

**ADDENDUM TO BADGER METER**  
**BEACON AMA MANAGED SOLUTION MASTER AGREEMENT**

THIS ADDENDUM by and between the City of Galveston, a Municipality incorporated under the laws of the State of Texas, Galveston Texas (“Customer”), and company **Badger Meter, Inc., a Wisconsin Corporation, (Badger Meter)** is entered into on \_\_\_\_\_, 2022.

**WHEREAS**, the City and Badger Meter entered into a Master Service Agreement No. RFP # 21-18, for services related to a hosted, on-demand, web-based service website (“Portal”) accessible to its customers to provide metering and water usage service information, communicated through a cellular network, for its customers (“service”) and documentation to assist customers in using the Portal and the Service (“documentation”). (Master Agreement).

**WHEREAS**, the Master Agreement document is attached and incorporated herein for all intents and purposes.

The City and Badger Meter agree to make the following amendments part of the Master Agreement.

§4(b) **Suggestions.** The last sentence in the paragraph shall be amended to reflect that the city “may” provide Badger Meter with commercially reasonable assistance to document, perfect and maintain Badger Meter’s right in the suggestions.

§6(c) **Fees. Appropriations** shall be added to provide: The obligations of the City to continue the Agreement with Badger Meter are subject to appropriation by the City of funds that are lawfully available to be applied to such purpose. In the event that the City fails to appropriate funds for the Agreement, the City or Badger Meter may terminate the Agreement effective as of the end of City’s then current fiscal year.

§7 **Restrictions on right to use.** Knowingly shall be added to subsection (k) to read: Knowingly take actions that could cause damage to or adversely affect Badger Meter, the Service, Portal, Suppliers, Network or the property or reputation of Badger Meter or its Suppliers .

§13 **Customer’s Indemnification Obligations**, shall be amended to provide as follows: **INDEMNIFICATION:** FOR CONSIDERATION RECEIVED, BADGER METER SHALL INDEMNIFY, DEFEND, SAVE AND HOLD THE CITY OF GALVESTON HARMLESS, INCLUDING CITY’S OFFICERS, AGENTS, EMPLOYEES AND SERVANTS, FROM ANY CLAIMS, ACTIONS, LAWSUITS, PROCEEDINGS, DAMAGES, LOSS, DAMAGE, JUDGMENTS, LIABILITIES OR EXPENSE ON ACCOUNT OF DAMAGE TO PROPERTY AND INJURIES, INCLUDING DEATH, TO THE EXTENT RESULTING FROM THE GROSS NEGLIGENCE OF BADGER METER OR THOSE ACTING UNDER BADGER METER’S SUPERVISION OR CONTROL IN THE PERFORMANCE OF THE SERVICES UNDER THIS AGREEMENT. BADGER METER SHALL NOT BE RESPONSIBLE, HOWEVER, FOR ANY LOSS, DAMAGE, LIABILITY, JUDGMENT OR EXPENSE ON ACCOUNT OF DAMAGE TO PROPERTY AND INJURIES, INCLUDING DEATH, WHICH MAY ARISE FROM THE NEGLIGENCE OF THE CITY. **BADGER METER SHALL COMPLY WITH THE REQUIREMENTS OF ALL CURRENT APPLICABLE LAWS, RULES AND REGULATIONS AND SHALL INDEMNIFY, AND HOLD**

**HARMLESS THE CITY AND ITS AGENCY MEMBERS FROM AND AGAINST BADGER METER’S FAILURE TO COMPLY WITH THOSE LAWS, AND SHALL ASSUME FULL RESPONSIBILITY FOR PAYMENTS OF FEDERAL, STATE AND LOCAL TAXES ON CONTRIBUTIONS IMPOSED OR REQUIRED UNDER THE SOCIAL SECURITY, WORKER’S COMPENSATION AND INCOME TAX LAWS.**

§15(d) **Immediate right to terminate** shall be amended by removing subsection (iii) if Customer makes any representation or warranty which is materially untrue as of the Effective Date or at any time during the Term.

§16(c) **Notification** shall be amended to provide, (iii) reinstate Service upon resolution of the issue as soon as practicable and in any case within a reasonable timeframe and without cost to the customer.

§23 **Notices** shall be amended to provide for the City of Galveston.

City Manager  
City of Galveston      WITH COPY TO:  
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§25 **Limitations on claims** shall be amended to provide for proof of insurance. Badger Meter agrees to maintain certain types of insurance protection throughout the duration of the agreement. All insurance policies are to be issued by an insurance company authorized to do business in the State of Texas, using an insurance company with an A. M. Best rating of B+ or better.

Except as amended herein, all other terms and provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have duly executed this Agreement.

CITY OF GALVESTON, TEXAS

BADGER METER

By: \_\_\_\_\_  
Name/Title: Brian Maxwell, City Manager  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name/Title: \_\_\_\_\_  
Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Secretary

Approved As To Form:

\_\_\_\_\_  
City Attorney’s Office