



Staff Report

City of Manhattan Beach

TO: Honorable Mayor Powell and Members of the City Council

THROUGH: David N. Carmany, City Manager

FROM: Jim Arndt, Director of Public Works

DATE: June 5, 2012

SUBJECT: Skechers USA Inc. Water and Sewer Bill Reimbursement of \$242,866.48 for Overpayment of Water and Sewer Charges and Delegate to the City Manager Authority to Execute Settlement Agreement

RECOMMENDATION:

Staff recommends that the City Council authorize settlement of a claim and reimburse \$242,866.48 to Skechers USA Inc. for overpayment of water and sewer charges that occurred from July 2007 through April 2012 and delegate to the City Manager authority to execute a settlement agreement on behalf of the City in the form approved by the City Attorney.

FISCAL IMPLICATIONS:

Water and sewer reserves will fund the \$242,866.48 reimbursement, with \$189,431.73 coming from the water reserves and \$53,434.75 from sewer reserves.

BACKGROUND:

The meter installed for water consumption at 330 S. Sepulveda (Sketchers) is a Sensus 3" turbine meter with an eight(8) dial register, measuring water flow in units of Cubic Feet. Each of the eight dials represent a place holder in the totalized units of water flow through the meter, beginning from right to left at .10 cubic feet and going to 1 million cubic feet (see Attachment I).

In July, 2007 meter #67299307 was installed at 330 S. Sepulveda with a meter register read of:

0,000,000.0 Cubic Feet

On the dials of the most common residential and commercial water meters, a place holder for .10 cubic feet is not used and the first two dials, 1 cf and 10cf, are identified by black or red backgrounds indicating to the meter reader not to enter these as a place holder in the metered consumption (water consumption is billed in units of 100 cubic feet or HCF).

During the initial meter reading cycles following the meter installation in July, 2007 the City meter reader incorrectly dropped the first two dials to the right (as customary in most common meters because they are blacked out) and entered the remaining dials to the left as the read. This resulted in the dial representing 10cf being reported as 100cf.

EXAMPLE: *In May, 2008 the meter register read 0048209.1. The meter read was entered as 4820 when the correct read should have been 482.*

This meter reading error continued during the first four meter reading cycles (8 months) and was subsequently corrected during the re-read until the May, 2008 reading when the 4 digit read (including the 10cf dial) was inaccurately verified as the “correct” read. As a result, following meter reads were entered to include the 10cf dial. In many instances it prompted re-reads and was verified as the correct read.

Once a mistaken “high read” or “low read” is verified as accurate in the billing system, the read consumption is used as a metric for comparative analysis and inaccurate reads are accepted.

The incorrect high reads resulted in billing tenfold over what should have been billed. For example, in 2011, Skechers paid \$119,963.40 for water, when they should have paid \$3,474. This was a consistent pattern beginning in July 2007 when the meter was installed until April 2012 when staff was made aware of the meter misreads.

DISCUSSION:

Because of ongoing rereads since July 2007 and further investigation by Skechers of their water use, staff further investigated the meter and its operation and concluded that the meter had been misread. Staff met with Joe Balogh, Skechers Manager of Facilities Maintenance on Thursday May 3rd, 2012 to discuss the matter. As stated above, the misreads caused the Skechers facility at 330 Sepulveda Blvd. to be billed 10 times more than what they should have for water and sewer services.

Staff has conducted a thorough and complete review of the incident and determined and confirmed the following: (i) that the misreads occurred consistently in the same percentage for each billing cycle beginning in July 2007 through May 2012; and (ii) this misread was an isolated incident as the meter serving the Skechers facility is a “one of a kind meter” in the system.

It is important to point out that no other businesses or residential meter are impacted by the Skechers billing error. The three – inch meter in question serves only Skechers and is the only one in service in the City. To ensure that this error does not occur again, the Skechers meter has been replaced with a traditional read meter, and all future meter purchases for the water system will be consistent with the current dial – read system.

In order to check that similar problems did not exist in other large meters, staff has reread all 437 1.5 – inch meters and 389 meters 2 inches or larger. No errors were discovered.

To protect against future reading errors, all Public Works water personnel will be given re-training regarding reading of various meter types and sizes. Public Works and Finance are working on instituting a system that “flags” any meter that has two consecutive meter re-read requests. Once notified, a supervisor would be required to review and approve the reread results and investigate any possible systemic issues surrounding the meter read accuracy.

The City has worked proactively with Skechers to address the problem and is recommending approval to reimburse Skechers in the amount of \$242,866.48. There are sufficient funds available to reimburse the overbilling.

Attachment I: Image of Water Meter

Attachment II: Skechers claim

cc: Bruce Moe, Director of Finance
 Raul Saenz, Utilities Manager



CITY OF MANHATTAN BEACH CLAIM FOR DAMAGES TO PERSON OR PROPERTY

Return this form to:

*City Clerk's Office
City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266
(310) 802-5050
(310) 546-3501-TDD*

INSTRUCTIONS:

1. Claims for death, injury to person, or injury to personal property must be filed not later than six months after the occurrence. [Govt. Code § 911.2]
2. Claims for damages to real property must be filed not later than one year after the occurrence. [Govt. Code § 911.2]
3. The contents of this claim must comply with the provisions of Government Code §§ 910 and 910.2 or it will be deemed insufficient and rejected and will not stop the claims limitations period from running.
4. Attach and sequentially number each additional supporting sheet.
5. Read the entire claim before filing.
6. **YOU MUST SIGN AND DATE THIS CLAIM FORM BEFORE SUBMITTING.**
If you do not, the form will be returned to you and the claims limitations period will continue to run.

PLEASE NOTE: If you wish to receive a conformed copy, **YOU MUST** provide an extra copy of the Claim and a self-addressed, stamped envelope.

CLAIMANT INFORMATION

JOE BALOGH
SKECHERS, USA, INC

1. Name: _____ 1a. Aliases: _____ N/A

2. DOB: _____ N/A 2a. DL#: _____ N/A

3. Home Telephone: _____ N/A 3a. Business Telephone: 310.318.3100
X 4227

4. SS# (Optional): _____ N/A

5. Home Address (including city, state & zip): _____
MANHATTAN BEACH, CA 90266

5a. Business Address (including city, state & zip): _____

5b. Mail notices to (please circle one): Home Business Other

5c. If you circled "other" in line 5b above, please provide address: N/A

DAMAGE OR INJURY INFORMATION

JULY, 2007 - MARCH 1, 2012

6. When did damage or injury occur? Date: _____ Time: _____

7. If claim is for equitable indemnity, please give the date the claimant was served with the complaint: Date: N/A

8. Where did damage or injury occur?: (Describe fully and locate on the attached diagram, if appropriate.): WATER METER WAS MIS-READ:

METER # 67299307

9. Give a detailed description of how the damage or injury occurred: WATER METER WAS MIS-READ RESULTING IN BILLING IN AND AMOUNT 10 TIMES GREATER THAN WHAT IT SHOULD HAVE BEEN, WHICH ALSO RESULTED IN A HIGH WATER BILL

10. If the basis of liability is alleged to be an act or omission of a City officer or employee, complete the following:

a. Name of such officer or employee, if known: VARIOUS PUBLIC WORKS STAFF MEMBERS

b. Claimant's statement of the basis for such liability: THE RE-READ RECORD HOUSES IN FINANCE IDENTIFIES PUBLIC WORKS STAFF INVOLVEMENT SEE ATTACHMENT 1

11. If the basis of liability is alleged to be a dangerous condition of public property, complete the following:

a. Public property alleged to be dangerous: N/A

b. Claimant's statement of the basis for such liability: N/A

12. Give a description of the injury, property damage or loss, so far as is known at the time of this claim. (If there were no injuries, state "No injuries."): WATER METER READING AND BILLING ERRORS RESULTED IN OVER PAYMENT OF \$ 242,866.48

13. Name and address of any other person injured: N/A

14. Name and address of the owner of any damaged property: SKECHERS USA, INC.
330 S. SEPULVEDA BLVD
MANHATTAN BEACH, CA
90266

15. Amount claimed as of this date: \$ 242,866.48

16. Estimated amount of future costs: \$ 0

17. Total amount claimed: \$ 242,866.48

18. Basis for computation of amount claimed (include copies of all bills, invoices, estimates, etc.): WATER BILLING RECORDS WHICH ALLOWED THE CALCULATION OF THE DIFFERENCE BETWEEN ACTUAL BILLINGS PAID AND WHAT SHOULD HAVE BEEN BILLED AND PAID. SEE ATTACHMENT 2

19. Jurisdiction: You must represent whether the claim is (check one):
 19a. a "limited civil case" (amount does not exceed \$10,000 or exceeds \$10,000 but does not exceed \$25,000) [see Government Code 910(f)].
 19b. an "unlimited civil case" (amount exceeds \$25,000).

20. Damaged vehicle (if applicable):
 20a. Year: N/A
 20b. Make: GM
 20c. Model: Cougar
 20d. VIN #: 1GNAE54P012345678
 20e. Mileage: 100,000

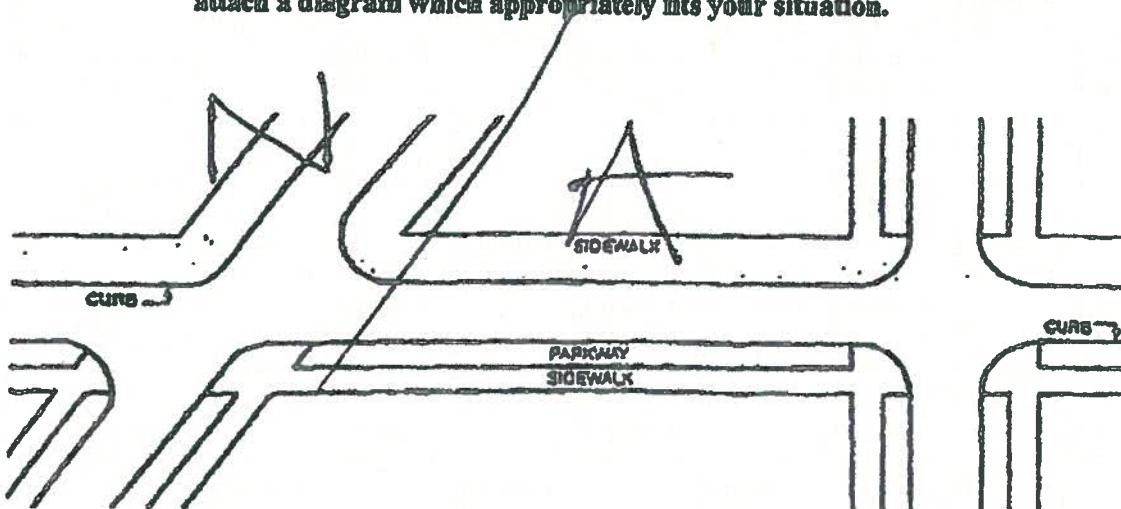
21. Names and addresses of witnesses, doctors, and hospitals:
 Witness: N/A
 Witness:
 Witness:
 Doctor:
 Doctor:
 Doctor:
 Hospital:
 Hospital:
 Hospital:

READ CAREFULLY

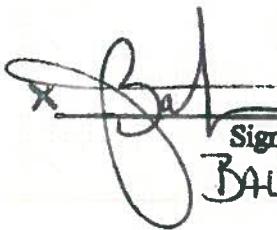
For all accident claims, place on the following diagram the names of streets, including North, South, East and West; indicate the place of the accident by an "X" and by showing house numbers or distances to street corners.

If a City vehicle was involved, designate by the letter "A" the location of the City vehicle when you first saw it, and "B" as the location of yourself or your vehicle when you first saw the City vehicle. Designate "A-1" as the location of the City vehicle at the time of the accident and "B-1" as the location of your vehicle at the time of the accident. Designate the point of impact as "X".

NOTE: If the diagram below does not fit the situation, sign and date this page, and attach a diagram which appropriately fits your situation.



WARNING: IT IS A CRIMINAL OFFENSE TO FILE A FALSE CLAIM
(Penal Code 72; Insurance Code 1871.1)


Signature
BALOGH, J.

X 5/17/12
Date

ATTACHMENT 1

AcctListing
04/19/2012 16:55

Account Listing
CITY OF MANHATTAN BEACH

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Account #	Role	Name & Address	Last Billed	Last Payment	Status	Customer On Account	Deposits	Balance Due
89-0019010-07	tenant	SKECHERS USA INC. 225 S SEPULVEDA BLVD MANHATTAN BEACH, CA 90266-6825 Service location : 330 S SEPULVEDA BLVD MANHATTAN BEACH, CA 90266	03/27/2012	04/06/2012	a	0.00	0.00	0.00

Transactions								
Date	Type	Doc. No	Amount	Description	On Acct	Running Balance		
04/10/2012	Memo	SW 4/9/12 MTR CHK LEAK @ 0736953.6, DIAL MOVING-REPORT CONDITION TO JOE PER MIKE	0.00		0.00	0.00		
04/06/2012	Receipt	01482093	22,066.94	rec040612	0.00	0.00		
03/27/2012	Bill	01486857	22,066.94	Auto generated billing for document d	0.00	22,066.94		
03/15/2012	Memo	CF 03/13/12 READ@7241704, CHNG READ TO 72417.						
03/12/2012	Memo	SW 3/12/12 JOE @ FACILITY DEPT REGARDING HIGH USAGE, NO LANDSCAPE MTR. ONLY						
02/09/2012	Receipt	SHOW 1 ACCT ACTIVE, TOLD HIM TO CALL BRIAN WRIGHT						
01/27/2012	Bill	01467355	17,471.02	rec020912	0.00	0.00		
01/26/2012	Memo	SW 1/26/12 READ @ 885662 PER PATRICK CHNG READ TO 68566			0.00	17,471.02		
12/16/2011	Receipt	01453503	21,382.47	rec121611	0.00	0.00		
11/29/2011	Bill	01455179	21,382.47	Auto generated billing for document d	0.00	21,382.47		
11/16/2011	Memo	CF 11/15/11 READ@685527 PER MATT.						
10/06/2011	Receipt	01435168	34,474.37	rec100611	0.00	0.00		
09/28/2011	Bill	01438982	34,474.37	Auto generated billing for document d	0.00	34,474.37		
09/26/2011	Memo	SW 9/15/11 REREAD @ 602897/60780 PER SHAWN						
08/08/2011	Receipt	01420475	26,241.87	rec080811	0.00	0.00		
07/28/2011	Bill	01423031	26,241.87	Auto generated billing for document d	0.00	26,241.87		
06/06/2011	Receipt	01404862	20,795.07	rec060611	0.00	0.00		
05/25/2011	Bill	01406804	20,795.07	Auto generated billing for document d	0.00	20,795.07		
05/13/2011	Memo	SW 5/13/11 READ @ 47252 PER DALE						
04/11/2011	Receipt	01390060	33,375.22	rec041111	0.00	0.00		
03/29/2011	Bill	01391074	33,375.22	Auto generated billing for document d	0.00	33,375.22		
03/28/2011	Memo	SW 3/28/11 REREAD @ 42062/42637, APPEARS TO HAVE LEAK, LEFT MSG ON VOICE MAIL TO MONICA REGARDING HIGH USAGE LEAK.						
02/07/2011	Receipt	01374190	20,016.32	rec020711	0.00	0.00		
01/27/2011	Bill	01375198	20,016.32	Auto generated billing for document d	0.00	20,016.32		
01/24/2011	Memo	SW 1/24/11 SPOKE W/MONICA GARCIA @ 318-3100X4323 REGARDING HIGH USAGE, SHE SAID JOHN DWYER (BUILDING MGR @ SKECHERS FOUND OUT THE PROBLEM OF HIGH USAGE). TOLD MONICA ANOTHER HIGH BILL GOING OUT THIS WEEK. SHE WILL CALL IF NEEDS TO CHECK READ AGAIN.						
01/19/2011	Memo	CF 01/18/11 READ@ 35195, PER MATT						

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Account Listing
CITY OF MANHATTAN BEACH

Account #	Role	Name & Address	Last Billed	Last Payment	Status	Customer On Account	Deposits	Balance Due
Date	Type	Doc. No.	Amount	Description		On Acct	Running Balance	
12/13/2010	Receipt	01361140	17,758.72	rec121310		0.00	0.00	0.00
11/30/2010	Memo	SW 11/19/10 SEE NOTE FROM BRIAN.						
		I had Shawn go out and investigate the meter read at Sketchers (330 S. Sepulveda). He indicated the meter is turning non-stop at a relatively quick pace. He reported a current read of 30755. We have been noticing large volumes of water being pumped out through the rear of the property throughout the day. Our Wastewater and Sewer Supervisor, Justin, made a visit to see what was going on, and was informed that they have a sump pump in their basement level garage for pumping out water used in their cooling system. This still seems like an extraordinary amount of water usage. I don't have a contact number for them, but Justin may know the phone number of their maintenance staff. I will see if he can get in touch with them.						
11/24/2010	Bill	01359242	17,758.72	Auto generated billing for document d SW 11/23/10 REREAD @ 30755, MTR RUNNING VERY FAST PER SHAWN, BRIAN WRIGHT		0.00	17,758.72	
11/23/2010	Memo	WILL CONTACT CUSTOMER						
11/23/2010	Memo	SW 11/23/10 NOTE FRM BRIAN EMAIL 11/19/10						
		had Shawn go out and investigate the meter read at Sketchers (330 S. Sepulveda). He indicated the meter is turning non-stop at a relatively quick pace. He reported a current read of 30755.						
		We have been noticing large volumes of water being pumped out through the rear of the property throughout the day. Our Wastewater and Sewer Supervisor, Justin, made a visit to see what was going on, and was informed that they have a sump pump in their basement level garage for pumping out water used in their cooling system. This still seems like an extraordinary amount of water usage.						
		As of right now, the bill is correct and Shawn verified the read.						
		SW 11/16/10 READ @ 304016 PER PATRICK, CHNG READ TO 30401						
		01345135 7,182.64 rec101410				0.00	0.00	
		01343389 7,182.64 Auto generated billing for document d				0.00	7,182.64	
		SW 9/20/10 REREAD @ 253765/25497 PER DALE						
		01328482 7,245.91 rec080910				0.00	0.00	
		01327417 7,245.91 Auto generated billing for document d				0.00	7,245.91	
		SW 7/20/10 REREAD @ 23377/23415 PER SHAWN						
		01312547 3,499.66 rec060710				0.00	0.00	
		01312053 3,499.66 Auto generated billing for document d				0.00	3,499.66	
		SW 5/19/10 READ @ 21314 PER BILL						
		01298532 1,711.45 rec041210				0.00	0.00	
		01295494 1,711.45 Auto generated billing for document d				0.00	1,711.45	
		SW 3/17/10 READ @ 203379 PER MIKE, CHNG READ TO 20338						
		SW 2/26/10 CHANGE SVC LOCATION PER JAN GUYER (BILLING)						
		01284261 19,233.91 rec021810				0.00	0.00	
		01280047 19,233.91 Auto generated billing for document d				0.00	19,233.91	

Account Listing
CITY OF MANHATTAN BEACH

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Account #	Role	Name & Address	Last Billed	Last Payment	Status	Customer On Account	Deposits	Balance Due
Date	Type	Doc. No	Amount	Description	On Acct	Running Balance		
01/29/2010	Memo	SW 1/29/10 REREAD @ 19659/19899, MORE OCCUPIED PER QUENTIN, MONICA GARCIA WILL CALL THE PROJECT MGR REGARDING HIGH USAGE.	0.00	0.00	0.00	2,212.43		
12/10/2009	Receipt	01267745	2,212.43	rec121009	0.00	0.00		
11/19/2009	Bill	01263663	2,212.43	Auto generated billing for document d	0.00	0.00		
10/14/2009	Receipt	01253120	3,998.66	rec101409	0.00	0.00		
09/29/2009	Bill	01248374	3,998.66	Auto generated billing for document d	0.00	3,998.66		
08/17/2009	Receipt	01239196	3,131.19	rec081709	0.00	0.00		
07/31/2009	Bill	01233699	3,131.19	Auto generated billing for document d	0.00	3,131.19		
07/30/2009	Memo	SW 7/22/09 READ @ 116,353.8 PER PATRICK. CHNG READ TO 11635	0.00	0.00	0.00	0.00		
06/12/2009	Receipt	01224176	2,604.91	rec061209	0.00	0.00		
05/28/2009	Bill	000001007354	2,604.91		0.00	2,604.91		
05/22/2009	Memo	SW 5/15/09 READ @ 10342 PER QUENTIN	0.00	0.00	0.00	0.00		
04/10/2009	Receipt	00000100784C	1,884.62		0.00	0.00		
03/30/2009	Bill	00000100735C	1,884.62		0.00	1,884.62		
03/23/2009	Memo	SW 3/23/09 READ @ 9285 PER QUENTIN	0.00	0.00	0.00	0.00		
02/13/2009	Receipt	000001007762	1,465.38		0.00	0.00		
01/29/2009	Bill	00000100771C	1,465.38		0.00	1,465.38		
12/12/2008	Receipt	000001006427	2,988.47		0.00	0.00		
11/25/2008	Bill	000001012658	2,988.47		0.00	2,988.47		
10/14/2008	Receipt	000001006902	1,980.51		0.00	0.00		
09/29/2008	Bill	00000100763S	1,980.51		0.00	1,980.51		
08/18/2008	Receipt	000001007566	2,465.86		0.00	0.00		
07/29/2008	Bill	000001007277	2,465.86		0.00	2,465.86		
07/22/2008	Memo	SW 7/22/08 REREAD @ 5992/0059996.5 PER JOE	0.00	0.00	0.00	0.00		
06/13/2008	Receipt	000001006356	1,218.44		0.00	0.00		
05/28/2008	Bill	000001007148	1,218.44		0.00	1,218.44		
05/27/2008	Memo	SW 5/27/08 REREAD @ 0048209.1 PER KEN ON 5/23/08 & 0048399.9 PER JIM 5/27/08. CHNG PREV READ 432 TO 4322	0.00	0.00	0.00	0.00		
04/14/2008	Receipt	000001007022	291.12		0.00	0.00		
03/28/2008	Bill	000001012653	291.12		0.00	291.12		
03/21/2008	Memo	SW 3/21/08 READ @ 4322 PER SHAWN. CHNG READ TO 432	0.00	0.00	0.00	0.00		
02/14/2008	Receipt	00000100743S	287.24		0.00	0.00		
01/29/2008	Bill	000001007567	287.24		0.00	287.24		
01/23/2008	Memo	SW 1/23/08 READ @ 393 PER SHAWN.	0.00	0.00	0.00	0.00		
12/17/2007	Receipt	000001007472	355.14		0.00	0.00		

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AcctListing
04/19/2012 16:55

Account Listing
CITY OF MANHATTAN BEACH

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Account #	Role	Name & Address	Doc. No	Last Billed	Last Payment	Status	Customer On Account	Deposits	Balance Due
Date	Type			Amount	Description		On Acct	Running Balance	
11/29/2007	Bill		000001007201	355.14			0.00	355.14	
11/28/2007	Memo	SW 11/28/07 READ @ 35608 PER KEN							
10/24/2007	Receipt	00000100747C	766.42				0.00	0.00	
09/27/2007	Memo	Next Time Billing - Meter Exchange: OLD METER #09063363							
09/27/2007	Bill	000001007491	766.42				0.00	766.42	
09/27/2007	Memo	SW 9/27/07 BOB/MIKE READ @ 0028406.8, BILL ONLY @ 284 PER BOB							

Totals:

0.00

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AcctListing
04/19/2012 16:55

Account Listing
CITY OF MANHATTAN BEACH

Page: 5

Account #	Role	Name & Address	Last Billed	Last Payment	Status	Customer On Account	Deposits	Balance Due
Summary Information								
Accounts with balances owing			0					
Accounts with deposit balances			0					
Accounts with zero balances			1					

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Attachment 2
Financial Implications
2-May-12

SKECHERS USA INC.
3330 S. SEPULVEDA BLVD
METER # 67299307
ACCT # 89-0019010-07

METER SIZE : 3 INCH
METER INSTALLED DATE: 7/12/2007
METER LOCATION: N P/L-IN SDWLK ON SEPULVDA IN VAULT
METER BRAND: Sensus