



City of Biggs

Agenda Item Staff Report For the Regular City Council Meeting: August 11, 2015

TO: Honorable Mayor and Members of the City Council
FROM: City Administrator
SUBJECT: **AGREEMENT WITH BUTTE COUNTY FOR COLLECTION OF
COUNTY JAIL FACILITY IMPACT FEE WITHIN THE
INCORPORATED LIMITS OF THE CITY OF BIGGS**

SUMMARY

Presented for consideration by the Council is a draft of an agreement with Butte County whereby the City would collect the County's existing Jail Facility Impact Fee on behalf of the County. The Jail Facility Impact Fee would be levied on new residential construction, with limited exemptions, and the revenue collected would support a project expanding the housing capacity of the county jail. The agreement would be effective only upon adoption of similar agreements by each of the other incorporated municipalities in the County.

BACKGROUND DOCUMENTATION

In 2007, the County contracted with TischlerBise to complete a Jail Impact Fee Study, which analyzed the legal framework for the collection of jail impact fees, and provided the methodology for the fee calculation (Attachment I). After discussing the need, and reviewing the 2007 study, the Board of Supervisors adopted Article II of the Butte County Municipal Code, *Development Impact Fees for Jail Facilities in the Unincorporated and Incorporated Area of Butte County* (Attachment II).

DISCUSSION

The effects of two factors have placed unprecedented pressure on the Butte County Jail. The first is the enacting of the 2011 Public Safety Realignment, which has changed the operation of county jails, including Butte County's, in significant ways. Many offenders who would have previously served their sentence in state prison are now sentenced to county jail, which increases the number of offenders the jail must house. These same offenders who would have prior to the realignment been sent to state prison often have considerably longer sentences than inmates that were typically housed in a county jail, and this decreases the flexibility that the Sheriff has to manage the jail population. This shift in responsibility has pushed the current jail facility beyond its operational limit, and the end result is often that offenders serving time on lesser charges must be released early or given a form of alternative custody in order to make room in the jail for those who have committed more serious offenses. Also, some lower-level offenders who would have served time in the jail before the realignment are booked and released due to insufficient capacity in the facility.

The second factor putting pressure on the Butte County Jail is the population growth of the County. Steady population growth in the County since jail capacity was last expanded in 1994 has resulted in the need for additional housing capacity, even without the effects of the 2011

Public Safety Realignment. When combined, the two factors result in an acute need for additional housing in the jail.

The increased burden that both the realignment and population growth have placed on the county jail has impacted the cities in the County, Biggs included. These factors have hastened an increase in the homeless and transient population, as released offenders often have no permanent shelter or prefer to live in an unsupervised environment. Criminals learn that the jail is at capacity and because of that feel that there may be little or no repercussions if they are booked on a misdemeanor, so they may take criminal actions that they otherwise wouldn't. As a result, citizen's concerns about their personal safety and the safety of their property have increased and more pressure has been placed on the City's police force. The changes in responsibility brought about by the 2011 Public Safety Realignment are here to stay and the population will continue to increase at a steady rate, so the demands on the current jail facility will only increase over time and further exacerbate the impacts on public safety.

In order to address these public safety issues, the County is developing plans to expand the capacity of the county jail. The County currently collects a Jail Facility Impact Fee on all new residential development in the unincorporated area of the County that will be used to partially fund the eventual jail expansion, but additional ongoing revenue will be required in order to move a project to the construction phase. In order to help fund this project that will benefit all areas of the County, the County has requested that the City of Biggs collect on the County's behalf the County's existing Jail Facility Impact Fee within the City's incorporated limits. The County has also made the same of request of the Town of Paradise, City of Oroville, and City of Chico and plans to make the same request of the City of Gridley later this month. The Town of Paradise, and City of Oroville have executed agreements and the County continues to work with the City of Chico. The principle details of the agreement are:

- City agrees to collect County's existing Jail Facilities Impact Fee within its boundaries on all new residential development
- Agreement only goes into effect once similar agreement is executed by each municipality within the County
- Agreement has a ten year term; termination permitted earlier with written notice if County increases fee without the City's written consent

Without an agreement with each municipality in the County to collect the County's Jail Facility Impact Fee, expansion of the jail facility will be decidedly difficult to achieve and the public safety problems caused by insufficient space in which to incarcerate criminals will likely persist and possibly worsen.

FISCAL IMPACT: None

RECOMMENDATION: Authorize the City Administrator to sign the agreement with Butte County for collection of County jail facility impact fees within the incorporated limits of the City of Biggs.

ATTACHMENTS

1. Draft Development Impact Fee Collection Agreement.

Mark Sorensen, City Administrator

Agreement Regarding Collection of Development Impact Fees for Jail Facilities within the
Incorporated Area of the City of Biggs

THIS AGREEMENT is made this __ day of _____, by and between the County of
Butte ("County") and the City of Biggs ("City").

RECITALS

WHEREAS, the County provides certain public safety services that benefit the residents of both the incorporated and the unincorporated areas of Butte County, including but not limited to incarceration of convicted felons and misdemeanants; and

WHEREAS, the County and City wish to ensure adequate public safety facilities including sufficient jail capacity as population increases due to residential development; and

WHEREAS, the County has prepared a study that identifies the capacity needs of the county jail now and for a period into the future; and

WHEREAS, the County has also prepared a study that reasonably and proportionately relates the cost of jail capacity expansion to residential development in both the unincorporated area of the County and in the incorporated areas of the County and identified the necessary relationships as required by the Mitigation Fee Act (Government Code section 66000 et seq.); and

WHEREAS, the County is currently collecting a Development Impact Fee for Jail Facilities upon new residential development within the unincorporated area of the County in order to mitigate impacts on jail facilities resulting from residential development; and

WHEREAS, the County and the City desire to address the need to mitigate the impact of new residential growth on the County's jail facility in a manner that is fair and equitable to all residents of the County regardless of where they reside; and

WHEREAS, the City finds that residential development within the boundaries of the City contributes to the need for the construction, expansion, and improvement of jail facilities, and that the County has identified said impacts and adopted a development impact fee program based on an Incremental Expansion Fee Calculation, taking into consideration level-of-service for jail facilities that is in conformance with the Mitigation Fee Act; and

WHEREAS, the purpose of this agreement is to provide a means for the County to impose Development Impact Fees for Jail Facilities on residential development projects located within the incorporated area of the City to help ensure that the County can adequately meet the jail facility needs of those who reside at such residential developments;

NOW, THEREFORE, the parties hereby agree as follows:

AGREEMENT

I. CONDITION PRECEDENT. As a condition precedent to this Agreement, County shall have entered into similar agreements with the Town of Paradise, City of Oroville, City of Chico and City of Gridley, municipal corporations within the County of Butte, relating to the collection of the County Development Impact Fee for Jail Facilities.

II. COUNTY FEE. Subject to the terms and conditions of this Agreement and the provisions of the Chapter 3, Article II of the Butte County Code, the City agrees that the County may impose the Development Impact Fee for Jail Facilities contained in Chapter 3, Article II of the Butte County Code on all residential development projects within its incorporated boundaries.

III. FEE AMOUNT; ADJUSTMENT OF FEE. Exhibit A to this Agreement displays the current fee amount by residential development type as of the date of signing. From time-to-time, County may adjust the amount of the Development Impact Fee for Jail Facilities after documenting that there has been an increase in the cost of acquiring and/or developing jail facilities; in all cases, fee amount collected by City on behalf of County shall be that amount identified in Chapter 3, Article II of the Butte County Code.

IV. COLLECTION OF COUNTY FEE. City agrees to collect the Development Impact Fee for Jail Facilities on a City-wide basis at any one of the times permitted by Chapter 3, Article II of the Butte County Code:

- a. The issuance of a building permit for the construction of any new residential building, or for the change in use of a nonresidential building or mobile home to a residential use;
- b. The issuance of an installation or utility connection permit for a mobile home or factory-built home in which such dwelling unit is to be located; or
- c. The occupation of such dwelling unit.

V. TRANSFER OF FEE. City shall transfer to County funds collected pursuant to this agreement on a quarterly basis, beginning after the close of the first entire quarter following the enacting of fee collection. Fees transferred shall include only those Development Impact Fees for Jail Facilities collected by the City. No other City funds shall be obligated to make payment for the Development Impact Fees for Jail Facilities, including but not limited to, General Fund or other Development Impact Fees.

VI. EXEMPTION FROM FEE. City agrees to permit exemptions to Fee only in the same manner as County:

- a. Where the structure is owned by a governmental agency;

- b. Where the structure is a building, or is within a building, which is being reconstructed following damage or destruction by fire or other casualty, or the voluntary demolition thereof, provided that the number of structures or the amount of chargeable space in such reconstructed structure is no greater than the number of structures or the amount of chargeable space in the structure prior to such damage, destruction or demolition;
- c. Where the structure is a temporary mobile home as described in Butte County Code Section 24-295.

VII. EFFECTIVE DATE. City shall begin collecting Development Impact Fees for Jail Facilities sixty (60) days from the satisfaction of the condition precedent set forth in Section I of this Agreement.

VIII. SOLE AND EXCLUSIVE METHOD. This Agreement shall be the sole and exclusive method for imposing and adjusting County Development Impact Fees for Jail Facilities within the incorporated area of the City. The County shall not attempt to impose or collect any Development Impact Fees for Jail Facilities except in accordance with the terms and provisions of this agreement.

IX. TERMINATION. This Agreement shall remain in effect for ten years after the agreement is signed; provided, however, City may terminate this Agreement at any time with a 60 day written notice to County if County increases the Development Impact Fee for Jail Facilities without City's prior written consent.

X. INDEMNIFICATION. Pursuant to Government Code section 895.4, the County agrees to defend, indemnify and hold harmless the City and its elected officials, officers, employees, agents and volunteers from and against any and all claims, damages, demands, losses, defense costs, expenses (including City Attorneys' fees) and liability of any kind or nature arising out of or alleged to arise out of the performance of this Agreement. In carrying out its obligations under this Section VIII, the County may use legal counsel of its choice.

XI. APPLICABLE LAW AND FORUM. This Agreement shall be construed and interpreted according to California law and any action to enforce the terms of this Agreement for the breach thereof shall be brought and tried in the County of Butte.

XII. SUCCESSORS AND ASSIGNS. This Agreement is binding upon and shall inure to the benefit of the parties hereto and their respective representatives, heirs, predecessors, affiliated entities, transferees, assigns and successors in interest.

XIII. ATTORNEYS' FEES AND COSTS. In the event of future litigation to enforce this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

XIV. SEVERABILITY. Should any paragraph, clause or provision of this Agreement be construed to be against public policy or determined by a court of competent jurisdiction to be void, invalid or unenforceable, such construction and decisions shall affect only those paragraphs, clauses or provisions so construed or interpreted, and shall in no event affect the remaining paragraphs, clauses or provisions of this Agreement, which shall remain in force.

XV. NO THIRD PARTY BENEFICIARIES. This Agreement is not intended to, and will not be construed to, create any right on the part of any third party to bring an action to enforce any of its terms.

XVI. ENTIRE AGREEMENT; MODIFICATION. This Agreement is the entire Agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous oral and written agreements and discussions. This Agreement shall not be amended, except in a writing that is executed by authorized representatives of both parties.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first set forth above.

Doug Teeter, Chair
Butte County Board of Supervisors

Date

Mark Sorensen, City Administrator
City of Biggs

Date

Approved as to Form:
County Counsel

Reviewed for Fiscal Control,
Subject to Budgetary Appropriation
Butte County Auditor-Controller

By: _____

By: _____

Date _____

Date _____

Approved as to Form:
Greg Einhorn, City Attorney

By: _____

Date _____

EXHIBIT A

Amount of Impact Fees for Jail Facilities as of the date of Signing:	
<u>Dwelling Unit Type</u>	<u>Fee</u>
Single-Family	\$455.89
Multifamily	\$363.63
Mobile Home	\$372.22