

CITY OF BIGGS

CITY COUNCIL AGENDA ITEM

MEETING DATE: June 14, 2016

TO: Honorable Mayor and City Council

FROM: Greg Einhorn, City Attorney

SUBJECT: Resolution of the City Council of the City of Biggs Rescinding Agreement Regarding Collection of Development Impact Fees for Jail Facilities Within the Incorporated Area of the City of Biggs

(Discussion/Action)

The City of Biggs (City) and the County of Butte (County) entered into an agreement entitled Agreement Regarding the Collection of Development Impact Fees for Jail Facilities within the Incorporated Area of the City of Biggs (Agreement), effective on August 12, 2015, intended to collect impact fees upon City development for Butte County Jail construction. Agreements similar in scope and intent were executed by and between the County and the cities of Chico, Gridley, Oroville and Paradise.

On March 15, 2016, a lawsuit was filed entitled Webb et. al. v. County of Butte et. al., in Butte County Superior Court, (Lawsuit) naming the City, the County, and Chico, Gridley, Oroville and Paradise all as defendants, claiming a lack of legal basis to impose and collect the impact fees as provided in the Agreement. This lawsuit was served on the City on March 25, 2016, and the City's defense thereto was tendered to the County on April 13, 2016, pursuant to paragraph X of the Agreement.

The County retained a law firm to provide a defense to all of the defendants, including Biggs. This law firm, together with the County, have negotiated a full and complete resolution of the lawsuit, whereby the claims therein will be dismissed with prejudice in exchange for the rescission by all defendants of their agreements with the County, including the City's Agreement with the County.

The Resolution will rescind the Agreement, and therefore will result in the dismissal of Biggs from the Lawsuit. Staff therefore recommends that this Resolution be approved.

/mk

RESOLUTION 2016-09

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIGGS RESCINDING
AGREEMENT REGARDING COLLECTION OF DEVELOPMENT IMPACT FEES
FOR JAIL FACILITIES
WITHIN THE INCORPORATED AREA OF THE CITY OF BIGGS**

WHEREAS, the City of Biggs (City) and the County of Butte (County) entered into an agreement entitled Agreement Regarding the Collection of Development Impact Fees For Jail Facilities within the Incorporated Area of the City of Biggs (Agreement), effective on August 12, 2015, intended to collect impact fees upon City development for Butte County Jail construction; and,

WHEREAS, agreements similar in scope and intent were executed by and between the County and the cities of Chico, Gridley, Oroville and Paradise; and,

WHEREAS, on March 15, 2016, a lawsuit was filed entitled Webb et. al. v. County of Butte et. al., Butte County Superior Court Case No. 16 CV 00186, (Lawsuit) naming the City, the County, and Chico, Gridley, Oroville and Paradise, all as defendants, claiming a lack of legal basis to impose and collect the impact fees as provided in the Agreement; and,

WHEREAS, the Lawsuit was served on the City on March 25, 2016, and the City's defense thereto was tendered to the County on April 13, 2016, pursuant to paragraph X of the Agreement; and,

WHEREAS, counsel retained by the County, together with the County, have negotiated a full and complete resolution of the Lawsuit, whereby the claims therein will be dismissed with prejudice in exchange for the rescission by all defendants of their agreements with the County, including the City's Agreement with the County.

NOW, THEREFORE, BE IT RESOLVED:

1. That the City Council of the City of Biggs hereby rescinds the Agreement with the County.
2. That the Mayor, City Administrator and City Attorney are all authorized to execute any documents necessary to effect the rescission of the Agreement and to effect dismissal of the Lawsuit.

I HEREBY CERTIFY that the foregoing **RESOLUTION** was duly introduced, passed and adopted at a regular meeting of the City Council of the City of Biggs, held on the 14th day of June, 2016 by the following vote:

AYES: Council Members: _____

NOES: Council Members: _____

ABSENT: Council Members: _____

ABSTAIN: Council Members: _____

ATTEST:

Roben Dewsnup, CITY CLERK

Roger Frith, MAYOR