

*City of Brisbane*  
*Agenda Report*

TO: Mayor and City Council

FROM: Stuart Schillinger, Director of Administrative Services  
Hal Toppel, City Attorney

SUBJECT: Water billing agreement for 398 Klamath

DATE: For Council Meeting on April 4, 2011

**City Council Goals:**

To provide for effective and efficient delivery of City services. [#1]

**Purpose:**

The purpose of the agreement is to change the method of billing water and sewer service charges to the apartment building at 398 Klamath from one master meter billing for all of the apartment units to separate billings for each of the individual apartment units.

**Recommendation:**

Approve "Agreement Regarding Billing for Water and Sewer Service" with Randall, Benjamin and Melissa Ores.

**Background and Discussion:**

The property at 398 Klamath is a 14 unit apartment project. At the present time, all water and sewer charges are billed to the property owner, based upon total consumption for the entire building as shown by a master water meter. The owner then allocates these charges to the individual units and collects a reimbursement from the tenants. Each of the apartment units has been equipped with a separate water meter and separate meters have also been installed for the project office and laundry room. The owner has requested the City to directly bill the apartment tenants for the water and sewer service charges. The proposed agreement will implement this change.

This agreement is essentially the same as the water billing agreement between the City and the Altamar Homeowners Association at the Northeast Ridge that was signed approximately 10 years ago. Each tenant will be required to open a separate water billing

account with the City, which will be established in the same manner as any other service account. Until the new account is operative, the water bills for that unit will continue to be sent to the property owner. Billings for the project office and the laundry room will also be sent to the owner.

The establishment of separate service accounts by the tenants will not relieve the owner from the ultimate responsibility to pay all water and sewer charges billed to the property. If any bill is not paid when due, the City will send a notice of delinquency to both the tenant and the property owner. Should the delinquency continue, the City can discontinue water service to that unit and is entitled to bill the owner for the delinquent amount, along with any applicable penalties. It would then be the responsibility of the owner to collect such charges and penalties from the tenant.

**Fiscal Impact:**

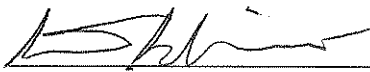
The establishment of separate accounts for each of the 14 apartment units, plus an account for the project office and laundry room, will actually result in a revenue increase for the City since the collective total of the base charge for all of these accounts will be higher than the base charge for only one master account.

**Measure of Success:**

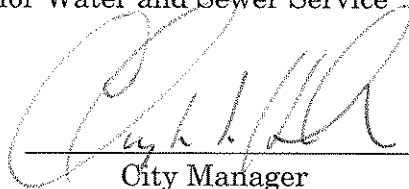
Successful conversion of all billings for water and sewer service from a single master account to individual tenant accounts.

**Attachments:**

Proposed Agreement Regarding Billing for Water and Sewer Service



Director of Administrative Services



City Manager

**AGREEMENT REGARDING  
BILLING FOR WATER AND SEWER SERVICE**

**THIS AGREEMENT**, dated March 23, 2011, by and between THE CITY OF BRISBANE, a municipal corporation ("City"), and RANDALL ORES, BENJAMIN ORES and MELISSA ORES (collectively referred to as "Owner"), is made with reference to the following facts:

A. Owner is the owner of a 14 unit apartment project located at 398 Klamath, Brisbane, California ("the Project").

B. City provides water and sanitary sewer service for all of the apartment units in the Project. At the present time, all of the charges for such water and sewer service are billed by City to Owner, who is responsible for payment thereof. Each of the 14 apartment units is equipped with a separate water meter and separate meters have also been installed for the Project office and the laundry facilities.

C. Owner has requested City to directly bill the apartment tenants for water and sewer service provided to the 14 apartment units and City has agreed to do so, subject to the terms and conditions of this Agreement.

**NOW, THEREFORE, the parties agree as follows:**

1. Effective as of April 15, 2011, City will convert the billing for water and sewer service from a single billing covering the entire Project to a separate billing for each of the 16 water meters at the Project. Each of the separate billings will be established in the name of Owner until a tenant or other person who will be responsible for payment of the water and sewer service charges for that meter ("the Responsible Party") opens a service billing account in his or her own name. Such accounts will be established in accordance with City's normal procedures and requirements. Owner will undertake to contact all of the tenants and inform them of the need to open a service account in order to obtain a direct billing for the water and sewer service charges. In the event the occupants of any unit fail or refuse to open an account with City, Owner shall continue to be billed for that unit, in which case, Owner shall remain the Responsible Party for that unit and all water and sewer service charges for that unit will be billed to Owner. In the event a

Responsible Party does not maintain an active service account with City, then all of the water and sewer service charges for that unit accruing during the absence of such account shall be billed directly to Owner, who shall be responsible for full payment thereof. Owner shall continue to be responsible for payment of all water and sewer service charges billed for the water meters servicing the Project office and the laundry facilities.

2. Effective as of April 15, 2011, City shall take readings from each of the 16 water meters in the Project to determine the quantity of water consumption that will serve as the basis for billing water and sewer service charges. Upon the establishment of a service billing account for an apartment unit in the Project, all of the water and sewer service charges for that unit shall thereafter be billed directly to the unit's Responsible Party. The service charges shall be based upon the quantity of water consumption by that apartment unit, as shown by the meter readings taken by City, and shall be calculated in accordance with the applicable rate schedule for water service adopted from time to time by the Brisbane City Council. All water bills sent directly to the Responsible Parties shall be subject to the same rules and procedures for payment and the same penalties upon delinquency as other water bills sent by City to its residential water customers.

3. Owner acknowledges that City operates a master water meter that measures water consumption for the entire Project and City may maintain its own record of such total consumption. In the event the total consumption for any period of time is greater than the total of all meter readings obtained by City for the 16 individual water meters for the comparable period, Owner shall be billed and shall be responsible for payment of all charges for the excess water consumption, regardless of the cause of the discrepancy unless such cause is attributable to the sole negligence of City. Nothing herein shall prevent Owner from seeking reimbursement for such payment from any Responsible Parties Owner believes are liable for the charges.

4. If any bill for water and sewer service charges sent directly to a Responsible Party is not paid when due, City shall send a Notice of Delinquency to both the Responsible Party and to Owner. If the delinquent charges along with any applicable penalty are not paid in full by the Responsible Party or by Owner, City shall be entitled to discontinue providing water service for that Responsible Party in accordance with City's normal procedures and pursue any other legal remedies available to City for collection of the

delinquent account. In addition, City may elect to bill Owner for the delinquent service charges and penalties and Owner agrees to pay such bill within thirty (30) days after receipt. Owner shall thereupon be entitled to take such action as Owner deems necessary or appropriate in order to collect the service charges and penalties from the Responsible Party. Owner acknowledges that by virtue of this obligation to pay any and all delinquent service charges owed to City, Owner has guaranteed payment of such charges by the Responsible Parties and City would not have entered into this Agreement in the absence of this guaranty.

5. Effective as of April 15, 2011, ownership of the 16 water meters in the Project and the 16 customer valves along with the pipe connecting the meter and the valve shall be transferred to City. City intends to replace each of the meter heads to convert the units of measurement to City's standard unit. Owner agrees to reimburse City for the cost of such replacements, estimated to be approximately \$1,000.00, and such cost, when determined, shall be added to Owner's regular water bill. Owner acknowledges that it will be necessary for City to shut off all water service to the Project in order to replace the meter heads and City agrees to give Owner at least 5 days prior notice of the date when such work is scheduled to be performed. City reserves the right to install an isolation valve in the upstream area adjacent to each of the meters at a later date.

6. This Agreement pertains only to the billing and collection of water and sewer service charges and except as otherwise provided in Section 5 above, does not constitute shall not be construed as an assumption by City of any responsibility or obligation for maintenance, repair, or replacement of any water or sanitary sewer facilities that are owned and maintained by Owner or by any other party.

7. Owner hereby grants to City a right to enter upon the Project for the purpose of gaining access to the water meters and related facilities as necessary to perform the work contemplated by this Agreement and to obtain meter readings from time to time for billing purposes. Owner shall furnish City with any keys that may be required for access to the water meters and other facilities.

8. In the event legal action shall be required to enforce or interpret any provision of this Agreement, the prevailing party shall be entitled to recover all costs and

expenses that may be incurred in connection therewith, including reasonable attorney's fees.

9. Any notices required or permitted to be given hereunder shall be either personally delivered or sent by regular mail to the other party at the following address:

TO CITY: City of Brisbane  
Attention: Finance Director  
50 Park Place  
Brisbane, CA 94005

TO OWNER: Randall Ores, Benjamin Ores  
and Melissa Ores  
P.O. Box 314  
Millbrae, CA 94030

Any notice sent by mail shall be deemed received on the second business day after deposit of the notice in the U.S. Mail, properly addressed with postage prepaid thereon.

10. This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof and supersedes and cancels all other agreements and understandings, whether written or verbal. This Agreement may only be amended by a written amendment executed by all of the parties. The obligations of each Owner hereunder are joint and several.

**Balance of this page intentionally left blank**

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

**CITY:**  
THE CITY OF BRISBANE,  
a municipal corporation

By: \_\_\_\_\_  
Cyril G. Bologoff, Mayor

ATTEST:


\_\_\_\_\_  
Sheri Marie Schroeder, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Harold S. Toppel  
City Attorney

**OWNER:**

  
\_\_\_\_\_  
RANDALL ORES

  
\_\_\_\_\_  
BENJAMIN ORES

  
\_\_\_\_\_  
MELISSA ORES