

RESOLUTION NO. 07-13

RESOLUTION OF THE GOVERNING BOARD OF THE
FORT ORD REUSE AUTHORITY CONFIRMING THE
FEE FOR ADMINISTRATIVE APPEALS

I. RECITALS

- 1.1. In 1998 the Fort Ord Reuse Authority ("FORA") entered into a settlement agreement in Sierra Club v. FORA, Monterey County Case No. 112014. Under that settlement agreement, FORA promised to adopt and maintain in force Section 8.01.050(a) of the FORA Master Resolution. That section sets the fee charged for administrative appeals of development entitlements at the fee charged at any given time by the County of Monterey for combined development permits. That fee is now \$4,698.84.
- 1.2. On April 9, 2007, suit was brought against FORA by Save Our Peninsula in Monterey County Case No. M84005. That suit alleges that the appeal fee is unlawful because it is not based on factual findings that the fee approximates FORA's administrative cost of processing appeals.
- 1.3. The legal theory underlying Save Our Peninsula vs. Fort Ord Reuse Authority is without merit. To moot the case, and thus avoid unnecessary litigation expenses, however, the Fort Ord Reuse Authority Board of Directors elects to reaffirm the relationship between the appeal fee and FORA's appeal costs.

II. RESOLUTION

NOW, THEREFORE, BE IT RESOLVED as follows:

- 2.1. The Fort Ord Reuse Authority finds and declares that the average staff/consultant time spent on appeals is in the range of 30-40 hours and the average overhead related cost is in the range of \$750-\$1,250. These cost ranges equate to a range of \$3,800-\$5,500 as the FORA expense to process appeals of development entitlements. The Fort Ord Reuse Authority Board of Directors finds that the costs of processing appeals are in the range of the costs estimated for a recent appeal as noted below:

Factual Findings of Administrative Costs of Processing Appeals

<u>Executive Officer/Professional Staff</u>	18	\$1,450
-Review decision under appeal		
-Research Base Reuse Plan requirements		
-Evaluate merit of appeal arguments vs. jurisdiction action		
<u>Authority Counsel</u>	10	1,950
-Review appeal transmittal and contested items		
-Research legal implications and discuss with staff		
-Review issues with Executive Committee		
<u>Clerical/Support Staff</u>	7	300
-Prepare staff reports and background materials		
<u>Overhead Costs</u>		
-Word processing		
-Copy distribution materials		
-Postage/mailing appeal items		<u>1,000</u>
TOTAL COST:		\$4,700

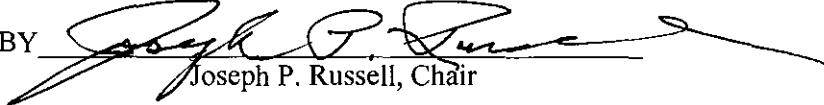
- 2.2. This Resolution takes effect immediately upon adoption.

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Upon motion by Mayor Mettee-McCutchon, seconded by Councilmember Jordan, the foregoing resolution was PASSED AND ADOPTED at a meeting of the Board of Directors of the Fort Ord Reuse Authority on the 8th day of June 2007, by the following vote:

AYES	8	Directors McCloud, Russell, Mettee-McCutchon, Wilmot, Armenta, Barnes, Pendergrass, and Jordan
NOES:	-0-	
ABSTENTIONS:	-0-	
ABSENT:	5	Directors Della Sala, Potter, Calcagno, Davis, and Rubio

I, Mayor Joseph P. Russell, Chair of the Board of Directors of the Fort Ord Reuse Authority of the County of Monterey, State of California, do 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 12b, page 4, of the board meeting minutes of June 8, 2007, thereof, which are kept in the Minute Book resident in the offices of the Fort Ord Reuse Authority.

DATED AUG. 7, 2007 BY 
Joseph P. Russell, Chair