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September 11, 2008

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**Re: Union Valley Parkway Interchange Project**

Dear Mr. Beas:

This firm has been retained by the Foxenwood Estates Homeowner's Association (the "Association") to offer comments on the Union Valley Parkway Environmental Impact Report (the "Union Valley EIR"). The Association objects to the Union Valley EIR on the following three grounds:

1. Failure to Properly Consider Impact of Alternatives To Full Access of Intersection at Union Valley Parkway and California Boulevard;
2. Failure to Properly Evaluate Mitigation of Sound Impacts Caused by Proposed Project; and
3. Failure to Address Impact of Greenhouse Gases Pursuant to AB 32 and SB 97

**1. Failure to Properly Consider Impact of Alternatives To Full Access of Intersection at Union Valley Parkway and California Boulevard**

In 2007 when the Santa Maria Airport Board was considering the Specific Plan for the Airport Business Park, it reviewed an alternative that included a cul-de-sac just north of the proposed Union Valley Parkway to eliminate a full intersection at Union Valley Parkway and eliminate any exit south from Union Valley Parkway on to California Blvd. This configuration was depicted in the Final Environmental Impact Report for the Santa Maria Airport Business Park and approved by the Santa Maria City Council on December 18, 2007.

The Airport Board agreed to this cul-de-sac on California Blvd. in order to gain support of the Foxenwood residents and the Association. (See pages 12 and 13 of the Santa Maria Airport Business Park Traffic and Circulation Study, Associated Transportation Engineers,

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October 10, 2005.) Had this change not been implemented in the plan for the Airport Business Park, I am informed that many individual Foxenwood homeowners would have vigorously objected to the Airport Business Park because of its traffic impacts. Moreover, a Traffic Study was conducted in connection with the Airport Business Park and no significant impact was found in connection with the deletion of the full intersection at Union Valley Parkway and California Boulevard.

Now that the Airport Business Park Specific Plan has been approved, the Union Valley EIR claims that the configuration of the California Boulevard and Union Valley Parkway intersection is inconsistent with traffic standards. Ignoring the fact that the alleged inconsistency is based on computer modeling, what is regrettable is that if there had been a single, unified EIR for both the Airport Business Park and the Union Valley Parkway the issue could have been addressed once, in a comprehensive fashion rather than ad seriatim. As it is, the Association believes that preparing and considering two EIRs separately has led to a failure to consider the "cumulative impacts" of both projects, especially in regard to traffic. As provided by CEQA Guidelines Section 15355, an EIR's cumulative impacts discussion should encompass "past, present and probable future projects." The purpose of this requirement is to avoid "piecemeal" approval of projects without consideration of the total environmental effects the projects would have when taken together. (*See San Joaquin Raptor/Wildlife Rescue Ctr. v. County of Stanislaus* (1994) 27 Cal.App.4<sup>th</sup> 713, 749.)

The Traffic and Circulation Study dated May 5, 2008, forecasts traffic volumes for the California Boulevard/Union Valley Parkway alternate "A" cul-de-sac approved by the Airport Business Park Specific Plan (Page 39 and Figure 15). The consultants project that the number of average daily trips ("ADT") is increased from 8,100 to 9,200 on Blosser Road by implementing the California Boulevard/Union Valley Parkway intersection and then find that this volume of traffic is inconsistent with County Design Capacity Standards. However, what is important is that the Design Capacity of Blosser Road is 9,100 ADT and the projected ADT is only 9,200 ADT, a difference of 100 ADT or 1% (100 ADT/9,100 ADT) over the Design Capacity.

The summary dismissal of the deletion of the cul-de-sac in the Union Valley EIR is not acceptable to the neighborhood it most affects. Moreover, it does not meet CEQA guidelines. Guideline Section 15126.6(c) provides in part that, "... The EIR should also identify any alternatives that were considered by the lead agency but were rejected as infeasible during the scoping process and briefly explain the reasons underlying the lead agency's determination." Here we have an alternative that was approved as part of a prior EIR for another project, but does not even make it onto the list of alternatives considered for another. This is clearly not what the Guidelines contemplate. Exceeding the Design Capacity by 1% on one section of Blosser Road and meeting Design Capacity standards on all other affected roads is not per se a "significant

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impact." In addition, even if this impact was significant, which it is not, the Union Valley EIR is deficient because it fails to address how the impact could be mitigated.

In conclusion, the modeling formulas and assumptions inherent in Alternative A (page 39 of Traffic and Circulation Study) should be carefully examined by a traffic consultant other than Associated Transportation Engineers for two reasons. Even better a new independent traffic study should be conducted that addresses not just the impact of deleting the California Boulevard cul-de-sac on surrounding streets, but one which addresses the impact of traffic circulation of the now approved Airport Business Park.

## **2. Failure To Properly Evaluate Mitigation of Sound Impacts From Proposed Project**

The Union Valley EIR identifies four configurations for Union Valley Parkway, but only the Locally Preferred Alignment deserves mention here. The Noise Study identifies significant noise impacts, but its recommended noise abatement measure is flawed. Specifically, it recommends a sound wall not for the full length of Union Valley Parkway along Clubhouse Drive, but just for four homes west of Foxenwood Lane.

In short, the Noise Study finds that while a longer sound wall is feasible, it concludes that it is too costly and therefore not reasonable. However, it appears that the Union Valley EIR evaluated only one kind of sound wall, namely tall sound reflective block walls. The failure to consider other alternative sound reducing walls is an obvious deficiency in this environmental document. Moreover, it is not reasonable in light of the 14 to 16 decibel increase for some homes on Clubhouse Drive West of California.

As you may know, sound walls will absorb energy or reflect energy. There are many sound absorbing walls available in the market place today that are also environmentally beneficial "green" products and that are far superior at reducing noise levels for people living next to highways. In addition, many of these "green" products beautify the surrounding area by design and improve the aesthetics of the total project. For example "whisper-walls" don't reflect energy; they absorb it, and are made from recycled rubber tires. These sound walls have a noise reduction coefficient of .80. Information on this product can be obtained at [www.whisper-wall.com](http://www.whisper-wall.com).

In contrast, reflective sound walls abate noise by redirecting noise waves into the atmosphere. This is risky because reflected sound waves traveling through the atmosphere bend upward or deflect downward depending on existing meteorological conditions. Consequently, as atmospheric conditions change, the accuracy to predict how reflected sound waves travel

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decreases. This explains why some residents living across from a reflective noise barrier have experienced new sounds or increased noise levels.

The benefits of a sound absorbing decorative "rubber" wall as opposed to a concrete sound reflecting wall could be enormous, but no effort was made to evaluate this alternative (both feasibility and cost) and the Union Valley EIR is insufficient until it is included in the study.

Finally, the current Noise Study and thus the Union Valley EIR is insufficient because it fails to address the economic impacts on the value of the homes adjacent to the proposed Union Valley Parkway that will suffer from an increase of 14 to 16 decibels without installation of noise abatement measures. This study should include not just the homes immediately adjacent to Union Valley Parkway, but all homes that are significantly impacted in the neighborhood by the proposed project. In short, the cost/benefit analysis of constructing any sound wall is deficient, because it fails to address the cost to the homeowner (in reduced value of his home) that will naturally result from the noise of the nearby thoroughfare that is not mitigated with a sound barrier.

### **3. Failure To Consider Greenhouse Gas Emissions**

In 2006, the California legislature passed AB 32, a landmark global warming statute requiring that local agencies consider the impacts of greenhouse gas emissions and mitigation of the effects. The Union Valley EIR makes no effort, much less a good faith effort, to calculate, model or estimate, based on available information, the Greenhouse Gas ("GHG") emissions resulting from the project. Without this data it is not surprising that the EIR lacks any effort to determine the significance of GHG emissions. Finally there is no effort made to mitigate the impacts of unidentified and non-calculated GHG emissions. The lead agency's failure to address GHG emissions is nothing short of remarkable even if the state has yet to issue implementing regulations. Whereas implementing regulations may be necessary to conduct a GHG emission analysis of certain projects that may have ambiguous or hard to identify GHG emissions, a roadway project like this has an obvious direct effect on GHG emissions. In a technical advisory issued June 19, 2008, the Governor's Office of Planning and Research stated that even in the absence of these implementing regulations, "Lead agencies should make a good-faith effort, based on available information, to calculate, model, or estimate the amount of CO<sub>2</sub> and other GHG emissions from a project, including the emissions associated with vehicular traffic, energy consumption, water usage and construction activities." (*See CEQA and Climate Change: Addressing Climate Change Through California Environmental Quality Act (CEQA) Review*, June 19, 2008, State of California, Governor's Office of Planning and Research, pg. 5.) The Association is mindful that in 2007 the California legislature passed legislation known as Senate

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Bill 97 that exempts projects that were funded under Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006. However, our investigation has not disclosed any proof that the Union Valley Parkway was, or is going to be, funded under this Act, and as a consequence, failure to consider the GHG in the CEQA process will expose the lead agency to potential litigation.

Very truly yours,



James C. Buttery

JCB/sf

cc: Tim Ness, Santa Maria City Manager  
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