



# LAW OF THE ROCKIES

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October 27, 2021

**VIA UNITED STATES MAIL AND ELECTRONIC MAIL**

Board of Directors,  
Meridian Lake Park Corporation  
c/o Toad Property Management  
Post Office Box 2776  
Crested Butte, CO 81224  
[rob@toadpropertymanagement.com](mailto:rob@toadpropertymanagement.com)

**SUBJECT TO CRE 408**

**Re: *Memorandum of Agreement Between Mt. Crested Butte Water and Sanitation District (“the District”) and Meridian Lake Park Corporation (“MLPC”)***

Dear Board of Directors of MLPC,

I represent the District. Thank you for your letter dated August 26, 2021 to the District’s Board of Directors (the “Board”). The Board has carefully considered your comments as well as the options and alternatives available to it. Accordingly, the Board has instructed me to present MLPC with two different alternatives for the relationship between the District and MLPC going forward.

As you know the Mt. Crested Butte Water & Sanitation District (the “District”) and MLPC are parties to that certain Memorandum of Agreement dated May 9, 1995 (the “1995 MOA”), as amended by the 2013 first amendment thereto (the “2013 Amendment” and together with the 1995 MOA the “Agreements”). In 2019, the District retained an independent utilities consultant, Raftelis, to evaluate the status of the financial relationship between the District and MLPC under the Agreements. Raftelis produced a report dated October 17, 2019, entitled “Mt. Crested Butte Water and Sanitation District Meridian Lake Park Summary – Initial Findings (the “Report”). The Report, which was provided to MLPC, concluded that as of December 31, 2018, operating the water and sewer systems within Meridian Lake Park (“MLP”) resulted in a financial deficit to the District (the “Imbalance”) of at least \$3,001,541.00. *See* Report, at 8. Raftelis recognized that “[a]ttempts to remedy this imbalance in the short term will be burdensome for MLP customers” and the District has recognized that a one-time payment may be too onerous for MLP customers.” *Id.* At the same time, “non-MLP District customers have

greatly extended themselves financially to provide what are essentially loans to MLP customers at 0% interest, and the Imbalance has resulted in an impact to all District rate-payers.” *Id.*

In addition, from June 2020 through February 2021 representatives from both the District and MLPC met to discuss the Imbalance and Agreements in more depth. These representatives reviewed in detail the capital expenditures and specific revenue streams referenced in the Agreements and estimated that the Imbalance was likely in excess of \$2,300,000.00.

The District is focused on identifying a resolution to this issue that is fair to all of its customers, including those within MLP, as well as those within the Town of Mt. Crested Butte. Your letter indicates MLPC’s desire to keep the Agreements in effect. However, the District cannot keep subsidizing the actual cost of providing water and sewer service within MLP. In fact, the 1995 Memorandum of Agreement specifically includes a provision that provides:

“The District shall have the right to fix a different rate, fee or charge to Meridian Lake Park based upon the services and facilities furnished or to be furnished to Meridian Lake Park.” *See* 1995 MOA at section 9.2. This is consistent with the District’s statutory authority to divide the District into areas according to the water and sanitation services furnished or to be furnished therein and fix different rates, fees, tolls, charges, and taxes to different areas accordingly. *See* C.R.S. 32-1-1006(1)(b)(I) & (II).

The first alternative for MLPC to consider is keeping the Agreements in full force and effect. The District has evaluated the cost of providing water and sewer service to MLP, operating and maintaining such services, and the anticipated capital expenditures necessary to support such services in the future. If MLP insists on being treated separately pursuant to and in accordance with the Agreements, the District will rely on the authority afforded to it by section 9.2 of the 1995 MOA to impose a surcharge in an amount that is actually commensurate to the District’s costs of providing service to MLP, now and in the future. The District’s analysis indicates that this amount will likely be at least \$142.24 per MLP customer per month.

Section 9.2 goes on to provide that the “District shall meet with the Association to discuss and determine the best and most feasible method of imposing any rates, fees or charges to Meridian Lake Park so that the same may be equitable and fair to both the property owners within Meridian Lake Park and all property owners within the District.” Accordingly, the District hereby proposes a meeting at the convenience of the MLPC Board of Directors to further discuss and explain this alternative and the analysis supporting the surcharge range set forth above.

The second alternative for MLPC to consider is entering into a settlement agreement providing for the termination of the Agreements, a negotiated financial resolution, the sunset of the existing surcharge of \$36.27, and the elimination of the Imbalance once and for all. Once the Agreements are terminated and the surcharge sunsets, the District would write off the remaining Imbalance, and the District would no longer distinguish between different areas of the District.

Customers within MLP and within the Town of Mt. Crested Butte would be charged the same for water and sewer service.

This alternative is the District's preference. The Agreements are outdated, and the Imbalance needs to be resolved. As a matter of settlement and compromise, under this alternative, the District proposes to sunset the surcharge of \$36.27 six years from the date of the parties' mutual execution of a settlement agreement.

In the event MLPC is interested in pursuing this alternative, there are other issues that would need to be addressed in conjunction with the termination of the Agreements. However, I think it would be premature to delve into these details until the District knows which of the two alternatives MLPC set forth in this letter MLPC is interested in pursuing. In any event, as with the alternative first set forth above, I think a joint meeting of the District and MLPC boards would be an appropriate next step to allow the District to further discuss and explain this alternative and the analysis supporting it.

The District looks forward to continuing discussions with MLPC about the structure of the parties' future relationship.

Sincerely,



Marcus Lock

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