

Resolution 11-02

Resolution of the Fort Ord Reuse)
Authority Board amending the)
Fort Ord Reuse Authority Basewide)
Development Fee Policy to adjust)
Community Facilities District Special)
Tax Rates and the Basewide Development)
Fee Schedule.)

THIS RESOLUTION is adopted with reference to the following facts and circumstances:

- A. Government Code section 67679(e) authorizes the Fort Ord Reuse Authority (hereinafter referred to as “Authority”) Board of Directors (hereinafter referred to as “Board”) to levy development fees on a development project within the area of the base in compliance with Government Code section 66000, *et seq.* The section stipulates that “No local agency shall issue any building permit for any development within the area of the former Fort Ord until the Board has certified that all development fees have been paid.”
- B. The Authority Board adopted Resolution 99-1 to establish Basewide Developer Fees (hereinafter referred to as “Basewide Fee Policy”) for all of the former Fort Ord area primarily to pay for basewide obligations intended to mitigate the costs associated with the impact of development of the Fort Ord territory. The basewide public facilities are identified in the Base Reuse Plan and the Public Facilities Improvement Plan and are annually approved by the Board as part of the Board’s adopted Capital Improvement Plan (hereinafter referred to as “CIP”), in particular the transportation, habitat management and other impacts caused by development as identified in the Final Environmental Impact Report, adopted by this Board on June 13, 1997.
- C. On January 18, 2002, the Authority Board adopted Resolution No. 02-1 establishing the Fort Ord Reuse Authority Basewide Community Facilities District (hereinafter referred to as the “CFD”) under State Law that approved a rate and method of apportionment of special taxes (the “RMA”) and provided for the levy of special taxes (the “Special Taxes”) on real property in selected areas of the former Fort Ord, and, on October 14, 2005, the Authority Board adopted Resolution No. 05-15, which effectively amended the RMA for the CFD in 2005 in order to provide a special tax structure that would encourage and benefit the development of affordable and workforce housing.
- D. The Board has heard testimony from professional consultants, affected businesses, and community representatives to reduce or eliminate certain CIP

contingent expenses, moving selected CIP line items from voluntary to obligatory, continuing past CIP fund source policies, and to make an adjustment in the maximum Special Taxes for the CFD and the Fee Policy.

- E. The purpose of this Resolution is to amend Resolution 99-1 and to provide for levies of Special Taxes in the CFD at rates lower than the authorized maximum Special Tax rates in the RMA in order to lower the fees charged to, and the Special Taxes levied on, development occurring on the former Fort Ord, while maintaining the financial resources to meet the Authority's mitigation measure and basewide expense obligations and to sustain parity between the Special Taxes levied within the CFD and the fees charged in the non-CFD areas.
- F. Section 6.01.010 of the Authority Master Resolution provides that all fees, penalties, refunds, reimbursements and charges imposed by the Authority may be adopted by resolution and amended by the Board. In addition, the Authority has entered into separate Implementation Agreements with each of its member land use jurisdictions. Those Agreements require all development projects to pay their fair share of the Authority's costs to mitigate development impacts. The Authority Board has approved further agreements with individual jurisdictions and/or their developers to carry out the Implementation Agreements and the other authoritative documents cited in this Resolution.
- G. The Board's annually approved CIP lists each project for which the fee is to be used and accompanying text describing the need for the project. The fees included in Table 1 have been studied by the Authority during the analysis and testimony received by the Board at its February, March and April 2011 meetings, and other business and financing plans commissioned by the Board.
- H. The fees and Special Tax rates listed in Table 1 reflect proportional 27% reductions for the July 1, 2011 fiscal year from the July 1, 2010 fiscal year. There is a reasonable relationship between the need for the public projects included in the CIP and the type of development project on which the development fee or Special Tax is imposed. There is also a reasonable relationship between the amount of the development fee or Special Tax and the cost of the public projects attributable to the development on which the fee or Special Tax is imposed and the Board has determined that the fee and Special Tax structure will continue to provide sufficient fees and Special Taxes to meet its State Law obligations and basewide expenses.
- I. The Authority will conform with Government Code Section 66001 which requires the Authority to do the following before adopting or amending a development impact fee:
 - 1. Account for and expend the fees.
 - 2. For the fifth fiscal year following the first deposit into the account or fund, and every five years thereafter, make all of the following findings with

respect to that portion of the account or fund remaining unexpended, whether committed or uncommitted:

- i. Identify the purpose of the fee (as described in "E." above).
- ii. Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements listed in the CIP.
- iii. Designate the approximate dates on which the funding necessary to complete the project is expected to be deposited into the appropriate account or fund serving the CIP.

J. Any development impact fee so adopted shall be effective July 1, 2011, but in no case no sooner than 60 days following the final action on the adoption.

NOW THEREFORE the Board hereby resolves as follows:

1. That the Fort Ord Reuse Authority shall amend its CFD Special Tax and the Basewide Development Fee in the amounts listed for each type of development in the attached fee schedule (Table 1) and shall hereafter levy Special Taxes at the maximum Special Tax rates in the attached schedule (Table 1).
2. That this Basewide Development fee schedule and CFD maximum Special Tax schedule and shall be fixed to the CFD maximum Special Tax rates and indexed in the same manner on July 1st of every year as evidenced in the attached Table 1 – Taxable Property Classifications and Maximum Development Fee Rates.
3. The amended Development Fees shall become effective on July 1, 2011. The revised maximum Special Tax rates shall become effective for Special Tax levies commencing in Fiscal Year 2011-12, and shall remain in effect (adjusted annually as described in Section 2 above), until the Authority Board takes further action, if any, to again alter the maximum Special Tax rates for the CFD.
4. Proceeds of Development Fees and Special Tax levies shall be appropriately segregated through use of generally accepted government fund accounting methods according to the Board's adopted Capital Improvement Program budget as provided for in section B and G of this resolution.

Upon motion by Director Edelen, seconded by Director Oglesby, the foregoing Resolution was passed on this 13th day of May, 2011, by the following vote:

AYES: Director O'Connell, Director Brown, Director Potter, Director Parker, Director Cook, Director Kampe, Director Barrera, Director Pendergrass, and Director Bachofner.

NOES: -0-

ABSTENTIONS: -0-

ABSENT: Director McCloud, Director Selfridge

I, Supervisor Dave Potter, Chair of the Board of Directors of the Fort Ord Reuse Authority in the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of the said Board of Directors duly made and entered under Item 8di, of the Board meeting minutes of May 13, 2011 thereof, which are kept in the Minute Book resident in the offices of the Fort Ord Reuse Authority.

DATED 5/20/2011

BY Dave Potter
Dave Potter
Chair, Board of Directors
Fort Ord Reuse Authority

**TABLE 1 – TAXABLE PROPERTY CLASSIFICATIONS AND
MAXIMUM DEVELOPMENT FEE RATES**
(Figures as of July 1, 2011)

PROPERTY CLASSIFICATION	Maximum Development Fee Rates (One-time Development Fee Payments)
Undeveloped Property	\$ - 0 -
Developed Property	
New Residential	\$ 33,700 / Dwelling Unit
Existing Residential	\$ 10,132 / Dwelling Unit
Office	\$ 4,417 / Acre
Industrial	\$ 4,417 / Acre
Retail	\$ 91,086 / Acre
Hotel	\$ 7,515 / Room

On July 1, commencing July 1, 2012, the Maximum Development Fee Rates shown in Table 1 shall be increased by an amount equal to the lesser of (1) five percent (5%) or (2) the percentage change since the immediately preceding Fiscal Year in the Engineering News Record's Construction Cost Index applicable to the area in which the fee overlay is located (or, if such index is no longer published, a substantially equivalent index selected by the Development Fee Administrator)

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