

Resolution 13-05

Resolution of the Fort Ord Reuse Authority     )  
Board adjusting the FORA 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 Development Fees 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 heard testimony from professional consultants, affected businesses, and community representatives and, on August 29, 2012, through adoption of resolution 12-5 and authorization to sign an

Implementation Agreement Amendments with Fort Ord land use jurisdictions, the Board directed calculation of a formula, which analyzes CIP contingent expenses and anticipated revenues to calibrate FORA's Development Fee Schedule and CFD Special Tax to the appropriate level. The formula calculation will be used as a basis for Board consideration of adjustments in the maximum Special Taxes for the CFD and the Fee Policy.

- E. As part of their CIP Review – Phase II Study contract work for the Authority, Economic and Planning Systems, Inc. (“EPS”) performed the Board-directed formula calculation (**Attachment A** to Item 7c, FORA Board meeting May 10, 2013), recommending an immediate proportional 23.6% reduction in FORA's Development Fee Schedule and CFD Special Tax. 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.
- F. 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.
- G. 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.
- H. The Board's annually approved CIP lists each project for which the Fort Ord Reuse Authority CFD special taxes and Basewide Development Fees are to be used and accompanying text describing the need for the project.

- I. The Basewide Development Fees and Special Tax rates listed in **Table 1** reflect a proportional 23.6% reduction. 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.
  
- J. Government Code Section 66001 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.
  
- K. Any development impact fee so adopted shall be effective on May 10, 2013.

NOW THEREFORE the Board hereby resolves that:

1. The CFD Special Tax and the Basewide Development Fee is amended in the amounts listed for each type of development in the attached fee schedule (**Table 1**) and these fees will hereafter be levied as Special Taxes at the maximum Special Tax rates in the attached schedule (**Table 1**).
  
2. This Basewide Development fee schedule and CFD maximum Special Tax shall be fixed to the CFD maximum Special Tax rates and indexed in the same manner on July 1<sup>st</sup> of every year as evidenced in the attached **Table 1 – Taxable Property Classifications and Maximum Development Fee Rates**.

3. The adjusted Development Fees and the revised maximum Special Tax rates shall become effective immediately.
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 Mayor Pro-Tem O'Connell, seconded by Mayor Rubio, the foregoing Resolution was passed on this 10th day of May, 2013, by the following vote:

AYES: Edelen, Gunter, Kampe, Morton, O'Connell, Oglesby, Parker, Pendergrass, Rubio, Selfridge,

NOES: None

ABSTENTIONS: None

ABSENT: Burnett, Potter, Salinas

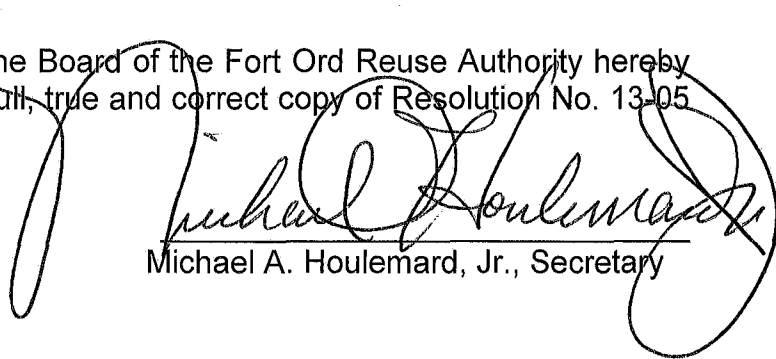
  
Jerry Edelen, Chair

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. 13-05 adopted May 10, 2013.

  
Michael A. Houlemard, Jr., Secretary

**TABLE 1 – TAXABLE PROPERTY CLASSIFICATIONS AND  
MAXIMUM DEVELOPMENT FEE RATES**  
(Figures as of May 10, 2013)

PROPERTY CLASSIFICATION	Maximum Development Fee Rates (One-time Development Fee Payments)
Undeveloped Property	\$ - 0 -
Developed Property	
New Residential	\$ 26,440 / Dwelling Unit
Existing Residential	\$ 7,950 / Dwelling Unit
Office	\$ 3,470 / Acre
Industrial	\$ 3,470 / Acre
Retail	\$ 71,470 / Acre
Hotel	\$ 5,900 / Room

On July 1, commencing July 1, 2013, 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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