

# CONFIDENTIAL MEMORANDUM

**NAMED RECIPIENTS:** Parker Town Council

**AUTHOR:** George Allen

**SUBJECT:** Third Amendment to the E470 Establishing Contract

**DATE:** September 13, 2018

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## INTRODUCTION

As you may know, I perform citizen oversight of local governments with an emphasis on business, tax and financial issues. Citizen oversight of government is essential for our American system of self-government. It is essential that the citizens and the government discuss the financial issues in a professional and constructive manner. Since December 2016, E470 has been one of my oversight projects.

## THIRD AMENDMENT TO THE E470 ESTABLISHING CONTRACT

E470 has been circulating a proposed Third Amendment to the E470 Establishing Contract with its eight governing entities, including the Town of Parker. The Proposed Third Amendment is attached. If you read the Third Amendment, it is clear that E470 wants to expand its power and scope. For example, a new contract term, "Public Highways", is added to the Contract. Page four of the proposed Third Amendment has this change to the Purposes of the Contract.

2. Purposes. The purposes of the Authority shall be to finance, Construct, operate, and/or maintain E-470 and other Public Highways as may be determined by the Board to aid in regional cooperation regarding transportation infrastructure, improvements and facilities which are presently inadequate given continued population growth and financial constraints upon state and local government in Colorado that continue to serve the overall mission of E-470 as adopted by its Board of Directors, and in this regard to carry out all or any part of those functions or activities ~~defined under "E-470" or~~ permitted by the Act, except as specifically limited by this Establishing Contract.

My view is that the Third Amendment is a major expansion to the scope and authority of E470 that should not be approved. Rather the public needs to be protected from any expansion of the E470 business model and transportation model. From my oversight project, I have found that E470 has a pattern of mistakes, both large and small, which the organization does not seem to be aware of until I point them out. E470 is a business being run by government with government methods and tools. Basic business methods, tools, documents, and processes, E470 does not even have. The E470 cash flow projections show E470 will collect cash from the customers of \$5.3 billion in excess of all future operating costs, capital project costs and debt service. The E470 problems are so bad that an average citizen such as myself can review their documents and attend their board meetings and see a steady stream of problems and mistakes that cost our community millions. In June 2017, I requested that the

E470 Board freeze the tolls because their revenue and tolls were so excessive. In December 2017, the E470 legal advisor sent me a letter that I was potentially violating SEC regulations by making public comments at Board meetings. That E470 legal letter was completely erroneous. E470 has done 11 bond transactions over the last 14 years to achieve level debt service which it has still not yet achieved. Their tolls are among the highest in the United States on a per mile basis for a short, mostly flat, semi-circular highway. In 2007, at the top of the last interest rate cycle, E470 purchased an interest rate swap to convert variable rate debt to fixed rate debt just before variable interest rates plunged to 0.1%. Their timing was exactly wrong. They have incurred \$50 million of cash losses and accrued losses as a result. Believe me, I have a lot more E470 problems to talk about. This is not a business model that should be replicated or emulated or expanded.

It is beyond belief how E470 has taken advantage of the community with their excessive tolls and bad business decisions. In the near future, I will reveal my observations to the community which will be just as appalled as I am. I have a 49-page document from the 2017 E470 tolling and revenue study filled with verbatim comments from local citizens about excessive E470 tolls. The citizen comments are very critical of E470. I have another 67-page document from CDOT's I25 South Gap tolling study that also has many negative comments about E470. What is remarkable about the comments is that all these voters made similar comments about E470, independently of each other, and without any leadership or coordination or communication among them. E470's rating on Yelp is 1.5. Of the 107 ratings, 90 ratings give E470 one star. How long could you stay in business competing in the private sector with such disgruntled customers? And now, E470 is soliciting local government to approve an expansion of their scope and authority? This Third Amendment is a very bad idea.

I would like for you to image and envision the voters, who are already disgruntled about E470 tolls and I25 Gap tolls, who find out from me about all the E470 multi-million-dollar mistakes, excessive tolls and bad business decisions. Then imagine that it was in this environment that the Town of Parker approved an expansion of E470 scope and powers. Such a major expansion of big, expensive, over-reaching government will not be well received by voters. I have stated to the E470 Board numerous times that E470 is a gold mine with excessive tolls, bloated budgets and luxurious spending plans. If all our government entities spent money like E470, the private sector of the economy would be snuffed out of existence. I acknowledge that CDOT has a transportation funding problem, but expanding the E470 business model to other "Public Highways" is not the answer.

Some elected officials have asked if I have solutions in addition to all the criticism. Yes, I do. E470 should place tolls on a declining trajectory, pay down debt, no more bond transactions, no more investments in derivatives, raise the penetration rate for electronic tolls to at least the national average, fix the cash flow forecast and the master capital plan errors, build a projected balance sheet with declining debt service, adopt budget austerity, refrain from accelerating capital projects to consume cash that can be used to repay debt, and improve the dashboard report.

**Based on the foregoing, I request that the Town of Parker does not approve the E470 Third Amendment.**

## **COLORADO OPEN RECORDS DOCUMENT REQUEST**

I request the following documents from the Town of Parker from any July, August or September 2018 meeting or conference call with E470 representatives:

1. Any documents used or presented by E470;
2. Any notes taken by Town of Parker officials or staff at such meeting.

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