

RESOLUTION NO. 01-13

**RESOLUTION DEEMING IT NECESSARY TO
RESERVE THE ENTITLEMENT
TO INCUR BONDED INDEBTEDNESS**

**FORT ORD REUSE AUTHORITY
BASEWIDE COMMUNITY FACILITIES DISTRICT**

Final Board Adopted Version

WHEREAS, reference is made to Resolutions No. 01-10 and No. 01-11 of this Board of Directors (this "Board") of the Fort Ord Reuse Authority ("FORA") adopted September 21, 2001 for the preliminary scope of the authorized public improvements and financing contemplated by these proceedings; and

WHEREAS, on November 9, 2001 at the time set for the public hearing by this Board's Resolution No. 01-10 the public hearing was conducted, and at the close of the public hearing this Board determined that a majority protest under Section 53324 of the Government Code was not made at the hearing;

WHEREAS, at the conclusion of the public hearing, this Board adopted its Resolution of Formation No. 01-12 (the "Resolution of Formation") pursuant to Section 53325.1 of the Government Code, thereby completing its proceedings for formation of proposed Fort Ord Reuse Authority Basewide Community Facilities District; and

WHEREAS, to provide the financing of the authorized public improvements as contemplated, this Board has determined that it is necessary to reserve the entitlement to incur bonded indebtedness;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Fort Ord Reuse Authority as follows:

1. This Board finds and determines that the foregoing recitals are true and correct.
2. This Board declares and finds that it is necessary to reserve entitlement to incur bonded indebtedness on behalf of the Fort Ord Reuse Authority Basewide Community Facilities District (the "CFD"). However, it is the policy of the Board to encourage a one-time payment of the special tax prior to issuance of a building permit for a development project and to selectively and seldom, if ever, issue debt on behalf of the CFD.

If the CFD does incur debt, it shall only do so in those circumstances when, at the time of issuance (i) special tax revenues from the CFD are reasonably expected to provide at least 125% debt service coverage for each year of the term of such bonds, and (ii) the CFD establishes and covenants to cause special taxes to be levied in an amount sufficient to maintain, for the term of such bonds, a reserve fund securing such bonds in an amount equaling the lesser of:

- a. maximum annual debt service on all bonds then outstanding; or,
- b. one hundred twenty-five percent (125%) of average annual debt service on all bonds then outstanding; or,
- c. ten percent (10%) of the original proceeds of the bonds.

All statements and materials related to any future sale of debt on behalf of the CFD shall emphasize and state that neither the faith, credit nor the taxing power of the Board is pledged to the repayment of the bonds, nor is the Board obligated to replenish the reserve fund from revenue sources other than special taxes, or proceeds from foreclosure proceedings.

Should the Board seek debt financing through the CFD, it is the policy of the Board to use cost-effective credit enhancement techniques, when feasible, to increase security and/or borrowing capacity. Debt repayment is not to extend beyond the term of FORA's existence. To enable a longer period for amortizing the CFD special tax obligation and/or to encourage local determinations, it is the policy of the Board to support local jurisdictions in their efforts to create overlapping community facilities districts with the capability to issue debt for pre-payment of the CFD special tax obligation.

Further, it is the policy of the Board to comply with all provisions of the Act including, but not limited to, Section 53345.8 of the California Government Code, as such section may be amended from time to time.

3. The purpose for which the proposed debt is to be incurred is to expedite the rate of construction and installation of the authorized public facilities described on Exhibit A attached to the Resolution of Formation as needed for the orderly development of the property within the CFD as contemplated in the Fort Ord Base Reuse Plan, originally adopted by the Board in June 1997, and to pay a portion of the incidental expenses proposed to be incurred as set forth on Exhibit B attached to the Resolution of Formation

4. All Taxable Property (as said term is defined in the Rate and Method of Apportionment of Special Tax, attached as Exhibit C to the Resolution of Formation), as established from time to time within the CFD, shall be subject to the special tax obligation.

5. Subject to the limit of \$300.0 million on the aggregate principal amount of such bonded indebtedness and to the requirements of the Resolution of Formation and of this resolution, determinations respecting (a) the amount of bonded indebtedness to be incurred and (b) the amount and timing of each issuance of bonds shall be subject to the discretion of this

Board. The refunding of one form of authorized debt by another shall not count against the limitation on the aggregate principal amount of such bonded indebtedness, as provided by Section 533362.7 of the Government Code.

6. The indebtedness of the CFD, if any, is anticipated to be far below the aggregate principal amount. This aggregate principal amount was chosen because it represents an estimate of the inflation-adjusted cost of all public facilities to be funded by the CFD.

7. The last maturity of any series of bonds issued under this authority shall be not after Fiscal Year 2013-14 or the termination of FORA, whichever is later, but in no circumstances shall the last maturity be later than calendar year 2051.

8. The maximum rate of interest shall be determined by competitive sale or by negotiation at the time of bond sale, but in any case shall not exceed the maximum permitted legal rate as specified, from time to time, by Government Code Section 53531 or any similar controlling provision of law.

9. It is the intention of this Board that any bonds issued shall be made callable on terms to be specified in any resolution, indenture, trust agreement or fiscal agent agreement providing for the form, execution and issuance of bonds, in accordance with the terms of the Mello-Roos Community Facilities Act of 1982 (the "Act").

10. The question of the authorization to issue the bonds described herein shall be submitted to the qualified electors, being the landowners owning land within the CFD, at the special mailed-ballot election expected to be called and held on February 8, 2002, or earlier upon receipt by FORA of eligible ballots executed by all landowners.

11. The ballot language of the ballot measure and the manner of conducting the election shall be established by the resolution to be adopted by this Board calling the special election as required by the Act.

12. This resolution shall take effect from and after its adoption.

PASSED AND ADOPTED at a meeting of the Board of Directors of the Fort Ord Reuse

Authority this 9th day of November 2001, by the following vote:

AYES: 10 Board Members Perrine, McCloud, Pendergrass, Johnson, Potter, Calcagno, Barnes, Rallo, Mancini, and Russell

NOES: 0 Board Members 0

ABSTAIN: 0 Board Members 0

ABSENT: 3 Board Members Albert, Koffman, + Gustafson

I, JAMES E. PERRINE, Chair of the Board of Directors of the Fort Ord Reuse Authority of 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 in the minutes thereof in Item 5d, pages 2-5 of the duly approved minutes dated Nov. 9, 2001.

DATED: 2/8/02

By: James E. Perrine
JAMES E. PERRINE
Chair, Board of Directors
Fort Ord Reuse Authority