

RESOLUTION NO. 23-206

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA ADOPTING A
NOTICE TO PREVAILING APPLICANTS OF CONDITIONAL AWARD OF
COMMERCIAL CANNABIS BUSINESS (CCB) PERMITS TO STANDARD RETAIL OR
MICROBUSINESS APPLICANTS**

WHEREAS, on June 16, 2021, the City Council of the City of Madera (Council) adopted Ordinance No. 977 C.S. adding Chapter 5 to Title VI (Cannabis Businesses) to the City of Madera Municipal Code (CMC) to permit commercial cannabis businesses within the City of Madera (City) and establish a regulatory program requiring all commercial cannabis uses to obtain a commercial cannabis business permit issued by the City prior to commencing operation and engaging in cannabis business; and

WHEREAS, CMC Section 6-5.10 provides that the number of each type of cannabis business that shall be permitted to operate in the City shall be established by resolution by the Council; and

WHEREAS, CMC Section 6-5.10 further provides the Council at its sole discretion may determine that the number and/or types of Cannabis Business Permits should remain the same or be modified; and

WHEREAS, on December 1, 2021, Council adopted Resolution No. 21-167 determining the number and type of Cannabis Business Permits that may be issued in the City; and

WHEREAS, Resolution No. 21-167 authorizes a total of six Standard Retail or Microbusiness Cannabis Business Permits (in any combination thereof) to be granted in the City; and

WHEREAS, the filing period for CCB Permit applications opened on April 15, 2022; and

WHEREAS, the City held two CCB Permit application informational Zoom meetings on April 19, 2022 and April 21, 21, 2022; and

WHEREAS, the CCB Permit application filing period closed on June 20, 2022; and

WHEREAS, the City received a total of 26 Standard Retail or Microbusiness CCB Permit applications; and

WHEREAS, all CCB Permit applications received were reviewed pursuant to CMC Section 6-5.14 of the Cannabis Ordinance, were deemed complete, and each applicant was issued a zoning verification letter; and

WHEREAS, all CCB Permit applications were scored pursuant to the Phase II evaluation criteria in the application procedures and guidelines adopted by the City Council as set forth in Resolution No. 21-169; and

WHEREAS, the City, in its sole discretion, selected the top 20 scoring applicants to proceed to the Phase III Public Meeting portion of the process; and

WHEREAS, the City provided notices of a total five Phase III Public Meetings for the top 20 scoring Standard Retail or Microbusiness applications and held meetings during the month of August, 2023; and

WHEREAS, all top 20 scoring applicants completed Phase III of the application process, enabling all top 20 scoring applicants to proceed forward to Phase IV of the application process; and

WHEREAS, the City Council of the City of Madera received a summary report on November 15, 2023; and

WHEREAS, the City Council of the City of Madera received presentations from top applicants at a special meeting of the City Council on December 9, 2023; and

WHEREAS, the City Council conducted interviews of top applicants and invited and received public comment prior to taking action on adopting this resolution; and

WHEREAS, as a condition to the award of a Cannabis Business Permit, the applicants are required to first enter into a Community Benefit Agreement with the City, and if and when such a Community Benefit Agreement is executed, then obtain all required land use approvals and a business license prior to use of the Cannabis Business Permit; and

WHEREAS, the City Council now desires to make a determination to award Standard Retail or Microbusiness applicants Cannabis Business Permits; and

WHEREAS, all applicants identified on the attached Exhibit A to this resolution have been determined to meet all eligibility and minimum requirements to receive a CCB Permit in the City of Madera; and

WHEREAS, pursuant to the City Council's adopted Procedure Guidelines and Review Criteria for a CCB Permit, being awarded a Commercial Cannabis Business permit does not constitute a land use entitlement and does not waive or remove the requirements of applying for and receiving permits for all construction including reviews as deemed necessary by the relevant departments or governmental entities in charge of said permits. Nor does the award of a CCB permit guarantee that plans submitted via the CCB application process meet the standards or requirements in CMC Title X, Chapter 3 and any other permit requirements from other City departments or agencies; and

WHEREAS, the award of CCB permits is therefore not considered a Project for purposes of the California Environmental Quality Act (CEQA) as the award does not have the potential to result in a direct physical change to the environment and a description of the project, in whole, with respect to reasonably foreseeable indirect physical changes in the environment would be speculative at this time and not adequate for purposes of environmental analysis.

NOW THEREFORE, the City Council of the City of Madera hereby resolves and finds, and orders as follows:

1. The above recitals are true and correct and are incorporated herein.
2. The Council issues a notice of an award of a Standard Retail or Microbusiness Commercial Cannabis Business (CCB) Permit to those applicants (also referred to as “operators”) listed on Exhibit A attached hereto and contingent upon the following conditions, which shall apply to each individual CCB Permit:
 - a. The determination of an award, or the award of, a CCB Permit does not constitute a land use entitlement, and there is no interest, vested or otherwise, in the same.
 - b. The City shall not assume any liability whatsoever with respect to the determination of an award, award, or issuance of a CCB Permit or otherwise approving the operation of any cannabis business. Within 30 days of the adoption of this Resolution, each applicant shall enter into an agreement (“Indemnification Agreement”) with the City, in a form approved by the City Attorney, to indemnify, defend, and hold harmless the City, maintain required insurance, and reimburse the City for all costs and expenses (including those related to any legal challenge) consistent with the requirements of CMC section 6-5.34. If no Indemnification Agreement with an applicant is approved by the City Council and the applicant by no later than February 7, 2024, then the award of the CCB Permit shall not become final as to the applicant without an approved Indemnification Agreement, such applicant acknowledges it has no interest in the (unawarded) CCB Permit, and the CCB Permit may awarded to another in the City’s sole discretion and without any further action or notice by the City. Any approved Indemnification Agreement shall be maintained by and complied with by the applicant and kept in full force and effect at all times until such time that a CCB Permit expires, is revoked, or is of no further legal effect.
 - c. The determination of award of each CCB Permit is contingent upon, and shall not become effective until, the applicant has entered into an Indemnification Agreement and a Community Benefit Agreement with the City for the applicant’s facility, and also obtained all required land use approvals. If no Community Benefit Agreement with an applicant is approved by the City Council and the applicant within 150 days of the approval of this Resolution, then the award of the CCB Permit shall not become final as to the applicant without a Community Benefit Agreement, such applicant acknowledges it has no interest in the (unawarded) CCB Permit, and the CCB Permit may awarded to another in the City’s sole discretion and without any further action or notice by the City.

- d. The applicant/operator of each cannabis facility shall enter into a Community Benefit Agreement with the City setting forth the terms and conditions under which the cannabis facility will operate that are in addition to the requirements of CMC section 6-5.37.C, including, but not limited to community benefits such as public outreach and education, community service, payment of fees and other charges as mutually agreed, and such other terms and conditions that will protect and promote the public health, safety, and welfare. The community benefits shall not be less than the terms presented by the operator to the City during the application and selection process. In addition, any community benefits agreed to be provided shall be incorporated into the terms and conditions under which the commercial cannabis business will operate with the City of Madera approval, if and when a Community Benefit Agreement is executed. Any approved Community Benefit Agreement shall be maintained by and complied with by the operator and kept in full force and effect at all times until such time that the operator's CCB Permit expires, is revoked, or is of no further legal effect.
 - e. No applicant is authorized to proceed to apply to the City for any required land use permits, a business license, or any related approvals until both the Indemnification Agreement and a Community Benefits Agreement is first executed and approved. Additionally, the issuance of a CCB Permit is also contingent upon the approval of all land use approvals required by the Madera Municipal Code for uses necessary to exercise the CCB Permit. Final approval of such land use approvals shall be secured from the City not later than 12 months and 150 days after the adoption of this Resolution. If all required land use approvals are not secured by the applicant at that time, the award of the CCB permit to that applicant shall automatically expire. However, if all required land use approvals are timely secured, the City will issue an official CCB permit to the applicant. Each CCB permit shall be exercised within 12 months of issuance, and may be renewed as authorized by the Cannabis Business Permit Ordinance of the City of Madera ("Cannabis Ordinance"). Each CCB Permit shall expire 12 months after the date of issuance and may be renewed as provided by the Cannabis Ordinance.
 - f. The operator of each cannabis facility shall at all times comply with the requirements of State and local law, including the requirements of Chapter 5 of Title VI: Business, Professions, and Trades of the City Municipal Code.
3. This resolution is effective immediately upon adoption.

PASSED AND ADOPTED by the City Council of the City of Madera this 13th day of December 2023 by the following vote:


AYES: Mayor Garcia, Councilmembers Gallegos, Rodriguez, Montes, Evans, Mejia and Villegas.

NOES: None.

ABSTENTIONS: None.

ABSENT: None.

APPROVED:



SANTOS GARCIA, Mayor

ATTEST:



ALICIA GONZALES, City Clerk



Exhibit A
(Standard Retail or Microbusiness CCB Permits, Applicant/Operator Awards)

	Applicant Entity:	Doing Business As (DBA):	Location (Address):
1.	Cannable	GBH Retail, LLC	313 E. Yosemite Avenue
2.	Embarc	Responsible and Compliant Retail Madera, LLC	530 E. Yosemite Avenue
3.	Stiizy	Shryne Madera, LLC	1105 Country Club Drive
4.	Culture Cannabis Club	Madera Has Culture, Inc.	233 E. Yosemite Avenue
5.	Mainstream	Mainstream Madera, LLC	300 E. Yosemite Avenue
6.	Lavish	Lavish West Coast Madera	520 N. Gateway Drive