   | *%                                     |
| Kenneth Vande Vrede  | Series Q Preferred Stock | 0   | *%                                     |
| Steven Vande Vrede   | Series Q Preferred Stock | 0   | *%                                     |
| Michael Vande Vrede  | Series Q Preferred Stock | 0   | *%                                     |
| <b>All directors and executive officers as a group (9 persons)</b> |                          | <b>0</b>                                  | <b>*%</b>                              |
| Miguel Rodriguez <sup>(9)</sup>                                    | Series Q Preferred Stock | 3,420 <sup>(2)</sup>                      | 16%                                    |
| Justin Jarin <sup>(9)</sup>  | Series Q Preferred Stock | 3,420 <sup>(3)</sup>                      | 16%                                    |
| Michael Christian Gard <sup>(9)</sup>                              | Series Q Preferred Stock | 3,420 <sup>(4)</sup>                      | 16%                                    |
| Sewell Woodfork <sup>(9)</sup>                                     | Series Q Preferred Stock | 3,420 <sup>(5)</sup>                      | 16%                                    |
| Michael Nolin <sup>(9)</sup>                                       | Series Q Preferred Stock | 3,420 <sup>(6)</sup>                      | 16%                                    |
| David Kang <sup>(9)</sup>  | Series Q Preferred Stock | 1,711 <sup>(7)</sup>                      | 8%                                     |
| Lillian Kang <sup>(9)</sup>  | Series Q Preferred Stock | 1,711 <sup>(8)</sup>                      | 8%                                     |

\* Represents beneficial ownership of less than one percent of the outstanding Series Q Preferred Stock.

**Red: Hayward Station Applicant**

**Blue: Non-Applicant Green Door**

Source:

[https://www.sec.gov/Archives/edgar/data/1451512/000147793216012018/trtc\\_def14a.htm](https://www.sec.gov/Archives/edgar/data/1451512/000147793216012018/trtc_def14a.htm)



---

**From:** <>  
**Sent:** Tuesday, July 17, 2018 4:01 PM  
**To:** John Stefanski <[John.Stefanski@hayward-ca.gov](mailto:John.Stefanski@hayward-ca.gov)>  
**Cc:**  
**Subject:** RE: City of Hayward - Commercial Cannabis Permit

John,

Please, see attached Hayward Station response regarding the opposition letter to the city.  
Please distribute this letter to the council members for tonight's hearing.

Thank you

sid

Siavash Sid Afshar CEO, Founder



Sunfield Development, LLC  
562 14th St.  
Oakland, CA 94612  
510-452-5555  
510-452-1651 F

----- Original Message -----

Subject: City of Hayward - Commercial Cannabis Permit  
From: "John Stefanski" <[John.Stefanski@hayward-ca.gov](mailto:John.Stefanski@hayward-ca.gov)>  
Date: 7/17/18 9:53 am  
To: ">  
Cc: ">

Good Morning Hayward Station Team,

Please find attached a letter we received this morning from Sulman Khan as well as Elba Villasenor. This was sent to the Mayor and Council as well as the City Manager. I wanted to share in case any of the Council Members have questions relating to this tonight.

I'll see you all tonight at 7.

John

--

**John Stefanski**

Management Analyst II

Office of the City Manager

510.583.3904



# Hayward Station, Inc.

562 14th St.  
Oakland, CA 94612  
(510) 452-5555

July 17, 2018

John Stefanski  
Management Analyst II  
Office of the City Manager  
777 B Street,  
Hayward, CA 94541

Via Email: [John.Stefanski@hayward-ca.gov](mailto:John.Stefanski@hayward-ca.gov)

**Re: Commercial Cannabis Permit Recommendation  
Hayward Station, Inc. – Application No. C1037 – Retail**

Dear Mr. Stefanski:

On behalf of the Hayward Station team, let me say that we are very excited and grateful to have been recommended by Staff for a Commercial Cannabis Permit approval by the Hayward City Council, which consideration will be made at this evening's Council meeting. We look forward to the opportunity to meet the Councilmembers and to answer any questions the Council may have.

We are hopeful that we will be selected by the City Council and that we will have the opportunity to actualize our business plan of creating an upscale and highly curated retail shopping experience, specializing in organic, local, and boutique Cannabis products, specializing in a customer base of Hayward-area consumers, and serving both experienced Medical Cannabis users and, increasingly, first-time recreational users who are interested in discovering the positive benefits of Cannabis use.

We were disappointed to see that someone sent an unsigned, undated, and, quite frankly, confusing and nonsensical letter to the City opposing our selection by the Council. While we don't fully understand the point of the mishmash of copied and pasted internet screen grabs that seem designed to fabricate internet troll-style conspiracy theories about our business, we would like to very briefly respond to the letter as follows.

First, the letter indicates that the Hayward Station, Inc. applicant team includes individuals named Derek Peterson, Salwa Ibrahim, and Martin Kaufman. This is false. No such individuals are a part of our venture.

Second, the letter appears to indicate that Hayward Station is affiliated in some way with other businesses that include Blum Oakland, Blum San Leandro, Terra Tech, Green Door, and Platinum Standard. This is false. These companies, to the extent they all still exist, do not own, manage, nor have any investment interest in Hayward Station.

July 17, 2018

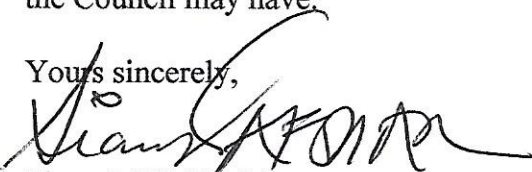
Page 2 of 2

Third, the letter seems to allege Terra Tech has had “significant financial trouble” following a March 31, 2016 merger between “Blum and TerraTech.” The financial success or lack of success, as it may be, of the merged entity does not reflect, for better or worse, the skills or experience of the Hayward Station team. We are very proud of the work that four of our team members did in opening Blum Oakland and building it into the very well regarded and financially very successful entity that it was when it was sold as part of a merger with Terra Tech. However, our team members who were involved in starting, growing, and preparing Blum for sale were bought out as part of the merger and have not had any further role in running the merged entity

As we indicated in our Application, Hayward Station is a joint venture between (a) two experienced East Bay businessmen and developers with a proven track record of successful non-Cannabis business ventures; and, (b) four Bay Area pioneers of the regulated Cannabis industry who bring decades of combined experience with starting, managing, and successfully growing world-class Cannabis-related businesses. We believe that this synthesis will create a special and successful synergy for Hayward Station and the City of Hayward. Our non-Cannabis business team members have broader experience with growing and operating productive enterprises and Hayward-specific insight and experience, while our Cannabis business team members have a deep and nuanced understanding of the specifics of the Cannabis dispensary market, based on their decades' of experience in Cannabis security, budtending, medicinal consultation, management, branding, cultivation, business consulting, and buying in a variety of successful California Cannabis businesses in Oakland, San Francisco, Sacramento, and San Diego.

We hope that this response is useful to the City in its selection process and ask that this letter be included for distribution to the City Council in advance of its meeting this evening. Again, we are thankful to be included in the process and will be ready to answer any additional questions the Council may have.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Siavash Afshar". The signature is fluid and cursive, with a large initial "S" and "A".

Siavash “Sid” Afshar.  
Hayward Station, Inc.

**PUBLIC COMMENT**

**ITEM #17**

**ELISA JIMENEA EMAIL**

---

**From:** Elisa Jimenez [mailto:]  
**Sent:** Tuesday, July 17, 2018 10:16 AM  
**To:** List-Mayor-Council <List-Mayor-Council@hayward-ca.gov>  
**Subject:** Failed promises to the City of Oakland by the team representing Hayward Station

Good morning all,  
On Sunday I drove by the dispensary that is currently being run by the "experienced applicants" of the Hayward Station and to my surprise some of the accomplishments they listed on their application are not true. On their application they stated the following:

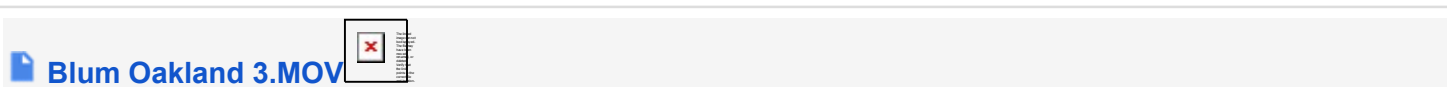
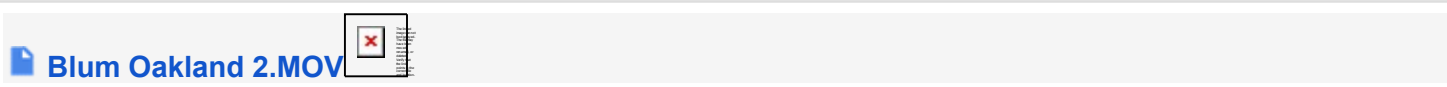
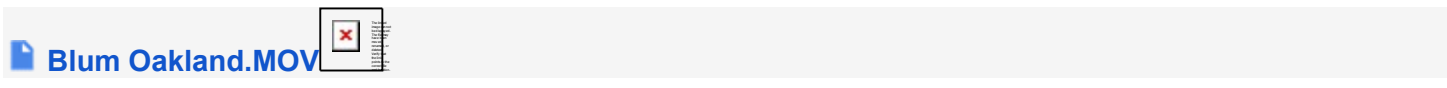
"Once a run down block riddled with graffiti, homelessness, drug and crime, the block has transformed into a beautiful setting"

But if you look at the attached videos you will see that on their same block and their own property fence there is graffiti, and just one block away from them there is a camp of homeless.

I know tonight you guys have a very important vote to make, but before doing so I ask you kindly to verify the information that was given by the applicants, not only Hayward Station, and to look at the facts and evidence of their current dispensaries at other locations, and not simply take their word for granted.

Thanks a lot for your time and consideration, and we leave the future of Hayward in your hands.

Elisa



**PUBLIC COMMENT**

**ITEM #17**

**NICK CUNHA EMAIL**

---

**From:** nick cunha [mailto:]  
**Sent:** Tuesday, July 17, 2018 11:33 AM  
**To:** List-Mayor-Council <List-Mayor-Council@hayward-ca.gov>  
**Subject:** For the council to read before tonight's meeting

Please take a moment to read through this PDF as it has vital information to the choices made for the new cannabis dispensary license applicants.



Hello City Council and Staff,

I am writing to express my opposition to Hayward Station being granted a Commercial Cannabis Permit. While I am not opposed to Cannabis in Hayward, I am opposed to opportunistic companies deceiving their way into our community. Before you make a decision to grant this group a license, I highly recommend you read the full contents attached below including the supplemental materials. This will allow you to make an informed decision regarding the Applicant teams experience within the cannabis industry and the type of risk Hayward will take by granting them a license.

**See Exhibit A for Applicant Names and Affiliations.**

**See Exhibit B for Share Structure after Blum Merger**

## **Relationship between Green Door, Blum Oakland, and Terra Tech**

### **OPERATIONS AND ASSET MANAGEMENT AGREEMENT**

This Operations and Asset Management Agreement (this "Agreement") is made and entered into this 31<sup>st</sup> day of March, 2016 (the "Effective Date"), by and among Terra Tech Corp., a Nevada corporation ("Terra Tech"), Black Oak Gallery, a California corporation (the "Owner"), and Platinum Standard, LLC, a California limited liability company ("Operator") (each a "Party" and, collectively, the "Parties").

### **RECITALS**

A. The Owner is the owner of that certain licensed medical cannabis dispensary business (the "Business") located at 578 W. Grand Avenue, in the City of Oakland, State of California, commonly known as Blum Oakland (the "Property").

B. Owner's Business includes a cultivation center, located on the property of the Business (the "Cultivation Center") located at 556 - 578 W. Grand Avenue, in the City of Oakland, State of California.

C. Operator is an experienced medical cannabis dispensary operator.

D. Since approximately October 1, 2012, Owner has engaged Operator in the financing and operation of the Business.

E. As of the Effective Date, Owner is a wholly-owned subsidiary of Terra Tech.

F. Terra Tech engages in the business of managing and operating cultivation businesses, among other business activities.

G. Terra Tech hereby desires to engage and appoint Operator as the sole and exclusive operator and asset manager of the Business for the benefit of Terra Tech and Owner, and Operator desires to accept such appointment, all upon and subject to the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the foregoing recitals and the mutual covenants, promises and conditions herein contained, Terra Tech and Operator agree as follows:

**Source:** [https://www.sec.gov/Archives/edgar/data/1451512/000147793216010217/trtc\\_ex1029.htm](https://www.sec.gov/Archives/edgar/data/1451512/000147793216010217/trtc_ex1029.htm)

Applicants listed as involved with Terra Tech Merger in their Hayward Station application:

|                  |              |            |
|------------------|--------------|------------|
| Miguel Rodriguez | Justin Jarin | David Kang |
|------------------|--------------|------------|

**Operations and Asset Management Agreement Effective March 31, 2016**

Claims that since approximately October 1, 2012. Owner has engaged Operator in the financing and operations of the Business.

## **Termination of Contract (May 11, 2017) Between Terra Tech and Green Door Partner**

### **Item 1.02 Termination of a Material Definitive Agreement.**

On May 11, 2017 Terra Tech Corp. (the "Company") terminated the Operations and Asset Management Agreement (the "Agreement") by and among the Company, Black Oak Gallery (the "Black Oak"), and Platinum Standard, LLC ("Platinum"), dated March 31, 2016. Black Oak is a wholly-owned subsidiary of the Company. There is no relationship between the Company or its affiliates and Platinum, other than pursuant to the Agreement. Pursuant to the Agreement, the Company hired and appointed Platinum as the operator and asset manager of the Company's licensed medical cannabis dispensary business located at 578 W. Grand Avenue, in the City of Oakland, State of California, commonly known as Blüm Oakland, in exchange for certain payments to be made by the Company to Platinum, all as more fully set forth in the Agreement. The Company terminated the Agreement as a result of the default by Platinum in the performance of certain of its material obligations under the Agreement. The Company did not incur any early termination penalty in connection with terminating the Agreement. A copy of the Agreement was filed as Exhibit 10.29 to the Company's Form 10-Q for the quarterly period ended March 31, 2016.

**Source:** <https://seekingalpha.com/filings/pdf/12070575.pdf>

The reason for the contract termination is underlined in blue and reads:

**"The Company terminated the Agreement as a result of the default by Platinum in the performance of certain of its material obligations under the Agreement. The Company did not incur any early termination penalty in connection with terminating the Agreement."**

**Why did Platinum Standard LLC default in the performance of certain of its material obligations one year into a ten-year contract?**

## **Misclassifying Corporate Relationship to Council Members**

### **San Leandro Public Hearing (Blum SL or DSWC Selection) (07/18/2016)**

At the hearing for approval for Blum San Leandro, attended by Salwa Ibrahim and Alicia Darrow, Ms. Ibrahim claimed Blum San Leandro was its own separate entity when questioned about Terra Tech Corps involvement.

Source: [http://sanleandro.granicus.com/MediaPlayer.php?view\\_id=2&clip\\_id=834](http://sanleandro.granicus.com/MediaPlayer.php?view_id=2&clip_id=834)

Council Questions Begin: (03:50:30)

### **Terra Tech Form 10-K Annual Report For the Fiscal year Ended December 31, 2016**

#### **Our Business**

We are a vertically integrated cannabis-focused agriculture company that is committed to cultivating and providing the highest quality medical cannabis, as well as other agricultural products, such as herbs and leafy greens that are grown using classic Dutch hydroponic farming methods. We have seven wholly-owned subsidiaries, GrowOp Technology, Edible Garden, Black Oak, Blüm San Leandro, IVXX LLC, IVXX Inc. and EG Transportation, as well as ownership interests in MediFarm, MediFarm I, MediFarm II, and MediFarm I RE.

Source: [https://ir.terratechcorp.com/annual-reports/content/0001477932-17-001483/trtc\\_10k.htm](https://ir.terratechcorp.com/annual-reports/content/0001477932-17-001483/trtc_10k.htm)

**Why did Blum San Leandro misrepresent the true nature of their relationship with Terra Tech and insinuate they are a separate entity knowing they are a wholly owned subsidiary?**

While one may think this was just a mistake in statement, Terra Tech CEO Derek Peterson hinted at his strategy during the Q4 2016 Earnings Call. In it he stated:

"Philip Carlson

Okay. And last question will Terra Tech's percentage of ownership of 60%, 50% and 55% respectively change in the future and all of three of the MediPharm Nevada subdivisions?

Derek Peterson

Okay, that's a great question. It's actually I mean it's a relatively complex question, but the short of it is this. Our Reno dispensary is a true 50-50 partnership. We get a 100% of the revenue **we are 50% essentially of the profits to our partner up there.** The other locations according to the operating agreements we basically have the right to a 100% of the revenue and 100% of the profits as the majority interest holder of those subsidiaries, we have a right to buy out the membership interest of the other holders at a value associated with our capital accounts.

And what that means in English is right now because we've spent a tremendous amount of money in Nevada, sales are just starting to ramp up, we have a historical expense in the state that hasn't been made up yet by net income, we think that obviously will be fixed as time goes on with the implementation of recreational cannabis. But what that does it allows us to buy out the membership interest of our partners for basically at zero value.

So one of the reasons we wanted to keep those partnerships in place was because of the local ownership regard that the local community have but we built enough credibility with a local government, the state where Nevada Corporation ourselves – continue to value add to have the partnership like that.

So something that we're working on is to assume a 100% of those entities it's not going the cost us any capital to do that according to the operating agreement that we put forth. And that being said, I guess that's something that we're going to be executed, I think on over the next quarter or two just to clean up the accounting associated with that.

So those ones with the exception of the Reno dispensary will be a 100% owned by the company but as we sit right now we're entitled to 100% of the revenue and 100% of the profits that come out of that entity."

Philip Carlson

Source: <https://seekingalpha.com/article/4059567-terra-techs-trtc-ceo-derek-peterson-q4-2016-results-earnings-call-transcript>

Are these the business principles that Hayward wants for its cannabis businesses?

### **Terra Tech and Blum under Applicant Management Lose Millions**

The applicant team claims they have helped grow Blum into a Multi-Million-dollar business but neglect to mention that they have accumulated expenses at a larger rate. The merger between Blum and TerraTech happened on March 31, 2016 and revealed an operation with significant financial trouble. (Years 2015, 2016, 2017 Included)

(See Next Page)

# 2015

**Terra Tech Corp and Blum Oakland**  
**Pro Forma Statement of Operations**  
**For the Year Ended December 31, 2015**

|   | <u>Terra Tech Corp</u> | <u>Blum Oakland</u> | <u>Pro Forma Adjustments</u> | <u>Pro Forma</u> |
|---|------------------------|---------------------|------------------------------|------------------|
| Total Revenues  | \$ 9,975,346           | \$12,983,824        | \$ (683,516)(1)              | \$ 22,275,654    |
| Cost of Goods Sold  | 8,958,475              | 10,709,576          | (512,803)(1)                 | 19,155,248       |
|   | 1,016,871              | 2,274,248           | (170,713)                    | 3,120,406        |
| Selling, general and administrative expenses                            | 9,833,646              | 2,213,742           | 108,000(2)                   | 12,155,388       |
| Loss from operations  | (8,816,775)            | 60,506              | (278,713)                    | (9,034,982)      |
| Other Income (Expenses)   |                        |                     |                              |                  |
| Amortization of debt discount   | (696,180)              | -                   | -                            | (696,180)        |
| Loss on extinguishment of debt  | (619,444)              | -                   | -                            | (619,444)        |
| Loss from derivatives issued with debt greater than debt carrying value | (561,000)              | -                   | -                            | (561,000)        |
| Gain (Loss) on fair market valuation of derivatives                     | 1,800,100              | -                   | -                            | 1,800,100        |
| Interest Income (Expense)   | (469,576)              | 1,236               | -                            | (468,340)        |
| Total Other Income (Expense)  | (546,100)              | 1,236               | -                            | (544,864)        |
| Loss before Provision of Income Taxes                                   | (9,362,875)            | 61,742              | (278,713)                    | (9,579,846)      |
| Provision for income taxes  | 44,000                 | 636,628             | -                            | 680,628          |
| Net Loss  | (9,406,875)            | (574,886)           | (278,713)                    | (10,260,474)     |
| Net Loss attributable to non-controlling interest                       | 181,295                | -                   | -                            | 181,295          |
| Net Loss attributable to Terra Tech Corp.                               | \$(9,225,580)          | \$ (574,886)        | \$ (278,713)                 | \$(10,079,179)   |

Note 1 - The revenue and cost of goods sold between Blum and IVXX have been eliminated.

Note 2 - The salaries to the Blum partners have been eliminated and replaced with the Platinum management agreement.

Source: <http://www.otcmartets.com/edgar/GetFilingHtml?FilingID=11432288>

# 2016

|   | <u>Year Ended December 31, 2016</u> |                          |                               |                 |
|---|-------------------------------------|--------------------------|-------------------------------|-----------------|
|   | <u>Hydroponic Produce</u>           | <u>Cannabis Products</u> | <u>Eliminations and Other</u> | <u>Total</u>    |
| Total Revenues  | \$ 12,000,423                       | \$13,207,327             | \$ 120,014                    | \$ 25,327,764   |
| Cost of Goods Sold  | 11,021,449                          | 11,664,737               | 68,894                        | 22,755,080      |
| Gross Profit  | 978,974                             | 1,542,590                | 51,120                        | 2,572,684       |
| Selling, General and Administrative Expenses                            | 2,520,061                           | 5,729,884                | 12,470,590                    | 20,720,535      |
| Loss from Operations  | (1,541,087)                         | (4,187,294)              | (12,419,470)                  | (18,147,851)    |
| Other Expense:  |                                     |                          |                               |                 |
| Amortization of Debt Discount   | -                                   | -                        | (1,414,202)                   | (1,414,202)     |
| Loss on Extinguishment of Debt  | -                                   | -                        | (5,382,813)                   | (5,382,813)     |
| Loss from Derivatives Issued with Debt Greater than Debt Carrying Value | -                                   | -                        | (1,487,500)                   | (1,487,500)     |
| Loss on Fair Market Valuation of Derivatives                            | -                                   | -                        | (1,844,500)                   | (1,844,500)     |
| Interest Income (Expense)   | -                                   | -                        | (377,349)                     | (377,349)       |
| Gain on Fair Market Valuation of Contingent Consideration               | -                                   | -                        | 668,694                       | 668,694         |
| Total Other Expense   | -                                   | -                        | (9,837,670)                   | (9,837,670)     |
| Loss Before Provision for Income Taxes                                  | \$ (1,541,087)                      | \$ (4,187,294)           | \$ (22,257,140)               | \$ (27,985,521) |

Source: <https://ir.terratechcorp.com/all-sec-filings/content/0001477932-17-001483/0001477932-17-001483.pdf>

# 2017

|   | For the Year Ended December 31, 2017 |   |                        |                 |
|---|--------------------------------------|---|------------------------|-----------------|
|   | Herbs and Produce Products           | Cannabis Dispensary, Cultivation and Production | Eliminations and Other | Total           |
| Total Revenues  | \$ 5,701,233                         | \$ 30,031,046                                   | \$ 68,565              | \$ 35,800,844   |
| Cost of Goods Sold  | 5,211,658                            | 25,112,113                                      | -                      | 30,323,771      |
| Gross Profit  | 489,575                              | 4,918,933                                       | 68,565                 | 5,477,073       |
| Selling, General and Administrative Expenses              | 3,123,037                            | 10,843,210                                      | 11,390,844             | 25,357,091      |
| Loss from Operations                                      | (2,633,462)                          | (5,924,277)                                     | (11,322,279)           | (19,880,018)    |
| Other Income (Expense):                                   |                                      |   |                        |                 |
| Amortization of Debt Discount                             | -                                    | -   | (2,138,762)            | (2,138,762)     |
| Impairment of Property                                    | -                                    | -   | (138,037)              | (138,037)       |
| Impairment of Intangibles                                 | (757,467)                            | -   | -                      | (757,467)       |
| (Loss) Gain on Extinguishment of Debt                     | (18)                                 | 187   | (7,144,457)            | (7,144,288)     |
| Loss on Fair Market Valuation of Derivatives              | -                                    | -   | (3,494,550)            | (3,494,550)     |
| Interest (Expense) Income                                 | -                                    | 110   | (542,774)              | (542,664)       |
| Gain on Settlement of Contingent Consideration            | -                                    | 4,991,571                                       | -                      | 4,991,571       |
| Loss on Fair Market Valuation of Contingent Consideration | -                                    | (4,426,047)                                     | -                      | (4,426,047)     |
| Total Other Income (Expense)                              | (757,485)                            | 565,821   | (13,458,580)           | (13,650,244)    |
| Loss Before Provision for Income Taxes                    | \$ (3,390,947)                       | \$ (5,358,456)                                  | \$ (24,780,859)        | \$ (33,530,262) |

Source: [https://ir.terratechcorp.com/annual-reports/content/0001477932-18-002991/trtc\\_10ka.htm](https://ir.terratechcorp.com/annual-reports/content/0001477932-18-002991/trtc_10ka.htm)

If applicants are as experienced as they claim, why does their operation lose millions yearly?

## Context Regarding the Applicant Teams Experience in Other Localities

- The majority of the applicants Cannabis experience stems from an unregulated market.
  - CCPC Inc. (Registered in 2010)
  - Black Oak Gallery (Registered 2011)
  - Platinum Standard LLC (Registered 2015)

The registration dates of these businesses conflict with the applicants claim about their experience unless they admit they were running an illicit cannabis business.

### GreenDoor SF (CCPC Inc.)

Michael Nolin, Miguel Rodriguez, Justin Jarin, David Kang

### Blum Oakland- 2012 (Black Oak Gallery)

Salwa Ibrahim & Martin Kaufman & Derek Peterson (Assistance from Green Door Staff)

The applicant teams' associates (Salwa Ibrahim, Marin Kaufman, Derek Peterson) attained their Blum license in 2012. The nature by which they attained their local license as well as their state license raises ethical concerns.

- Local License:

FBI: Marijuana Union Organizer Took Bribes, Rigged Process

- ❖ <https://archives.sfweekly.com/thesnitch/2015/08/13/fbi-marijuana-union-organizer-took-bribes-rigged-process>

Oakland Pot Union Bribery Scandal Exposed

- ❖ <https://www.eastbayexpress.com/LegalizationNation/archives/2015/08/13/breaking-oakland-pot-union-bribery-scandal-exposed>

▪ State License:

Oakland's Revolving Door of Weed Lobbying

- ❖ <https://www.eastbayexpress.com/oakland/oaklands-revolving-door-of-weed-lobbying/Content?oid=13057408>

**Blum Berkeley Application- 2013(Rejected):**

**Salwa Ibrahim & Lillian Kang**

Dan Rush Signed LPA for UFCW on 08/22/13

- By this time, Mr. Kaufman had already lent Rush \$600,000 and Kaufman did not start cooperating with the FBI until October 2013. He received immunity for the previous laundering of the illicit cannabis proceeds in exchange for cooperation in wiretapping Rush and his lawyer.

**Blum San Leandro (Approved)**

**Salwa Ibrahim (Exec. Dir.) & Michael Yoell & Antony Fabrizio & Alicia Darrow (COO)**

Granted permit on October 17, 2016. Not yet open.

Further Analysis on Current State of Terra Tech:

**Summary**

- We uncovered lawsuits against TRTC from alleged unpaid suppliers.
- Toxic Convertible Debt provides significant potential for shareholder dilution.
- The company paid \$51.5m for a dispensary in a related-party transaction; first dispensary license was received via bribery.
- The auditor has an adverse opinion on financial controls, and financials show a declining business that burns cash.
- All of the management team has past personal bankruptcies or a shareholder wipeout. CEO and Treasurer filed personal bankruptcy. CEO was allegedly involved in Mazzuto Scam and paid a settlement.

<https://seekingalpha.com/article/4184736-terra-tech-complete-smokeshow-questionable-management-poorly-run-business-dilution-risk>

# City of Hayward City Staff Selection Criteria

## Hayward Station (City Staff Recommended)

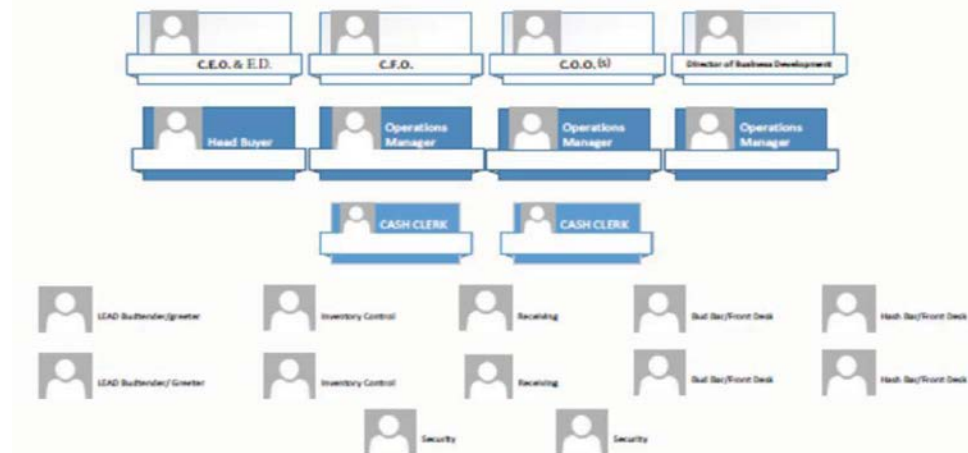
|               |                  |              |
|---------------|------------------|--------------|
| Alicia Darrow | Miguel Rodriguez | Justin Jarin |
| David Kang    | Sid Afshar       | Pat Doherty  |

City of Hayward staff wants to recommend the following applicants based on their belief that:

The applicants that are being recommended to the City Council demonstrated an ability to have their dispensary operational within the next year, have management teams in place currently and demonstrated they had experienced teams ready to operate in the City, have local experience in Hayward and the surrounding community, and articulated a thorough vision for user experience.

- Ability to have dispensary operational within next year
  - Alicia Darrow (COO Blum SL) has been unable to open Blum SL with her team within one year.
  - The listed property owner for 1004 B St. Hayward has a history of cannabis property violations in Bay Area. (Berkeley 2013) – See Property Section
- Management teams in place currently with experienced teams ready to operate in the City
  - Platinum Standard LLC was terminated one year into a ten-year contract by Terra Tech because of default in operating standards.
    - Miguel Rodriguez is Manager for Platinum Standard LLC
    - Alicia Darrow listed as partner in latest Statement of Information.
  - Pixelated organizational chart that did not assign roles to individuals. With so many dispensaries ran by the same group, how will they be able to ensure the quality standard in Hayward when they have struggled in their own operations?

## ORG CHART 2018



□ **Local experience in Hayward and the surrounding community**

- The applicant’s community service experience is minimal at best. While the applicants provided an article about a gun buyback program as their main highlight, they appear to donate minimally to the organization.

**The Green door SF – SF Mayor's Gun Buy back**

[thegreendoorsf.com/portfolio-posts/sf-mayors-gun-buy-back/](http://thegreendoorsf.com/portfolio-posts/sf-mayors-gun-buy-back/) ▼

**Green Door and Boss Enterprises raised over 10,000.00 for The San Francisco Mayor's Gun buy back program.** The efforts were aimed at reducing gun violence ...

It is clear the applicant does not know or even bothered to research the Hayward community past a superficial Wikipedia factoid for their name selection. That explains why the applicant simply stated it would help further the City’s “Complete Communities Strategic Initiative” instead of specifying what those initiatives were.

Instead of writing a detailed community Benefit Plan, they relied on a newspaper article which demonstrates how much effort they put into the application.

### **Concerns Regarding Property Owner**

**Property Owner**

**Al Antonini  
Gelso Investments V LLC**

- Felony Record for “Check Kiting” that resulted in prison time. (2001) Resulted in 60 Months in Prison and 175K fine.
- 1515 Dwight Way Berkeley – Antonini fined by City of Berkeley Planning Department for allowing illegal dispensary to operate from his property. (2013)
- Gelso Investments V LLC was the owner of the property cited in 1515 Dwight Way in Berkeley and the proposed 1004 B St. Hayward location.

Check Kiting Prison Sentence

<https://www.chron.com/news/houston-texas/article/Landlord-reports-to-prison-2047235.php>

Gelso Investment V LLC Non-Permitted Cannabis Dispensary Fine

[https://www.cityofberkeley.info/Planning\\_and\\_Development/Zoning\\_Adjustment\\_Board/1515\\_Dwight.aspx](https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/1515_Dwight.aspx)

**Should the city choose to award a CCP to Hayward Station, we shall circulate all the details of the information contained above to local residents to ensure full transparency about the types of businesses we introduce into our communities.**



**Exhibit A. Green Door VS Blum Oakland VS Terra Tech Overlap**

| <b>Applicant Name</b>  | <b>Green Door (CCPC Inc.)</b>   | <b>Blum Oakland (Black Oak Gallery Inc.)</b>   | <b>Terra Tech Corp. (OTC)</b>   |
|--|---|--|---|
| <b>Miguel Rodriguez</b>  | <ul style="list-style-type: none"> <li>• Manager – (2003)</li> </ul>  | <ul style="list-style-type: none"> <li>• Blum Oakland – (2012)</li> </ul>  | <ul style="list-style-type: none"> <li>• Management Contractor for Terra Tech. (Platinum Standard LLC)</li> </ul>                 |
| <b>Justin Jarin</b>  | <ul style="list-style-type: none"> <li>• Security Guard - (2003)</li> <li>• Budtender – (2005)</li> <li>• GD President – (2009)</li> <li>• Helped with TGD SAC and TGD SD*[Closed]</li> </ul> | <ul style="list-style-type: none"> <li>• Partnered with Permit Holder to Open Blum Oakland (Salwa) - 2012</li> </ul> | <ul style="list-style-type: none"> <li>• Management Contract to Operate Blum (2016)</li> <li>• Working with IVXX Brand</li> </ul> |
| <b>David Kang</b>  | Stated Affiliation  | Stated Affiliation for helping Blum reach 8 figure annual volume   | Stated Affiliation for Merger with Terra Tech   |
| <b>Alicia Darrow **</b>  | CFO of GD 06/03/18<br>COO of Blum SL 07/18/16   | Stated Affiliation with Blum   | Performance based compensation on Terra Tech  |
| <b>Non-Applicants Closely Associated with Applicants Cannabis Experience as mentioned in their application</b> |   |  |   |
| <b>Michael Nolin</b>   | Founder of Green Door<br>Day to Day Op. Manager   | Day to Day Operation<br>Manager  | Previous Preferred Q<br>Share Holder  |
| <b>Salwa Ibrahim</b>   | NA  | Founder of Blum<br>(Spouse of Martin Kaufman)  | Preferred B Share<br>holder   |
| <b>Martin Kaufman</b>  | NA  | Founder of Blum<br>(Spouse of Salwa)   | Preferred B Share<br>holder   |
| <b>Derek Peterson</b>  | Entered into Management contract with Platinum Standard LLC to run Blum Oakland Operations (Terminated in a year for operator default)  | Founder of Blum<br>Relationship with Kaufman in running Blum & responsible for Blum Nevada                           | CEO of Terra Tech and led acquisition of Blum.  |

\*The Green Door SD is no longer operational

\*\* Industry has only been regulated since 2018 so 15 years' experience is subjective. Manages multiple dispensaries including Blum

## Exhibit B. Terra Tech Share Structure

| Name and Address of Beneficial Owner                               | Title of Class           | Amount and Nature of Beneficial Ownership | Percent of Series B Preferred Stock(1) |
|--|--------------------------|---|--|
| Derek Peterson   | Series B Preferred Stock | 2,330,489 <sup>(2)</sup> <sub>(3)</sub>   | 50.56%                                 |
| Amy Almsteier  | Series B Preferred Stock | 3,575,000 <sup>(4)</sup>                  | 14.40%                                 |
| Kenneth P. Krueger   | Series B Preferred Stock | 0   | *%                                     |
| Michael James  | Series B Preferred Stock | 1,000,000                                 | 4.03%                                  |
| Michael A. Nahass  | Series B Preferred Stock | 3,825,000                                 | 15.41%                                 |
| Steven Ross  | Series B Preferred Stock | 0   | 0%                                     |
| Kenneth Vande Vrede  | Series B Preferred Stock | 1,759,500                                 | 7.09%                                  |
| Steven Vande Vrede   | Series B Preferred Stock | 1,759,500                                 | 7.09%                                  |
| Michael Vande Vrede  | Series B Preferred Stock | 1,759,500                                 | 7.09%                                  |
| <b>All directors and executive officers as a group (9 persons)</b> |                          | <b>16,008,989</b>                         | <b>64.50%</b>                          |
| Salwa Ibrahim  | Series B Preferred Stock | 3,814,227 <sup>(5)</sup> <sub>(6)</sub>   | 15.37%                                 |
| Martin Kaufman   | Series B Preferred Stock | 2,773,984 <sup>(7)</sup> <sub>(8)</sub>   | 11.18%                                 |

| Name and Address of Beneficial Owner                               | Title of Class           | Amount and Nature of Beneficial Ownership | Percent of Series Q Preferred Stock(1) |
|--|--------------------------|---|--|
| Derek Peterson   | Series Q Preferred Stock | 0   | *%                                     |
| Amy Almsteier  | Series Q Preferred Stock | 0   | *%                                     |
| Kenneth P. Krueger   | Series Q Preferred Stock | 0   | *%                                     |
| Michael James  | Series Q Preferred Stock | 0   | *%                                     |
| Michael A. Nahass  | Series Q Preferred Stock | 0   | *%                                     |
| Steven Ross  | Series Q Preferred Stock | 0   | *%                                     |
| Kenneth Vande Vrede  | Series Q Preferred Stock | 0   | *%                                     |
| Steven Vande Vrede   | Series Q Preferred Stock | 0   | *%                                     |
| Michael Vande Vrede  | Series Q Preferred Stock | 0   | *%                                     |
| <b>All directors and executive officers as a group (9 persons)</b> |                          | <b>0</b>                                  | <b>*%</b>                              |
| Miguel Rodriguez <sup>(9)</sup>                                    | Series Q Preferred Stock | 3,420 <sup>(2)</sup>                      | 16%                                    |
| Justin Jarin <sup>(9)</sup>  | Series Q Preferred Stock | 3,420 <sup>(3)</sup>                      | 16%                                    |
| Michael Christian Gard <sup>(9)</sup>                              | Series Q Preferred Stock | 3,420 <sup>(4)</sup>                      | 16%                                    |
| Sewell Woodfork <sup>(9)</sup>                                     | Series Q Preferred Stock | 3,420 <sup>(5)</sup>                      | 16%                                    |
| Michael Nolin <sup>(9)</sup>                                       | Series Q Preferred Stock | 3,420 <sup>(6)</sup>                      | 16%                                    |
| David Kang <sup>(9)</sup>  | Series Q Preferred Stock | 1,711 <sup>(7)</sup>                      | 8%                                     |
| Lillian Kang <sup>(9)</sup>  | Series Q Preferred Stock | 1,711 <sup>(8)</sup>                      | 8%                                     |

\* Represents beneficial ownership of less than one percent of the outstanding Series Q Preferred Stock.

**Red: Hayward Station Applicant**

**Blue: Non-Applicant Green Door**

**Source:**

[https://www.sec.gov/Archives/edgar/data/1451512/000147793216012018/trtc\\_def14a.htm](https://www.sec.gov/Archives/edgar/data/1451512/000147793216012018/trtc_def14a.htm)

**PUBLIC COMMENT**

**ITEM #17**

**SULMAN KHAN EMAIL**

---

Begin forwarded message:

**From:** "Sulman Khan" <>  
**To:** "List-Mayor-Council" <[List-Mayor-Council@hayward-ca.gov](mailto:List-Mayor-Council@hayward-ca.gov)>  
**Subject:** Read Before Making Cannabis Retailer Selection

Dear Council members and Mayor,

I highly encourage you to read the following report regarding the Hayward Station Applicants. I ask the council to please make the right choice and reject Hayward Stations application.

Best,  
Sulman Khan

Hello City Council and Staff,

I am writing to express my opposition to Hayward Station being granted a Commercial Cannabis Permit. While I am not opposed to Cannabis in Hayward, I am opposed to opportunistic companies deceiving their way into our community. Before you make a decision to grant this group a license, I highly recommend you read the full contents attached below including the supplemental materials. This will allow you to make an informed decision regarding the Applicant teams experience within the cannabis industry and the type of risk Hayward will take by granting them a license.

**See Exhibit A for Applicant Names and Affiliations.**

**See Exhibit B for Share Structure after Blum Merger**

## **Relationship between Green Door, Blum Oakland, and Terra Tech**

### **OPERATIONS AND ASSET MANAGEMENT AGREEMENT**

This Operations and Asset Management Agreement (this "Agreement") is made and entered into this 31<sup>st</sup> day of March, 2016 (the "Effective Date"), by and among Terra Tech Corp., a Nevada corporation ("Terra Tech"), Black Oak Gallery, a California corporation (the "Owner"), and Platinum Standard, LLC, a California limited liability company ("Operator") (each a "Party" and, collectively, the "Parties").

### **RECITALS**

A. The Owner is the owner of that certain licensed medical cannabis dispensary business (the "Business") located at 578 W. Grand Avenue, in the City of Oakland, State of California, commonly known as Blum Oakland (the "Property").

B. Owner's Business includes a cultivation center, located on the property of the Business (the "Cultivation Center") located at 556 - 578 W. Grand Avenue, in the City of Oakland, State of California.

C. Operator is an experienced medical cannabis dispensary operator.

D. Since approximately October 1, 2012, Owner has engaged Operator in the financing and operation of the Business.

E. As of the Effective Date, Owner is a wholly-owned subsidiary of Terra Tech.

F. Terra Tech engages in the business of managing and operating cultivation businesses, among other business activities.

G. Terra Tech hereby desires to engage and appoint Operator as the sole and exclusive operator and asset manager of the Business for the benefit of Terra Tech and Owner, and Operator desires to accept such appointment, all upon and subject to the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the foregoing recitals and the mutual covenants, promises and conditions herein contained, Terra Tech and Operator agree as follows:

**Source:** [https://www.sec.gov/Archives/edgar/data/1451512/000147793216010217/trtc\\_ex1029.htm](https://www.sec.gov/Archives/edgar/data/1451512/000147793216010217/trtc_ex1029.htm)

Applicants listed as involved with Terra Tech Merger in their Hayward Station application:

|                  |              |            |
|------------------|--------------|------------|
| Miguel Rodriguez | Justin Jarin | David Kang |
|------------------|--------------|------------|

### **Operations and Asset Management Agreement Effective March 31, 2016**

Claims that since approximately October 1, 2012. Owner has engaged Operator in the financing and operations of the Business.

## **Termination of Contract (May 11, 2017) Between Terra Tech and Green Door Partner**

### **Item 1.02 Termination of a Material Definitive Agreement.**

On May 11, 2017 Terra Tech Corp. (the "Company") terminated the Operations and Asset Management Agreement (the "Agreement") by and among the Company, Black Oak Gallery (the "Black Oak"), and Platinum Standard, LLC ("Platinum"), dated March 31, 2016. Black Oak is a wholly-owned subsidiary of the Company. There is no relationship between the Company or its affiliates and Platinum, other than pursuant to the Agreement. Pursuant to the Agreement, the Company hired and appointed Platinum as the operator and asset manager of the Company's licensed medical cannabis dispensary business located at 578 W. Grand Avenue, in the City of Oakland, State of California, commonly known as Blüm Oakland, in exchange for certain payments to be made by the Company to Platinum, all as more fully set forth in the Agreement. The Company terminated the Agreement as a result of the default by Platinum in the performance of certain of its material obligations under the Agreement. The Company did not incur any early termination penalty in connection with terminating the Agreement. A copy of the Agreement was filed as Exhibit 10.29 to the Company's Form 10-Q for the quarterly period ended March 31, 2016.

**Source:** <https://seekingalpha.com/filings/pdf/12070575.pdf>

The reason for the contract termination is underlined in blue and reads:

**"The Company terminated the Agreement as a result of the default by Platinum in the performance of certain of its material obligations under the Agreement. The Company did not incur any early termination penalty in connection with terminating the Agreement."**

**Why did Platinum Standard LLC default in the performance of certain of its material obligations one year into a ten-year contract?**

## **Misclassifying Corporate Relationship to Council Members**

### **San Leandro Public Hearing (Blum SL or DSWC Selection) (07/18/2016)**

At the hearing for approval for Blum San Leandro, attended by Salwa Ibrahim and Alicia Darrow, Ms. Ibrahim claimed Blum San Leandro was its own separate entity when questioned about Terra Tech Corps involvement.

Source: [http://sanleandro.granicus.com/MediaPlayer.php?view\\_id=2&clip\\_id=834](http://sanleandro.granicus.com/MediaPlayer.php?view_id=2&clip_id=834)

Council Questions Begin: (03:50:30)

### **Terra Tech Form 10-K Annual Report For the Fiscal year Ended December 31, 2016**

#### **Our Business**

We are a vertically integrated cannabis-focused agriculture company that is committed to cultivating and providing the highest quality medical cannabis, as well as other agricultural products, such as herbs and leafy greens that are grown using classic Dutch hydroponic farming methods. We have seven wholly-owned subsidiaries, GrowOp Technology, Edible Garden, Black Oak, Blüm San Leandro, IVXX LLC, IVXX Inc. and EG Transportation, as well as ownership interests in MediFarm, MediFarm I, MediFarm II, and MediFarm I RE.

Source: [https://ir.terratechcorp.com/annual-reports/content/0001477932-17-001483/trtc\\_10k.htm](https://ir.terratechcorp.com/annual-reports/content/0001477932-17-001483/trtc_10k.htm)

**Why did Blum San Leandro misrepresent the true nature of their relationship with Terra Tech and insinuate they are a separate entity knowing they are a wholly owned subsidiary?**

While one may think this was just a mistake in statement, Terra Tech CEO Derek Peterson hinted at his strategy during the Q4 2016 Earnings Call. In it he stated:

"Philip Carlson

Okay. And last question will Terra Tech's percentage of ownership of 60%, 50% and 55% respectively change in the future and all of three of the MediPharm Nevada subdivisions?

Derek Peterson

Okay, that's a great question. It's actually I mean it's a relatively complex question, but the short of it is this. Our Reno dispensary is a true 50-50 partnership. We get a 100% of the revenue **we are 50% essentially of the profits to our partner up there.** The other locations according to the operating agreements we basically have the right to a 100% of the revenue and 100% of the profits as the majority interest holder of those subsidiaries, we have a right to buy out the membership interest of the other holders at a value associated with our capital accounts.

And what that means in English is right now because we've spent a tremendous amount of money in Nevada, sales are just starting to ramp up, we have a historical expense in the state that hasn't been made up yet by net income, we think that obviously will be fixed as time goes on with the implementation of recreational cannabis. But what that does it allows us to buy out the membership interest of our partners for basically at zero value.

So one of the reasons we wanted to keep those partnerships in place was because of the local ownership regard that the local community have but we built enough credibility with a local government, the state where Nevada Corporation ourselves – continue to value add to have the partnership like that.

So something that we're working on is to assume a 100% of those entities it's not going the cost us any capital to do that according to the operating agreement that we put forth. And that being said, I guess that's something that we're going to be executed, I think on over the next quarter or two just to clean up the accounting associated with that.

So those ones with the exception of the Reno dispensary will be a 100% owned by the company but as we sit right now we're entitled to 100% of the revenue and 100% of the profits that come out of that entity."

Philip Carlson

Source: <https://seekingalpha.com/article/4059567-terra-techs-trtc-ceo-derek-peterson-q4-2016-results-earnings-call-transcript>

**Are these the business principles that Hayward wants for its cannabis businesses?**

### **Terra Tech and Blum under Applicant Management Lose Millions**

The applicant team claims they have helped grow Blum into a Multi-Million-dollar business but neglect to mention that they have accumulated expenses at a larger rate. The merger between Blum and TerraTech happened on March 31, 2016 and revealed an operation with significant financial trouble. (Years 2015, 2016, 2017 Included)

(See Next Page)

# 2015

**Terra Tech Corp and Blum Oakland**  
**Pro Forma Statement of Operations**  
**For the Year Ended December 31, 2015**

|   | <u>Terra Tech Corp</u> | <u>Blum Oakland</u> | <u>Pro Forma Adjustments</u> | <u>Pro Forma</u> |
|---|------------------------|---------------------|------------------------------|------------------|
| Total Revenues  | \$ 9,975,346           | \$12,983,824        | \$ (683,516)(1)              | \$ 22,275,654    |
| Cost of Goods Sold  | 8,958,475              | 10,709,576          | (512,803)(1)                 | 19,155,248       |
|   | 1,016,871              | 2,274,248           | (170,713)                    | 3,120,406        |
| Selling, general and administrative expenses                            | 9,833,646              | 2,213,742           | 108,000(2)                   | 12,155,388       |
| Loss from operations  | (8,816,775)            | 60,506              | (278,713)                    | (9,034,982)      |
| Other Income (Expenses)   |                        |                     |                              |                  |
| Amortization of debt discount   | (696,180)              | -                   | -                            | (696,180)        |
| Loss on extinguishment of debt  | (619,444)              | -                   | -                            | (619,444)        |
| Loss from derivatives issued with debt greater than debt carrying value | (561,000)              | -                   | -                            | (561,000)        |
| Gain (Loss) on fair market valuation of derivatives                     | 1,800,100              | -                   | -                            | 1,800,100        |
| Interest Income (Expense)   | (469,576)              | 1,236               | -                            | (468,340)        |
| Total Other Income (Expense)  | (546,100)              | 1,236               | -                            | (544,864)        |
| Loss before Provision of Income Taxes                                   | (9,362,875)            | 61,742              | (278,713)                    | (9,579,846)      |
| Provision for income taxes  | 44,000                 | 636,628             | -                            | 680,628          |
| Net Loss  | (9,406,875)            | (574,886)           | (278,713)                    | (10,260,474)     |
| Net Loss attributable to non-controlling interest                       | 181,295                | -                   | -                            | 181,295          |
| Net Loss attributable to Terra Tech Corp.                               | \$(9,225,580)          | \$ (574,886)        | \$ (278,713)                 | \$(10,079,179)   |

Note 1 - The revenue and cost of goods sold between Blum and IVXX have been eliminated.

Note 2 - The salaries to the Blum partners have been eliminated and replaced with the Platinum management agreement.

Source: <http://www.otcmartets.com/edgar/GetFilingHtml?FilingID=11432288>

# 2016

|   | <u>Year Ended December 31, 2016</u> |                          |                               |                 |
|---|-------------------------------------|--------------------------|-------------------------------|-----------------|
|   | <u>Hydroponic Produce</u>           | <u>Cannabis Products</u> | <u>Eliminations and Other</u> | <u>Total</u>    |
| Total Revenues  | \$ 12,000,423                       | \$13,207,327             | \$ 120,014                    | \$ 25,327,764   |
| Cost of Goods Sold  | 11,021,449                          | 11,664,737               | 68,894                        | 22,755,080      |
| Gross Profit  | 978,974                             | 1,542,590                | 51,120                        | 2,572,684       |
| Selling, General and Administrative Expenses                            | 2,520,061                           | 5,729,884                | 12,470,590                    | 20,720,535      |
| Loss from Operations  | (1,541,087)                         | (4,187,294)              | (12,419,470)                  | (18,147,851)    |
| Other Expense:  |                                     |                          |                               |                 |
| Amortization of Debt Discount   | -                                   | -                        | (1,414,202)                   | (1,414,202)     |
| Loss on Extinguishment of Debt  | -                                   | -                        | (5,382,813)                   | (5,382,813)     |
| Loss from Derivatives Issued with Debt Greater than Debt Carrying Value | -                                   | -                        | (1,487,500)                   | (1,487,500)     |
| Loss on Fair Market Valuation of Derivatives                            | -                                   | -                        | (1,844,500)                   | (1,844,500)     |
| Interest Income (Expense)   | -                                   | -                        | (377,349)                     | (377,349)       |
| Gain on Fair Market Valuation of Contingent Consideration               | -                                   | -                        | 668,694                       | 668,694         |
| Total Other Expense   | -                                   | -                        | (9,837,670)                   | (9,837,670)     |
| Loss Before Provision for Income Taxes                                  | \$ (1,541,087)                      | \$ (4,187,294)           | \$ (22,257,140)               | \$ (27,985,521) |

Source: <https://ir.terratechcorp.com/all-sec-filings/content/0001477932-17-001483/0001477932-17-001483.pdf>



# 2017

|   | For the Year Ended December 31, 2017 |   |                        |                 |
|---|--------------------------------------|---|------------------------|-----------------|
|   | Herbs and Produce Products           | Cannabis Dispensary, Cultivation and Production | Eliminations and Other | Total           |
| Total Revenues  | \$ 5,701,233                         | \$ 30,031,046                                   | \$ 68,565              | \$ 35,800,844   |
| Cost of Goods Sold  | 5,211,658                            | 25,112,113                                      | -                      | 30,323,771      |
| Gross Profit  | 489,575                              | 4,918,933                                       | 68,565                 | 5,477,073       |
| Selling, General and Administrative Expenses              | 3,123,037                            | 10,843,210                                      | 11,390,844             | 25,357,091      |
| Loss from Operations                                      | (2,633,462)                          | (5,924,277)                                     | (11,322,279)           | (19,880,018)    |
| Other Income (Expense):                                   |                                      |   |                        |                 |
| Amortization of Debt Discount                             | -                                    | -   | (2,138,762)            | (2,138,762)     |
| Impairment of Property                                    | -                                    | -   | (138,037)              | (138,037)       |
| Impairment of Intangibles                                 | (757,467)                            | -   | -                      | (757,467)       |
| (Loss) Gain on Extinguishment of Debt                     | (18)                                 | 187   | (7,144,457)            | (7,144,288)     |
| Loss on Fair Market Valuation of Derivatives              | -                                    | -   | (3,494,550)            | (3,494,550)     |
| Interest (Expense) Income                                 | -                                    | 110   | (542,774)              | (542,664)       |
| Gain on Settlement of Contingent Consideration            | -                                    | 4,991,571                                       | -                      | 4,991,571       |
| Loss on Fair Market Valuation of Contingent Consideration | -                                    | (4,426,047)                                     | -                      | (4,426,047)     |
| Total Other Income (Expense)                              | (757,485)                            | 565,821   | (13,458,580)           | (13,650,244)    |
| Loss Before Provision for Income Taxes                    | \$ (3,390,947)                       | \$ (5,358,456)                                  | \$ (24,780,859)        | \$ (33,530,262) |

Source: [https://ir.terratechcorp.com/annual-reports/content/0001477932-18-002991/trtc\\_10ka.htm](https://ir.terratechcorp.com/annual-reports/content/0001477932-18-002991/trtc_10ka.htm)

If applicants are as experienced as they claim, why does their operation lose millions yearly?

## Context Regarding the Applicant Teams Experience in Other Localities

- The majority of the applicants Cannabis experience stems from an unregulated market.
  - CCPC Inc. (Registered in 2010)
  - Black Oak Gallery (Registered 2011)
  - Platinum Standard LLC (Registered 2015)

The registration dates of these businesses conflict with the applicants claim about their experience unless they admit they were running an illicit cannabis business.

### GreenDoor SF (CCPC Inc.)

Michael Nolin, Miguel Rodriguez, Justin Jarin, David Kang

### Blum Oakland- 2012 (Black Oak Gallery)

Salwa Ibrahim & Martin Kaufman & Derek Peterson (Assistance from Green Door Staff)

The applicant teams' associates (Salwa Ibrahim, Marin Kaufman, Derek Peterson) attained their Blum license in 2012. The nature by which they attained their local license as well as their state license raises ethical concerns.

- Local License:

FBI: Marijuana Union Organizer Took Bribes, Rigged Process

- ❖ <https://archives.sfweekly.com/thesnitch/2015/08/13/fbi-marijuana-union-organizer-took-bribes-rigged-process>

Oakland Pot Union Bribery Scandal Exposed

- ❖ <https://www.eastbayexpress.com/LegalizationNation/archives/2015/08/13/breaking-oakland-pot-union-bribery-scandal-exposed>

▪ State License:

Oakland's Revolving Door of Weed Lobbying

- ❖ <https://www.eastbayexpress.com/oakland/oaklands-revolving-door-of-weed-lobbying/Content?oid=13057408>

**Blum Berkeley Application- 2013(Rejected):**

**Salwa Ibrahim & Lillian Kang**

Dan Rush Signed LPA for UFCW on 08/22/13

- By this time, Mr. Kaufman had already lent Rush \$600,000 and Kaufman did not start cooperating with the FBI until October 2013. He received immunity for the previous laundering of the illicit cannabis proceeds in exchange for cooperation in wiretapping Rush and his lawyer.

**Blum San Leandro (Approved)**

**Salwa Ibrahim (Exec. Dir.) & Michael Yoell & Antony Fabrizio & Alicia Darrow (COO)**

Granted permit on October 17, 2016. Not yet open.

Further Analysis on Current State of Terra Tech:

**Summary**

- We uncovered lawsuits against TRTC from alleged unpaid suppliers.
- Toxic Convertible Debt provides significant potential for shareholder dilution.
- The company paid \$51.5m for a dispensary in a related-party transaction; first dispensary license was received via bribery.
- The auditor has an adverse opinion on financial controls, and financials show a declining business that burns cash.
- All of the management team has past personal bankruptcies or a shareholder wipeout. CEO and Treasurer filed personal bankruptcy. CEO was allegedly involved in Mazzuto Scam and paid a settlement.

<https://seekingalpha.com/article/4184736-terra-tech-complete-smokeshow-questionable-management-poorly-run-business-dilution-risk>

# City of Hayward City Staff Selection Criteria

## Hayward Station (City Staff Recommended)

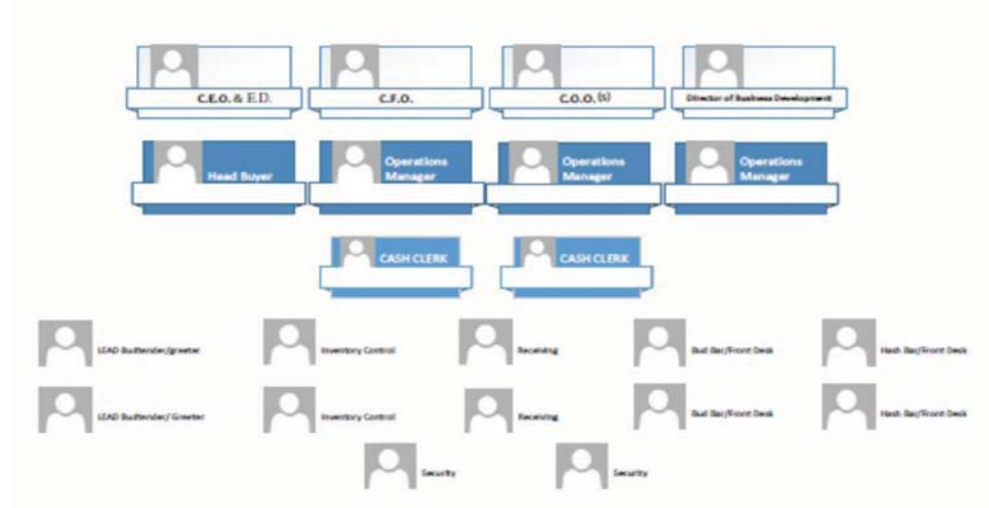
|               |                  |              |
|---------------|------------------|--------------|
| Alicia Darrow | Miguel Rodriguez | Justin Jarin |
| David Kang    | Sid Afshar       | Pat Doherty  |

City of Hayward staff wants to recommend the following applicants based on their belief that:

The applicants that are being recommended to the City Council demonstrated an ability to have their dispensary operational within the next year, have management teams in place currently and demonstrated they had experienced teams ready to operate in the City, have local experience in Hayward and the surrounding community, and articulated a thorough vision for user experience.

- Ability to have dispensary operational within next year
  - Alicia Darrow (COO Blum SL) has been unable to open Blum SL with her team within one year.
  - The listed property owner for 1004 B St. Hayward has a history of cannabis property violations in Bay Area. (Berkeley 2013) – See Property Section
- Management teams in place currently with experienced teams ready to operate in the City
  - Platinum Standard LLC was terminated one year into a ten-year contract by Terra Tech because of default in operating standards.
    - Miguel Rodriguez is Manager for Platinum Standard LLC
    - Alicia Darrow listed as partner in latest Statement of Information.
  - Pixelated organizational chart that did not assign roles to individuals. With so many dispensaries ran by the same group, how will they be able to ensure the quality standard in Hayward when they have struggled in their own operations?

## ORG CHART 2018



□ **Local experience in Hayward and the surrounding community**

- The applicant’s community service experience is minimal at best. While the applicants provided an article about a gun buyback program as their main highlight, they appear to donate minimally to the organization.

**The Green door SF – SF Mayor's Gun Buy back**

[thegreendoorsf.com/portfolio-posts/sf-mayors-gun-buy-back/](http://thegreendoorsf.com/portfolio-posts/sf-mayors-gun-buy-back/) ▼

**Green Door** and Boss Enterprises raised over 10,000.00 for The **San Francisco Mayor's Gun buy back program**. The efforts were aimed at reducing gun violence ...

It is clear the applicant does not know or even bothered to research the Hayward community past a superficial Wikipedia factoid for their name selection. That explains why the applicant simply stated it would help further the City’s “Complete Communities Strategic Initiative” instead of specifying what those initiatives were.

Instead of writing a detailed community Benefit Plan, they relied on a newspaper article which demonstrates how much effort they put into the application.

### **Concerns Regarding Property Owner**

| <b>Property Owner</b>                          |  |
|--|--|
| <b>Al Antonini<br/>Gelso Investments V LLC</b> | <ul style="list-style-type: none"><li>• Felony Record for “Check Kiting” that resulted in prison time. (2001) Resulted in 60 Months in Prison and 175K fine.</li><li>• 1515 Dwight Way Berkeley – Antonini fined by City of Berkeley Planning Department for allowing illegal dispensary to operate from his property. (2013)</li><li>• Gelso Investments V LLC was the owner of the property cited in 1515 Dwight Way in Berkeley and the proposed 1004 B St. Hayward location.</li></ul> |

Check Kiting Prison Sentence

<https://www.chron.com/news/houston-texas/article/Landlord-reports-to-prison-2047235.php>

Gelso Investment V LLC Non-Permitted Cannabis Dispensary Fine

[https://www.cityofberkeley.info/Planning\\_and\\_Development/Zoning\\_Adjustment\\_Board/1515\\_Dwight.aspx](https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/1515_Dwight.aspx)

**Should the city choose to award a CCP to Hayward Station, we shall circulate all the details of the information contained above to local residents to ensure full transparency about the types of businesses we introduce into our communities.**

**Exhibit A. Green Door VS Blum Oakland VS Terra Tech Overlap**

| <b>Applicant Name</b>  | <b>Green Door (CCPC Inc.)</b>   | <b>Blum Oakland (Black Oak Gallery Inc.)</b>   | <b>Terra Tech Corp. (OTC)</b>   |
|--|---|--|---|
| <b>Miguel Rodriguez</b>  | <ul style="list-style-type: none"> <li>• Manager – (2003)</li> </ul>  | <ul style="list-style-type: none"> <li>• Blum Oakland – (2012)</li> </ul>  | <ul style="list-style-type: none"> <li>• Management Contractor for Terra Tech. (Platinum Standard LLC)</li> </ul>                 |
| <b>Justin Jarin</b>  | <ul style="list-style-type: none"> <li>• Security Guard - (2003)</li> <li>• Budtender – (2005)</li> <li>• GD President – (2009)</li> <li>• Helped with TGD SAC and TGD SD*[Closed]</li> </ul> | <ul style="list-style-type: none"> <li>• Partnered with Permit Holder to Open Blum Oakland (Salwa) - 2012</li> </ul> | <ul style="list-style-type: none"> <li>• Management Contract to Operate Blum (2016)</li> <li>• Working with IVXX Brand</li> </ul> |
| <b>David Kang</b>  | Stated Affiliation  | Stated Affiliation for helping Blum reach 8 figure annual volume   | Stated Affiliation for Merger with Terra Tech   |
| <b>Alicia Darrow **</b>  | CFO of GD 06/03/18<br>COO of Blum SL 07/18/16   | Stated Affiliation with Blum   | Performance based compensation on Terra Tech  |
| <b>Non-Applicants Closely Associated with Applicants Cannabis Experience as mentioned in their application</b> |   |  |   |
| <b>Michael Nolin</b>   | Founder of Green Door<br>Day to Day Op. Manager   | Day to Day Operation<br>Manager  | Previous Preferred Q<br>Share Holder  |
| <b>Salwa Ibrahim</b>   | NA  | Founder of Blum<br>(Spouse of Martin Kaufman)  | Preferred B Share<br>holder   |
| <b>Martin Kaufman</b>  | NA  | Founder of Blum<br>(Spouse of Salwa)   | Preferred B Share<br>holder   |
| <b>Derek Peterson</b>  | Entered into Management contract with Platinum Standard LLC to run Blum Oakland Operations (Terminated in a year for operator default)  | Founder of Blum<br>Relationship with Kaufman in running Blum & responsible for Blum Nevada                           | CEO of Terra Tech and led acquisition of Blum.  |

\*The Green Door SD is no longer operational

\*\* Industry has only been regulated since 2018 so 15 years' experience is subjective. Manages multiple dispensaries including Blum

## Exhibit B. Terra Tech Share Structure

| Name and Address of Beneficial Owner                               | Title of Class           | Amount and Nature of Beneficial Ownership | Percent of Series B Preferred Stock(1) |
|--|--------------------------|---|--|
| Derek Peterson   | Series B Preferred Stock | 2,330,489 <sup>(2)</sup> <sub>(3)</sub>   | 50.56%                                 |
| Amy Almsteier  | Series B Preferred Stock | 3,575,000 <sup>(4)</sup>                  | 14.40%                                 |
| Kenneth P. Krueger   | Series B Preferred Stock | 0   | *%                                     |
| Michael James  | Series B Preferred Stock | 1,000,000                                 | 4.03%                                  |
| Michael A. Nahass  | Series B Preferred Stock | 3,825,000                                 | 15.41%                                 |
| Steven Ross  | Series B Preferred Stock | 0   | 0%                                     |
| Kenneth Vande Vrede  | Series B Preferred Stock | 1,759,500                                 | 7.09%                                  |
| Steven Vande Vrede   | Series B Preferred Stock | 1,759,500                                 | 7.09%                                  |
| Michael Vande Vrede  | Series B Preferred Stock | 1,759,500                                 | 7.09%                                  |
| <b>All directors and executive officers as a group (9 persons)</b> |                          | <b>16,008,989</b>                         | <b>64.50%</b>                          |
| Salwa Ibrahim  | Series B Preferred Stock | 3,814,227 <sup>(5)</sup> <sub>(6)</sub>   | 15.37%                                 |
| Martin Kaufman   | Series B Preferred Stock | 2,773,984 <sup>(7)</sup> <sub>(8)</sub>   | 11.18%                                 |

| Name and Address of Beneficial Owner                               | Title of Class           | Amount and Nature of Beneficial Ownership | Percent of Series Q Preferred Stock(1) |
|--|--------------------------|---|--|
| Derek Peterson   | Series Q Preferred Stock | 0   | *%                                     |
| Amy Almsteier  | Series Q Preferred Stock | 0   | *%                                     |
| Kenneth P. Krueger   | Series Q Preferred Stock | 0   | *%                                     |
| Michael James  | Series Q Preferred Stock | 0   | *%                                     |
| Michael A. Nahass  | Series Q Preferred Stock | 0   | *%                                     |
| Steven Ross  | Series Q Preferred Stock | 0   | *%                                     |
| Kenneth Vande Vrede  | Series Q Preferred Stock | 0   | *%                                     |
| Steven Vande Vrede   | Series Q Preferred Stock | 0   | *%                                     |
| Michael Vande Vrede  | Series Q Preferred Stock | 0   | *%                                     |
| <b>All directors and executive officers as a group (9 persons)</b> |                          | <b>0</b>                                  | <b>*%</b>                              |
| Miguel Rodriguez <sup>(9)</sup>                                    | Series Q Preferred Stock | 3,420 <sup>(2)</sup>                      | 16%                                    |
| Justin Jarin <sup>(9)</sup>  | Series Q Preferred Stock | 3,420 <sup>(3)</sup>                      | 16%                                    |
| Michael Christian Gard <sup>(9)</sup>                              | Series Q Preferred Stock | 3,420 <sup>(4)</sup>                      | 16%                                    |
| Sewell Woodfork <sup>(9)</sup>                                     | Series Q Preferred Stock | 3,420 <sup>(5)</sup>                      | 16%                                    |
| Michael Nolin <sup>(9)</sup>                                       | Series Q Preferred Stock | 3,420 <sup>(6)</sup>                      | 16%                                    |
| David Kang <sup>(9)</sup>  | Series Q Preferred Stock | 1,711 <sup>(7)</sup>                      | 8%                                     |
| Lillian Kang <sup>(9)</sup>  | Series Q Preferred Stock | 1,711 <sup>(8)</sup>                      | 8%                                     |

\* Represents beneficial ownership of less than one percent of the outstanding Series Q Preferred Stock.

**Red: Hayward Station Applicant**

**Blue: Non-Applicant Green Door**

**Source:**

[https://www.sec.gov/Archives/edgar/data/1451512/000147793216012018/trtc\\_def14a.htm](https://www.sec.gov/Archives/edgar/data/1451512/000147793216012018/trtc_def14a.htm)

**PUBLIC COMMENT**

**ITEM #17**

**ELBA VILLASENOR EMAIL**

---

**From:** "Elba Villasenor" <>  
**To:** "List-Mayor-Council" <[List-Mayor-Council@hayward-ca.gov](mailto:List-Mayor-Council@hayward-ca.gov)>  
**Subject:** **Crucial information before making your vote on the Cannabis Retail License**

Good night Mayor and members of the City Council,

I highly encourage you to read the following report regarding the Hayward Station Applicants. It was brought up to my attention that they're about to get another license in this beautiful and prosperous city, but that they did not disclose all their failures in the Cannabis Industry and that instead of bringing progress to the city they can bring a big debt. I'm not sure if you had a chance to review their application, and to see that they were very vague on many aspects specially on the community benefits. Also, I don't believe the City Staff verified any of the information that they provided, since if that would have been the case they would probably had caught that most of the distributors they listed were not actively licensed, and that they have failed to operate in other localities within a year. Not to mention of their multiple scandals that range from fraud to a debt that keeps increasing every year. Is that what we really want for the City of Hayward?

I ask the council to please make the right choice for our community and reject Hayward Station application.



Hello City Council and Staff,

I am writing to express my opposition to Hayward Station being granted a Commercial Cannabis Permit. While I am not opposed to Cannabis in Hayward, I am opposed to opportunistic companies deceiving their way into our community. Before you make a decision to grant this group a license, I highly recommend you read the full contents attached below including the supplemental materials. This will allow you to make an informed decision regarding the Applicant teams experience within the cannabis industry and the type of risk Hayward will take by granting them a license.

**See Exhibit A for Applicant Names and Affiliations.**

**See Exhibit B for Share Structure after Blum Merger**

## **Relationship between Green Door, Blum Oakland, and Terra Tech**

### **OPERATIONS AND ASSET MANAGEMENT AGREEMENT**

This Operations and Asset Management Agreement (this "Agreement") is made and entered into this 31<sup>st</sup> day of March, 2016 (the "Effective Date"), by and among Terra Tech Corp., a Nevada corporation ("Terra Tech"), Black Oak Gallery, a California corporation (the "Owner"), and Platinum Standard, LLC, a California limited liability company ("Operator") (each a "Party" and, collectively, the "Parties").

### **RECITALS**

A. The Owner is the owner of that certain licensed medical cannabis dispensary business (the "Business") located at 578 W. Grand Avenue, in the City of Oakland, State of California, commonly known as Blum Oakland (the "Property").

B. Owner's Business includes a cultivation center, located on the property of the Business (the "Cultivation Center") located at 556 - 578 W. Grand Avenue, in the City of Oakland, State of California.

C. Operator is an experienced medical cannabis dispensary operator.

D. Since approximately October 1, 2012, Owner has engaged Operator in the financing and operation of the Business.

E. As of the Effective Date, Owner is a wholly-owned subsidiary of Terra Tech.

F. Terra Tech engages in the business of managing and operating cultivation businesses, among other business activities.

G. Terra Tech hereby desires to engage and appoint Operator as the sole and exclusive operator and asset manager of the Business for the benefit of Terra Tech and Owner, and Operator desires to accept such appointment, all upon and subject to the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the foregoing recitals and the mutual covenants, promises and conditions herein contained, Terra Tech and Operator agree as follows:

**Source:** [https://www.sec.gov/Archives/edgar/data/1451512/000147793216010217/trtc\\_ex1029.htm](https://www.sec.gov/Archives/edgar/data/1451512/000147793216010217/trtc_ex1029.htm)

Applicants listed as involved with Terra Tech Merger in their Hayward Station application:

|                  |              |            |
|------------------|--------------|------------|
| Miguel Rodriguez | Justin Jarin | David Kang |
|------------------|--------------|------------|

### **Operations and Asset Management Agreement Effective March 31, 2016**

Claims that since approximately October 1, 2012. Owner has engaged Operator in the financing and operations of the Business.

## **Termination of Contract (May 11, 2017) Between Terra Tech and Green Door Partner**

### **Item 1.02 Termination of a Material Definitive Agreement.**

On May 11, 2017 Terra Tech Corp. (the "Company") terminated the Operations and Asset Management Agreement (the "Agreement") by and among the Company, Black Oak Gallery (the "Black Oak"), and Platinum Standard, LLC ("Platinum"), dated March 31, 2016. Black Oak is a wholly-owned subsidiary of the Company. There is no relationship between the Company or its affiliates and Platinum, other than pursuant to the Agreement. Pursuant to the Agreement, the Company hired and appointed Platinum as the operator and asset manager of the Company's licensed medical cannabis dispensary business located at 578 W. Grand Avenue, in the City of Oakland, State of California, commonly known as Blüm Oakland, in exchange for certain payments to be made by the Company to Platinum, all as more fully set forth in the Agreement. The Company terminated the Agreement as a result of the default by Platinum in the performance of certain of its material obligations under the Agreement. The Company did not incur any early termination penalty in connection with terminating the Agreement. A copy of the Agreement was filed as Exhibit 10.29 to the Company's Form 10-Q for the quarterly period ended March 31, 2016.

**Source:** <https://seekingalpha.com/filings/pdf/12070575.pdf>

The reason for the contract termination is underlined in blue and reads:

**"The Company terminated the Agreement as a result of the default by Platinum in the performance of certain of its material obligations under the Agreement. The Company did not incur any early termination penalty in connection with terminating the Agreement."**

**Why did Platinum Standard LLC default in the performance of certain of its material obligations one year into a ten-year contract?**

## **Misclassifying Corporate Relationship to Council Members**

### **San Leandro Public Hearing (Blum SL or DSWC Selection) (07/18/2016)**

At the hearing for approval for Blum San Leandro, attended by Salwa Ibrahim and Alicia Darrow, Ms. Ibrahim claimed Blum San Leandro was its own separate entity when questioned about Terra Tech Corps involvement.

Source: [http://sanleandro.granicus.com/MediaPlayer.php?view\\_id=2&clip\\_id=834](http://sanleandro.granicus.com/MediaPlayer.php?view_id=2&clip_id=834)

Council Questions Begin: (03:50:30)

### **Terra Tech Form 10-K Annual Report For the Fiscal year Ended December 31, 2016**

#### **Our Business**

We are a vertically integrated cannabis-focused agriculture company that is committed to cultivating and providing the highest quality medical cannabis, as well as other agricultural products, such as herbs and leafy greens that are grown using classic Dutch hydroponic farming methods. We have seven wholly-owned subsidiaries, GrowOp Technology, Edible Garden, Black Oak, Blüm San Leandro, IVXX LLC, IVXX Inc. and EG Transportation, as well as ownership interests in MediFarm, MediFarm I, MediFarm II, and MediFarm I RE.

Source: [https://ir.terratechcorp.com/annual-reports/content/0001477932-17-001483/trtc\\_10k.htm](https://ir.terratechcorp.com/annual-reports/content/0001477932-17-001483/trtc_10k.htm)

**Why did Blum San Leandro misrepresent the true nature of their relationship with Terra Tech and insinuate they are a separate entity knowing they are a wholly owned subsidiary?**

While one may think this was just a mistake in statement, Terra Tech CEO Derek Peterson hinted at his strategy during the Q4 2016 Earnings Call. In it he stated:

"Philip Carlson

Okay. And last question will Terra Tech's percentage of ownership of 60%, 50% and 55% respectively change in the future and all of three of the MediPharm Nevada subdivisions?

Derek Peterson

Okay, that's a great question. It's actually I mean it's a relatively complex question, but the short of it is this. Our Reno dispensary is a true 50-50 partnership. We get a 100% of the revenue **we are 50% essentially of the profits to our partner up there.** The other locations according to the operating agreements we basically have the right to a 100% of the revenue and 100% of the profits as the majority interest holder of those subsidiaries, we have a right to buy out the membership interest of the other holders at a value associated with our capital accounts.

And what that means in English is right now because we've spent a tremendous amount of money in Nevada, sales are just starting to ramp up, we have a historical expense in the state that hasn't been made up yet by net income, we think that obviously will be fixed as time goes on with the implementation of recreational cannabis. But what that does it allows us to buy out the membership interest of our partners for basically at zero value.

So one of the reasons we wanted to keep those partnerships in place was because of the local ownership regard that the local community have but we built enough credibility with a local government, the state where Nevada Corporation ourselves – continue to value add to have the partnership like that.

So something that we're working on is to assume a 100% of those entities it's not going the cost us any capital to do that according to the operating agreement that we put forth. And that being said, I guess that's something that we're going to be executed, I think on over the next quarter or two just to clean up the accounting associated with that.

So those ones with the exception of the Reno dispensary will be a 100% owned by the company but as we sit right now we're entitled to 100% of the revenue and 100% of the profits that come out of that entity."

Philip Carlson

Source: <https://seekingalpha.com/article/4059567-terra-techs-trtc-ceo-derek-peterson-q4-2016-results-earnings-call-transcript>

Are these the business principles that Hayward wants for its cannabis businesses?

### **Terra Tech and Blum under Applicant Management Lose Millions**

The applicant team claims they have helped grow Blum into a Multi-Million-dollar business but neglect to mention that they have accumulated expenses at a larger rate. The merger between Blum and TerraTech happened on March 31, 2016 and revealed an operation with significant financial trouble. (Years 2015, 2016, 2017 Included)

(See Next Page)

# 2015

**Terra Tech Corp and Blum Oakland**  
**Pro Forma Statement of Operations**  
**For the Year Ended December 31, 2015**

|   | <u>Terra Tech Corp</u> | <u>Blum Oakland</u> | <u>Pro Forma Adjustments</u> | <u>Pro Forma</u> |
|---|------------------------|---------------------|------------------------------|------------------|
| Total Revenues  | \$ 9,975,346           | \$12,983,824        | \$ (683,516)(1)              | \$ 22,275,654    |
| Cost of Goods Sold  | 8,958,475              | 10,709,576          | (512,803)(1)                 | 19,155,248       |
|   | 1,016,871              | 2,274,248           | (170,713)                    | 3,120,406        |
| Selling, general and administrative expenses                            | 9,833,646              | 2,213,742           | 108,000(2)                   | 12,155,388       |
| Loss from operations  | (8,816,775)            | 60,506              | (278,713)                    | (9,034,982)      |
| Other Income (Expenses)   |                        |                     |                              |                  |
| Amortization of debt discount   | (696,180)              | -                   | -                            | (696,180)        |
| Loss on extinguishment of debt  | (619,444)              | -                   | -                            | (619,444)        |
| Loss from derivatives issued with debt greater than debt carrying value | (561,000)              | -                   | -                            | (561,000)        |
| Gain (Loss) on fair market valuation of derivatives                     | 1,800,100              | -                   | -                            | 1,800,100        |
| Interest Income (Expense)   | (469,576)              | 1,236               | -                            | (468,340)        |
| Total Other Income (Expense)  | (546,100)              | 1,236               | -                            | (544,864)        |
| Loss before Provision of Income Taxes                                   | (9,362,875)            | 61,742              | (278,713)                    | (9,579,846)      |
| Provision for income taxes  | 44,000                 | 636,628             | -                            | 680,628          |
| Net Loss  | (9,406,875)            | (574,886)           | (278,713)                    | (10,260,474)     |
| Net Loss attributable to non-controlling interest                       | 181,295                | -                   | -                            | 181,295          |
| Net Loss attributable to Terra Tech Corp.                               | \$(9,225,580)          | \$ (574,886)        | \$ (278,713)                 | \$(10,079,179)   |

Note 1 - The revenue and cost of goods sold between Blum and IVXX have been eliminated.

Note 2 - The salaries to the Blum partners have been eliminated and replaced with the Platinum management agreement.

Source: <http://www.otcmartets.com/edgar/GetFilingHtml?FilingID=11432288>

# 2016

|   | <u>Year Ended December 31, 2016</u> |                          |                               |                 |
|---|-------------------------------------|--------------------------|-------------------------------|-----------------|
|   | <u>Hydroponic Produce</u>           | <u>Cannabis Products</u> | <u>Eliminations and Other</u> | <u>Total</u>    |
| Total Revenues  | \$ 12,000,423                       | \$13,207,327             | \$ 120,014                    | \$ 25,327,764   |
| Cost of Goods Sold  | 11,021,449                          | 11,664,737               | 68,894                        | 22,755,080      |
| Gross Profit  | 978,974                             | 1,542,590                | 51,120                        | 2,572,684       |
| Selling, General and Administrative Expenses                            | 2,520,061                           | 5,729,884                | 12,470,590                    | 20,720,535      |
| Loss from Operations  | (1,541,087)                         | (4,187,294)              | (12,419,470)                  | (18,147,851)    |
| Other Expense:  |                                     |                          |                               |                 |
| Amortization of Debt Discount   | -                                   | -                        | (1,414,202)                   | (1,414,202)     |
| Loss on Extinguishment of Debt  | -                                   | -                        | (5,382,813)                   | (5,382,813)     |
| Loss from Derivatives Issued with Debt Greater than Debt Carrying Value | -                                   | -                        | (1,487,500)                   | (1,487,500)     |
| Loss on Fair Market Valuation of Derivatives                            | -                                   | -                        | (1,844,500)                   | (1,844,500)     |
| Interest Income (Expense)   | -                                   | -                        | (377,349)                     | (377,349)       |
| Gain on Fair Market Valuation of Contingent Consideration               | -                                   | -                        | 668,694                       | 668,694         |
| Total Other Expense   | -                                   | -                        | (9,837,670)                   | (9,837,670)     |
| Loss Before Provision for Income Taxes                                  | \$ (1,541,087)                      | \$ (4,187,294)           | \$ (22,257,140)               | \$ (27,985,521) |

Source: <https://ir.terratechcorp.com/all-sec-filings/content/0001477932-17-001483/0001477932-17-001483.pdf>

# 2017

|   | For the Year Ended December 31, 2017 |   |                        |                 |
|---|--------------------------------------|---|------------------------|-----------------|
|   | Herbs and Produce Products           | Cannabis Dispensary, Cultivation and Production | Eliminations and Other | Total           |
| Total Revenues  | \$ 5,701,233                         | \$ 30,031,046                                   | \$ 68,565              | \$ 35,800,844   |
| Cost of Goods Sold  | 5,211,658                            | 25,112,113                                      | -                      | 30,323,771      |
| Gross Profit  | 489,575                              | 4,918,933                                       | 68,565                 | 5,477,073       |
| Selling, General and Administrative Expenses              | 3,123,037                            | 10,843,210                                      | 11,390,844             | 25,357,091      |
| Loss from Operations                                      | (2,633,462)                          | (5,924,277)                                     | (11,322,279)           | (19,880,018)    |
| Other Income (Expense):                                   |                                      |   |                        |                 |
| Amortization of Debt Discount                             | -                                    | -   | (2,138,762)            | (2,138,762)     |
| Impairment of Property                                    | -                                    | -   | (138,037)              | (138,037)       |
| Impairment of Intangibles                                 | (757,467)                            | -   | -                      | (757,467)       |
| (Loss) Gain on Extinguishment of Debt                     | (18)                                 | 187   | (7,144,457)            | (7,144,288)     |
| Loss on Fair Market Valuation of Derivatives              | -                                    | -   | (3,494,550)            | (3,494,550)     |
| Interest (Expense) Income                                 | -                                    | 110   | (542,774)              | (542,664)       |
| Gain on Settlement of Contingent Consideration            | -                                    | 4,991,571                                       | -                      | 4,991,571       |
| Loss on Fair Market Valuation of Contingent Consideration | -                                    | (4,426,047)                                     | -                      | (4,426,047)     |
| Total Other Income (Expense)                              | (757,485)                            | 565,821   | (13,458,580)           | (13,650,244)    |
| Loss Before Provision for Income Taxes                    | \$ (3,390,947)                       | \$ (5,358,456)                                  | \$ (24,780,859)        | \$ (33,530,262) |

Source: [https://ir.terratechcorp.com/annual-reports/content/0001477932-18-002991/trtc\\_10ka.htm](https://ir.terratechcorp.com/annual-reports/content/0001477932-18-002991/trtc_10ka.htm)

If applicants are as experienced as they claim, why does their operation lose millions yearly?

## Context Regarding the Applicant Teams Experience in Other Localities

- The majority of the applicants Cannabis experience stems from an unregulated market.
  - CCPC Inc. (Registered in 2010)
  - Black Oak Gallery (Registered 2011)
  - Platinum Standard LLC (Registered 2015)

The registration dates of these businesses conflict with the applicants claim about their experience unless they admit they were running an illicit cannabis business.

### GreenDoor SF (CCPC Inc.)

Michael Nolin, Miguel Rodriguez, Justin Jarin, David Kang

### Blum Oakland- 2012 (Black Oak Gallery)

Salwa Ibrahim & Martin Kaufman & Derek Peterson (Assistance from Green Door Staff)

The applicant teams' associates (Salwa Ibrahim, Marin Kaufman, Derek Peterson) attained their Blum license in 2012. The nature by which they attained their local license as well as their state license raises ethical concerns.

- Local License:

FBI: Marijuana Union Organizer Took Bribes, Rigged Process

- ❖ <https://archives.sfweekly.com/thesnitch/2015/08/13/fbi-marijuana-union-organizer-took-bribes-rigged-process>

Oakland Pot Union Bribery Scandal Exposed

- ❖ <https://www.eastbayexpress.com/LegalizationNation/archives/2015/08/13/breaking-oakland-pot-union-bribery-scandal-exposed>

▪ State License:

Oakland's Revolving Door of Weed Lobbying

- ❖ <https://www.eastbayexpress.com/oakland/oaklands-revolving-door-of-weed-lobbying/Content?oid=13057408>

**Blum Berkeley Application- 2013(Rejected):**

**Salwa Ibrahim & Lillian Kang**

Dan Rush Signed LPA for UFCW on 08/22/13

- By this time, Mr. Kaufman had already lent Rush \$600,000 and Kaufman did not start cooperating with the FBI until October 2013. He received immunity for the previous laundering of the illicit cannabis proceeds in exchange for cooperation in wiretapping Rush and his lawyer.

**Blum San Leandro (Approved)**

**Salwa Ibrahim (Exec. Dir.) & Michael Yoell & Antony Fabrizio & Alicia Darrow (COO)**

Granted permit on October 17, 2016. Not yet open.

Further Analysis on Current State of Terra Tech:

**Summary**

- We uncovered lawsuits against TRTC from alleged unpaid suppliers.
- Toxic Convertible Debt provides significant potential for shareholder dilution.
- The company paid \$51.5m for a dispensary in a related-party transaction; first dispensary license was received via bribery.
- The auditor has an adverse opinion on financial controls, and financials show a declining business that burns cash.
- All of the management team has past personal bankruptcies or a shareholder wipeout. CEO and Treasurer filed personal bankruptcy. CEO was allegedly involved in Mazzuto Scam and paid a settlement.

<https://seekingalpha.com/article/4184736-terra-tech-complete-smokeshow-questionable-management-poorly-run-business-dilution-risk>

# City of Hayward City Staff Selection Criteria

## Hayward Station (City Staff Recommended)

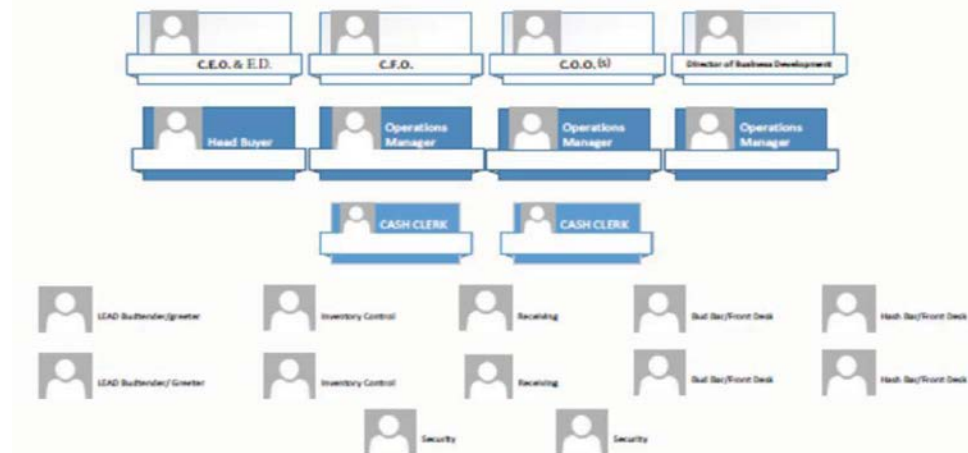
|               |                  |              |
|---------------|------------------|--------------|
| Alicia Darrow | Miguel Rodriguez | Justin Jarin |
| David Kang    | Sid Afshar       | Pat Doherty  |

City of Hayward staff wants to recommend the following applicants based on their belief that:

The applicants that are being recommended to the City Council demonstrated an ability to have their dispensary operational within the next year, have management teams in place currently and demonstrated they had experienced teams ready to operate in the City, have local experience in Hayward and the surrounding community, and articulated a thorough vision for user experience.

- Ability to have dispensary operational within next year
  - Alicia Darrow (COO Blum SL) has been unable to open Blum SL with her team within one year.
  - The listed property owner for 1004 B St. Hayward has a history of cannabis property violations in Bay Area. (Berkeley 2013) – See Property Section
- Management teams in place currently with experienced teams ready to operate in the City
  - Platinum Standard LLC was terminated one year into a ten-year contract by Terra Tech because of default in operating standards.
    - Miguel Rodriguez is Manager for Platinum Standard LLC
    - Alicia Darrow listed as partner in latest Statement of Information.
  - Pixelated organizational chart that did not assign roles to individuals. With so many dispensaries ran by the same group, how will they be able to ensure the quality standard in Hayward when they have struggled in their own operations?

## ORG CHART 2018



□ **Local experience in Hayward and the surrounding community**

- The applicant’s community service experience is minimal at best. While the applicants provided an article about a gun buyback program as their main highlight, they appear to donate minimally to the organization.

**The Green door SF – SF Mayor's Gun Buy back**

[thegreendoorsf.com/portfolio-posts/sf-mayors-gun-buy-back/](http://thegreendoorsf.com/portfolio-posts/sf-mayors-gun-buy-back/) ▼

**Green Door and Boss Enterprises raised over 10,000.00 for The San Francisco Mayor's Gun buy back program.** The efforts were aimed at reducing gun violence ...

It is clear the applicant does not know or even bothered to research the Hayward community past a superficial Wikipedia factoid for their name selection. That explains why the applicant simply stated it would help further the City’s “Complete Communities Strategic Initiative” instead of specifying what those initiatives were.

Instead of writing a detailed community Benefit Plan, they relied on a newspaper article which demonstrates how much effort they put into the application.

### **Concerns Regarding Property Owner**

| <b>Property Owner</b>                          |  |
|--|--|
| <b>Al Antonini<br/>Gelso Investments V LLC</b> | <ul style="list-style-type: none"><li>• Felony Record for “Check Kiting” that resulted in prison time. (2001) Resulted in 60 Months in Prison and 175K fine.</li><li>• 1515 Dwight Way Berkeley – Antonini fined by City of Berkeley Planning Department for allowing illegal dispensary to operate from his property. (2013)</li><li>• Gelso Investments V LLC was the owner of the property cited in 1515 Dwight Way in Berkeley and the proposed 1004 B St. Hayward location.</li></ul> |

Check Kiting Prison Sentence

<https://www.chron.com/news/houston-texas/article/Landlord-reports-to-prison-2047235.php>

Gelso Investment V LLC Non-Permitted Cannabis Dispensary Fine

[https://www.cityofberkeley.info/Planning\\_and\\_Development/Zoning\\_Adjustment\\_Board/1515\\_Dwight.aspx](https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/1515_Dwight.aspx)

**Should the city choose to award a CCP to Hayward Station, we shall circulate all the details of the information contained above to local residents to ensure full transparency about the types of businesses we introduce into our communities.**



**Exhibit A. Green Door VS Blum Oakland VS Terra Tech Overlap**

| <b>Applicant Name</b>  | <b>Green Door (CCPC Inc.)</b>   | <b>Blum Oakland (Black Oak Gallery Inc.)</b>   | <b>Terra Tech Corp. (OTC)</b>   |
|--|---|--|---|
| <b>Miguel Rodriguez</b>  | <ul style="list-style-type: none"> <li>• Manager – (2003)</li> </ul>  | <ul style="list-style-type: none"> <li>• Blum Oakland – (2012)</li> </ul>  | <ul style="list-style-type: none"> <li>• Management Contractor for Terra Tech. (Platinum Standard LLC)</li> </ul>                 |
| <b>Justin Jarin</b>  | <ul style="list-style-type: none"> <li>• Security Guard - (2003)</li> <li>• Budtender – (2005)</li> <li>• GD President – (2009)</li> <li>• Helped with TGD SAC and TGD SD*[Closed]</li> </ul> | <ul style="list-style-type: none"> <li>• Partnered with Permit Holder to Open Blum Oakland (Salwa) - 2012</li> </ul> | <ul style="list-style-type: none"> <li>• Management Contract to Operate Blum (2016)</li> <li>• Working with IVXX Brand</li> </ul> |
| <b>David Kang</b>  | Stated Affiliation  | Stated Affiliation for helping Blum reach 8 figure annual volume   | Stated Affiliation for Merger with Terra Tech   |
| <b>Alicia Darrow **</b>  | CFO of GD 06/03/18<br>COO of Blum SL 07/18/16   | Stated Affiliation with Blum   | Performance based compensation on Terra Tech  |
| <b>Non-Applicants Closely Associated with Applicants Cannabis Experience as mentioned in their application</b> |   |  |   |
| <b>Michael Nolin</b>   | Founder of Green Door<br>Day to Day Op. Manager   | Day to Day Operation<br>Manager  | Previous Preferred Q<br>Share Holder  |
| <b>Salwa Ibrahim</b>   | NA  | Founder of Blum<br>(Spouse of Martin Kaufman)  | Preferred B Share<br>holder   |
| <b>Martin Kaufman</b>  | NA  | Founder of Blum<br>(Spouse of Salwa)   | Preferred B Share<br>holder   |
| <b>Derek Peterson</b>  | Entered into Management contract with Platinum Standard LLC to run Blum Oakland Operations (Terminated in a year for operator default)  | Founder of Blum<br>Relationship with Kaufman in running Blum & responsible for Blum Nevada                           | CEO of Terra Tech and led acquisition of Blum.  |

\*The Green Door SD is no longer operational

\*\* Industry has only been regulated since 2018 so 15 years' experience is subjective. Manages multiple dispensaries including Blum

## Exhibit B. Terra Tech Share Structure

| Name and Address of Beneficial Owner                               | Title of Class           | Amount and Nature of Beneficial Ownership | Percent of Series B Preferred Stock(1) |
|--|--------------------------|---|--|
| Derek Peterson   | Series B Preferred Stock | 2,330,489 <sup>(2)</sup> <sub>(3)</sub>   | 50.56%                                 |
| Amy Almsteier  | Series B Preferred Stock | 3,575,000 <sup>(4)</sup>                  | 14.40%                                 |
| Kenneth P. Krueger   | Series B Preferred Stock | 0   | *%                                     |
| Michael James  | Series B Preferred Stock | 1,000,000                                 | 4.03%                                  |
| Michael A. Nahass  | Series B Preferred Stock | 3,825,000                                 | 15.41%                                 |
| Steven Ross  | Series B Preferred Stock | 0   | 0%                                     |
| Kenneth Vande Vrede  | Series B Preferred Stock | 1,759,500                                 | 7.09%                                  |
| Steven Vande Vrede   | Series B Preferred Stock | 1,759,500                                 | 7.09%                                  |
| Michael Vande Vrede  | Series B Preferred Stock | 1,759,500                                 | 7.09%                                  |
| <b>All directors and executive officers as a group (9 persons)</b> |                          | <b>16,008,989</b>                         | <b>64.50%</b>                          |
| Salwa Ibrahim  | Series B Preferred Stock | 3,814,227 <sup>(5)</sup> <sub>(6)</sub>   | 15.37%                                 |
| Martin Kaufman   | Series B Preferred Stock | 2,773,984 <sup>(7)</sup> <sub>(8)</sub>   | 11.18%                                 |

| Name and Address of Beneficial Owner                               | Title of Class           | Amount and Nature of Beneficial Ownership | Percent of Series Q Preferred Stock(1) |
|--|--------------------------|---|--|
| Derek Peterson   | Series Q Preferred Stock | 0   | *%                                     |
| Amy Almsteier  | Series Q Preferred Stock | 0   | *%                                     |
| Kenneth P. Krueger   | Series Q Preferred Stock | 0   | *%                                     |
| Michael James  | Series Q Preferred Stock | 0   | *%                                     |
| Michael A. Nahass  | Series Q Preferred Stock | 0   | *%                                     |
| Steven Ross  | Series Q Preferred Stock | 0   | *%                                     |
| Kenneth Vande Vrede  | Series Q Preferred Stock | 0   | *%                                     |
| Steven Vande Vrede   | Series Q Preferred Stock | 0   | *%                                     |
| Michael Vande Vrede  | Series Q Preferred Stock | 0   | *%                                     |
| <b>All directors and executive officers as a group (9 persons)</b> |                          | <b>0</b>                                  | <b>*%</b>                              |
| Miguel Rodriguez <sup>(9)</sup>                                    | Series Q Preferred Stock | 3,420 <sup>(2)</sup>                      | 16%                                    |
| Justin Jarin <sup>(9)</sup>  | Series Q Preferred Stock | 3,420 <sup>(3)</sup>                      | 16%                                    |
| Michael Christian Gard <sup>(9)</sup>                              | Series Q Preferred Stock | 3,420 <sup>(4)</sup>                      | 16%                                    |
| Sewell Woodfork <sup>(9)</sup>                                     | Series Q Preferred Stock | 3,420 <sup>(5)</sup>                      | 16%                                    |
| Michael Nolin <sup>(9)</sup>                                       | Series Q Preferred Stock | 3,420 <sup>(6)</sup>                      | 16%                                    |
| David Kang <sup>(9)</sup>  | Series Q Preferred Stock | 1,711 <sup>(7)</sup>                      | 8%                                     |
| Lillian Kang <sup>(9)</sup>  | Series Q Preferred Stock | 1,711 <sup>(8)</sup>                      | 8%                                     |

\* Represents beneficial ownership of less than one percent of the outstanding Series Q Preferred Stock.

**Red: Hayward Station Applicant**

**Blue: Non-Applicant Green Door**

**Source:**

[https://www.sec.gov/Archives/edgar/data/1451512/000147793216012018/trtc\\_def14a.htm](https://www.sec.gov/Archives/edgar/data/1451512/000147793216012018/trtc_def14a.htm)

**PUBLIC COMMENT**

**ITEM #17**

**ANDREW BERMAN EMAIL**

---

Mayor and Council Members,

Please find attached documents from FLRish Harborside, Inc. FLRish's CEO, Andrew Berman, requested that the attached documents be shared with the City Council prior to the 7/17 City Council meeting.

Regards,

Miriam Lens

City Clerk

City of Hayward | 777 B Street | Hayward, CA 94541

☎ Phone: 510.583.4401 | Fax: 510-583-3636 | \* Email: [miriam.lens@hayward-ca.gov](mailto:miriam.lens@hayward-ca.gov)



---

**From:** Kelly McAdoo

**Sent:** Monday, July 16, 2018 5:27 PM

**To:** Miriam Lens <[Miriam.Lens@hayward-ca.gov](mailto:Miriam.Lens@hayward-ca.gov)>

**Cc:** John Stefanski <[John.Stefanski@hayward-ca.gov](mailto:John.Stefanski@hayward-ca.gov)>; Maria Hurtado <[Maria.Hurtado@hayward-ca.gov](mailto:Maria.Hurtado@hayward-ca.gov)>; Michael Lawson <[Michael.Lawson@hayward-ca.gov](mailto:Michael.Lawson@hayward-ca.gov)>

**Subject:** FW: Harborside Hayward Cannabis Application

Miriam-

Will you please share with the Council prior to tomorrow's meeting at the request of the sender?

Thanks-  
Kelly

Kelly McAdoo

City Manager

City of Hayward | 777 B Street | Hayward, CA 94541

☎ Phone: 510.583.4305 | Fax: 510-583-3601 | \* Email: [kelly.mcadoo@hayward-ca.gov](mailto:kelly.mcadoo@hayward-ca.gov)



**From:** Andrew Berman <>

**Sent:** Monday, July 16, 2018 4:47 PM

**To:** Kelly McAdoo <[Kelly.McAdoo@hayward-ca.gov](mailto:Kelly.McAdoo@hayward-ca.gov)>; John Stefanski <[John.Stefanski@hayward-ca.gov](mailto:John.Stefanski@hayward-ca.gov)>

**Cc:** Steve DeAngelo <[s](mailto:s)>; Jack Nichols <[j](mailto:j)>

**Subject:** Harborside Hayward Cannabis Application

Dear Kelly & John,

I just wanted to thank both you and your staff for all your efforts leading up to the the Department's scoring and recommendation to Council. I know that these things take a tremendous amount of effort. I've attached a Letter to this effect that I would appreciate being included in Council's packet. I have also attached a memo for your consideration from our in house counsel raising a question regarding the interpretation of the applicable CCR rule used to determine an "Owner" in the Application's scoring.

We would be honored to be considered for a license should one or more of the recommended applicants not be awarded a license.

Thanks again. I enjoyed meeting you both too.

Andy

---

**Andrew Berman**  
Chief Executive Officer  
(m) 415.328.7997

**FLRish**

Part of the HARBORSIDE family

# FLRish

Part of the HARBORSIDE family

July 16, 2018

VIA EMAIL

Kelly McAdoo, City Manager  
John Stefanski, Management Analyst  
Office of the City Manager  
City of Hayward  
777 B Street  
Hayward CA, 94541

## **Re: Harborside Hayward - Retail Cannabis Permit Application - No. C1047**

Dear Ms. McAdoo and Mr. Stefanski,

Although Harborside Hayward was not recommended by the panel for a commercial cannabis permit, I would nevertheless like to offer my sincere gratitude to you and your colleagues for the time and consideration spent evaluating the final round of interviewees. Since becoming the new CEO of FLRish in March of this year, I was honored to play an integral role on the Applicant Team in pursuit of this permit. The exemplary cannabis regulatory program created by Hayward was a major reason why we decided to apply for a retail permit in the first place, and our experience working with City staff and elected officials has only further reinforced our impression of Hayward as a great city to do business in.

We understand that during the next steps of awarding cannabis permits and waiting for operators to secure locations and begin construction some awardees may not be able to fulfill their obligations under the permit requirements and end up relinquishing their permit back to the City. In that case, Harborside Hayward is ready, willing and able to move forward with permitting and construction of a retail cannabis store. We apologize if we did not communicate this clearly enough during the final round of interviews, but we and our real estate partner have been performing site due diligence for over a year on at least two locations within the City even though we waited until after the application process to secure a location.

We want to compliment your approach to a merit-based licensing process that will leave the City of Hayward with the best possible operators with the greatest chance of both short and long-term success. We greatly appreciate receiving the Score Narrative Report for our Retail Permit application. Humbly, we'd like to call your attention to an anomaly that we're having difficulty making sense of: we noticed a significant loss of points in the Management Experience related to the definition of an owner and Hayward management experience. The loss of points related to the definition of an owner seemed to be an incorrect interpretation of the California Code of Regulations, please refer to the attached note from our Chief Compliance

# FLRish

Part of the HARBORSIDE family

Officer, Jack Nichols. In addition, I myself have relevant management experience in the Hayward community since I worked as CEO of AirLink Communications, Inc. from 2004-2009 and managed around 80 employees during that time. Frankly, the loss of points in the Management Experience section has us all puzzled.

From the beginning our intention was to leverage both our retail cannabis expertise and our real estate partner's expertise to create an appealing destination that would accommodate a large volume of customer throughput and provide the quintessential "Harborside" experience focused on wellness and education. We still hope to bring our unique and popular brand to the City of Hayward, and along with it our strong financial stability and flawless operational history.

Lastly, we ask that these comments and concerns be shared with the Council prior to the July 17<sup>th</sup> meeting.

Thank you again for your consideration.

Sincerely,



Andrew Berman  
Chief Executive Officer

# FLRish

Part of the HARBORSIDE family

## Memorandum

---

Date: July 16, 2018

**Re: City of Hayward Permit Application Point Allocation Concern**

To: Andrew Berman, Chief Executive Officer

From: Jack Nichols, Esq., General Counsel & Chief Compliance Officer

---

Andrew:

I'm concerned there was an erroneous interpretation of California Regulations that may have led to a significant loss of points in the Management Experience section. Please see below.

### **Third-party reviewer comments in Management Experience:**

\* \* \*

*"Multiple management positions are identified in the Management Experience section as being part of Harborside Management Services, which appears will be the managing company for Harborside Hayward. However, they are not disclosed as co-applicants at the beginning of the application for the purposes of running background checks. Per State regulations it appears these managerial positions may meet the definition of an "owner" per CCR Title 16 Division 42 Chapter 1 §5003 Designation of Owner."*

\* \* \*

This interpretation of the California Code of Regulations is incorrect and should not have resulted in a loss of points in the Management Team Experience section. Owners are specifically defined in the regulations so as to not capture all operational managers as that would be unduly burdensome on both businesses and regulators. The relevant text of **CCR Title 16 Division 42 Chapter 1 §5003** is included below:

\* \* \*

(b) "Owner" means any of the following:

- (1) A person with an aggregate ownership interest of 20 percent or more in the person applying for a license or a licensee, unless the interest is solely a security, lien, or encumbrance.
- (2) The chief executive officer of a nonprofit or other entity.
- (3) A member of the board of directors of a nonprofit.



*(4) The trustee(s) and all persons who have control of the trust and/or the commercial cannabis business that is held in trust.*

*(5) An individual who will be participating in the direction, control, or management of the person applying for a license. Such an individual includes any of the following:*

*(A) A general partner of a commercial cannabis business that is organized as a partnership.*

*(B) A non-member manager or managing member of a commercial cannabis business that is organized as a limited liability company.*

*(C) An officer or director of a commercial cannabis business that is organized as a corporation.*

*(D) Any individual who assumes responsibility for the license.*

\* \* \*

Please note that subparagraph (5)(B) under the definition of an owner clearly indicates who is captured under the definition of owner for an LLC, and that the applicant and co-applicants listed in our application were properly disclosed as owners. We believe third-party scoring relied only on subparagraph (5) as the definition of owner and improperly concluded that operational managers must also be a part of the applicant team.

I realize that City staff has already rendered a decision regarding the parties who will be recommended for City Council approval on July 17th but believe it important that this non-subjective error be seriously considered within the context of our overall score. I look forward to a response to this concern and would greatly appreciate understanding what may be done in the unique circumstance of a third-party error that may have had a material effect on our application ranking. Please let me know if you have any questions.

Sincerely,



**Jack Nichols, Esq.**  
*General Counsel & Chief Compliance Officer*

**PUBLIC COMMENT**

**ITEM #18**

**DAVID STARK EMAIL**

---

**From:** Dave Stark []  
**Sent:** Tuesday, July 17, 2018 10:49 AM  
**To:** List-Mayor-Council <List-Mayor-Council@hayward-ca.gov>  
**Cc:** Kelly McAdoo <Kelly.McAdoo@hayward-ca.gov>  
**Subject:** Real Property Transfer Tax Rate Increase

Mayor Halliday and members of the Hayward City Council,

The Bay East Association of REALTORS® opposes increasing the City of Hayward's Real Property Transfer Tax from \$4.50 per \$1,000 of property value to \$8.50 per \$1,000 of property value.

Sincerely,

**David Stark, Public Affairs Director**  
Bay East Association of REALTORS®  
7021 Koll Center Parkway  
Pleasanton, CA 94566  
Telephone: (925) 730-4068

*Two locations to serve you:*

|                          |                                     |
|--------------------------|-------------------------------------|
| 7021 Koll Center Parkway | 2490 Mariner Square Loop, Suite 200 |
| Pleasanton, CA 94566     | Alameda, CA 94501                   |
| Office: 925.730.4060     | Office: 510.523.7229                |

Confidential Communication: This e-mail message and any attachments are intended only for the use of the addressee(s) named above and may contain information that is confidential and exempt from disclosure under applicable law. If you are not an intended recipient, or the employee or agent responsible for delivering this e-mail to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you received this e-mail message in error, please immediately notify the sender by replying to this message or by telephone. Thank you.

**ITEM #19**

**JONATHAN KEVLES**

**ADOPTION OF A RESOLUTION TO RESCIND  
AUTHORIZATION FOR THE  
CALIFORNIAFIRST PACE PROGRAM TO  
OPERATE IN HAYWARD**



Remarks to City of Hayward City Council  
July 17, 2018

RE: Agenda Item 19

Mayor Halliday, Mayor Pro Tem Marquez, and Councilmembers:

Thank you for the opportunity to speak this evening. My name is Jonathan Kevles. I work for Renew Financial, the inventors of PACE financing. Since we were founded by a local government official in 2008, we have fought tirelessly to serve as a private sector company with a public service mission. As the Program Administrator for the CaliforniaFIRST PACE program, we are committed to helping our local governments partners achieve their policy goals and to making sure that every homeowner who chooses PACE has the best experience possible.

On behalf of my colleagues, the PACE industry, and the vast majority of contractors who run their businesses with integrity, I want to offer my apology to the homeowners in Hayward who received misleading marketing materials from a third-party vendor working for one of the home improvement contractors who used to participate in our program. I would also like to extend my apologies to Erik Pearson and other city staff upon whom it fell to answer the emails and phone calls from constituents that were prompted by the misleading mailers they received.

After conducting an investigation of the contractor's and their vendor's actions, we terminated the home improvement contractor from our program, and sent a cease and desist letter to the third party vendor. I want to stress that their actions took place completely without our knowledge or authorization.

Since establishing the first PACE program here in Alameda County ten years ago, we have been vigilant in monitoring the behavior and business practices of the contractors that are registered with our program. We continue to make improvements. The Sustainability Committee's action on May 14, which led to this agenda item tonight, drove us to find new ways to protect

homeowners against misleading marketing practices. Thank you members of the Sustainability Committee for bringing this issue to our attention.

In addition to terminating the contractor involved in this particular incident, we've established more stringent and more detailed marketing guidelines to which participating contractors must adhere. I've provided the Clerk with a packet that includes new contractor training materials that emphasize the new guidelines. These improvements are now in place not only for contractors who do business in Hayward, but are in place across the 400 plus jurisdictions that we serve in California, and the 100 plus jurisdictions we serve in Florida as well.

As mentioned in your staff report, we also worked with our sponsor, CSCDA, to create an addendum to our contract with them. This addendum gives our contractors additional incentives to utilize marketing practices that conform to our guidelines, that protect consumers, and that represent accurately your role – any local government's role – in a PACE financing program. So again, thank you for pushing us to be better.

Of course, my request to all of you, respectfully, is to vote no on this item so that we may continue to serve property owners in Hayward. And in so doing, we may continue our efforts to fulfill our public service mission – to provide your constituents with affordable financing to achieve their energy upgrade goals, while ensuring they enjoy the peace of mind of strong consumer protections during their home improvement project.

Thank you for your time and attention.

Jonathan Kevles  
Senior Vice President  
Renew Financial  
[jkegles@renewfinancial.com](mailto:jkegles@renewfinancial.com)  
213-610-6805 (m)

---

# Renew Financial Contractor Marketing Guidelines



---

## Overview

Renew Financial's PACE financing makes home improvements affordable for millions of homeowners and helps home improvement contractors grow their businesses and serve more customers.

Renew Financial Registered Contractors and others have the benefit of co-marketing our PACE financing and using Renew Financial text and images in their co-marketing materials. These Marketing Guidelines lay out how the Renew Financial name and logo can be used as well as approved text and images that you can include in your materials. All marketing or advertising materials that include Renew Financial, RenewPACE, or CaliforniaFIRST must follow these Marketing Guidelines.

### Acceptable Uses

All materials that include Renew Financial, RenewPACE, or CaliforniaFIRST must meet 1 of the 3 following requirements:

- Use Renew Financial pre-designed materials with no changes
- Use Renew Financial pre-designed materials and add a contractor's logo and contact information where designated with no other content added and no changes to any other part of the materials
- Any collateral containing the names Renew Financial, RenewPACE, or CaliforniaFIRST must be approved by the Renew Financial marketing team in advance

Please email materials in final PDF or JPG form to [marketing@renewfinancial.com](mailto:marketing@renewfinancial.com) for approval; we will respond via email within 3 business days.

### Representing the Public Trust

Renew's PACE programs are offered in cooperation with local city and county governments. Cities and counties enable our PACE financing to help meet environmental and conservation goals and to help their residents update and improve the energy efficiency of their homes. It is essential that city and county interests are considered alongside your business goals to ensure that Renew's PACE financing is supported within the communities. With every project installed, we aim to help communities lower their energy and water consumption, reduce their carbon footprint, and create a more energy-efficient future.



## Public Logos & Seals

Don't use any public agency, city, county, or state logos, seals, or other branding elements without prior written consent from the public agency. Don't use any images or graphics that could be interpreted by a customer to be a public agency, city, county, or state logo.

## No Misleading Messaging

Clear, informative, truthful, and transparent communications are essential for co-marketing Renew's PACE financing. Any communications, acts, or practices that mislead homeowners are disallowed and are grounds for suspension or termination from the program.

## Prohibited Practices

The following practices are strictly prohibited:

- ❌ Language or graphics that imply that Renew Financial, RenewPACE, or CaliforniaFIRST financing results in no payment, limited payment, or deferred payment
- ❌ Language or graphics that imply that PACE is a government-sponsored or government-backed program or to imply that a government will subsidize any part of the cost of the home improvement project.
- ❌ Unfair, deceptive, abusive, and/or misleading communications
- ❌ Any practice that violates applicable laws or regulations
- ❌ Making statements to consumers regarding the impact Renew's PACE financing may have on their taxes
- ❌ The use of false checks or vouchers
- ❌ Language that states or implies that your company is affiliated with or sponsored by a public agency, city, county, or state

This list is not exhaustive. Practices not explicitly spelled out here may still be prohibited and grounds for termination. Thank you for reading these Marketing Guidelines carefully and keeping them on hand as a reference to support your marketing and outreach efforts.

If you have any question about these requirements, we're always here to help and answer questions. Contact us at [marketing@renewfinancial.com](mailto:marketing@renewfinancial.com) or reach out to your Renew Financial sales representative.

---

## Disallowed Language

Any language not in the section above may not be used without advance review and approval by Renew Financial's marketing team. Please submit materials for review to [marketing@renewfinancial.com](mailto:marketing@renewfinancial.com) and allow at least 3 business days for review.

Some language is never allowed when talking about Renew Financial and PACE financing. The most common examples of disallowed language are listed below for reference. This list is not exhaustive. Renew Financial reserves the right to disallow any language at its sole discretion. The examples listed below apply to Renew Financial and its financing products, CaliforniaFIRST and RenewPACE.

- ❌ Renew Financial's PACE program is government-supported / government-backed / government-sponsored
- ❌ You can get home upgrades for free with Renew Financial
- ❌ Renew Financial will save you money
- ❌ Renew Financial provides free government money
- ❌ Upgrades will increase the value of your home
- ❌ Your Renew Financial PACE financing payments are fully tax-deductible
- ❌ Renew Financial's PACE financing is tax-deductible
- ❌ Renew Financial's PACE financing will always transfer to the new owner if you sell your home
- ❌ Renew Financial endorses [Your Company's] home upgrades

## Marketing Policies

---

- Don't use any third party logos – ours, a city's, a county's, etc. - in marketing material without authorization
- Don't create a fake or generic logo that gives the impression that the logo is actually an official logo
- Don't use language or graphics that could lead a homeowner to believe in any way that PACE is a:
  - Government sponsored or backed program
  - Program where the financing provided need not be paid back or the repayment obligation will be reduced due to a government subsidy
- Misleading marketing is against the law and violates the policies of Renew Financial, especially when misrepresenting the role of local government
  - Local governments have the authority to terminate PACE programs, and some may do so because of marketing materials that have misrepresented the role of local government
- When working with lead generation marketing firms:
  - You are responsible for their marketing practices – they must adhere to the same marketing guidelines, standards, and laws
  - You should ask what practices they use to procure the leads you are purchasing



**PUBLIC COMMENT**

**CHARLIE PETERS**



*Charlie Peters*

*President / Founder*

*Clean Air Performance Professionals*

*Protecting personal property and the environment*

*21860 Main Street Ste A*

*Hayward, CA 94541*

*510-537-1796*

*[cappcharlie@earthlink.net](mailto:cappcharlie@earthlink.net)*

# ***Oppose AB 1274 (O'Donnell) unless Amended***

<https://www.arb.ca.gov/lists/sip07/112-0777com0010.pdf>

**\*\* California CalEPA Secretary Linda Adams, signed a MOU with the UN in China on earth day. China gets about 50% of the world carbon tax and the China government gets a 50% tax of the credits.**

**\*\* China goods and services may increase**

**\*\* We pay the (ethanol or) carbon tax and Pew Business Environmental Leadership Council (BELC) Member Companies: ABB, Air Products, Alcoa Inc., American Electric Power, Bank of America, BASF, Baxter International Inc., The Boeing Company, BP, California Portland Cement, CH2M HILL, Citi, Cummins Inc., Deere & Company, Deutsche Telekom, The Dow Chemical Company, DTE Energy, Duke Energy, DuPont, Entergy, Exelon, GE, Hewlett-Packard Company, Holcim (US) Inc., IBM, Intel, Interface Inc., Johnson Controls, Inc., Lockheed Martin, Marsh, Inc., Novartis, Ontario Power Generation, PG&E Corporation, PNM Resources, Rio Tinto, Rohm and Haas, Royal Dutch/Shell, SC Johnson, Toyota, TransAlta, United Technologies, Weyerhaeuser, Whirlpool Corporation, Wisconsin Energy Corporation and friends may all share in the public/private partnership of corporate and NGO welfare**

**\*\*\* Get food out of my gas**

**\*\* Was Dr. Russell Long/REAP/Pavley 2002 CA tailpipe bill for corn fuel ethanol, Bill Jones Pacific Ethanol business?**

**\*\* Clean Air Performance Professionals (CAPP) supports a Smog Check inspection & repair Total Quality Management audit, gasoline ethanol fuel cap and elimination of dual fuel CAFE credit to cut car impact.**

**\*\* Some folks believe ethanol in gasoline increases oil use and oil profit**

**\*\* Ethanol uses lots of water**

**\*\* A Smog Check audit would cut toxic car impact. Chief of CA/DCA/BAR, has never found out if what is broken on a Smog Check failed car gets fixed.**

**\*\* An ethanol waiver would stop billions in California Big oil refinery welfare program**

**\*\* About 60,000 barrels per day of the oil used by cars is allowed by the "renewable fuel" CAFE credit**

***CAPP contact: Charlie Peters (510) 537-1796 [cappcharlie@earthlink.net](mailto:cappcharlie@earthlink.net)***