

FORT ORD REUSE AUTHORITY  
RESOLUTION NO. 17-10

A RESOLUTION OF THE GOVERNING BODY OF THE FORT ORD REUSE AUTHORITY  
SET ASIDE ITS JUNE 10, 2011 APPROVAL OF MEMORANDUM OF AGREEMENT CONCERNING EASTSIDE  
PARKWAY ALIGNMENT

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

- A. WHEREAS on or about June 10, 2011, the FORA Board authorized the Executive Officer to execute a "Memorandum of Agreement Among and Between the Fort Ord Reuse Authority, California State University Monterey Bay, the Redevelopment Agency of the County of Monterey, the County of Monterey (the "County"), and Monterey Peninsula College Concerning the Alignment of Eastside Parkway on the Former Fort Ord" (the "MOA"); and
- B. WHEREAS, the County authorized execution of the MOA on or about October 10, 2011; and
- C. WHEREAS, the MOA was a multi-party agreement, but was never executed by any other party besides FORA and the County; and
- D. WHEREAS, on or about November 10, 2011, Keep Fort Ord Wild filed a Petition for Writ of Mandate in a case entitled *Keep Fort Ord Wild v. Fort Ord Reuse Authority, et al.* (Monterey County Superior Court Case No. M114961) (the "Action"), pursuant to which it claimed that FORA and the County's approvals of the MOA violated the California Environmental Quality Act ("CEQA"), and asked the Court to direct FORA and the County to set aside their approvals of the MOA; and
- E. WHEREAS, the FORA Board did not intend to approve the Eastside Parkway roadway, or any specific alignment thereof, by its June 10, 2011 action; and
- F. WHEREAS, the FORA Board has always intended to comply with CEQA with respect to its actions relating to the proposed Eastside Parkway, including but not limited to having approved an amended agreement with Whitson Engineers in March 2011 to include performance of preliminary environmental investigation relating to the project, and by which process a Preliminary Initial Study Checklist was prepared recommending that an Environmental Impact Report (EIR) be prepared; and
- G. WHEREAS, on March 14, 2017, the Court entered a Judgment Granting the Petition for Writ of Mandate, by which the Court directed the Clerk of the Superior Court to issue the Writ ordering Respondents to set aside their respective approvals of the MOA and requiring Respondents to comply with CEQA prior to considering the Eastside Parkway project; and
- H. WHEREAS, on May 12, 2017, FORA authorized settlement of the action with the Keep Fort Ord Wild foregoing its right to appeal the Judgment and Writ, and which settlement requires FORA to comply with the Writ.

NOW THEREFORE, BE IT RESOLVED by the FORA Board of Directors hereby resolves:

- 1. That the MOA is moot and cannot be executed; and
- 2. That the Board's prior action in June 10, 2011 authorizing execution of the MOA, and FORA's subsequent execution thereof shall be set aside and rescinded.

Upon motion by Board member Phillips, seconded by Board member O'Connell, the foregoing Resolution was passed on this 9th day of June, 2017, by the following vote:

AYES: Parker, Phillips, Edelen, O'Connell, Brown, Haffa, Alexander, Carbone, Gunter,  
Garfield, Reimers, Rubio  
NOES: None  
ABSENT: Adams, Morton

  
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Ralph Rubio, Chair

ATTEST.

  
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Michael A. Houlemard, Jr., Clerk