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**From:** Sandra Lopez <slopez@harvestinc.com>  
**Sent:** Tuesday, June 11, 2019 10:53 AM  
**To:** marijuanaregulations  
**Cc:** Allyson Wilcox; Cassia Furman  
**Subject:** City of Pasadena Public Records Request Harvest Resp Letter  
**Attachments:** 2019 06 11 City of Pasadena Public Records Req Harvest Resp letter.pdf

**CAUTION:** This email was delivered from the Internet. Do not click links or open attachments unless you know the content is safe.

Please see attached Harvest's timely Response to the City's Public Records correspondence dated 6/8/2019 and in furtherance of the Notice provided the City by Harvest on 6/7/2019.

Sincerely,

Sandra Lopez | Legal Assistant | 602.384.1427 | [slopez@harvestinc.com](mailto:slopez@harvestinc.com)

# HARVEST

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# HARVEST

June 11, 2019

City of Pasadena  
100 N. Garfield Ave.  
Pasadena, CA 91101  
Email: [marijuanaregulations@cityofpasadena.net](mailto:marijuanaregulations@cityofpasadena.net)

RE: Confidential Treatment of Proprietary Information

To Whom It May Concern:

Harvest of Pasadena, LLC (the “Company”) hereby respectfully requests confidential treatment pursuant to Cal. Gov’t Code § 6254(k) (incorporating Cal. Evid. Code § 1060), and Cal. Gov’t Code § 6254(n) of the following: a) Company’s trade secrets, including but not limited to i) Company’s confidential premises and security diagrams and ii) detailed descriptions of operational procedures (the “Trade Secrets”); and b) Company’s confidential commercial and financial information (the “Financial Data”). The Financial Data and Trade Secrets shall be referred to collectively herein as the “Proprietary Information.”

We hereby request confidential treatment of the Trade Secrets included in all sections of the submitted Commercial Cannabis Retailer Permit Application (the “Application”) pursuant to Cal. Gov’t Code § 6254(k) (incorporating Cal. Evid. Code § 1060), and of the Financial Data contained in Section 2a and the Proof of Funds exhibit of the Application pursuant to Cal. Gov’t Code § 6254(n). California law requires confidential treatment of this Proprietary Information pursuant to the following:

## Cal. Gov't Code § 6254(k)

Pursuant to Cal. Gov’t Code § 6254(k) (incorporating Cal. Evid. Code § 1060), entities are not required to disclose records which are exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code related to privilege. As described below, the records at issue here are **exempted** pursuant to both federal and state law because the records are trade secrets for which the allowance of the privilege will not tend to conceal fraud or otherwise work injustice.

## Cal. Evid. Code § 1060

Pursuant to Cal. Evid. Code § 1060, trade secrets are exempted from the disclosure if the allowance of the privilege will not tend to conceal fraud or otherwise work injustice. Company satisfies the requirements of a *prima facie* showing that Company’s Trade Secrets are in fact trade secrets for the following reasons. Company’s Trade Secrets include technical and business information in the form of programs, techniques, formulas, processes, diagrams, security and operational layouts

and methods, and standard operating procedures that derive independent economic value from not being generally known to the public.<sup>1</sup> Company's Trade Secrets provide a competitive advantage to Company, and because of the sensitivity of the information contained in the Trade Secrets, Company has not previously made Trade Secrets public. Company's Trade Secrets are of a good-faith confidential and proprietary business nature and do not conceal fraud or tend to work injustice. It is highly unlikely, therefore, that the Trade Secrets will become public knowledge unless they are required to be disclosed pursuant to a request under the California Public Records Act (the "Act").

The Company hereby affirms that Company has taken significant efforts and precautions to maintain the confidentiality of the Trade Secrets, and, to that end, the Company has restricted access to the Trade Secrets to only those who have a need to know of their existence and their contents and who are under a duty to keep the Trade Secrets confidential pursuant to non-disclosure agreements and employee guidelines. Further, Company has invested significant time and money in research and development, in licensing, acquisitions, and multiple other strategies to develop Trade Secrets which are of great value. Given the time, expertise and financial investments committed to the development of the Trade Secrets, it would be extremely difficult for a competitor to acquire or duplicate Company's Trade Secrets and other Proprietary Information. Additionally, if any of Company's Trade were to be revealed to a potential competitor the Proprietary Information would provide an unfair competitive advantage to the competitor and would be damaging or prejudicial to Company. These factors, taken as a whole, satisfy a *prima facie* showing that Company's Trade Secrets are properly characterized as trade secrets and are therefore exempt from the disclosure requirements of the Act. For a more specific treatment of the nature of each trade secret claim, please see the attached Addendum 1.

Cal. Gov't Code § 6254(n)

Pursuant to Cal. Gov't Code § 6254(n), entities are not required to disclose statements of personal worth and financial data required by a licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for the license certificate, or permit applied for. Company's Financial Data, consists of information which is of a proprietary business nature and includes but is not limited to the applicant's financial interests in other licensees, funds held in accounts with financial institutions, and any information pertaining to investments in Company, loans and gifts provided to Company, or any other type of equity interest in Company, in addition to information received in confidence by the City of Pasadena.

Company has submitted all confidential Trade Secrets and Financial Data requested by the City of Pasadena in good-faith; however, if Company's Trade Secrets and Financial Data were to be revealed to a potential competitor the disclosure of such Proprietary Information would provide an unjust competitive advantage to the competitor and would be damaging or prejudicial to Company. Further, based on the information provided above, the public interest served by not disclosing

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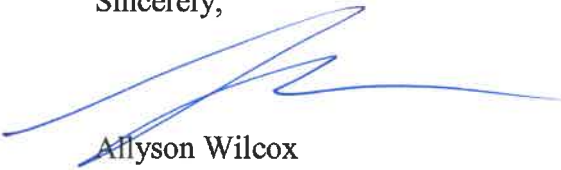
<sup>1</sup> Cal. Civ. Code §3426.1(d)

Company Trade Secrets and Financial Data clearly outweighs the public interest served by disclosure of these records.<sup>2</sup>

As such, we request that, upon any request made under the Act to disclose any of the above Proprietary Information, that Allyson Wilcox, Assistant General Counsel of the Company, be promptly contacted prior to making any disclosure of the Proprietary Information, and further state that all such Proprietary Information be exempt from the disclosure requirements of the Act for the reasons set forth above.

Please do not hesitate to contact our office at any time for additional information.

Sincerely,



Allyson Wilcox  
Assistant General Counsel

cc: Cassia Furman, Vicente Sederberg

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<sup>2</sup> Cal. Gov't Code § 6255

## **Addendum 1**

### **Submittal Item 3: Business Plan**

#### **Section 1: Qualifications of Owners/Operators (pages 1 through 13)**

The qualifications of the owners and operators of the Company are a trade secret, as are the very identities of such persons. This is largely due to the fact that the owners and operators of the Company are best-in-class: the Company derives actual independent economic value from the fact that its operators are not easily poached by competitors due to lack of knowledge of their identities and superior skill sets, and privacy of owners is of paramount importance in securing their continued participation in this enterprise rather than becoming an investor in a competitor of the Company. Furthermore, competitors of the Company could, if these identities and skill sets were publicly known, discern what operating plans and processes the Company is undertaking. Finally, this section describes several industry best practices that the Company has incorporated into its operations, which if disclosed would allow the Company's competitors to replicate these best practices with no corresponding expenditure of time or resources. For these reasons, the Company protects this information by nondisclosure agreements and limiting knowledge of such information on a need-to-know basis. As such, the entirety of this Section 1 constitutes a trade secret and should be exempt from disclosure.

#### **Section 2: Business Plan**

##### **Section 2a: Operations (pages 14 through 44)**

The operations of the Company are the essence of a trade secret, in that they are the primary element providing the Company with competitive advantage. Operational plans include everything from supply chains to SOPs, and the efficiency and effectiveness of all operations is the primary determinant of success or failure in the marketplace. The company derives actual economic value from the fact that its competitors are not able to emulate its superior processes without investing the time, effort and financial resources expended by the Company in such respect. Furthermore, due to the experience of the Company's management team, the Company's operational plans are of high enough quality that most teams would be unable to replicate them regardless of their financial resources or time and effort expended. The operational plans of the Company as well as all SOPs are protected by nondisclosure agreements and limiting knowledge of such information on a need-to-know basis. As such, the entirety of Section 2a constitutes a trade secret and should be exempt from disclosure.

##### **Section 2b: Community Benefit (pages 44 through 51)**

While the Company's plans for benefitting the community will obviously become known to the public eventually, these plans should be considered a trade secret on the basis that they have only been partially implemented. The company derives independent economic value from the secrecy of these plans, as its competitors will not be able to steal the ideas contained therein and then implement identical plans as rapidly as the Company, increasing public goodwill to the Company versus its competitors. These plans are shared with select members of the Company's management

team and leaders of the public on a need-to-know basis and are protected from early disclosure by nondisclosure agreements. As such, the entirety of Section 2b should be considered a trade secret and exempt from disclosure.

### **Section 2c: Product Offerings (pages 51 through 54)**

This section contains information regarding the product offerings of the Company and its procurement procedures. This information's secrecy provides actual independent economic value to the Company: its competitors should not be able to guess with perfection the products the Company intends to offer, nor should they be able to interject themselves in the Company's procurement/supply chain, which required years of aggregate expertise to develop. The company's ability to procure products of superior quality at affordable costs, in particular, is a source of massive economic value to the Company in that it is a major economic efficiency. For these reasons, the Company shares this information with select individuals only and protects such information from disclosure with nondisclosure agreements. As such, the entirety of Section 2c is a trade secret and exempt from disclosure.

### **Section 3: Neighborhood Compatibility and Enhancement (pages 55 through 61)**

The company's plans for compatibility with and enhancement of its community are a source of independent actual economic value to the Company, because being a good neighbor and citizen is profitable. Companies who only comply with the law and make no effort to be a positive force in their community suffer in sales over time versus those who proactively make an effort to be a good neighbor. The company's competitors should not be able to positively impact their sales without expending similar time and effort developing a plan for engagement with their communities. Finally, the very fact that this Application was successful would, if disclosed, give competitive advantage to the Company's future competitors, as they would be able to tell at no cost what sort of a plan for neighborhood compatibility and enhancement is necessary or desired by the City in licensing. For these reasons the Company shares this information with select management personnel of the Company and community leaders on a need-to-know basis. Because it provides independent economic value to the Company and is the subject of reasonable efforts at secrecy, the entirety of Section 3 is a trade secret and should be exempt from disclosure.

### **Section 4: Security Plan (pages 62 through 75)**

The company's security plan is a source of independent economic value to the Company because it is a well-designed and efficient plan which allows the Company to operate with less overhead than its competitors. It is also perhaps the most highly guarded trade secret of the Company due to the fact that many security features are detailed therein, but even if not for those reasons would be the subject of secrecy efforts due to the fact that it provides the Company with better security at a lower cost than its competitors, thus providing a competitive advantage. Moreover, security plans are highly sensitive and discovery by parties with criminal intent could create a significant impact to public health and safety by making the facility a target for crime. Any disclosure of the security plan increases the risk of misappropriation by a criminal party. As such, the entirety of Section 4 should be considered a trade secret and exempt from disclosure, as well as information related to security infrastructure which is likewise exempt from disclosure.

**All sections containing trade secrets identified herein should be deemed to include all related images, attachments and addenda relating thereto.**