

AEROTROPOLIS REGIONAL TRANSPORTATION AUTHORITY
SPECIAL BOARD MEETING AGENDA

Board of Directors:

Matthew Hopper, Chairman
 Dave Gruber, Vice-Chair
 Nicole Johnston, Secretary
 Steve O’Dorisio, Treasurer
 Charles “Chaz” Tedesco

Date: August 15, 2018 (Wednesday)
Time: 11:00 a.m.
Place: Adams County Government Center
4430 S. Adams County Parkway
Brighton, CO 80601
(5th Floor Study Session Conference Room)

1. CALL TO ORDER AND APPROVE AGENDA
2. DECLARATION OF QUORUM/DIRECTOR QUALIFICATIONS/DISCLOSURE MATTERS
3. PUBLIC COMMENT and/or GUESTS
 Members of the public may express their views to the Board on matters that affect the Authority, Comments will be limited to three (3) minutes. Please sign in.
4. ADMINISTRATIVE MATTERS
 - A. Review and Consider Approval of August 10, 2018 Meeting Minutes (enclosed)
 - B. Other
5. FINANCIAL MATTERS
 - A. Update on City, County and District Funding of Authority Operating Account – Eric Weaver
 - B. Discuss Status of Unsolicited Proposal for Design, Build and Finance of Certain Transportation Improvements from the Aerotropolis Area Coordinating Metropolitan District
 - C. Review Proposed 2018 Budget
 - D. Other
6. LEGAL MATTERS
 - A. Review and Consider Approval of Intergovernmental Agreement for Project Funding and Reimbursement for Initial Design of ARTA Phase I Improvements \$750,000 (enclosed)

7. MANAGER MATTERS

- A. Status of Insurance Policy – Colorado Special Districts Property and Liability Pool Proposal (to be distributed)
- B. Status of Website
- C. Status of BoardPaq

8. OTHER BUSINESS

9. ADJOURNMENT

NEXT SCHEDULED BOARD MEETING
Wednesday, August 22, 2018 at 11:00 a.m. at
City of Aurora
15151 E. Alameda Avenue
Aurora, CO 80012

FUTURE MEETING SCHEDULE
Wednesday, August 29, 2018
Wednesday, September 5, 2018
Wednesday, September 12, 2018
Wednesday, September 19, 2018
Wednesday, September 26, 2018

RECORD OF PROCEEDINGS

**MINUTES OF A SPECIAL MEETING OF
THE BOARD OF DIRECTORS OF THE
AEROTROPOLIS REGIONAL TRANSPORTATION AUTHORITY
HELD
August 10, 2018**

A regular meeting of the Board of Directors (the “Board”) of the Aerotropolis Regional Transportation Authority (the “Authority”) was held on Friday, August 10, 2018 at 11:00 a.m. at the Adams County Government Center, 4430 S. Adams County Parkway, Brighton, Colorado.

Attendance: In attendance were Board members:

Matthew Hopper, Chairman
Dave Gruber, Vice Chairman
Nicole Johnston, Secretary
Steve O’Dorisio, Treasurer
Charles “Chaz” Tedesco, Director

Also in attendance were:

Alisha Reis, Adams County
Bryan Ostler, Adams County
Adam Burg, Adams County
Heidi Miller, Adams County
Ray Gonzales, Adams County
Jason Batchelor, City of Aurora
Michelle Gardner, City of Aurora
Todd Johnson, Terra Forma Solutions
Carla Ferreira, AACMD
James Mann, Ehlers
Rick Gonzales, Marchetti & Weaver, LLC
Elisabeth Cortese, McGeady Becher
MaryAnn McGeady, McGeady Becher P.C.
Rick Kron, Spencer Fane LLP
Denise Denslow, CliftonLarsonAllen LLP

1. Call to Order and Approve Agenda

Chairman Hopper called the meeting to order at 11:21 a.m. Upon a motion duly made by Vice-Chairman Gruber, seconded by Secretary Johnston, and upon vote unanimously carried, the Board approved the agenda as presented. It was noted that Items 5. B & C on the agenda are the same.

2. Declaration of Quorum/Director Qualifications/Disclosure Matters

Mr. Kron noted that the structure of the quorum of the RTA is: two directors from the City, two directors from the County and one from the Metro District. It was noted there

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were no issues. Vice-Chairman Gruber inquired as to the timeline necessary for declaring an election. The Authority Board directed Mr. Kron to review the statute and advise if the election is necessary. The consulting teams are reviewing the proposal.

3. Public Comment

There were no public comments.

4. Administrative Matters

A. Review and Consider Approval of August 1, 2018 Meeting Minutes

After review, upon a motion duly made by Secretary Johnston, seconded by Vice-Chairman Gruber, and upon vote unanimously carried, the Board approved the August 1, 2018 minutes as presented.

B. Other

None.

5. Financial Items

A. Update on City, County and District Funding of Authority Operating Account

Rick Gonzales stated there will be two bank accounts; one for checking and one money market underway. The final steps are to establish a PDPA number, which is underway and to submit signature cards. The UMB banking officer would like to visit the Board at the next meeting. UMB. The mailing address will be at CLA.

B. Status of Unsolicited Proposal

1. Results of August 8, 2018 Consultant Meeting
2. Next Steps

Mr. Kron reported on the meeting earlier in the week regarding the unsolicited proposal. Discussion items surrounding call dates, refunding, tranches and the 5 mill levy to be implemented by RTA. It appears that Gallagherization may not have been in the election questions. Discussion followed about potentially rerunning the election.

Jason Batchelor, with the City of Aurora, stated in the RTA statute that pertains to mill levies, it reads “up to 5 mills” and up to 1% of sales tax, so there may not be authority to Gallagherize. This issue needs to be resolved prior to the election.

C. Discuss Mini Unsolicited Proposal

Ms. McGeady noted the District is feeling the need to proceed expeditiously on the design. She reviewed the agreement and noted delivery dates of the design work. She described to the Board the process of a master service agreement with work task orders releasing the budget by phase. The purpose of this agreement is to implement the design

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work quickly. It does require annual appropriation and therefore is not to be considered a debt instrument.

D. Other

6. Legal Matters

A. Review and Approve Reimbursement Agreement with the District

Ms. McGeady stated that the agreement identifies that there is a benefit to both parties to proceed imminently but since ARTA does not currently have the funds, the district would front the reimbursement. Ms. McGeady reviewed the term limits in “the proposed” agreement. She noted that the agreement does have a third party engineer certification requirement. The agreement stipulates that ARTA intends to pay annually, by appropriation, with bond proceeds.

Treasurer O’Dorisio asked about the 90 day reference in the agreement. Ms. McGeady stated that the budget in the agreement covers only what can be completed within 90 days. The scope task order described what design is to be completed. Any costs verified in excess of the budget will not be an obligation of ARTA to repay. Additional design would be by amendment.

Todd Johnson reported that the first phase of design work will ultimately cost approximately \$4 million. This is at complete design. Mr. Batchelor reported that there is benefit to the district to design and construct due to efficiencies that could be leveraged. The district will also be expending funds for this portion of the design work that will allow for complete design for that specific area, and recognizing pro rata share of each entity.

Vice-Chairman Gruber would like to see a dual track expenditure report showing the pro rata share for each. He also inquired about the interest rate of 9%. James Mann reported that this is intended to be short term money. The 90 days also gives the ARTA time to find funding sources. Mr. Mann described potential scenarios. Ms. McGeady stated that the City and/or County are parties to the agreement. She reported that this is a full loan at the time of issuance versus a draw on the \$150,000. The terms were discussed. Chairman Hopper inquired about the ability to pay the obligation early with no penalty for pre-payment. Discussion of construction ensued. Mr. Johnson noted grading will probably begin October/November which would be the lead on releasing approximately 1,000 lots. There could be home closings as early as the 4th quarter of 2019.

Director Tedesco noted that ARTA had requested the mini proposal and would like to vote on what has been presented. Treasurer O’Dorisio asked if the other options should be considered at the meeting next week in addition to this. Vice-Chairman Gruber stated that there is minimum financial risk if approved today. Discussion followed. The Board took a break from 12:18 p.m. to 12:33 p.m. After discussion, upon a motion duly made by Treasurer O’Dorisio, seconded by Secretary Johnston, with Chairman Hopper abstaining, and Director Tedesco opposing, the Board approved to continue this discussion to the next meeting.

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Vice-Chairman Gruber asked for clarification on the interest rate. Ms. McGeady reported the interest is accrued from the date of issuance.

7. Manager Items

A. Set Budget Hearing for 2018 Budget on August 22, 2018 at 11:00 a.m.

The Board requested the hearing be held at 11:30 a.m., but that the meeting start at 11:00 a.m.

B. Status of Insurance Policy – Colorado Special District Property and Liability Pool Proposal

Ms. Denslow updated the Board, noting that the IGA is underway.

C. Status of Website

Dylan Monke is coordinating this with the County to get it up and running.

D. Status of BoardPaq

CLA has done some training to get the packet preparation under way.

8. Other Business

Vice-Chairman Gruber noted the City will run a ballot issue in November SB-152 to address monopoly by Comcast/Infinity. This impacts ARTA due to the need to identify locations of conduit to carry fiber. Vice-Chairman Gruber will be on the Aurora Water tour August 29th and is not available on September 12th for meeting scheduling purposes.

Mr. Batchelor noted an interchange at 30th and 470 will be added to the comp plan. It is now in 470's hand to review and approve.

Carla Ferreira noted the district received funding for \$350,000 to cover their portion of the administrative costs. The check will be available at the August 15th meeting.

9. Adjournment

As there were no further matters to discuss, upon a motion duly made by Treasurer Gruber, seconded by Secretary Johnston, and upon vote unanimously carried, the Board adjourned the meeting at 12:47p.m.

Respectfully submitted,

Secretary for the Meeting

INTERGOVERNMENTAL AGREEMENT FOR PROJECT FUNDING AND REIMBURSEMENT FOR INITIAL DESIGN OF ARTA PHASE I IMPROVEMENTS

THIS INTERGOVERNMENTAL AGREEMENT FOR PROJECT FUNDING AND REIMBURSEMENT FOR INITIAL DESIGN OF ARTA PHASE I IMPROVEMENTS (this “**Agreement**”) is made and entered into _____, 2018, (the “**Effective Date**”), by and between **AEROTROPOLIS AREA COORDINATING METROPOLITAN DISTRICT**, a political subdivision and quasi-municipal corporation of the State of Colorado (“**AACMD**”) and the **AEROTROPOLIS REGIONAL TRANSPORTATION AUTHORITY**, a political subdivision and body corporate of the State of Colorado formed pursuant to C.R.S. Section 43-4-601 et seq (“**ARTA**”), **ARTA** and **AACMD** are referred to collectively herein as the “**Parties**” and individually as a “**Party.**”

RECITALS

- A. ARTA was organized pursuant to an Intergovernmental Agreement Among the Board of County Commissioners of the County of Adams, the City of Aurora and the AACMD Establishing the Aerotropolis Regional Transportation Authority dated February 27, 2018 (the “**Establishment Agreement**”) for purposes of constructing, or causing to be constructed, a Regional Transportation System.
- B. The Regional Transportation System is defined in the Establishment Agreement and includes, among other improvements, the design of the improvements more particularly described on Exhibit A attached to this Agreement and incorporated herein by this reference (the “**Phase I Improvements**”).
- C. ARTA has determined it to be in the best interest of its taxpayers to begin the design of the Phase I Improvements.
- D. ARTA does not have funds available to begin the design of the Phase I Improvements.
- E. ARTA and AACMD are in discussions regarding the funding of the Regional Transportation System, and in particular the Unsolicited Proposal to Design, Build and Fund Certain Transportation Improvements submitted to ARTA by AACMD on June 8, 2018 (the “**Unsolicited Proposal**”).
- F. ARTA and AACMD desire to proceed with the beginning of the design of the Phase I Improvements as these discussions progress.
- G. AACMD has established a project budget in the amount of Seven Hundred Fifty Thousand and No/100 Dollars (\$750,000) for payment of the initial design work on the Phase I Improvements that is anticipated to be incurred in a ninety (90) day period which will begin on the Effective Date of this Agreement (respectively the “**Initial Design**”, “**Initial Design Period**” and the “**Initial Design Costs**”).

H. AACMD has funds available and has determined it to be in the best interest of its taxpayers to begin the Initial Design on behalf of ARTA pursuant to the terms and conditions of this Agreement.

I. ARTA and AACMD desire to enter into this Agreement to set forth their understanding regarding the funding of the Initial Design by AACMD and the terms for reimbursement of AACMD by ARTA together with such other matters as are hereinafter set forth.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, ARTA and AACMD agree as follows:

1. Funding and Design Activities by AACMD. The Parties acknowledge and agree that AACMD shall fund the Initial Design and shall cause the Initial Design to proceed in the manner hereinafter set forth.

1.1 Generally. AACMD shall coordinate, administer and oversee: (i) the preparation of all budgets, timetables and other documents pertaining to the Initial Design and (ii) the funding of the Initial Design. AACMD will engage engineers, surveyors and other consultants as required for the Initial Design (“**Service Provider(s)**”).

1.2 Comply with Legal Requirements. AACMD shall comply with all terms and conditions of applicable law in performing its obligations under this Agreement.

1.3 Taxes, Fees and Permits. AACMD or its Service Providers shall pay all applicable sales, use, and other similar taxes pertaining to the Initial Design, if any.

1.4 Insurance. AACMD shall procure and maintain, and shall cause the Service Providers to procure and maintain, the insurance described in Exhibit A attached hereto during the Initial Design.

2. Accounting. AACMD shall keep good and accurate books and records in sufficient detail to provide periodic reporting on the Interim Design Costs and the payment of same which books and records shall be made available for review (upon reasonable prior written notice) by ARTA.

2.1.1 Within thirty (30) days of completion of the Initial Design Period AACMD shall provide a written progress report to ARTA on the Initial Design containing the names of the engineering companies and other Service Providers under contract, the Initial Design Costs incurred and the amount of Initial Design Costs paid (the “**Progress Report**”).

2.1.2 The Initial Design Costs shall be subject to verification by a third party engineer independent of the owner of property within the boundaries of the ARTA, or any of the owner’s affiliates (the “**Independent Engineer**”).

2.1.3 The verification by the Independent Engineer shall include verification that the cost incurred for the Initial Design being verified (the “**Work**”) is reasonable and within market parameters for the Work, that the Work was confirmed to be for the Initial Design, and the Service Provider of the Work has been paid for the Work (“**Verified Costs**”).

2.1.4 During the Term of this Agreement, AACMD shall keep, or cause to be kept, proper and current books and accounts in which are recorded; the Verified Costs; and the District’s administrative and management expenses. Unless otherwise exempted under State statutes, the District shall prepare after the close of each fiscal year for the District, a complete audited financial statement for such year in reasonable detail covering the above information, certified by a public accountant selected by the District, and shall furnish a copy of such statement to ARTA upon its request.

3. Reimbursement of AACMD. Subject to the receipt of funding pursuant to Section ___ herein and all other applicable provisions hereof, ARTA agrees to make payment to AACMD for all Verified Costs, together with interest thereon.

4. Interest and Payment Priority. Interest shall accrue from the date of deposit of funds in the AACMD bank account for payment to each of the Service Providers and shall compound annually on the Verified Costs at the rate of nine percent (9%) per annum until paid. The Parties agree that payments by ARTA to AACMD shall credit first against accrued and unpaid interest and then to the principal amount due.

5. Funding Requirement. The Parties agree that no payment shall be required of ARTA hereunder unless and until ARTA issues bonds or any other evidence of indebtedness or contractual obligation (“**Bonds**”) in an amount sufficient to reimburse AACMD for all of the Verified Costs. ARTA agrees to exercise reasonable efforts to issue Bonds to reimburse AACMD. In addition, ARTA agrees that it shall not issue any Bonds unless such issuance of Bonds provides revenues sufficient to pay the Verified Costs plus interest to AACMD. It is hereby agreed and acknowledged that this Agreement evidences an intent to reimburse AACMD hereunder, but that this Agreement shall not constitute a debt or indebtedness of ARTA within the meaning of any constitutional or statutory provision, nor shall it constitute a multiple fiscal year financial obligation, and the making of any reimbursement hereunder shall be at all times subject to annual appropriation by ARTA. By acceptance of this Agreement, AACMD agrees and consents to all of the limitations in respect of the payment of the principal and interest due hereunder. ARTA and AACMD agree that any agreement between ARTA and AACMD resulting from discussions on the Unsolicited Proposal shall include terms for repayment of AACMD for the Verified Costs, plus interest.

6. Default/Remedies. In the event of a breach or default of this Agreement by either Party, the non-defaulting Party shall be entitled to exercise all remedies available at law or in equity after the provision of thirty (30) days prior written notice of the alleged breach or default to the other Party. In the event of any litigation, arbitration or other proceeding to enforce the terms, covenants or conditions hereof, the prevailing Party in such proceeding shall obtain as part of its judgment or award its reasonable attorneys’ fees.

7. Notices and Communications. All notices, statements, demands, requirements, approvals or other communications and documents (“**Communications**”) required or permitted to be given, served, or delivered by or to any Party or any intended recipient under this Agreement shall be in writing and shall be given to the applicable address set forth below (“**Notice Address**”). Communications to a Party shall be deemed to have been duly given (i) on the date and at the time of delivery if delivered personally to the Party to whom notice is given at such Party’s Notice Address; or (ii) on the date and at the time of delivery or refusal of acceptance of delivery if delivered or attempted to be delivered by an overnight courier service to the Party to whom notice is given at such Party’s Notice Address; or (iii) on the date of delivery or attempted delivery shown on the return receipt if mailed to the Party to whom notice is to be given by first-class mail, sent by registered or certified mail, return receipt requested, postage prepaid and properly addressed to such Party at such Party’s Notice Address; or (iv) on the date and at the time shown on the facsimile or electronic mail message if telecopied or sent electronically to the number or address designated in such Party’s Notice Address and receipt of such telecopy or electronic mail message is electronically confirmed. The Notice Addresses for each Party are as follows:

If to ARTA:	Aerotropolis Regional Transportation Authority c/o CliftonLarsonAllen Attention: Bob Blodgett 8390 E. Crescent Parkway, Suite 500 Greenwood Village, Colorado 80111 Phone: (303) 779-4525 Fax: (303) 773-2050 Email: Bob.Blodgett@claconnect.com
With copies to:	Spencer Fane LLP Attention: Tom George 1700 Lincoln Street, Suite 2000 Denver, Colorado 80203 Phone: (303) 839-3800 Fax: (303) 839-3838 Email: tgeorge@spencerfane.com
If to AACMD:	Aerotropolis Area Coordinating Metropolitan District c/o Special District Management Services, Inc. Attention: Lisa Johnson 141 Union Blvd., Suite 150 Lakewood, Colorado 80228 Phone: (303) 987-0835 Email: ljohnson@sdmsi.com

With copies to: McGeady Becher P.C.
 Attention: Elisabeth Cortese
 450 E. 17th Avenue, Suite 400
 Denver, Colorado 80203
 Phone: (303) 592-4380
 Fax: (303) 592-4385
 Email: ecortese@specialdistrictlaw.com

8. Further Acts. Each of the Parties hereto shall execute and deliver all such documents and perform all such acts as reasonably necessary, from time to time, to carry out the matters contemplated by this Agreement.

9. Entire Agreement; Headings for Convenience Only; Not to be Construed Against Drafter; No Implied Waiver. This Agreement constitutes the entire agreement among the Parties hereto pertaining to the subject matter hereof. No change or addition is to be made to this Agreement except by written amendment executed by ARTA and AACMD. The headings, captions and titles contained in this Agreement are intended for convenience of reference only and are of no meaning in the interpretation or effect of this Agreement. This Agreement shall not be construed more strictly against one (1) Party than another merely by virtue of the fact that it may have been initially drafted by one (1) of the Parties or its counsel, since all Parties have contributed substantially and materially to the preparation hereof. No failure by a Party to insist upon the strict performance of any term, covenant or provision contained in this Agreement, no failure by a Party to exercise any right or remedy under this Agreement, and no acceptance of full or partial payment owed to a Party during the continuance of any default by the other Party(ies), shall constitute a waiver of any such term, covenant or provision, or a waiver of any such right or remedy, or a waiver of any such default unless such waiver is made in writing by the Party to be bound thereby. Any waiver of a breach of a term or a condition of this Agreement shall not prevent a subsequent act, which would have originally constituted a default under this Agreement, from having all the force and effect of a default.

10. Governing Law. This Agreement is entered into in Colorado and shall be construed and interpreted under the law of the State of Colorado without giving effect to principles of conflicts of law which would result in the application of any law other than the law of the State of Colorado.

11. Severability. If any provision of this Agreement is declared void or unenforceable, such provision shall be severed from this Agreement and shall not affect the enforceability of the remaining provisions of this Agreement.

12. Assignment; Binding Effect. Except as expressly permitted under this Agreement, none of the Parties hereto may assign any of their rights or obligations under this Agreement without the prior written consent of the other Party, which consent may be withheld in each Party's sole and absolute discretion. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their permitted assigns.

13. Counterparts; Copies of Signatures. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall

constitute one (1) and the same instrument. The signature pages from one (1) or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signatures of all Parties may be physically attached to a single document. This Agreement may be executed and delivered by facsimile or by electronic mail in portable document format (.pdf) or similar means and delivery of the signature page by such method will be deemed to have the same effect as if the original signature had been delivered to the other Party. Upon execution of this Agreement by ARTA and AACMD, shall provide a fully executed copy of this Agreement to ARTA.

14. Time of the Essence. Time is of the essence for performance or satisfaction of all requirements, conditions, or other provisions of this Agreement, subject to any specific time extensions set forth herein.

15. Computation of Time Periods. All time periods referred to in this Agreement shall include all Saturdays, Sundays and holidays, unless the period of time specifies business days. If the date to perform any act or give a notice with respect to this Agreement shall fall on a Saturday, Sunday or national holiday the act or notice may be timely performed on the next succeeding day which is not a Saturday, Sunday or a national holiday.

16. No Waiver of Governmental Immunity. Notwithstanding any provision of this Agreement to the contrary, nothing in this Agreement shall be deemed a waiver of any protections afforded AACMD or ARTA pursuant to Colorado law, including, but not limited to, the Colorado Governmental Immunity Act.

17. Amendments. This Agreement may not be amended except by written agreement signed by all Parties.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date first set forth above.

**AEROTROPOLIS REGIONAL
TRANSPORATION AUTHORITY,**
a political subdivision and body corporate of the
State of Colorado formed pursuant to C.R.S.
Section 43-4-601

By: _____
Name: _____
Title: _____

**AEROTROPOLIS AREA
COORDINATING METROPOLITAN
DISTRICT,** a political subdivision and quasi-
municipal corporation of the State of Colorado

By: _____
Name: _____
Title: _____

EXHIBIT A

PHASE I IMPROVEMENTS - 2018 -2021

1. Design The Aurora Highlands Parkway from E470 to Aura Boulevard.
2. Design 26th Avenue from E470 to Main Street.
3. Design E470 interim project connection (right in/out).
4. Design the full interchange of E470/38th Avenue/The Aurora Highlands Parkway.
5. Design the full interchange of I-70/Harvest/Powhatan Roads.
6. Design I-70/Harvest/Powhatan Roads interim connection.

EXHIBIT B

Required Insurance

AACMD shall maintain the amounts and types of insurance described below and shall cause the Service Providers, as appropriate, to maintain such coverages from insurance companies authorized to do business in the State of Colorado having a Best's Insurance Report Rating of A/VI or better covering the risks described below:

A. Commercial General Liability Insurance (including premises, operations, products, completed operations, and contractual liability coverages, subject to policy terms and conditions) in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence, One Million Dollars (\$1,000,000.00) personal injury and [advertising injury], and Two Million Dollars (\$2,000,000.00) General Aggregate.

B. Automobile Liability Insurance for all motor vehicles operated by or for Constructing Party, including owned, hired, and non-owned autos, with minimum Combined Single Limit for Bodily Injury and Property Damage of One Million Dollars (\$1,000,000.00) for each accident.

C. Workers Compensation Insurance for all employees as required by law, to cover the applicable statutory limits in the State of Colorado and employer's liability insurance with limits of liability of not less than One Million Dollars (\$1,000,000.00) for bodily injury by accident (each accident) and One Million Dollars (\$1,000,000.00) for bodily injury by disease (each employee).

D. With respect to Service Providers that provide professional services (e.g., engineers), professional liability insurance, including prior acts coverage sufficient to cover any and all claims arising out of the services, or a retroactive date no later than the date of commencement of the services, with limits of not less than Two Million Dollars (\$2,000,000.00) per claim and Two Million Dollars (\$2,000,000.00) annual aggregate. The professional liability insurance shall be maintained continuously during the term of the agreement with such Service Provider and so long as the insurance is commercially reasonably available.

The following general requirements shall apply to all insurance policies described in this Exhibit.

1. All liability insurance policies, except workers compensation insurance and professional liability insurance, shall be written on an occurrence basis.

2. All insurance policies required hereunder except Workers Compensation and Employers Liability and professional liability shall: (i) name AACMD as "additional insured" utilizing an ISO CG 2010 form acceptable to AACMD; (ii) be issued by an insurer authorized in the State of Colorado; (iii) provide that such policies shall not be canceled or not renewed without at least thirty (30) days' prior written notice to the Parties, and (iv) provide a notice within ten (10) days of any non-payment of premium. Each additional insured endorsement (or each policy, by reasonably acceptable endorsement) shall contain a primary insurance clause providing that the coverage afforded to the additional insureds is primary and that any other insurance or self-insurance available to any of the additional insureds is non-contributing. A

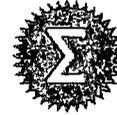
waiver of subrogation endorsement for the workers' compensation coverage shall be provided in favor of the Parties.

3. The liability insurance policies shall provide that such insurance shall be primary on a non-contributory basis.

The Service Providers shall provide AACMD with certificates evidencing the insurance coverages required by this Exhibit prior to the commencement of any activity or operation which could give rise to a loss to be covered by such insurance. Replacement certificates shall be sent to AACMD, as policies are renewed, replaced, or modified.

The Following Are Post Packet Items:

Items That Were
Distributed At The Meeting
And Not In
The Original Packet



Memo

To: Aerotropolis Regional Transportation Authority (RTA) Board of Directors

From: James Mann, Senior Municipal Advisor and Principal
Jim Harrington, Senior Municipal Advisor
Melissa Buck, Municipal Advisor

Date: August 15, 2018

Subject: Ehlers Review of the Unsolicited Proposal, Mini-Unsolicited Proposal, and Supporting Documents

Ehlers received a copy of the Unsolicited Proposal and supporting documentation on July 19, 2018 and August 8, 2018, respectively. We also received a copy of the Mini-Unsolicited Proposal at the RTA Board Meeting on August 10, 2018.

Our review is based upon the following documents:

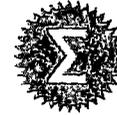
- Colorado Aerotropolis Visioning Study
- East Aurora Roadway Constraints Map
- Roadway Exhibit Cost Projection
- Roadway Phasing Plan
- ARTA Intergovernmental Agreement with Adams County and City of Aurora
- First Amended Restated Service Plan for Aerotropolis Area Coordinating Metropolitan District
- Term Sheet for Unsolicited Proposal dated June 8, 2018
- Financial Plan produced by D.A. Davidson (Exhibit C)
- Term Sheet for Mini Unsolicited Proposal
- ArLand Aurora Highlands Market Study dated December 9, 2016
- EPS Review of the ArLand Aurora Highlands Market Study dated January 10, 2017
- Aurora Highlands Transportation Impact Study prepared by Felsburg Holt & Ullevig

Although there are a number of comments and questions regarding the documents listed above, our comments and questions are limited to the following main points:

Comments and Questions Regarding the Unsolicited Proposal:

1. We have not yet had a chance to speak to Bond Counsel. Due to the proposed structure, the bonds may be taxable.
2. Similarly, a 40-year term for each phase may be longer than the useful life of the improvement, which would also make the bonds taxable. So as to maintain the tax-exempt status of the bonds,





it may make more sense to issue each phase as a separate bond issue with various terms rather than one cash-flow note.

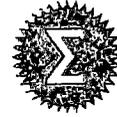
- The Unsolicited Proposal and associated Financing Plan in its current form do not fully finance the roads RTA has agreed to construct (the "Roads"). The Roadway Phasing Plan (the "Phasing Plan") indicates the RTA portion will cost approximately \$175 million in 2018 dollars. However, according to the Phasing Plan, most the projects are expected to break ground 2022 – 2032. Meaning, construction cost projections, adjusted for BLS reported 3.7% Denver area inflation, are expected to be as follows:

Project	Description (RTA Portion)	Total Cost	RTA Portion (2018\$)	RTA Portion (Inflation Adj.)
48th Avenue	E470 to Gun Club (2 of 6 lanes)	\$4,899,840	\$1,714,944	\$2,113,641
48th Avenue	Gun Club to Harvest (2 of 6 lanes)	6,082,560	2,128,896	3,034,248
48th Avenue	Harvest to Pow haton (2 of 6 lanes)	12,165,120	4,257,792	6,068,491
38th Avenue	Himalaya to E470 (NB 2 lanes)	14,931,280	14,931,280	19,171,042
38th Avenue	Himalaya to E470 (SB 2 lanes)	8,039,920	8,039,920	13,132,173
TAH Parkway	E470 to Main St (1 of 4 lanes)	3,674,880	3,674,880	3,776,858
TAH Parkway	Main St to Aura Blvd (1 of 4 lanes)	7,349,760	2,939,904	3,021,486
TAH Parkway	Aura Blvd to Pow haton (1 of 4 lanes)	26,169,600	9,159,360	11,068,141
26th Avenue	E470 to Main St (2 of 6 lanes)	3,210,240	1,123,584	1,154,763
26th Avenue	Main St to Harvest (2 of 6 lanes)	9,630,720	3,370,752	4,884,613
27th Avenue	Harvest to Pow haton (2 of 6 lanes)	14,530,560	5,085,696	7,369,765
Pow haton Road	I-70 to 26th St (3 of 6 lanes)	18,928,000	12,303,200	14,867,147
Pow haton Road	26th St to 48th (3 of 6 lanes)	32,032,000	20,820,800	25,159,786
Pow haton Road	48th to 56th (3 of 6 lanes)	25,920,000	16,848,000	20,359,068
E470/38th Interchange	Interchange (100%)	24,000,000	24,000,000	32,340,280
HM/PR/I-70	Interchange (100%)	36,000,000	36,000,000	52,271,292
Pow haton/I-70 Int	Initial Interchange (100%)	6,080,000	6,080,000	6,925,763
Picadilly Interchange	Interchange (NEATS) (Design only)	49,440,000	2,472,000	3,893,629
Total		\$303,084,480	\$174,951,008	\$230,612,184
			<i>Difference</i>	<i>(\$55,661,176)</i>

- On a related point, how does the RTA and/or District expect to cover construction cost overruns should bids (or actual costs) come in higher than expected?
- How was RTA's portion of total construction costs determined? For example, RTA is responsible for building one out of four lanes for the TAH Parkway, which one would assume is 25% of the total cost, yet RTA's portion ranges from 35% to 100% (see chart below for breakdown).

Project	Description (RTA Portion)	Total Cost	RTA Portion (2018\$)	RTA Portion
48th Avenue	E470 to Gun Club (2 of 6 lanes)	\$4,899,840	\$1,714,944	35.0%
48th Avenue	Gun Club to Harvest (2 of 6 lanes)	6,082,560	2,128,896	35.0%
48th Avenue	Harvest to Pow haton (2 of 6 lanes)	12,165,120	4,257,792	35.0%
38th Avenue	Himalaya to E470 (NB 2 lanes)	14,931,280	14,931,280	100.0%
38th Avenue	Himalaya to E470 (SB 2 lanes)	8,039,920	8,039,920	100.0%
TAH Parkway	E470 to Main St (1 of 4 lanes)	3,674,880	3,674,880	100.0%
TAH Parkway	Main St to Aura Blvd (1 of 4 lanes)	7,349,760	2,939,904	40.0%
TAH Parkway	Aura Blvd to Pow haton (1 of 4 lanes)	26,169,600	9,159,360	35.0%
26th Avenue	E470 to Main St (2 of 6 lanes)	3,210,240	1,123,584	35.0%
26th Avenue	Main St to Harvest (2 of 6 lanes)	9,630,720	3,370,752	35.0%
27th Avenue	Harvest to Pow haton (2 of 6 lanes)	14,530,560	5,085,696	35.0%
Pow haton Road	I-70 to 26th St (3 of 6 lanes)	18,928,000	12,303,200	65.0%
Pow haton Road	26th St to 48th (3 of 6 lanes)	32,032,000	20,820,800	65.0%
Pow haton Road	48th to 56th (3 of 6 lanes)	25,920,000	16,848,000	65.0%
E470/38th Interchange	Interchange (100%)	24,000,000	24,000,000	100.0%
HM/PR/I-70	Interchange (100%)	36,000,000	36,000,000	100.0%
Pow haton/I-70 Int	Initial Interchange (100%)	6,080,000	6,080,000	100.0%
Picadilly Interchange	Interchange (NEATS) (Design only)	49,440,000	2,472,000	5.0%
Total		\$303,084,480	\$174,951,008	57.7%



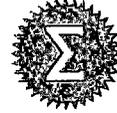


6. We have not received a copy of the housing development construction schedule. How does RTA's Phasing Plan correspond with the Aurora Highlands build out? Ideally, roads would be constructed slightly before or in tandem with the benefited housing development.
7. The Term Sheet stipulates the bonds accrue interest until sufficient revenues are generated to pay down principal and interest. Meaning, if development fails to follow projections, the RTA could pay significantly more than what is shown in the Finance Plan.
8. Based on various conversations at several RTA related meetings, it seems the investor in the Unsolicited Proposal is someone closely affiliated with the developer. If so, this may be a conflict of interest that must be disclosed.
9. If #8 is true, because the bonds are structured as cash-flow bonds with compound interest accruing daily, the developer may have an incentive to delay developing Aurora Highlands in order to maximize the amount of monies due.
10. Based on our conversations with District staff, the bonds have five-year call protection after which they would be able to be refinanced at par plus accrued interest. However, as presently drafted, the Unsolicited Proposal does not allow partial refinancings. Meaning, RTA will not be able to lower the 9% compound interest rate unless it can refinance the entire \$175 million. Based on the Finance Plan, majority of the bonds do not start cash flowing until 2055, by which point RTA will have paid approximately \$504 million in debt service, most of which is accrued interest (assuming the development occurs as projected).
11. Costs of issuance were not included in the Term Sheet. What are estimated costs of issuance?
12. It is assumed that the District will undertake a competitive public bidding process to select construction partners and with guaranteed maximum price contracts. What is the District's experience in managing the procurement process and selecting a qualified firm? What will be the RTA's involvement in the selection and procurement process?
13. RTA has agreed to finance a portion of the total Road construction with the understanding that the District will eventually build out the rest. What remedies does the RTA have if these additional lanes and other road projects are not built?
14. Similarly, what remedies will RTA have in enforcing contracts or if work performed does not meet expectations?

Comments and Questions Regarding the Financing Plan:

1. Approximately \$24 million will be spent to construct an interchange at E-470 and 38th Avenue. As E-470 will ultimately pay these hard construction costs over a ten-year period, this project should be a separate RTA obligation. We believe there is large market appetite for such bonds.





2. 9% compound interest represents an onerous burden to the RTA and will limit its ability to finance any additional improvements for the next 40 -50 years.
3. There is an inconsistency between the Term Sheet and the attached Financial Plan. RTA is allowed to issue debt with a 40-year maturity, which is reflected in the Term Sheet. The Financial Plan shows a 50-year repayment schedule and may have to be revised.
4. Regarding the Finance Plan's assumptions:
 - a. One half of Adams County's General Fund levy is 11.279 mills, not 12.1 mills.
 - b. The residential assessment rate is modeled at 7.2%. It is expected this rate will decline to 6.11% in 2019.
 - c. The Financial Plan assumes the RTA levy is Gallagherized. Per State Statute, the levy is not subject to the Gallagher Amendment.
5. How will the above assumption changes affect the Financing Plan?
6. EPS notes the preliminary development/absorption projections were an aggressive at 695 units per year on average, equal to 40% of the City of Aurora's average annual total construction rate from 2001 to 2015 and 74% of the City's annual development from 2009 to 2015. That being said, it appears these assumptions were scaled down to 652 per year on average. How will a slowdown in construction affect the Financing Plan?
7. How will RTA administrative costs be paid? The Financial Plan does not appear to provide for these costs.

Conclusions and Recommendations:

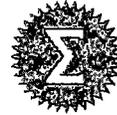
The RTA appears to have two options:

- A. Propose to amend the Unsolicited Proposal with the RTA's provisions; or
- B. Investigate an alternative financing scenario and enter into a short-term financing agreement with the City of Aurora and/or Adams County.

A: If the Board desires to counter Unsolicited Proposal, the following should be considered:

1. Approximately \$24 million will be spent to construct an interchange at E-470 and 38th Avenue. This project should be undertaken as a separate RTA obligation as there is a dedicated funding source.
2. To ensure the tax-exempt status of the bonds, the RTA should issue the debt directly, not through the District.
3. A tax-exempt 9% compound interest financing scenario is not a reasonable rate for the RTA to pay. 9% may be reasonable if the bonds are taxable.
4. Rather than issuing one fill-up note, RTA should issue separate bonds tranches in accordance with development of the Aurora Highlands.





5. The Finance Plan's assumptions must be revised, including the RTA's 40-year debt limitation and the estimated administrative costs.

6. The Bonds should be discharged after 40 years in line with RTA guidelines and what is commonly seen in many similar special districts. Discharging the bonds after 40 years also incentivizes the developer to complete build out.

7. A provision requiring the District Board to report any potential conflicts of interest (if any) to the RTA Board as it relates to the issuance of debt, consultant contracting, and construction contracting.

8. The RTA should engage an independent engineer to verify and monitor construction costs.

B: If the Board would like to investigate its financing options:

1. A proposed term sheet for \$750,000 of short-term financing is attached to this memo.

2. Ehlers will work with RTA, Adams County, and City of Aurora staff to develop an alternative plan of finance in accordance with RTA debt issuance guidelines.

Lastly, it appears several proposed RTA financed Roads will benefit areas outside of the RTA. The RTA should be expanded to include these communities, thus sharing the cost burden of financing the Roads with those that benefit from them.

ARTA
8-13-18
ay

INTERGOVERNMENTAL AGREEMENT FOR PROJECT FUNDING AND REIMBURSEMENT FOR INITIAL DESIGN OF ARTA PHASE I IMPROVEMENTS

THIS INTERGOVERNMENTAL AGREEMENT FOR PROJECT FUNDING AND REIMBURSEMENT FOR INITIAL DESIGN OF ARTA PHASE I IMPROVEMENTS (this “**Agreement**”) is made and entered into _____, 2018, (the “**Effective Date**”), by and between **AEROTROPOLIS AREA COORDINATING METROPOLITAN DISTRICT**, a political subdivision and quasi-municipal corporation of the State of Colorado (“**AACMD**”) and the **AEROTROPOLIS REGIONAL TRANSPORTATION AUTHORITY**, a political subdivision and body corporate of the State of Colorado formed pursuant to C.R.S. Section 43-4-601 et seq (“**ARTA**”), **ARTA** and **AACMD** are referred to collectively herein as the “**Parties**” and individually as a “**Party**.”

RECITALS

A. ARTA was organized pursuant to an Intergovernmental Agreement Among the Board of County Commissioners of the County of Adams, the City of Aurora and the AACMD Establishing the Aerotropolis Regional Transportation Authority dated February 27, 2018 (the “**Establishment Agreement**”) for purposes of constructing, or causing to be constructed, a Regional Transportation System.

B. The Regional Transportation System is defined in the Establishment Agreement and includes, among other improvements, the design of the improvements more particularly described on Exhibit A attached to this Agreement and incorporated herein by this reference (the “**Phase I Improvements**”).

C. Certain adjacent improvements will be designed together with the Phase I Improvements as such adjacent improvements are an integrated part of the roads included in the Phase I Improvements, (for example additional lanes to the lanes determined to be regional in the same road), (the “**Adjacent Improvements**”)

D. ARTA has determined it to be in the best interest of its taxpayers to begin the design of the Phase I Improvements and the **Adjacent Improvements**.

E. ARTA does not have funds available to begin the design of the Phase I Improvements.

F. ARTA and AACMD are in discussions regarding the funding of the Regional Transportation System, and in particular the Unsolicited Proposal to Design, Build and Fund Certain Transportation Improvements submitted to ARTA by AACMD on June 8, 2018 (the “**Unsolicited Proposal**”).

G. ARTA and AACMD desire to proceed with the beginning of the design of the Phase I Improvements as these discussions progress.

H. AACMD has established a project budget in an amount not to exceed Seven Hundred Fifty Thousand and No/100 Dollars (\$750,000) for payment of the initial design work

on the Phase I Improvements that is anticipated to be incurred in a ninety (90) day period which will begin on the Effective Date of this Agreement (respectively the “**Initial Design**”, “**Initial Design Period**” and the “**Initial Design Costs**”).

I. AACMD has established a project budget in an estimated amount of Two Million Seven Hundred Thousand and No/100 Dollars (\$2,700,000) for payment of the initial design work on the Adjacent Improvements that is anticipated to be incurred in a ninety (90) day period which will begin on the Effective date of this Agreement (respectively the “**Adjacent Improvement Initial Design**”, “**Adjacent Improvement Initial Design Period**” and the “**Adjacent Improvement Initial Design Costs**”).

J. AACMD has funds available and has determined it to be in the best interest of its taxpayers to begin the Initial Design on behalf of ARTA pursuant to the terms and conditions of this Agreement.

K. ARTA and AACMD desire to enter into this Agreement to set forth their understanding regarding the funding of the Initial Design by AACMD and the terms for reimbursement of AACMD by ARTA together with such other matters as are hereinafter set forth.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, ARTA and AACMD agree as follows:

1. Funding and Design Activities by AACMD. The Parties acknowledge and agree that AACMD shall fund the Initial Design and the Adjacent Improvements Initial Design and shall cause the Initial Design and the Adjacent Improvements Initial Design to proceed in the manner hereinafter set forth. The parties acknowledge that the Initial Design Costs were based upon an estimate of design costs that would be incurred on the Initial Design within the Initial Design Period and that the design of the Phase I Improvements will not be complete within the Initial Design Period or for the Initial Design Costs. The parties also acknowledge that the Adjacent Improvements Initial Design Costs were based upon an estimate of design costs that would be incurred on the Adjacent Improvements Initial Design within the Adjacent Improvements Initial Design Period and that the design of the Adjacent Improvements will not be complete within the Adjacent Improvements Initial Design Period or for the Adjacent Improvements Initial Design Costs

1.1 Generally. AACMD shall coordinate, administer and oversee: (i) the preparation of all budgets, timetables and other documents pertaining to the Initial Design and the Adjacent Improvements (ii) the funding of the Initial Design and the Adjacent Improvements. AACMD will engage engineers, surveyors and other consultants as required for the Initial Design and the Adjacent Improvements (“**Service Provider(s)**”).

1.2 Comply with Legal Requirements. AACMD shall comply with all terms and conditions of applicable law in performing its obligations under this Agreement.

1.3 Taxes, Fees and Permits. AACMD or its Service Providers shall pay all applicable sales, use, and other similar taxes pertaining to the Initial Design, if any.

1.4 Insurance. AACMD shall procure and maintain and shall cause the Service Providers to procure and maintain, the insurance described in Exhibit B attached hereto during the Initial Design.

2. Accounting and Reporting. AACMD shall keep good and accurate books and records in sufficient detail to provide periodic reporting on the Initial Design Costs and the Adjacent Improvements Initial Design and the payment of same which books and records shall be made available for review (upon reasonable prior written notice) by ARTA.

2.1.1 AACMD shall provide a verbal report as to the progress made on the Initial Design and Adjacent Improvements Initial Design to ARTA at each Board meeting during the Initial Design Period.

2.1.2 Within thirty (30) days of commencement of the Initial Design Period AACMD shall provide a written progress report to ARTA on the Initial Design and the Adjacent Improvements Initial Design containing the names of the engineering companies and other Service Providers under contract, the Initial Design Costs and Adjacent Improvements Initial Design Costs incurred and the amount of Initial Design Costs and the Adjacent Improvements Initial Design Costs paid (the “**Initial Progress Report**”).

2.1.3 Within thirty (30) days of completion of the Initial Design Period AACMD shall provide a written progress report to ARTA on the Initial Design and the Adjacent Improvements Initial Design containing the names of the engineering companies and other Service Providers under contract, the Initial Design Costs and Adjacent Improvements Initial Design Costs incurred and the amount of Initial Design Costs and the Adjacent Improvements Initial Design Costs paid (the “**Completion Progress Report**”).

2.1.4 The Initial Design Costs and Adjacent Improvements Initial Design Costs will be subject to verification by a third party engineer retained by AACMD and independent of the owner of property within the boundaries of the ARTA, or any of the owner’s affiliates (the “**Independent Engineer**”).

2.1.5 The verification by the Independent Engineer shall include verification that the cost incurred for the Initial Design being verified (the “**Work**”) is reasonable and within market parameters for the Work, that the Work was confirmed to be for the Initial Design, and the Service Provider of the Work has been paid for the Work (“**Verified Costs**”). Although the Verified Costs may exceed \$750,000, in no event shall the amount due for reimbursement under this Agreement from ARTA to AACMD exceed \$750,000 plus interest accrued pursuant to Section 4 below without the prior written consent of ARTA or an amendment to this Agreement. In no event shall the Verified Costs to be paid by ARTA include the Adjacent Improvements Initial Design Costs.

2.1.6 During the Term of this Agreement, AACMD shall keep, or cause to be kept, proper and current books and accounts in which are recorded; the Verified Costs; and the District’s administrative and management expenses. Unless otherwise exempted under State

statutes, the District shall prepare after the close of each fiscal year for the District, a complete audited financial statement for such year in reasonable detail covering the above information, certified by a public accountant selected by the District, and shall furnish a copy of such statement to ARTA upon its request.

3. Reimbursement of AACMD. Subject to the receipt of funding pursuant to Section ___ herein and all other applicable provisions hereof, ARTA agrees to make payment to AACMD for all Verified Costs, together with interest thereon.

4. Interest and Payment Priority. Interest shall accrue from the date of deposit of funds in the AACMD bank account for payment to each of the Service Providers and shall compound annually at the rate of nine percent (9%) per annum until paid. The Parties agree that payments by ARTA to AACMD shall credit first against accrued and unpaid interest and then to the principal amount due.

5. Funding Requirement. The Parties agree that no payment shall be requested of ARTA hereunder unless and until ARTA issues bonds or any other evidence of indebtedness or contractual obligation (“**Bonds**”) in an amount sufficient to reimburse AACMD for all of the Verified Costs. ARTA may exercise reasonable efforts to issue Bonds to reimburse AACMD. In addition, ARTA agrees that it does not intend to issue any Bonds unless such issuance of Bonds provides revenues sufficient to pay the Verified Costs plus interest to AACMD.

5.1 ARTA, may make payment on the amounts due hereunder out of any available revenues. It is hereby agreed and acknowledged that this Agreement evidences an intent to reimburse AACMD hereunder, but that this Agreement shall not constitute a debt or indebtedness of ARTA within the meaning of any constitutional or statutory provision, nor shall it constitute a multiple fiscal year financial obligation, and the making of any reimbursement hereunder shall be at all times subject to annual appropriation by ARTA. Nothing herein shall be deemed or construed to create a “contract” or “other obligation” within the meanings of Section 5 herein, or Section 5.02 of the Establishing Agreement.

5.2 The amounts due hereunder are payable at any time without prepayment penalty.

5.3 By acceptance of this Agreement, AACMD agrees and consents to all of the limitations in respect of the payment of the principal and interest due hereunder.

5.4 ARTA and AACMD agree that any agreement between ARTA and AACMD resulting from discussions on the Unsolicited Proposal shall include terms for repayment of AACMD for the Verified Costs, plus interest.

6. Default/Remedies. In the event of a breach or default of this Agreement by either Party, the non-defaulting Party shall be entitled to exercise all remedies available at law or in equity after the provision of thirty (30) days prior written notice of the alleged breach or default to the other Party. In the event of any litigation, arbitration or other proceeding to enforce the terms, covenants or conditions hereof, the prevailing Party in such proceeding shall obtain as part of its judgment or award its reasonable attorneys’ fees.

7. Notices and Communications. All notices, statements, demands, requirements, approvals or other communications and documents (“**Communications**”) required or permitted to be given, served, or delivered by or to any Party or any intended recipient under this Agreement shall be in writing and shall be given to the applicable address set forth below (“**Notice Address**”). Communications to a Party shall be deemed to have been duly given (i) on the date and at the time of delivery if delivered personally to the Party to whom notice is given at such Party’s Notice Address; or (ii) on the date and at the time of delivery or refusal of acceptance of delivery if delivered or attempted to be delivered by an overnight courier service to the Party to whom notice is given at such Party’s Notice Address; or (iii) on the date of delivery or attempted delivery shown on the return receipt if mailed to the Party to whom notice is to be given by first-class mail, sent by registered or certified mail, return receipt requested, postage prepaid and properly addressed to such Party at such Party’s Notice Address; or (iv) on the date and at the time shown on the facsimile or electronic mail message if telecopied or sent electronically to the number or address designated in such Party’s Notice Address and receipt of such telecopy or electronic mail message is electronically confirmed. The Notice Addresses for each Party are as follows:

If to ARTA:

Aerotropolis Regional Transportation Authority
c/o CliftonLarsonAllen
Attention: Bob Blodgett (3)
8390 E. Crescent Parkway, Suite 800
Greenwood Village, Colorado 80111
Phone: (303) 779-4525
Fax: (303) 773-2050
Email: Bob.Blodgett@claconnect.com

With copies to:

Spencer Fane LLP
Attention: Tom George
1700 Lincoln Street, Suite 2000
Denver, Colorado 80203
Phone: (303) 839-3800
Fax: (303) 839-3838
Email: tgeorge@spencerfane.com

If to AACMD:

Aerotropolis Area Coordinating Metropolitan District
c/o Special District Management Services, Inc.
Attention: Lisa Johnson
141 Union Blvd., Suite 150
Lakewood, Colorado 80228
Phone: (303) 987-0835
Email: ljohnson@sdmsi.com

With copies to:

McGeady Becher P.C.
Attention: MaryAnn M. McGeady
450 E. 17th Avenue, Suite 400
Denver, Colorado 80203
Phone: (303) 592-4380
Fax: (303) 592-4385
Email: mmcgeady@specialdistrictlaw.com

8. Further Acts. Each of the Parties hereto shall execute and deliver all such documents and perform all such acts as reasonably necessary, from time to time, to carry out the matters contemplated by this Agreement.

9. Entire Agreement; Headings for Convenience Only; Not to be Construed Against Drafter; No Implied Waiver. This Agreement constitutes the entire agreement among the Parties hereto pertaining to the subject matter hereof. No change or addition is to be made to this Agreement except by written amendment executed by ARTA and AACMD. The headings, captions and titles contained in this Agreement are intended for convenience of reference only and are of no meaning in the interpretation or effect of this Agreement. This Agreement shall not be construed more strictly against one (1) Party than another merely by virtue of the fact that it may have been initially drafted by one (1) of the Parties or its counsel, since all Parties have contributed substantially and materially to the preparation hereof. No failure by a Party to insist upon the strict performance of any term, covenant or provision contained in this Agreement, no failure by a Party to exercise any right or remedy under this Agreement, and no acceptance of full or partial payment owed to a Party during the continuance of any default by the other Party(ies), shall constitute a waiver of any such term, covenant or provision, or a waiver of any such right or remedy, or a waiver of any such default unless such waiver is made in writing by the Party to be bound thereby. Any waiver of a breach of a term or a condition of this Agreement shall not prevent a subsequent act, which would have originally constituted a default under this Agreement, from having all the force and effect of a default.

10. Governing Law. This Agreement is entered into in Colorado and shall be construed and interpreted under the law of the State of Colorado without giving effect to principles of conflicts of law which would result in the application of any law other than the law of the State of Colorado.

11. Severability. If any provision of this Agreement is declared void or unenforceable, such provision shall be severed from this Agreement and shall not affect the enforceability of the remaining provisions of this Agreement.

12. Assignment; Binding Effect. Except as expressly permitted under this Agreement, none of the Parties hereto may assign any of their rights or obligations under this Agreement without the prior written consent of the other Party, which consent may be withheld in each Party's sole and absolute discretion. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their permitted assigns.

13. Counterparts; Copies of Signatures. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall

constitute one (1) and the same instrument. The signature pages from one (1) or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signatures of all Parties may be physically attached to a single document. This Agreement may be executed and delivered by facsimile or by electronic mail in portable document format (.pdf) or similar means and delivery of the signature page by such method will be deemed to have the same effect as if the original signature had been delivered to the other Party. Upon execution of this Agreement by ARTA and AACMD, shall provide a fully executed copy of this Agreement to ARTA.

14. Time of the Essence. Time is of the essence for performance or satisfaction of all requirements, conditions, or other provisions of this Agreement, subject to any specific time extensions set forth herein.

15. Computation of Time Periods. All time periods referred to in this Agreement shall include all Saturdays, Sundays and holidays, unless the period of time specifies business days. If the date to perform any act or give a notice with respect to this Agreement shall fall on a Saturday, Sunday or national holiday the act or notice may be timely performed on the next succeeding day which is not a Saturday, Sunday or a national holiday.

16. No Waiver of Governmental Immunity. Notwithstanding any provision of this Agreement to the contrary, nothing in this Agreement shall be deemed a waiver of any protections afforded AACMD or ARTA pursuant to Colorado law, including, but not limited to, the Colorado Governmental Immunity Act.

17. Amendments. This Agreement may not be amended except by written agreement signed by all Parties.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date first set forth above.

**AEROTROPOLIS REGIONAL
TRANSPORTATION AUTHORITY,**
a political subdivision and body corporate of the
State of Colorado formed pursuant to C.R.S.
Section 43-4-601

By: _____
Name: Colonel Dave Gruber
Title: Vice-Chairperson

**AEROTROPOLIS AREA
COORDINATING METROPOLITAN
DISTRICT,** a political subdivision and quasi-
municipal corporation of the State of Colorado

By: _____
Name: Matthew Hopper
Title: President

EXHIBIT A

PHASE I IMPROVEMENTS - 2018 -2021

1. Design The Aurora Highlands Parkway from E470 to Aura Boulevard.
2. Design 26th Avenue from E470 to Main Street.
3. Design E470 interim project connection (right in/out).
4. Design the full interchange of E470/38th Avenue/The Aurora Highlands Parkway.
5. Design the full interchange of I-70/Harvest/Powhaton Roads.
6. Design I-70/Harvest/Powhaton Roads interim connection.

EXHIBIT B

Required Insurance

AACMD shall maintain, in the amounts and types of insurance described below and shall cause the Service Providers, as appropriate, to maintain such coverages from insurance companies authorized to do business in the State of Colorado having a Best's Insurance Report Rating of A/VI or better covering the risks described below:

A. Commercial General Liability Insurance (including premises, operations, products, completed operations, and contractual liability coverages, subject to policy terms and conditions) in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence, One Million Dollars (\$1,000,000.00) personal injury and [advertising injury], and Two Million Dollars (\$2,000,000.00) General Aggregate.

B. Automobile Liability Insurance for all motor vehicles operated by or for Constructing Party, including owned, hired, and non-owned autos, with minimum Combined Single Limit for Bodily Injury and Property Damage of One Million Dollars (\$1,000,000.00) for each accident.

C. Workers Compensation Insurance for all employees as required by law, to cover the applicable statutory limits in the State of Colorado and employer's liability insurance with limits of liability of not less than One Million Dollars (\$1,000,000.00) for bodily injury by accident (each accident) and One Million Dollars (\$1,000,000.00) for bodily injury by disease (each employee).

D. With respect to Service Providers that provide professional services (e.g., engineers), professional liability insurance, including prior acts coverage sufficient to cover any and all claims arising out of the services, or a retroactive date no later than the date of commencement of the services, with limits of not less than Two Million Dollars (\$2,000,000.00) per claim and Two Million Dollars (\$2,000,000.00) annual aggregate. The professional liability insurance shall be maintained continuously during the term of the agreement with such Service Provider and so long as the insurance is commercially reasonably available.

The following general requirements shall apply to all insurance policies described in this Exhibit.

1. All liability insurance policies, except workers compensation insurance and professional liability insurance, shall be written on an occurrence basis.

2. All insurance policies required hereunder except Workers Compensation and Employers Liability and professional liability shall: (i) name AACMD as "additional insured" utilizing an ISO CG 2010 form acceptable to AACMD; (ii) be issued by an insurer authorized in the State of Colorado; (iii) provide that such policies shall not be canceled or not renewed without at least thirty (30) days' prior written notice to the Parties, and (iv) provide a notice within ten (10) days of any non-payment of premium. Each additional insured endorsement (or each policy, by reasonably acceptable endorsement) shall contain a primary insurance clause providing that the coverage afforded to the additional insureds is primary and that any other insurance or self-insurance available to any of the additional insureds is non-contributing. A

waiver of subrogation endorsement for the workers' compensation coverage shall be provided in favor of the Parties.

3. The liability insurance policies shall provide that such insurance shall be primary on a non-contributory basis.

The Service Providers shall provide AACMD with certificates evidencing the insurance coverages required by this Exhibit prior to the commencement of any activity or operation which could give rise to a loss to be covered by such insurance. Replacement certificates shall be sent to AACMD, as policies are renewed, replaced, or modified.

AEROTROPOLIS REGIONAL TRANSPORTATION AUTHORITY
Statement of Revenues, Expenditures, & Changes
Modified Accrual Basis For the Period Indicated

8-15-18
 ARDA
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2018 Proposed Budget	Budget Notes/Assumptions
GENERAL FUND	
REVENUE	
Property taxes	-
Specific ownership taxes	-
Contribution - Adams County	350,000
Contribution - City of Aurora	350,000
Contribution - District	350,000
Interest income	6,000
Other income	-
Allowance for Uncollected Taxes	-
TOTAL REVENUE	1,056,000
EXPENDITURES	
<u>Administration</u>	
Accounting	50,000
Legal	100,000
Management	50,000
Election	-
Professional Services	-
Treasurer's fees	-
Insurance, bonds & SDA dues	3,000
Bank Fees	100
Website	1,000
Miscellaneous	500
Contingency	100,000
TOTAL EXPENDITURES	304,600
REVENUE OVER / (UNDER) EXPENDITURES	751,400
OTHER SOURCES / (USES)	
Transfers in/(out)	-
Other	-
TOTAL OTHER SOURCES / (USES)	-
CHANGE IN FUND BALANCE	751,400
BEGINNING FUND BALANCE	-
ENDING FUND BALANCE	751,400
COMPONENTS OF FUND BALANCE	
TABOR emergency reserve	31,700
Non-Spendable	-
Unassigned	719,700
TOTAL ENDING FUND BALANCE	751,400

Interest earned on fund balance.

Ehlers?

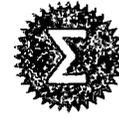
Possible De-Gallagherization Election?

D&O Liability; SDA dues.

Check stock etc.

Provision for unforeseen expenditures

No assurance is provided on these financial statements;
 substantially all disclosures required by GAAP omitted.



Memo

To: Aerotropolis Regional Transportation Authority (RTA) Board of Directors

From: James Mann, Senior Municipal Advisor and Principal
Jim Harrington, Senior Municipal Advisor
Melissa Buck, Municipal Advisor

Date: August 15, 2018

Subject: Ehlers Review of the Unsolicited Proposal, Mini-Unsolicited Proposal, and Supporting Documents

Ehlers received a copy of the Unsolicited Proposal and supporting documentation on July 19, 2018 and August 8, 2018, respectively. We also received a copy of the Mini-Unsolicited Proposal at the RTA Board Meeting on August 10, 2018.

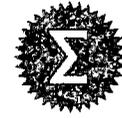
Our review is based upon the following documents:

- Colorado Aerotropolis Visioning Study
- East Aurora Roadway Constraints Map
- Roadway Exhibit Cost Projection
- Roadway Phasing Plan
- ARTA Intergovernmental Agreement with Adams County and City of Aurora
- First Amended Restated Service Plan for Aerotropolis Area Coordinating Metropolitan District
- Term Sheet for Unsolicited Proposal dated June 8, 2018
- Financial Plan produced by D.A. Davidson (Exhibit C)
- Term Sheet for Mini Unsolicited Proposal
- ArLand Aurora Highlands Market Study dated December 9, 2016
- EPS Review of the ArLand Aurora Highlands Market Study dated January 10, 2017
- Aurora Highlands Transportation Impact Study prepared by Felsburg Holt & Ullevig

Although there are a number of comments and questions regarding the documents listed above, our comments and questions are limited to the following main points:

Comments and Questions Regarding the Unsolicited Proposal:

1. We have not yet had a chance to speak to Bond Counsel. Due to the proposed structure, the bonds may be taxable.
2. Similarly, a 40-year term for each phase may be longer than the useful life of the improvement, which would also make the bonds taxable. So as to maintain the tax-exempt status of the bonds,



it may make more sense to issue each phase as a separate bond issue with various terms rather than one cash-flow note.

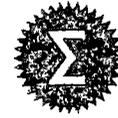
- The Unsolicited Proposal and associated Financing Plan in its current form do not fully finance the roads RTA has agreed to construct (the "Roads"). The Roadway Phasing Plan (the "Phasing Plan") indicates the RTA portion will cost approximately \$175 million in 2018 dollars. However, according to the Phasing Plan, most the projects are expected to break ground 2022 – 2032. Meaning, construction cost projections, adjusted for BLS reported 3.7% Denver area inflation, are expected to be as follows:

Project	Description (RTA Portion)	Total Cost	RTA Portion (2018\$)	RTA Portion (Inflation Adj.)
48th Avenue	E470 to Gun Club (2 of 6 lanes)	\$4,899,840	\$1,714,944	\$2,113,641
48th Avenue	Gun Club to Harvest (2 of 6 lanes)	6,082,560	2,128,896	3,034,246
48th Avenue	Harvest to Pow haton (2 of 6 lanes)	12,165,120	4,257,792	6,068,491
38th Avenue	Himalaya to E470 (NB 2 lanes)	14,931,280	14,931,280	19,171,042
38th Avenue	Himalaya to E470 (SB 2 lanes)	8,039,920	8,039,920	13,132,173
TAH Parkway	E470 to Main St (1 of 4 lanes)	3,674,880	3,674,880	3,776,858
TAH Parkway	Main St to Aura Blvd (1 of 4 lanes)	7,349,760	2,939,904	3,021,486
TAH Parkway	Aura Blvd to Pow haton (1 of 4 lanes)	26,169,600	9,159,360	11,068,141
26th Avenue	E470 to Main St (2 of 6 lanes)	3,210,240	1,123,584	1,154,763
26th Avenue	Main St to Harvest (2 of 6 lanes)	9,630,720	3,370,752	4,884,613
27th Avenue	Harvest to Pow haton (2 of 6 lanes)	14,530,560	5,085,696	7,369,765
Pow haton Road	I-70 to 26th St (3 of 6 lanes)	18,928,000	12,303,200	14,867,147
Pow haton Road	26th St to 48th (3 of 6 lanes)	32,032,000	20,820,800	25,159,786
Pow haton Road	48th to 56th (3 of 6 lanes)	25,920,000	16,848,000	20,359,068
E470/38th Interchange	Interchange (100%)	24,000,000	24,000,000	32,340,280
HWY/I-70	Interchange (100%)	36,000,000	36,000,000	52,271,292
Pow haton/I-70 Int	Initial Interchange (100%)	6,080,000	6,080,000	6,925,763
Picadilly Interchange	Interchange (NEATS) (Design only)	49,440,000	2,472,000	3,893,629
Total		\$303,084,480	\$174,951,008	\$230,612,184
			<i>Difference</i>	<i>(\$55,661,176)</i>

- On a related point, how does the RTA and/or District expect to cover construction cost overruns should bids (or actual costs) come in higher than expected?
- How was RTA's portion of total construction costs determined? For example, RTA is responsible for building one out of four lanes for the TAH Parkway, which one would assume is 25% of the total cost, yet RTA's portion ranges from 35% to 100% (see chart below for breakdown).

Project	Description (RTA Portion)	Total Cost	RTA Portion (2018\$)	RTA Portion
48th Avenue	E470 to Gun Club (2 of 6 lanes)	\$4,899,840	\$1,714,944	35.0%
48th Avenue	Gun Club to Harvest (2 of 6 lanes)	6,082,560	2,128,896	35.0%
48th Avenue	Harvest to Pow haton (2 of 6 lanes)	12,165,120	4,257,792	35.0%
38th Avenue	Himalaya to E470 (NB 2 lanes)	14,931,280	14,931,280	100.0%
38th Avenue	Himalaya to E470 (SB 2 lanes)	8,039,920	8,039,920	100.0%
TAH Parkway	E470 to Main St (1 of 4 lanes)	3,674,880	3,674,880	100.0%
TAH Parkway	Main St to Aura Blvd (1 of 4 lanes)	7,349,760	2,939,904	40.0%
TAH Parkway	Aura Blvd to Pow haton (1 of 4 lanes)	26,169,600	9,159,360	35.0%
26th Avenue	E470 to Main St (2 of 6 lanes)	3,210,240	1,123,584	35.0%
26th Avenue	Main St to Harvest (2 of 6 lanes)	9,630,720	3,370,752	35.0%
27th Avenue	Harvest to Pow haton (2 of 6 lanes)	14,530,560	5,085,696	35.0%
Pow haton Road	I-70 to 26th St (3 of 6 lanes)	18,928,000	12,303,200	65.0%
Pow haton Road	26th St to 48th (3 of 6 lanes)	32,032,000	20,820,800	65.0%
Pow haton Road	48th to 56th (3 of 6 lanes)	25,920,000	16,848,000	65.0%
E470/38th Interchange	Interchange (100%)	24,000,000	24,000,000	100.0%
HWY/I-70	Interchange (100%)	36,000,000	36,000,000	100.0%
Pow haton/I-70 Int	Initial Interchange (100%)	6,080,000	6,080,000	100.0%
Picadilly Interchange	Interchange (NEATS) (Design only)	49,440,000	2,472,000	5.0%
Total		\$303,084,480	\$174,951,008	57.7%

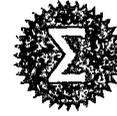




6. We have not received a copy of the housing development construction schedule. How does RTA's Phasing Plan correspond with the Aurora Highlands build out? Ideally, roads would be constructed slightly before or in tandem with the benefited housing development.
7. The Term Sheet stipulates the bonds accrue interest until sufficient revenues are generated to pay down principal and interest. Meaning, if development fails to follow projections, the RTA could pay significantly more than what is shown in the Finance Plan.
8. Based on various conversations at several RTA related meetings, it seems the investor in the Unsolicited Proposal is someone closely affiliated with the developer. If so, this may be a conflict of interest that must be disclosed.
9. If #8 is true, because the bonds are structured as cash-flow bonds with compound interest accruing daily, the developer may have an incentive to delay developing Aurora Highlands in order to maximize the amount of monies due.
10. Based on our conversations with District staff, the bonds have five-year call protection after which they would be able to be refinanced at par plus accrued interest. However, as presently drafted, the Unsolicited Proposal does not allow partial refinancings. Meaning, RTA will not be able to lower the 9% compound interest rate unless it can refinance the entire \$175 million. Based on the Finance Plan, majority of the bonds do not start cash flowing until 2055, by which point RTA will have paid approximately \$504 million in debt service, most of which is accrued interest (assuming the development occurs as projected).
11. Costs of issuance were not included in the Term Sheet. What are estimated costs of issuance?
12. It is assumed that the District will undertake a competitive public bidding process to select construction partners and with guaranteed maximum price contracts. What is the District's experience in managing the procurement process and selecting a qualified firm? What will be the RTA's involvement in the selection and procurement process?
13. RTA has agreed to finance a portion of the total Road construction with the understanding that the District will eventually build out the rest. What remedies does the RTA have if these additional lanes and other road projects are not built?
14. Similarly, what remedies will RTA have in enforcing contracts or if work performed does not meet expectations?

Comments and Questions Regarding the Financing Plan:

1. Approximately \$24 million will be spent to construct an interchange at E-470 and 38th Avenue. As E-470 will ultimately pay these hard construction costs over a ten-year period, this project should be a separate RTA obligation. We believe there is large market appetite for such bonds.



2. 9% compound interest represents an onerous burden to the RTA and will limit its ability to finance any additional improvements for the next 40 -50 years.
3. There is an inconsistency between the Term Sheet and the attached Financial Plan. RTA is allowed to issue debt with a 40-year maturity, which is reflected in the Term Sheet. The Financial Plan shows a 50-year repayment schedule and may have to be revised.
4. Regarding the Finance Plan's assumptions:
 - a. One half of Adams County's General Fund levy is 11.279 mills, not 12.1 mills.
 - b. The residential assessment rate is modeled at 7.2%. It is expected this rate will decline to 6.11% in 2019.
 - c. The Financial Plan assumes the RTA levy is Gallagherized. Per State Statute, the levy is not subject to the Gallagher Amendment.
5. How will the above assumption changes affect the Financing Plan?
6. EPS notes the preliminary development/absorption projections were an aggressive at 695 units per year on average, equal to 40% of the City of Aurora's average annual total construction rate from 2001 to 2015 and 74% of the City's annual development from 2009 to 2015. That being said, it appears these assumptions were scaled down to 652 per year on average. How will a slowdown in construction affect the Financing Plan?
7. How will RTA administrative costs be paid? The Financial Plan does not appear to provide for these costs.

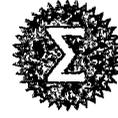
Conclusions and Recommendations:

The RTA appears to have two options:

- A. Propose to amend the Unsolicited Proposal with the RTA's provisions; or
- B. Investigate an alternative financing scenario and enter into a short-term financing agreement with the City of Aurora and/or Adams County.

A: If the Board desires to counter Unsolicited Proposal, the following should be considered:

1. Approximately \$24 million will be spent to construct an interchange at E-470 and 38th Avenue. This project should be undertaken as a separate RTA obligation as there is a dedicated funding source.
2. To ensure the tax-exempt status of the bonds, the RTA should issue the debt directly, not through the District.
3. A tax-exempt 9% compound interest financing scenario is not a reasonable rate for the RTA to pay. 9% may be reasonable if the bonds are taxable.
4. Rather than issuing one fill-up note, RTA should issue separate bonds tranches in accordance with development of the Aurora Highlands.



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LEADERS IN PUBLIC FINANCE

5. The Finance Plan's assumptions must be revised, including the RTA's 40-year debt limitation and the estimated administrative costs.
6. The Bonds should be discharged after 40 years in line with RTA guidelines and what is commonly seen in many similar special districts. Discharging the bonds after 40 years also incentivizes the developer to complete build out.
7. A provision requiring the District Board to report any potential conflicts of interest (if any) to the RTA Board as it relates to the issuance of debt, consultant contracting, and construction contracting.
8. The RTA should engage an independent engineer to verify and monitor construction costs.

B: If the Board would like to investigate its financing options:

1. A proposed term sheet for \$750,000 of short-term financing is attached to this memo.
2. Ehlers will work with RTA, Adams County, and City of Aurora staff to develop an alternative plan of finance in accordance with RTA debt issuance guidelines.

Lastly, it appears several proposed RTA financed Roads will benefit areas outside of the RTA. The RTA should be expanded to include these communities, thus sharing the cost burden of financing the Roads with those that benefit from them.