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June 3, 2013

Mr. Harold Jones, PE
Project Manager
Virginia Department of Transportation
1601 Orange Road
Culpeper, VA 22701
29BypassInterchange@vdot.virginia.gov

VIA EMAIL

Re: Route 29 Charlottesville Bypass Southern Interchange

Dear Mr. Jones:

These comments on the southern interchange of the proposed Route 29 Charlottesville Bypass are being submitted on behalf of the Southern Environmental Law Center (“SELC”) and the Piedmont Environmental Council (“PEC”).

We appreciate the Virginia Department of Transportation (“VDOT”) and Skanska-Branch (“Skanska”) holding an information meeting on May 23 to display two new design proposals for the southern interchange. However, we were frustrated by the surprising scarcity of information regarding the potential additional costs and environmental and community impacts of the alternative designs, and we fail to see how a meeting that provides few answers to the public’s most pertinent questions can be expected to generate public input that can effectively inform VDOT’s next steps on the design of the interchange.

As you know, we remain extremely concerned by the manner in which VDOT quickly put together a Request for Proposals and then rushed to execute a design-build contract for the Route 29 bypass project. The problems that have been brought to light with Skanska’s low-bid design of the southern terminus appear to be a direct consequence of the hurried manner in which this proposal was pushed through the contract approval process. And now problems with the design of the northern terminus are surfacing as well. Even more troubling is the fact that VDOT brushed aside significant flaws with the low-bid design when raised by another bidder well before VDOT executed the contract with Skanska, yet VDOT and its consultant then began raising related concerns with the Skanska design only weeks later.

As part of the ongoing evaluation of the bypass project under the National Environmental Policy Act (“NEPA”), we ask that VDOT present to the public far more detailed information about the costs, impacts and efficacy of the three proposed designs of the southern interchange before deciding which to select as the preferred alternative for purposes of the Interchange Modification Report (“IMR”) you are compiling for the Federal Highway Administration (“FHWA”). It is also essential that VDOT provide an explanation of the extent to which the two new designs address the problems with Skanska’s original low-bid design, if at all.

Specifically, the following questions must be answered before VDOT completes the IMR:

- **Why did VDOT officials enter into a contract based on a design they knew to be flawed?**

VDOT entered into a design-build contract with Skanska on July 25, 2012, after Skanska submitted the lowest-cost design for the project at just under \$136 million. However, as noted above and detailed in our October 9, 2012 comments on the Draft Environmental Assessment (“EA”), nearly two months prior to the execution of the contract, another bidder for the project—American Infrastructure—had filed a protest against the award of the contract to Skanska based on concerns with the functionality of its southern interchange design. American Infrastructure explained that Skanska’s design would result in failing levels of service along the 250 Bypass between the proposed southern interchange of the 29 bypass and Old Ivy Road. They also objected that the traffic lights included in Skanska’s design would likely cause long queues that would impede traffic flow on the eastbound 250 Bypass during special events on UVA’s North Grounds. American Infrastructure asserted that as a result of these and other flaws, Skanska’s design did not meet the requirements of the RFP, but VDOT rejected the protest, claiming it was without merit.

Yet similar concerns with the southern interchange were raised by VDOT itself and VDOT’s own consultants shortly after VDOT entered into the contract. For example, during an August 16, 2012 meeting with Skanska, VDOT raised concerns with traffic heading into UVA’s North Grounds from the 29 Bypass during special events.¹ One month later, during its September 12, 2012 meeting with Skanska,² VDOT even stated its preference for a “free-flow” design for the southern interchange, which is clearly at odds with the multiple stoplight approach of Skanska’s low-bid design.

Subsequent analyses conducted by VDOT consultant Parsons Brinckerhoff revealed the extent of problems with Skanska’s low-bid design for the southern interchange. In both its November 30, 2012 and January 17, 2013 draft memoranda,³ Parsons Brinckerhoff showed that it would take trucks traveling on the eastbound 250 Bypass nearly two minutes more to access the northbound 29 Bypass in Skanska’s low-bid design—which would require trucks to encounter a stoplight, then immediately proceed up a steep 11% grade as they cross over the 250 Bypass—than under a free-flow “flyover” design of the type that was previously proposed for the project.

Parsons Brinckerhoff also raised serious concerns about the merge and weave movements on the 250/29 bypass between Ivy Road and the southern interchange of the 29 bypass, pointing out in both its November 30, 2012 and January 17, 2013 draft memoranda that its traffic

¹ Meeting Minutes, “Travel Demand Forecasting Discussion” (Aug. 16, 2012).

² Meeting Minutes, “Monthly Coordination Meeting (#2)” (Sept. 12, 2012).

³ See Memorandum from Michael Fendrick, Parsons Brinckerhoff, to Harold Jones & John Giometti, VDOT, entitled “DRAFT – Preliminary Traffic Review for US 29 Charlottesville Bypass Interchange Comparison” (Nov. 30, 2012); Memorandum from Michael Fendrick, Parsons Brinckerhoff, to Harold Jones & John Giometti, VDOT, entitled “DRAFT #3 – Preliminary Traffic Review for US 29 Charlottesville Bypass Interchange Comparison (Jan. 17, 2013).

modeling indicates that the year 2040 afternoon peak-hour merge from the 29 Bypass to the existing 250 Bypass westbound would be a Level of Service F, primarily due to inadequate through capacity on the 250 Bypass under the Old Ivy Road bridge, railroad bridge, and Ivy Road bridge. The memo points out that restrictions at these bridges mean the merge lane cannot be lengthened, so it is unclear how this problem can be resolved without extensive (and expensive) improvements to the 250 Bypass in this area. The Parsons Brinckerhoff memo acknowledges that those improvements are not currently funded or even planned, warning VDOT that “we will need to make sure that FHWA is understanding as part of the IJR review process.” In other words, it appears that the functionality of the southern terminus depends on significant future improvements to the existing 250 Bypass that are not a part of the 29 Bypass proposal or even included in the region’s long-range transportation plan. The public and decision-makers deserve to have this issue fully explained to them, as well as an explanation of whether the two new designs even address the problem.

The fact that VDOT officials were made aware of—but brushed aside—significant problems with the Skanska low-bid southern interchange design before VDOT signed a contract with Skanska, and that VDOT noted its preference for a “free-flow” southern terminus design only weeks after signing the contract for Skanska’s very different low-bid design, begs the question of whether VDOT ever intended to move forward with the Skanska low-bid design in the first place. It is not unreasonable to conclude that VDOT officials understood at the time of entering the contract that the Skanska low-bid design—and the price tag attached to it—would require substantial changes after the contract was executed. We urge VDOT officials to explain to state and federal taxpayers the complete circumstances surrounding their execution of a contract for a design they appear to have known was deeply flawed.

- **How much more will the two new designs cost taxpayers if they are advanced?**

It seems clear that Skanska’s inclusion of stoplights at the southern interchange was in part intended to reduce construction costs by keeping the project to two levels and limiting the amount of cut and fill required. How much more will it cost to construct a three-tiered flyover, or the combination of new roads, bridges, and ramps included in the loop ramp alternative? This critical information has not been provided to the public. Also, the elevations provided at the public meeting indicate that a significant cut will be needed to keep the height of a flyover design reasonably close to that of Skanska’s original low-bid design, and this seems likely to raise costs as well. Although VDOT has suggested that the level of preliminary engineering work completed to develop these two new concepts is insufficient to provide cost estimates for them, it must be noted that Skanska was able to develop a price for its low-bid design for the entire project without engaging in any final design work. The public is entitled to an estimate of the cost of the two new southern termini designs before further steps to advance any design are taken.

- **What additional impacts on the community will accompany the two new designs?**

The Draft EA that VDOT released last August only evaluated the impacts of the bypass design from the 2003 Supplemental Environmental Impact Statement (“EIS”). To date, VDOT has not presented to the public information about the impacts of the Skanska low-bid design that

serves as the basis for the design-build contract, and VDOT has offered very little information about the impacts of the two new proposed alternatives for the southern interchange. Although the newly proposed flyover design resembles the southern interchange from the 2003 Supplemental EIS, there are a number of differences that may affect the impact analysis. For example, even from the limited information made available at the May 23 public meeting, it is clear that substantial cut will be required just east of St. Anne's-Belfield School and just west of the Canterbury Hills neighborhood to arrive at the elevations provided at the meeting. What are the noise and water quality impacts of this volume of cut, both during and after construction? Careful consideration of the impacts of these various alternatives is necessary before a preferred alternative is selected, and these impacts should be evaluated and presented to the public as part of the ongoing NEPA process for the project.

- **To what extent do the two new designs address the problems with the RFP design?**

In addition to providing little information about the costs and impacts of the two new designs under consideration, it was not made clear at the May 23 meeting whether the two new designs would address the problems inherent in Skanska's low-bid design. Although it appears that both new designs eliminate the 11% grade, both designs also include traffic lights that may create the same issues with back-ups during special events on UVA's North Grounds, and it is far from clear that either design addresses the conditions that make the weave from the 29 Bypass southbound to the existing 250 Bypass west/southbound so problematic. This is critically important information to provide the public as part of this process.

Finally, we reiterate our strong view that VDOT and FHWA must provide a thorough and objective comparison of the proposed 29 Bypass to new alternatives the community has developed for addressing traffic on Route 29. In our October 9, 2012 comments on the Draft EA, we provided a detailed analysis indicating that an alternative based on projects from the 2008 US 29 North Corridor Transportation Study Final Report—including grade separated intersections at Hydraulic and Rio Roads, parallel roadways at Hillsdale Road and Berkmar Drive, and the "Best Buy Ramp" at Route 29 and Route 250 East—would prove just as effective, if not moreso, in improving traffic conditions along the Route 29 corridor. This is a reasonable alternative, and its development by the community represents significant new information warranting careful consideration in a Supplemental EIS.

Both the public and decision-makers must be provided with much more information than was provided at the May 23 meeting if they are to have a meaningful opportunity to participate in and influence the interchange design process. As part of the ongoing evaluation of the bypass project under the National Environmental Policy Act, we ask that you present more detailed information about the costs, impacts, and efficacy of the three designs before deciding which design to select as the preferred alternative for the Interchange Modification Report.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink that reads "Morgan Butler". The signature is written in a cursive style with a horizontal line at the end.

Morgan Butler
Senior Attorney

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