

Town of Marble
Regular Meeting of the Board of Trustees
February 7th, 2019
7:00 P.M.
Marble Community Church, 121 W. State St. Marble, Colorado
Agenda

7:00 P.M.

- A. Call to order & roll call of the Regular Meeting of the Board of Trustees
- B. Approve previous minutes
- C. Mayor's Comments
 - a. Other
- D. Clerk Report
 - a. Lead King Loop Committee up-date, Ron
 - b. Parking Plan up-date, Ron
 - c. Discussion with Gunnison County Sheriff John Gallowich, Re. patrol plans for Marble 2019
 - d. Discussion with Colorado Department of Parks & Wildlife Officer John Groves Re. Beaver Lake
 - e. Current bills payable 2/7/2019, Ron
 - f. Consider approval of letter of support for Holy Cross fiber project, Bart Weller
- E. Current Land Use Issues
 - a. Discussion of Slow Groovin right of way lease agreement, Ron
 - b. Discussion of Fire District plans for fire station expansion, Ron
 - c. Other
- F. Old Business
 - a. Discussion of jailhouse funding, Emma
 - b. Discussion of Dark Sky Initiative, Alex
 - c. Other
- G. New Business
 - a. Other
- H. Adjourn

Town of Marble
Minutes of the Regular Meeting of the Board of Trustees
January 3, 2019

A. Call to order & roll call of the Regular Meeting of the Board of Trustees – The meeting was called to order by Mayor Ryan Vinciguerra at 7:00 p.m. Present: Ryan Vinciguerra, Charlie Manus, Tim Hunter, Emma Bielski. Absent: Larry Good. Also present: Ron Leach, Town Administrator and Terry Langley, minutes. Attending by phone: Kendall Burgemeister, Town Attorney.

B. Approve previous minutes – Emma Bielski made a motion to approve the minutes. Tim Hunter seconded and the motion passed unanimously.

C. Mayor's Comments

a. Discussion, water augmentation plan status, Ryan & Tom Zancanella – Ryan introduced Tom and Tony Zancanella of Zancanella & Associates in Glenwood Springs. Tom said that he has 30 years' experience in water rights and water issues and is a Marble property owner. He explained Colorado doctrine and how water rights were established. Marble originally had a pump and pipe line up on Carbonate Creek and the water was appropriated in the 1900s but they did not adjudicate it until much later. Ditches downstream have senior water rights. It is possible to get water contracts that solve a cameo call scenario but does not satisfy senior rights on the Crystal. This may require developing some reservoir storage. The town of Marble would be borrowing a certain amount of water and a portion would be returned to the river. Consumptive use (household use, septic/leach fields and evaporation) is what has to be replaced to the river. Under a hard call on the water, the town can only use the water in house for domestic use – no lawn or garden irrigation. Water can be put into a reservoir when water is plentiful and released when there is a call on the water. Tim asked if the town could build a water shed and then release it to the ditch and into Beaver Lake. Tom said that would probably be too small. Tony said that, looking at diversion uses, Marble has a fairly tight system with usage of 370-410 gallons per tap per day. The ideal place to release would be above the wells. There is a large ground water aquifer between Carbonate Creek and the Crystal river. CPW got a similar letter stating that Beaver Lake is also a junior right and that the evaporation rate affects the river level and the water is subject to a call. Historical studies need to be done on both wet and dry years. Reservoir storage needs need to be calculated. Emma asked about what would happen after the fact gathering. Tom said that they would work with the town's water attorney and the state engineer to develop a plan. The involvement of the Marble Water Company would be part of this. Kendall Burgemeister said that the depletion amounts need to be determined and that this is what the current scope of work is limited to. Ron explained that there had already been work done to find an alternative well site and water for East Marble – other things that may come into play. Tom suggested developing a well field rather than a well site. Next steps: get the information needed as to quantity and reach out to MWC to see what progress they are making on their end.

D. Clerk Report

a. Current bills payable 1/3/2019, Ron – Ron said that there are two bills from the insurance company that did not make the list in the packet. They are \$399.25 for workman's comp and \$687.65

for general liability insurance. Emma Bielski moved to pay the bills as listed in the packet along with the additional insurance bills. Charlie Manus seconded. The motion passed unanimously.

b. Consider approval of 2018 audit engagement letter with McMahon & Associates – Ron reported that the cost of the 2018 audit would be \$7100.00. Charlie Manus moved to approve the engagement letter. Emma Bielski seconded and the motion passed unanimously.

c. Consider approval of Resolution no. 1 of 2019 regarding designation public posting place, Ron – This is a yearly requirement and it designates the bulletin board at the Hub as the posting place. Emma Bielski moved to approve the resolution. Charlie Manus seconded. The motion passed unanimously.

d. Discussion of SUP proposal for Beaver Lake Permit, Cyndi Fowler & Jamie Fisk – Jamie has been in conversation with the CPW regarding a permit to teach stand up paddle boarding on Beaver Lake. She is a certified teacher and has been teaching dry land lessons as well as on the Chair Mountain Ranch pond. She said that CPW wants to know if the town would support such an effort. Emma asked about overcrowding. Jamie said they would be transporting from their location so parking at the lake would be limited. Emma asked about size and number of classes daily. Jamie said she would be the only instructor and wants small classes. They propose sharing a portion of the proceeds with either CPW or Marble. Emma asked if they would be willing to discuss class times and sizes and Jamie agreed. Charlie asked about parking at their shed location if they are transporting due to the effect on the neighbors. Jamie anticipates 2-3 cars and is willing to work to minimize the impact on their neighbors. Tim said that he needs to see written approval from CPW in order to support this. Jamie asked for a letter of support and was told to get a permit first. Richard Wells said that John Groves should be included in any discussion.

E. Current Land Use Issues

a. Diane Ahlstrom application for building permit, Ron – Nothing to report at this time. Ron will be going over to the neighboring property to use GPS to locate the well. Tommy added the fact that it is not 50' off of the Clarence ditch as required by the Land Use Code to his objections.

F. Old Business

a. Lead King Loop Committee up-date, Ron – Ryan reported on the positive work being done. Currently they are working to document problems and positives related to use of the LKL. He explained some of the work being done in Pitkin County. Emma asked if there had been any progress in securing a Western State intern. Ron said that he has not had any luck but will continue to work on this.

b. Discussion of Dark Sky Initiative, Alex – Alex was not hear but there was some discussion about

c. Other – Emma said that the first draft of the report will be submitted tomorrow afternoon. We have received \$1800 of a \$4500 grant. The second payment will come once the draft is submitted. The next step is to write a grant request for a matched based grant, then a request for bids for restoration and preservation, then work and interpretive signage.

G. New Business

a. Other – Tim reported on the New Year's Eve bonfire and said that everything burned and a good time was had by all.

H. Adjourn – Emma Bielski made a motion to adjourn the meeting. Tim Hunter seconded and the motion passed unanimously. The meeting was adjourned at 8:35 p.m.

Respectfully submitted,

Terry Langley

1:30 PM
02/03/19
Accrual Basis

Town of Marble
Balance Sheet
As of February 7, 2019

	Feb 7, 19
ASSETS	
Current Assets	
Checking/Savings	
*General Fund -0240	43,317.43
Campground Account -6981	84,223.26
Money Market -1084	78,757.24
Severance/Mineral Proceeds-6157	148,741.32
Water Fees -0873	17,098.99
Total Checking/Savings	372,138.24
Total Current Assets	372,138.24
TOTAL ASSETS	<u>372,138.24</u>
LIABILITIES & EQUITY	0.00

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Town of Marble
Deposit Detail-Money Market Fund
 January 2019

Date	Name	Memo	Account	Amount
01/04/2019		Deposit	Money Market -1084	17.91
		Deposit	Cigarette Tax	-17.91
TOTAL				-17.91
01/09/2019		Deposit	Money Market -1084	1,212.82
		Deposit	General Sales Tax	-1,212.82
TOTAL				-1,212.82
01/10/2019		Deposit	Money Market -1084	156.71
	Gunnison County	Deposit	Additional License Tax	-43.00
	Gunnison County	Deposit	Specific Ownership Tax	-114.14
	Gunnison County	Deposit	Treasurers Fees	0.43
TOTAL				-156.71
01/18/2019		Deposit	Money Market -1084	670.14
		Deposit	Highway Use Tax (HUTF)	-670.14
TOTAL				-670.14

Town of Marble
Deposit Detail-Campground Account
 January 2019

Date	Name	Memo	Account	Amount
01/07/2019		Deposit	Campground Account -6981	98.92
		Deposit	Campground/Store Revenues	-90.00
		Deposit	Sales Tax	-8.92
TOTAL				-98.92
01/14/2019		Deposit	Campground Account -6981	461.64
		Deposit	Campground/Store Revenues	-420.00
		Deposit	Sales Tax	-41.64
TOTAL				-461.64
01/15/2019		Deposit	Campground Account -6981	38.47
		Deposit	Campground/Store Revenues	-35.00
		Deposit	Sales Tax	-3.47
TOTAL				-38.47
01/17/2019		Deposit	Campground Account -6981	76.94
		Deposit	Campground/Store Revenues	-70.00
		Deposit	Sales Tax	-6.94
TOTAL				-76.94
01/22/2019		Deposit	Campground Account -6981	329.73
		Deposit	Campground/Store Revenues	-300.00
		Deposit	Sales Tax	-29.73
TOTAL				-329.73

1:27 PM

02/03/19

**Town of Marble
Check Register
February 2019**

Num	Date	Amount
Alpine Bank 10484	02/07/2019	-1,000.00
Century Link 10485	02/07/2019	-198.05
CIRSA 10486	02/07/2019	-1,114.40
Daly Property Services, Inc. 10487	02/07/2019	-3,987.50
Holy Cross Electric 10488	02/07/2019	-19.66
Marble Community Church 10483	02/07/2019	-50.00
Marble Hub 10489	02/07/2019	-53.00
Marble Water Company 10490	02/07/2019	-130.00
McMahan & Associates 10491	02/07/2019	-550.00
Mountain Pest Control, Inc. 10492	02/07/2019	-49.50
Sopris Engineering LLC 10493	02/07/2019	-400.00
10501	02/07/2019	-3,460.00
Terry Langley 10494	02/07/2019	-108.00
Valley Garbage Solution, LLC 10500	02/07/2019	-256.00

01/31/19

**Town of Marble
Payroll Report
February 2019**

Date	Num	Name	Type	Amount
Charles R Manus				
02/01/2019	10495	Charles R Manus	Paycheck	-336.15
Total Charles R Manus				-336.15
Jennifer Cutright				
02/01/2019	10496	Jennifer Cutright	Paycheck	-240.11
Total Jennifer Cutright				-240.11
Ronald S Leach				
02/01/2019	10497	Ronald S Leach	Paycheck	-2,486.20
Total Ronald S Leach				-2,486.20
TOTAL				<u>-3,062.46</u>

Town of Marble
Budget vs. Actual
 January through December 2019

	Jan - Dec 19	Budget	\$ Over Budget	% of Budget
Income				
Intergovernmental				
Cigarette Tax	17.91	100.00	-82.09	17.9%
Colorado Trust Fund	0.00	0.00	0.00	0.0%
General Sales Tax	1,212.82	35,000.00	-33,787.18	3.5%
Highway Use Tax (HUTF)	670.14	13,000.00	-12,329.86	5.2%
Mineral Lease Distribution	0.00	2,500.00	-2,500.00	0.0%
Other Permit & License Fees	0.00	1,000.00	-1,000.00	0.0%
Severance Tax	0.00	2,500.00	-2,500.00	0.0%
Total Intergovernmental	1,900.87	54,100.00	-52,199.13	3.5%
Licenses & Permits				
Building Permits	0.00	1,500.00	-1,500.00	0.0%
Business Licenses	0.00	1,000.00	-1,000.00	0.0%
Driveway Access Permits	0.00	300.00	-300.00	0.0%
Other Licenses & Permits	0.00	0.00	0.00	0.0%
Septic Permits	0.00	1,000.00	-1,000.00	0.0%
Total Licenses & Permits	0.00	3,800.00	-3,800.00	0.0%
Other Revenue				
Campground/Store Revenues	915.00	60,000.00	-59,085.00	1.5%
CSQ Lease Agreement	0.00	29,000.00	-29,000.00	0.0%
CSQ Maintenance Payments	0.00	3,300.00	-3,300.00	0.0%
Donations	0.00	500.00	-500.00	0.0%
Holy Cross Electric Rebates	0.00	500.00	-500.00	0.0%
Interest Income	0.00	500.00	-500.00	0.0%
Non-Specified	0.00	3,000.00	-3,000.00	0.0%
Parking Program Revenue	0.00	50,000.00	-50,000.00	0.0%
SGB Lease Agreement	0.00	2,000.00	-2,000.00	0.0%
Transfers (In) Out	0.00	0.00	0.00	0.0%
Tree Maintenance Program	0.00	1,000.00	-1,000.00	0.0%
Total Other Revenue	915.00	149,800.00	-148,885.00	0.6%
Taxes				
Additional License Tax	43.00	500.00	-457.00	8.6%
General Property Tax	0.00	20,908.00	-20,908.00	0.0%
Property Tax Interest	0.00	100.00	-100.00	0.0%

	Jan - Dec 19	Budget	\$ Over Budget	% of Budget
Special Use & Sales Tax	0.00	0.00	0.00	0.0%
Specific Ownership Tax	114.14	1,500.00	-1,385.86	7.6%
Total Taxes	157.14	23,008.00	-22,850.86	0.7%
Total Income	2,973.01	230,708.00	-227,734.99	1.3%
Gross Profit	2,973.01	230,708.00	-227,734.99	1.3%
Expense				
General Government				
Abated Tax	0.00	0.00	0.00	0.0%
Campground/Office Expenses	656.96	25,000.00	-24,343.04	2.6%
Church Rent	100.00	600.00	-500.00	16.7%
Civic Engagement Fund	0.00	1,500.00	-1,500.00	0.0%
Dues & Subscriptions	0.00	300.00	-300.00	0.0%
Elections	0.00	0.00	0.00	0.0%
Legal Publication	22.90	1,000.00	-977.10	2.3%
Marble Fest Donation	0.00	0.00	0.00	0.0%
Marble Water Co 2017 Tap Fee	0.00	0.00	0.00	0.0%
Marble Water Co Monitoring Well	0.00	0.00	0.00	0.0%
Marble Water Co Payment	0.00	0.00	0.00	0.0%
Office Expenses	308.00	5,000.00	-4,692.00	6.2%
Parking Program Expenses	0.00	16,100.00	-16,100.00	0.0%
Recycle Program	0.00	1,000.00	-1,000.00	0.0%
Treasurers Fees	0.43	500.00	-499.57	0.1%
Tree Maintenance Program	0.00	2,000.00	-2,000.00	0.0%
Unclassified	0.00	3,000.00	-3,000.00	0.0%
Weed Mitigation Program	0.00	3,000.00	-3,000.00	0.0%
Workshop/Travel	0.00	1,000.00	-1,000.00	0.0%
Total General Government	1,088.29	60,000.00	-58,911.71	1.8%
Other Purchased Services				
Earth Day Expenses	0.00	4,000.00	-4,000.00	0.0%
Grant Writing	0.00	3,000.00	-3,000.00	0.0%
Liability & Worker Comp Insc	2,159.80	4,500.00	-2,340.20	48.0%
Park Improvements	198.00	0.00	198.00	100.0%
Utilities	615.34	3,500.00	-2,884.66	17.6%
Total Other Purchased Services	2,973.14	15,000.00	-12,026.86	19.8%

	Jan - Dec 19	Budget	\$ Over Budget	% of Budget
Purchased Professional Services				
Audit	0.00	7,000.00	-7,000.00	0.0%
Engineering-Water Augmentation	0.00	11,000.00	-11,000.00	0.0%
Engineering Services	3,860.00	5,000.00	-1,140.00	77.2%
Legal - General	1,768.99	25,000.00	-23,231.01	7.1%
Legal - Water Augmentation Plan	0.00	5,000.00	-5,000.00	0.0%
Municipal Court	0.00	1,500.00	-1,500.00	0.0%
Total Purchased Professional Services	5,628.99	54,500.00	-48,871.01	10.3%
Roads				
Snow & Ice Removal	3,987.50	24,000.00	-20,012.50	16.6%
Street Maintenance	0.00	10,000.00	-10,000.00	0.0%
Total Roads	3,987.50	34,000.00	-30,012.50	11.7%
Wages & Benefits				
FICA/Medicare	585.08	5,701.00	-5,115.92	10.3%
Total Wages	7,648.00	55,272.00	-47,624.00	13.8%
Wages & Benefits - Other	0.00	0.00	0.00	0.0%
Total Wages & Benefits	8,233.08	60,973.00	-52,739.92	13.5%
Total Expense	21,911.00	224,473.00	-202,562.00	9.8%
Net Income	-18,937.99	6,235.00	-25,172.99	-303.7%

Draft Letter to Holy Cross Board

Bart Weller <bcw@sopris.net>

Thu 1/31/2019 9:42 AM

cc: Ryan Vinciguerra <ryanvinciguerra@gmail.com>; Ron Leach Town of Marble <leach@townofmarble.com>; Kara Silbernagel <kara.silbernagel@pitkincounty.com>

Hi Ryan and Ron,

Below is my proposed draft letter to the Holy Cross Board. I believe the HCE Board meets on Feb. 20th, but need to confirm this. I hope this will garner a unanimous vote by the Board. Please let me know if any changes or additions might be needed, and I will be happy to help with that.

Thanks,
Bart
970.704.9095

===== DRAFT LETTER FROM MARBLE BOARD OF TRUSTEES TO HOLY CROSS ENERGY BOARD OF DIRECTORS =====

TO: Holy Cross Energy (HCE) Board of Directors

FROM: Town of Marble Board of Trustees

RE: Proposed HCE Fiber-Optic Project

Dear Holy Cross Board of Directors:

The Town of Marble Board of Trustees has been made aware that Holy Cross Energy is considering a project to build optical fiber capacity in some parts of its service area for the purpose of enhancing its operational and control communications, and that the Upper Crystal River Valley (including Marble) may be included in this project. Our understanding is that if this project is undertaken there is the possibility that this system could provide broadband internet capacity for the HCE customer base in the areas served by this new fiber system.

Our purpose in writing you is to express our enthusiastic support and interest to the HCE Board for this effort. As you may know, Marble is one of the very few remaining statutory towns in Colorado that is totally unserved (as defined by FCC criteria) by broadband internet. Over the last twelve years we have reached out several times to the existing telecom provider to request an upgrade to its infrastructure to provide basic internet services, but with no success. Marble has a public charter school, part of the Gunnison Watershed School District, which is in need of broadband capacity to support its students' work and its staff reporting requirements from the state Department of Education. School staff must often drive to Carbondale to submit reports required by the state. Businesses in and around Marble, including the Marble Quarry, need broadband capacity to support their operations.

We hope the HCE Board will consider our unanimous expression of encouragement and support in its consideration of this project.

Sincerely

LEASE

THIS LEASE is entered into this ___ day of _____, 2017, by and between the Town of Marble ("Landlord"), and Slow Groovin Holding, LLC, a Colorado limited liability company ("Tenant").

WITNESSETH:

1. Premises. Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, upon the terms and conditions as hereinafter set forth, the following real property:

Those portions of Main Street and West First Street, Town of Marble, Gunnison County, Colorado, illustrated on Exhibit 1 (Survey Map),

(hereinafter referred to as "Premises").

2. Term of Lease. The original term of this Lease shall start on January 1, 2018, and shall run for a period of five years (the "Lease Term"), unless sooner terminated or extended as hereinafter provided.

3. Application Fee. Upon execution of this Lease, Tenant shall pay Landlord a non-refundable application fee in the amount of \$400, at the address provided below, or at such other place designated by Landlord.

4. Rent. Tenant agrees to pay Landlord at the address provided below, or at such other place designated by Landlord, without prior demand therefor and without any deduction or offset whatsoever, the amount of _____ for the initial Lease Term, which amount shall be due and payable in annual installments on January 1 of each year of the Lease Term, in the amount shown on the following table:

Year	Rent
1	
2	
3	
4	
5	
Total	

5. Late Fees and Interest. If any amount due under this Lease is not paid within 5 business days of the due date, tenant shall pay a late charge of \$100 together with interest at a rate of 18% per annum.

6. Use of Premises.

a. Tenant shall have the right to use and occupy the Premises for commercial purposes associated with the operation of Slow Groovin' BBQ on Lots 9-12, Block 23, Town of Marble (the "Restaurant"), as follows:

i. The area east of the centerline of West First Street shall be used exclusively as a parking lot for customers of the Restaurant. Each year, Tenant

shall paint a crosswalk across West First Street from the parking lot to the stairs leading to the Restaurant.

ii. The area west of the centerline of West First and labeled as "seating" on Exhibit 1 shall be used exclusively as a seating area for customers of the restaurant. Tenant may locate removable tables and chairs within this area. Tenant shall install a fence along the eastern edge of this easement area, at Tenant's expense. The design of the fence shall be subject to Town approval, and such approval shall not be unreasonably withheld.

iii. The area west of the centerline of West First and labeled as "parking" on Exhibit 1 shall be used exclusively as parking for owners, employees, and customers of the restaurant.

iv. This Lease allows for the use and occupation of the leased Premises by existing building encroachments, including the kitchen vents, provided that such encroachments shall not be expanded or increased without the express written consent of the Town.

b. Tenant covenants through the term of this Lease, at Tenant's sole cost and expense, to promptly comply with (1) all laws and ordinances and the orders, rules, regulations, and requirements of all federal, state, and local governments.

7. Insurance. During the term of this Lease, Tenant, at its sole cost and expense and for the mutual benefit of Landlord and Tenant, shall carry and maintain insurance, as follows:

a. Tenant shall at all times keep in force a comprehensive general combined liability insurance policy providing single-limit coverage of not less than \$1,000,000 per occurrence. Landlord shall be named and protected under the terms and conditions of said policy as Landlord of the Premises.

b. Tenant shall be responsible for insuring any and all personal property that may be owned by Tenant.

c. Any insurance that may be purchased pursuant to this Paragraph or any proceeds that may be payable as a result of a loss under any such insurance shall in no way reduce, alter, or modify any provisions of this Lease and specifically the indemnity provisions hereof.

d. Tenant's insurance shall be primary to any other insurance, including any insurance obtained by Landlord.

e. Tenant shall provide Landlord with proof of insurance, and shall cause to be delivered to Landlord certified copies of policies of such insurance or certificates evidencing the existence and amounts of such insurance with the insureds and loss payable clauses as required by this Lease. No such policy shall be cancelable or subject to modification, except after thirty days' prior written notice to Landlord. Tenant shall, at least thirty days prior to the expiration of such policies, furnish Landlord with evidence of renewals or "insurance binders" evidencing renewal thereof, or Landlord may order such insurance and charge the cost thereof to Tenant, which amount shall be payable by Tenant to Landlord upon demand. If the Tenant shall fail to procure and maintain the

insurance required under this Lease, the Landlord may, but shall not be required to, procure and maintain the same, but at Tenant's expense.

8. Responsibility for Maintenance. Landlord shall have no obligation of any kind to make any expenditures of any nature upon the Premises. Tenant shall, throughout the term of this Lease or any extension hereof, at Tenant's sole cost and expense, put, keep, and maintain the Premises in as good of condition, repair, and order, as when received, ordinary wear and tear excepted.

9. Condition of Premises; Covenants of Landlord.

a. Tenant has inspected the Premises, and accepts the same "as is" in their present condition with no warranties or representations of any kind whatsoever.

b. Landlord is the sole owner, in fee simple, of the Premises and has full right and power to lease the same for the term aforesaid.

c. EXCEPT AS EXPRESSLY PROVIDED IN THIS LEASE, LANDLORD HAS NOT, DOES NOT, AND WILL NOT MAKE ANY WARRANTIES OR REPRESENTATIONS WITH RESPECT TO THE PREMISES, AND LANDLORD SPECIFICALLY DISCLAIMS ANY OTHER IMPLIED WARRANTIES OR WARRANTIES ARISING BY OPERATION OF LAW, INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY OF CONDITION, MERCHANTABILITY, HABITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OR USE.

10. Indemnity. Tenant agrees to exonerate, hold harmless, protect, and indemnify Landlord, or any subsequent owner of the Premises, from and against any and all losses, damages, claims, suits, or actions, judgments, and costs which may arise based on events occurring during the term hereof and in any manner resulting from or rising out of the occupation or use of the Premises by Tenant or its agents, employees, invitees, licensees, or guests, for personal injury, loss of life, or damaged property sustained in or about the Premises; and from and against all costs, attorney fees, expenses, and liabilities incurred in any such claims, the investigation thereof, or the defense of any action or proceeding brought thereon; and from and against any judgments, orders, decrees, or liens resulting therefrom and any fines levied by any authority for violation of any law, regulation, or ordinance by virtue of the use of the Premises.

11. No Waiver of Immunity. The Town does not intend, by any provision of this Lease, to waive or limit any rights or defenses against liability available to it pursuant to law, including but not limited to the rights and defenses available pursuant to the Colorado Governmental Immunity Act, C.R.S. 24-10-101, et seq. and Article 11, Section 1 of the Colorado Constitution.

12. Alterations to Premises.

a. Tenant shall have no right to make changes or alterations to the Premises without Landlord's prior consent.

b. Prior to commencing any work on the Premises that requires Landlord's approval, Tenant will supply Landlord with a copy of the plans, specifications, and drawings for that work.

c. Tenant shall keep the Premises free and clear of all liens arising out of or claimed by reason of any work performed, materials furnished, or obligations incurred by or at the instance of Tenant, and indemnify and save Landlord and the Premises harmless of all

such liens or claims of lien and all attorney fees and other costs and expenses incurred by reason thereof. Should Tenant fail to discharge fully any such lien or claim of lien or provide an acceptable indemnity bond in the event of contest, Landlord, at Landlord's option and subject to Landlord's right of reimbursement, may pay the same or any part thereof, and Landlord shall be the sole judge of the validity of such lien or claim.

13. Default.

a. Default by Tenant. The occurrence of any one or more of the following events shall constitute a default and breach of this Lease by Tenant:

- i. Tenant's failure to pay any installment of Rent, or other charge or money obligation hereunder when due.
- ii. Tenant's insolvency or transfer in fraud of creditors.
- iii. Tenant making any general assignment or general arrangement of its property for the benefit of its creditors.
- iv. Tenant's filing of a petition under the Bankruptcy Acts.
- v. The appointment of a receiver or trustee for Tenant's interest in the Premises or for all or substantially all of the assets of the Tenant.
- vi. Tenant's abandonment or vacation of the Premises.
- vii. The filing or creation of a lien on the Premises as a result of Tenant's action or inaction which tenant may cure by fully discharging such any such lien or claim of lien or by providing an indemnity bond acceptable to Landlord in the event of contest.
- viii. Tenant's failure to comply with any material term, provision or covenant of this Lease other than those failures specifically addressed above.
- ix. Tenant's failure to obtain a business license for the Restaurant or comply with any material term of the business license for the Restaurant.

If Tenant is in default of any provision of this Lease, other than the covenant to pay rent or materially fails to comply with any duties imposed on Tenant by statute, Landlord may pursue the recourse set forth below if the default persists 5 days after delivery of written notice by Landlord specifying the non-compliance and indicating the intention of Landlord to terminate this Lease by reason thereof, provided however, that upon any subsequent breach of the same provision, Landlord shall have the right to pursue any of the below remedies immediately.

If Tenant fails to pay rent when due and the default continues for five business days thereafter, Landlord may, at Landlord's option, pursue the recourse set forth below.

b. Recourse of Landlord. In the event of an occurrence of default as set forth above, Landlord may pursue any and all rights and remedies available to Landlord at law or in equity, including but not limited to:

- i. Terminate. Terminate this Lease and end the term hereof by giving to Tenant written notice of such termination.
- ii. Money Damages. Without resuming possession of the Premises or terminating this Lease, to sue monthly for and recover all rents, other required

payments due under this Lease, and other sums including damages and legal fees at any time and from time to time accruing hereunder.

iii. Security Interest. The parties understand and agree that in order to secure payment of all sums becoming due at any time to Landlord hereunder and to secure the proper performance and fulfillment by Tenant of the Tenant's agreements herein, Tenant hereby grants to Landlord a security interest in and lien upon all of the trade or business property and equipment, including inventory, which may be placed in or upon the Premises by the Tenant. Tenant hereby gives Landlord a security interest in the subject business property and equipment and agrees that Landlord may file a financing statement evidencing said security interest with Gunnison County and/or the State of Colorado. Upon Tenant's request, Landlord shall subordinate its security interest and lien in Tenant's trade or business property and equipment, including inventory, to Tenant's lender, on condition that Tenant is not in default hereunder. In the event of default by Tenant under this Lease, the Landlord shall have the right to all of Tenant's business property and equipment which may be placed in or upon the Premises by the Tenant as if Landlord were a creditor under the Colorado Uniform Commercial Code. In addition, in the event of default by Tenant, the Tenant hereby authorizes Landlord to enter upon the Premises and to remove and to sell the trade or business property and equipment which are the subject of this lien. This action shall not be deemed a breach of the peace. Tenant agrees to pay the reasonable attorneys' fees incurred by Landlord in the event the Landlord forecloses upon the security interest and lien granted by Tenant herein.

iv. All rights and remedies described herein are cumulative and the exercise of any one remedy shall not be taken to exclude or waive the right to make use of any other remedy.

c. Default by Landlord. In the event of any default by Landlord under this Lease, the Tenant shall have the right to terminate this Lease in the following manner:

i. The Tenant shall give to the Landlord written notice of such default by certified mail.

ii. The Landlord shall have fifteen days from the date of mailing of such notice to correct said default and if said default remains uncured fifteen days after the date of said notice, the Tenant shall have the right to terminate this Lease; provided, however, that in the event of a default incapable of being cured within fifteen days, the Landlord shall not be deemed in default if Landlord shall have, within such fifteen day period, in good faith begun action necessary to remedy such default and continues thereafter diligently to prosecute such action to completion.

14. Hold Over. Any rule or law to the contrary notwithstanding, in the event Tenant remains in possession of the Premises or any part thereof subsequent to the expiration of the Lease Term, it shall be conclusively deemed that such possession and occupancy shall be a tenancy from month to month only, at a prorated rental rate which was existing at the end of the term hereof and, further, such possession shall be subject to all of the other terms and conditions contained in this Lease.

15. Notices. All notices, demands, and requests required to be given by either party to the other shall be in writing. All notices, demands, and requests shall be sent by (1) email; (2) hand delivery; or (3) certified or registered mail, return receipt requested, postage prepaid; addressed to the parties at the addresses set forth below or at such other addresses as the parties may designate in writing delivered pursuant to the provisions hereof. Any notice when given as provided herein shall be deemed to have been delivered upon transmittal if by hand delivery or email, or two (2) days subsequent to the date that said notice was deposited with the United States Postal Service.

Town of Marble Attn: Town Clerk 322 W. Park St. Marble, CO 81623 leach@townofmarble.com	Slow Groovin Holding, LLC 101 W. 1st St. Marble, CO 81623 ryanvinciguerra@gmail.com
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16. Assignment; Sublet. Tenant shall not assign or sublet the Premises or any portion thereof without the prior written consent of Landlord. Any assignment or sublease in violation of this paragraph shall be null and void.

17. Entire Agreement. This Lease contains the entire agreement of the parties regarding the subject matter hereof and all discussions, negotiations and representations are merged herein. This Lease shall not be amended except by written instrument signed by Landlord and Tenant.

18. Applicable Law. This Lease is entered into in Gunnison County, Colorado, and it is agreed that the exclusive proper jurisdiction and venue of any action pertaining to the interpretation or enforcement of this Lease shall be in the District Court of Gunnison County, Colorado.

19. Attorney Fees. In case suit or arbitration shall be brought to enforce any provisions of this Lease, the prevailing party shall be awarded (in addition to other relief granted) all reasonable attorney fees and costs incurred in attempting to enforce its rights under the Lease.

20. Construction. This Lease is the result of substantial negotiations between the parties and their counsel and the provisions hereof shall not be more strictly construed against or in favor of either party.

21. Severability. If this Lease, any provision of this Lease, or any other instruments by way of reference incorporated herein contains any term or provision which is or becomes under present or future laws, illegal, invalid or unenforceable, the remainder of the Lease shall not be affected thereby, and each and every term and provision otherwise valid shall remain valid and be enforced to the fullest extent permitted by law. It is also the intention of the parties to this Lease that in lieu of each clause or provision of this Lease that is illegal, invalid or unenforceable, there be added as a part of this Lease a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

22. Execution. This Lease may be executed in multiple counterparts, each of which shall constitute an original, and all of which together shall constitute one and the same document. The parties will accept facsimile signatures or electronic signatures as original signatures.

