



## City of Biggs

### Agenda Item Staff Report for the Regular City Council Meeting: October 13, 2015

TO: Honorable Mayor and Members of the City Council  
FROM: Mark Sorensen, City Administrator  
Subject: Consideration of Real Property Lease "Rio Bonito Park".

#### Background:

-June 23, 2015 a draft of the agreement was provided to the School District.

-Aug 18, 2015 the School District expressed a desire for average use billing for water in the event that their irrigation well were to fail. I formulated responsive solution to this concern.

-Sep 8, 2015 the Biggs City Council approved a version of the subject lease. That lease was provided to the School District on September 9<sup>th</sup>.

-Sep 11, 2015 we received a list of minor language revisions from the School District which were accepted, with one substantive deletion of item 4 (C) which was not accepted.

-Sep 25, 2015 we received an approved lease from the School District. In reading the lease line by line a change was noted. A change that was not present in the version that the School District provided on September 11<sup>th</sup>. This change was subsequently made by the District without notice to the City. At item 5 the underlined portion (below) was added:

***Ownership and Use of Improvements.*** *During the existing lease and any extension(s), the City shall maintain enjoyment of use of the Property and ownership and enjoyment of all improvements on a non-exclusive basis, except that the City may exclude and control access and the use of the Property during construction, installation, maintenance, or to prevent damage to the Property and improvements. In addition, the City may restrict, limit or control use of the City owned and operated restroom building, except during school sponsored activities.*

As a recent example, a sewer system (septic system) backup recently occurred during a football game. Due to that backup and in the interest of public health it was necessary to close the restroom during that school sponsored activity. As this portion of the agreement was originally written, the goal was to provide the city with reasonable control over the facilities that the City built and maintains, with the idea that the City should establish an open/close schedule in an effort to preserve the facility, reduce the amount of abuse which occurs off-hours, reduce the

resulting maintenance hours, and improve the level of satisfaction and usefulness to the residents of the City of Biggs.

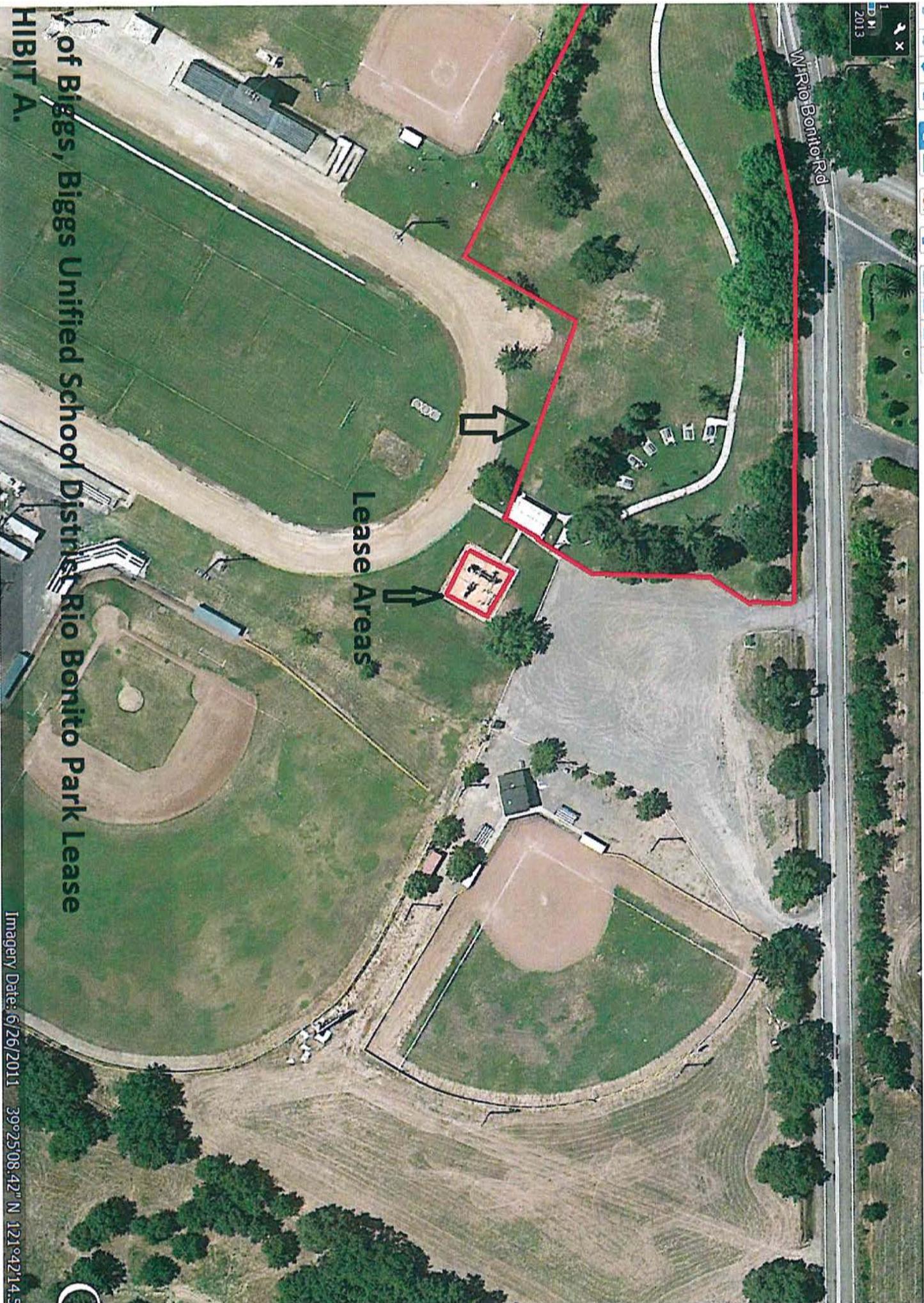
We currently have new locking restroom doors on order, and are working with Gridley PD to key the doors the same as Gridley facilities to make it easy for PD to lock them in the evenings, all in an effort to reduce abuse and unreasonable amounts of maintenance.

**Recommendation:**

Consider approval of the lease.

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Mark Sorensen, City Administrator



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W. Rio Bonito Rd

Lease Areas

of Biggs, Biggs Unified School District Rio Bonito Park Lease  
 HIBIT A.

Imagery Date: 6/26/2011 39°25'08.42" N 121°42'14.5"

City of Biggs, Biggs Unified School District  
Real Property Lease, Rio Bonito Park

Effective September 24, 2015 the City of Biggs (Lessee/City) and the Biggs Unified School District (Lessor/District), collectively, "Parties", hereby agree as follows:

1. **Property.** That portion of real property owned by the District on the site of Biggs High School, Butte County, California, and more particularly depicted in Exhibit A (Property), together with all the usual rights of ingress and egress to and from said Property. The area depicted in Exhibit A (Property) includes the entirety of Parcel Number 022-170-040-000 and portions of other adjoining parcels owned by the District.

2. **Term.** In consideration of the City's construction on, improvements to, and maintenance of the Property, the District shall and does hereby lease to the City said Property and all of its improvements to the City for a term of 10 years.

3. **Responsibilities of Lessee.**

a. **Maintenance.** The City will maintain the Property and all recreational equipment thereon throughout the life of this Agreement unless amended by mutual agreement of both parties, and except as otherwise specified in this Agreement. The City may develop rules, regulations and agreements which will cause the users of the facilities to assume certain maintenance responsibilities and to bear the costs for utilities, services and other costs.

b. **Construction and Modifications.** The City may construct and install, or cause to be constructed and installed, recreational facilities, equipment and related structures on the Property, with the District's approval and at no cost to the District. City shall keep premises free from any stop payment notices and liens relating to alterations/constructions.

c. **Electricity.** The City, at its own expense, shall provide Electricity and distribution systems to City built improvements on the Property during the term of the lease.

d. **Septic System.** The City shall operate and maintain the existing septic system serving the Property and any additions or modifications of that septic system or other septic systems added by the City.

4. **Responsibilities of Lessor.**

a. **Water.** While the City will install and maintain the water distribution system during the lease, the District shall provide potable water to the Property. In the event that the District irrigation well is not functioning for 3 or more consecutive days in a billing month and the leased property is irrigated by city water, the City shall bill the District for water usage based upon its usage in an average of two of the same billing months in prior years. This alternative water usage billing method is limited to use in no more than 3 billing months in any calendar year.

b. **Fencing.** The District shall own and maintain any existing fencing that it installed or may install in the future, and all area within twelve (12) inches of any fencing installed by the District.

c. **Construction and Modifications.** The District must obtain written approval by the City prior to any construction or modifications by or on behalf of the District within the Property being leased to the City.

5. **Use of Improvements.** During the existing lease and any extension(s), the City shall maintain enjoyment of use of the Property and ownership and enjoyment of all improvements on a non-exclusive basis, except that the City may exclude and control access and the use of the Property during construction, installation, maintenance, or to prevent damage to the Property and improvements. In addition, the City may restrict, limit or control use of the City owned and operated restroom building, except during school sponsored activities. Upon termination of the lease, including any extension(s) thereof, all improvements existing at the time of termination shall become the property of the District.

6. **Subletting.** Lessee shall not assign this Lease or sublet any portions of the premises without prior written consent of Lessor

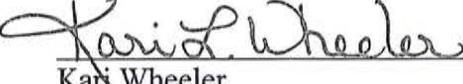
7. **Termination of Lease.** Following the fixed term of the lease, the lease shall renew automatically from year to year unless either party provides written notice of termination to the other party not less than thirty (30) days prior to the end of any annual term.

8. **Insurance/Indemnification.** Lessee agrees to defend, indemnify, and hold Lessor harmless from any claims arising out of the use of the Property by City or others, unless caused by Lessor's active negligence or willful misconduct. The City agrees to provide the usual public liability coverage for loss or injury of every kind occurring in, on or about the Property while being used and occupied by the City and shall file a certificate of insurance with the District to provide evidence of insurance. The certificate of insurance shall provide notice to the District of any cancellation of insurance coverage, and shall name the District as additional insured, if so requested by the District.

City of Biggs

Biggs Unified School District

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Roger Frith  
Mayor, City of Biggs

  
Kari Wheeler  
President, Governing Board

Attest:

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Mark Sorensen  
City Administrator

Approved as to Form

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Greg Einhorn  
City Attorney

Attest:



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Doug Kaelin  
Superintendent

Approved as to Form

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Emily E. LaMoe  
Minasian Law Firm  
Attorney for Biggs Unified School District