

Resolution No. 07-8
Resolution of the Board of Directors
Fort Ord Reuse Authority
Adopting the Capacity Charge and Capital Surcharge element of the Budget and the Ord Community
Compensation Plan for FY 2007-2008

May 11, 2007

RESOLVED by the Board of Directors (“Directors”) of the Fort Ord Reuse Authority (“FORA”), at a regular meeting duly called and held on May 11, 2007 at the business office of FORA 100 12th St., Bldg. 2880, Marina California as follows:

WHEREAS, Marina Coast Water District (“District”) Staff prepared and presented the draft FY 2007-2008 Budget which includes projected revenues, expenditures and capital improvement projects for the Ord Community Water, Recycled Water and Wastewater systems, including the area within the jurisdiction of FORA and the area remaining within the jurisdiction of the U.S. Army; and,

WHEREAS, FORA is authorized by the FORA Act, particularly Government Code 67679(a)(1), to arrange for the provision of water and wastewater services to the Ord Community; and

WHEREAS, the District and FORA, entered into a “Water/Wastewater Facilities Agreement” (“the Agreement”) on March 13, 1998, and have subsequently duly amended the Agreement; and,

WHEREAS, The Agreement provides a procedure for establishing budgets and compensation plans to provide for sufficient revenues to pay the direct and indirect, short-term and long-term costs, including capital costs, to furnish the water and wastewater facilities; and,

WHEREAS, the Agreement, as amended, provides that FORA and the District will each adopt the annual Budget and Compensation Plan by resolution; and,

WHEREAS, the proposed Budget and Compensation Plan for 2007-2008 provides for funds necessary to meet operating and capital expenses for sound operation and provision of the water, recycled water and wastewater facilities and to enable the District to provide continued water, recycled water and sewer services within the existing service areas on the former Fort Ord. The rates, fees and charges adopted by FORA apply only to the area within FORA’s jurisdictional boundaries; and,

WHEREAS, a financing study prepared by Citigroup Global Markets Inc. in 2005 for the District recommended the adoption of capacity charges and a capital surcharge as an element of financing capital facilities for water and wastewater services to the Ord Community; and,

WHEREAS, on June 9, 2006 the FORA Board of Directors adopted a capacity charge which is currently unchanged; and,

WHEREAS, on June 14, 2006 the District Board of Directors adopted a capacity charge which is currently unchanged; and,

WHEREAS, the Water/Wastewater Oversight Committee of FORA and the District full Board have reviewed the proposed Budget and Compensation Plan; and,

WHEREAS, pursuant to the Agreement, FORA and the District have adopted and implemented and acted in reliance on budgets and compensation plans for prior fiscal years; and,

WHEREAS, pursuant to the Agreement, FORA and the District have cooperated in the conveyance to the District of easements, facilities and ancillary rights for the water, recycled water and wastewater systems on the area of the former Fort Ord within FORA's jurisdiction; and,

WHEREAS, the District has provided water and wastewater services on the former Fort Ord by contract since 1997, and currently provides water and wastewater services to the area of the former Fort Ord within FORA's jurisdiction under the authority of the Agreement, and provides such services to the portion of the former Fort Ord still under the Army's jurisdiction by contract with the Army; and,

WHEREAS, capacity charges and surcharges are imposed as a condition of service to customers. The charges are not imposed upon real property or upon persons as an incident of real property ownership; and,

WHEREAS, estimated revenues from the capacity charges and surcharges will not exceed the estimated reasonable costs of providing the facilities and services for which the charges are imposed; and,

WHEREAS, the capacity charges and surcharges have not been calculated nor developed on the basis of any parcel map, including any assessor's parcel map; and,

WHEREAS, the capacity charges will not be effective until adopted by resolution of the District after compliance with Section 54354.5 of the Government Code; and

WHEREAS, after a public meeting and based upon staff's recommendations, the Board has determined that the capital elements of the Budget and Compensation Plan, including the capacity charges and surcharges therein, should be adopted as set forth on Attachment A to this Resolution; and

WHEREAS, Government Code Section 54999.3 requires that before imposing certain capital facilities fees on certain educational and state entities, any public agency providing public utility service must negotiate with the entities receiving the service; and

WHEREAS, FORA is the lead agency for the adoption of rates, fees and charges for the area of the Ord Community under FORA's jurisdiction, and that in adopting rates and charges for that area, the District is acting as a responsible agency and relying on FORA's compliance with the requirements of the California Environmental Quality Act ("CEQA"); that the District has previously adopted rates, fees and charges for its jurisdictional service area; and that, in approving rates, fees and charges for the area of Ord Community within the jurisdiction of the U.S. Army, the District is acting to provide continued water and sewer service within existing service areas on the Ord Community, and that such action is exempt from CEQA pursuant to Public Resources Code Section 21080(b)(8) and Section 15273 of the State CEQA Guidelines codified at 14 CCR §15273.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS,

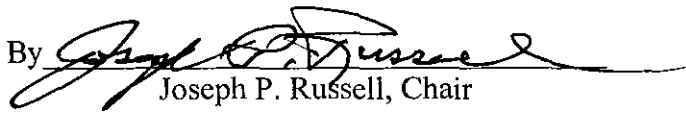
1. The Board of Directors of the Fort Ord Reuse Authority does hereby approve and adopt the capital elements of the FY 2007-2008 Budget for water, recycled water and wastewater services to the Ord Community.

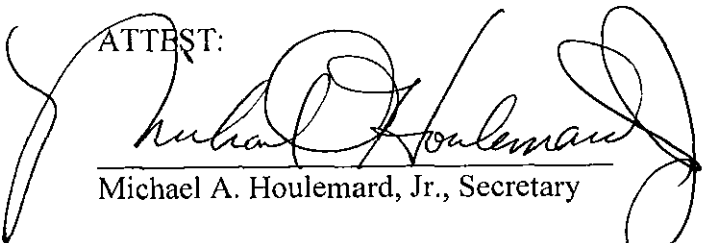
2. The capital elements of the compensation plan for the area of Ord Community within FORA's jurisdiction, including capacity charges and capital surcharges, set forth on Attachment A to this Resolution are hereby approved and adopted. The District is authorized to charge and collect capacity charges and capital surcharges for provision of water and wastewater services within the boundaries of the Fort Ord Reuse Authority in accordance with the schedule set forth in Attachment A. The District is further authorized to use the same charges in providing services to the area of Ord Community within the jurisdiction of the U.S. Army.
3. The charges authorized by this Resolution shall not exceed the estimated reasonable costs of providing the services for which the charges are imposed.
4. The District will comply with Government Code Section 54354.5 in adopting the capacity charges and capital surcharges set forth in Attachment A.
5. The District will comply with the requirements of Government Code section 54999.3 before imposing a capital facilities fee (as defined in Government Code section 54999.1) on any school district, county office of education, community college district, the California State University, the University of California or state agency.

PASSED AND ADOPTED on May 11, 2007, by the Board of Directors of the Fort Ord Reuse Authority by the following vote:

Ayes:	12	Directors Russell, Della Sala, Mettee-McCutchon, Wilmot, Potter, Salinas, Calcagno, Rubio, Mancini, Pendergrass, Davis, and McCloud
Noes:	-0-	
Absent:	-1-	Director Barnes
Abstained:	-0-	

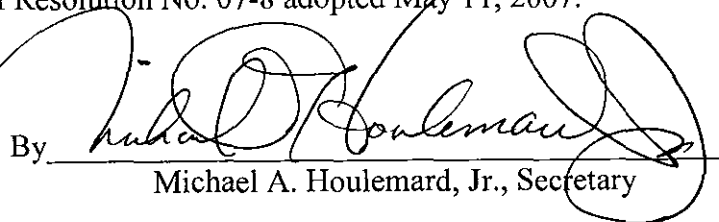
Dated 5/30/07

By 
Joseph P. Russell, Chair

ATTEST:

Michael A. Houlemard, Jr., Secretary

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Board of the Fort Ord Reuse Authority hereby certifies that the foregoing is a full, true and correct copy of Resolution No. 07-8 adopted May 11, 2007.

By 
Michael A. Houlemard, Jr., Secretary