

Town of Marble  
Regular Meeting of the Board of Trustees  
November 2, 2023 6:00 P.M.  
Marble Community Church, 121 W. State St. Marble, Colorado  
Agenda

- A. 6:00 P.M. Call to order & roll call of the regular October meeting of the Board of Trustees
- B. Review 2024 preliminary budget, Ron
- C. Mayor Comments
  - a.
- D. Continue Public Hearing to consider approval of Ordinance #\_\_\_\_\_ approving residential structures in business zone in Town of Marble
- E. Consent Agenda
  - a. Approve October 5<sup>th</sup> 2023 minutes
  - b. Approve Current Bills, November 2nd, 2023
- F. Administrator Report
  - a. Consider approval of Gunnison County agreement re: Jail donation, Ron
  - b. 2024 Election Report, Ron
- G. Land Use Issues
  - a.
- H. Committee Reports
  - a. Parks committee report
  - b. Master Plan Committee report
- I. Old Business
- J. New Business
- K. Adjourn

Minutes of the Town of Marble  
Regular Meeting of the Board of Trustees  
October 5th, 2023

A. Call to order & roll call of the regular October meeting of the Board of Trustees – Mayor Ryan Vinciguerra called the meeting to order at 7:10 p.m. Present: Tony Petracco, Ryan Vinciguerra, Amber McMahill and Larry Good. Absent: Emma Bielksi. Also Present: Ron Leach, Town Administrator; Alie Wettstein, Administrative Assistant; Terry Langley, minutes.

B. Mayor Comment -

a. Discussion with Nicole Farrell & Ryan Kenney re: Marble Bank Building transfer of ownership to TOM – Ron explained that there had been a discussion about the HUB building at the August meeting with the County Commissioners regarding maintenance and possible transfer of ownership. Ryan Kenney is on the HUB board and serves as the HUB bookkeeper. He reported that there is deferred maintenance that the county has not done. If controlled by the town, Marble would have more say in use, repairs, etc. In 2022, the county spent about \$5100. for propane, electric and insurance. The building needs a new roof as well as painting inside and out. Larry said there are structural issues with the upstairs. If the town acquired the building and did an assessment of the condition of the building, there are grants that can be pursued. Amber said she is in favor of continuing the conversation but has a concern that the septic might be shared with the county building. Ryan K. said that the county building and the HUB building are on one lot and that would need to be worked on. Larry said that it was Marble citizens who restored the building in the first place. Ryan V. is interested but has a concern with the size and cost of needed repairs, particularly in light of being a historical structure. Tony said they had looked at it in 2008 and cost of repairs and renovations at that time were \$200,000. He also addressed how things change with each administration and that this council seems willing to work with us. Ron will continue conversation with the county since the board is interested. Angus Barber asked if this would be a transfer or a purchase. Ron said the previous conversation was for a transfer. Ryan K. reported that there was \$9000 budgeted for next year, including \$4000 for maintenance. Ryan V. asked if the septic had been inspected recently. Ryan K. said it was pumped two years ago and the county said it was in poor repair so an inspection would be needed.

C. Continue Public Hearing to consider approval of Ordinance #\_\_\_\_\_ approving residential structures in business zone in Town of Marble – Ron explained that the public hearing was closed last month so this could just be a discussion. Tony addressed employee housing requirements as spelled out in Pitkin County which, for non-owners, include the person work full-time, this be a primary residence, have a minimum lease and not own other property in the geographic area. He asked about separate entrances as opposed to getting into the housing space by going through the business. Ryan asked about the original intent of the employee housing. Tony feels that any housing in a business should be occupied. Ryan said a secondary intent was for long-term rentals as opposed to short term rental (STR) rather than restricted to employee housing. He feels the intent was to have mixed use. Amber said the intent was for people to be able to live where they work. Tony is concerned that these units not sit empty. Amber feels that, as long as it is not a short-term rental, it is the owner's choice whether to rent or not. Larry thinks some of the concerns can be addressed through business and STR licenses. Amber would be comfortable if there was language prohibiting short-term rental. Larry said that requiring a

one-year lease would take care of that. Ryan said that year-round tenants are harder to find and that a 6-month lease would help with seasonal workers. Larry said that requiring a lease term is complicating the desire for mixed use buildings. He asked if the two issues could be separated. Tony said that could be addressed through the building permit. Discussion of using the STR license followed. Amber is comfortable with prohibiting short-term rental. Tony spoke to creating housing rather than build restricted housing. They agreed that they all agree about creating mixed use opportunities and would like to add language about the minimum length of the lease (6 months). Ron will pass this on to the town attorney and ask him to draft some language to include in the proposed ordinance.

D. Consent Agenda – Tony Petracco made a motion to approve the consent agenda. Larry Good seconded and the motion passed unanimously.

- a. Approve September 7<sup>th</sup>, 2023 minutes
- b. Approve Current Bills, October 5th, 2023

E. Administrator Report – moved to the end

F. Land Use Issues

- a. Consider approval of Parker/Collins lot line adjustment, Ryan – The Parkers are still working on getting the plats and paperwork to Ron so this is tabled.
- b. Consider approval of Marble Wetlands Preserve Management Agreement, Ron – Ron said that a draft management agreement was previously presented. It involved the town, the Trust for Land Restoration (TLR) and the Aspen Valley Land Trust (AVLT) and said that the town would take care of maintenance and enforcement. Ron had some concerns with the red lined agreement and he spoke with Pat Willits, TLR, about his concerns, including changing the management agreement from 1 to 5 years. Pat said that AVLT felt like having the agreement for five years would keep them from coming back every year if the conservation easement work took more than a year. Town attorney Kendall Burgemeister sent some concerns. Larry said there are concerns because the property is not located in the Town of Marble but the town is being asked to manage with no enforcement capabilities. John Armstrong, CVEPA, said that the town would have the same power as a private property owner so could rely on the Sheriff's office. He said a town employee could check on the property and the gate and the sheriff could be involved for more serious issues. They would be backed by the 33 code that is an enforcement code specifically designed for outdoor recreation. Larry said this is an interim concern until it is transferred to the town. Tony asked if the current owner could go ahead and apply for annexation so that the process is underway when the town signs the agreement and eventually takes ownership. John said that the goal was for it to be annexed when it is transferred. He said the conservation easement is still in draft form and it requires a manager before that easement is completed. He said Kendall expressed concern that the town was not part of the conversation around the easement but that they had all deferred to AVLT because of the expertise they bring to the process. John said they hope to have the management agreement signed by Nov. 15. Amber asked if a specific management plan would be different than the management agreement. John said that this is the plan. John said Kendall asked what the ramifications would be if Marble failed to enforce the agreement in some manner. He said the groups are in this together and feels that trust will grow through cooperation. Kendall was also concerned about the public outreach and outdoor education portion. He said all three entities have the right but not the responsibility to provide this. Amber asked about responsibility for insurance, such

as AVLT having the right to have events but the town having to provide the insurance without input of what happens. John said it does say that the entities have to communicate with each other concerning holding events. She feels that whatever group uses the property should carry their own insurance. John said that these entities have governmental immunity. Lindsay LaCour asked about this concern regarding AVLT owning Thompson (Children's Park). Amber explained that the school has an agreement with AVLT and the school has to have permission from AVLT for special events. Larry returned to the management agreement term and suggested going back to one year with an automatic renewal clause that would require any party who wants to end the agreement communicate that desire. John said Kendall had asked for more information concerning the insurance issue. Larry addressed the requested date of Nov. 15 and the need for time to review the next draft and the sole remedy of the termination of the agreement as a consequence to failing to uphold the agreement. Ryan said that Kendall has suggested changes that address his concerns. He agreed with going back to the one-year agreement and spoke to the fact that they all have the same goal of preserving the wetlands so feels the language surrounding the consequences of the town failing to perform their obligations should be softened. Ryan would like to see language stating the intention of donating the land to the town. John feels that the year would give everyone to see if this is a good fit. He suggested using the word stewardship rather than obligation to enforce. Amber asked to see language regarding liability and would like to see the management plan that is referenced in the agreement so that the town knows what they are agreeing to enforce. Ron reminded the board that this is temporary agreement and the management plan will probably come with the conservation easement. He said that it needs to be clear that the town is not indemnifying anyone. He liked the wording "the timing and scope of public access may be limited by mutual agreement" as a door to limiting access and use rather than throwing the property wide open.

#### G. Committee Reports

##### a. Discuss Flow chart for municipal governance, Emma - tabled

b. Up-date on Jailhouse project, Emma – Alie reported that the Board of County Commissioners donated \$5,000 from their discretionary funds and AVLT donated \$100 so total received is just under \$24,000. Alie said Emma has an engineer who will take on the project or will find another engineer to do that. The project is delayed due to the lack of funding and the engineering time line. She is seeking an extension on the GOCO grant (\$10,000). She is hoping that Dwayne Piffer can clear the land leading up to the entrance to the jail before the snow flies. She is also going to prepare formal thank yous for the board to sign.

c. Parks committee report – The minutes from the park committee meeting are included in the packet. He introduced Lindsay LaCour as the newest member of the committee and has offered to pursue grants on behalf of the town. Lindsay is pursuing a Peer Grant Preservation Fund for the jailhouse. It is a grant for between \$1,000 and \$10,000. It is limited in scope, i.e. you cannot pay staff with it. It does not require a match. We have missed the Oct. 1 deadline but Lindsay would like town approval to submit for the Feb. 1, 2024 deadline. She is looking at three other historical preservation grant opportunities including one that is \$100,000 up to \$3 million. Larry asked what the first grant could cover and Lindsay is still looking into that. Larry asked if Lindsay would expect to be compensated for this and she explained that it is a resume builder and she loves the town so is volunteering her time. Amber suggested that Lindsay contact History of Colorado about a non-competitive grant for planning

and to set up a meeting as they can help her work on the Colorado Community Revitalization grant which is the larger grant.

Brent Compton reported that they are receiving requests for memorials to be placed in the park and the concern is for how many there might be and what form they might take. Therefore, they are not accepting requests at this time as they are working on guidelines for that. In the meantime, people might plant a memorial tree with the understanding that plaques would not be placed until the committee agrees on those guidelines. Amber asked if this would affect the Symposium sculpture garden. Brent said it does not and he addressed work they had done on the border with the new site and the Symposium property. They had installed "Closed for revegetation" signs as well as boulders marking the trail and those have been pulled down, thrown away or moved by someone. He reported on the possibility of a park celebration on Saturday Sept. 21 or 28, 2024. Due to the high crowds in town on at those times, other dates were suggested. Ryan suggested sending thank yous to those individuals and groups that have helped with park work this year.

Amber asked about clean up at Smith Park which borders school property. Brent said they discussed this but the committee does not feel like this is their responsibility. Brent said that Amy Rusby will talk to Richard Wells and Gina Mile about looking at that. Larry expressed concern for the gravel and opportunity for injury.

H. Old Business - none

I. New Business

a. New business license application, Chris Palmer – Chris explained that this would predominantly snow removal. He included construction in the application so that he would not have to come back in case construction projects come up. This will involve very little traffic at the house, if any. Larry asked if Chris would use his property for staging or material storage. Chris said it would not. Any materials would be stored on the customer's property. Amber made a motion to approve the application. Larry Good seconded and the motion passed unanimously.

E. Administrator Report – moved from above

a. Review draft 2024 Budget, Ron – Ron thanked Ryan Kinney, the town's bookkeeper for being there. Ron pointed out that property valuation has gone up about 50% so those tax revenues should go up proportionally. He estimated total revenues of \$362,000 and estimated expenses of \$352,000. He explained that the budget is fairly static from year to year. Amber asked about the increase in wages listed and Ron said that figure was for a 5% raise for employees. She feels that this should be higher, anticipating more hours due to the increased management the town will be taking on. Tony asked about the unclassified line and Ryan K explained that this line was used as a holding line and that these were funds that have now been reclassified into proper accounts so that is now zero. Ron pointed out park expenses have been separated from the general fund and he anticipates \$25,000 in expenses for next year. Ryan asked about adding a bit more to give the Parks Committee a bit of undesignated funds. He suggests \$5,000. Amber asked if there were any anticipated projected/expenses for the campground and there are none. Ron said that there has been an unwritten agreement with the HUB for handling campground reservations with the HUB getting 20% of those reservations. He feels that they do not need that agreement anymore because there is a full-time campground manager and other ways to make reservations but that the HUB does depend on that revenue. He suggests using the HUB as an

information center with the town continuing to subsidize the HUB in some way other than campground fees. Angus asked if the HUB makes any money. Ryan K explained that they are a non-profit but they do generate approximately \$1500 in sales tax into the town. Angus asked how tied the town is to having it as an information center and the board spoke to the importance of that. Ownership of the building might open up some potential for more revenue but will probably not be self-supporting. Ryan K said the biggest expense is payroll due to the lack of volunteers. Ron reported that MarbleFest brought in \$25,000 in 2023 and spent \$23,000 so they are paying their way.

Amber suggested a budget work session in November. It was decided to meet an hour early, at 6:00 p.m., on Nov. 2.

b. Ron spoke to the service that the volunteer fire department provide, including the recent vehicle fire at Hermit's Hideaway and a medical event that resulted in a life saved.

J. Adjourn - Tony Petracco made a motion to adjourn. Larry Good seconded and the motion passed unanimously. The meeting adjourned at 9:15 p.m.

Respectfully submitted,  
Terry Langley

**TOWN OF MARBLE  
GENERAL FUND  
2024 Budget  
11/1/2023**

	<b>2023 Budget</b>	<b>2023 Estimate</b>	<b>2024 Budget</b>
<b>Beginning Balance</b>	<b>361,832</b>	<b>446,018</b>	<b>442,173</b>
<b>Revenues</b>			
<b>Taxes</b>			
General Property Tax	27,805	0	41,302
Specific Ownership Tax	1,500	0	1,500
Additional License Tax	695	0	695
Property Tax Interest	100	0	100
Taxes Other	0	0	0
<b>Total Taxes</b>	<b>30,100</b>	<b>35,000</b>	<b>43,597</b>
<b>Licenses &amp; Permits</b>			
Business Licenses	1,200	800	1,000
Building Permits	4,000	4,500	6,000
Septic Permits	3,000	1,023	3,000
Other Licenses & Permits	500	2,050	1,000
Short Term Rental Licenses	500	200	0
<b>Total Licenses &amp; Permits</b>	<b>9,200</b>	<b>8,573</b>	<b>11,000</b>
<b>Intergovernmental</b>			
General Sales Tax	164,000	165,000	163,203
Highway User Taxes (HUTF)	10,000	13,000	13,000
Colorado Trust Fund	0	0	0
Severance Tax	5,000	1,515	2,000
Mineral Lease Distribution	2,000	9,055	8,000
Cigarette Tax	200	200	200
Other Intergovernmental	0	0	0
Grant Revenue	12,500	12,500	0
Other Permit & License Fees	0	0	0
<b>Total Intergovernmental</b>	<b>193,700</b>	<b>201,270</b>	<b>186,403</b>
<b>Other Revenue</b>			
Paid Parking Program Revenue	5,100	0	0
Campground Revenue	45,000	45,000	45,000
Interest Revenue	500	9,879	10,000
SGB Lease Agreement	2,800	2,800	2,900
CSQ Lease Agreement	30,000	30,000	32,000
CSQ Maintenance Payments	3,600	3,600	3,600
Holy Cross Electric Rebates	500	500	500
Donations	2,000	0	0
Lead King Loop Project	1,000	0	0
Marble Fest	24,000	25,230	25,000
Non-Specified	2,000	1,003	1,000
Transfer Water Fund, Admin Costs	1,000	2,000	1,000
<b>Total Other</b>	<b>117,500</b>	<b>120,012</b>	<b>121,000</b>
<b>Total Revenue</b>	<b>350,500</b>	<b>364,855</b>	<b>362,000</b>

**TOWN OF MARBLE  
GENERAL FUND  
2024 Budget**

	<b>2023 Budget</b>	<b>2023 Estimate</b>	<b>2024 Budget</b>	
<b>Expenditures</b>				
<b>Wages &amp; Benefits</b>				
Town Clerk Ron	0	0	0	
Enforcement Officer	0	0	0	
Other Salaries Jenny & Jim & Mark	0	0	0	
Park Employee Charlie	0	0	0	
Parking Enforcement Officer	0	0	0	
<b>Total Wages</b>	<b>110,000</b>	<b>110,000</b>	<b>115,500</b>	
FICA/Medicare	8,000	8,000	8,400	
<b>Total Wages &amp; Benefits</b>	<b>118,000</b>	<b>118,000</b>	<b>123,900</b>	
<b>General Government</b>				
Paid Parking Program Expenses	5,000	1,500	1,000	
Office Improvements & Expenses	10,000	2,500	10,000	
Campground Improvements & Expenses	25,000	22,000	25,000	
Treasurer Fees	500	500	500	
Elections	0	400	3,000	
Unclassified	0	5,000	0	
Marble Fest Expenses	23,000	23,000	23,000	
Church Rent	500	600	600	
Civic Engagement Fund	1,500	1,500	1,500	
Office Expenses	14,000	16,000	17,000	
Legal Publications	1,000	1,000	1,000	
Dues & Subscriptions	500	500	500	
Workshop/Travel	2,000	1,000	2,000	
Lead King Loop Project	5,000	0	0	
Recycle Program	3,000	1,600	2,000	
Master Planning	24,500	25,000	0	
Transfer to Park Fund	25,000	25,000	25,000	
Grant Expenditures	0	19,000	0	
Planning & Zoning	0	0	0	
Jail Foundation	0	0	0	
Historic Preservation Commission	0	0	0	
Carbonate Creek Dredging	0	0	0	
<b>Total General Government</b>	<b>140,500</b>	<b>146,100</b>	<b>112,100</b>	
<b>Roads</b>				
Street Maintenance	15,000	5,000	20,000	
Snow & Ice Removal	30,000	53,000	35,000	
<b>Total Roads</b>	<b>45,000</b>	<b>58,000</b>	<b>55,000</b>	
<b>Purchased Professional Services</b>				
Legal - General	20,000	12,000	20,000	
Audit	10,000	11,000	12,000	
Municipal Court	1,500	0	1,500	
Engineering Services & Inspections	4,000	10,000	12,000	
Planning Consultant	0	0	0	
<b>Total Purchased Professional Services</b>	<b>35,500</b>	<b>33,000</b>	<b>45,500</b>	
<b>Other Purchased Services</b>				
Liability & Workers Comp. Insurance	7,000	7,000	7,500	
Utilities	4,000	4,000	4,000	
Grant Writing	0	0	1,000	
Earth Day Expenses	0	2,600	3,000	
<b>Total Other Purchased Services</b>	<b>11,000</b>	<b>13,600</b>	<b>15,500</b>	
<b>Total Expenditures</b>	<b>350,000</b>	<b>368,700</b>	<b>352,000</b>	<b>10,000</b>
<b>Ending Balance</b>	<b>362,332</b>	<b>442,173</b>	<b>452,173</b>	

009

October 10, 2023

To: Ron Leach  
Town Administrator

Re: LOTS 1 - 7, BLOCK 36, TOWN OF MARBLE

We, Carol Parker and Phillip Collins are requesting termination of the AGREEMENT FOR PAYMENT OF DEVELOPMENT REVIEW EXPENSES PURSUANT TO SECTION 7.4.40 OF THE TOWN OF MARBLE ZONING CODE.

“APPLICATION TERMINATION. Except as otherwise precluded or prohibited by law or an agreement with the Town, the Applicant may terminate the processing of an Application at any time by delivering written notice to the Town. The Town shall immediately take all reasonable steps necessary to terminate the accrual of additional and continuing Expenses to the Applicant. In no event shall the Applicant be obligated to pay an Expense associated with work or service performed on the Application which is more than forty-eight (48) hours after the date and time of the delivery of the Applicant’s notice of termination.”

Signature for Phillip M. Collins and Carol L. Parker

 10-10-23

**MEMORANDUM OF AGREEMENT FOR PARTIAL FUNDING OF THE MARBLE  
JAILHOUSE PROJECT**

THIS MEMORANDUM OF AGREEMENT (“Agreement”) made effective the \_\_\_\_ day of \_\_\_\_\_ 2023, by and between the Board of County Commissioners of the County of Gunnison, Colorado, whose address is 200 East Virginia, Gunnison, CO 81230 (“Gunnison County” or “County”) and The Town of Marble, whose address is 322 West Park Street, Marble, CO 81623 (“Marble”).

**RECITALS**

WHEREAS, Marble has requested assistance from Gunnison County in financing a portion of repair costs to the historic Marble jailhouse as set forth in Appendix A; and

WHEREAS, Gunnison County is supportive of the objectives of Marble in terms of preserving historic buildings in Gunnison County; and

WHEREAS, Marble agrees that all funds received by from the County will be expended for the purposes described in this Agreement; and

WHEREAS, Gunnison County has determined it is in the public’s interest to provide partial funding to Marble for the project to restore the jailhouse;

**AGREEMENT**

NOW THEREFORE, in consideration of the Recitals and the parties’ mutual covenants and obligations hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **STRATEGIC RESULT.**

Execution of this Agreement will assist the County with its strategy to promote prosperous, collaborative and healthy communities, as outlined in the Gunnison County Strategic Plan.

2. **PAYMENT; SUBJECT TO APPROPRIATION AND DOCUMENTATION.**

In consideration and exchange for the foregoing and other valuable consideration as outlined in this Agreement, Gunnison County shall pay Marble funding for the jailhouse project not to exceed Five Thousand and No/100 U. S. Dollars (\$5,000.00).

This Agreement is subject to Gunnison County making an annual budget appropriation in an amount sufficient to fund this Agreement. If Gunnison County fails or refuses to make such an appropriation, Gunnison County reserves the right to terminate this Agreement pursuant to its provisions.

### 3. INSURANCE.

Marble agrees to maintain, in full force and effect and at its sole cost and expense, the following insurance policies:

- a. Worker's Compensation Insurance in accordance with Colorado and Federal law which adequately protects all labor employed by Marble during the term of this Agreement.
- b. Comprehensive General Liability Insurance or the equivalent in an amount no less than Four Hundred Twenty-Four Thousand and No/100 U.S. Dollars (\$424,000.00) for injury to one person in any single occurrence; and no less than One Million One Hundred Ninety-Five Thousand and No/100 U.S. Dollars (\$1,195,000.00) for injur(ies) to two or more persons in any single occurrence (i.e., in the aggregate).
- c. Comprehensive automobile liability insurance on all vehicles used in the Services, in an amount no less than Four Hundred Twenty-Four Thousand and No/100 U.S. Dollars (\$424,000.00) for injury to one person in any single occurrence; and no less than One Million One Hundred Ninety-Five Thousand and No/100 U.S. Dollars (\$1,195,000.00) for injur(ies) to two or more persons in any single occurrence (i.e., in the aggregate).

The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado. Combinations of primary and excess coverage may be used to achieve minimum coverage limits. Excess/umbrella policy(ies) must follow form of the primary policy(ies) with which they are related to provide the minimum limits and be verified as such on any submitted Certificate of Insurance. The County's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of Marble's breach of this Agreement or of any of the County's rights or remedies under this Agreement.

The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of Marble to the County under this Agreement. Marble shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

The insurance provisions of this Agreement shall survive expiration or termination of this Agreement.

### 4. INDEPENDENT CONTRACTOR.

In carrying out its obligations and activities under this Agreement, Marble is acting as an independent contractor and not as an agent, partner, joint venture or employee of Gunnison County. Marble does not have any authority to bind Gunnison County in any manner whatsoever.

**Marble acknowledges and agrees that Marble is not entitled to: (i) unemployment insurance benefits; or (ii) Workers Compensation coverage, from Gunnison County.** Further,

Marble is obligated to pay all applicable federal, state and local taxes owed in relation to the services.

5. INDEMNIFICATION.

Marble irrevocably and unconditionally agrees to indemnify, defend and hold harmless Gunnison County, its Commissioners, agents and employees of and from any and all liability, claims, liens, demands, actions and causes of action whatsoever (including reasonable attorney and expert fees and costs) arising out of or related to any loss, cost, damage or injury, including death, of any person or damage to property of any kind caused by the misconduct or negligent acts, errors or omissions of Marble or its employees, subcontractors or agents in connection with this Agreement. Further, the County shall not be liable to Marble or its affiliates for any loss of anticipated business opportunities, contracts, revenues, profits or savings; damage to goodwill or reputation; or indirect, special or consequential loss or damage, arising out of or in connection with this Agreement, whether for breach of contract, in tort (including negligence), under statute or any other law, and Marble expressly disclaims any such claims or damages as against the County.

In case of any claim that is subject to indemnification under this Agreement, Marble will provide the County reasonably prompt notice of the relevant claim. Marble will defend or settle, at its own expense, any demand, action, or suit on any claim subject to indemnification under this Agreement, through legal counsel selected by Marble but approved by the County. Each party will cooperate in good faith with the other to facilitate the defense of any such claim and the County will tender the defense and settlement of any action or proceeding covered by this Section to Marble or upon request. Claims may be settled without the consent of the County, unless the settlement includes an admission of wrongdoing, fault or liability by the County, whether express or implied.

This defense and indemnification obligation shall survive any termination or expiration of this Agreement.

6. MISCELLANEOUS.

- a. **SEVERABILITY.** If any clause or provision of this Agreement shall be held to be invalid in whole or in part, then the remaining clauses and provisions, or portions thereof, shall nevertheless be and remain in full force and effect.
- b. **AMENDMENT.** No amendment, alteration, modification of or addition to this Agreement shall be valid or binding unless expressed in writing and signed by the parties to be bound thereby.
- c. **NO WAIVER OF GOVERNMENTAL IMMUNITY.** The parties hereto understand and agree that the County is relying upon, and has not waived, the monetary limitations and all other rights, immunities and protection provided by the Colorado Governmental Act, § 24-10-101, et seq., C.R.S. Nothing in this Agreement is, or shall be construed to be, a waiver, in whole or part, by Gunnison County of governmental immunity provided by the Colorado Governmental Immunity Act or otherwise.

d. **LEGAL AUTHORITY.** Marble represents and warrants that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into the Agreement. Each person signing and executing the Agreement on behalf of Marble represents and warrants that he has been fully authorized by Marble to execute the Agreement on behalf of Marble and to validly and legally bind Marble to all the terms, performances and provisions of the Agreement. The County shall have the right, in its sole discretion, to either temporarily suspend or permanently terminate the Agreement if there is a dispute as to the legal authority of either Marble or the person signing the Agreement to enter into the Agreement.

e. **NO CONSTRUCTION AGAINST DRAFTING PARTY.** The parties and their respective counsel have had the opportunity to review the Agreement, and the Agreement will not be construed against any party merely because any provisions of the Agreement were prepared by a particular party.

f. **ORDER OF PRECEDENCE.** In the event of any conflicts between the language of the Agreement and any exhibits to it, the language of the Agreement controls.

g. **SURVIVAL OF CERTAIN PROVISIONS.** The terms of the Agreement and any exhibits and attachments that by reasonable implication contemplate continued performance, rights, or compliance beyond expiration or termination of the Agreement survive the Agreement and will continue to be enforceable. Without limiting the generality of this provision, Marble's obligations to provide insurance and to indemnify the County will survive for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

h. **INUREMENT.** The rights and obligations of the parties herein set forth shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns permitted under this Agreement.

i. **TIME IS OF THE ESSENCE.** The parties agree that in the performance of the terms, conditions, and requirements of this Agreement, time is of the essence.

j. **PARAGRAPH HEADINGS.** The captions and headings set forth herein are for convenience of reference only and shall not be construed so as to define or limit the terms and provisions hereof.

## 7. DELEGATION AND ASSIGNMENT.

Marble shall not delegate or assign its duties under this Agreement without the prior written consent of Gunnison County which consent Gunnison County may withhold in its discretion. Subject to the foregoing, the terms, covenants and conditions of this Agreement shall be binding on the successors and assigns of either party.

#### 8. TERMINATION; REMEDIES FOR BREACH AND LIMITATION OF REMEDIES

Either party shall have the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days prior written notice to the other.

#### 9. WHEN RIGHTS AND REMEDIES NOT WAIVED.

In no event shall any action by either party constitute or be construed to be a waiver by the other party of any breach of covenant or default which may then exist on the part of the party alleged to be in breach, and the non-breaching party's action or inaction when any such breach or default shall exist shall not impair or prejudice any right or remedy available to that party with respect to such breach or default; and no assent, expressed or implied, to any breach of any one or more covenants, provisions or conditions of the Agreement shall be deemed or taken to be a waiver of any other breach.

#### 10. NO THIRD-PARTY BENEFICIARY.

Enforcement of the terms of the Agreement and all rights of action relating to enforcement are strictly reserved to the parties. Nothing contained in the Agreement gives or allows any claim or right of action to any third person or entity. Any person or entity other than the County or Marble receiving services or benefits pursuant to the Agreement is an incidental beneficiary only.

#### 11. CONFLICT OF INTEREST.

The signatories to this Agreement aver to their knowledge, no employee of the County has any personal or beneficial interest whatsoever in the Services. Marble has no beneficial interest, direct or indirect, that would conflict in any manner or degree with the performance of the Services, and Marble shall not employ any person having such known interests. Marble shall also not engage in any transaction, activity or conduct that would result in a conflict of interest under the Agreement. Marble represents that it has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of Marble by placing Marble's own interests, or the interests of any party with whom Marble has a contractual arrangement, in conflict with those of the County. The County, in its sole discretion, will determine the existence of a conflict of interest and may terminate the Agreement in the event it determines a conflict exists, after it has given Marble written notice describing the conflict.

#### 12. FORCE MAJEURE.

Neither party shall be responsible for failure to fulfill its obligations hereunder or liable for damages resulting from delay in performance as a result of an unforeseeable event outside the control of such party, and not caused by such party's negligence, including war or armed conflict, fire, flood, strike, riot or insurrection, terrorist attack, nuclear, chemical or biological attack, natural disaster, martial law, unreasonable delay of carriers, governmental order or regulation; PROVIDED, HOWEVER, the any delay caused by the Covid-19 Pandemic (or Endemic), or any other communicable disease pandemic or endemic, shall NOT be considered a force majeure event.

If a force major event occurs, the time for performance shall be extended by mutual agreement of the parties for a period of time as may be reasonably necessary to compensate for such delay, provided that if such performance still cannot be completed within such extended period of time, either party may terminate this Agreement and both parties will be released from any further obligation to the other.

### 13. NOTICES.

Any notice, demand or communication which either party may desire or be required to give to the other party shall be in writing and shall be deemed sufficiently given or rendered if delivered personally or sent by certified first-class US mail, postage prepaid, addressed as follows:

Gunnison County: County Manager  
Gunnison County  
200 E. Virginia  
Gunnison, Colorado 81230  
Phone: 970-641-0248

With a copy to: Board of County Commissioners  
of the County of Gunnison, Colorado  
200 E. Virginia  
Gunnison, Colorado 81230

Marble: Hannah Schaefer Tibbett  
216 N. Colorado Street  
Gunnison, Colorado 81230

Either party has the right to designate in writing, served as provided above, a different address to which any notice, demand or communication is to be mailed.

### 14. GOVERNING LAW.

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Colorado. Jurisdiction and venue for any legal proceedings related to this Agreement shall exclusively lie in the State of Colorado District Court located in Gunnison County, Colorado.

### 15. COUNTERPARTS: FACSIMILE AND ELECTRONIC TRANSMISSION.

This Agreement may be executed by facsimile and/or in any number of counterparts, any or all of which may contain the signatures of less than all the parties, and all of which shall be construed together as but a single instrument and shall be binding on the parties as though originally executed on one originally executed document. All facsimile counterparts shall be promptly followed with delivery of original executed counterparts.

This Agreement may also be executed by electronic means or signatures. Accordingly, the Agreement, and any other documents requiring a signature hereunder, may be signed electronically

by the County in the manner specified by the County. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

The parties agree that: (i) any notice or communication transmitted by electronic transmission, as defined below, shall be treated in all manner and respects as an original written document; (ii) any such notice or communication shall be considered to have the same binding and legal effect as an original document; and (iii) at the request of either party, any such notice or communication shall be re-delivered or re-executed, as appropriate, by the party in its original form. For purposes of this Agreement, the term “electronic transmission” means any form of communication not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process, but specifically excluding text or instant messages.

#### 16. ENTIRE AGREEMENT.

This Agreement comprises the entire agreement between County and Marble and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding the subject matter contained herein. No amendment to or modification of this Agreement will be binding unless in writing and signed by an authorized representative of each party.

Notwithstanding anything to the contrary herein, the County shall not be subject to any provision included in any terms, conditions, or agreements appearing on Marble’s or a subcontractor’s website or any provision incorporated into any click-through or online agreements related to the work unless that provision is specifically referenced in this Agreement.

#### 17. RECORDS.

Marble shall maintain for a minimum of three (3) years, adequate financial and other records for reporting to County. Marble shall be subject to financial audit by federal, state or County auditors or their designees. Marble authorizes such audits and inspections of records during normal business hours, upon forty-eight (48) hours’ notice to Marble. Marble shall fully cooperate during such audit or inspections.

#### 18. PUBLIC RECORD.

To the extent not prohibited by state or federal law, this Agreement is potentially subject to public release through the Colorado Open Records Act. The parties further acknowledge and understand that all work product or materials provided or produced under this Agreement, including items marked Proprietary or Confidential, may be subject to the Colorado Open Records Act., § 24-72-201, et seq., C.R.S.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date above written.

BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF GUNNISON, COLORADO

By: \_\_\_\_\_  
Jonathan Houck, Chairperson

ATTEST:

\_\_\_\_\_  
Deputy Clerk

TOWN OF MARBLE

By: \_\_\_\_\_  
Ryan Vinciguerra, Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

Notes from the Town of Marble  
Master Plan Committee Meeting  
September 21, 2023

A. Meeting Call to Order at 6:18 p.m. Present: Sue Blue, Tony Treleven, Richard Wells, Greg Tonozzi, Connie Hendrix, Amy Rusby. Also: Mark Chain, Alie Wettstein.

B. Review and Approval of July 20, MPC meeting notes – it was noted that Greg’s name was misspelled and that should be corrected. Otherwise, no changes.

Survey. The group thought it was best to address the changes in the survey. It was noted that when the draft survey from the Master Plan Committee went to the Board that it was reworked extensively. The group went over the draft survey and made comments, suggestions, edits etc. Quick summary below

- it was thought that # 37 should be slightly modified so it was not a leading question. It was thought it best to get people a chance to express independent thought.
- Amy thought it was best to take out the question after # 38 as it was already being addressed.
- Greg thought there should be little bit more about Arts and Culture. Connie said that arts is easy on the environment.
- There was a comment about whether one of the questions should specifically ask whether the “town should allow ATVs”.
- Related the question #27, it was suggested that the question regarding parking attendance, education/restrictions should be expanded to ask whether it was having a positive or negative effect instead of just asking if it was having a noticeable effect.
- In questions # 30 through 33 it was suggested to remove the parenthetical statements.
- For question # 15 it was suggested to be reworded from “.. Would you like to see **and support** more businesses in marble” to just say..” Would you like to see more businesses in Marble”.
- There was some further discussion on minor edits and related issues including some comments regarding short-term rentals.

Alie said it was hoped that Halloween would be the deadline for return of the survey. It would be sent out via snail mail and also there would be a digital option. It would be sent to residents all the way to State Highway 133.

C. Existing build out and future buildout in The Town of Marble and the surrounding area.

Mark said he had been reviewing County records for property ownership and development both in the town outside the town, all the way to the Darien ranch. The information he had does not include Chair Mountain Ranch Subdivision. Mark had tabulated information for the total number of lots developed, total number of lots that were mixed use/commercial, the total number of vacant lots and the number of vacant lots that were “conforming lots”. And by conforming lots he meant that these are lots that are big enough now to accommodate an On-site Waste Treatment System (OWTS). He said the number of vacant, conforming lots within the town limits and outside the town limits is less than he had expected. However, some of these lots can be combined and made legal lots for development. And some of the

lots while technically under different ownership names, are owned by members of the same family, whether under their own names or under LLC names. He said he would not be able to come up with the “Total” number of developable, conforming lots because of future consolidation and ownership changes. Has he also talked about this with the Gunnison County GIS director and he also noted that we (or he) would never be able to come up with the precise number of future, buildable lots.

Mark showed two charts. Information for the town show that 111 lots were developed, and Mark noted it a few of these were smaller accessory buildings and may not be a full commercial or residential use. By far the majority of development are in East Marble and West Marble followed by the Marble Ski Area #1 subdivision.

The second chart showed development outside the town limits. There is actually more development outside the town limits and within the town limits. And the number of vacant, conforming lots that can legally accommodate development with a legal OWTS was twice the developable lots as the town limits.

Mark said he still has some refinements to work on over the next month or two. He was going to have to research 75 specific lots as it was not clear where they relocated or the development on the lot itself.

The chart he provided at the meeting are attached to the Meeting Notes and will be updated as the process moves on.

#### D. Enforcement.

As Ron was not able to attend, Connie thought it would be best to have that discussion at a future meeting.

#### E. Mission Statement and Goals and Objectives.

Mark said he was going to work on a draft mission statement the next meeting and also start outlining some goals and objectives for certain major chapters that will be included in the Master Plan Document. Mark said he had some examples of Mission Statements that may be useful. Alie noted to Mark that there was the Mission Statement in the Marble Master Plan 2000. Mark said he had missed that and he apologized – probably because it wasn’t in the first portions of the document. In reading through the statement Mark said that Dave Michaelson had captured what he thought was an appropriate mission statement for the town at that point in time and he would give this or something very similar to a close consideration.

#### F. Next Meeting

Also for the next meeting, Mark noted that he was going to have Bill Jochems speak regarding work done by the Healthy Rivers Group and he could also comment on augmentation issues in the Crystal River Valley and other water information pertinent to the town. Mark has also been talking to an engineer he works with who has evaluated potential Hydro projects in this part of Colorado and he was hoping that this engineer could come to the next meeting.

After more discussion, it was decided to all the next Master Plan Committee meeting on Thursday, October 19 at 6 PM at the church.

The meeting adjourned at 8:15 PM.