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DS-3032 (11-17)

Reasons for the Appeal - Findings are Not Supported

Staff's findings determine that the proposed Cannabis Outlet (CO) will not be detrimental to the public health, safety, and welfare. This determination is based on two (2) facts:

1) Project Meets Separation Requirement from a Public Park by Only 14 Feet.

Staff determined that the proposed location of the CO is in compliance with SDMC Section 141.0504, which requires a 1,000-foot separation, measured in accordance with SDMC Sections 141.0504 and 113.0225, from resource and population-based city parks, other Cannabis Outlets, churches, child care centers, playgrounds, libraries owned and operated by the City of San Diego, minor-oriented facilities, residential care facilities, and schools including private or public institutions of learning providing instruction in kindergarten grades 1 to 12. Both Staff and the applicant acknowledge that the proposed CO has been deemed to be consistent with SDMC's separation requirement because it is 1,014 feet from Dennis V. Allen Neighborhood Park.

2) Project Meets Separation Requirement from a Church because the church is on a hillside.

Staff determined that the proposed location of the CO is in compliance with the minimum separation requirements. Although Iglesia Del Nazareno is approximately 854 feet from the project site, measured property line to property line, the church is located on a hillside, which is considered a natural topographic barrier that impedes direct access to the proposed Cannabis Outlet. Both Staff and the applicant acknowledge that the proposed CO has been deemed to be consistent with SDMC's separation requirement from a church because the church is on a hillside; although the SDMC does not include a definition for what constitutes a "natural topographic barrier."

The Draft CUP Findings conclude that this findings is supported by the minutes, maps and exhibits, all of which are incorporated by reference.

However, there is no evidence presented in the record, on either the minutes, maps or exhibits attached to the Draft CUP Findings, that substantiates "how" any of the 39 CUP conditions or security requirements overcome the property's proximity to both a public park and a church and thus ensure that the proposed CO at this location will not be detrimental to the public health, safety, and welfare. The mere presentation of facts, the inclusion of maps, and inclusion of the term "therefore" are not substantive evidence.

**Development Permit/
Environmental Determination
Appeal Application**

November 2017

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DS-3032 (11-17)

1 Shaun Chamberlin
 2 1220 Monterey Ave.
 3 Chula Vista, CA 91911
 4 (619) 573-7817
 5 Appellant

6 **CITY OF SAN DIEGO PLANNING COMMISSION**
 7 **LEVEL THREE HEARING OFFICER -APPEAL**

8 In the Matter of:

9
 10 HARVEST OF SAN DIEGO'S GATEWAY
 11 CENTER WAY CANNABIS OUTLET
 12
 13 CONDITIONAL USE PERMIT
 14 PROJECT 660383
 15 APPROVAL ID 2411994

16 SHAUN CHAMBERLIN'S
 17 GROUNDS FOR APPEAL AND
 18 APPEAL TO THE SAN DIEGO
 19 CITY PLANNING COMMISSION

20 My name is Shaun Chamberlin, I have a vested interest in Real Property located within
 21 the Mt. Hope area in Council District 9 in the City of San Diego more specifically within
 22 a 1-mile area of the proposed site subject to the Conditional Use Permit which is the basis
 23 for this Appeal. The proposed Conditional Use Permit would adversely affect the land
 24 use plan, and would be detrimental to public health, safety and welfare.

25 **JURISDICTION, VENUE AND STANDING**

26 Jurisdiction and Venue: This matter is an Appeal from the Hearing Officers hearing
 27 which took place on August 18, 2021. The Hearing Officer issued his approval after the
 28 public hearing was concluded. As a speaking opponent of this Conditional Use Permit,
 Appellant is allowed to file an appeal and to have this decision reviewed by the San
 Diego Planning Commission.

PROCEDURAL and FACTUAL BACKGROUND

On or about April 23, 2020 Harvest of San Diego applied for a Conditional Use Permit for the building located at 995 Gateway Center Way San Diego, CA 92102. The Conditional Use Permit is a (Process 3) Conditional Use Permit to operate a 2,995-square-foot Cannabis Outlet in Suite 107 and 108 within an existing three-story, 42,530-square-foot commercial building located at 995 Gateway Center Way. The 4.10-acre site is in the IL-3-1 Zone within the Southeastern San Diego Community Plan area in Council District 9.

This matter came before the Southeastern San Diego Planning Group for regular discussion and their recommendation on September 14, 2020. After an organized presentation from Harvest, there were no members of the community appearing in support of this project. There were, however, several members of the community that spoke in opposition for quite some time and wherein, the meeting lost its voting quorum of Planning Group Members and the hearing had to be continued until October 12, 2020.

In the October 2020 hearing the same parties were present from Harvest (applicant) and as previous no members of the community were present in support of this project. "There were quite a few community members who joined in the meeting to urge the Southeastern San Diego Community Planning Group to not support this project. Motion to NOT support project 660383 was approved by the board 5-0 with two members abstaining from the vote.

On August 18, 2021 this project came before the City of San Diego

1 Development Services Public Hearing Officer. Sammi Ma with the City of San
2 Diego presented her position followed by Harvest's organized presentation in
3 support of their project. Once Harvest was done with their presentation, the
4 Hearing Officer opened the meeting for public comment. There were no
5 members of the community present in support, and no letters received that
6 provided any public support of this project, however, there were several members
7 of the community who rose to speak in opposition to this project as there were in
8 the previous planning group meetings. After the opposition had presented their
9 individual oppositions the Hearing Officer closed the meeting to public comment
10 and despite overwhelming public opposition, he approved the project.
11
12

13 **BASIS FOR OBJECTION**

14 Appellant appeals to the San Diego Planning Commission on the grounds
15 that the Hearing Officer ignored the voice of the people of San Diego. In the
16 Hearing Officer's summation, he stated that "I hear the opposition, however if I
17 were to go into the community, I could probably find just as many people in
18 favor." The Hearing Officer assumed facts that were not in evidence or presented
19 to him. There have been no members of this community that have spoken in
20 favor of this project at any of the public hearings. Therefore, to assume he could
21 find supporters is improper and not supported by the process that has been
22 ongoing since April 2020.

23 The proposed site has been a medical use only building since it was
24 erected thus being named the Gateway Medical Center. The occupants of the
25 building are medical professionals. The tenants of the building include the
26 following: Davita in suite 101 which provides lifesaving kidney dialysis services.
27 Gateway Family Clinic in suite 105 which has pediatrician's making it a minor-
28 oriented business. Keeping in mind that this office shares common walls with the

1 proposed dispensary. The Hope Program which offers professional counseling
2 services including family and addiction counseling and should be deemed minor-
3 oriented as they offer counseling to children and families. Downtown Impact
4 Suite 300 is a program providing community-based, case management services to
5 the homeless in the Downtown region. They also provide fully integrated
6 services to clients diagnosed with serious mental illness, as well as individuals
7 and children with co-occurring mental health and substance abuse issues. These
8 are vitally essential business to this community. **(See Photos Exhibit 1)**

9 The subject property should be deemed unsuitable for a cannabis
10 dispensary based on its intended and current use. In the Hearing Officers
11 summation, he stated. "It is possible that some of the tenants may not like the
12 dispensary being there and they can choose to move." This takes away from the
13 public health, safety and welfare and the benefits provided by these services far
14 outweigh the benefits provided in recreational cannabis. This building serves the
15 community, and it has done so very well for a long time. Now during Covid 19 is
16 not the time to move essential medical services to appease a retail dispensary.

17 Dennis V. Allen Park is 984-1024 feet from the proposed dispensary
18 location and is the only neighborhood outlet for the local neighborhood children
19 and families to enjoy. The Park already has its share of problems with the
20 homeless and gang activity in fact there was another shooting in that
21 neighborhood on August 30, 2021. This Park named after a local individual who
22 was monumental in race relations here in San Diego.

23 This community has no other facility or park for their children and family
24 gatherings. Bordered on the west by the 15 freeway and to the South by several
25 cemeteries as well as to the west. The only other nearest park for kids to play
26 in is miles away and not accessible by any means other than automobile which is
27 not in accordance with the city of San Diego Bike Master Plan.

1 Another opponent and appellant Charles Alexander spoke of his walk in
2 the community wherein he gathered some 80 Pages from the neighborhood and
3 surrounding neighborhoods each page contains up to 7 signatures so some 500
4 more individuals in the neighborhood who are all opposed to this project.

5 Opponent and Elected San Diego Unified School Board Member Sharon
6 Whitehurst-Payne has spoken to members of the community, and she voiced their
7 collective opposition.

8 Francine Maxwell, President of the San Diego Chapter of the NAACP has
9 also voiced the concerns of the citizens in opposition. These are not a couple of
10 regular people opposed to another pot shop. These are educated and respected
11 members of the local community that believes that City Hall is ignoring them.

12 HARVEST HISTORY OF DECEPTION

13
14
15 Harvest Health and Recreation is in the process of being sold to Trulieve
16 of Florida. This sale includes the entire company and its subsidiaries as Trulieve
17 is buying all Harvest Health and Recreation stocks issued and not. Harvest has
18 posted this sale on their website and has obtained approval of the sale from the
19 Supreme Court of British Columbia. Steve White the CEO of Harvest has also
20 issued press releases concerning this sale. **(See Press Releases from Harvest and
Trulieve Exhibit 2)**

21 Harvest Health and Recreation has extensive litigation wherein they have
22 provided false statements to State and Local Authorities: **(See Harvest's Case
23 Information Exhibit 3)**

24 OHIO LEGAL ISSUES

25
26 In Ohio: Harvest of Ohio, LLC filed Three separate applications (350-
27 890, 350-923 and 350-934) They made these applications based upon being

1 minority owned through Ariana Kirkpatrick an African American Woman. After
2 being successful in obtaining the licenses, Harvest Health and Recreation listed all
3 three Ohio sites on their website as theirs. The state of Ohio found that to be
4 untrue and opened an investigation which was settled for \$500,000 and Harvest
5 was told that the individual named as the Minority owner would have to control
6 51% of the three locations for 18 months before they could be sold.

7 8 **PENNSYLVANIA LEGAL ISSUES**

9 In Pennsylvania: In May 2019, Harvest Health and Recreation posted on
10 its website and in a stockholder's phone that Harvest controlled seven (7) licenses
11 in Pennsylvania that would allow them to open 21 retail locations. In
12 Pennsylvania the state cap on licenses is five (5). In letters back and forth with
13 State regulators, it was determined that legally Harvest Health and Recreation did
14 not own any licenses, however they created subsidiary entities that did control the
15 licenses in violation of State Law. This information came to light when Harvest
16 told State regulators as a condition of their licensure that they would in fact use
17 local minority contractors. Pennsylvania discovered Harvest entities deceived
18 them and used contractors from New Mexico to do their build Out

19 20 **ARIZONA LEGAL ISSUES**

21 **MOLLIE MCCURDY LAWSUIT**

22 In the complaint CV2020-005013 filed by Mollie Mccurdy it alleges that
23 Arizona is a Medicinal use only state, that Randy Taylor Consulting and Harvest
24 jointly own and operate several dispensaries in the State of Arizona and in several
25 other states across the United States.

26 The complaint alleges that she was hired in May 2019 and that
27 immediately after her hiring Harvest directed her to work inside some of the
28 Harvest locations in Tucson, Glendale and Scottsdale even though she was not yet

1 approved and had not been issued a required dispensary agent card, which is
2 requisite before working inside and having access to cannabis.

3 At all times, mentioned in the Complaint in Arizona, Cannabis must be
4 controlled as it is not legal for recreation use. McCurdy witnessed cannabis being
5 stored in unapproved locations to wit the Managers Office and stated that it would
6 be moved when state regulators did their field visits. Other allegations in the
7 complaint indicate that there were sales that were not proper, and that Harvest was
8 not complying with Arizona's Medical Marijuana Act, and it was violating these
9 regulations all for its financial gain.

10 Ms. McCurdy further alleged that Harvest Management employees Ms.
11 Elsner and Ms. D'Aquisto informed her that Harvest was going to state in writing
12 to the State of Arizona that she was the Manager of the Glendale location in
13 charge of inventory. Arizona has regulations which require a written
14 acknowledgement of the individual responsible for oversight.

15 Other incidences were noted in the complaint, however due to time and
16 other considerations I will keep this portion brief. During travels to another
17 facility in Arkansas Ms. McCurdy raised concerns about other activities and was
18 informed by another Manager Ms. DeHaven that they should take the least risky
19 option, however that they "should not worry Harvest has great insurance and great
20 attorneys that would fight any charges if they should be caught."

21 Ms. McCurdy has participated with company grievance policies, however,
22 has decided not to return to Harvest and this case is still pending.

23 **TRINA KEITH LAWSUIT**

24 In the complaint CV2020-005012 filed by Trina Keith it alleges that
25 Arizona is a Medicinal use only state, that Randy Taylor Consulting and Harvest
26 jointly own and operate several dispensaries in the State of Arizona and in several
27 other states across the United States.

1
2
3 Ms. Keith was hired by Harvest on May 6, 2019 and was promoted to
4 Senior Manager of Store Operations and was responsible for the oversight of ten
5 (10) employees. Ms. Keith alleges that she received no special training for this
6 position. Immediately upon taking this position, Ms. Keith learned of multiple
7 compliance issues from her team which had all been documented by email. Most
8 of the compliance issues were record keeping issues which seemed to be
9 intentional so that patients with cards could buy more product than allowed under
Arizona law.

10 Ms. Keith also discovered that Harvest had two separate handbooks for
11 their employees, the one which was required by the state of Arizona and the other
12 was Harvest's policy and procedures which were to be used whenever state
13 regulators were not present. Ms. Keith determined that this was an intentional act
14 to circumvent state regulations.

15 Ms. Keith was also present when upper management was discussing that
16 Steve White, the President and CEO had the Manager of the Napa California
17 Store take the METRC test in his name as the owner of the location.

18 Ms. Keith further alleges that when Harvest opened its Venice Beach and
19 Palm Springs locations Harvest had employees working that had not yet received
20 valid employee identification as required under California law.

21 Ms. Keith was counseled by Ms. Owies who instructed her to work with
22 the team to be a little flexible when it comes to compliance and Mr. Vidadi who
23 suggested that employees should not be so rigid when it came to compliance
24 issues. These conversations came on the same day that Arkansas police raided the
25 home of Nicholas Nielson, who allegedly was growing marijuana in his home to
support Harvest cultivation operations.

26 Ms. Keith has participated with company grievance policies, however, has
27 decided not to return to Harvest and this case is still pending.

ARGUMENT

The people (Voters) of the State of California voted for the recreational use of Cannabis. The State of California passed regulations on how to implement and regulate that use. They passed that legislation down to the local municipalities to impose local restrictions on the sales within their communities. Those regulations were set in local codes to be enforced.

Gateway Medical Center is a Professional Medical Building, they don't have Law Offices or Executive Suites, they don't have a Coffee Shop or Deli, and the property has been strictly a Professional Medical Building since it was built. Members of this community and the surrounding area come here for life saving dialysis. They come to seek counseling for their psychological and addiction issues. The homeless are served by some of the tenants in this building all to the benefit of the community.

Now a Big Cannabis Corporation Harvest Health and Recreation comes from out of town saying we want to do business in this location regardless of what the people want. We have done our homework and we fall within the guidelines and should be able to set up business. We are just over the requisite 1000 feet from the Dennis V. Allen Park less than that from the church but there is a hill, so we are technically good.

Except the project is inside a building that includes pediatricians (Minor-Oriented) wherein they are not good. In fact the 4" wall between the Dispensary and Pediatricians office is not anywhere near the 1000 feet requirement.

The regulations also require they go through a process to obtain the community's input. The Southeastern San Diego Community Planning Group met, they engaged the community and the community spoke out so loudly the meeting had to be continued and when it was complete there were no members of

the community in support of this project. The Planning Group forwarded its recommendation to **NOT** support the project. **(See Exhibit 4 Minutes)**

Harvest was present at the community Group meeting, and they heard the voice of the people in October 2020. They were represented by professional consultants who push these applications through the process all the time. They could have gone to the community and mustered support, they did not, or if they did, they found no support.

The opposition on the other side has mounted a community-based response in opposition to the project. We were present at all steps of the process; we were not working silently, and we have made the opposition known. Despite all efforts the Hearing Officer issued his ruling against the community and in support of this project.

The community now appeals to the City of San Diego Planning Commission to hear our voices, to see and hear what “We the People” are saying. Our community is more than tax dollars, it is more than a few jobs; this is where we live, where we raise our children, where we will spend our lives. We need services vital to the community, we need parks, we need community-based businesses, and we need representation that listens to the voice of its people. We need our representatives to protect us and do what is necessary to build a vibrant family based and protected community.

Patients seeking medical treatment especially those on dialysis or those seeking counseling for their addictions need empathy. Patrons of a dispensary are unlikely to be solemn entering and exiting and therefore will discourage patients from using these locally available resources and may seek care elsewhere. In an addict seeking help he may see the dispensary as self-medicating help beyond counseling. These are community members who may not have it within themselves, medically, physically, emotionally, or psychologically to also speak

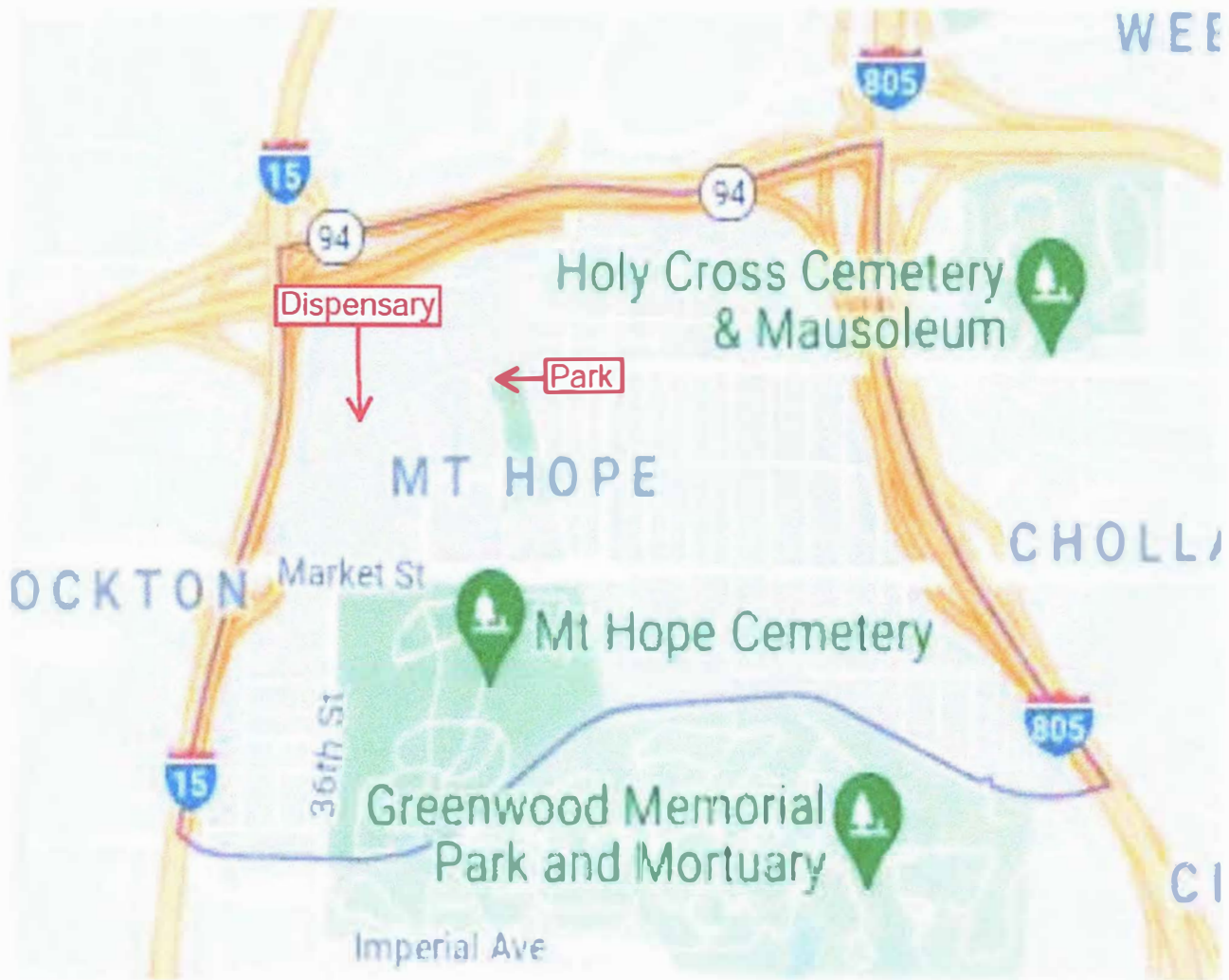
1 in opposition to this dispensary, however, we speak for those who can't. Thank
2 you for your time and consideration.
3

4
5 I declare under penalty of perjury under the laws of the state of California that the
6 foregoing is true and correct
7

8
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10 DATED: August 31, 2021
11

12
13
14 
15 _____
16 Shaun Chamberlin
17 Appellant
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EXHIBIT 1



This is a community map of Mt. Hope. It is bordered by Freeways on the North, East and West. Most of the Southern Borders of Mt. Hope are Cemeteries. There are no schools and no other places for the families to gather other than the Dennis V. Allen Park.

For References the proposed Dispensary and the Park are labeled







EXHIBIT 2

TRULIEVE PRESS RELEASES
ACQUISITION OF HARVEST HEALTH
and RECREATION



Supreme Court of British Columbia Grants Harvest Health & Recreation Inc. Final Order Approving Arrangement with Trulieve Cannabis Corp.

August 19, 2021

TALLAHASSEE, Fla., Aug. 19, 2021 /CNW/ - Trulieve Cannabis Corp. (CSE: TRUL) (OTCQX: TCNNF), a leading and top-performing cannabis company in the United States, is pleased to share that Harvest Health & Recreation Inc. ("Harvest") (CSE: HARV, OTCQX: HRVSE) has obtained the final order from the Supreme Court of British Columbia approving the previously announced arrangement agreement, pursuant to which Trulieve Cannabis Corp. has agreed to acquire all of the issued and outstanding shares of Harvest.

Trulieve, a leading multi-state operator with a focus on the northeast and southeast regions of the United States, and Harvest, a leading multi-state operator with a focus on the west coast and northeast regions of the United States, have built deep, vertically integrated operations in their key markets, becoming leading operators in the United States, the world's largest regulated cannabis market. Upon completion, the transaction creates the most profitable multi-state operator in the world's largest cannabis market.

"We couldn't be happier with this news from the Supreme Court of British Columbia approving our previously announced arrangement," said Kim Rivers, Chief Executive Officer of Trulieve. "Following Harvest's strong Q2 performance and the recent shareholder vote in support of the transaction, we are closer than ever to completing this transformational event for Trulieve and the cannabis industry."

Upon completion of the Transaction, as well as the closing of other previously announced acquisitions by Harvest and Trulieve, the combined business will have operations in 11 states, a total cultivation capacity of more than 3 million square feet, and more than 140 dispensaries serving both the medical and adult-use recreational cannabis markets.

About Trulieve

Trulieve is primarily a vertically integrated "seed-to-sale" company in the U.S. and is the first and largest fully licensed medical cannabis company in the State of Florida. Trulieve cultivates and produces all of its products in-house and distributes those products to Trulieve-branded dispensaries throughout the State of Florida, as well as directly to patients via home delivery. Trulieve also holds licenses to operate in California, Massachusetts, Pennsylvania, Connecticut and West Virginia. Trulieve is listed on the Canadian Securities Exchange under the symbol TRUL and trades on the OTCQX market under the symbol TCNNF.

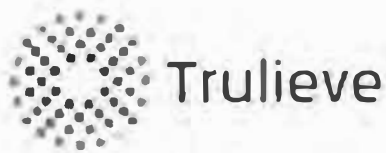
To learn more about Trulieve, visit www.Trulieve.com.

The Canadian Securities Exchange has not reviewed, approved or disapproved the content of this news release.

Forward-Looking Statements

This news release includes forward-looking information and statements, which may include, but are not limited to, information and statements regarding or inferring the future business, operations, financial performance, prospects, and other plans, intentions, expectations, estimates, and beliefs of the Company and statements with regard to the Report and the Company's response thereto. Words such as "expects", "continue", "will", "anticipates" and "intends" or similar expressions are intended to identify forward-looking statements. These forward-looking statements are based on the Company's current projections and expectations about future events and financial trends that management believes might affect its financial condition, results of operations, business strategy and financial needs, and on certain assumptions and analysis made by the Company in light of the experience and perception of historical trends, current conditions and expected future developments and other factors management believes are appropriate. Forward-looking information and statements involve and are subject to assumptions and known and unknown risks, uncertainties, and other factors which may cause actual events, results, performance, or achievements of the Company to be materially different from future events, results, performance, and achievements expressed or implied by forward-looking information and statements herein, including, without limitation, the risks discussed under the heading "Risk Factors" in our Annual Report on Form 10-K for the year ended December 31, 2020 and in subsequent periodic and current reports filed with the United States Securities and Exchange Commission and in the Company's filings on SEDAR at www.sedar.com. Although the Company believes that any forward-looking information and statements herein are reasonable, in light of the use of assumptions and the significant risks and uncertainties inherent in such information and statements, there can be no assurance that any such forward-looking information and statements will prove to be accurate, and accordingly readers are advised to rely on their own evaluation of such risks and uncertainties and should not place undue reliance upon such forward-looking information and statements. Any forward-looking information and statements herein are made as of the date hereof, and except as required by applicable laws, the Company assumes no obligation and disclaims any intention to update or revise any forward-looking information and statements herein or to update the reasons that actual events or results could or do differ from those projected in any forward looking information and statements herein, whether as a result of new information, future events or results, or otherwise, except as required by applicable laws.

SOURCE Trulieve Cannabis Corp.



Trulieve Announces the Largest US Cannabis Transaction; Acquisition of Harvest Health & Recreation Inc., Creates the Most Profitable Multi-State Operator in the World's Largest Cannabis Market

May 10, 2021

Combined Company Will Maintain Industry Leading Scale in Retail, Cultivation & Production

Footprint Provides National Scale with a Deep Regional Focus in Attractive Markets

Expanded Runway for Growth with new Southwest Hub and Expanded Northeast and Southeast Hubs

Combined Consensus 2021E Revenue of \$1.2 Billion

Trulieve and Harvest to Host a Joint Conference Call and Webcast today at 8:30 a.m. ET

TALLAHASSEE, Fla. and PHOENIX, Ariz., May 10, 2021 /CNW/ - Trulieve Cannabis Corp. ("Trulieve" or the "Company") (CSE: TRUL) (OTC: TCNNF) and Harvest Health & Recreation Inc. ("Harvest") (CSE: HARV, OTCQX: HRVSF) are pleased to announce they have entered into a definitive arrangement agreement (the "**Arrangement Agreement**") pursuant to which Trulieve will acquire all of the issued and outstanding subordinate voting shares, multiple voting shares and super voting shares (the "**Harvest Shares**") of Harvest (the "**Transaction**"). Under the terms of the Arrangement Agreement, shareholders of Harvest (the "**Harvest Shareholders**") will receive 0.1170 of a subordinate voting share of Trulieve (each whole share, a "**Trulieve Share**") for each Harvest subordinate voting share (or equivalent) held (the "**Exchange Ratio**"), representing total consideration of approximately \$2.1 billion based on the closing price of the Trulieve Shares on May 7, 2021.

Trulieve, a leading multi-state operator with a focus on the northeast and southeast regions of the United States, and Harvest, a leading multi-state operator with a focus on the west coast and northeast regions of the United States, have built deep, vertically integrated operations in their key markets, becoming leading operators in the United States, the world's largest regulated cannabis market.

Upon completion of the Transaction, as well as the closing of other previously announced acquisitions by Harvest and Trulieve, the combined business will have operations in 11 states, comprised of 22 cultivation and processing facilities with a total capacity of 3.1 million square feet, and 126 dispensaries serving both the medical and adult-use recreational cannabis markets.

Key Transaction Highlights and Benefits

- **Increases Scale Across Our Hub Markets** – through the creation of the largest U.S. cannabis operator on a combined retail and cultivation footprint basis;

- **Creates the Most Profitable US MSO** – with combined 2020 Adjusted EBITDA of \$266 million^{1,2} and combined 2021E consensus Adjusted EBITDA³ of \$461 million, delivering an unparalleled platform for continued growth;
- **Delivers a Superior Existing Retail and Distribution Model** – from a robust retail network of 126 dispensaries across 11 states, the combined company will have leading market shares in Arizona and Florida;
- **Strong and Expanding Multi-State Presence** – bolsters Trulieve's expansion in US northeast and southeast hubs in Florida, Pennsylvania and Maryland, and establishes a southwest hub in core markets including Arizona, where recreational adult use of cannabis was recently legalized;
- **Optimizes Nationwide Presence** – through well-established retail and wholesale channels across markets, as well as the ability to reach an estimated total addressable market of US\$19.3 billion in 2025E (Arcview market estimate);
- **Adds Premium Brands** – to Trulieve's portfolio of in-house brands and national brand partners with a successful line of products across multiple form factors;
- **Leverages Expert Operating Teams and Best Practices** – from each of Trulieve and Harvest, enhancing operational excellence by combining unparalleled knowledge of, and success in winning, state license application processes and the ability to rapidly bring operations to market; and
- **Accretive Transaction Reinforces Trulieve's Leading Financial Metrics** – by reinforcing superior financial performance relative to peers through industry-leading margins and strong projected profitable growth.

Management Commentary

"Today's announcement is the largest and most exciting acquisition so far in our industry, creating the most profitable public multi-state operator. Importantly, our companies share similar customer values with a focus on going deep in core markets. This combination offers us the opportunity to leverage our respective strong foundations and propel us forward with an unparalleled platform for future growth," stated Kim Rivers, Chief Executive Officer of Trulieve. "Harvest provides us with an immediate and significant presence in new and established markets and accelerates our entry into the adult use space in Arizona. Trulieve and Harvest are leaders in our markets, recognized for our innovation, brands, and operational expertise with true depth and scale in our businesses. We look forward to providing best-in-class service to patients and customers on a broader national scale as we create an iconic US cannabis brand."

"We are thrilled to be joining Trulieve, a company that has achieved unrivaled success and scale in its home state of Florida," said Steve White, Chief Executive Officer of Harvest. "As one of the oldest multi-state operators, we believe our track record of identifying and developing attractive market opportunities combined with our recent successful launch of adult use sales in Arizona will add tremendous value to the combined organization as it continues to expand and grow in the coming years."

Terms of the Transaction

The Transaction will be effected by way of a plan of arrangement pursuant to the *Business Corporations Act* (British Columbia). Under the terms of the Arrangement Agreement, Trulieve will acquire all of the issued and outstanding Harvest Shares, with each Harvest Shareholder receiving

0.1170 of a Trulieve Share for each Harvest Share, implying a price per Harvest Share of US\$4.79, which represents a 34% premium to the May 7, 2021 closing price of the Harvest Shares. After giving effect to the Transaction, Harvest Shareholders will hold approximately 26.7% of the issued and outstanding pro forma Trulieve Shares (on a fully-diluted basis). The Exchange Ratio is subject to adjustment in the event that Harvest completes certain interim period refinancing measures, with the potential adjustment in proportion to the incremental costs from such financing relative to the Transaction value. Additional details of the Transaction will be described in the management information circular and proxy statement (the "**Circular**") that will be mailed to Harvest Shareholders in connection with a special meeting of Harvest Shareholders (the "**Meeting**") expected to be held in the third quarter to approve the Transaction.

The Transaction has been unanimously approved by the Boards of Directors of each of Trulieve and Harvest. Harvest Shareholders holding more than 50% of the voting power of the issued and outstanding Harvest Shares have entered into voting support agreements with Trulieve to vote in favor of the Transaction.

The Arrangement Agreement provides for certain customary provisions, including covenants in respect of non-solicitation of alternative transactions, a right to match superior proposals, US\$100 million reciprocal termination fees under certain circumstances and reciprocal expense reimbursement provisions in certain circumstances.

The Transaction is subject to, among other things, the approval of the necessary approvals of the Supreme Court of British Columbia, the approval of two-thirds of the votes cast by Harvest Shareholders at the Special Meeting, receipt of the required regulatory approvals, including, but not limited, approval pursuant to the Hart–Scott–Rodino Antitrust Improvements Act, and other customary conditions of closing. Approval of Trulieve Shareholders is not required. Additional details of the Transaction will be provided in the Circular.

The Board of Directors of Harvest (the "**Harvest Board**") has unanimously determined, after receiving financial and legal advice and following the receipt and review of a unanimous recommendation of a special committee of independent directors (the "**Special Committee**"), that the Transaction is in the best interests of Harvest, and that, on the basis of the Fairness Opinion (as defined herein), that the consideration to be received by the Harvest Shareholders is fair, from a financial point of view, to the Harvest Shareholders.

The Harvest Board unanimously recommends that Harvest Shareholders vote in favour of the resolution to approve the Transaction. The Special Committee obtained a fairness opinion from Haywood Securities Inc., (the "**Fairness Opinion**") which provides that, as at the date of such opinion and based upon and subject to the assumptions, procedures, factors, limitations and qualifications set forth therein, the consideration to be received by the Harvest Shareholders pursuant to the Transaction is fair, from a financial point of view, to the Harvest Shareholders.

Financial and Legal Advisors

Canaccord Genuity Corp. acted as exclusive financial advisor and DLA Piper (Canada) LLP and Fox Rothschild LLP acted as Canadian and United States legal counsel, respectively, to Trulieve. Canaccord Genuity Corp. also provided a fairness opinion to the Board of Directors of Trulieve.

Moelis & Company LLC acted as financial advisor and Bennett Jones LLP and Troutman Pepper

LLP acted as Canadian and United States legal counsel, respectively, to Harvest. Haywood Securities Inc. provided a fairness opinion to the Special Committee.

Conference Call and Investor Presentation

Trulieve and Harvest will hold a conference call and webcast to discuss the acquisition today at 8:30 AM EDT. The conference call may be accessed by dialing 647-427-7450 or 1-888-231-8191 and entering conference ID 8672609. Access to the webcast will be available at [Trulieve.com](https://trulieve.com) or https://produceredition.webcasts.com/starthere.jsp?ei=1462748&tp_key=b56ece63d6. In addition, an investor presentation providing an overview of the transaction can be accessed on the Investor Relations page of the Trulieve and Harvest investor websites.

About Harvest Health & Recreation Inc.

Headquartered in Tempe, Arizona, Harvest Health & Recreation Inc. is a vertically integrated cannabis company and multi-state operator. Since 2011, Harvest has been committed to expanding its retail and wholesale presence throughout the U.S., acquiring, manufacturing, and selling cannabis products for patients and consumers in addition to providing services to retail dispensaries. Through organic license wins, service agreements, and targeted acquisitions, Harvest has assembled an operational footprint spanning multiple states in the U.S. Harvest's mission is to improve lives through the goodness of cannabis. We hope you'll join us on our journey: <https://harvesthoc.com>.

About Trulieve

Trulieve is primarily a vertically integrated "seed-to-sale" company in the U.S. and is the first and largest fully licensed medical cannabis company in the State of Florida. Trulieve cultivates and produces all of its products in-house and distributes those products to Trulieve-branded dispensaries throughout the State of Florida, as well as directly to patients via home delivery. Trulieve is also a licensed operator in California, Massachusetts, Connecticut, Pennsylvania, and West Virginia. Trulieve is listed on the Canadian Securities Exchange under the symbol TRUL and trades on the OTCQX Best Market under the symbol TCNNF.

To learn more about Trulieve, visit www.Trulieve.com.

Forward-Looking Statements

This news release includes forward-looking information and statements within the meaning of the Private Securities Litigation Reform Act of 1995. These forward-looking statements relate to each party's expectations or forecasts of business, operations, financial performance, prospects, and other plans, intentions, expectations, estimates, and beliefs and include statements regarding the Company and Harvest's expected financial performance for fiscal 2021, the combined operations and prospects of the Company and Harvest, the current and projected market and growth opportunities for the combined company, and the timing and completion of the Transaction, including all the required conditions thereto. Words such as "expects", "continue", "will", "anticipates" and "intends" or similar expressions are intended to identify forward-looking statements. These forward-looking statements are based on the Company and Harvest's current projections and expectations about future events and financial trends that they believe might affect their financial condition, results of operations, prospects, business strategy and financial needs, and

on certain assumptions and analysis made by each party in light of the experience and perception of historical trends, current conditions and expected future developments and other factors each party believes are appropriate. Forward-looking information and statements involve and are subject to assumptions and known and unknown risks, uncertainties, and other factors which may cause actual events, results, performance, or achievements to be materially different from future events, results, performance, and achievements expressed or implied by forward-looking information and statements herein, including, without limitation, the risks discussed under the heading "Risk Factors" in the Company and Harvest's Annual Reports on Form 10-K for the year ended December 31, 2020 filed with the United States Securities and Exchange Commission (the "SEC") on EDGAR and with certain Canadian regulators on SEDAR at www.sedar.com and in other periodic reports and filings made by the Company and Harvest with the SEC on EDGAR and with such Canadian securities regulators on SEDAR. Although the Company and Harvest believe that any forward-looking information and statements herein are reasonable, in light of the use of assumptions and the significant risks and uncertainties inherent in such information and statements, there can be no assurance that any such forward-looking information and statements will prove to be accurate, and accordingly readers are advised to rely on their own evaluation of such risks and uncertainties and should not place undue reliance upon such forward-looking information and statements. Any forward-looking information and statements herein are made as of the date hereof and, except as required by applicable laws, the Company and Harvest assume no obligation and disclaim any intention to update or revise any forward-looking information and statements herein or to update the reasons that actual events or results could or do differ from those projected in any forward-looking information and statements herein, whether as a result of new information, future events or results, or otherwise.

The Canadian Securities Exchange has not reviewed, approved, or disapproved the content of this news release.

Footnote 1

This reflects the Adjusted EBITDA of both Trulieve and Harvest on a combined basis for the fiscal year ended December 31, 2020. The most directly comparable GAAP financial measure for Adjusted EBITDA is Net Income (loss), which on a combined basis for Trulieve and Harvest for the fiscal year ended December 31, 2020 was \$3.4 million. The following is a reconciliation of Adjusted EBITDA to Net Income (loss) for Trulieve for the fiscal year ended December 31, 2020.

Adjusted EBITDA

	Year Ended December 31,		Change	
	2020	2019	\$	%
Adjusted EBITDA	\$ 250,952	\$ 134,408	\$ 116,543	87%

Adjusted EBITDA, as the word "EBITDA" is defined in Item 18 of the SEC's Regulation S-K, is a non-GAAP financial measure. The following table provides a reconciliation of Adjusted EBITDA to the most directly comparable GAAP financial measure, Net Income (loss), for the fiscal year ended December 31, 2020.

	Year Ended December 31,	
	2020	2019
Net Income and Comprehensive Income	\$ 62,089	\$ 33,094
Gain (Loss) on Sale of Assets	—	—
Depreciation and Amortization	12,000	13,775
Impairment recorded in Costs of Goods Sold	11,545	7,590
Impairment of Property, Plant and Equipment	20,297	9,009
Provision for Income Taxes	30,451	10,546
EBITDA	136,382	74,009
Share-Based Compensation	2,705	—
Other Expenses (Gains) & Loss	40,000	687
Acquisition and Restructuring Costs	4,772	—
Nonrecurring Start-up Costs	300	—
Total Adjustments	\$ 47,857	\$ 7,391
Adjusted EBITDA	\$ 184,235	\$ 81,400

Footnote 2

The following is a reconciliation of Adjusted EBITDA to Net Income (loss) for Harvest for the fiscal year ended December 31, 2020.

Adjusted EBITDA

Adjusted EBITDA is a non-GAAP financial measure that is derived from net income and other financial results, including depreciation and amortization expense, stock and stock-based compensation expense, gain or loss on sale of assets, change in the value of intangible assets (including goodwill), foreign exchange gains (losses), share-based compensation expense, interest income (expense), loss on disposal of assets, net of tax, other non-recurring expenses, and other non-recurring expenses.

We use adjusted EBITDA to measure the effectiveness of our business strategies and as a factor in making executive compensation decisions. In addition to its use in compensation, we also believe adjusted EBITDA is a measure useful used by investors and other stakeholders and others to evaluate financial performance and our company's ability to pay dividends. Adjusted EBITDA should not be considered a substitute for earnings before interest taxes and income or other results reported in accordance with GAAP. Adjusted EBITDA may not be comparable to similarly titled non-GAAP financial measures of other companies.

The following table provides a reconciliation of net income (loss) to adjusted EBITDA for the periods indicated.

For the Year Ended December 31,	For the Year Ended December 31,	
	2020	2019
Net loss (GAAP) before non-recurring income and (expense) impact of:	\$ (10,178)	\$ (10,178)
Net income and other financial results:		
Depreciation and amortization	22,541	10,178
Interest and other financial results	1,600	1,700
Share-based compensation	11,200	7,350
Foreign and other financial results	604	1,690
Change in value of assets	(11,712)	(2,110)
For value adjustment of intangible assets	10,178	(1,467)
Share-based compensation	(12,100)	0,000
Foreign currency (loss) gain	65	(100)
Share-based compensation expense	21,000	12,000
Change in value of assets	77	15,000
Share-based compensation expense	2,770	0
Share-based compensation expense	22,710	1,770
Share-based compensation expense	1,800	1,770
Adjusted EBITDA (non-GAAP)	\$ 15,311	\$ (43,781)

(1) Includes \$7,164, \$60, and \$64 of interest expense on total of \$10.

(2) Includes \$10,178, \$1,600, and \$2,000 of depreciation expense on total of \$10.

(3) Includes \$10,178, \$1,600, and \$2,000 of depreciation expense on total of \$10.

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Footnote 3: CapitalIQ consensus estimates, as May 7, 2021 and prior to release of Harvest's first quarter 2021 earnings on May 10, 2021. Reconciliation of this non-GAAP financial measure (as defined by the SEC) to the most directly comparable financial measure calculated and presented in accordance with GAAP is not included herein because such non-GAAP financial measure has been obtained from third party sources unrelated to the parties, which do not publish the information necessary for such reconciliation. This non-GAAP financial measure is based on the analysis of non-GAAP financial measures of various financial analysts, each of whom may not be calculating such financial measure in the same manner as each other or Trulieve or Harvest. This information should be considered as supplemental in nature and not as a substitute for, or superior to, any measure of performance prepared in accordance with GAAP. Our management teams use adjusted EBITDA to evaluate our operating performance and trends and make planning decisions. Our management teams believe adjusted EBITDA helps identify underlying trends in our business that could otherwise be masked by the effect of the items that we exclude. Accordingly, we believe that adjusted EBITDA provides useful information to investors and others in understanding and evaluating our operating results, enhancing the overall understanding of our past performance and future prospects of the combined company, and allowing for greater transparency with respect to key financial metrics used by our management teams in its financial and operational decision-making.

SOURCE Trulieve Cannabis Corp.

HARVEST HEALTH and RECREATION
PRESS RELEASES REGARDING
ACQUISITION BY TRULIEVE



NEWS RELEASE

Harvest Health & Recreation Inc. Obtains Final Order of the Supreme Court of British Columbia Approving Arrangement with Trulieve Cannabis Corp.

8/19/2021

PHOENIX, Aug. 19, 2021 /PRNewswire/ -- **Harvest Health & Recreation Inc.**

("Harvest") (CSE: HARV, OTCQX: HRVSF), a vertically integrated cannabis company and multi-state operator in the U.S., today announced that it has obtained the final order from the Supreme Court of British Columbia approving the previously announced arrangement agreement, pursuant to which Trulieve Cannabis Corp. has agreed to acquire all of the issued and outstanding shares of Harvest.

"We are pleased to have reached another milestone as we work toward closing the Trulieve transaction," said Chief Executive Officer Steve White. "We have and will continue to work collaboratively with the entire Trulieve team until we obtain all of required regulatory approvals needed to close."

About Harvest Health & Recreation Inc.

Headquartered in Tempe, Arizona, Harvest Health & Recreation Inc. is a vertically integrated cannabis company and multi-state operator. Since 2011, Harvest has been committed to expanding its retail and wholesale presence throughout the U.S., acquiring, manufacturing, and selling cannabis products for patients and consumers in addition to providing services to retail dispensaries. Through organic license wins, service agreements, and targeted acquisitions, Harvest has assembled an operational footprint spanning multiple states in the U.S. Harvest's mission is to improve lives through the goodness of cannabis. We hope you'll join us on our journey: <https://harvesthoc.com>

Facebook: [@HarvestHOC](#)

Instagram: [@HarvestHOC](#)

Twitter: [@HarvestHOC](#)

Forward-looking Statements

This press release may contain "forward-looking statements" regarding Harvest's business strategies or prospects, which may be identified by the use of words such as, "may", "would", "could", "will", "likely", "expect", "anticipate", "believe,

"intend", "plan", "forecast", "project", "estimate", "outlook" and other similar expressions. Such statements include, but are not limited to, the following: our growth potential in our core cannabis markets, and the sustainability of such growth; our ability to successfully and timely execute our business and operational plans in such markets; statements regarding our proposed strategic business combination with Trulieve Cannabis Corp. ("Trulieve"), including without limitation, the expected terms, timing and closing of the combination, the timing and nature of all required regulatory approvals, estimates of pro-forma financial information of the combined company, Trulieve's and Harvest's expected financial performance for fiscal 2021, the combined operations and prospects of Trulieve and Harvest, and the current and projected market and growth opportunities for the combined company and value for shareholders; the development of favorable federal and state cannabis regulatory frameworks in the United States applicable to multi-state cannabis operators; and adverse changes in the public perception of cannabis. Forward-looking statements are not a guarantee of future performance and are based upon a number of estimates and assumptions of management in light of management's experience and perception of trends, current conditions and expected developments, as well as other factors that management believes to be relevant and reasonable in the circumstances, including assumptions in respect of current and future market conditions. Actual results, performance or achievement could differ materially from that expressed in, or implied,

View original content to download multimedia: <https://www.prnewswire.com/news-releases/harvest-health--recreation-inc-obtains-final-order-of-the-supreme-court-of-british-columbia-approving-arrangement-with-trulieve-cannabis-corp-301358498.html>

SOURCE Harvest Health & Recreation Inc.



NEWS RELEASE

Harvest Health & Recreation Inc. Announces Results of Annual and Special Shareholder Meeting

8/11/2021

PHOENIX, Aug. 11, 2021 /PRNewswire/ — Harvest Health & Recreation Inc. (CSE: HARV, OTCQX: HRVSF), ("Harvest"), a vertically integrated cannabis company and multi-state operator in the U.S., today announced the results of its annual and special meeting of shareholders (the "Harvest Shareholders") held on August 11, 2021 (the "Meeting").

The Harvest Shareholders voted in favor of the following agenda items:

- A special resolution approving the Arrangement under Division 5 of Part 9 of the Business Corporations Act (British Columbia) whereby, among other things, Trulieve Cannabis Corp. will acquire all of the issued and outstanding shares of the Company, all as more particularly described in detail in the Company's definitive proxy statement/information circular dated July 12, 2021;
- fixing the number of directors for the ensuing year at six and electing each of Steve White; Elroy Sailor; Mark Neal Barnard; Eula Adams; Scott Atkison; and Ana Dutra as directors of Harvest; and
- appointing Haynie & Company as the auditors of Harvest for the ensuing year and authorizing the directors of Harvest to fix their remuneration.

Full details are contained in the Report of Voting Results for the Meeting which has been filed on SEDAR at www.sedar.com

About Harvest Health & Recreation Inc.

Headquartered in Tempe, Arizona, Harvest Health & Recreation Inc. is a vertically integrated cannabis company and multi-state operator. Since 2011, Harvest has been committed to expanding its retail and wholesale presence throughout the U.S., acquiring, manufacturing, and selling cannabis products for patients and consumers in addition to providing services to retail dispensaries. Through organic license wins, service agreements, and targeted acquisitions, Harvest has assembled an operational footprint spanning multiple states in the U.S. Harvest's mission is to improve lives through the goodness of cannabis. We hope you'll join us on our journey:

<https://harvesthoc.com>

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View original content to download multimedia: [**https://www.prnewswire.com/news-releases/harvest-health-recreation-inc-announces-results-of-annual-and-special-shareholder-meeting-301353732.html**](https://www.prnewswire.com/news-releases/harvest-health-recreation-inc-announces-results-of-annual-and-special-shareholder-meeting-301353732.html)

SOURCE Harvest Health & Recreation Inc.

Trulieve Announces the Largest US Cannabis Transaction; Acquisition of Harvest Health & Recreation Inc., Creates the Most Profitable Multi-State Operator in the World's Largest Cannabis Market

Combined Company Will Maintain Industry Leading Scale in Retail, Cultivation & Production

Footprint Provides National Scale with a Deep Regional Focus in Attractive Markets

Expanded Runway for Growth with new Southwest Hub and Expanded Northeast and Southeast Hubs

Combined Consensus 2021E Revenue of \$1.2 Billion

Trulieve and Harvest to Host a Joint Conference Call and Webcast today at 8:30 a.m. ET

Tallahassee, FL, and Phoenix, AZ, May 10, 2021 - Trulieve Cannabis Corp. ("Trulieve" or the "Company") (CSE: TRUL) (OTC: TCNNF) and Harvest Health & Recreation Inc. ("Harvest") (CSE: HARV, OTCQX: HRVSF) are pleased to announce they have entered into a definitive arrangement agreement (the "Arrangement Agreement") pursuant to which Trulieve will acquire all of the issued and outstanding subordinate voting shares, multiple voting shares and super voting shares (the "Harvest Shares") of Harvest (the "Transaction"). Under the terms of the Arrangement Agreement, shareholders of Harvest (the "Harvest Shareholders") will receive 0.1170 of a subordinate voting share of Trulieve (each whole share, a "Trulieve Share") for each Harvest subordinate voting share (or equivalent) held (the "Exchange Ratio"), representing total consideration of approximately \$2.1 billion based on the closing price of the Trulieve Shares on May 7, 2021.

Trulieve, a leading multi-state operator with a focus on the northeast and southeast regions of the United States, and Harvest, a leading multi-state operator with a focus on the west coast and northeast regions of the United States, have built deep, vertically integrated operations in their key markets, becoming leading operators in the United States, the world's largest regulated cannabis market.

Upon completion of the Transaction, as well as the closing of other previously announced acquisitions by Harvest and Trulieve, the combined business will have operations in 11 states, comprised of 22 cultivation and processing facilities with a total capacity of 3.1 million square feet, and 126 dispensaries serving both the medical and adult-use recreational cannabis markets.

Key Transaction Highlights and Benefits

- **Increases Scale Across Our Hub Markets** – through the creation of the largest U.S. cannabis operator on a combined retail and cultivation footprint basis;
- **Creates the Most Profitable US MSO** – with combined 2020 Adjusted EBITDA of \$266 million^{1,2} and combined 2021E consensus Adjusted EBITDA³ of \$461 million, delivering an unparalleled platform for continued growth;
- **Delivers a Superior Existing Retail and Distribution Model** – from a robust retail network of 126 dispensaries across 11 states, the combined company will have leading market shares in Arizona and Florida;

- **Strong and Expanding Multi-State Presence** – bolsters Trulieve’s expansion in US northeast and southeast hubs in Florida, Pennsylvania and Maryland, and establishes a southwest hub in core markets including Arizona, where recreational adult use of cannabis was recently legalized;
- **Optimizes Nationwide Presence** – through well-established retail and wholesale channels across markets, as well as the ability to reach an estimated total addressable market of US\$19.3 billion in 2025E (Arcview market estimate);
- **Adds Premium Brands** – to Trulieve’s portfolio of in-house brands and national brand partners with a successful line of products across multiple form factors;
- **Leverages Expert Operating Teams and Best Practices** – from each of Trulieve and Harvest, enhancing operational excellence by combining unparalleled knowledge of, and success in winning, state license application processes and the ability to rapidly bring operations to market; and
- **Accretive Transaction Reinforces Trulieve’s Leading Financial Metrics** – by reinforcing superior financial performance relative to peers through industry-leading margins and strong projected profitable growth.

Management Commentary

“Today’s announcement is the largest and most exciting acquisition so far in our industry, creating the most profitable public multi-state operator. Importantly, our companies share similar customer values with a focus on going deep in core markets. This combination offers us the opportunity to leverage our respective strong foundations and propel us forward with an unparalleled platform for future growth,” stated Kim Rivers, Chief Executive Officer of Trulieve. “Harvest provides us with an immediate and significant presence in new and established markets and accelerates our entry into the adult use space in Arizona. Trulieve and Harvest are leaders in our markets, recognized for our innovation, brands, and operational expertise with true depth and scale in our businesses. We look forward to providing best-in-class service to patients and customers on a broader national scale as we create an iconic US cannabis brand.”

“We are thrilled to be joining Trulieve, a company that has achieved unrivaled success and scale in its home state of Florida,” said Steve White, Chief Executive Officer of Harvest. “As one of the oldest multi-state operators, we believe our track record of identifying and developing attractive market opportunities combined with our recent successful launch of adult use sales in Arizona will add tremendous value to the combined organization as it continues to expand and grow in the coming years.”

Terms of the Transaction

The Transaction will be effected by way of a plan of arrangement pursuant to the *Business Corporations Act* (British Columbia). Under the terms of the Arrangement Agreement, Trulieve will acquire all of the issued and outstanding Harvest Shares, with each Harvest Shareholder receiving 0.1170 of a Trulieve Share for each Harvest Share, implying a price per Harvest Share of US\$4.79, which represents a 34% premium to the May 7, 2021 closing price of the Harvest Shares. After giving effect to the Transaction, Harvest Shareholders will hold approximately 26.7% of the issued and outstanding pro forma Trulieve Shares (on a fully-diluted basis). The Exchange Ratio is subject to adjustment in the event that Harvest completes certain interim period refinancing measures, with the potential adjustment in proportion to the incremental costs from such financing relative to the Transaction value. Additional details of the Transaction will be described in the management information circular and proxy statement (the

"Circular") that will be mailed to Harvest Shareholders in connection with a special meeting of Harvest Shareholders (the **"Meeting"**) expected to be held in the third quarter to approve the Transaction.

The Transaction has been unanimously approved by the Boards of Directors of each of Trulieve and Harvest. Harvest Shareholders holding more than 50% of the voting power of the issued and outstanding Harvest Shares have entered into voting support agreements with Trulieve to vote in favor of the Transaction.

The Arrangement Agreement provides for certain customary provisions, including covenants in respect of non-solicitation of alternative transactions, a right to match superior proposals, US\$100 million reciprocal termination fees under certain circumstances and reciprocal expense reimbursement provisions in certain circumstances.

The Transaction is subject to, among other things, the approval of the necessary approvals of the Supreme Court of British Columbia, the approval of two-thirds of the votes cast by Harvest Shareholders at the Special Meeting, receipt of the required regulatory approvals, including, but not limited, approval pursuant to the Hart-Scott-Rodino Antitrust Improvements Act, and other customary conditions of closing. Approval of Trulieve Shareholders is not required. Additional details of the Transaction will be provided in the Circular.

The Board of Directors of Harvest (the **"Harvest Board"**) has unanimously determined, after receiving financial and legal advice and following the receipt and review of a unanimous recommendation of a special committee of independent directors (the **"Special Committee"**), that the Transaction is in the best interests of Harvest, and that, on the basis of the Fairness Opinion (as defined herein), that the consideration to be received by the Harvest Shareholders is fair, from a financial point of view, to the Harvest Shareholders.

The Harvest Board unanimously recommends that Harvest Shareholders vote in favour of the resolution to approve the Transaction. The Special Committee obtained a fairness opinion from Haywood Securities Inc., (the **"Fairness Opinion"**) which provides that, as at the date of such opinion and based upon and subject to the assumptions, procedures, factors, limitations and qualifications set forth therein, the consideration to be received by the Harvest Shareholders pursuant to the Transaction is fair, from a financial point of view, to the Harvest Shareholders.

Financial and Legal Advisors

Canaccord Genuity Corp. acted as exclusive financial advisor and DLA Piper (Canada) LLP and Fox Rothschild LLP acted as Canadian and United States legal counsel, respectively, to Trulieve. Canaccord Genuity Corp. also provided a fairness opinion to the Board of Directors of Trulieve.

Moelis & Company LLC acted as financial advisor and Bennett Jones LLP and Troutman Pepper LLP acted as Canadian and United States legal counsel, respectively, to Harvest. Haywood Securities Inc. provided a fairness opinion to the Special Committee.

Conference Call and Investor Presentation

Trulieve and Harvest will hold a conference call and webcast to discuss the acquisition today at 8:30 AM EDT. The conference call may be accessed by dialing 647-427-7450 or 1-888-231-8191 and entering conference ID 8672609. Access to the webcast will be available at Trulieve.com or

https://produceredition.webcasts.com/starthere.jsp?ei=1462748&tp_key=b56ece63d6 In addition, an investor presentation providing an overview of the transaction can be accessed on the Investor Relations page of the Trulieve and Harvest investor websites.

About Harvest Health & Recreation Inc.

Headquartered in Tempe, Arizona, Harvest Health & Recreation Inc. is a vertically integrated cannabis company and multi-state operator. Since 2011, Harvest has been committed to expanding its retail and wholesale presence throughout the U.S., acquiring, manufacturing, and selling cannabis products for patients and consumers in addition to providing services to retail dispensaries. Through organic license wins, service agreements, and targeted acquisitions, Harvest has assembled an operational footprint spanning multiple states in the U.S. Harvest's mission is to improve lives through the goodness of cannabis. We hope you'll join us on our journey: <https://harvesthoc.com>.

About Trulieve

Trulieve is primarily a vertically integrated "seed-to-sale" company in the U.S. and is the first and largest fully licensed medical cannabis company in the State of Florida. Trulieve cultivates and produces all of its products in-house and distributes those products to Trulieve-branded dispensaries throughout the State of Florida, as well as directly to patients via home delivery. Trulieve is also a licensed operator in California, Massachusetts, Connecticut, Pennsylvania, and West Virginia. Trulieve is listed on the Canadian Securities Exchange under the symbol TRUL and trades on the OTCQX Best Market under the symbol TCNNF.

To learn more about Trulieve, visit www.Trulieve.com.

Forward-Looking Statements

This news release includes forward-looking information and statements within the meaning of the Private Securities Litigation Reform Act of 1995. These forward-looking statements relate to each party's expectations or forecasts of business, operations, financial performance, prospects, and other plans, intentions, expectations, estimates, and beliefs and include statements regarding the Company and Harvest's expected financial performance for fiscal 2021, the combined operations and prospects of the Company and Harvest, the current and projected market and growth opportunities for the combined company, and the timing and completion of the Transaction, including all the required conditions thereto. Words such as "expects", "continue", "will", "anticipates" and "intends" or similar expressions are intended to identify forward-looking statements. These forward-looking statements are based on the Company and Harvest's current projections and expectations about future events and financial trends that they believe might affect their financial condition, results of operations, prospects, business strategy and financial needs, and on certain assumptions and analysis made by each party in light of the experience and perception of historical trends, current conditions and expected future developments and other factors each party believes are appropriate. Forward-looking information and statements involve and are subject to assumptions and known and unknown risks, uncertainties, and other factors which may cause actual events, results, performance, or achievements to be materially different from future events, results, performance, and achievements expressed or implied by forward-looking information and statements herein, including, without limitation, the risks discussed under the heading "Risk Factors" in the Company and Harvest's Annual Reports on Form 10-K for the year ended December 31, 2020 filed with the United States Securities and Exchange Commission (the "SEC") on EDGAR and with certain Canadian regulators on SEDAR at www.sedar.com and in other periodic reports and filings made by the Company and Harvest with the SEC on EDGAR and with such Canadian securities regulators on SEDAR. Although the Company and Harvest

believe that any forward-looking information and statements herein are reasonable, in light of the use of assumptions and the significant risks and uncertainties inherent in such information and statements, there can be no assurance that any such forward-looking information and statements will prove to be accurate, and accordingly readers are advised to rely on their own evaluation of such risks and uncertainties and should not place undue reliance upon such forward-looking information and statements. Any forward-looking information and statements herein are made as of the date hereof and, except as required by applicable laws, the Company and Harvest assume no obligation and disclaim any intention to update or revise any forward-looking information and statements herein or to update the reasons that actual events or results could or do differ from those projected in any forward-looking information and statements herein, whether as a result of new information, future events or results, or otherwise.

The Canadian Securities Exchange has not reviewed, approved, or disapproved the content of this news release.

Investor Contact:

Lynn Ricci, Director of Investor Relations, 1-850-270-5691, lynn.ricci@trulieve.com

Christine Hersey, Director of Investor Relations, 1-424-202-0210, chersey@harvestinc.com

Media Contact:

Inkhouse, 781-966-4100, trulieve@inkhouse.com

Footnote 1

This reflects the Adjusted EBITDA of both Trulieve and Harvest on a combined basis for the fiscal year ended December 31, 2020. The most directly comparable GAAP financial measure for Adjusted EBITDA is Net Income (loss), which on a combined basis for Trulieve and Harvest for the fiscal year ended December 31, 2020 was \$3.4 million. The following is a reconciliation of Adjusted EBITDA to Net Income (loss) for Trulieve for the fiscal year ended December 31, 2020.

Adjusted EBITDA

	Year Ended December 31,		Change Increase / (Decrease)	
	2020	2019	\$	%
	<i>(dollars in thousands)</i>			
Adjusted EBITDA	\$ 250,952	\$ 126,409	\$ 124,543	99%

Adjusted EBITDA for the year ended December 31, 2020, was \$251.0 million, an increase of \$124.5 million or 99%, from \$126.4 million for the year ended December 31, 2019. The following table presents a reconciliation of GAAP net income (loss) to non-GAAP Adjusted EBITDA, for each of the periods presented:

	Year Ended December 31,	
	2020	2019
	<i>(dollars in thousands)</i>	
Net Income and Comprehensive Income	\$ 62,999	\$ 53,094
Add (Deduct) Impact of:		
Depreciation and Amortization	12,600	5,079
Depreciation included in Cost of Goods Sold	11,542	7,992
Interest Expense, Net	20,237	9,050
Provision for Income Taxes	94,451	50,586
EBITDA	201,829	125,802
Share-Based Compensation	2,765	—
Other Expense (Income), Net	40,680	607
Acquisition and Transaction Costs	4,724	—
Inventory Step up, Fair value	955	—
Total Adjustment	\$ 187,953	\$ 73,314
Adjusted EBITDA	\$ 250,952	\$ 126,409

Footnote 2

The following is a reconciliation of Adjusted EBITDA to Net Income (loss) for Harvest for the fiscal year ended December 31, 2020.

Adjusted EBITDA

Adjusted EBITDA is calculated as net income (loss) before non-controlling interest before net interest and other financing costs, income taxes, depreciation and amortization expenses; fixed and intangible asset impairments; gain or loss on sale of assets; change in fair value adjustment of liability; other (income) expense; foreign exchange gain (loss); share-based compensation expense; contract asset (recovery) impairment; discontinued operations, net of tax; other expansion expenses (pre-open); and transaction and other special charges.

We use adjusted EBITDA in assessing the effectiveness of our business strategies and as a factor in making incentive compensation decisions. In addition to its use by management, we also believe adjusted EBITDA is a measure widely used by securities analysts, investors, and others to evaluate financial performance of our company relative to our competitors. Adjusted EBITDA should not be considered a substitute for earnings before income taxes, net income or other results reported in accordance with GAAP. Adjusted EBITDA may not be comparable to similarly titled measures reported by other companies.

The following table provides a reconciliation of net income (loss) before non-controlling interest to adjusted EBITDA for the periods indicated.

(in thousands)	For the Year Ended December 31.	
	2020	2019
Net loss (GAAP) before non-controlling interest	\$ (59,578)	\$ (168,814)
Add (deduct) impact of:		
Net interest and other financing costs ⁽¹⁾	39,013	10,198
Income tax	3,650	3,756
Amortization and depreciation ⁽²⁾	11,290	7,754
Fixed and intangible asset impairments	664	16,977
(Gain) loss on sale of assets	(11,752)	2,313
Fair value adjustment of liability	10,125	(5,482)
Other (income) expense ⁽³⁾	(17,185)	8,286
Foreign currency (gain) loss	63	970
Share-based compensation expense	22,495	17,695
Contract asset (recovery) impairment	732	35,098
Discontinued operations, net of tax	1,278	568
Other expansion expenses (pre-open) ⁽⁴⁾	12,719	9,770
Transaction & other special charges	1,830	17,200
Adjusted EBITDA (non-GAAP)⁽⁵⁾	\$ 15,344	\$ (43,711)

⁽¹⁾ Includes \$71, \$164, \$401, and \$684 of interest reported in cost of sales.

⁽²⁾ Includes \$810, \$879, \$3,370, and \$2,394 of depreciation reported in cost of sales.

⁽³⁾ Primarily represents gains and losses associated with settlements of contingent consideration, litigation, and other non-recurring charges.

⁽⁴⁾ These are set-up costs to prepare a location for its intended use. We adjust for this amount because we believe these expenses are not indicative of ongoing operations; therefore, this adjustment enhances comparability to prior periods.

⁽⁵⁾ Adjusted EBITDA is a financial measure used by management that is not defined by U.S. GAAP and may not be comparable to similar measures presented by other companies. See discussion above for a definition of our adjusted EBITDA non-GAAP financial measure and reconciliation to the most directly comparable U.S. GAAP measure.

Footnote 3: CapitalIQ consensus estimates, as May 7, 2021 and prior to release of Harvest's first quarter 2021 earnings on May 10, 2021. Reconciliation of this non-GAAP financial measure (as defined by the SEC) to the most directly comparable financial measure calculated and presented in accordance with GAAP is not included herein because such non-GAAP financial measure has been obtained from third party sources unrelated to the parties, which do not publish the information necessary for such reconciliation. This non-GAAP financial measure is based on the analysis of non-GAAP financial measures of various financial analysts, each of whom may not be calculating such financial measure in the same manner as each other or Trulieve or Harvest. This information should be considered as supplemental in nature and not as a substitute for, or superior to, any measure of performance prepared in accordance with GAAP. Our management teams use adjusted EBITDA to evaluate our operating performance and trends and make planning decisions. Our management teams believe adjusted EBITDA helps identify underlying trends in our business that could otherwise be masked by the effect of the items that we exclude. Accordingly, we believe that adjusted EBITDA provides useful information to investors and others in understanding and evaluating our operating results, enhancing the overall understanding of our past performance and future prospects of the combined company, and allowing for greater transparency with respect to key financial metrics used by our management teams in its financial and operational decision-making.

EXHIBIT 3

**HARVEST HEALTH and RECREATION
LEGAL ISSUES OHIO**



**STATE OF
OHIO**
BOARD OF PHARMACY

IN THE MATTER OF:**CASE NO. M-2019-0004**

Harvest of Ohio LLC
c/o Ariane Kirkpatrick, President
627 South 48th Street
Tempe, Arizona 85281

Account No./Application Nos. 350-890, 350-923, 350-934

SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY

THIS SETTLEMENT AGREEMENT (the "Agreement") is made and executed by and among, Harvest of Ohio LLC ("Harvest of Ohio"), and the State of Ohio Board of Pharmacy ("Board") (individually each a "Party," and collectively the "Parties").

WITNESSETH:

WHEREAS, Harvest of Ohio submitted Application ID 890 to obtain a provisional dispensary license at 711 West Union Street, Athens, OH 45701; Application ID 923 to obtain a provisional dispensary license at 2950 North High Street, Columbus, OH 43202; and Application ID 934 to obtain a provisional dispensary license at 4370 Tonawanda Trail, Beavercreek, OH 45430 ("the Applications").

WHEREAS, The Applications listed Ariane Kirkpatrick as a member of an "economically disadvantaged group," as defined in R.C. 3796.10(C), with 51% ownership; Steven White as a "Non-Minority," with 44% ownership, and Thomas Chinn as a "Non-Minority," with 5% ownership of Harvest of Ohio LLC. Ariane Kirkpatrick is a member of an "economically disadvantaged group" and a resident of Ohio as required by R.C. 3796.10(C).

WHEREAS, on or about June 4, 2018, the Board awarded Harvest provisional dispensary licenses at the following addresses: 4370 Tonawanda Trail, Beavercreek, OH 45430 ("Beavercreek location"), 711 West Union Street, Athens, OH 45701 ("Athens location"), and 2950 North High Street, Columbus, OH 43202 ("Columbus location") as an "economically disadvantaged group" as required by R.C. 3796.10(C).

77 South High Street, 17th Floor, Columbus, Ohio 43215



WHEREAS, on November 20, 2017, Ariane Kirkpatrick and Steve White entered into an *Operating Agreement of Harvest of Ohio LLC* ("Operating Agreement") setting forth the terms and conditions governing the operation and management of Harvest of Ohio LLC.

WHEREAS, on June 7, 2019, the Board issued to Harvest of Ohio Notices of Opportunity for Hearing for the Beavercreek location, Athens location, and Columbus location, Case Number M-2019-0004 (the "Notices").

WHEREAS, on or about July 10, 2019, Harvest of Ohio filed an action in the Franklin County Court of Common Pleas, Case Number 19-CV-5550 against the Board ("Franklin County case"), and obtained a temporary restraining order and preliminary injunction prohibiting the Board from public dissemination of paragraphs (5) through (14) of the "Allegations" section and the entire "Potential Violations of Law" section contained within the Notices.

WHEREAS, at all times referenced herein, Harvest of Ohio had not received a certificate of operation for the Beavercreek location, Athens location, and Columbus location.

WHEREAS, the Board has determined that the Operating Agreement, other information received by the Board, and the Board's observations of the day-to-day operations of Harvest of Ohio after being awarded provisional dispensary licenses for the Beavercreek location, Athens location, and Columbus location, violate R.C. 3796.10(C) and Ohio Adm.Code 3796:6-2-04(J)(1), as interpreted by the Board.

WHEREAS, Harvest of Ohio has submitted to the Board the following agreements governing the operation and management of Harvest of Ohio with all three agreements to become effective as of the effective date of this Agreement: *Amended and Restated Operating Agreement of Harvest of Ohio LLC*; *Secured Promissory Note*; and *License Agreement*.

WHEREAS, Harvest of Ohio neither admits nor denies that it has violated any statutes or regulations governing medical marijuana dispensaries, including R.C. 3796.10(C).

NOW, THEREFORE, in consideration of the mutual promises and undertakings herein set forth, and intending to be legally bound hereby, the Parties hereto agree as follows:

1. Preambles. The foregoing preambles are incorporated herein by reference.

2. Specific Actions.

- a. The Board hereby issues a reprimand to Harvest of Ohio.
- b. Harvest of Ohio voluntarily agrees to make a monetary donation in the amount of \$500,000.00 to the Ohio Automated Rx Reporting System ("OARRS") established pursuant R.C. 4729.75 and specifically for the drug database fund of R.C. 4729.83(B), (the "Drug Database Donation"). The first payment of the Drug Database Donation shall be made six (6) months after all Certificates of Operation are obtained for the Athens location, Beavercreek location and Columbus location. The Drug Database Donation shall be paid-in-full eighteen (18) months after the first payment is made.
- c. Ariane Kirkpatrick shall remain at all times the "Majority Member" and "Managing Member" of Harvest of Ohio as described in the *Amended and Restated Operating Agreement of Harvest of Ohio LLC* and Harvest of Ohio will not be eligible to apply for a change of ownership until it satisfies all of the following conditions:
 - i. Harvest of Ohio's Beavercreek location, Athens location, and Columbus location, have each held a certificate of operation for a period of eighteen (18) months; and
 - ii. The Drug Database Donation has been paid-in-full.
- d. Upon execution of this Agreement, Harvest of Ohio shall:
 - i. Dismiss with prejudice the Franklin County Case; and
 - ii. Withdraw all requests for hearing *In the Matter of Licensee: Harvest of Ohio LLC*, the State of Ohio Board of Pharmacy, Case Number M-2019-0004.
 - iii. Harvest of Ohio will submit any necessary variances for Board review.
- e. Upon execution of this Agreement, the Board shall:

- i. After Board approval of all variances described in Section (2)(d)(iii) for single location, schedule final inspections within fourteen (14) days in accordance with Ohio Adm.Code 3796:6-2-06 for that location; and
- ii. Award a certificate of operation to Harvest of Ohio for the Beavercreek location, Athens location, and Columbus location within two (2) business days after each respective location passes a final inspection and, excepting all matters settled herein, meets all other licensure requirements such as payment of the appropriate fees.

3. Specific Releases.

- a. Harvest of Ohio. In consideration for the covenants, releases, and agreements made by the Board pursuant to this Agreement, Harvest of Ohio agrees not to institute or reinstitute any actions against the Board, in any jurisdictions, in any forum, tribunal, court, or administrative proceeding, for any form of relief against the Board relating to, arising from, or concerning the matters described herein. This release does not affect Harvest of Ohio's rights to enforce the terms of this Agreement.
- b. The Board.
 - i. After the terms of this Agreement are fulfilled, the Board agrees that neither this Agreement, nor the underlying facts thereof, will adversely impact Harvest of Ohio, Steve White, and/or Ariane Kirkpatrick regarding (a) any eventual request by Harvest of Ohio to transfer its dispensary licenses to a third party; (b) any request by Ariane Kirkpatrick and/or Steve White to transfer all or some of their membership interest, including but not limited to transferring a controlling interest, in Harvest of Ohio, between themselves and/or to a third-party; (c) any future applications by Harvest of Ohio for additional medical marijuana dispensary licenses in the State of Ohio; and, (d) any future

applications by any entity for new or additional medical marijuana licenses in which Ariane Kirkpatrick or Steve White are owners, officers or employees.

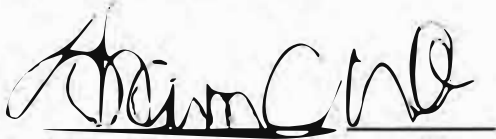
- ii. The Board agrees it will not amend the Notices to assert that Harvest of Ohio is ineligible to receive a provisional dispensary license and/or certificate of operation due to R.C. 3796.10(C) having been held unconstitutional by a court of competent jurisdiction in the State of Ohio.

4. **General Release.** In consideration of the covenants and agreements contained herein, the Parties, for themselves and each of their respective administrators, trustees, accountants, parents, subsidiaries, divisions, affiliates, predecessors, successors, present or former officers, directors, employees, shareholders, owners, members, attorneys and assigns, hereby fully and forever release, withdraw, remise, quit-claim and fully and forever discharge the other party, and each of their respective heirs, executors, administrators, trustees, accountants, parents, subsidiaries, divisions, affiliates, predecessors, successors, present or former officers, directors, employees, shareholders, owners, members, attorneys, and assigns, from any and all claims, demands, damages, accounts, debts, liens, suits, actions, and rights or causes of action of every kind and description, whether known or unknown, suspected or unsuspected, which it now has, or has had, or hereafter can, shall, or may have arising out of or related to the subject matter of this Agreement. The Parties agree not to pursue litigation in this matter or for any released claim related to matters described herein. This release does not affect the Parties' rights to enforce the terms of this Agreement.
5. **Public Record.** All Parties to this Agreement understand that this document is a public record under R.C. §149.43, and its terms will therefore become part of the minutes of a meeting of the Pharmacy Board.
6. **Costs and Expenses of Administrative and Court Proceedings.** Each party shall be responsible for the costs and expenses it incurred in connection with any hearings or other litigation.

7. **Entire Agreement.** This Agreement supersedes any and all agreements by, between and among the Parties, and represents their entire agreement pertaining to the subject matter hereof. There is no agreement or understanding relating to the subject matter hereof, whether express, implied, written or oral, not expressly set forth herein.
8. **Binding Effect.** This Agreement is binding upon and shall inure to the benefit of the Parties hereto and their members, officers, affiliates, agents, employees, successors and assigns.
9. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.
10. **Interpretation.** This Agreement shall be interpreted as though mutually drafted by the Parties hereto and their respective counsel.
11. **Headings.** The headings preceding the paragraphs herein are intended to be for convenience only and shall have no operative force or effect.
12. **Authority.** The Parties hereto represent and warrant to each other that each Party possesses the full requisite authority to enter into this Agreement and that the person signing this Agreement on behalf of each Party is fully and duly authorized to do so.
13. **Execution in Counterparts; Facsimile Signatures.** The Parties acknowledge and agree that this Agreement may be executed (1) in one or more counterparts, which together shall constitute a single, integrated agreement, and (2) by facsimile signatures which shall have the same force and effect as original signatures.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Harvest of Ohio and the State of Ohio Board of Pharmacy intending to be legally bound hereby, have executed this Settlement Agreement, which becomes effective upon the date of the Board President's signature below:

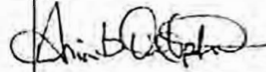


By: Shawn C. Wilt, R.Ph., President
State of Ohio Board of Pharmacy

Shawn C Wilt 3/6/2020

Print Name

Date



By: Ariane Kirkpatrick, Majority Member
Harvest of Ohio LLC

Ariane B. Kirkpatrick 2/3/20

Print Name

Date



DATE	DOCUMENT ID	DESCRIPTION	FILING	EXPED	PENALTY	CERT	COPY
05/09/2016	201612701842	DOMESTIC FOR PROFIT LLC - ARTICLES OF ORG (LCP)	99.00	0.00	0.00	0.00	0.00

Receipt

This is not a bill. Please do not remit payment.

STEVE WHITE
627 S 48TH ST
SUITE 100
TEMPE, AZ 85281

STATE OF OHIO CERTIFICATE

Ohio Secretary of State, Jon Husted
3900431

It is hereby certified that the Secretary of State of Ohio has custody of the business records for
HARVEST OF OHIO LLC

and, that said business records show the filing and recording of:

Document(s)

DOMESTIC FOR PROFIT LLC - ARTICLES OF ORG
Effective Date: 05/06/2016

Document No(s):

201612701842

United States of America
State of Ohio
Office of the Secretary of State

Witness my hand and the seal of the
Secretary of State at Columbus, Ohio this
9th day of May, A.D. 2016.

Jon Husted
Ohio Secretary of State



Form 533A Prescribed by:
Ohio Secretary of State
JON HUSTED
Ohio Secretary of State

Date Electronically Filed: 5/6/2016

Central Ohio: (614) 466-3910
Toll Free: (877) SOS-FILE (767-3453)
www.OhioSecretaryofState.gov
Busserv@OhioSecretaryofState.gov

Articles of Organization for a Domestic Limited Liability Company

Filing Fee: \$99

CHECK ONLY ONE (1) BOX

(1) ☒ Articles of Organization for Domestic
For-Profit Limited Liability Company
(115-LCA)

(2) ☐ 2Articles of Organization for Domestic
Nonprofit Limited Liability Company
(115-LCA)

Name of Limited Liability Company HARVEST OF OHI OLLC

Name must include one of the following words or abbreviations: "limited liability company," "limited," "LLC," "L.L.C.," "Ltd.," or "Ltd"

Effective Date 5/6/2016
(Optional)
mm/dd/yyyy

(The legal existence of the limited liability company begins upon the filing
of the articles or on a later date specified that is not more than ninety days
after filing)

This limited liability company shall exist for
(Optional)

PERPETUAL
Period of Existence

Purpose
(Optional)

**Note for Nonprofit LLCs

The Secretary of State does not grant tax exempt status. Filing with our office is not sufficient to obtain state or federal tax exemptions. Contact the Ohio Department of Taxation and the Internal Revenue Service to ensure that the nonprofit limited liability company secures the proper state and federal tax exemptions. These agencies may require that a purpose clause be provided.

ORIGINAL APPOINTMENT OF AGENT

The undersigned authorized member(s), manager(s) or representative(s) of

HARVEST OF OHIO LLC

Name of Limited Liability Company

hereby appoint the following to be Statutory Agent upon whom any process, notice or demand required or permitted by statute to be served upon the limited liability company may be served. The name and address of the agent is

REGISTERED AGENT SOLUTIONS, INC.

Name of Agent

4568 MAYFIELD RD. SUITE 204

Mailing Address

CLEVELAND

City

OH

State

44121

ZIP Code

ACCEPTANCE OF APPOINTMENT

The undersigned, _____ named herein as the statutory agent

REGISTERED AGENT SOLUTIONS, INC.

Statutory Agent Name

for

HARVEST OF OHIO LLC

Name of Limited Liability Company

hereby acknowledges and accepts the appointment of agent for said limited liability company

Statutory Agent Signature

JACLYN WRIGHT

Individual Agent's Signature / Signature on Behalf of Business Serving as Agent

By signing and submitting this form to the Ohio Secretary of State, the undersigned hereby certifies that he or she has the requisite authority to execute this document.

Required

Articles and original appointment of agent must be signed by a member, manager or other representative.

If authorized representative is an individual, then they must sign in the "signature" box and print their name in the "Print Name" box.

If authorized representative is a business entity, not an individual, then please print the business name in the "signature" box, an authorized representative of the business entity must sign in the "By" box and print their name in the "Print Name" box.

STEVE WHITE
Signature

By (if applicable)

Print Name

Signature

By (if applicable)

Print Name

Signature

By (if applicable)

Print Name



DATE	DOCUMENT ID	DESCRIPTION	FILING	EXPED	CERT	COPY
11/29/2018	201833203318	FICTITIOUS NAME REGISTRATION (NFO)	39.00	300.00	0.00	0.00

Receipt

This is not a bill. Please do not remit payment.

KW LAW, LLP
7000 N 16TH STREET, STE 120-257
PHOENIX, AZ 85020

STATE OF OHIO CERTIFICATE

Ohio Secretary of State, Jon Husted
4260005

It is hereby certified that the Secretary of State of Ohio has custody of the business records for
HARVEST

and, that said business records show the filing and recording of:

Document(s)

FICTITIOUS NAME REGISTRATION

Effective Date: 11/29/2018

Document No(s):

201833203318

Expiration Date: 11/29/2023

HARVEST OF OHIO LLC
4568 MAYFIELD RD. SUITE 204
CLEVELAND, OH 44121



United States of America
State of Ohio
Office of the Secretary of State

Witness my hand and the seal of the
Secretary of State at Columbus, Ohio this
29th day of November, A.D. 2018.

Ohio Secretary of State

Form 534A Prescribed by:

Date Electronically Filed: 11/29/2016

JON HUSTED
Ohio Secretary of State



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www.OhioSecretaryofState.gov | busserv@OhioSecretaryofState.gov
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Trade Name
(167-RNO)

Date of first use:

MM/DD/YYYY



Fictitious Name
(169-NFO)

HARVEST

Name being Registered or Reported

HARVEST OF OHIO L LC

Name of the Registrant

Note: If the registrant is a partnership, please provide the name of the partnership. Individual partner names are not permitted but are required on page 2 of the form.

Registrant's Entity Number (if registered with Ohio Secretary of State): 3 9004 B

All registrants must complete the information in this section

The general nature of business conducted by the registrant:

Operation of a state-licensed cannabis business

Business address:

4568 MAYFIE DRD. SUITE 204

Mailing Address

CLEVELAND

City

OH

State

44121

ZIP Code

Complete the information in this section if registrant is a partnership NOT registered in Ohio pursuant to ORC 1776, if partnership is registered, provide registration number on page one.

Provide the name and address of at least one general partner:

Name

Address

NOTE: Pursuant to OAG 89-081, if a general partner is a foreign corporation/limited liability company, it must be licensed to transact business in Ohio; if a general partner is a foreign corporation/limited liability company licensed in Ohio under an assumed name, please provide the assumed name and the name as registered in its jurisdiction of formation.

By signing and submitting this form to the Ohio Secretary of State, the undersigned hereby certifies that he or she has the requisite authority to execute this document.

Required

Application must be signed by the registrant or an authorized representative.

JEREMY KAPTEYN

Signature

If authorized representative is an individual, then they must sign in the "signature" box and print their name in the "Print Name" box.

By (if applicable)

Print Name

If authorized representative is a business entity, not an individual, then please print the business name in the "signature" box, an authorized representative of the business entity must sign in the "By" box and print their name in the "Print Name" box.



DATE	DOCUMENT ID	DESCRIPTION	FILING	EXPED	CERT	COPY
11/29/2018	201833203318	FICTITIOUS NAME REGISTRATION (INFO)	39.00	300.00	0.00	0.00

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KW LAW, LLP
7000 N 16TH STREET, STE 120-257
PHOENIX, AZ 85020

STATE OF OHIO CERTIFICATE

Ohio Secretary of State, Jon Husted
4260005

It is hereby certified that the Secretary of State of Ohio has custody of the business records for
HARVEST

and, that said business records show the filing and recording of:

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FICTITIOUS NAME REGISTRATION

Effective Date: 11/29/2018

Document No(s):

201833203318

Expiration Date: 11/29/2023

HARVEST OF OHIO LLC
4568 MAYFIELD RD. SUITE 204
CLEVELAND, OH 44121



United States of America
State of Ohio
Office of the Secretary of State

Witness my hand and the seal of the
Secretary of State at Columbus, Ohio this
29th day of November, A.D. 2018.

Ohio Secretary of State

Form 534A Prescribed by:

Date Electronically Filed: 11/29/2018

JON HUSTED
Ohio Secretary of State



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(167-RNO)

Date of first use:

MM/DD/YYYY

☒ Fictitious Name
(169-NFO)

HARVE ST

Name being Registered or Reported

HARVE ST OF OHIO LLC

Name of the Registrant

Note: If the registrant is a partnership, please provide the name of the partnership. Individual partner names are not permitted but are required on page 2 of the form.

Registrant's Entity Number (if registered with Ohio Secretary of State): 3900431

All registrants must complete the information in this section

The general nature of business conducted by the registrant:

Operation of a state-licensed cannabis business

Business address:

4568 MAYFIELD RD. SUITE 204

Mailing Address

CLEVELAND

City

OH

State

44121

ZIP Code

Complete the information in this section if registrant is a partnership NOT registered in Ohio pursuant to ORC 1776, if partnership is registered, provide registration number on page one.

Provide the name and address of at least one general partner:

Name

Address

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Required

Application must be signed by the registrant or an authorized representative.

If authorized representative is an individual, then they must sign in the "signature" box and print their name in the "Print Name" box.

JEREMY KAPTEYN

Signature

By (if applicable)

Print Name

If authorized representative is a business entity, not an individual, then please print the business name in the "signature" box, an authorized representative of the business entity must sign in the "By" box and print their name in the "Print Name" box.



DATE	DOCUMENT ID	DESCRIPTION	FILING	EXPED	CERT	COPY
05/19/2021	202113800912	TRADE NAME REGISTRATION (RNO)	39.00	0.00	0.00	0.00

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950 MAIN AVENUE
SUITE 1100
CLEVELAND, OH 44113

STATE OF OHIO CERTIFICATE

Ohio Secretary of State, Frank LaRose
4681813

It is hereby certified that the Secretary of State of Ohio has custody of the business records for
HARVEST OF BEAVERCREEK

and, that said business records show the filing and recording of:

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TRADE NAME REGISTRATION

Effective Date: 05/18/2021

Document No(s):

202113800912

Date of First Use: 05/17/2021

Expiration Date: 05/18/2026

HARVEST OF OHIO LLC
4711 HINCKLEY INDUSTRIAL PARKWAY
CLEVELAND, OH 44109



United States of America
State of Ohio
Office of the Secretary of State

Witness my hand and the seal of the
Secretary of State at Columbus, Ohio this
19th day of May, A.D. 2021.

Ohio Secretary of State

Form 534A Prescribed by:



Date Electronically Filed: 5/18/2021

Toll Free: 877.767. | 365 entr Ohio: 614.466. | 3910

OhioSoS.gov | business@OhioSoS.govFile online or for more information: OhioBusinessCentral.gov

Name Registration

Filing Fee: \$39

Form Must Be Typed

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☒ Trade Name
(167 N 0)

Date of first use:

5/17 /2021

MM/DD/YYYY

☐ Fictitious Name
(169 -N FO)

Harvest of Beaver Creek

Name being Registered or Reported

HARVEST OF OHIO LLC

Name of the Registrant

Note: If the registrant is a partnership, please provide the name of the partnership. Individual partner names are not permitted but are required on page 2 of the form.

Registrant's EIN number (if registered with Ohio Secretary of State): 39 00431

All registrants must complete the information in this section

The general nature of business conducted by the registrant:

The Company has been formed for the purpose of conducting any business that may lawfully be conducted by a limited liability company formed under the laws of the State of Ohio

Business address:

47 HIND KENDYUSTRA PARKWAY

Mailing Address

CLEVELAND

City

OH

State

44109

ZIP Code

Complete the information in this section if registrant is a partnership NOT registered in Ohio pursuant to ORC 1776, if partnership is registered, provide registration number on page one.

Provide the name and address of at least one general partner:

Name

Address

NOTE: Pursuant to OAG 89-081, if a general partner is a foreign corporation/limited liability company, it must be licensed to transact business in Ohio; if a general partner is a foreign corporation/limited liability company licensed in Ohio under an assumed name, please provide the assumed name and the name as registered in its jurisdiction of formation.

By signing and submitting this form to the Ohio Secretary of State, the undersigned hereby certifies that he or she has the requisite authority to execute this document.

Required

Application must be signed by the registrant or an authorized representative.

ARIANE KIRKPATRICK

Signature

By (if applicable)

If authorized representative is an individual, then they must sign in the "signature" box and print their name in the "Print Name" box.

Print Name

If authorized representative is a business entity, not an individual, then please print the business name in the "signature" box, an authorized representative of the business entity must sign in the "By" box and print their name in the "Print Name" box.



DATE	DOCUMENT ID	DESCRIPTION	FILING	EXPED	CERT	COPY
05/19/2021	202113802192	TRADE NAME REGISTRATION (RNO)	39.00	0.00	0.00	0.00

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TUCKER ELLIS LLP
950 MAIN AVENUE
SUITE 1100
CLEVELAND, OH 44113

STATE OF OHIO CERTIFICATE

Ohio Secretary of State, Frank LaRose
4681815

It is hereby certified that the Secretary of State of Ohio has custody of the business records for
HARVEST OF ATHENS

and, that said business records show the filing and recording of:

Document(s)

TRADE NAME REGISTRATION

Effective Date: 05/18/2021

Document No(s):

202113802192

Date of First Use: 05/17/2021

Expiration Date: 05/18/2026

HARVEST OF OHIO LLC
4711 HINCKLEY INDUSTRIAL PARKWAY
CLEVELAND, OH 44109



United States of America
State of Ohio
Office of the Secretary of State

Witness my hand and the seal of the
Secretary of State at Columbus, Ohio this
19th day of May, A.D. 2021.

Frank LaRose
Ohio Secretary of State

Form 534A Prescribed by:



Date Electronically Filed: 5/18/2021

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OhioSoS.gov | business@OhioSoS.govFile online or for more information: OhioBusinessCentral.gov

Name Registration

Filing Fee: \$39

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Trade Name
(167-RN O)

Date of first use:

5/17/2021

MM/DD/YYYY



Fictitious Name
(169-N FO)

Harvest of Athens

Name being Registered or Reported

HARVEST OF OHIO LLC

Name of the Registrant

Note: If the registrant is a partnership, please provide the name of the partnership. Individual partner names are not permitted but are required on page 2 of the form.

Registrant's Entity Number (if registered with Ohio Secretary of State): 3900431

All registrants must complete the information in this section

The general nature of business conducted by the registrant:

The Company has been formed for the purpose of conducting any business that may lawfully be conducted by a limited liability company formed under the laws of the State of Ohio

Business address:

4711 HINC KLMND USTRIAPA RKW

Mailing Address

CLEVELAND

City

OH

State

44109

ZIP Code

Complete the information in this section if registrant is a partnership NOT registered in Ohio pursuant to ORC 1776, if partnership is registered, provide registration number on page one.

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Name

Address

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Required

Application must be signed by the registrant or an authorized representative.

ARIANE KIRKPATRICK

Signature

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By (if applicable)

Print Name

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DATE	DOCUMENT ID	DESCRIPTION	FILING	EXPED	CERT	COPY
05/19/2021	202113802236	TRADE NAME REGISTRATION (RNO)	39.00	0.00	0.00	0.00

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TUCKER ELLIS LLP
950 MAIN AVENUE
SUITE 1100
CLEVELAND, OH 44113

STATE OF OHIO CERTIFICATE

Ohio Secretary of State, Frank LaRose
4681816

It is hereby certified that the Secretary of State of Ohio has custody of the business records for
HARVEST OF COLUMBUS

and, that said business records show the filing and recording of:

Document(s)

TRADE NAME REGISTRATION

Effective Date: 05/18/2021

Document No(s):

202113802236

Date of First Use: 05/17/2021

Expiration Date: 05/18/2026

HARVEST OF OHIO LLC
4711 HINCKLEY INDUSTRIAL PARKWAY
CLEVELAND, OH 44109



United States of America
State of Ohio
Office of the Secretary of State

Witness my hand and the seal of the
Secretary of State at Columbus, Ohio this
19th day of May, A.D. 2021.

Ohio Secretary of State

Form 534A Prescribed by:



Date Electronically Filed: 5/18/2021

Toll Free: 877.767.3453 | Central Ohio: 614.466.3910

OhioSoS.gov | business@OhioSoS.govFile online or for more information: OhioBusinessCentral.gov

Name Registration

Filing Fee: \$39**Form Must Be Typed****CHECK ONLY ONE (1) Box**Trade Name
(167-RNO)

Date of first use:

5/17/2021

MM/DD/YYYY

Fictitious Name
(169-NFO)

Harvest of Columbus

Name being Registered or Reported

HARVEST OF OHIO LLC

Name of the Registrant

Note: If the registrant is a partnership, please provide the name of the partnership. Individual partner names are not permitted but are required on page 2 of the form.

Registrant's Entity Number (if registered with Ohio Secretary of State): 3900431

All registrants must complete the information in this section

The general nature of business conducted by the registrant:

The Company has been formed for the purpose of conducting any business that may lawfully be conducted by a limited liability company formed under the laws of the State of Ohio

Business address:

4711 HINCKLEY INDUSTRIAL PARKWAY

Mailing Address

CLEVELAND

City

OH

State

44109

ZIP Code

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By (if applicable)

Print Name

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**HARVEST HEALTH and RECREATION
LEGAL ISSUES PENNSYLVANIA**

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NEWS BRIEF

PA regulators allege Harvest Health misrepresented its state marijuana holdings

Published April 11, 2019



Pennsylvania regulators are threatening to take away the medical marijuana dispensary licenses of Arizona-based Harvest Health & Recreation for allegedly misrepresenting its cannabis holdings in the state.

The issue stems from claims Harvest made earlier this week when announcing the acquisition of CannaPharmacy, The (Philadelphia) Inquirer reported Thursday.

Here's the crux of the situation:

In its news release, Harvest said it has seven state licenses allowing "up to 21 retail stores" in Pennsylvania and that the acquisition of CannaPharmacy would include a 46,800-square-foot cultivation and processing facility in the state.

Pennsylvania's medical marijuana law, however, caps the number of dispensaries a company can operate at 15 and bans the transfer of cannabis permits.

In a letter sent to Harvest on Wednesday, state regulators accused the multistate company of "blatant misrepresentation" in terms of the dispensaries and said the cultivation permit would not be allowed to be transferred from CannaPharmacy's Franklin

The letter was signed by John Collins, director of the state's medical marijuana program.

In a statement emailed Thursday to *Marijuana Business Daily*, Harvest wrote: "This is a new and particularly acquisitive time in the cannabis industry and many transactions involve assets that fall within a number of individual state regulatory systems.


"Harvest will always evaluate its options in order to be fully compliant in any state in which it operates."

The dispensary's claim particularly upset regulators because Pennsylvania allows a single company to have only five licenses, with each permit entitling the company to open up to three dispensaries.

Harvest apparently got around that requirement by forming seven limited liability companies, which applied for and won permits.

In the letter, regulators told Harvest it can't represent those permits as company licenses.

Instead, it must operate each permit as an independent entity, and any "continued misrepresentation" of the situation could lead to the "possible revocation" of the permits.

 *In Harvest Health & Recreation CEO Steve White and Investor Intelligence Editor Lisa Bernard-Kuhn for a webcast on Tuesday, April 16, at 11 a.m. ET. Get access to this exclusive conversation, as well as in-depth market analysis and premium features on cannabis investing trends with a premium [Investor Intelligence subscription](#).*



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Wednesday, September 1, 2021

Today's Paper



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ENTERTAINMENT

Marijuana



Pennsylvania cracks down on Big Marijuana, threatens to shut out biggest permit holder

The action was prompted by what officials called “blatant misrepresentation” in a statement issued by Harvest Health & Recreation, which announced Tuesday that it is acquiring a Pennsylvania weed company.



ADVERTISEMENT

Marijuana leaves at Garden State Dispensary in Woodbridge, N.J., whose parent company, Franklin Labs, has just one of 12 licenses granted to grow medical marijuana in Pennsylvania.

Ed Hille / File Photograph

by Sam Wood

Updated Apr 11, 2019

In an unprecedented move, Pennsylvania on

Wednesday, September 1, 2021

Today's Paper



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The action was prompted by what officials called “blatant misrepresentation” in a statement issued by Harvest Health & Recreation, which announced Tuesday that it is acquiring a Pennsylvania weed company.

Harvest claimed that its multimillion dollar deal to acquire CannaPharmacy would make it one of the biggest marijuana companies in the nation. As part of the deal, Harvest said it would gain ownership of a marijuana growing operation in Reading. In addition, the company claimed it owned rights to open a total of 21 retail marijuana dispensaries.

That contradicts the state medical marijuana law, which caps the number of dispensaries a company may operate at 15 and prohibits transfer of permits.

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into a larger problem that regulators, including in Massachusetts, are grappling with: big businesses trying to take advantage of legal loopholes, often

effectively shutting smaller entrepreneurs out of a lucrative but nascent industry.

It was the first time state regulators had heard of CannaPharmacy, which cast itself as the parent of Franklin Labs LLC.

Pennsylvania regulators, however, are very familiar with Franklin Labs, which holds a permit to grow cannabis in a former Pepsi warehouse near Reading. Though the politically well-connected company (it's chairman is former Gov. Tom Wolf adviser John Hanger) was deemed operational more than a year ago, it has yet to provide a single gram of marijuana to any medical marijuana dispensary in Pennsylvania.

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Pennsylvania footprint “a blatant misrepresentation.” And, the health department stated that Franklin Labs’ grow permit is “nontransferable under Section 603(B) of the Medical Marijuana Act.”

ADVERTISEMENT

Harvest said it “is fully committed to always operating within state guidelines and working closely with Pennsylvania’s Department of Health on their medical cannabis program.”

Even if the state does allow Harvest to acquire Franklin Labs, the state’s letter said, “Franklin Labs will retain ownership of the permit and Harvest Health & Recreation Inc. may not represent that it owns the permit issued to Franklin Labs LLC.”

Harvest (OTC: HRVSF) also claimed to own permits that would allow it to open 21 retail dispensaries. The Department of Health said that was not true. In its rebuke to the company’s CEO, Steve White, the health department said Harvest “did not apply for, or receive, any permits in Pennsylvania.”

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Wednesday, September 1, 2021

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Which is technically correct.

That's because Harvest won more permits to sell marijuana than Pennsylvania allows,

by using multiple affiliates to apply and receive permits in the state.

Under state regulations, a company may own only five. Each of the permits allows for three marijuana dispensaries. So, instead of applying as Harvest Health & Recreation, the company applied as seven limited liability companies. Each of its seven applications was a winner.

"Because each business is recognized as a separate legal entity under law, the department expects each to operate as independent entities as represented in the permit applications," said the letter, signed by John Collins, the director of the state's medical marijuana program.

"Any continued misrepresentation that these entities are one and the same will be construed as a falsification of the permit applications and will result in the office taking action against each entity, including possible revocation of permits."

Published April 11, 2019

Wednesday, September 1, 2021

Today's Paper



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Wednesday, September 1, 2021

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NEWS

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ENTERTAINMENT

HARVEST HEALTH and RECREATION
LEGAL ISSUES ARIZONA
MOLLIE MCCURDY

COPY

APR 23 2020

CLERK OF THE SUPERIOR COURT
R. MERINO
DEPUTY CLERK

MIDTOWN LAW
2828 N. Central Avenue,
Suite 1017
Phoenix, AZ 85004
602.900.9333

Tabitha R. Myers, SBN 030001
tmyers@midtownlawaz.com
Attorney for Plaintiff

**IN THE SUPERIOR OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

MOLLIE MCCURDY

Plaintiff,

v.

RANDY TAYLOR CONSULTING,
LLC, an Arizona limited liability
company; HARVEST DISPENSARIES,
CULTIVATIONS AND
PRODUCTION FACILITIES, LLC; an
Arizona limited liability company;
BLACK PARTNERSHIP I-X; and XYZ
CORPORATIONS I-X,

Defendants.

Case No. CV 2020-005013

COMPLAINT

(Jury Trial Requested)

Mollie McCurdy, for her Complaint against Defendants, alleges as follows:

JURISDICTION & VENUE

1. At all times material hereto, Plaintiff Mollie McCurdy ("Plaintiff" or "Plaintiff McCurdy") is and was a resident of Maricopa County, Arizona.
2. Upon information and belief, Defendant Randy Taylor Consulting, LLC is an Arizona corporation, doing business in Maricopa County, Arizona.
3. Harvest Dispensaries, Cultivations, and Production Facilities, LLC is an Arizona

1 limited liability company, doing business in Maricopa County, Arizona.

2
3 4. Black and White corporations I-X and XYZ Partnerships I-X are fictitious names to
4 designate unknown corporations and partnerships who may have in some manner
5 contributed to Plaintiff's injuries and damages and are liable therefor. The true names for
6 said Defendants are unknown to the Plaintiff at this time and leave of Court is sought to
7 amend this Complaint to include their true names when, and if, ascertained.
8

9 5. This Court has jurisdiction pursuant to applicable Arizona law as set forth herein.

10 6. Venue is proper in this Court as the parties are residents of Maricopa County,
11 Arizona and/or are doing business in Arizona and thus availing themselves to Arizona law,
12 and the events underlying this lawsuit occurred in Maricopa County, Arizona.
13

14 GENERAL FACTUAL ALLEGATIONS

15 7. Plaintiff re-alleges and incorporates by reference the allegations set forth in each of
16 the proceeding paragraphs of the Complaint as if set forth fully herein.
17

18 8. In Arizona, Medical marijuana dispensaries, such as Harvest, are regulated by the
19 Arizona Medical Marijuana Act ("AMMA"), A.R.S. § 36-2801, *et seq.*, which grants
20 Arizona Department of Health Services (hereafter "AZDHS") rule-making authority to
21 regulate the medical marijuana industry.
22

23 9. Defendants Randy Taylor Consulting, LLC and Harvest Dispensaries, Cultivations
24 and Production Facilities, LLC (collectively, "Harvest"), as well as other unnamed entities,
25 jointly own and operate several medical marijuana dispensaries in the State of Arizona, and
26 in several other states across the United States.
27
28

1 10. Plaintiff McCurdy was hired by Harvest as a New Store Opener and Trainer
2 (referred to internally at Harvest as an "NSO") on May 24, 2019.
3

4 11. For the first month of her employment with Harvest, Plaintiff McCurdy did not have
5 a Dispensary Agent ("DA") card to enter the dispensaries on behalf of Harvest.
6

7 12. At that time, it was Harvest policy that only employees with valid DA card could
8 conduct work on behalf of Harvest at the dispensary.

9 13. Under Arizona law, all persons performing work or volunteering in a dispensary must
10 hold a valid DA card. *See* A.R.S. § 36-2804.01.
11

12 14. During that time when she was waiting to receive her DA card, Harvest provided
13 very minimal job training for Plaintiff McCurdy in her position as NSO.

14 15. For example, Plaintiff McCurdy received roughly sixty minutes of training with
15 Nicki Lewis (Director of Licensing), but was told several times during that training that the
16 policies she was being trained on were probably out of date, or no longer applicable.
17

18 16. Under Arizona law, dispensaries are required to develop, document and implement
19 policies and procedures regarding, among other things, personnel duties, responsibilities
20 and qualifications; personnel supervision; and, training in and adherence to confidentiality
21 requirements. *See* A.A.C. Sec. R9-17-310.
22

23 17. No such training was provided to Plaintiff McCurdy.
24

25 **A. VIOLATIONS AT TUCSON, GLENDALE, AND SCOTTSDALE HARVEST LOCATIONS**

26 18. On June 24, 2019, Plaintiff McCurdy was notified by Chantelle Elsner (Director of
27 Retail) that she was approved for a DA card in the Harvest Tucson and Tempe locations,
28

1 and that she could commence work on-site at the Tucson location.

2
3 19. While working at the Harvest Tucson location, it became clear that there were many
4 compliance issues plaguing the Tucson location, which Plaintiff McCurdy would eventually
5 discover plagued other Arizona locations, as well.

6
7 20. Beginning in June of 2019, Plaintiff McCurdy began to raise issues to upper
8 management at Harvest about violations of the AMMA at Harvest dispensary locations and
9 encapsulated in Harvest policies.

10 i. STORING MARIJUANA PRODUCT IN MANAGER'S OFFICE

11
12 21. For example, Heidi Allen, General Manager of the Harvest Tucson location, told
13 Plaintiff McCurdy that she stores marijuana products in the manager's office, but will move
14 it out of the manager's office when AZDHS performs an inspection.

15
16 22. Under Arizona law, all marijuana product must be stored in a secured area with
17 access by authorized personnel only, and with certain minimum-security equipment to deter
18 and prevent unauthorized access. *See* A.A.C. Sec. R9-17-318 and A.R.S. § 36-2806(C).

19
20 23. Upon information and belief, the manager's office at the Tucson location did not
21 meet those minimum security and access requirements.

22
23 24. Moving the marijuana product before and after an AZDHS inspection, also indicates
24 an intent to defraud AZDHS.

25 ii. LACK OF BATCH AND STRAIN INFORMATION FOR RAINBOW SHAKE

26 25. On June 28, 2019, Randall Uberecken (Head of West Coast Purchasing) e-mailed
27
28

employees giving them the “static (not unique) batch number” for rainbow shake¹.

26. Plaintiff McCurdy went to Alyssa Sofferin (Compliance Specialist) and informed her that using static batch numbers was not compliant with the AMMA, as the medical marijuana patients purchasing the rainbow shake would not be able to track and trace the batch numbers associated with the strains they use to create the rainbow shake product.

27. Under Arizona law, medical marijuana provided to a patient must be labeled with, among other information, the amount, strain, and batch number of medical marijuana. *See* A.A.C. Sec. R9-17-317.

iii. ALLOTMENT INPUT VIOLATION

28. As Plaintiff McCurdy expanded her work into Harvest’s Glendale and Scottsdale locations, she discovered more violations of the AMMA in those facilities as well.

29. AZDHS requires dispensaries to input medical marijuana sold by the dispensaries in the Medical Marijuana Verification System (“MMVS”).

30. The requirements and instructions for using the MMVS are set out in the Dispensary Handbook, and are considered part of the rules implemented by AZDHS under the AMMA. *See* A.R.S. § 41-1001(17).

31. The Dispensary Handbook details the procedure for inputting medical marijuana sold in the MMVS, including entering in quantities into the appropriate categories: Medical Marijuana (the dried flower of the marijuana plant); Edibles (items sold for consumption

¹ Shake is generally known as the small, loose pieces that fall off the cannabis dried bud.

1 that contain medical marijuana); or Non-Edibles (any non-edible items, such as
2 concentrates, sold that contain medical marijuana).

3
4 32. The AMMA also states that a qualifying patient is only allowed to purchase two and
5 one-half ounces of medical marijuana during any 14-calendar-day period. *See, e.g., A.A.C.*
6 *Sec. R9-17-314 and A.R.S. § 36-2801(1).*
7

8 33. By entering the medical marijuana product purchased into the proper categories, it
9 allows the DAs and AZDHS to ensure the patient is not receiving more medical marijuana
10 than is allowed in a 14-calendar-day period.
11

12 34. On June 29, 2019 Plaintiff McCurdy discovered Harvest was improperly training
13 employees to enter the category of “Medical Marijuana” for all medical marijuana products
14 sold, including non-flower products, such as concentrates and edibles, which should have
15 been input into the “Edibles” or “Non-Edibles” category.
16

17 35. On July 1, 2019, Rachel Abousaleh (Member of the Compliance Department under
18 the leadership of Alyssia Soffrin (West Coast Compliance Manager)) sent an e-mail to
19 Plaintiff McCurdy and others, confirming that the allotment input practices of Harvest were
20 in violation of the AMMA, noting that the allotment issue could lead to a “huge discrepancy
21 in product inventory and other compliance matters with DHS.”
22

23 36. On July 8, 2019, Alyssia Sofferin (West Coast Compliance Manager) e-mailed Ms.
24 McCurdy and other Harvest employees, instructing them not to correct the allotment issue,
25 despite the practice violating the AMMA.
26

27 iv. STORING PRODUCT IN THE CEILING
28

1 37. On July 7, 2019, Plaintiff McCurdy discovered and subsequently informed Adrienne
2
3 D'Aquisto (District Manager of Arizona) that marijuana product was being stored in the
4 ceiling in Harvest's Glendale dispensary because they did not have enough room in the
5 secure storage room.

6
7 38. Under Arizona law, all marijuana product must be stored in a secured area with
8 access by authorized personnel only, and with certain minimum-security equipment to deter
9 and prevent unauthorized access. *See* A.A.C. Sec. R9-17-318 and A.R.S. § 36-2806(C).

10 v. WEIGHT, CONVERSION AND LABELLING ISSUES
11

12 39. Plaintiff McCurdy discovered several issues in the Glendale dispensary regarding
13 weight and conversion of weights of the dried medical marijuana product which violated the
14 AMMA.

15
16 40. Plaintiff McCurdy discovered that products containing only Cannabidoil ("CBD")
17 were being sold in the lobby of the Glendale store, but were labelled with labels indicated
18 that the product contained 0.5g of medical marijuana.

19
20 41. Plaintiff McCurdy also discovered CBD products sold in the lobby of the Glendale
21 store, which contained Tetrahydrocannabinol ("THC") percentages over the amounts
22 allowed by federal and state law.

23
24 42. These products were being held in a non-secure room (the lobby), and were sold to
25 non-qualifying patients, in violation of the AMMA.

26 43. On July 8, 2019, Plaintiff McCurdy sent an e-mail to several Harvest managers,
27 informing them of these issues and several others, at the Glendale dispensary.
28

1 44. Harvest's Scottsdale, Glendale, and multiple other Harvest dispensary locations had
2 medical marijuana listed in their Point of Sale ("POS") system with the medical marijuana
3 weight listed as "zero" when that was not accurate, in violation of the AMMA. *See* A.R.S.
4 § 36-2806.02 and A.A.C. Sec. R9-17-317.
5

6
7 45. On July 3, 2019, Plaintiff McCurdy sent an email to Stephen Teran (General
8 Manager of Scottsdale) regarding the blank label issue.

9 46. On July 9, 2019, Chantelle Elsner (Director of Retail) e-mailed Plaintiff McCurdy
10 and the members of her NSO team, informing them that compliance issues in Arizona
11 should only be reported to Adrienne D'Aquisto and Alyssa Sofferin.
12

13 vi. FALSE STATEMENTS TO AZDHS REGARDING MANAGEMENT

14 47. While Plaintiff McCurdy worked in the Glendale location, Ms. Elsner and Ms.
15 D'Aquisto informed her that Harvest was going to falsely state in writing that Plaintiff
16 McCurdy was the General Manager of the Glendale location in charge of inventory.
17

18 48. AZDHS regulations require a written acknowledgment of the individual responsible
19 for overseeing the dispensary's inventory. *See* AAC Sec. R9-17-316(A).
20

21 49. Ms. McCurdy was not the General Manager of Glendale in charge of inventory, and
22 did not feel comfortable with Harvest reporting that false information to AZDHS.
23

24 50. Plaintiff McCurdy told Ms. D'Aquisto that she was not comfortable with Harvest
25 listing her as the General Manager for Glendale, not only because it was not factual, but
26 because it violated the law.

27 51. Blanca Rojas, who was the Assistant General Manager for Harvest's Havasu location
28

1 (and who would be temporarily assisting in the Glendale location), was approached by Ms.
2
3 D'Aquisto with the same request to falsely list Ms. Rojas as the General Manager of the
4 Glendale location in charge of inventory.

5 52. Upon information and belief, Ms. Rojas agreed, and Ms. Rojas was listed as the
6 General Manager in charge of inventory on documents submitted to AZDHS.
7

8 53. However, Ms. Rojas was not the General Manager of Glendale in charge of
9 inventory, and was travelling to and from the Glendale location from Havasu only every
10 other week.
11

12 **B. MISCELLANEOUS VIOLATIONS**

13 54. In addition to the store-specific violations, Plaintiff McCurdy discovered and raised
14 several other violations of Arizona and other state law to Harvest managers.
15

16 **i. FALSE ADVERTISING**

17 55. On December 7, 2019, Lisa Peru e-mailed Randall Uberecken, after discovering that
18 several testing results for medical marijuana flower was not yet available.
19

20 56. Randall Uberecken responded, directing that since third-party testing is not yet
21 required under Arizona law, and since Harvest needed the flower in its stores, they will
22 move forward with bringing in the flower un-tested.
23

24 57. Plaintiff McCurdy raised her concerns with her direct manager, Trina Keith, noting
25 that Harvest policy is that its flower is always third-party tested.

26 58. Plaintiff McCurdy noted that Harvest had advertised on billboards that it is "always
27 third-party tested."
28

1 59. Arizona law prohibits advertising that is false or fraudulent. *See* A.R.S §§ 44-1522
2 and 13-2203.
3

4 60. Despite these objections, the medical marijuana flower was still put in place in the
5 store for sale.
6

7 61. Upon information and belief, marijuana product is still being sold at Harvest's Urban
8 Greenhouse and all other Harvest locations that is not always third-party tested despite
9 being advertised as such.
10

11 ii. COMPLIANCE VIOLATIONS AT HARVEST EVENTS

12 62. On several instances, Plaintiff McCurdy witnessed or learned of public consumption
13 of medical marijuana by Harvest management in violation of Harvest's alleged policy and
14 Arizona law.
15

16 63. On August 24, 2019, Harvest held a "Grillin n' Chillin" event where then-Director
17 of Events, Kimberley Owies, obtained medicated chocolate chips and put them in CBD-
18 infused ice cream. Ms. Owies then consumed the medicated ice cream while working at the
19 event, and offered it to Adrienne D'Aquisto (District Manager of Arizona) and other
20 Harvest employees.
21

22 64. Upon information and belief, Ms. Owies did not have a valid medical marijuana
23 patient card to obtain the medicated chocolate chips, nor was the distribution of the
24 medicated product input in the state MVSS system in violation of Arizona law. *See* A.R.S.
25 § 36-2806.
26

27 65. At no time did Ms. D'Aquisto intervene in the unlawful distribution of medical
28

1 marijuana product by Ms. Owies.

2
3 66. Ms. D'Aquisto was one of the two people to whom Plaintiff McCurdy was previously
4 told to report compliance issues.

5 67. On September 15, 2019 Harvest held a launch party to celebrate the launch of the
6
7 "Cookies" partnership and brand.

8 68. During the launch party, Harvest stored marijuana product in the office suite next
9 door to the dispensary due to the limited space available for the launch party.

10 69. Upon information and belief, the space next door did not meet security requirements
11 to store marijuana product under Arizona law, nor was it approved by AZDHS as a
12 dispensary space.
13

14 70. In November of 2019, Harvest held a Happy Hour at Pedal Haus in Tempe, Arizona
15 for its Retail and Procurement team members.
16

17 71. At the Happy Hour event, Allison Benedict (Director of Procurement) as well as
18 other Harvest employees left the venue to smoke a marijuana joint and invited Plaintiff
19 McCurdy to join them.
20

21 72. Chantelle Elsner (Director of Retail) was present with Ms. Benedict, and invited
22 Plaintiff McCurdy to join the others in smoking the joint, knowing that she would later be
23 working a shift at the Harvest Scottsdale location.
24

25 73. Plaintiff McCurdy declined their invitation.

26 74. This incident occurred after Harvest had rolled out a "drug-free workplace" policy.

27 75. Upon information and belief, this consumption occurred in a public place, in
28

1 violation of Arizona law.

2
3 **C. EVENTS IN LITTLE ROCK, ARKANSAS**

4 76. In January of 2020, Kimberly Owies, Trina Keith (Retail SOP Manager), Plaintiff
5
6 McCurdy and one other Harvest employee flew to Little Rock, Arkansas to help open the
7 first dispensary in that city.

8 77. On January 23, 2020, while in a vehicle on the way to a training event, Plaintiff
9
10 McCurdy was discussing that Arkansas regulations required team members to have a
11 dispensary agent card on their person to conduct business on behalf of the dispensary, which
12 they did not have at that time.

13 78. Ms. Owies proceeded to tell the group that while she was attending the "MJBizCon"
14
15 Convention in Las Vegas, Nevada with Jason Vidadi, (then- Executive Chairman of the
16 Board of Directors for Harvest), Mr. Vidadi complained to Ms. Owies and others present
17 that the only people making money in the cannabis business are the ones not in compliance.

18 79. Ms. Owies then shared with the group that Mr. Vidadi suggested that Harvest
19
20 employees should not be so rigid when it came to compliance issues so that Harvest could
21 make more money.

22 80. Ms. Owies used the comment by Mr. Vidadi as an opportunity to tell the group that
23
24 they should be more flexible and "bend a little" when it came to compliance.

25 81. This request by Ms. Owies came the same day as a raid by Jonesboro, Arkansas police
26
27 of the home of Harvest manager Nicholas Nielsen, who allegedly was growing marijuana in
28 his own home to help support Harvest cultivation operations.

1 82. Mr. Nielson was arrested by Jonesboro police in that raid, and faces various criminal
2 charges for his alleged violation of Arkansas law, which upon information and belief, was
3 conducted on behalf of Harvest.
4

5 **D. ARIZONA NATURAL SELECTIONS ACQUISITION**
6

7 83. In February of 2020, Harvest acquired four additional Arizona dispensary licenses.

8 84. Despite knowing that this acquisition was imminent, Harvest had not obtained the
9 requisite DA cards for its employees to assist in the acquisition.
10

11 85. On February 13, 2020, Plaintiff McCurdy was told that she and the rest of the store
12 operations team would have to go into the newly acquired stores to conduct an inventory
13 without the requisite DA cards required by the AMMA.
14

15 86. Plaintiff McCurdy and the store operations team were told they would be wearing
16 visitor badges to conduct Harvest business.

17 87. Plaintiff McCurdy and her supervisor, Trina Keith went to Terressa DeHaven
18 (Associate General Counsel and Chief Compliance Attorney) informing her that they did
19 not want to go into the newly acquired dispensaries without the required DA card.
20

21 88. Ms. DeHaven falsely told Plaintiff McCurdy that going into the dispensary with a
22 visitor badge to conduct Harvest business was a legal "gray area" and that it was her
23 professional interpretation that the AMMA did not require Harvest employees to have a
24 DA card to conduct business at the dispensary on behalf of Harvest.
25

26 89. Under A.R.S. § 36-2804.01 an employee must be registered with the department
27 before "volunteering or working" at a medical marijuana dispensary.
28

1 90. AZDHS regulations also require that a dispensary must ensure that each dispensary
2 agent has the dispensary agent's registry identification card ("DA card") in the dispensary
3 agent's immediate possession when the dispensary agent is working at the dispensary. *See*
4 A.A.C. Sec. R9-17-310(A)(6); A.A.C. Sec. R9-17-311.
5

6 91. Plaintiff McCurdy pushed back against Ms. DeHaven's interpretation, noting that
7 AZDHS has been very clear on this rule, and that she did not want to go into the dispensary
8 without the proper DA credentials and risk having drug charges on their personal criminal
9 records due to this issue.
10

11 92. Ms. DeHaven said she would provide the team with the "least risky option" and that
12 Harvest had great insurance and great attorneys that would fight the criminal charges if they
13 got caught.
14

15 93. Concerned with the request by Ms. DeHaven to break the law for Harvest by going
16 into the dispensaries without the required DA cards, Plaintiff McCurdy went to the Ron
17 McCarthy (Human Resources Director) to explain and report the issue.
18

19 94. Plaintiff McCurdy and Trina Keith then left the office for a lunch break.
20

21 95. During lunch, Plaintiff McCurdy called AZDHS on her speaker phone so Ms. Keith
22 could listen in, and spoke with an AZDHS representative.
23

24 96. The AZDHS representative confirmed that Harvest employees are not allowed to be
25 on-site at a dispensary conducting business without a DA card.

26 97. The AZDHS representative also confirmed that the manner in which Harvest was
27 inputting the patients' allotment into the MMVS, was improper.
28

1 98. Finally, the AZFHS representative confirmed that massive inventory discrepancy
2 issues, such as the ones experienced by Harvest, were unacceptable, and were required to
3 be reported to AZDHS.
4

5 99. The AZDHS representative encouraged Plaintiff McCurdy to file a report.
6

7 100. After returning to the office from lunch, Plaintiff McCurdy filed a report with
8 AZDHS regarding the allotment issue discussed with the AZDHS representative through
9 the reporting portal on the AZDHS website.
10

11 101. Shortly after filing the report, Plaintiff McCurdy stood up from her desk and
12 observed Trina Keith meeting with Chantelle Elsner in a glass-walled meeting room.
13

14 102. Ms. Keith was talking with Ms. Elsner and was crying, in tears.
15

16 103. Plaintiff McCurdy then observed Ms. Keith being escorted to the Human
17 Resources office by Ms. Elsner.
18

19 104. Ms. Elsner saw Plaintiff McCurdy watching these events and approached her,
20 asking: "Can I help you with something?"
21

22 105. Plaintiff McCurdy inquires if Ms. Keith is okay, and whether they would be
23 required to go into the acquired dispensaries without the proper DA card.
24

25 106. Ms. Elsner responds, "I'm well aware and I'll be dealing with you later" and
26 walked away.
27

28 107. Fearing retaliation, and no longer able to work for a company asking her to
violate the law and ignore multiple violations of law, Plaintiff McCurdy e-mailed Ron
McCarthy (Human Resources Director), and notified him that she believed she has been

1 constructively discharged under A.R.S. § 23-1502 and left the office.

2
3 108. One hour after leaving the office, Plaintiff McCurdy was locked out of her
4 work e-mail by Harvest management.

5 109. Upon information and belief, later that same day, Chantelle Elsner and
6 Kimberly Owies held a meeting with the remaining Harvest retail operations team, telling
7 them that Trina Keith and Mollie McCurdy were no longer employed by Harvest.
8

9 **E. HARVEST'S RESPONSE TO PLAINTIFF MCCURDY'S REPORTS OF VIOLATIONS**

10
11 110. Throughout her employment with Harvest, Plaintiff McCurdy raised dozens
12 of violations of Arizona law as well as violations of other state law and local ordinances, the
13 majority of the time in writing, but also verbally.

14
15 111. Plaintiff McCurdy's reports were met with resistance, push-back, and even
16 hostility from Harvest management.

17 112. Harvest's management felt that opening new dispensaries and "flipping"
18 newly-acquired dispensary stores into the "Harvest model" was the primary importance,
19 and that following the law, or "compliance" was secondary.
20

21 113. On many occasions, Plaintiff McCurdy attempted to follow-up on violations
22 she had reported, but was ignored, or otherwise did not receive a response to her inquiry.

23
24 114. Plaintiff McCurdy was called a "Compliance Nazi" by her supervisor
25 Chantelle Elsner, and was told to "chill out" by Ms. Elsner and other managers.

26 115. Plaintiff McCurdy was also warned to "be careful" because certain persons
27 in management at Harvest were "untouchable."
28

1 116. Plaintiff McCurdy reported those violations to her manager and other various
2 managers, who were unable or unwilling to make the necessary corrections.
3

4 117. Plaintiff McCurdy reported these ongoing issues on several occasions to
5 Human Resources representatives, Ron McCarthy and Samantha Pomerantz.
6

7 118. The Human Resources team expressed sympathy, but were unable to help,
8 and in fact, told Plaintiff McCurdy that they were "selling a dream [to prospective
9 employees] that turned out to be a nightmare."
10

11 119. On January 23, 2020, Plaintiff McCurdy asked to be transferred out of the
12 retail department due to the retail department's senior management "cavalier and unlawful
13 attitude towards maintaining compliance in our new and existing dispensaries."
14

15 120. Ms. McCurdy was told by Ron McCarthy (Human Resources Director) that
16 she needed to return to the retail department because there were no open positions available
17 for her to move to.

18 121. Ms. McCurdy continued to work in the retail department until February 13,
19 2020, when she was asked to violate the law by working in newly acquired Harvest
20 dispensaries without the proper DA credentials.
21

22 122. On February 14, 2020, Plaintiff McCurdy contacted Ron McCarthy (Human
23 Resources Director) to inquire as to her status of employment with Harvest due to the fact
24 that she was locked out of her e-mail and had learned of the statements made by Chantelle
25 Elsner and Kimberly Owies to the retail team that she was no longer employed by Harvest.
26

27 123. Mr. McCarthy informed Plaintiff she was still an employee of Harvest and
28

1 that they would investigate her compliance violation complaints.

2
3 124. Harvest hired outside counsel to investigate Ms. McCurdy's claims, and Ms.
4 McCurdy participated in that investigation.

5 125. On March 18, 2020, Harvest responded to Ms. McCurdy acknowledging a
6
7 "few compliance issues Harvest recognizes as areas for follow-up or review" but declined
8 to admit that her other complaints violated the law.

9 126. Specifically, Harvest's March 18, 2020 correspondence did not address
10 whether Ms. McCurdy would be required to go on-site at another dispensary without the
11 proper DA card.

12 127. Harvest's March 18, 2020 correspondence invited Ms. McCurdy to return to
13 work, claiming that "Chantelle Elsner will not be in her supervisory reporting chain."

14 128. However, Ms. McCurdy discovered through conversations with her
15 colleagues on the retail team that Ms. Elsner was still a supervisor of the retail team, in
16 contradiction to Harvest's statements.

17 129. Ms. McCurdy declined to return to work at Harvest due to Harvest's
18 misrepresentations in its March 18, 2020 correspondence and failure to address many of the
19 violations of law she raised and/or the dismissal and downplaying of the violations she
20 raised, and their previous requests for her to break Arizona law.

21
22
23
24
25 **COUNT ONE**

26 **Violation of A.R.S. § 23-1502**

27 130. Plaintiff re-alleges and incorporates by reference the allegations set forth in
28 each of the preceding paragraphs of the Complaint as if set forth fully herein.

1 131. A.R.S. § 23-1502 provides in relevant part that constructive discharge may be
2 established where, as here, there is “evidence of objectively difficult or unpleasant working
3 conditions to the extent that a reasonable employee would feel compelled to resign, or
4 “evidence of outrageous conduct by the employer or a managing agent of the employer,”
5 including conduct that “would cause a reasonable employee to feel compelled to resign.”
6
7

8 132. Harvest created, maintained, permitted and/or fostered the objectively
9 difficult or unpleasant working conditions and the continuous pattern of violation of Arizona
10 law, and asking employees to violate Arizona law.
11

12 133. Plaintiff McCurdy delivered the appropriate written notice to the appropriate
13 representative of Harvest that a working condition exists that she believed was so objectively
14 difficult or unpleasant that the employee felt compelled to resign or intends to resign.
15

16 134. Plaintiff McCurdy gave Harvest more than fifteen days to respond in writing
17 to the matters she presented.

18 135. Defendant Harvest did not respond to all of Plaintiff McCurdy’s complaints,
19 and dismissed and/or downplayed the remaining complaints, and falsely stated she would
20 not have to report to the same supervisors that asked Plaintiff McCurdy to violate Arizona
21 law.
22

23 136. In any event, Harvest waived its right to notice by failing to make the posting
24 described in A.R.S. § 23-1502(E).
25

26 137. In any event, the provisions in A.R.S. § 23-1502(F) apply to permit Plaintiff
27 McCurdy to bring her constructive discharge claim without prior written notice as a result
28

1 of the outrageous conduct by Defendants Harvest, acting through its employees and acting
2 jointly and severally, that included a continuous pattern of violation of Arizona law and
3 asking employees to violate Arizona law, all constituting conduct that would cause a
4 reasonable employee to feel compelled to resign.
5

6
7 138. Plaintiff McCurdy felt compelled to resign as a result of the objectively
8 difficult or unpleasant working conditions and did in fact resign effective March 25, 2020.

9
10 139. As a direct and proximate result of the actions and omissions of Defendants
11 Harvest, acting directly and vicariously through its employees, Plaintiff McCurdy lost her
12 employment, including the income she was earning from that employment, her accrued
13 benefits, and continued and continues to suffer a loss of income thereafter while she
14 attempts to obtain employment.
15

16 140. As a direct and proximate result of the actions and omissions of the
17 Defendants Harvest, Plaintiff McCurdy suffered loss of employment opportunities.

18
19 141. As a direct and proximate result of the actions and omissions of the
20 Defendants Harvest, acting jointly and severally, Plaintiff McCurdy suffered loss of quality
21 of life and disruption of relationships, experienced pain and suffering and suffered other
22 damages in an amount to be determined at trial.

23
24 142. Defendants Harvest pursued a course of conduct, knowing that it created a
25 substantial risk of significant harm to Plaintiff McCurdy and/or was taken in disregard to
26 her interest and for the motive of profit, to the extent that punitive damages are warranted.

27 WHEREFORE, Plaintiff McCurdy prays for judgment against Defendants Harvest as
28

1 follows:

- 2
- 3 A. For compensatory damages in an amount to be proven at trial;
- 4 B. For special damages including medical expenses incurred and to be incurred, loss
- 5 of income and loss of opportunity to earn income, loss of accrued retirement
- 6 benefits, and loss of other employment benefits.
- 7
- 8 C. For an award of punitive damages in an amount to be determined at trial;
- 9 D. For an award of attorneys' fees and costs incurred herein; and,
- 10 E. For such other and further relief as the Court deems just and proper.
- 11

12 **COUNT TWO**

13 **Violation of A.R.S. § 23-1501(C)**

14

15 143. Plaintiff re-alleges and incorporates by reference the allegations set forth in

16 each of the preceding paragraphs of the Complaint as if set forth fully herein.

17

18 144. Defendants Harvest jointly employed Plaintiff McCurdy for the purposes of

19 A.R.S. § 23-1501(C).

20 145. Defendants terminated Plaintiff McCurdy's employment in violation of

21 Arizona statutes in retaliation for refusing to commit an act or omission that would violate

22 the statutes and laws of the State of Arizona.

23

24 146. Defendants constructively terminated Plaintiff McCurdy's employment in

25 violation of Arizona statutes in retaliation for her disclosure in a reasonable manner to

26 persons she believed to be in a managerial or supervisory position, with the authority to

27 investigate the information she provided and to take action to prevent further violation of

28

1 the statutes and laws of this State.

2
3 147. Defendants constructively terminated Plaintiff McCurdy for her refusal to
4 commit an act or omission that would violate the statutes and laws of the State of Arizona.

5 148. The acts and omissions of Defendants Harvest caused the events that resulted
6 in the termination of Plaintiff McCurdy.
7

8 149. Defendants Harvest created, maintained, permitted and/or fostered the
9 objectively difficult or unpleasant working conditions and requests for Plaintiff McCurdy to
10 violate Arizona law.
11

12 150. As a direct and proximate result of the actions and omissions of Defendants
13 Harvest, acting directly and vicariously through its employees, Plaintiff McCurdy lost her
14 employment, including the income she was earning from that employment, her accrued
15 benefits, and continued and continues to suffer a loss of income thereafter while she
16 attempts to obtain employment.
17

18 151. As a direct and proximate result of the actions and omissions of the
19 Defendants Harvest, Plaintiff McCurdy suffered loss of employment opportunities.
20

21 152. As a direct and proximate result of the actions and omissions of the
22 Defendants Harvest, acting jointly and severally, Plaintiff McCurdy suffered loss of quality
23 of life and disruption of relationships, experienced pain and suffering and suffered other
24 damages in an amount to be determined at trial.
25

26 153. Defendants Harvest pursued a course of conduct, knowing that it created a
27 substantial risk of significant harm to Plaintiff McCurdy and/or was taken in disregard to
28

1 her interest and/or for the motive of profit, to the extent that punitive damages are
2 warranted.
3

4 WHEREFORE, Plaintiff McCurdy prays for judgment against Defendants Harvest as
5 follows:
6

- 7 A. For compensatory damages in an amount to be proven at trial;
8 B. For an award of punitive damages in an amount to be determined at trial;
9 C. For an award of attorneys' fees and costs incurred herein; and,
10 D. For such other and further relief as the Court deems just and proper.
11

12 **COUNT THREE**

13 **Wrongful Termination (Common Law)**

14 154. Plaintiff re-alleges and incorporates by reference the allegations set forth in
15 each of the preceding paragraphs of the Complaint as if set forth fully herein.

16 155. Defendants Harvest jointly employed Plaintiff McCurdy for the purposes of
17 A.R.S. § 23-1501(C).
18

19 156. Plaintiff was compelled by the circumstances of her employment described
20 herein, consisting of a continuous pattern of activity which violates Arizona and California
21 law by Defendants Harvest, including directing Plaintiff to violate Arizona and California
22 law, to resign her employment with Defendants Harvest.
23

24 157. The consequences of this conduct was that Defendants wrongfully terminated
25 Plaintiff McCurdy, constructively, for a bad and improper purpose, namely in and as
26 retaliation for reporting to supervisors and AZDHS the misconduct of Defendants and
27 others, including other supervisors.
28

158. As a direct and proximate result of the actions and omissions of the Defendants Harvest, acting directly and vicariously through its employees and various related business entities, Plaintiff McCurdy lost her employment, including the income she was earning from that employment, and continued to suffer a loss of income thereafter while she attempted and attempts to obtain employment that would earn the equivalent of what she was earning in the position she held.

159. As a direct and proximate result of the actions and omissions of Defendants Harvest, acting directly and vicariously through its employees and various related business entities, Plaintiff McCurdy suffered loss of income and employment opportunities.

160. As a direct and proximate result of the actions and omissions of Defendants Harvest, acting directly and vicariously through its employees and various related business entities, Plaintiff McCurdy suffered loss of quality of life and disruption of relationships, experienced pain and suffering and suffered other damages all in an amount to be determined at trial.

JURY TRIAL

161. Plaintiff McCurdy hereby requests a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff McCurdy prays for judgment against Defendants Harvest as follows:

- A. For compensatory damages in an amount to be proven at trial;
- B. For an award of punitive damages in an amount to be determined at trial;

1 C. For an award of attorneys' fees and costs incurred herein to the extent available
2
3 pursuant to A.R.S. § 23-1501, and any other applicable law; and,

4 D. For such other and further relief as the Court deems just and proper.
5
6
7

8 Dated this 22nd day of April, 2020.
9

10 MIDTOWN LAW

11
12 By: 

13 Tabitha R. Myers
14 2828 N. Central Avenue, Suite 1017
15 Phoenix, AZ 85004
16 *Attorney for Plaintiff*
17
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HARVEST HEALTH and RECREATION
LEGAL ISSUES ARIZONA
TRINA KEITH

COPY

APR 23 2020

CLERK OF THE SUPERIOR COURT
R. MERINO
DEPUTY CLERK

MIDTOWN LAW
2828 N. Central Avenue,
Suite 1017
Phoenix, AZ 85004
602.900.9333

Tabitha R. Myers, SBN 030001
tmyers@midtownlawaz.com
Attorney for Plaintiff

**IN THE SUPERIOR OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

TRINA KEITH,

Plaintiff,

v.

RANDY TAYLOR CONSULTING,
LLC, an Arizona limited liability
company; HARVEST DISPENSARIES,
CULTIVATIONS AND
PRODUCTION FACILITIES, LLC; an
Arizona limited liability company;
BLACK PARTNERSHIP I-X; and XYZ
PARTNERSHIPS I-X,

Defendants.

Case No.

CV 2020-005012

COMPLAINT

(Jury Trial Requested)

Trina Keith, for her Complaint against Defendants, alleges as follows:

JURISDICTION & VENUE

1. At all times material hereto, Plaintiff Trina Keith ("Plaintiff" or "Ms. Keith") was and is a resident of Maricopa County, Arizona.

2. Upon information and belief, Defendant Randy Taylor Consulting, LLC is an Arizona corporation, doing business in Maricopa County, Arizona.

3. Harvest Dispensaries, Cultivations, and Production Facilities, LLC is an Arizona limited liability company, doing business in Maricopa County, Arizona.

1 4. Black and White corporations I-X and XYZ Partnerships I-X are fictitious names to
2 designate unknown corporations and partnerships who may have in some manner
3 contributed to Plaintiff's injuries and damages and are liable therefor. The true names for
4 said Defendants are unknown to the Plaintiff at this time and leave of Court is sought to
5 amend this Complaint to include their true names when, and if, ascertained.
6
7

8 5. This Court has jurisdiction pursuant to applicable Arizona law as set forth herein.

9 6. Venue is proper in this Court as the parties are residents of Maricopa County,
10 Arizona and/or are doing business in Arizona and thus availing themselves to Arizona law,
11 and the events underlying this lawsuit occurred in Maricopa County, Arizona.
12

13 GENERAL FACTUAL ALLEGATIONS

14

15 7. Plaintiff re-alleges and incorporates by reference the allegations set forth in each of
16 the proceeding paragraphs of the Complaint as if set forth fully herein.
17

18 8. In Arizona, Medical marijuana dispensaries, such as Harvest, are regulated by the
19 Arizona Medical Marijuana Act ("AMMA"), which grants Arizona Department of Health
20 Services (hereafter "AZDHS") rule-making authority to regulate the medical marijuana
21 industry.
22

23 9. Defendants Randy Taylor Consulting, LLC and Harvest Dispensaries, Cultivations
24 and Production Facilities, LLC (collectively, "Harvest"), as well as other unnamed entities,
25 jointly own and operate several medical marijuana dispensaries in the State of Arizona, and
26 in several other states across the United States.
27

28 10. Ms. Keith was hired by Harvest on May 6, 2019 to serve as the Retail Standard

1 Operating Procedures (“SOP”) Manager, reporting directly to Chantelle Elsner, Director
2 of Retail Operations.
3

4 11. For this role as SOP Manager, she received no training from Harvest and received
5 little support from her supervisor.
6

7 12. Three months later, on August 12, 2019, Ms. Keith was promoted to Senior Manager
8 of Store Operations and received a yearly salary increase of Ten Thousand Dollars
9 (“\$10,000”), for a total annual salary of Ninety Thousand Dollars per year (“\$90,000”),
10 plus benefits.
11

12 13. In her role as Senior Manager of Store Operations, Ms. Keith oversaw a team totaling
13 ten people whose role was to support all current and new Harvest dispensaries, as well as all
14 new dispensary acquisitions.
15

16 14. For this role as Senior Manager of Store Operations, she received no training from
17 Harvest and received little support from her supervisor.
18

19 15. Under Arizona law, dispensaries are required to develop, document and implement
20 policies and procedures regarding, among other things, personnel duties, responsibilities
21 and qualifications; personnel supervision; and, training in and adherence to confidentiality
22 requirements. *See* A.A.C. Sec. R9-17-310.
23

24 16. No such training was provided to Plaintiff Keith.
25

26 17. Immediately upon entering her new role as Senior Manager of Store Operations, Ms.
27 Keith learned about multiple compliance issues from her team that she escalated to various
28 department managers throughout Harvest, in person and in e-mail.

1 18. On September 28th, 2019, Ms. Keith was included on an text message
2 communication in which Ms. Elsner authorized Arizona dispensaries to enter the patient's
3 medical marijuana purchase allotment into the AZDHS system as flower only, rather than
4 properly categorizing the products purchased as per A.R.S. Title 36, Chapter 28.1 and
5 Arizona Administrative Code ("AAC") Title 9, Chapter 17.
6

7
8 19. When the staff of Ms. Keith raised the issue about this significant violation of
9 AZDHS statutes, Mrs. Keith and her staff were told by Ms. Elsner that this would be the
10 current process for reporting allotments.
11

12 20. AZDHS requires dispensaries to input medical marijuana sold by the dispensaries in
13 the Medical Marijuana Verification System ("MMVS"). *See* A.A.C. Sec. R9-17-314.
14

15 21. The requirements and instructions for using the MMVS are set out in the Dispensary
16 Handbook, and are considered part of the rules implemented by AZDHS under the AMMA.
17 *See* A.R.S. § 41-1001(17).
18

19 22. The Dispensary Handbook details the procedure for inputting medical marijuana
20 sold in the MMVS, including entering in quantities into the appropriate categories: Medical
21 Marijuana (the dried flower of the marijuana plant); Edibles (items sold for consumption
22 that contain medical marijuana); or Non-Edibles (any non-edible items, such as
23 concentrates, sold that contain medical marijuana).
24

25 23. The AMMA also states that a qualifying patient is only allowed to purchase two and
26 one-half ounces of medical marijuana during any 14-calendar-day period. *See, e.g.*, A.A.C.
27 Sec. R9-17-314 and A.R.S. § 36-2801(1).
28

1 24. By entering the medical marijuana product purchased into the proper categories, it
2 allows the DAs and AZDHS to ensure the patient is not receiving more medical marijuana
3 than is allowed in a 14-calendar-day period.
4

5 25. A violation of the Dispensary Handbook issued by AZDHS is a violation of Arizona
6 law.
7

8 26. Additionally, the failure to properly input patient allotment and maintain inventory
9 is a violation of Arizona Administrative Code sections R9-17-314(6)(a) and R9-17-316.
10

11 27. Despite Ms. Keith raising the allotment procedures as a violation of law, Harvest
12 choose not to remedy the issue, as it was incompatible with their own internal point-of-sale
13 system, Leaf Logix.
14

15 28. Ms. Keith also escalated to the Harvest Compliance Department Management and
16 Ms. Elsner on more than one occasion that Harvest was intentionally practicing business
17 with two policy and procedure manuals in the State of Arizona.
18

19 29. One policy and procedure manual was used for the state during state inspections of
20 Harvest Arizona dispensaries and another policy and procedure manual existed that was
21 used for the daily operations of running the Harvest Arizona dispensaries.
22

23 30. Nothing was done to eliminate the erroneous handbook that was used for state
24 inspections.
25

26 31. Another example of Harvest's disregard for the law and lack of following state
27 compliance came when Ms. Keith witnessed conversations between various Harvest
28 leadership in the Compliance and Retail departments share that the General Manager of the

1 Harvest of Napa, CA store had taken state METRC testing in the name of the owner, Steve
2 White.
3

4 32. In October of 2019, Harvest opened two new stores in California in Venice Beach
5 and Palm Springs.
6

7 33. Ms. Keith raised several compliance issues regarding the Venice Beach and Palm
8 Springs stores with her supervisor Ms. Elsner, such as the failure to provide valid employee
9 identification cards as required by California law. *See* Bureau of Cannabis Control,
10 Regulations § 5043 and Section 26013, California Business and Professional Code.
11

12 34. In November of 2019, Harvest laid off roughly 90 workers including half of Ms.
13 Keith's team.
14

15 35. Working with a shoe-string team, Ms. Keith regularly worked 12 to 15-hour work
16 days, including meetings on the weekends.
17

18 36. It was not unusual for Ms. Keith to receive calls at 9:00pm at night regarding work
19 issues, and would routinely receive 100 to 150 e-mails a day, in addition to the 5-6 hours of
20 meetings she was required to attend daily.
21

22 37. Ms. Keith reached out to her management team on more than one occasion to inform
23 her managers that she needed more help and support in her role and that the lack of having
24 this support was causing her to experience stress-related medical issues.
25

26 38. At a time when Harvest was expanding its nationwide footprint and needing more
27 support, it made the decision to lay off dozens of its employees, seemingly as a cost-cutting
28 measure.

1 39. These lay-offs led to even more short-cuts, circumvention, and violations of Arizona
2 law in order to meet the demand for more dispensaries nationwide promised by Harvest to
3 its investors and shareholders.
4

5 40. In December of 2019, Mrs. Keith was informed that Kimberly Owies (then-Director
6 of Events) would be taking on a new role for a newly created position as the Director of
7 Patient Experience and would become her new supervisor.
8

9 41. This newly created Director's position was not opened for any other Harvest
10 employees to apply.
11

12 42. Ms. Keith had concerns regarding her new supervisor, as Ms. Owies had a well-
13 known reputation for breaking compliance.
14

15 43. On December 11, 2019, Ms. Keith met with and raised her concerns about Ms. Owies
16 to Siobahn Carragher, Head of Human Resources, giving Ms. Carragher specific events that
17 Ms. Keith was aware of, where Ms. Owies had broken compliance (i.e., broken the law) as
18 the Director of Events for Harvest.
19

20 44. Mrs. Keith shared with Ms. Carragher that she had helped counsel an employee after
21 the employee shared with her that Ms. Owies gave the employee medicated (THC-infused)
22 ice cream and pressured her to have some with her during a work event and while still on
23 the clock.
24

25 45. On August 24, 2019, Harvest held a "Grillin n' Chillin" event where then-Director
26 of Events, Kimberley Owies, obtained medicated chocolate chips and put them in CBD-
27 infused ice cream. Ms. Owies then consumed the medicated ice cream while working at the
28

1 event, and offered it to Ashlee Milacki (Events Coordinator) and other Harvest employees.

2
3 46. Upon information and belief, Ms. Owies did not have a valid medical marijuana
4 patient card to obtain the medicated chocolate chips, nor was the distribution of the
5 medicated product input in the state MVSS system in violation of Arizona law. *See* A.R.S.
6 § 36-2806.
7

8 47. This activity was also conducted by Ms. Owies during a time that Ms. Owies is
9 believed to have not held a medical marijuana card through the state of Arizona.

10 48. Ms. Keith reported this information to Ms. Carragher, because she was concerned
11 about the direct consequences to her if Ms. Owies continued to flout Arizona law.

12 49. Despite her concerns about Ms. Owies violations of Arizona law, Ms. Owies was
13 installed as Ms. Keith's supervisor.
14

15 50. Ms. Owies cavalier attitude towards compliance with Arizona law exasperated the
16 already present compliance issues at Harvest, increasing the emotional and physical stress
17 that Ms. Keith experienced.
18

19 51. Also, in December of 2019, it was discovered that several testing results for
20 marijuana flower was not yet available from the third-party laboratory.
21

22 52. Ms. Keith asked for direction on how to handle the issue from Allison Benedict
23 (Harvest Director of Procurement) and from Ms. Elsner.
24

25 53. Although state testing was not yet required under Arizona law at that time, Harvest
26 advertised as "always third-party tested."
27

28 54. Despite this advertising, Ms. Keith was told by Randall Uberecken, Harvest Flower

1 Buyer, in an e-mail (which included Ms. Elsner, Ms. Benedict, and Harvest Store
2 Operations Specialists Amalia Celaya and Mollie McCurdy) that since testing is not
3 required and because Harvest needed the flower on the shelves as soon as possible, they
4 should go forward with bringing in to the stores and selling marijuana flower that was not
5 tested.
6

7
8 55. Arizona law prohibits advertising that is false or fraudulent. *See* A.R.S. §§ 44-1522
9 and 13-2203.

10 56. Ms. Keith also met with Ms. Elsner and Ms. Owies on December 19, 2019 to speak
11 with them about her enormous workload and the failure and inability by Harvest to follow
12 the AMMA, and the negative impact that it was having on her health and work-life balance.
13

14 57. Ms. Keith let Ms. Elsner and Ms. Owies know that she was “hanging on by a string,”
15 and requested additional support from them.
16

17 58. However, no action to her call for help was taken by Harvest.

18 59. On January 15, 2020, Ms. Keith reached out to Ms. Owies via telephone and
19 informed her supervisor that she could not continue to work in such difficult and unpleasant
20 working conditions.
21

22 60. She expressed concern that she would end up “losing” her job through resignation
23 or termination if things did not improve.
24

25 61. In January of 2020, Ms. Keith, Ms. Owies, and two additional Harvest employees
26 flew to Little Rock, Arkansas to open the first dispensary in that city.

27 62. On January 23, 2020, while in the car on the way to a training event, the employees
28

1 were discussing the fact that Arkansas regulations required the team members to have a
2 dispensary agent card on their person to conduct business on behalf of the dispensary, which
3 they did not have.
4

5 63. Ms. Owies proceeded to tell the group that while at MJBiz Con in Las Vegas, Nevada
6 with Jason Vidadi, then-Executive Chairman of the Board of Directors for Harvest, Mr.
7 Vidadi complained to Ms. Owies and others present that the only people making money in
8 the cannabis business are the ones not in compliance.
9

10 64. Ms. Owies then shared with the group that Mr. Vidadi then suggested that Harvest
11 employees should not be so rigid when it came to compliance issues so they could make
12 more money.
13

14 65. Ms. Owies used that illustration to tell the group that they should be more flexible
15 and "bend a little" when it comes to compliance.
16

17 66. This request by Ms. Owies came the same day as a raid by Jonesboro, Arkansas police
18 of the home of Harvest manager Nicholas Nielsen, who allegedly was growing marijuana in
19 his own home to help support Harvest cultivation operations.
20

21 67. Mr. Nielson was arrested by Jonesboro police in that raid, and faces various criminal
22 charges for his alleged violation of Arkansas law, which upon information and belief, was
23 conducted on behalf of Harvest.
24

25 68. On January 28, 2020, Ms. Keith, frustrated, understandably concerned for her own
26 health and safety, and unable to proceed with the continuous requests to break the law by
27 Harvest superiors, sent her constructive discharge notice under A.R.S. § 23-1502 to the
28

1 Harvest Human Resources team: Siobahn Carragher, Ron McCarthy, and Samantha
2 Pomerantz.
3

4 69. Fifteen days passed and Ms. Keith received no response from Harvest.

5 70. Still concerned with the events that took place with Ms. Owies and her message of
6 bending compliance that was delivered to Mrs. Keith's team while in Little Rock, Arkansas,
7 Mrs. Keith met with Ms. Elsner on February 6, 2020 upon her return from Little Rock and
8 informed her of the events that she had witnessed.
9

10 71. No action was taken by Ms. Elsner to remedy or investigate any of the concerns
11 presented.
12

13 72. She also shared with Ms. Elsner that she could not work under these conditions and
14 was ready to quit her job while she was in Little Rock but didn't because she needed her job
15 and wanted to continue her employment with Harvest.
16

17 73. On February 13, 2020, Ms. Keith and her team were once again asked to violate
18 Arizona law by Harvest leadership.
19

20 74. Ms. Keith's store operation team was being asked to conduct work activity in three
21 newly-acquired Arizona stores without the proper DA credentials.

22 75. Plaintiff Keith and the store operations team were told they would be wearing visitor
23 badges to conduct Harvest business.
24

25 76. Under A.R.S. § 36-2804.01 an employee must be registered with the department
26 before "volunteering or working" at a medical marijuana dispensary.

27 77. AZDHS regulations require that a dispensary must ensure that each dispensary agent
28

1 has the dispensary agent's registry identification card ("DA card") in the dispensary
2 agent's immediate possession when the dispensary agent is working at the dispensary. *See*
3 A.A.C. Sec. R9-17-310(A)(6); A.A.C. Sec. R9-17-311.
4

5 78. Ms. Keith and her team member, Mollie McCurdy met with Teresa DeHaven,
6 Associate General Counsel and Chief Compliance Attorney at Harvest.
7

8 79. Ms. DeHaven falsely told Plaintiff Keith and Ms. McCurdy that going into the
9 dispensary with a visitor badge to conduct Harvest business was a legal "gray area" and that
10 it was her professional interpretation that the AMMA did not require Harvest employees to
11 have a DA card to conduct business at the dispensary on behalf of Harvest.
12

13 80. Ms. Keith and Ms. McCurdy pushed back against this false interpretation, asserting
14 that they did not want to be put at risk of having charges on their criminal records due to
15 this issue and informed Ms. DeHaven that they would not go into any dispensary without
16 the proper credentials.
17

18 81. Ms. Keith asked Ms. DeHaven to contact AZDHS and obtain verbiage from AZDHS
19 representatives that Store Operations Team was allowed to work in the dispensaries for 3-5
20 days without the proper DA credentials.
21

22 82. Ms. DeHaven deflected by stating that she would not be able to reach an AZDHS
23 representative and reassured Mrs. Keith that she would provide the team with the "least
24 risky option" and that Harvest had great insurance and great attorneys that would fight any
25 charge if they got caught.
26

27 83. Concerned with the message and direction to use visitor's badges instead of the
28

1 required DA credentials, Ms. Keith and Ms. McCurdy immediately met with Human
2 Resources Director, Ron McCarthy to report the incident.
3

4 84. Ms. Keith and Ms. McCurdy left to go to their lunch break, and Ms. McCurdy
5 decided to call AZDHS and ask for clarification on the issue.
6

7 85. On the first call made by Ms. McCurdy to AZDHS, a state representative answered
8 her phone call.

9 86. Ms. McCurdy turned on her speaker phone and Ms. Keith listened to the call
10 between Ms. McCurdy and the AZDHS representative.
11

12 87. The representative at AZDHS informed Ms. Keith and Ms. McCurdy that their
13 interpretation of the law was correct—all employees needed proper credentials before
14 entering a dispensary and conducting work on behalf of Harvest.
15

16 88. Upon her return from lunch, Ms. Keith met with Ms. Elsner (in person) and Ms.
17 Owies (via telephone) and relayed her concerns to both supervisors about being asked to go
18 in the dispensary without the proper credentials based on her and Ms. McCurdy's
19 conversation with AZDHS during lunch.
20

21 89. Ms. Keith reminded Ms. Owies about her statement in Little Rock, Arkansas that
22 employees needed to be "more flexible and bend compliance."
23

24 90. Ms. Owies tried to deny that she made the statement, but later relented.

25 91. Frustrated, Ms. Keith hung up on Ms. Owies, and said aloud, "I'm done," meaning
26 she was done with talking to Ms. Owies.

27 92. Ms. Elsner asked, "You're quitting?" Frustrated about being asked to break the law,
28

1 and having not received a response to her notice from January 28, 2020, Ms. Keith affirmed
2 that she indeed could not stay working at Harvest.
3

4 **COUNT ONE**

5 **Violation of A.R.S. § 23-1502**

6 93. Plaintiff re-alleges and incorporates by reference the allegations set forth in each of
7 the preceding paragraphs of the Complaint as if set forth fully herein.

8 94. A.R.S. § 23-1502 provides in relevant part that constructive discharge may be
9 established where, as here, there is “evidence of objectively difficult or unpleasant working
10 conditions to the extent that a reasonable employee would feel compelled to resign, or
11 “evidence of outrageous conduct by the employer or a managing agent of the employer,”
12 including conduct that “would cause a reasonable employee to feel compelled to resign.”
13

14 95. Harvest created, maintained, permitted and/or fostered the objectively difficult or
15 unpleasant working conditions and the continuous pattern of violation of Arizona law, and
16 asking employees to violate Arizona law.
17

18 96. Plaintiff Keith delivered the appropriate written notice to the appropriate
19 representative of Harvest that a working condition exists that she believed was so objectively
20 difficult or unpleasant that the employee felt compelled to resign or intends to resign.
21

22 97. Plaintiff Keith gave Harvest more than fifteen days to respond in writing to the
23 matters she presented.
24

25 98. Defendant Harvest did not respond to Plaintiff Keith’s notice within fifteen days.

26 99. In any event, Harvest waived its right to notice by failing to make the posting
27 described in A.R.S. § 23-1502(E).
28

1 100. In any event, the provisions in A.R.S. § 23-1502(F) apply to permit Plaintiff
2
3 Keith to bring her constructive discharge claim without prior written notice as a result of
4 the outrageous conduct by Defendants Harvest, acting through its employees and acting
5 jointly and severally, that included a continuous pattern of violation of Arizona law and
6 asking employees to violate Arizona law, all constituting conduct that would cause a
7 reasonable employee to feel compelled to resign.
8

9 101. Plaintiff Keith felt compelled to resign as a result of the objectively difficult or
10 unpleasant working conditions and did in fact resign effective February 13, 2020.
11

12 102. As a direct and proximate result of the actions and omissions of Defendants
13 Harvest, acting directly and vicariously through its employees, Plaintiff Keith lost her
14 employment, including the income she was earning from that employment, her accrued
15 benefits, and continued and continues to suffer a loss of income thereafter while she
16 attempts to obtain employment.
17

18 103. As a direct and proximate result of the actions and omissions of the
19 Defendants Harvest, Plaintiff Keith suffered emotional harm and physical injury in an
20 amount to be determined at trial.
21

22 104. As a direct and proximate result of the actions and omissions of the
23 Defendants Harvest, Plaintiff Keith suffered loss of employment opportunities.
24

25 105. As a direct and proximate result of the actions and omissions of the
26 Defendants Harvest, acting jointly and severally, Plaintiff Keith suffered loss of quality of
27 life and disruption of relationships, experienced pain and suffering and suffered other
28

1 damages in an amount to be determined at trial.

2
3 106. Defendants Harvest pursued a course of conduct, knowing that it created a
4 substantial risk of significant harm to Plaintiff Keith and/or was taken in disregard to her
5 interest and for the motive of profit, to the extent that punitive damages are warranted.

6
7 WHEREFORE, Plaintiff Keith prays for judgment against Defendants Harvest as
8 follows:

- 9
10 A. For compensatory damages in an amount to be proven at trial;
11 B. For special damages including medical expenses incurred and to be incurred, loss
12 of income and loss of opportunity to earn income, loss of accrued retirement
13 benefits, loss of stock option benefits, and loss of other employment benefits.
14 C. For an award of punitive damages in an amount to be determined at trial;
15 D. For an award of attorneys' fees and costs incurred herein to the extent available
16 pursuant to A.R.S. § 23-1501; and,
17
18 E. For such other and further relief as the Court deems just and proper.
19

20
21 **COUNT TWO**
22 **Violation of A.R.S. § 23-1501(C)**

23 107. Plaintiff re-alleges and incorporates by reference the allegations set forth in
24 each of the preceding paragraphs of the Complaint as if set forth fully herein.

25 108. Defendants Harvest jointly employed Plaintiff Keith for the purposes of
26 A.R.S. § 23-1501(C).
27

28 109. Defendants terminated Plaintiff Keith's employment in violation of Arizona

1 statutes in retaliation for refusing to commit an act or omission that would violate the
2 statutes and laws of the State of Arizona.

3
4 110. Defendants terminated Plaintiff Keith's employment in violation of Arizona
5 statutes in retaliation for her disclosure in a reasonable manner to persons she believed to
6 be in a managerial or supervisory position, with the authority to investigate the information
7 she provided and to take action to prevent further violation of the statutes and laws of this
8 State.

9
10 111. Defendants terminated Plaintiff Keith for her refusal to commit an act or
11 omission that would violate the statutes and laws of the State of Arizona.

12
13 112. The acts and omissions of Defendants Harvest caused the events that resulted
14 in the termination of Plaintiff Keith.

15
16 113. Defendants Harvest created, maintained, permitted and/or fostered the
17 objectively difficult or unpleasant working conditions and requests for Plaintiff Keith to
18 violate Arizona law.

19
20 114. As a direct and proximate result of the actions and omissions of Defendants
21 Harvest, acting directly and vicariously through its employees, Plaintiff Keith lost her
22 employment, including the income she was earning from that employment, her accrued
23 benefits, and continued and continues to suffer a loss of income thereafter while she
24 attempts to obtain employment.

25
26 115. As a direct and proximate result of the actions and omissions of the
27 Defendants Harvest, Plaintiff Keith suffered emotional harm and physical injury in an
28

1 amount to be determined at trial.

2
3 116. As a direct and proximate result of the actions and omissions of the
4 Defendants Harvest, Plaintiff Keith suffered loss of employment opportunities.

5 117. As a direct and proximate result of the actions and omissions of the
6 Defendants Harvest, acting jointly and severally, Plaintiff Keith suffered loss of quality of
7 life and disruption of relationships, experienced pain and suffering and suffered other
8 damages in an amount to be determined at trial.

9
10 118. Defendants Harvest pursued a course of conduct, knowing that it created a
11 substantial risk of significant harm to Plaintiff Keith and/or was taken in disregard to her
12 interest and/or for the motive of profit, to the extent that punitive damages are warranted.

13
14 WHEREFORE, Plaintiff Keith prays for judgment against Defendants Harvest as
15 follows:

- 16
17 A. For compensatory damages in an amount to be proven at trial;
18 B. For special damages including medical expenses incurred and to be incurred, loss
19 of income and loss of opportunity to earn income, loss of accrued retirement
20 benefits, loss of stock option benefits, and loss of other employment benefits.
21 C. For an award of punitive damages in an amount to be determined at trial;
22 D. For an award of attorneys' fees and costs incurred herein; and,
23 E. For such other and further relief as the Court deems just and proper.
24
25

26 **COUNT THREE**

27 **Wrongful Termination (Common Law)**

28 119. Plaintiff re-alleges and incorporates by reference the allegations set forth in

1 each of the preceding paragraphs of the Complaint as if set forth fully herein.

2
3 120. Defendants Harvest jointly employed Plaintiff Keith for the purposes of
4 A.R.S. § 23-1501(C).

5 121. Plaintiff was compelled by the circumstances of her employment described
6 herein, consisting of a continuous pattern of activity which violates Arizona and California
7 law by Defendants Harvest, including directing Plaintiff to violate Arizona and California
8 law, to resign her employment with Defendants Harvest.

9
10 122. The consequences of this conduct was that Defendants wrongfully terminated
11 Plaintiff Keith, constructively, for a bad and improper purpose, namely in and as retaliation
12 for reporting to supervisors and AZDHS the misconduct of Defendants and others,
13 including other supervisors.

14
15 123. As a direct and proximate result of the actions and omissions of the
16 Defendants Harvest, acting directly and vicariously through its employees and various
17 related business entities, Plaintiff Keith lost her employment, including the income she was
18 earning from that employment, and continued to suffer a loss of income thereafter while she
19 attempted and attempts to obtain employment that would earn the equivalent of what she
20 was earning in the position she held.

21
22 124. As a direct and proximate result of the actions and omissions of Defendants
23 Harvest, acting directly and vicariously through its employees and various related business
24 entities, Plaintiff Keith suffered loss of income and employment opportunities.

25
26 125. As a direct and proximate result of the actions and omissions of the
27
28

1 Defendants Harvest, Plaintiff Keith suffered emotional harm and physical injury in an
2
3 amount to be determined at trial.

4 126. As a direct and proximate result of the actions and omissions of Defendants
5 Harvest, acting directly and vicariously through its employees and various related business
6 entities, Plaintiff Keith suffered loss of quality of life and disruption of relationships,
7 experienced pain and suffering and suffered other damages all in an amount to be
8 determined at trial.
9

10 JURY TRIAL

11
12 127. Plaintiff Keith hereby requests a trial by jury.

13 PRAYER FOR RELIEF

14 WHEREFORE, Plaintiff Keith prays for judgment against Defendants Harvest as
15 follows:
16

- 17 A. For compensatory damages in an amount to be proven at trial;
18 B. For special damages including medical expenses incurred and to be incurred, loss
19 of income and loss of opportunity to earn income, loss of accrued retirement
20 benefits, and loss of other employment benefits.
21 C. For an award of punitive damages in an amount to be determined at trial;
22 D. For an award of attorneys' fees and costs incurred herein to the extend available
23 pursuant to A.R.S. § 23-1501, and any other applicable law; and,
24 E. For such other and further relief as the Court deems just and proper.
25
26
27
28

1 Dated this 22ND day of April, 2020.
2
3

4 MIDTOWN LAW

5 By:

6 
7 Tabitha R. Myers
8 2828 N. Central Avenue, Suite 1017
9 Phoenix, AZ 85004
10 *Attorney for Plaintiff*
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MIDTOWN LAW
2828 N. CENTRAL AVENUE, SUITE 1017
PHOENIX, ARIZONA 85004
602.900.9333

EXHIBIT 4

**SOUTHEAST SAN DIEGO COMMUNITY
PLANNING GROUP MINUTES**

SEPTEMBER 14, 2020

SOUTHEASTERN SAN DIEGO PLANNING GROUP

MINUTES

Monday, September 14, 2020, 6:00 p.m. – VIRTUAL MEETING DUE TO COVID-19

Meeting Location: Mountain View Community Center, 641 South Boundary St., San Diego CA 92113

Contact: Myron Taylor, Chair

(zach236@gmail.com, (760) 529-1009)

City of San Diego Southeastern San Diego Planning Group website:

<https://www.sandiego.gov/planning/community/profiles/southeasternsd/plan>

Agendas and Minutes:

<https://www.sandiego.gov/planning/community/profiles/southeasternsd/agendas>

This Planning Group covers the area south of the Dr. Martin Luther King, Jr. Freeway (Highway 94), east of Interstate 5, north of the border of National City, and west of Interstate 805. It includes the communities of Sherman Heights, Logan Heights, Grant Hill, Memorial, Stockton, Mount Hope, Mountain View, Southcrest, and Shelltown.

1. CALL TO ORDER, ROLL CALL, AND INTRODUCTIONS
Myron Taylor (Chair), Dale Huntington, Aaron Magagna, Jasmine Mallen, Terry Sullivan, Louise Torio, Kerry Wesson
[Not in attendance: Jaime Capella, Oscar Gomez, Chelsea Klaseus, Lamont Pargo, Ali Urguby, Reggie Womack]
2. ADOPT THE AGENDA
Motion to adopt the agenda without discussion of the minutes from March 9 and July 13, 2020. MSC Taylor/Torio 8-0-0
3. MEETING MINUTES REVIEW AND APPROVAL: Tabled to next meeting.
4. PUBLIC COMMENTS (the public may speak on matters not on the agenda, for a maximum of up to two minutes)

Louise Torio, Friends of the Villa Montezuma – Due to covid-19, the next interior tours of Vila Montezuma on October 17, 2020 may not happen. The Sherman Heights Community Center will have the Dia le los Muertos celebrations, but the public viewing times will be limited. We still hope to hold the “Permanent Victorians” walk of Mt. Hope Cemetery on Saturday, October 24, at 12:30 pm if the City allows.

Kerry Wesson said that the Museum of Man has been renamed the Museum of Us. All are encouraged to check out the museum on one of the Free Tuesdays.

Dale Huntington announced the food pantry for the Mount Hope Area by City Life Church is at his home near 42nd and Market. Call Dale at 619-839-9080 for more information.

Jasmine Mallen encourage people to attend the Logan Heights CDC resident leadership academy for community issues. You must be at least 14 years old to attend.

5. REPORTS
 - A. Elected Officials' Staff Reports (Districts 4, 8, and 9)

District 4 – Gloria Cruz Cardenas discussed the successful cleanup in the Mountain View area. City Council will vote on September 15 for \$177,000 for Mountain View Park to redo the basketball and tennis courts. The southern part of the district has not had many capital improvement projects funded. Hopefully this can change in the future.

District 8 – Erik Henson said that three companies were bidding on the City of San Diego franchise agreement that was previously held by SDG&E. Input for the SANDAG Regional Transportation Program is desired, and he's asked SANDAG to reach out to the planning groups. SDMTS has a zero bus emission program and has a pilot program for fare evasions.

District 9 – Not present

- B. City Departments – The SDPD Central Division will have a virtual Captain's meeting on Wednesday, September 23, at 5:00 pm. This virtual meeting will be the first in six months due to covid.
- C. Civic San Diego – Not present
- D. Chair Report – No report
- E. CPC Representative Report – CPC is working on codes to include laws that have passed so that all codes are up to date and can be followed.

6. INFORMATION ITEM:

A. Engineering & Capital Projects Sewer and AC Water Group 793

The project is located in the Southeastern San Diego community area, Council District 8, and includes:

- Replace in place 1,750 linear feet of water main;
- Abandon 150 linear feet of existing water main;
- Replace in place 9,500 linear feet of sewer main;
- Installing 1,100 linear feet of new sewer main;
- Abandon 460 linear feet of existing sewer main;
- Improvements to streets, curb ramps and cross-gutters; and
- Use of best management practices (BMPs) for erosion control, storm drain inlet protection and restoration of disturbed areas to their original condition.

This project supports the City's sustainability and climate action goals of reducing the City's carbon footprint, increasing efficiencies, and improving quality of life. The project is currently in the final design phase. Construction of this project will begin in Summer 2021 and will have an 18 month duration.

Presented by Bareaz Piromari, Project Engineer, and Elham Lotfi. Both projects A and B were discussed together.

Some pipes are over 100 years old. Replacing the 8-inch water main will prevent future breakdowns. There will be lane closures around active work zones. New ADA curb ramps will be installed. The project is in design now. By mid-2021 a contractor should be selected and construction can begin. Completion will be in 2022.

For Project 793A, final design will be complete in winter 2021, by mid-2022 a contractor will be selected and work will begin, and project completion is expected in early 2024.

Comments related to both projects included the following:

- These areas in Sherman Heights have a lot of traffic and a lack of parking. How will that be mitigated? There will be a traffic control plan by the contractor and will be approved by the City. The construction will go only one or two blocks at a time. Hours of work will be from 7:00 to 3:30 pm, so during when most people are at work.
- Will these projects upgrade all curbs with ADA curb cuts? No, only where there is a trench for this work will there be upgrades of curb ramps. Outside the project area there will be no changes.
- Due to multiple overlay of asphalt over the years, some curbs in this area are only 2 or 3 inches tall. Have these been evaluated on the west side for water runoff issues? No, but if you have a concern please use the Get It Done app to inquire so the City can check it out.
- What kind of oversight of the contractor can we expect? Elham is the project manager, so she will be monitoring the project. In addition there will be a Resident Engineer on the contractor's side.
- Some street have names stamped into the curb ramps going back more than 100 years. Will these historic stamps be preserved and incorporated back? Any historic curb stamps will need to be preserved.
- Is the project fully funded? Yes.

B. Engineering & Capital Projects, Sewer and AC Water Group 793A

This project is located in the Southeastern San Diego community area, Council District 8, and includes:

- Replace in place 3,960 linear feet of water main;
 - Tunneling of 1500 linear feet of water main;
 - Abandon 400 linear feet of existing water main;
 - Replace in place 12,520 linear feet of sewer main;
 - Installing 780 linear feet of new sewer main;
 - Rehabilitation of 160 linear feet of sewer main;
 - Abandon 630 linear feet of existing sewer main;
 - Improvements to streets, curb ramps and cross-gutters; and
 - Use of best management practices (BMPs) for erosion control, storm drain inlet protection and restoration of disturbed areas to their original condition.
- Construction: Winter 2022 through Spring 2023*

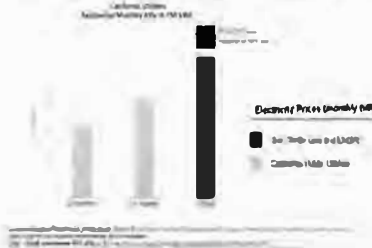
This project supports the City's sustainability and climate action goals of reducing the City's carbon footprint, increasing efficiencies, and improving quality of life.

The project is currently in the final design phase. Construction of this project will begin in Summer 2021 and will have an 18 month duration. See comments with above project.

C. Public Power San Diego (info@publicpoweredsd.org)

Presented by Bill Powers, consulting energy engineer, and Dr. Darwin Fishman, SDSU Sociology/Criminology Professor. SDG&E charges among the highest rates for power in the nation. The Public Power San Diego Campaign advocates for the creation of publicly owned, affordable gas and electricity for the City and residents of San Diego. The SDG&E 50-year franchise agreement contract with the city expires in January 2021 so now is the time to explore other options. With a different choice we might expect lower, more affordable electric bill for the consumer (for example, SDG&E charges \$100/month more than Sacramento's municipal utility and \$75/month more than Los Angeles).

SDG&E Rates Compared To California Public Utilities



Public power would take this relationship from a monopoly to the City choosing its own power supply. SDG&E won't provide transmission. The City wants this process slowed down to not mess it up. The new agreement would be a 20-year franchise. SDG&E makes a million per day in profit from ratepayers and it doesn't pay for the franchise. SDG&E's rates are the highest in CA.

25% of the power sold in the state is from public utilities. Sacramento pays about half. Voted down 5-4 at City Council (Montgomery, Gomez, Moreno, Bry, and Sherman voted no). Mayor may do a work around. Want to extend the franchise so that we can do this slowly.

Dr. Darwin said that this is a racial justice issue because high utility rates hurt poor people and people of color most. He encourages all to become engaged and reach out to others.

7. CONSENT ITEMS: *None*

8. ACTION ITEMS:

A. Project No. 660383; Gateway Cannabis Outlet (Harvest)

The project consists of a storefront cannabis outlet to operate at 995 Gateway Center Way, Suites 107 and 108, San Diego, CA 92102, within an existing three-story, 42,530 square foot commercial building to operate a 2,995 outlet. The Development Services Department has completed the second review of the project referenced above, and described as a Process 3, Conditional Use Permit to operate Gateway Cannabis Outlet in Process 3, Conditional Use Permit on a 4.10-acre site in the IL-3-1 Zone within the Southeastern San Diego Planning Group area in Council District 9.

Presented by

- Ben Kimbro, Director of Public Affairs, Harvest (applicant)
- Lauren Niehaus, Government Relations Specialist, Harvest (applicant)
- Abhay Schweitzer, San Diego architect for Harvest
- Adrian Kwiatkowski, San Diego consultant for Harvest

San Diego Development Services Department Cannabis Information:
www.sandiego.gov/cannabis

Harvest House of Cannabis is headquartered in Tempe, AZ. It has 39 retail operations in 8 states. There are four currently operating in California (Grover Beach, Napa, Palm Springs, and Venice Beach). They expect to employ up to 25 people in San Diego. All jobs have employee benefits. Harvest seeks to be a business partner, and has a binding purchase agreement for the building in Gateway in which they seek to do business. They will take all safety and security measures as required by law, and there will be surveillance 24/7.

Abhay Schweitzer, architect for the project, discussed the status with DSD and the current plans for the site. They plan for a 42,000 sf business when two suites are converted into one suite. This location is not on the street, so there will be no foot traffic from people who just happen to walk by. The site will be ADA accessible. The project has gone through two rounds at DSD and is in the final stages of review, having cleared all major issues. The project was heard at the SSDPG June Projects subcommittee meeting (see those notes).

Harvest says they commit to being good community members. Staff volunteers in the community and they have a grant program to assist nonprofits. For the grant program they have reached out to a number of local organizations for potential future donations. (Because they reached out to the Friends of the Villa Montezuma, Louise Torio, who is chair of that organization, will not vote on this issue, so that there is no appearance of a conflict.)

Cannabis sales are now a legal business in California. While some planning group members individually are supportive of such businesses and some are not, the role of the planning group is to provide recommendations to the City about this project.

Comments related to this project included the following (names are best approximation due to this being a virtual meeting):

- Becky Rapp is not in favor of this business because it is too close to Family Medical Clinic
- Rev. Charles Alexander is strongly against this business locating here because it is too close to the medical clinic and Mount Hope already has enough challenges with crime and drug use. There was a shooting at Mount Hope just two weeks ago. Rev. Alexander wants Harvest to do more outreach into the community to understand the concerns of its potential neighbors. He believes that he can get 1,000 signature of area residents who do not want to see this business move in.
- Sam Studer has concerns with Harvest in Cincinnati, which apparently took control of a minority-owned business and had two hostile employees who did illegal things. Sam also said that he's heard that Harvest may sell out to High Times and transfer all holdings to that entity. He would want to say Harvest can't sell for five years. Also, the posting of the notification of this business was on the

For Rent signage and not near the two front doors where Didn't post the application on the two front doors where people can see it. The current renters in the office space have no history of being contacted by Harvest, which is especially important if Harvest is purchasing the building and will be their landlord. Sam said that he noticed everyone in the building and that "if cannabis moves in, the psychiatrist moves out."

The architect said that the San Diego Municipal Code requires that they post on the property line, which is why the notice was posted on the signage and not on the building. Lauren from Harvest said that the news stories don't get the information correct but that she can't discuss the employee lawsuit that is ongoing. She said that there was a settlement in the Cincinnati issue. She said that at the end of June Harvest disposed of some assets to High Times, but they will not be selling this property or business. Harvest follows strict regulatory framework and the letter of the law.

- Terry Sullivan asked how many tenants are currently in the Gateway building if Harvest takes ownership. If tenants have long-term lease agreements these leases would transfer to Harvest. Any tenant who has an objection to a cannabis business should be allowed to leave if this is a problem for them. Adrian said that they will reach out to the stakeholders in the building.
- Ann on the phone asked if consultant Adrian Kwiatkowski was running for City Council District 3 to replace Chris Ward. Adrian said he was running, but decided to end his campaign in March and is no longer running.
- Dale Huntington said that as a minister he spends time with people in addiction, and he believes this location is too close to the Golden Bloom dispensary, which is only about half a mile away. Also, this is 0.2 miles from Dennis V. Allen Park. [Because of natural and manmade divisions like canyons and roadways, the City says this location meets the distance requirement.]
- Robin Adams is a manager in the Gateway building, and thought only four dispensaries were allowed per Council district. [This was changed several years ago.]
- Kerry Wesson asked if the Harvest support of local nonprofits was a one-time donation or if they support organizations on an annual basis. Harvest (Adrian) answered that with covid-19 it was a challenge to do outreach in person, and this was just the start of the Harvest pledge of support for local nonprofits. He said that Harvest expects to make donations in the range of \$500 - \$1000.
- Jasmine Mallen asked about Harvest's social equity plan and how it functions. Lauren said that The Last Prisoner Project helps prepare formerly incarcerated people who were jailed for cannabis usage for jobs in the cannabis industry.

Because the meeting ran long and the SSDPG lost its quorum, this item will be tabled until the October 12, 2020, Board meeting.

9. ADJOURNMENT

**SOUTHEAST SAN DIEGO COMMUNITY
PLANNING GROUP MINUTES**

OCTOBER 12, 2020

SOUTHEASTERN SAN DIEGO PLANNING GROUP (SSDPG)**MINUTES**

Monday, October 12, 2020, 6:00 p.m.

Virtual Zoom Meeting

See joining instruction below

This meeting will be recorded

Until further notice, Planning meetings will be conducted pursuant to the provisions of California Executive Order 29-20, which suspends certain requirements of the Ralph M. Brown Act. During the current State of Emergency and in the interest of public health and safety, most—and possibly all—of the SSDPG meetings will be participating by Zoom. In accordance with the Executive Order, there will be no members of the public participating in person at the SSDPG Meetings. In lieu of not being able to provide public comment via Zoom, members of the public may email their comments to Myron Taylor at zach236@gmail.com no later than 3:00 p.m. on the day of the meeting, October 12, 2020.

Translation and Interpretation Requests please see the link below.

<https://app.smartsheet.com/b/form/a9a5fac939e4450da236a8d63e773bfd>**Contact: Myron Taylor, Chair**zach236@gmail.com, (760) 529-1009**Southeastern San Diego Planning Group website:**<https://www.sandiego.gov/planning/community/profiles/southeasternsd>

This Planning Group covers the area south of the Dr. Martin Luther King, Jr. Freeway (Highway 94), east of Interstate 5, north of the border of National City, and west of Interstate 805. It includes the communities of Sherman Heights, Logan Heights, Grant Hill, Memorial, Stockton, Mount Hope, Mountain View, Southcrest, and Shelltown.

1. CALL TO ORDER (6:06pm), ROLL CALL, AND INTRODUCTIONS

Myron Taylor, Dale Huntington, Chelsea Klaseus, Lamont Pargo, Aaron Mogagna, Jasmine Mallen, Terry Sullivan, Louise Torio, Oscar Gomez, Reggie Womack

2. ADOPT THE AGENDA

Motion to adopt the Agenda. MSC Torio/Huntington MSC 8-0-0

3. MEETING MINUTES REVIEW AND APPROVAL

Motion to approve the March 2020 Election Meeting Minutes. MSC Torio/Klaseus 4-0-2 (Huntington, Magagna)

Motion to approve the March 2020 Regular Meeting Minutes. MSC Torio/Taylor 4-0-2 (Huntington, Magagna)

Motion to approve the July 2020 Meeting Minutes. MSC Taylor/Magagna 8-0-0

Motion to approve the July 2020 Officer Election Minutes. MSC Torio/Klaseus 8-0-0

Motion to approve the September 2020 Meeting Minutes. Taylor/Pargo 7-0-1 (Klaseus)

4. PUBLIC COMMENTS

The public may speak on matters not on the agenda, for a maximum of up to **two minutes**.

Louise Torio – Quarterly Villa Montezuma tour unable to happen due to COVID-19. Still planning for the October 24 2020 cemetery tour. For more information visit www.villamontezumamuseum.com

Kathleen Lippitt – spoke about addictive products

Becky Rapp – Spoke about the Community Planning Committee municipal code updates.

5. REPORTS**A. Elected Officials' Staff Reports (Districts 4, 8, and 9)**

Council District 4 – Erik Hansen: Attached and spoke about the CD4 newsletter, mentioned that the next MTS Board Meeting will take place on 10/16/20, listed locations people can drop off election ballots, and talked about the energy franchise agreement coming back to City Council. He also talked about the Climate Equity Index and "Communities of Concern."

Southeastern San Diego Planning Group October 12, 2020

Council District 8. – None.

Council District 9 – None.

B. Central Division and Southeastern Division Police Updates: SDPD emailed crime statistics and mentioned the Art Walk planned for 10/16/2020. Also mentioned that City parks are now open and Park & Recreation Department feels the need to “take their parks back” as there has been homeless activity and criminal activity while they were dormant due to COVID. It will take a lot of energy to get them back to function or families and activities.

C. City Departments – None.

D. Civic San Diego – None.

E. Chair Report – None.

F. Community Planning Committee Representative Report – None.

6. INFORMATION ITEMS

A. Groundwork San Diego Chollas Creek <https://groundworksandiego.org/>

Information on Groundwork’s award of the Kresge Foundation Grant in supporting Climate Safe Neighborhoods and partnerships to make communities more resilient to extreme heat and flooding and making a difference in San Diego. Encouraging and engagement of community members, residents, stakeholders and the SSDPG Board Members to advocate and make a difference for improvements in the community, increased quality of life in a livable community to meet the needs of community members now and in the future.

Presented by: Patrice Baker, Community Outreach Director

B. Public Power San Diego Updates (<https://www.publicpowersd.org>)

The Mayor’s Office opened the auction for the electric and natural gas franchises on Sept. 23rd, despite City Council rejecting the franchise bid terms developed by the Mayor’s Office at its Aug. 6th meeting. Bids are due on Oct. 23rd. Community activists are urging the City Council to reject the bids.

Presented by: Bill Powers, principal of Powers Engineering and chairman of California Local Energy Advancing Renewables.

C. Engineering & Capital Projects, AC Water & Sewer Group 1052

This project is located in the Southeastern San Diego community area, council District 8 and includes open trench replacement, and trenchless method to upgrade the capacity of the sewer main to meet anticipated future peak flows. The new sewer system will meet current design standards and comply with EPA environmental requirements and mandates. See attached Fact Sheet.

Presented by: Jing DeBeliso, Project Engineer

D. Information on Measure B, a charter amendment that establishes an independent community-led commission on police practices.

Measure B will establish a new commission that will have its own staff, subpoena power, independent legal counsel, and the authority to investigate police officer misconduct, review complaints against officers, and make recommendations on police officer discipline, police policies, and Police Department legal compliance.

Presented by: Ariana Federico, Youth Organizer Mid-City CAN (Community Advocacy Network)
www.midcitycan.org/policeaccountability, Afederico@midcitycan.org

7. CONSENT ITEMS: None.

8. ACTION ITEMS

A. Project No. 660383; Gateway Cannabis Outlet

This project is trailed from the September 14, 2020 SSDPG meeting. The project consists of a storefront cannabis outlet to operate at 995 Gateway Center Way, Suite 107 and 108, San Diego, CA 92102 within an existing three-story, 42,530 square foot commercial building to operate a 2,995 outlet. The Development Services Department has completed the second review of the project referenced above, and described as a Process 3, Conditional Use Permit to operate Gateway Cannabis Outlet In Process 3, Conditional Use Permit on a 4.10-acre site in the IL-3-1 Zone within the Southeastern San Diego Planning Group area in Council District 9.

Southeastern San Diego Planning Group October 12, 2020

Presented by:

- Ben Kimbro, Director of Public Affairs, Harvest (applicant)
- Lauren Niehaus, Government Relations Specialist, Harvest (applicant)
- Abhay Schweitzer, San Diego architect for Harvest
- Adrian Kwiatkowski, San Diego consultant for Harvest

San Diego City Development Services, Cannabis information visit: www.sandiego.gov/cannabis

There were quite a few community member who joined the call to urge the SSDPG board members to not support the project. Before the item was heard both Aaron Magnana & Jasmine Mallen recused themselves.

Motion to not support Project No. 660383. MSC Taylor/Huntington 5-0-2 (Torio, Womack)

9. ADJOURNMENT

Southeastern San Diego Planning Group Zoom Meeting

Time: Oct 12, 2020 06:00 PM Pacific Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/9159294322?pwd=SGlrSlowS1NXZXpqTlFsUDAYQml5Zz09>

Meeting ID: 915 929 4322

Passcode: 2LZq8x

One tap mobile

+14086380968,,9159294322#,,,,,0#,,821792# US (San Jose)

+16699006833,,9159294322#,,,,,0#,,821792# US (San Jose)

Dial by your location

+1 408 638 0968 US (San Jose)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 646 876 9923 US (New York)

+1 301 715 8592 US (Germantown)

+1 312 626 6799 US (Chicago)

Meeting ID: 915 929 4322

Passcode: 821792

Find your local number: <https://us02web.zoom.us/j/kdefgWnY8>

**Development Permit/
Environmental Determination
Appeal Application**

November 2017

Printed on recycled paper. Visit our web site at www.sandiego.gov/development-services.
Upon request, this information is available in alternative formats for persons with disabilities.
DS-3032 (11-17)

CHARLES ALEXANDER

6601 Imperial Ave.
San Diego, CA 92114
(619) 601-1903 Telephone

September 1, 2021

San Diego Planning Commission
Attn: Appeals
1222 1st Ave.
San Diego, CA 92101

BY EMAIL ONLY

RE: Gateway Cannabis Outlet 995 Gateway Center Way San Diego, CA 92102
Project: 660383 Approval ID 241194

Dear Commissioners

My name is Charles Alexander, I am an Author, Couch, Outreach Coordinator and Community Activist. I was born and raised in the community of Mount Hope. This is a small tight knit community that is known more for its cemeteries and Costco than anything else. This is a community where houses are not placed up for sale, rather they are inherited by our children.

In 2020 in the middle of a pandemic, Harvest of San Diego applies for a permit to open a Cannabis dispensary in the Gateway Medical Center building. This building serves the community and the people of San Diego in various ways, it is not suitable for a Dispensary. This building is a treatment facility for people with kidney failure issues, it helps those who are homeless deal with their mental health issues, and it is where the children of the community see their pediatricians.

When this information came to light, I along with others in this community started talking with the residences and found that they do not approve of this dispensary being put in their community. Based on all requirements, this building is not even allowed to have a dispensary, it is the only possible location in the Mt. Hope area where a dispensary could even be considered, and that is why they are trying to get approval.

In the beginning phases the Southeastern San Diego Community Planning Group held the required meetings wherein they would take in the input from the community, the meetings actually had to be continued based on public comments and the amount of time to be heard. When the meetings were concluded it was unanimous that the Planning Group voted

against the dispensary. They did tell the community that their vote was only a recommendation, but it was required to proceed.

On August 18, 2021 the matter came before the hearing officer, who heard the same as the Planning Group, Harvest of San Diego presented their case, and not a single person from the community spoke in favor of the dispensary. There were however lots of people from the community that spoke against it. When the hearing was completed the Hearing Offices said that the project was approved.

In my presentation to the Hearing Officer, I provided petitions signed by well over 500 people in the community that are opposed to this project, and we believe that it does not meet the requirements of the City of San Diego Master Plan, it does not serve the community in any way, if fact it takes from the Public Safety, Moral and Welfare.

The Park in question is either less than or right at the 1000 feet requirement and the children and the community at large have no other locations in which to be active. The building itself treats children and should be considered minor oriented which would exclude it from allowing the dispensary.

This community needs more community-based businesses we don't need recreational cannabis and the security issues that come from it. Our community needs something other Drugs and Alcohol to influence our children. When they go to their doctor they do not need to see or be seen by the patrons of the dispensary. Furthermore the hearing Officer stated that some of they other tenants may choose to move from the building, however that was not his concern, he said businesses move. With what the world is going through at this time, having medical professionals move, is the last thing they or the community need at this time.

I have attached to this filing my Petitions which were signed by members of the community.

Your time to hear this matter is appreciated.

Sincerely,



Charles Alexander

We The Residents & Businesses Of Mt.Hope Opposes Harvest Dispensary. Before Our Children Have A Recreational Facility!!!

Name: Crystal Vaughn
Phone Number: 201 576 6800
Address: 501 43rd St
San Diego CA 92102

Name: Javier Puzo
Phone Number: 619 739-3719
Address: 428 43rd St San Diego CA 92102

Name: Ricardo Bonito
Phone Number: 619-273-1111
Address: 390 Gavin St 92102

Name: Jose L Ramirez
Phone Number: 619 585-8360
Address: 350 GAVIN ST

Name: RICHARD CABA
Phone Number: 718 662 4463
Address: 322 GAVIN ST

Name: Emma Pina
Phone Number:
Address: 4124 C St. S.A.C.A. 92102

Name: LISA BAZA
Phone Number: 619-327-3650
Address: 727 42nd St. SD. CA 92102

We The Residents & Businesses Of Mt.Hope Opposes Harvest Dispensary. Before Our Children Have A Recreational Facility!!!

Name: Abriel Osuna
 Phone Number: 619 263-4269
 Address: 412A CST. SAN DIEGO
CA 92102

Name: PEREK Adams
 Phone Number: (619) 263-4269
 Address: 620 42nd St
SD CA 92102

Name:
 Phone Number:
 Address:

Name: Rosina Ruiz
 Phone Number: 619 791-4411
 Address: 722 42st #3 SD. CA 92102

Name: GERMINAL FERRER
 Phone Number: (619) 318-9727
 Address: 738 AZUL St SD CA, 92102

Name: Felipe Corman
 Phone Number: 619 230-0839
 Address: 750 42nd St SD CA 92102

Name:
 Phone Number:
 Address:

We The Residents & Businesses Of Mt.Hope Opposes Harvest Dispensary. Before Our Children Have A Recreational Facility!!!

Name: Berta Casian
Phone Number: 619 577-7251
Address: 243 Sampson St S D. CA 92113

Name: Dorothy Franklin
Phone Number: (619) 825-8880
Address: 651 Sawtelle Ave SD CA 92114

Name: BECKY DAMASKE
Phone Number: 619-316-8017
Address: 4175 F STREET, SD, CA. 92102

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Name: Heeter chester
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Phone Number:

Address:

Name:

Phone Number:

Address:

Name:

Phone Number:

Address:

had
Delivery *

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Phone Number:
Address:

Name:
Phone Number:
Address:

Name:
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**grocery
delivery needed*

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 Phone Number:
 Address:

Name:
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Name:
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We The Residents & Businesses Of Mt.Hope Opposes Harvest Dispensary. Before Our Children Have A Recreational Facility!!!

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PLANNING COMMISSION
RESOLUTION NO. XXXX
CONDITIONAL USE PERMIT NO. 2411994
GATEWAY CANNABIS OUTLET CUP - PROJECT NO. 660383

WHEREAS, GATEWAY SMP LLC, a California Limited Liability Company, Owner, and HARVEST OF SAN DIEGO LLC, a California Limited Liability Company, Permittee, filed an application with the City of San Diego for a Conditional Use Permit to allow the operation of a 2,995-square-foot Cannabis Outlet in Suites 107 and 108 within an existing three-story, 42,530-square-foot commercial building (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 2411994), on portions of a 4.10-acre site; and

WHEREAS, the project site is located at 995 Gateway Center Way in the IL-3-1 Zone, Airport Influence Area (SDIA Lindbergh Field – Review Area 1), Airport Federal Aviation Authority Part 77 Noticing Area (SDIA – Lindbergh Field 200 feet), Airport Land Use Compatibility Plan Noise Contours (SDIA – 65-70 CNEL), Special Flood Hazard Area (100 Year Floodway and 100 Year Floodplain), Fire – Brush Management (100-Foot Setback and 300-Foot Buffer), and Fire – Very High Fire Hazard Severity Zone within the Southeastern San Diego Community Plan area; and

WHEREAS, the project site is legally described as Lots 19 and 20 of Gateway Center East Unit No. 1, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 11512, filed in the Office of the County Recorder of San Diego County, May 14, 1986; and

WHEREAS, on August 18, 2021, the Hearing Officer of the City of San Diego approved Conditional Use Permit No. 2411994 pursuant to the Land Development Code of the City of San Diego; and

WHEREAS, appeals of the Hearing Officer's decision was filed by Francine Maxwell. Shaun Chamberlin, and Charles Alexander on September 1, 2021 (Appeals); and

WHEREAS, on November 4, 2021, the Planning Commission of the City of San Diego considered the Appeals and Conditional Use Permit No. 2411994 pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego, that it adopts the following findings with respect to Conditional Use Permit No. 2411994:

A. CONDITIONAL USE PERMIT FINDINGS [SDMC Section 126.0305]

1. The proposed development will not adversely affect the applicable land use plan.

The project is a request for a Conditional Use Permit (CUP) to allow the operation of 2,995-square-foot Cannabis Outlet in Suites 107 and 108 within an existing three-story, 42,530-square-foot commercial building located at 995 Gateway Center Way. The 4.10-acre site is in the IL-3-1 Zone, Airport Influence Area (SDIA Lindbergh Field – Review Area 1), Airport Federal Aviation Authority Part 77 Noticing Area (SDIA – Lindbergh Field 200 feet), Airport Land Use Compatibility Plan Noise Contours (SDIA – 65-70 CNEL), Special Flood Hazard Area (100 Year Floodway and 100 Year Floodplain), Fire – Brush Management (100-Foot Setback and 300-Foot Buffer), and Fire – Very High Fire Hazard Severity Zone within the Southeastern San Diego Community Plan area.

The project site is within the Industrial Employment land use category per the Land Use and Street System Map (Figure LU-2) of the General Plan. IL-3-1 zone allows a mix of light industrial, office, and commercial uses. Pursuant to SDMC section 131.0622, retail sales and commercial services are permitted uses in the IL-3-1 Zones. The Southeastern San Diego Community Plan (Community Plan) designates the site as Business Park within the Commercial, Employment and Industrial land use classification. Per the Community Plan, the Business Park designation represents employment-generating uses that will both create jobs and a pleasant and safe streetscape environment. Intended uses include office, research and development, and light manufacturing; storage and distribution are discouraged to minimize truck traffic; limited retail is allowed, to augment commercial uses and serve nearby residential area, but is not intended as a primary use. The proposed Cannabis Outlet is classified as retail sales use category, and will be one of the 12 tenants in the commercial building, occupying 7% of the entire premises; therefore, it will not be the primary use of the premises.

The proposed Cannabis Outlet is allowed in the IL-3-1 zone with a CUP pursuant to SDMC sections 131.0622 and 141.0504. The proposed project will promote the policies of the General Plan and the Community Plan because the Cannabis Outlet will supply jobs and encourage/facilitate commerce within the San Diego region. Therefore, the proposed Cannabis Outlet is a compatible use at this location with a CUP, it is consistent with the Community Plan land use policies, and will not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare.

The project proposes to operate a 2,995-square-foot Cannabis Outlet within an existing 42,530-square-foot commercial building, located at 995 Gateway Center Way. The project proposes interior improvements to an existing tenant space, including entry/exit areas, waiting areas, lobby, cannabis retail sales floor, employee break room, manager's office, janitor's closet, restrooms, storage room, express room, vault/fulfillment room, product transfer corridor, vendor receiving area. Construction of the project authorized through this permit will be subject to all adopted building, electrical, mechanical, fire and plumbing codes, which will be enforced through plan review and building inspections completed by the City's building inspectors.

The proposed development will not be detrimental to the public's health, safety, and welfare because the discretionary permit controlling the development and continued use of this site contains specific regulatory conditions of approval. These regulations, which are implemented and enforced through the permit, are specifically intended to reduce, mitigate and/or prevent all adverse impacts to the public and community at large. The operation of the Cannabis Outlet in the IL-3-1 Zone is allowed with a CUP at this location and consistent with the goals and policies of the Southeastern San Diego Community Plan.

Pursuant to SDMC section 141.0504, Cannabis Outlets are limited to no more than four per Council District (CD), and 36 city-wide, within commercial and industrial zones in order to minimize the impact on the City and residential neighborhoods. A total of three CUPs for Cannabis Outlets have been approved in Council District 9; hence, there remains capacity for one additional Cannabis Outlet to be approved in Council District 9. Cannabis Outlets require compliance with SDMC section 141.0504, which requires a 1,000-foot separation, measured in accordance with SDMC sections 141.0504 and 113.0225, from resource and population-based city parks, other Cannabis Outlets, churches, child care centers, playgrounds, libraries owned and operated by the City of San Diego, minor-oriented facilities, residential care facilities, and schools including private or public institutions of learning providing instruction in kindergarten grades 1 to 12. There is also a minimum distance requirement of 100 feet from a residentially zoned property or lot. City staff has reviewed the 100/1,000-foot radius map and the 100/1,000-foot radius map spreadsheet submitted by the applicant identifying all the existing surrounding uses, measured uses in accordance with SDMC section 113.0225, and determined that the proposed Cannabis Outlet complies with the minimum separation requirements between uses and residentially zoned lot or premises.

The project is required to provide 15 parking spaces for the Cannabis Outlet use, and maintain a minimum of 154 off-street parking for all uses on the premises, totaling 169 parking spaces required at the site. The project proposes to reconfigure the existing parking to provide 170 parking spaces to satisfy the parking requirement as shown on Exhibit 'A'. Public improvements include the removal of the two existing driveways and the installation of two 24-foot wide City standard driveways, located adjacent to the site on Gateway Center way, as well as the reconstruction of sidewalk with standard concrete sidewalk along the property frontage on Gateway Center Way, to the satisfaction of the City Engineer. Based on

the above analysis, project features and conditions of approval, the proposed development will not be detrimental to the public health, safety, and welfare.

The proposed Cannabis Outlet is subject to specific operational and security requirements and restrictions as set forth in SDMC section 141.0504(b) through (m), which have also been incorporated as conditions in the CUP including prohibition of consultation by medical professionals on-site; prohibition of the use of specified vending machines except by a responsible person (as defined by the SDMC); provision of interior and exterior lighting, operable cameras, alarms, security guard; restriction of hours of operation to between 7:00 a.m. and 9:00 p.m. daily; maintenance of area and adjacent public sidewalks free of litter and graffiti, and removal of graffiti within 24 hours; restriction of signage to business name, two-color signs, and alphabetic characters; and signage advertising cannabis may not be visible from the public right-of-way. Cannabis Outlets must also comply with Chapter 4, Article 2, Division 15 which provides guidelines for lawful operation. The CUP is valid for five years, however, may be revoked if the use violates the terms, conditions, lawful requirements, or provision of the permit.

Construction of the project authorized through this permit will be subject to all adopted building, electrical, mechanical, fire and plumbing codes, which will be enforced through plan review and building inspections completed by the City's building inspectors. Furthermore, this project has been reviewed pursuant to the California Environmental Quality Act, and the environmental analysis did not find any significant impacts to the public health and safety. Based on the above analysis, the proposed development would not be detrimental to the public health, safety, and welfare.

3. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

The project proposes to operate a 2,995-square-foot Cannabis Outlet within an existing 42,530-square-foot commercial building, located at 995 Gateway Center Way. The project proposes interior improvements to an existing tenant space, including entry/exit areas, waiting areas, lobby, cannabis retail sales floor, employee break room, manager's office, janitor's closet, restrooms, storage room, express room, vault/fulfillment room, product transfer corridor, vendor receiving area. Building improvements of the project authorized through this permit will be subject to all adopted building, electrical, mechanical, fire and plumbing codes, which will be enforced through plan review and building inspections completed by the City's building inspectors.

Pursuant to SDMC section 141.0504, Cannabis Outlets are limited to no more than four per Council District (CD), and 36 city-wide, within commercial and industrial zones in order to minimize the impact on the City and residential neighborhoods. A total of three CUPs for Cannabis Outlets have been approved in Council District 9; hence, there remains capacity for one additional Cannabis Outlet to be approved in Council District 9. Cannabis Outlets require compliance with SDMC section 141.0504, which requires a 1,000-foot separation, measured in accordance with SDMC sections 141.0504 and 113.0225, from resource and population-based city parks, other Cannabis Outlets, churches, child care centers, playgrounds, libraries owned and operated by the City of San Diego, minor-oriented

facilities, residential care facilities, and schools including private or public institutions of learning providing instruction in kindergarten grades 1 to 12. There is also a minimum distance requirement of 100 feet from a residentially zoned property or lot. City staff has reviewed the 100/1,000-foot radius map and the 100/1,000-foot radius map spreadsheet submitted by the applicant identifying all the existing surrounding uses, measured uses in accordance with SDMC section 113.0225, and determined that the proposed Cannabis Outlet complies with the minimum separation requirements between uses and residentially zoned lot or premises.

Iglesia Del Nazareno is a church as defined in SDMC section 113.0103, located at 3535 Market Street and within the 1,000-radius of the proposed Cannabis Outlet. This church is approximately 854 feet from the project site, measured property line to property line. The proposed Cannabis Outlet is located on top of a hillside with a slope gradient between 142 to 165 feet high, which is considered natural topographic barrier that impedes direct access to the proposed Cannabis Outlet. Per SDMC section 113.0225(c), when measuring distance between uses, natural topographical barriers and constructed barriers such as freeways or flood control channels that would impede direct physical access between the uses can be taken into consideration. In such case, the distance is measured as the most direct route around the barrier in a manner that establishes direct access. A direct public route to the church from the proposed Cannabis Outlet would be approximately 2,478 feet, greater than 1,000 feet. Therefore, the proposed project complies with the minimum separation requirements.

Dennis V. Allen Neighborhood Park is a population-based city park defined in the Recreation Element of the City of San Diego General Plan. It is located at 800 Boundary Street and approximately 1,014 feet from the project site, measured horizontally in a straight line between the two closest points of property line to property line pursuant to SDMC section 113.0225. The distance measurement is over the required 1,000-foot buffer, therefore, the proposed Cannabis Outlet is in compliance with the minimum separation requirements.

The permits for the project include various conditions and corresponding exhibits of approval relevant to achieving compliance with the SDMC relative to parking, signage, lighting, security measures, hours of operation, and site maintenance. No variance or deviations are requested as part of this application. Therefore, the proposed development will comply with the regulations of the Land Development Code.

4. The proposed use is appropriate at the proposed location.

The project is a request for a CUP to allow the operation of a Cannabis Outlet within an existing commercial building located at 995 Gateway Center Way. The 4.10-acre site is in the IL-3-1 Zone, Airport Influence Area (SDIA Lindbergh Field – Review Area 1), Airport Federal Aviation Authority Part 77 Noticing Area (SDIA – Lindbergh Field 200 feet), Airport Land Use Compatibility Plan Noise Contours (SDIA – 65-70 CNEL), Special Flood Hazard Area (100 Year Floodway and 100 Year Floodplain), Fire – Brush Management (100-Foot Setback and 300-Foot Buffer), and Fire – Very High Fire Hazard Severity Zone within the Southeastern San Diego Community Plan area.

The site is currently improved with a three-story commercial building constructed in 1989. The existing uses of the proposed tenant spaces are offices; other existing uses on site include medical, research, and professional offices; surrounding uses include retail, medical clinics, and light industrial businesses. Pursuant to SDMC section 141.0504, Cannabis Outlets are limited to no more than four per Council District (CD), and 36 city-wide, within commercial and industrial zones in order to minimize the impact on the City and residential neighborhoods. A total of three CUPs for Cannabis Outlets have been approved in Council District 9; hence, there remains capacity for one additional Cannabis Outlet to be approved in Council District 9.

Cannabis Outlets require compliance with SDMC section 141.0504, which requires a 1,000-foot separation, measured in accordance with SDMC sections 141.0504 and 113.0225, from resource and population-based city parks, other Cannabis Outlets, churches, child care centers, playgrounds, libraries owned and operated by the City of San Diego, minor-oriented facilities, residential care facilities, and schools including private or public institutions of learning providing instruction in kindergarten grades 1 to 12. There is also a minimum distance requirement of 100 feet from a residentially zoned property or lot. City staff has reviewed the 100/1,000-foot radius map and the 100/1,000-foot radius map spreadsheet submitted by the applicant identifying all the existing surrounding uses, measured uses in accordance with SDMC section 113.0225, and determined that the proposed Cannabis Outlet complies with the minimum separation requirements between uses and residentially zoned lot or premises.

Iglesia Del Nazareno is a church as defined in SDMC section 113.0103, located at 3535 Market Street and within the 1,000-radius of the proposed Cannabis Outlet. This church is approximately 854 feet from the project site, measured property line to property line. The proposed Cannabis Outlet is located on top of a hillside with a slope gradient between 142 to 165 feet high, which is considered natural topographic barrier that impedes direct access to the proposed Cannabis Outlet. Per SDMC section 113.0225(c), when measuring distance between uses, natural topographical barriers and constructed barriers such as freeways or flood control channels that would impede direct physical access between the uses can be taken into consideration. In such case, the distance is measured as the most direct route around the barrier in a manner that establishes direct access. A direct public route to the church from the proposed Cannabis Outlet would be greater than 1,000 feet. Therefore, the proposed project is in compliance with the minimum separation requirements.

Dennis V. Allen Neighborhood Park is a population-based city park defined in the Recreation Element of the City of San Diego General Plan. It is located at 800 Boundary Street and approximately 1,014 feet from the project site, measured horizontally in a straight line between the two closest points of property line to property line pursuant to SDMC section 113.0225. The distance measurement is over the required 1,000-foot buffer; therefore, the proposed Cannabis Outlet complies with the minimum separation requirements.

The project site is within the Industrial Employment land use category per the Land Use and Street System Map (Figure LU-2) of the General Plan. IL-3-1 zone allows a mix of light industrial, office, and commercial uses. Pursuant to SDMC section 131.0622, retail sales and commercial services are permitted uses in the IL-3-1 Zones. The Southeastern San Diego

Community Plan (Community Plan) designates the site as Business Park within the Commercial, Employment and Industrial land use classification. Per the Community Plan, the Business Park designation represents employment-generating uses that will both create jobs and a pleasant and safe streetscape environment. Intended uses include office, research and development, and light manufacturing; storage and distribution are discouraged to minimize truck traffic; limited retail is allowed, to augment commercial uses and serve nearby residential area, but is not intended as a primary use. The proposed Cannabis Outlet is classified as retail sales use category, and will be one of the 12 tenants in the commercial building, occupying 7% of the entire premises; therefore, it will not be the primary use of the premises.

The proposed Cannabis Outlet is consistent with the underlying IL-3-1 Zone and Community Plan land use designation and objectives of encouraging a range of commercial goods and services, and with a CUP, is a compatible use with the surrounding development. Therefore, based on the above analysis, the proposed use is appropriate at the proposed location.

The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, that the Appeals are denied, the August 18, 2021 decision of the Hearing Officer is affirmed, and Conditional Use Permit No. 2411994 is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 2411994, a copy of which is attached hereto and made a part hereof.

Travis Cleveland
Development Project Manager
Development Services

Adopted on: November 4, 2021

IO No.: 24008573

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL STATION
501

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

INTERNAL ORDER NUMBER: 24008573

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT NO. 2411994
GATEWAY CANNABIS OUTLET CUP - PROJECT NO. 660383
PLANNING COMMISSION

This Conditional Use Permit No. 2411994 ("Permit") is granted by the Planning Commission of the City of San Diego to Gateway SMP LLC, a California Limited Liability Company, Owner, and Harvest of San Diego, LLC, a California Limited Liability Company, Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0305. The 4.10-acre site is located at 995 Gateway Center Way in the IL-3-1 Zone, Airport Influence Area (SDIA Lindbergh Field – Review Area 1), Airport Federal Aviation Authority Part 77 Noticing Area (SDIA – Lindbergh Field 200 feet), Airport Land Use Compatibility Plan Noise Contours (SDIA – 65-70 CNEL), Special Flood Hazard Area (100 Year Floodway and 100 Year Floodplain), Fire – Brush Management (100-Foot Setback and 300-Foot Buffer), and Fire – Very High Fire Hazard Severity Zone within the Southeastern San Diego Community Plan area. The project site is legally described as: Lots 19 and 20 of Gateway Center East Unit No. 1, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 11512, filed in the Office of the County Recorder of San Diego County, May 14, 1986.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to operate a Cannabis Outlet, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated November 4, 2021, on file in the Development Services Department.

The project shall include:

- a. Operation of a 2,995-square-foot Cannabis Outlet in Suites 107 and 108 within an existing three-story, 42,530-square-foot commercial building;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking; and
- d. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act

[CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by November 4, 2024.
2. This Conditional Use Permit [CUP] and corresponding use of this site shall expire on November 4, 2026.
3. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
4. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
5. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
7. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
8. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

9. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

11. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

BUILDING OFFICIAL REQUIREMENT:

12. Prior to the commencement of operations granted by this Permit, the Owner/Permittee shall be granted occupancy for this cannabis use through a building permit, consistent with all California Codes and Regulations in effect at the time of building permit, satisfactory to the Building Official.

CLIMATE ACTION PLAN REQUIREMENTS:

13. Owner/Permittee shall comply with the Climate Action Plan (CAP) Consistency Checklist stamped as Exhibit "A." Prior to issuance of any construction permit, all CAP strategies shall be noted

within the first three (3) sheets of the construction plans under the heading "Climate Action Plan Requirements" and shall be enforced and implemented to the satisfaction of the Development Services Department.

ENGINEERING REQUIREMENTS:

14. Prior to the issuance of any construction permit, the Owner/Permittee shall obtain an Encroachment Maintenance and Removal Agreement (EMRA) for the landscape and irrigation located within the City's Right-Of-Way, satisfactory to the City Engineer.
15. Prior to the issuance of any construction permit, the Owner/Permittee shall assure by permit and bond the removal of the two existing driveways and the installation of two 24-foot wide City standard driveways, adjacent to the site on Gateway Center way, satisfactory to the City Engineer.
16. Prior to the issuance of any construction permit, the Owner/Permittee shall assure by permit and bond the reconstruction of sidewalk, with standard concrete sidewalk along the property frontage on Gateway Center Way, satisfactory to the City Engineer.
17. Prior to the issuance of any construction permit, the Owner/Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Part 2 Construction BMP Standards Chapter 4 of the City's Storm Water Standards.

LANDSCAPE REQUIREMENTS:

18. Prior to issuance of any construction permit, the Owner/Permittee shall submit complete construction documents for the revegetation & hydro-seeding of all disturbed land in accordance with the City's Landscape Standards & Storm Water Design Manual to the Development Services Department for approval. All plans shall be in substantial conformance to this permit (including Environmental Conditions) & Exhibit "A", filed in the Development Services Department.
19. Prior to issuance of any public improvement permit, the Owner/Permittee shall submit complete landscape construction documents for right-of-way improvements to the Development Services Department for approval. Improvement plans shall be designed where all hardscape, driveways, utilities, drains, water, & sewer laterals shall not prohibit the required placement of trees. Include a scaled symbol, label, & dimension the required placement of the 40-sqft tree area/root zone around each tree, unless otherwise approved per SDMC 142.0403(b)(5).
20. Prior to issuance of any construction permit, the Owner/Permittee shall submit complete landscape construction documents which are consistent with the City's Landscape Standards to the Development Services Department for approval. All plans shall be in substantial conformance with Exhibit 'A', filed in the DSD. Construction plans shall be designed where all hardscapes & utilities shall not prohibit the required placement of trees. Include a scaled symbol, label, & dimension the required placement of the 40-sqft tree area/root zone around each tree.
21. The Owner/Permittee shall be responsible for the maintenance of all landscape improvements shown on the approved plans, including the right-of-way, unless long-term maintenance of said

landscaping will be the responsibility of another entity approved by the Development Services Department. All required landscape shall be maintained consistent with the City's Landscape Standards in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted.

22. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction documents is damaged or removed during demolition or construction, the Owner/Permittee shall repair and/or replace in kind, and in an equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or Final Inspection.

PLANNING/DESIGN REQUIREMENTS:

23. Lighting shall be provided to illuminate the interior, facade, and the immediate surrounding area of the cannabis outlet, including any accessory uses, parking lots, and adjoining sidewalks. Lighting shall be hooded or oriented to deflect light away from adjacent properties.

24. Security shall be provided at the cannabis outlet which shall include operable cameras, alarms, and a security guard. The security guard shall be licensed by the State of California and be present on the premises during business hours. The security guard shall only be engaged in activities related to providing security for the facility, except on an incidental basis.

25. The Owner/Permittee shall provide a sufficient odor absorbing ventilation and system capable of minimizing excessive or offensive odors emanating outside of the permitted cannabis outlet to the satisfaction of the Development Services Department.

26. Signage: Primary signs shall be posted on the outside of the cannabis outlet and shall only contain the name of the business, which shall contain only alphabetic characters, and shall be limited to two colors. Secondary signs advertising cannabis, window signs and any display visible from the public right-of-way, are not permitted. No marketing or advertising for cannabis or cannabis products shall be displayed visible from the public right-of-way. All cannabis licensees, and any person acting on behalf of a licensee, must comply with the State of California statutes and regulations governing commercial cannabis advertising and/or promoting.

27. The name and emergency contact phone number of the designated responsible managing operator shall be posted in a location visible from outside the cannabis outlet in character size at least two inches in height.

28. The cannabis outlet shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.

29. The use of vending machines which allow access to cannabis and cannabis products except by a responsible person, as defined in San Diego Municipal Code Section 42.1502, is prohibited. For purposes of this Section, a vending machine is any device which allows access to cannabis and cannabis products without a human intermediary.

30. An annual operating permit shall be obtained as required pursuant to San Diego Municipal Code Chapter 4, Article 2, Division 15.

31. Deliveries shall be permitted as an accessory use only from the cannabis outlet with a valid Conditional Use Permit unless otherwise allowed pursuant to state law.

32. The cannabis outlet, adjacent public sidewalks, and areas under the control of the cannabis outlet, shall be maintained free of litter and graffiti at all times.

33. The Owner/Permittee shall provide daily removal of trash, litter, and debris of the premises. Graffiti shall be removed from the premises within 24 hours.

34. Consultations by medical professionals shall not be a permitted accessory use at the cannabis outlet.

TRANSPORTATION REQUIREMENTS:

35. All automobile, motorcycle and bicycle parking spaces must be constructed in accordance with the requirements of the SDMC. All on-site parking stalls and aisle widths shall be in compliance with the requirements of the City's Land Development Code and shall not be converted an/or utilized for any other purpose, unless otherwise authorized in writing by the appropriate City decision maker in accordance with the SDMC.

PUBLIC UTILITIES DEPARTMENT REQUIREMENTS:

36. Prior to the issuance of any construction permit, all domestic, irrigation, and fire water lines serving this development must pass through a permitted, private, above ground, backflow prevention device (BFPD).

37. Prior to the issuance of any construction permit, any existing sewer lateral to be reused must be videoed and inspected by a California licensed plumber to verify and attest to (via a signed statement on company letterhead) that: all of the following: the lateral has an appropriate cleanout, is in good condition, is free of all debris, is properly connected to a public sewer main, and is suitable for reuse. If the lateral does not meet these requirements, it must be cleaned, repaired if necessary, and re-inspected or abandoned, capped, and replaced with a new permitted lateral.

38. Prior to the issuance of the Certificate of Occupancy, any private improvements within the public ROW (including but not limited to: landscaping, enhanced paving, private non-irrigation utilities, or structures of any kind) that could inhibit the City's right to access, maintain, repair, or replace its public water and sewer utilities must be removed unless the Owner/Permittee has a City approved County recorded EMRA which authorizes that specific private improvement to be placed in that specific location.

39. No trees or shrubs exceeding three (3) feet in height at maturity shall be installed or remain within ten (10) feet of any public sewer facilities or within five (5) feet of any public water facilities.

INFORMATION ONLY:

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.
- Cannabis businesses that operate or provide services within the City of San Diego are liable for a monthly gross receipts tax. As referenced in San Diego Municipal Code Section [34.0103 \(b\)](#), taxable activities include but are not limited to, transporting, manufacturing, cultivating, packaging, or retail sales of cannabis and any ancillary products in the City. For additional information, contact the Office of the City Treasurer at (619) 615-1580.

APPROVED by the Planning Commission of the City of San Diego on November 4, 2021 and Resolution Number XXXX.

ATTACHMENT 6

Permit Type/PTS Approval No.: Conditional Use Permit No. 2411994
Date of Approval: November 4, 2021

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

Travis Cleveland
Development Project Manager

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1189 et seq.**

The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

Gateway SMP LLC
A California Limited Liability Company
Owner

By _____
NAME
TITLE

Harvest of San Diego, LLC
A California Limited Liability Company
Permittee

By _____
NAME
TITLE

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