

Town of Marble  
Regular Meeting of the Board of Trustees  
August 3, 2023 7:00 P.M.  
Marble Community Church, 121 W. State St. Marble, Colorado  
Agenda

- A. 7:00 P.M. Call to order & roll call of the regular July meeting of the Board of Trustees
- B. Mayor Comments
- C. Consent Agenda
  - a. Approve July 6<sup>th</sup> 2023 minutes
  - b. Approve Current Bills, August 3, 2023
- D. Administrator Report
  - a. Consider approval MCS special event liquor permit application for LKL, Stephanie Helfenbein, Ron
- E. Parks Committee Report
  - a. Mike Yellico requests Town Council authorization for park work, Mike
  - b. Review current and future Parks Committee projects, Brent
- F. Land Use Issues
  - a. Consider approval Parker/Collins lot line adjustment, Ryan
  - b. Consider approval of Ordinance #\_\_\_\_\_ approving a zoning change for Smith/Wilkey property, Ron
- G. Old Business
  - a. Consider approval of Chain Consulting Master Plan contract, Ron
  - b. Consider approval of 2023 Short Term Rental licenses, Ron
- H. New Business
  - a. Discussion of Marble Wetlands management agreement, Ron
  - b. Review draft 2024 Budget, Ron
- I. Adjourn

Minutes of the Town of Marble  
Regular Meeting of the Board of Trustees  
July 6, 2023

- A. Call to Order and Roll Call – Mayor Ryan Vinciguerra called the meeting to order at 7:06 p.m.  
Present: Tony Petrocco, Emma Bielski and Ryan Vinciguerra. Absent: Larry Good, Amber McMahill. Also present: Ron Leach, Town Administrator; Alie Wettstein, Administrative Assistant and Terry Langley, minutes.
- B. Mayor's Comments
- C. Consent agenda – Emma Bielski made a motion to approve the consent agenda. Tony Petrocco seconded and the motion passed unanimously.
- a. Approve June 7, 2023 minutes
  - b. Approve current bills, July 6, 2023
- D. Administrator report
- a. 2023 Financial Report – Ron reported that we are halfway through the year and we have collected 39% of our revenue. He explained that most of the sales tax comes in later in the year which is why it looks like we are behind. The campground revenues so far are \$20,000 and expenditures are at \$5,000. Total town expenses are at 58%. Unusual expenses include snow plowing last season. \$30,000 was budgeted but, due to the heavy snowfall, expenses were \$52,000. Ryan pointed out that the town has not spent all of the money budgeted for road improvements and asked if there were any urgent improvement needs. Ron reported that there are many needed road improvements but they are not urgent. Ryan suggested that might make up some of the difference with snow plowing expenses and Emma agreed.
- E. Land Use Issues
- a. Consider approval Parker/Collins lot line adjustment, Ryan – Ryan and Charlie Parker walked the property lines, alleys and roads. Ryan reported that the total area of the beach is shrinking with more vegetation and that there is a need to keep the beach access wide and clear. There is both a road which cuts through Charley's property, and a foot trail to the river. Charlie offered to help keep First Street open and to clear out encroaching vegetation. Ryan said Charlie's help would make the land swap mutually beneficial. Tony said that he is willing to trade property for property but not for maintenance of a road that is gated off. He said it is a non-useable piece of property that is being offered. Ryan explained that the proposal is, in fact, for a property swap. Tony said it includes a street and he would like to know how Charley acquired the part that includes a street – he would like to see a title. Charley explained that the part that appears to include a street is actually private property. As part of the deal, he will have to show a free and clear title. Emma feels that this appears to be a well thought out plan and that it is a fair trade. Ryan asked if Charley can either sign an agreement and identify the property that will be cleared. Ryan suggested having the attorney draw up an agreement that they can agree upon. Richard Wells asked if this would be maintaining First Street and Ryan explained that he would like to see access maintained as more of a widened foot path and the beach cleared of some of the encroaching vegetation.

- b. Consider approval of Ordinance #\_\_\_\_\_ approving a zoning change for Smith/Wilkey property – Ryan said they have a redlined copy. Dustin asked if the town (Ron) could facilitate a meeting with the Evans and Smith-Wilkeys after all the dirt work is done and house is built but prior to issuing a business license to try to work through any remaining concerns without coming to the town. Ryan suggested doing this earlier. Dustin wants to wait to see what it all looks like. The proposed ordinance addresses some of this under IV 4. Mike Evans suggested postponing this until more of the board is present. Dustin agreed to postponing until they can read over the proposed ordinance. Ryan Vinciguerra made a motion to table the approval of this ordinance until next month. Emma Bielski seconded and the motion passed unanimously.
- c. Consider approval of Ordinance #\_\_\_\_\_ approving residential structures in business zone – this was to be postponed due to the necessity of noticing it properly.

#### F. Reports

- a. Parks Committee report, Marja – Brent Compton reported that the Roaring Fork Outdoor Volunteers (RFOV) brought about 30 volunteers who worked in the park. Greg Tonozzi is working on the amphitheater and Brent reported that it is going to be amazing. They plan to chip the smaller limbs. The irrigation system, including sprinklers, is going to be installed in the Children's Park next weekend. They (RFOV) are working on GPS mapping of the trails and disk golf course. MarbleFest is slated for Aug 4-6, including a kick off party on Friday evening at Slow Groovin'. Richard Wells will send an email to the board with the June minutes. The park committee will meet on July 10, 6 p.m., and will include a walk through at the Mill Site Park. They will look at some of the 10' "social" trails that they might close. Emma asked about potential impacts of the irrigation system and the jailhouse. Brent said it is designed to drain away from the jailhouse and that any future sprinklers for jailhouse landscaping would not hit the building. She asked whether moving the jail house to install the foundation would impact the irrigation at Children's Park. She and Brent will connect about that. She addressed the social trails in the Mill Site Park. She feels that disk golf might be impacting those due to people having to go off trail to retrieve disks and getting from one hole to another. She does not feel that the social trails in the park are doing any harm. Brent said the suggestions regarding social trails in the park came from RFOV. The trails they closed previously are now full of wildflowers. Some were too close to the artifacts and mill walls. He wants to work together with disc golfers and park users. Mike Yellico said it is a park, not a botanical garden and has multiple trails. There are cottonwood trees that need to be removed due to potential damage they can cause. He feels that people should be able to wander anywhere. Richard said it is a very unique place – it is a ruin that is possibly dangerous and safety, including keeping people on trails, is a priority. Planning and communication between those who use the park, including volunteers and what should be cleared, is important. Ryan wants to give the park committee more support in their efforts and appreciates the work everyone is doing. Brent said the committee is there to work at the direction of the community and the park is for all.
- b. Mill Site Park burn pile & fire – Mike Yellico – Mike has been mowing the fairways. They are used for hiking and biking as well as for the disk golf. He has been sawing branches. Lots of wood came out of the RFOV work. Some is too big for the chipper and is piled near the bonfire location. He does not feel that he should have to get a special event permit and take responsibility for that bonfire which began as a way to get rid of debris and is put together by volunteers and enjoyed

by the whole community. He would like to propose using the larger wood for the bonfire. He would like to cut some problem trees and use that wood. He feels he can do this more reasonable than hiring a tree service. The dead limbs from the trees around the stage need to be removed and could also be used for the bonfire. Emma asked about the date the chipper is coming and whether she can volunteer to haul limbs to the chip pile. Brent reported it would be there July 21 and is part of the Verde contract. Whoever is hired to remove the trees is a town (Ron) issue. Mike explained that he is insured with a contractor's license. Ryan said whoever organizes the bonfire has to fill out an event permit and they need to work with the parks committee. It is possible for that to be the town. He suggests putting it on a future agenda. Mike does not feel like permit approval is the park committee's job – they need to focus on maintenance. Brent said that all events in the park should be on record. This will help avoid double booking and insuring clean up. Dustin suggested cutting back vegetation on Park Street to improve parking for MarbleFest. Ryan asked that the MarbleFest committee look at this and to put up signs directing that all four wheels of parked vehicles be off of the street.

G. Old Business

- a. Update status of Master Plan project – Mark Chain – Ron introduced Dana Hlavac of the Colorado Department of Local Affairs (DOLA) who was instrumental in helping Marble get the grant for Master Planning. Dana described some the training available through DOLA. One explains DOLAs work, including available grants. Another is board training and their role in the community. Prop 1-2-3 funding is for affordable housing. If, by Nov. 1, a town commits to opt in to beginning to work toward adding affordable housing there is funding available. These funds can be for infrastructure (roads, water, etc.) regardless of whether housing is built. If no housing is going to be built, the town would not get the funding for the fourth year. Ryan would like to see the training scheduled. Tim Hunter asked if citizens could come and Ryan said work sessions are open to the public. Dustin asked if the town has property for this and how a town like Marble, where nothing is affordable, provides affordable housing. Emma asked how to define affordable.

Mark Chain reported that the MPC has had four meetings. They have identified categories to include in the plan, are working on a survey and have taken an introductory look at the land use codes. He will email a draft of the survey to the board. Categories include enforcement, infrastructure and water, small town character, and environmentally responsible growth. He is working with the county on data including future growth possibilities and available lots. The committee is currently focusing on the physical wants and needs of the community. Mark would like to see a planning committee or commission formed in the future to help the board in an advisory capacity. He explained that the committee is supposed to make recommendations rather than actually write things like a land use code. Angus spoke about zoning/business licenses as a property tax issue. Tony explained that home based or occupied businesses are not necessarily taxed as commercial properties. Dustin spoke to looking at a tourism tax.

- b. Discussion Re: CPW Change of Use for Beaver Lake, Cyndi Fowler – Cyndi was unable to attend. Ron said the new rules go into effect on Aug 1 but they are allowing a one-year educational period in which they would not issue tickets or fines. This will put SUP out of business and Marble SUP

Commented [T1]:

wants to pitch a permit system to CPW. They would like to know if the town council would support something like this. This would involve a letter of support.

H. New Business – Dustin asked if the town would be utilizing the kiosk at CR 3 and 133. Ron said it is going to be used for parking messages and fire danger information. Ryan said ideas can be sent in.

I. Adjourn – Emma Bielski made a motion to adjourn. Tony Petrocco seconded and the motion passed unanimously. The meeting was adjourned at 8:45 p.m.

Respectfully submitted,  
Terry Langley

Notes of the Town of Marble  
Master Planning Committee  
July 20, 2023 6:00 p.m.

- A. Meeting Call to Order – Present: Amy Rusby, Angus Barber, Richard Wells, Greg Tonazzi, Connie Hendrix, Brian Suter. Also present: Mark Chain, Ron Leach, Alie Wettstein, Terry Langley

Connie Hendrix reported that, according to some study and reading, she finds that a survey is required by Colorado law. Mark explained that there are many towns who have not done a survey and that there are some requirements regarding the three-mile radius. A link to the information will be sent to the committee members.

- B. Review and Approval of June 29, 2023 MPC meeting notes (accurate, anything missing, etc.) – Connie corrected her name – Connie Hendrix. Land use/zoning notes will be on the website. Alie handed out the list of business licenses and how they are categorized by the county.

- C. Report on water rights/augmentation (Ron) – Ron addressed three subjects relating to water. 1. Marble Water Company (MWC). 2. Water Augmentation in Marble. 3. Wild and Scenic designation of the Crystal.

- a. MWC started in 1979 with the filing of non-profit (501 3c) paperwork with the State of Colorado. In 1980 they began work on a 45-year lease with the Town of Marble for 1/3 of the Town of Marble water rights and that was completed in August 1983 and expires in August 2028. Rights are for one cubic foot of water per second. The MWC leases town property for the wells and the pump house. For the next 20 years they made improvements, added water taps and lines. In 2000 they wanted to put a water tank above the town (150,000 gal tank) and they applied for a federal grant for \$300,000 and got a low-interest loan from the FDA for \$400,000. The tank was installed in 2002. The payback is \$20,000 a year for 40 years (interest and principal). They made an agreement with the town council that the town would invoice and collect the \$20,000 payment and that is the water assessment that property owners get billed every year. Greg asked who paid for the initial infrastructure. Eight individuals paid \$10,000 each and they also got a loan. There are five board members and everyone who has a water tap has a share in the MWC (79 taps currently). They are applying for a loan from the USDA to get water into East Marble. This can take 6 months. The town is talking to the MWC about taking over the water system. The MWC Board of Directors is interested in turning it over to the town. The intent was always to do this. The town board wants the town to own their own utilities/infrastructure. They met in Sept. 2021 and 2022 to begin the discussion. Terms and conditions are under discussion. Brian Suter stated that they could simply not renew the lease. He asked if there was an early-out clause. Ron has not seen one. Angus asked if there were ways to mitigate potential exposure/responsibilities for aging infrastructure. Ron explained that there is a Rural Water Assistance Fund that can help with grants/funds for something like this. Ron will email the notes from the 2021 and 2022 meetings. Greg spoke to the alternate sources that Carbondale have developed.

- b. Water Augmentation – the drought in 2018 resulted in the ranchers who have senior water rights making a call on the water. Colorado Division of Water Resources wrote all with junior water rights, including the town of Marble, explaining that this means they need a water augmentation plan with water stored that can be released to those with senior water rights. The small neighborhoods and towns got the same letter. Marble hired water engineers Zancanella and Associates in GWS. They calculated that the town needs 10 acre feet of water to satisfy that. There is no piece in town big enough. Western Divide Water Conservancy (WDWC) Board got a \$100,000 grant from the state of Colorado to study this and to identify a location. Beaver Lake was the first thought. It is owned by Colorado Parks and Wildlife. That lake is meant to be a fishing lake and does not include any provisions for augmentation/storage. There is a current effort to form a management group that would include the Town of Marble, Gunnison County, WDCC, and CPW. They could craft rules that would allow augmentation. This can take years. Greg asked if the town could annex the lake.
  - c. Ron and Alie are part of the Wild & Scenic stake holders' group. They are looking at the possibility of a federal designation making the Crystal Wild & Scenic with no dams. The eastern slope development means a need for water and it has to come from somewhere. An example of what can happen is the diversion tunnels and dam connected with Reudi. There was a plan to dam the Crystal at Placita, buy out the Marble land owners and flood the valley. Greg feels that the energy of the river could be tapped with hydro-electric plants. Mark asked about bringing in someone from W/S to address the committee and answer questions regarding the issue. Brian asked about additional well locations beyond the park/campground. Greg asked about how far the proposed the east Marble extensions would go.
- D. Review of revenue sources for statutory towns (Mark and Ron) – Angus looked at the business licenses that have been granted and whether they are paying residential or commercial property tax rates. This could mean property tax bills quadrupling over a year. This could mean an increase in revenues of \$10,000 per year. Ron will provide sales tax figures for the past 10 years. Angus feels that if they would increase town sales tax 2.9% (7% total) to 15% it would bring in \$150,000 per year. He and Amy will work on a more detailed presentation for a future meeting. The possibility exists of applying sales tax to services as well as goods as well as a tourism tax. Classification – commercial vs residential. Sales tax makes up 50% of the town budget. Sales tax is distributed as follows: State 2.9%, County 1%, and Marble 4% (\$150,000). Property tax totals approximately \$26,000. The MPC cannot increase taxes but they can suggest it. Mark suggested looking at out-of-the box ideas concerning funding. Connie suggested bringing in some experts on such issues as enforcement and a court system. Suggestions of future funding sources included the previously mentioned taxes, permits (OHV), lodging and finding benefactors. Richard will research OHV permit systems. LKL steering committee may have explored this. Alie will send out the survey.
- E. Finalize survey questions (Mark and Committee) Angus feels they are good as they are. Other comments and changes should be in to Mark by Monday at 5 p.m.

- F. Comments from Committee Members – It was agreed that meetings will be once a month at the church. The goal is to have the plan done before the town election in March.

Next meeting: Aug. 17, 7:00 p.m. at the church. NOTE TIME & LOCATION CHANGE.

- G. Adjourn -







Town of Marble  
Ordinance Number \_\_\_\_  
Series of 2023

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP BY REZONING LOTS 4  
AND 5, BLOCK 3, MARBLE SKI AREA FILING NO. 1, FROM RESIDENTIAL TO  
BUSINESS

WHEREAS:

- A. The Town of Marble (the “Town”) is a statutory town organized pursuant to Colorado Law; C.R.S. §31-1-101 *et seq.*;
- B. The Town’s Board of Trustees (“Board”) is authorized by statute to regulate the uses of property within the Town’s boundaries, C.R.S. § 31-23-301, *et seq.*;
- C. The Town has adopted the Town of Marble Zoning Code (“Zoning Code”) and the Official Zoning Map (“Zoning Map”), *see* Ordinance No. 5, Series of 2000;
- D. The Town has adopted a Master Plan, *see* Ordinance No. 4, Series of 2000;
- E. The Zoning Code and Zoning Map created three use zones within the Town: Residential, Business, and Public Use;
- F. In accordance with C.R.S. § 31-23-304, the Zoning Code provides a procedure to amend the Zoning Map by changing a parcel of land from one zone to another, *see* Chapter 7.5;
- G. In accordance with Section 7.5.10 of the Zoning Code, an application (the “Application”) was filed by the owners (the “Applicants”) of Lots 4 and 5, Block 3, Marble Ski Area Filing No. 1 (the “Property”) to rezone the Property from Residential To Business;
- H. In accordance with Section 7.5.20 of the Zoning Code, the Board, which also sits as the Planning Commission, held a public hearing on the application on April 6, 2023, and May 18, 2023;
- I. At the public hearing, the Board received comment in support of the Application from multiple members of the community, and comment in opposition to the Application from neighbors Mike Evans and Jeff Evans.
- J. Based on the findings set forth below, on \_\_\_\_\_, 2023, the Board, which sits as the Planning Commission, voted to approve the rezoning application;
- K. FINDINGS:
  - 1. In accordance with Section 7.5.60.A of the Zoning Code, the Applicants have paid the requisite application fee and ordinance fee.
  - 2. Notice of the public hearing was provided in accordance with Section 7.5.20 of the Zoning Code.

3. The subject property is not located within two miles of a telecommunications research facility of the United States, *see* C.R.S. § 30-11-605.
4. Zoning regulations must be “for the purpose of promoting health, safety, morals, or the general welfare of the community,” C.R.S. § 31-23-101(1). Approval of the Application, subject to the terms and conditions set forth in this Ordinance, will promote the health, safety, morals, or general welfare of the community.
5. Zoning changes “shall be made in accordance with a comprehensive plan.” C.R.S. § 31-23-303(1). Reasonable conditions may be imposed as part of the rezoning in order to prevent adverse impact to neighbors, ensure compliance with a master plan, and negate the otherwise potentially illegality of a spot zoning. *See King's Mill Homeowners Ass'n, Inc. v. City of Westminster*, 557 P.2d 1186 (Colo. 1976).
6. The Property is currently zoned as residential. It is bordered on the north, east and west by residential uses. However, to the southwest is a commercial parcel (The Marble Gallery), and to the southeast is the Mill Site Park.
7. Approval of the Application, subject to the terms and conditions set forth in this Ordinance, will be consistent with the existing Master Plan. In particular, such approval will be consistent with the following provisions of the Master Plan:
  - i. “The Town of Marble will endeavor to keep the Town a Community where the citizens are free to pursue their own lifestyle, where there can be a diversity of choices, where citizens can remain independent and respect the natural environment. Marble must be a place where neighbors are tolerant and respectful of other's choices and where there is a minimum of governmental interference.”
  - ii. “The Town should adopt zone districts that are based on encouraging a range of uses, as opposed to a more urban land use pattern which creates strong boundaries between residential and commercial land uses. A more “mixed use” approach appears to fit the landscape of Marble in a more consistent fashion than traditional zoning approaches.”
  - iii. “There is currently very little commercial activity available to those who visit the valley. While few in Marble want the community to transition into a major tourist community, some would like to encourage more small business activity and low-impact tourism.”
  - iv. “A majority of the land in the Marble Planning Area is used for single family residential purposes, and almost no land is used for commercial purposes. There are four (4) commercial lots in the Town: the General Store, the RV/camping site, the Beaver Lake Lodge, and the Piffer building.” The existing commercial uses at the time the Master Plan was adopted were scattered throughout Town, not segregated in a specific single “commercial zone.” There is virtually no land within the Town currently zoned as “Business” where the Applicants could locate the business that they desire to conduct on the subject Property.
8. The Board has considered the issue of “spot zoning,” as it relates to the Application, and is mindful of the fact that the Property was previously the subject of a

similar rezoning application in 2009, and that the Board of Trustees denied that application on the basis that it would constitute impermissible spot zoning. *See* Ordinance 2009-1. The Board received correspondence from the Applicants' attorney regarding the spot zoning issue, which is part of the record in this matter. The Board's decision on this issue is not premised on the arguments made in that letter, many of which the Board disagrees with. Nevertheless, while the Application does result in small parcel being subject to restrictions on use that are different from the restriction imposed on surrounding property, the Board finds that because the rezoning, subject to the terms and conditions of this Ordinance, is consistent with the Master Plan, approval of the Application on the terms set forth in this Ordinance will not constitute impermissible spot zoning. *Whitelaw v. Denver City Council, 2017 COA 47.*

9. Section 7.1.20.A of the Zoning Code states: Changes in zones shall be made on the Official Zoning Map within five (5) days following the effective date of the ordinance enacting such amendments or changes. Changes in the Official Zoning Map shall be indicated by an entry on the Official Zoning Map as follows: "On (date) by official action by the Board of Trustees, the following change(s) were made in the Official Zoning Map (brief description of the nature of the change)." Said entry shall be signed by the Mayor and attested by the Town Clerk. A change in zone shall not be effective until after such change and entry have been made on said map.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF MARBLE, COLORADO THAT:

1. The Official Zoning Map of the Town of Marble shall be amended to change the zoning of LOTS 4 AND 5, BLOCK 3, MARBLE SKI AREA FILING NO. 1 from Residential to Business.

2. Approval of the rezoning of the Property from Residential to Business does not constitute approval of every aspect of the Applicants' proposed land use plans presented to the Board during this proceeding. Applicants' use of the Property shall comply with all applicable ordinances and regulations of the Town, including all applicable zoning and building codes and OWTS regulations, in addition to the terms and condition in this Ordinance. In particular:

i. At this time, residential use is not allowed within the Business Zone. Applicants shall not use the Property for residential purposes unless and until such uses are allowed by the Zoning Code.

ii. The Application indicated that a porta-potty would be located on site to serve customers. The Board expressly disapproves of such proposed land use. Bathroom facilities must be provided in accordance with the terms and conditions below.

3. Terms and Conditions. Use of the Property for business purposes shall be subject to the following terms and conditions:

i. For any business activity that involves allowing customers and potential customers onto the Property, the Applicants must provide a bathroom facility available to



customers and other guests that complies with the requirements of the Town's building and OWTS regulations.

ii. Use of the Property for the proposed jeep tour business shall be subject to the following parking conditions:

- a. The existing "pole barn" shall remain available for parking tour vehicles. Except for temporary staging during the tour season, tour vehicles shall be parked in the pole barn.
- b. A minimum of 10 off-street parking spaces shall be provided for tour customers and walk-in customers, including two ADA accessible parking spaces.
- c. Employee parking spaces shall be provided in a number equivalent to the maximum number of employees that will be working concurrently on Property or driving tour vehicles.

iii. All representations by the Applicants during this proceeding limiting the scope of the proposed use of the Property shall be conditions of approval.

iv. The Applicants shall reimburse the Town for all fees incurred in processing the Application in accordance with the Town Code.

4. Within five days following the effective date of this Ordinance, the Official Zoning Map shall be amended to reflect this change.

5. The Mayor and Town Clerk shall make an entry on the Official Zoning Map as follows: "On \_\_\_\_\_, 2023, by official action by the Board of Trustees, the following change was made in the Official Zoning Map: LOTS 4 AND 5, BLOCK 3, MARBLE SKI AREA FILING NO. 1 was rezoned from Residential to Business." Such entry shall be signed by the Mayor and attested by the Town Clerk.

INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED BY TITLE ONLY this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by a vote of \_\_\_\_ in favor and \_\_\_\_ opposed.

TOWN OF MARBLE:

ATTEST:

\_\_\_\_\_  
Ryan Vinciguerra, Mayor

\_\_\_\_\_  
Ron Leach, Clerk

## **AGREEMENT FOR PROFESSIONAL SERVICES**

### **Master Plan Development**

This AGREEMENT FOR PROFESSIONAL SERVICES is made this \_\_\_\_ day of \_\_\_\_ 2023 between the **TOWN OF MARBLE**, a municipality under the laws of the state of Colorado ("Town"), and **MARK CHAIN CONSULTING, LLC**, a Colorado limited liability company ("Contractor").

WHEREAS, the Town desires that Contractor perform land use planning services described in further detail in the letter dated April 14, 2023, attached hereto as Exhibit A (the "Services"); and

WHEREAS, Contractor represents that it has the expertise and background necessary, and desires, to perform the Services pursuant to the terms and conditions provided for in this Agreement.

#### **WITNESSETH:**

In consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

1. Scope of Agreement. Contractor agrees to provide the Town with the Services as set forth on Exhibit A. In the event of any conflict between the terms of Exhibit A and this Agreement, the terms of this Agreement shall control.
2. Consideration.
  - a. All Services will be billed at **\$ 70 / hour.**
  - b. The Town will also reimburse Contractor for reasonable direct expenses incurred by Contractor in completion of the Services.
  - c. The Contractor will provide monthly invoices. Invoices will be paid within 28 days of receipt.
3. Term and Renewal. This Agreement shall be effective as of the date of its execution by both parties and shall extend until March 31, 2024, unless sooner extended or terminated pursuant to paragraph 11 below.
4. Status.
  - a. The Contractor shall perform the Services as an independent contractor and shall not be deemed by virtue of this Agreement to have entered into any partnership, joint venture, employer/employee or other relationship with the Town other than as a contracting party and independent contractor. the Town shall not be obligated to secure, and shall not provide, any insurance coverage or employment benefits of any kind or type to or for the Contractor or the Contractor's employees, subcontractors, agents, or representatives, including coverage or benefits related but not limited to: local, state, or federal income or other tax contributions; insurance contributions (e.g., FICA); workers' compensation; disability, injury, or health; professional liability insurance, errors and omissions insurance; or retirement account contributions. The Contractor shall be solely

responsible for all compensation, benefits, insurance and employment-related rights of any person providing Services hereunder during the course of or arising or accruing as a result of any employment, whether past or present, with the Contractor, as well as all legal costs including attorney's fees incurred in the defense of any conflict or legal action resulting from such employment or related to the corporate amenities of such employment. Accordingly, the Town shall not be called upon to assume any liability for or direct payment of any salaries, wages, contribution to pension funds, insurance premiums or payments, workers compensation benefits or any other amenities of employment to any of the Contractor's employees or any other liabilities whatsoever, unless otherwise specifically provided herein. Contractor shall indemnify, defend, and hold harmless the Town from any and all claims or amounts for income, payroll taxes or employee benefits related to Contractor, its employees, agents and subcontractors. Furthermore, it is the intent of the Parties that neither Contractor nor its employees, agents or independent Contractors shall ever have any right whatsoever to participate in an employee benefit plan offered by the Town, even if Contractor or any of its employees, agents or subcontractors are later determined to be common law employees. See *Viscaino v. Microsoft, Inc.*, 97 F.3d 1187 (9th Cir. 1996).

b. CONTRACTOR ACKNOWLEDGES THAT NEITHER IT NOR ITS AGENTS OR EMPLOYEES ARE ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS CONTRACTOR OR SOME ENTITY OTHER THAN THE TOWN PROVIDES SUCH BENEFITS. CONTRACTOR FURTHER ACKNOWLEDGES THAT NEITHER IT NOR ITS AGENTS OR EMPLOYEES ARE ENTITLED TO WORKERS' COMPENSATION BENEFITS. CONTRACTOR ALSO ACKNOWLEDGES THAT IT IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON ANY MONEYS EARNED OR PAID PURSUANT TO THIS AGREEMENT.

5. Ownership of Work Product. The work product prepared under this Agreement shall be the property of the Town.

6. Standard of Care. The standard of care applicable to the Contractor's services will be the same degree of care, skill, and diligence normally employed by professionals performing the same or similar services.

7. Indemnity, Insurance and Immunity.

a. The Town cannot, and by this Agreement does not, agree to indemnify, hold harmless, exonerate or assume the defense of the Contractor or any other person or entity whatsoever. This provision should not be construed to relieve or release the Town from any liability that it may otherwise owe to Contractor under the law.

b. The Contractor shall defend, indemnify and hold harmless the Town, its officers, directors, agents, and employees from any and all claims, demands, suits, actions or proceedings of any kind or nature whatsoever, in any way resulting from or arising from this Agreement; provided, however, that the Contractor need not indemnify or save harmless the Town, its officers, directors, agents and employees from damages resulting from the negligence or willful malfeasance of any officer, director, agent or employee of the Town. Contractor shall notify the Town immediately and in writing in the event that Contractor learns of a claim or an allegation of a claim arising or resulting from



Contractor's performance or failure to perform pursuant to this Agreement. The Parties shall reasonably cooperate in sharing information concerning potential claims.

c. **NO WAIVER OF GOVERNMENTAL IMMUNITY.** The Parties hereto understand and agree that the Town, its directors, agents and employees, are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, §§ 24-10-101 to 120, C.R.S., as the same may be amended from time to time, or otherwise available to the Town.

d. The Contractor shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors. This may include bonds, comprehensive general liability, workers compensation and employers' liability, unemployment insurance and automobile liability, as is determined appropriate in scope and limits by Contractor, and in any event in amounts no less than required by law. The cost of such insurance shall be paid by the Contractor.

8. **Sub-Contracting and Assignment; Rights of Third Parties.** Neither the Town nor Contractor may assign, sublet, sub-contract or transfer any rights or obligations under this Agreement without the written consent of the other. The Contractor's services shall be performed exclusively by Mark Chain, unless the Town provides prior written consent. In, the event that an employee or subcontractor is allowed to perform services under this Agreement, Contractor shall comply with paragraphs 9 and 10, below. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Except as may be expressly stated otherwise in this Agreement, nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than the Town and Contractor, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the Town and Contractor and not for the benefit of any other party.

9. **Work By Illegal Aliens Prohibited.** In the event that the Town consent to an individual other than Bruce Stolbach (as an employee or subcontractor) to perform services under this Agreement, Contractor shall comply with the requirements of this paragraph.

a. Pursuant to Section 8-17.5-101, C.R.S., et. seq., Contractor warrants, represents, acknowledges, and agrees that:

i. Contractor does not knowingly employ or contract with an illegal alien.

ii. Contractor shall not knowingly employ or contract with an illegal alien to perform works or enter into a contract with a subcontractor that fails to verify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

iii. Contractor has participated in or attempted to participate in the basic pilot employment verification program created in Public Law 208, 104th Congress, as amended, and expanded in Public Law 156, 108th Congress, as amended, administered by the Department of Homeland Security (hereinafter, "E-Verify") in order to verify that Contractor does not employ illegal aliens. If Contractor is

not accepted into E-Verify prior to entering into this Agreement, Contractor shall forthwith apply to participate in E-Verify and shall submit to the Town written verification of such application within five (5) days of the date of this Agreement. Contractor shall continue to apply to participate in E-Verify, and shall certify such application to the Town in writing, every three (3) months until Contractor is accepted or this Agreement is completed, whichever occurs first. This Paragraph 9-C shall be null and void if E-Verify is discontinued.

iv. Contractor shall not use E-Verify procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

v. If Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Contractor shall be required to:

(1) notify the subcontractor and the Town within three (3) days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

(2) terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to this subparagraph the subcontractor does not stop employing or contracting with the illegal alien; except that Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

vi. Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment ("Department") made in the course of an investigation that the Department is undertaking pursuant to the authority established in subsection 8-17.5-102(5), C.R.S.

vii. If Contractor violates this Paragraph, the Town may terminate this Agreement for breach of contract. If this Agreement is so terminated, Contractor shall be liable for actual and consequential damages to the Town arising out of said violation.

10. Non-Discrimination. In connection with the performance of work under this Agreement, the Contractor agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability.

11. Termination. The Town or the Contractor may terminate this Agreement at any time by providing a minimum 28 days' written notice to the other party. Additionally, either Party may terminate this Agreement for cause at any time if the other Party fails to substantially perform in accordance with this Agreement. In the event this Agreement is terminated, the Contractor shall be compensated for all work performed in accordance with this Agreement through the time of termination.

12. Agreement Administration and Notice. For purposes of administering this Agreement, the Town hereby appoints the Town Administrator to represent the Town in carrying out the

purposes and intent of this Agreement. Any notices required to be given pursuant to this Agreement shall be delivered to the party's respective address or email address as set forth below:

To the Town:           Town of Marble  
                              Attn: Town Clerk  
                              322 W. Park St.  
                              Marble, CO 81623  
                              970-963-1938  
                              leach@townofmarble.com

To the Contractor:   Mark Chain Consulting, LLC  
                              Attn: Mark Chain  
                              811 Garfield Avenue  
                              Carbondale, CO 81623  
                              970.309.3655  
                              mchain@sopris.net

13.   Entire Agreement. This Agreement, along with any addendums and attachments hereto, constitutes the entire agreement between the parties. The provisions of this Agreement may be amended at any time by the mutual consent of both parties. The parties shall not be bound by any other agreements, either written or oral, except as set forth in this Agreement.

14.   Governing Law. The laws of the State of Colorado shall govern the validity, performance and enforcement of this Agreement. Venue for any action instituted pursuant to this agreement shall lie in Gunnison County, Colorado.

15.   Authority. Each person signing this Agreement, and any addendums or attachments hereto, represents and warrants that said person is fully authorized to enter into and execute this Agreement and to bind the party it represents to the terms and conditions hereof.

16.   Attorneys' Fees. Should this Agreement become the subject of litigation between the Town and Contractor, the prevailing party shall be entitled to recovery of all actual costs in connection therewith, including but not limited to attorneys' fees and expert witness fees. All rights concerning remedies and/or attorneys' fees shall survive any termination of this Agreement.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

TOWN OF MARBLE, COLORADO

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

ATTEST:

\_\_\_\_\_  
Ron Leach, Town Clerk

Contractor: Mark Chain Consulting, LLC

By: \_\_\_\_\_  
Mark Chain

ck  
# 127

# Short Term Rental Business License Application

Town of Marble  
322 W. Park St  
Marble, CO 81623

Type of Application (check one): ☐ Initial Permit Application ☒ Renewal Permit Application

## Applicant Information (owner of property):

Name: Richard Bramon; if the Owner is not a natural person,  
the names of all natural persons who own an interest in the owner.

Mailing Address: 14632 W 89th St

City: Lenexa State: KS Zip: 66215

Daytime Phone: \_\_\_\_\_ Evening Phone: \_\_\_\_\_ Cell Phone: 913-449-6041

Fax: \_\_\_\_\_ Email Address: windrockeb@hotmail.com

## Short Term Rental Information:

Address: 316 E Main

Designated Responsible Party (As defined in Town of Marble Ordinance # 3-2019) Laura Ahen

Daytime Phone: \_\_\_\_\_ Evening Phone: \_\_\_\_\_ Cell Phone: 970-343-9432

Maximum Occupancy: (As defined in Town of Marble Ordinance # 3-2019) 6 Adults 2 Children

Colorado Sales Tax ID# 256361-001

# Short Term Rental Business License Application

Town of Marble  
322 W. Park St  
Marble, CO 81623

Type of Application (check one): ☐ Initial Permit Application ☒ Renewal Permit Application

## Applicant Information (owner of property):

Name: GARY L. BASCOM: if the Owner is not a natural person,  
the names of all natural persons who own an interest in the owner.

Mailing Address: 303 W. Park St.

City: Marble State: Co Zip: 81623

Daytime Phone: 970 963-1318 Evening Phone: 970 963-9815 Cell Phone: \_\_\_\_\_

Fax: \_\_\_\_\_ Email Address: abstradmarble@gmail.com

## Short Term Rental Information:

Address: 303 W. Park St

Designated Responsible Party (As defined in Town of Marble Ordinance # 3-2019) GARY L. BASCOM

Daytime Phone: 970 963-1318 Evening Phone: 970 963-9815 Cell Phone: \_\_\_\_\_

Maximum Occupancy: (As defined in Town of Marble Ordinance # 3-2019) 6

Colorado Sales Tax ID# 02867383-0000

# Short Term Rental Business License Application

Town of Marble  
322 W. Park St  
Marble, CO 81623

Type of Application (check one): ☐ Initial Permit Application ☒ Renewal Permit Application

## Applicant Information (owner of property):

Name: Brian Bentley: if the Owner is not a natural person,  
the names of all natural persons who own an interest in the owner.

Mailing Address: 350 E State St

City: Marble State: Co Zip: 81623

Daytime Phone: \_\_\_\_\_ Evening Phone: \_\_\_\_\_ Cell Phone: (970) 618-6105

Fax: \_\_\_\_\_ Email Address: MarbleMountainretreat@gmail.com

## Short Term Rental Information:

Address: 350 E State St

Designated Responsible Party (As defined in Town of Marble Ordinance # 3-2019) Scott, Kelly Wilson

Daytime Phone: \_\_\_\_\_ Evening Phone: \_\_\_\_\_ Cell Phone: (970) 618-6105

Maximum Occupancy: (As defined in Town of Marble Ordinance # 3-2019) 8

Colorado Sales Tax ID# \_\_\_\_\_

11 I use airbnb only & they insure my house up to \$1,000,000.00

CK  
#1020

# Short Term Rental Business License Application

Town of Marble  
322 W. Park St  
Marble, CO 81623

Type of Application (check one): ☐ Initial Permit Application ☒ Renewal Permit Application

## Applicant Information (owner of property):

Name: Tom and Kay Williams: if the Owner is not a natural person,  
the names of all natural persons who own an interest in the owner.

Mailing Address: 323 W. Hill Street

City: Marble State: CO Zip: 81623

Daytime Phone: (970) 963-8903 Evening Phone: ✓ Cell Phone: (303) 902-7250

Fax: — Email Address: tom@williamscompany.net

## Short Term Rental Information:

Address: 423 W. Marble Street Marble, CO 81623

Primary: Tom or Kay Williams (970) 963-8903 cell (303) 902-7250  
Designated Responsible Party (As defined in Town of Marble Ordinance # 3-2019): Jon Stovall (in our absence)

Daytime Phone: — Evening Phone: — Cell Phone: (843) 957-3049

Maximum Occupancy: (As defined in Town of Marble Ordinance # 3-2019) 4

Colorado Sales Tax ID# 01470159-0000



# Short Term Rental Business License Application

Town of Marble  
322 W. Park St  
Marble, CO 81623

Type of Application (check one): ☒ Initial Permit Application ☐ Renewal Permit Application

## Applicant Information (owner of property):

Name: Jim Gohery / Amber Crowley: if the Owner is not a natural person,  
the names of all natural persons who own an interest in the owner.

Mailing Address: 415 W. Park Street

City: Marble State: CO Zip: 81623

Daytime Phone: 970.704.6211 Evening Phone: Same Cell Phone: 970.274.6891 / 970.366.0074

Fax: N/A Email Address: Dooneseamus@mac.com

## Short Term Rental Information:

Address: 415 W. Park Street, Marble CO 81623

Designated Responsible Party (As defined in Town of Marble Ordinance # 3-2019) Jim Gohery / Amber Crowley

Daytime Phone: 970.704.6211 Evening Phone: Same Cell Phone: 970.274.6891 / 970.366.0074

Maximum Occupancy: (As defined in Town of Marble Ordinance # 3-2019) 4 People

Colorado Sales Tax ID# 46-1845618

MARBLE WETLANDS PRESERVE

MANAGEMENT AGREEMENT

Between

THE TRUST FOR LAND RESTORATION,

THE TOWN OF MARBLE,

&

THE ASPEN VALLEY LAND TRUST

I. PARTIES

This Management Agreement is entered into between the Trust for Land Restoration (TLR), the Town of Marble (TOWN), and the Aspen Valley Land Trust (AVLT), referred to herein as "The Parties."

II. PURPOSE

This Management Agreement's purpose is to establish an understanding and a working relationship between the Parties whereby TLR, as owners of the 54-acre Marble Wetlands Preserve (PRESERVE) Property, designates the TOWN as managers of the PRESERVE, and recognizes AVLT's rights and responsibilities, as holders of the Conservation Easement granted by TLR to AVLT on \_\_\_\_\_, 2023, to monitor and, if necessary, enforce terms of the Conservation Easement; to provide for the management and public use of the PRESERVE in a manner that best protects the conservation values associated with the property, as enumerated in the Conservation Easement and further described in the Management Plan. The Management Plan is to be prepared by AVLT and to be adopted by consent of the Parties on or before October 1, 2023.

III. MUTUAL INTEREST OF THE PARTIES

TLR, the TOWN, and AVL T each have a mutual interest in a management agreement that allows for certain public uses while ensuring the best and most effective protection and preservation of the PRESERVE for the benefit of wildlife and the conservation values associated with the property, as identified in the Conservation Easement.

The Parties encourage passive public use of the PRESERVE, and utilization of it for child and adult outdoor education activities, as long as they are compatible with and do not harm the identified conservation values associated with the property.

The Parties acknowledge that TLR as owner of the PRESERVE has the responsibility to assure the conservation values are maintained protected and has the authority to delegate management responsibilities to a reliable third-party.

The Parties acknowledge that the PRESERVE'S physical proximity to the TOWN of Marble and to other TOWN-managed recreational assets, including the Marble Millsite Park and the Marble Campground, combined with the interest and local knowledge of citizens, citizen groups, volunteers, the Town staff and Board of Trustees; plus the Town's ability to add the PRESERVE to the TOWN's general liability insurance policy; and the ability of the TOWN to apply for grants as may be appropriate make the TOWN well suited to be the managers of the PRESERVE.

The Parties further acknowledge that AVL T, as the conservation easement holder and as a land trust with considerable land-conservation, land-management, outdoor education and recreation-management experience, is responsible for providing periodic monitoring of the condition of the property and public use of the PRESERVE to assure the conservation values, as enumerated in the conservation easement, are maintained and protected.

#### IV. RESPONSIBILITIES OF THE PARTIES

By entering into this Management Agreement, the parties agree to the following:

TLR, as owner in fee simple of the Marble Wetlands Preserve and has grantor of a conservation easement to AVL T designed to maintain and protect certain conservation values, has the authority and hereby designates the TOWN the managers of the PRESERVE.

TLR reserves the right to designate a forth party as its local representative for any and all responsibilities ascribed to TLR in this management agreement.

TLR or its designate will be responsible for placing signage at the entry ways to the property enumerating terms for public use. Signage will recognize the TOWN as the managers of the PRESERVE and AVL T as the Conservation Easement holders.

TLR or its designate will be responsible for placing protective signage at the Hoffman Smelter Site.

TLR or its designate will be responsible for any and all property taxes payable to Gunnison County that may come due during the time this management agreement is in force.

TLR or its designate will be responsible for any and all interactions with state and federal regulatory agencies with regard to the Hoffman Smelter Site and the associated Voluntary Cleanup Agreement with the State of Colorado.

TLR or its designate has the right but not the obligation to conduct public outreach and outdoor education activities on the PRESERVE as it deems appropriate.

The TOWN will be responsible for patrolling and, as may be necessary, enforcing terms for public use of the PRESERVE, as prescribed in the Conservation Easement document and the Management Plan; including but not limited to prohibiting use of motor vehicles, motorcycles, ATVs, or bicycles by the general public (except as authorized by a right-of-way easement/agreement dated \_\_\_\_\_), keeping gates closed, maintaining signage, and prohibiting overnight camping, fires, hunting or discharge of firearms.

Unless otherwise agreed to in the Management Plan, dogs are allowed on the PRESERVE provided they are leashed or under voice command, and they do not chase, harass or disturb wildlife.

The TOWN reserves the right to perform routine maintenance and upkeep of the PRESERVE without further notice to, or permission from TLR. For the purposes of this agreement, "routine maintenance and upkeep" is defined as trash and debris removal; sign upkeep; erosion control; and management of weeds and insect infestations by means necessary but emphasizing non-chemical methods.

TLR reserves the right to perform weed management using selected and appropriate herbicides, provided TLR gives at least 10 days prior notice to the TOWN and AVL T.

The TOWN agrees to notify TLR before undertaking any changes or improvements not considered "routine maintenance and upkeep." This will afford TLR an opportunity to consult with AVL T and others to ensure that the activities or uses in question are designed and carried out in a manner consistent with preservation and protection of the

Conservation Values of the property. Whenever notice and approval are required, the TOWN shall notify TLR in writing not less than sixty (60) days prior to the date the TOWN intends to undertake the activity or use in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity or use in sufficient detail to permit TLR to consult with AVL T and others as necessary to make an informed judgment as to the activity or use's consistency with the preservation and protection of the Conservation Values of the PRESERVE.

The TOWN has the right but not the obligation to conduct public outreach and outdoor education activities on the PRESERVE as it deems appropriate.

The TOWN agrees to add the PRESERVE to the TOWN's liability insurance policy and name TLR and AVL T as additional insured.

AVLT, as the conservation easement holder and as a land trust with considerable land-conservation, land-management, outdoor education and recreation-management experience, is responsible for providing periodic monitoring of the condition of the property and public use of the PRESERVE to assure the conservation values, as enumerated in the conservation easement, are maintained and protected; and has certain rights to enforce terms and conditions of the conservation easement as described in the Conservation Easement.

AVLT has the right but not the obligation to conduct public outreach and outdoor education activities on the PRESERVE as it deems appropriate.

The Parties agree that public access to the PRESERVE, in support of the Property's conservation values and Management Plan is encouraged, provided that such access is not inconsistent with the terms of the Conservation Easement. The timing and scope of public access may be limited by mutual consent of the Parties to protect the Conservation Values. TLR and the TOWN shall ensure that any public access is consistent with Colorado's recreational use statute C.R.S. § 33-41-101 *et seq.* and provides indemnity to the Parties for the public's access to and use of the PRESERVE.

The Parties agree to work together to seek public access to the PRESERVE across land to the west of the PRESERVE currently owned by the State of Colorado and managed by the Colorado Department of Parks and Wildlife.

The Parties agree that should any one or more sections or provisions of this Agreement be judicially adjudged invalid or unenforceable, such judgment shall not affect, impair, or invalidate the remaining provisions of this Agreement, the intention being that the various sections and provisions hereof are severable.

The Parties agree and understand that the TOWN is relying on and does not waive, by any provisions of this Agreement, the monetary limitations or terms or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101, *et seq.*, as from time to time amended or otherwise available to the Parties or any of their officers, agents, or employees.

V. PERIOD OF AGREEMENT, MODIFICATION AND TERMINATION

This Management Agreement is effective as of the day of the last party to sign below and is effective for one-year. It may be renewed annually by mutual agreement of the Parties. It may be amended by mutual agreement of the Parties at any time. Any of the Parties may terminate this Management Agreement by providing one hundred twenty (120) days written notice to the other Parties. In the event this Management Agreement is terminated, each party shall be solely responsible for its costs.

IN WITNESS WHEREOF, the parties have executed the foregoing on the day and year above first given.

\_\_\_\_\_  
Patrick Willits, Executive Director  
The Trust for Land Restoration

\_\_\_\_\_  
Date

\_\_\_\_\_  
Ryan Vinciguerra, Mayor  
The Town of Marble

\_\_\_\_\_  
Date

\_\_\_\_\_  
Suzanne Stephens, Executive Director  
The Aspen Valley Land Trust

\_\_\_\_\_  
Date

**To:**

The Trust for Land Restoration

PO Box 743

Ridgway CO 81432

Attn: Patrick Willits [patrickwillits@gmail.com](mailto:patrickwillits@gmail.com)

**To:**

The Town of Marble

322 West Park Street

Marble CO 81623

Attn: Ron Leach [leach@townofmarble.com](mailto:leach@townofmarble.com)

**To:**

Aspen Valley Land Trust

320 Main St #204

Carbondale, CO 81623

Attn: Suzanne Stephens [suzanne@avlt.org](mailto:suzanne@avlt.org)



[www.restorationtrust.org](http://www.restorationtrust.org)

133 n. Lena Street #3  
PO Box 743  
Ridgway, Colorado 81432  
970-626-3236

## MEMORANDUM

To: The Town of Marble Board of Trustees  
From: Patrick Willits; the Trust for Land Restoration  
Date: September 13, 2022

RE: Intent to Transfer Ownership of Marble Wetlands Property

Dear Honorable Mayor Ryan Vinciguerra and Trustees,

Please accept this memo as a Statement of Intent and a Good Faith Pledge from the Trust for Land Restoration to donate the 54-acre Marble (formerly Hepola) Wetlands to the Town of Marble within twenty-four months of the date of this memo.

I read in minutes of the Town of Marble's September 1, 2022 Trustees Meeting the request to have a "contract" in place prior to the Town signing VCUP IGA and TU contracting agreements. I hope this Statement of Intent can provide that comfort now to allow the Town to move forward and sign the VCUP documents at the Town's earliest convenience so as to not delay the flow of paperwork leading to the scheduled October on-site work scheduled by TU and its sub-contractors.

Beyond this Statement of Intent, TLR is happy to consider any contract the Town of Marble would like to propose, but respectfully ask that the Town not hold up signing the VCUP - enabling documents before having a contract to sign.

We are very grateful that the Town of Marble has stepped up to the role of fiscal agent and contracting entity between the State of Colorado, the Town and Trout Unlimited to facilitate and make possible the Voluntary Cleanup of the Hoffman Smelter Site on the property. The process has been more complicated than I had anticipated and taken more staff and attorney time for the Town and TU to get to this point than I expected, so Thank You for your diligence and willing to be on board to get this project done.



The result of the Town's, the State's and TU's efforts will be a cleanup of the site that will meet the State of Colorado's standards and earn current and future landowners a "No Further Action (NFA)" letter from the State that is also recognized by the US EPA as qualifying for "Good Samaritan" liability protections under federal law. Without that NFA letter, TLR and the Town as the future owner would be at some risk of liability exposure by allowing the public access to the property.

TLR's timeline for transfer of the property to the Town of Marble is based upon TLR first, prior to transfer, placing the Marble Wetlands property into a conservation easement with a third-party conservation organization, likely Aspen Valley Land Trust. Placing the property into a conservation easement prior to transferring the property to the Town of Marble assures us and the State VCUP program that certain restrictions will be monitored long into the future by a third-party entity. Placing the property into a conservation easement prior to transferring the property to the Town of Marble also allows TLR to sell the associated tax credits to recover hard and soft costs we have incurred and are incurring.

We are more than happy to discuss proposed conservation easement terms prior to finalizing. We expect a proposed conservation easement will restrict future residential and/or commercial building/development of the property, prohibit overnight camping, prohibit discharge of firearms, and limit motorized vehicle use to administrative/management purposes and legal use of the driveway/access easement by the neighboring landowner who has been granted the access easement, Ray Watson. One of the conditions the State's granted No-Further-Action status will be restricting the access-easement road to authorized vehicles only.

While we may have thoughts about bicycles, dogs, dogs on leashes, dogs on bicycles, and other potential conservation-easement restrictions, those are yet-to-be-determined, based on input from the Town, wildlife experts and whatever third-party conservation organization is chosen to hold the conservation easement. It's very likely we will leave some potential restrictions for the Town to decide now or in the future.

There are a number of factors which dictate how long it may take to negotiate a conservation easement with a third-party entity, including obtaining a "qualified" appraisal, hiring outside expertise to prepare associated due-diligence items like mineral assessment, baseline inventory, and updated environmental assessment post-VCUP cleanup, and sending all to the State of Colorado's Real Estate Commission for review. AVL T tells us if all goes well we should be able to close on a conservation easement and transfer to the Town of Marble by end of year 2023. If things are delayed, it could be end of summer 2024 before closing.

The question then becomes how to manage the property and under what conditions from the time the cleanup of the Smelter site is complete until the time the property is transferred to the Town? Our general thought is best case scenario is to enter into a management agreement with the Town that essentially turns the property over to the Town and its CIRSA liability insurance coverage now or as soon as is practical, in advance of transfer of deeded ownership. Our default plan to not being able to turn over active management of property to the Town in advance of the transfer of deeded ownership is likely continuing the passive ownership posture we have been exercising since accepting title to the property last December 30. While TLR owns the property, unless the

Town is involved, we will maintain a low-key presence, with few signs, no active welcoming or interpretation, and no organized activities, other than access and weed control. We will work with CPW to keep the lower road across State land open to the public but not advertise it.

Regardless of who manages the property from now until the fee-title deed is transferred to the Town of Marble, we will work with neighboring landowner and driveway/access-easement holder Ray Watson to maintain a gate at the top of the access-easement road where it meets the Quarry Road to keep out unauthorized motor vehicle use. One of the conditions the State's granted No-Further-Action status going forward will be restricting the access-easement road to authorized vehicles only.

The Marble Wetlands are very special. We appreciate everything the Town has done and look forward to continuing a positive relationship that allows both the Town and TLR to achieve its goals. I am available to discuss over the phone whenever is convenient.

Pat

--

Patrick Willits  
The Trust for Land Restoration  
Ridgway CO 81432

970-596-5479 mobile