AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

AgendaTitle:
Lease Agreement; Crystal River Civic Commission, dba The Marble Hub; 5/6/14 thru 1/1/15

Action Requested: County Manager Signature

Parties to the Agreement: Gunnison County and Crystal River Civic Association, dba The Marble HUB

Term Begins: May 6, 2014 **Term Ends:** 1/1/2015 **Grant Contract #:**

Summary:
The Crystal River Civic Association has reorganized and this lease is with the new Board.

Fiscal Impact: No fees are charged.

Submitted by: Marlene D. Crosby **Submitter's Email Address:** mcrosby@gunnisoncounty.org

Finance Review: (●) Required ( ) Not Required

Comments:

No rent is charged under this agreement. Road & Bridge paid $3,503.36 during 2013 for the operation of this historical 1909 structure, with costs primarily spent on propane and building repairs.

Reviewed by: GUNCOUNTY1\bcowan Discharge Date: 5/1/2014

County Attorney Review: (●) Required ( ) Not Required

Comments:

ok db 4/29/14

Reviewed by: GUNCOUNTY1\dBaumgarten Discharge Date: 4/29/2014 Certificate of Insurance Required Yes (●) No ( )

County Manager Review:

Comments:

Reviewed by: GUNCOUNTY1\mbirnie Discharge Date: 5/1/2014

( ) Consent Agenda (●) Regular Agenda ( ) Worksession Time Allotted: DCM Report

Agenda Date: 5/6/2014 Follow Up Agenda Date:

Revised April 2013

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into on this ___ day of _____, 2014, by and between the BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GUNNISON, COLORADO, a political subdivision of the State of Colorado, whose address is 200 E. Virginia, Gunnison, Colorado 81230 (hereinafter "Gunnison County") and the Crystal River Civic Commission dba The Marble Hub, whose address is 105 W. Main Street, Marble, CO 81623 (hereinafter "The Marble Hub"); and

WHEREAS, Gunnison County owns the real property known as the Marble Bank located on Lots 8 through 12, Block 20, Town of Marble, County of Gunnison, State of Colorado and the street address being 105 W. Main Street, Marble, CO 81623. The Marble Hub desires to lease the downstairs of the Marble Bank in its entirety and the small room on the west side of the second story of the building if available for a coffee bar/consignment space (herein together the "Property"); and

WHEREAS, Gunnison County has determined that in would be in the best interest of the public if the Property were leased by Gunnison County to The Marble Hub; and

WHEREAS, The Marble Hub desires to lease from Gunnison County the Property, and Gunnison County desires to lease to The Marble Hub the Property; and

NOW, THEREFORE, for and in consideration of the mutual covenants, terms and conditions herein contained, Gunnison County and The Marble Hub do hereby agree as follows:

1. <u>GRANT OF LEASE.</u>

Gunnison County hereby leases to The Marble Hub the Property as a civic center and to occupy and use the same only as set forth in this Lease Agreement. The lease does not include the third floor for any purpose whatsoever.

2. <u>TERM OF LEASE.</u>

The term of this Lease Agreement shall commence upon the date of execution of this Lease Agreement and shall continue for one (1) year and shall be automatically renewable for a period of 3 years beginning January 1st of each year, unless otherwise terminated or extended under the terms of this Lease Agreement or mutual agreement of the Gunnison County and The Marble Hub.

3. <u>LEASE IS NONEXCLUSIVE.</u>

Gunnison County expressly reserves the right to enter and use the Property, and construct improvements on it, for any and all purposes that will not substantially interfere with The Marble Hub's use.

4. CONSIDERATION.

In full and complete consideration of the rights granted herein, The Marble Hub shall provide the following:

A. Landscaping improvements and maintenance of flower planter.

B. Public awareness and access to Colorado National Historic Site(s).

5. UTILITIES.

Gunnison County shall provide for the heating, water and electric costs of the leased Property. The Marble Hub shall be responsible for telephone, internet and any and all other costs not identified herein that may be associated with The Marble Hub's use of the Property. Gunnison County has paid for pumping out of the septic tank however if it has to be pumped out again during the term of this Lease Agreement, The Marble Hub shall be responsible for the costs incurred. The Marble Hub shall provide for a dumpster and shall be responsible for the costs incurred.

6. USE OF PROPERTY.

The Marble Hub shall use the downstairs in its entirety and small room on the west side of the building if available for a coffee bar/consignment space. The Marble Hub agrees to conduct its uses of the Property in an orderly and good workmanship manner. The Marble Hub, its agents, and employees, will not discriminate against any person or class of person by reason of race, age, religion, gender, creed, sexual preference or national origin in providing any use of the Property. There shall be no alcohol allowed on the Property.

7. FURTHER ORDERS, RULES AND REGULATIONS.

Gunnison County and The Marble Hub agree that, during the term of this Lease Agreement, in addition to or notwithstanding any terms of this Lease Agreement, Gunnison County may adopt and enforce such orders, rules or regulations as in the discretion of the Gunnison County which are reasonably necessary for the administration, protection or maintenance of the Property.

8. OPERATIONS.

The Marble Hub agrees to secure all necessary licenses, permits and other approval required by Gunnison County, the State of Colorado, or the United States of America that may be necessary or associated with The Marble Hub's business and use of the Property.

9. MAINTENANCE, REPAIRS AND IMPROVEMENTS.

During the term of this Lease Agreement, Gunnison County, at Gunnison County's discretion, shall provide for the maintenance, repairs and necessary improvements to the Property.

The Marble Hub shall not modify, alter or reconstruct the Property without the prior written consent of Gunnison County.

All equipment placed by The Marble Hub at its expense in, on or about the leased Property, including all fixtures temporarily affixed to the Property but which may be removed without damage thereto, shall remain the items of The Marble Hub and The Marble Hub shall have the right at any time during the term hereof or at its termination, to remove all such equipment.

10. TAXES.

Gunnison County shall keep the Property free and clear of all levies, liens, and encumbrances and shall pay all license fees, registration fees, assessments, charges, and taxes (municipal, county, state and federal) which may now or hereafter be imposed.

11. DAMAGE TO OR DESTRUCTION OF PROPERTY.

During the term of this Lease Agreement notwithstanding anything herein to the contrary, in the event the Property or any portion of it or any improvements to it are damaged or destroyed, partially or wholly, by fire or otherwise, Gunnison County shall be under no obligation whatsoever to repair, replace or rebuild the same or to provide substitute Property or improvements.

12. LIABILITY

The Marble Hub agrees to obtain and keep in force, throughout the term of this Lease Agreement, comprehensive general public liability insurance, including personal injury protection:

a. For any injury to one person in any single occurrence, Three Hundred Fifty Thousand and No/100 U.S. Dollars ($350,000.00); and
b. For an injury to two or more persons in any single occurrence, the sum of Nine Hundred Ninety Thousand and No/100 U.S. Dollars ($990,000.00).

The Marble Hub shall also maintain in effect such fire, casualty and extended coverage on the structures and improvements during the term of this Lease Agreement as will guarantee the replacement value of the structures(s) and improvements existing as of the date of this Lease Agreement, or which may be placed on the premises during the term of this Lease Agreement. The Marble Hub shall include Gunnison County in said policy as an additional

insured. The Marble Hub shall provide to Gunnison County with copies of appropriate insurance policies, as described above, within ten (10) days after the execution of this Lease Agreement. The insurance coverage required pursuant to this paragraph 12 shall remain enforce during the term of this Lease Agreement; no cancellation or reduction may be made without thirty (30) days written notice to Gunnison County. The Marble Hub shall not allow the placement of any lien or other claim against the Property by reason of any improvements placed upon the Property, and shall indemnify, hold harmless and defend Gunnison County against any claim upon the premises or whatsoever.

Nothing in this Lease Agreement, including but not limited to the required or the existence of the insurance required hereunder is or shall be deemed a waiver by the Gunnison County of any defense or claim of sovereign immunity, nor a waiver of any other provision of law relating to the liability of governmental units or the limits thereof.

13. INDEMNIFICATION.

During the term of this Lease Agreement, The Marble Hub shall indemnify, hold harmless and defend Gunnison County, its Board of County Commissioners, its officers, agents and employees, against any claim for injury or damage caused by any act or omission of The Marble Hub or any other person arising from the use of the Property.

14. WARRANTIES.

Gunnison County makes no warranties, either express or implied, as to any matter whatsoever, including but not limited to, the condition of the Property.

15. OWNERSHIP.

The Property is, and shall at all times be and remain, the sole and exclusive property of Gunnison County, and The Marble Hub shall have no right, title, or interest therein or thereto.

16. DEFAULT

The Marble Hub shall be considered to be in default of this Lease Agreement upon failing to keep, perform and observe each and every other covenant, term or condition set forth in this Lease Agreement which failure continues for a period of more than 30 days after written notice from the Gunnison County of such breach or default.

No waiver of default by either party of any of the terms or conditions herein to be performed, kept and observed by the other party shall be construed as, or operate as, a waiver of any subsequent default of any of the terms or conditions herein contained to be performed, kept and observed by the other party.

17. TERMINATION.

This Lease Agreement shall be terminated if:

A. The Marble Hub is determined to be in default as set forth in paragraph 16 above; or

B. Gunnison County determines that the Property is not being used for the purposes as set forth in this Lease Agreement or an alternative use of said Property would be more beneficial to the best interest of the public.

If this Lease Agreement is terminated, it is agreed that Gunnison County may retake possession of the premises upon thirty (30) days written notice to The Marble Hub and that The Marble Hub shall surrender and return the Property to Gunnison County in good condition, normal wear and tear excepted.

18. NOTICES

Service of all notices under this Lease Agreement shall be sufficient if sent via certified registered mail return receipt requested to the following address:

Gunnison County: Board of County Commissioners
of the County of Gunnison, Colorado
c/o County Manager's Office
200 East Virginia Avenue
Gunnison, CO 8123O

The Marble Hub:
Crystal River Civic Commission
dba The Marble Hub
105 W. Main Street
Marble, CO 81623

19. PROHIBITION UPON ASSIGNMENT.

Without the prior written consent of Gunnison County, The Marble Hub shall not (a) assign, transfer, pledge, or hypothecate this Lease Agreement, or any part thereof, or any interest therein, or (b) convey, sublet or lend the Property or any part thereof.

20. NON-WAIVER.

The failure of either party to insist in any one or more instances upon compliance with any of the covenants, terms or conditions agreed upon and herein contained, or the failure of either party to exercise any option, privilege or right agreed upon and herein contained shall not be construed as constituting a waive of such right, option or the right to demand compliance with such covenant, term or conditions.

21. SEVERABILITY

In the event any term, condition or provision contained in this Lease Agreement is held by any court of competent jurisdiction to be invalid, the invalidity of such term, condition or provision shall in no way affect any other covenant, condition or provision herein contained. Provided, however, that if the invalidity of such term, condition or provision causes material prejudice to either party hereto with respect to its respective rights and obligations contained in the remaining valid portions of this Lease Agreement, then at the option of such party, this Lease Agreement may be declared to be terminated.

22. GOVERNING LAW, JURISDICTION AND VENUE

This Lease Agreement is entered into in the County of Gunnison, State of Colorado; and it is agreed that the property jurisdiction and venue of any legal action regarding the interpretation and/or enforcement of this Lease Agreement, or any document related hereto, shall be the County or District Court of the County of Gunnison, State of Colorado and shall be deemed to have been made in and be construed in accordance with the laws of the State of Colorado and be binding upon the parties hereto, their successors and assigns.

23. ENTIRE AGREEMENT

Gunnison County and The Marble Hub agree that the provisions contained herein constituted the entire agreement and that all representations made by any officer, agent or employee of the respective parties unless included herein are null and void and of no effect. No alterations, amendments, changes or modifications, unless expressly reserved herein, shall be valid unless executed by an instrument in writing by Gunnison County and The Marble Hub within the same formality as this Lease Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first set forth above.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF GUNNISON, COLORADO

By: _____
Matthew Birnie, County Manager

ATTEST:

_____
Deputy County Clerk

CRYSTAL RIVER CIVIC COMMISSION DBA THE MARBLE HUB

By: _____
Glenn Smith, Chairman

STATE OF COLORADO)
)ss.
County of Gunnison)

Acknowledged, subscribed and sworn to before me this ____ day of _____, 2014, by Glenn Smith, Chairman of Crystal River Civic Commission.

Witness my hand and seal.
My commission expires: _____.

_____
Notary Public

State of Texas
County of Wood
This is to certify that Glenn Smith _____ is/are the person(s) whose signature(s) appear(s) on this document.
Signed on this 25 day of April, 2014.

Robert C Brown
Notary Public State of Texas

ROBERT C. BROWN
Notary Public, State of Texas
My Commission Expires
October 04, 2017