

**FIRST AMENDMENT TO THE
UTILITY AGREEMENT FOR
RESIDENTIAL WATER METER INSTALLATION
BETWEEN MARINA COAST WATER DISTRICT AND MONTEREY BAY MILITARY
HOUSING, LLC**

THIS FIRST AMENDMENT TO THE UTILITY AGREEMENT FOR RESIDENTIAL WATER METER INSTALLATION (the “Amendment”) is made and entered into as of _____, 2018, by and between the Marina Coast Water District, a California county water district (hereinafter “MCWD”); and the Monterey Bay Military Housing, LLC, a Delaware limited liability company (hereinafter “Owner”).

RECITALS

A. WHEREAS, MCWD and Owner have been operating pursuant to that certain Utility Agreement for Residential Water Meter Installation dated February 6, 2017 (the “Agreement”) with regards to the installation of residential water meters on the Project Area, as defined in the Agreement;

B. WHEREAS, pursuant to the Agreement, near Phase 1 of the Project Area completion, Owner was to make reasonable efforts to secure additional funding to MCWD to allow for an estimated additional 432 meters to be installed in Phase 2 of the Project Area.

NOW THEREFORE for and in consideration of the mutual covenants and agreements contained in the Agreement and this Amendment, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged by the parties, MCWD and Owner hereby agree as follows:

AGREEMENT

1. INCORPORATION OF RECITALS. The Recitals set forth above are each incorporated into the body of this Agreement as if set forth in full. Further, any terms, conditions, and obligations set forth in the Agreement, not amended or modified by this Amendment shall remain in full force and effect.

2. Amendments: The parties agree to amend the Agreement as follows:

2.1 Paragraph 1.1 is amended in its entirety as follows:

The District agrees to install up to 432, ¾” meters, or as many as can be installed for the amount of \$475,000 to be provided by Owner for Phase 2 within the Project Area under the Agreement, subject to the follow conditions:

2.2 Paragraph 2.1 is amended in its entirety as follows:

On or Before May 31, 2018, Owner shall pay MCWD an initial deposit payment in the amount of \$100,000 to cover expenses for procurement of materials needed for metering.

2.3 Paragraph 2.5 is amended in its entirety as follows:

Within forty-five (45) days after installation of the final meter for Phase Two, the parties agree to reconcile payments received and costs incurred and further agree to pay to the other party any amounts owing or subject to reimbursement, unless otherwise agreed in writing by both parties.

2.4 The address for notices to the District in Paragraph 3.1 is amended as follows:

If to District: Marina Coast Water District
ATTN: Derek Cray
Operations and Maintenance Superintendent
2840 4th Ave.
Marina, CA 93933

2.5 Exhibit 1 is amended as follows:

**MARINA & ORD COMMUNITY
WATER & WASTEWATER SYSTEM
RATES, FEES and CHARGES
FY 2017 - 2018
Effective July 1, 2017**

General Manager	\$156.00 per hour
District Engineer	\$130.00 per hour
Director of Administrative Services	\$105.00 per hour
Capital Projects Manager	\$95.00 per hour
Projects Manager	\$99.00 per hour
Associate Engineer	\$83.00 per hour
Engineering Administrative Assistant	\$67.00 per hour
Engineering Assistant	\$55.00 per hour
Lab Supervisor	\$85.00 per hour
O&M Superintendent	\$106.00 per hour
O&M Supervisor	\$92.00 per hour
Operations & Maintenance System Operator 3	\$81.00 per hour
Operations & Maintenance System Operator 2/Backflow Specialist	\$79.00 per hour
Operations & Maintenance System Operator 2	\$82.00 per hour
Operations & Maintenance System Operator 1	\$58.00 per hour
Conservation Specialist III	\$66.00 per hour
Conservation Specialist VII	\$51.00 per hour

Work Truck	\$20.00 per hour
Backhoe Tractor	\$30.00 per hour
Front Loader Tractor	\$58.00 per hour
Vector Truck	\$30.00 per hour
Dump Truck	\$30.00 per hour
Ground Penetrating Radar Unit	\$10.00 per hour
CCTV Camera	\$65.00 per hour

Photocopy Charges \$0.20 per copy

Size	Meter Installation Fee
5/8" or 3/4"	\$350.00
1"	\$400.00
1 1/2"	\$450.00
2"	\$700.00
3" or Larger	

Actual direct and indirect cost to district.
Advance payment to be based on estimated cost.

Preliminary Project Review Fee (large projects)	\$500.00
Plan Review Fees:	
Existing Residential Modifications	\$200.00 per unit plus additional fees
Existing Commercial Modifications	\$400.00 per unit plus additional fees
Plan Review	\$500.00 per unit plus additional fees
Water/Sewer Permit Fee	\$30.00 each
Small Project Inspection Fee (single lot)	\$400.00 per unit
Large Project Inspection Fee (large projects)	\$500.00 per unit plus 3% of water & sewer construction cost
Building Modification/Addition Fee	\$200.00 per unit
Deposit for a Meter Relocation	\$200.00 deposit, plus actual costs
Mark and Locate Fee (USA Markings)	\$100.00 first mark and locate at no-charge, each additional for \$100
Backflow/Cross Connection Control Fee	\$45.00 per device
Additional Backflow/Cross Connection Device	\$30.00 per device
Deposit for New Account/Re-Establish Account	\$35.00 per edu
Meter Test Fee	\$15.00 for 3/4" meter, actual cost for 1" and larger
Returned Check Fee	\$15.00 per returned item
Basic Penalty	10% of the delinquent amount
Additional Penalty	1.50% per month of the delinquent amount

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1 Agreement entered on the ____day of April 2018.

DISTRICT:

Marina Coast Water District, a California water district

By: _____

Keith Van Der Maaten
General Manager

Date: _____

OWNER:

MONTEREY BAY MILITARY HOUSING, LLC,
a Delaware Limited Liability Company

By: Clark Realty Capital, L.L.C., a Delaware Limited Liability Company

By: _____

Jamen Miller
Development Associate
Clark Realty Capital, L.L.C.

Date: _____

By: _____

Jose Cruz
Development Associate
Clark Realty Capital, L.L.C.

Date: _____