

**Intercounty Connector  
Mandatory Referral No. 06809-SHA-1  
Status Report #3**

**Prepared 12/1/06 for discussion under Agenda Item #13 of the 12/7/06 Planning  
Board meeting**

This memorandum is ICC Status Report #3 to the Planning Board under condition #16 of the ICC mandatory referral. M-NCPPC staff will briefly present this report to the Planning Board on December 7 and will be joined in the discussion by State Highway Administration staff and consultants. This status report includes four sections:

- A. A status report on the state's responses to the Planning Board's mandatory referral comments
- B. A status report on other procedural elements
- C. A summary of events that have occurred since Status Report #2 was written on 10/19/06, and
- D. An update on project schedule and the Planning Board's next steps

This status report will be presented prior to the Planning Board consideration of remaining Advanced Land Acquisition Revolving Fund (ALARF) property transfer (agenda item #14 on the 12/7/06 agenda).

**SECTION A. MANDATORY REFERRAL COMMENTS**

The State Highway Administrator, Neil Pedersen, has provided written comments regarding each of the 16 conditions in the July 28, 2006 letter from Chairman Berlage to Secretary Flanagan, including the 77 detailed comments in Attachment B to that letter. A copy of Mr. Pedersen's November 6 letter, which includes both the Planning Board comments and the state's responses, is included as Attachment One to this status report.

The state's responses are generally self-explanatory and consistent with the staff expectations discussed with the Planning Board on October 26, 2006. There are several comments for which either supplemental information or continued follow-through is required, as described below.

- **Determination of roles in Trolley Museum relocation (Condition #3A).** All three parties (M-NCPPC, the Trolley Museum, and SHA) are meeting regularly to ensure that the Trolley Museum relocation is expedited. The relocation process, as currently envisioned, can be summarized as follows:
  - The Museum would be responsible for the construction of replacement facilities, using funding provided by SHA and a process established in a three-party agreement.
  - SHA has proposed to establish funding levels using federal rules for *functional replacement*, as opposed to *just compensation*. The process,

however, requires Federal Highway Administration approval (which is pending).

- All parties are considering the use of a design-build mechanism, which would reduce implementation timeframes but also poses different challenges to the Commission in the financial and development plan reviews.
- SHA has provided a mechanism to advance \$100K to the Museum to complete facility planning.
- Staff is pursuing the following elements concurrently:
  - Development of the three-party agreement for replacement facility project management and construction
  - Development of the bid and contract documents
  - Development of a PDF through which to pass state and federal funding to the museum.
  - Continuing to look for efficiencies in the review and approval processes.
- **Easement Agreements (Conditions #3B and #3C).** Staff is continuing discussions with SHA regarding easement conditions for parkland transfer. Staff will provide an update on this item on December 7.
- **Planning Board review of Water Quality Plans in Special Protection Areas (SPA) (Condition #6).** As discussed with the Planning Board during Status Report #2 and indicated in Attachment One, SHA and DPS are continuing to coordinate on the Department of Permitting Services (DPS) review of Water Quality Plans in Special Protection Areas. SHA has prepared the concurrence letter for DPS consideration included in Attachment Two. SHA will not be following the normal process for Water Quality Plans. They have proposed instead incorporating general criteria into the Design-Build contracts, rather than submitting detailed stormwater concept plans for DPS or Planning Board review.

The letter in Attachment Two requests satisfaction of the ROD commitment for DPS concurrence based on the limited information available to date. If DPS concurs at this stage of design, then staff understands DPS would not be acting on individual water quality plans. DPS has requested that SHA provide clarification from the Federal Highway Administration regarding the intended meaning of the ROD language. This clarification has not yet occurred, so DPS has not yet determined how they will respond to the concurrence letter.

Once DPS and SHA have determined whether concurrence at this point in time is feasible, the Planning Board's role in water quality plan review will be defined. Staff maintains that the Planning Board review (following DPS review of stormwater concept plans) provides an essential function in informing the public of the components of the water quality plan.

- **Forest Impact Reduction Incentive (Condition #7).** SHA completed their review of wetlands and forest retention incentives and incorporated the following incentive amounts in Addendum No. 7 to the Contract A RFP on November 6:
  - Within SPAs, wetland impact reductions are valued at \$150K/acre and forest impact reductions are valued at \$100K/acre
  - Outside SPAs, wetland impact reductions are valued at \$100K/acre and forest impact reductions are valued at \$75K/acre.

An additional \$50K/acre incentive is available for further reductions to any property that was either parkland or Designated Transportation Areas (DTA); ALARF properties are one example.

Given the historic relationship between the level of regulatory protection for wetlands and waterways relative to that for forests, the SHA staff felt they could not establish forest incentive values literally equal to those of wetlands. The final decision by SHA, however, does value wetlands and forest similarly. Staff discussed the alternative means that the Interagency Working Group discussed for evaluating similarity during Status Report #2. Staff offers four concluding comments:

- The final incentive values for both resources are lower than staff's expectations at the time of the mandatory referral based on the proposed value for wetlands at that time.
  - SHA's response to the mandatory referral request to achieve similarity resulted in lowering the wetland incentive value by \$200K-\$300K/acre and increasing the forest incentive value by \$70K-\$80K/acre.
  - This project is the first time that the state has offered an incentive program for forests, and the final incentive values for forests are at least as high as those the state has used previously for wetlands on other projects.
  - Based on their experience, SHA staff is confident that the forest incentive values are sufficient to motivate a design-build contractor to implement a design that preserves additional forest. Staff has no similar comfort level with the proposed incentives, but looks forward to reviewing the results in Contract A as a basis on which to develop comments for future cases.
- **Invasive Species Removal (Condition #8).** Following the discussion during Status Report #2, staff is developing a proposed invasive plant removal project proposal for which both state and local funding opportunities will be sought.
  - **Western Maintenance Facility (Condition #10).** During the November 13, 2006 Pre-Preliminary Plan review (720060110) for the Shady Grove Road property (also referred to as the Casey 6 and Casey 7 properties), the Planning Board recommended that staff become more involved in the EYA proposal to move the ICC Western Maintenance Facility from the Casey 7 property (south of I-370) to the Casey 6 property (north of I-370). Both EYA and SHA

representatives will present the status of the effort at the December 18 Shady Grove Advisory Committee meeting.

- **East-West Bike Path Connectivity (Conditions #12 and #13).** The next steps for both completion of the state's proposed ICC bicycle and pedestrian plan (linking those sections that will be built along the ICC roadway with bike paths along parallel existing roads) as well as the process for re-evaluating other proposed segments in the County's master plan will be discussed as part of a separate Planning Board agenda item tentatively scheduled for January 4, 2007.

## SECTION B. PROCEDURAL ELEMENTS

This section of the report describes follow-up on two discussion items from Status Report #2:

- **Cross Creek Club Limits of Disturbance.** As described in Status Report #2, staff supports the conversion of a strip of property (Parcel E, Block D) from proposed parkland to right-of-way for Briggs Chaney Road south of its interchange with the ICC. After further research and coordination between SHA and M-NCPPC staffs, SHA has decided to acquire the needed property by condemnation directly from the owner (Montgomery Limited Liability Company) prior to the applicant dedicating the remaining portion to the Commission. This process is consistent with the staff position described in Status Report #2, but since the property taking by SHA will occur prior to the subdivision dedication process the applicant will not be liable for a failure to comply with site plan conditions.
- **SHA Community Outreach Update.** SHA is continuing its public outreach and community involvement program throughout the design and construction process. During the status report item, SHA staff will provide a summary of the community meetings and outreach efforts held on the ICC since the mandatory referral public hearing July 13.
- **M-NCPPC Website.** Staff has updated the ICC web page established in June to assist in the public review of mandatory referral materials. The web page now contains a full library of Planning Board briefing materials (covering the agenda items since 2003 as listed in Attachment Three) and will be updated with each subsequent briefing to or action by the Planning Board. Our ICC web page is also now featured on the Planning Department's home page. A clear link directs viewers to the SHA's ICC project website ([www.iccproject.com](http://www.iccproject.com)) for the latest information on the project.

## SECTION C. OTHER NOTABLE EVENTS

- **NW-128 Site Non-Compliance.** On November 15, 2006, the contractor constructing the wetland in Northwest Branch Park (former fields used by Wheaton Boys and Girls Club) was cited by the Independent Environmental Monitor for non-compliance because construction of an outlet ditch was not completed and stabilized in one day as required. The construction was subsequently completed and the site was stabilized and brought back into compliance. No damage was observed as a result of the non-compliance action. (Note: while staff will continue to log all non-compliance reports, in future status reports we propose to describe only those non-compliance citations for which we find a physical problem resulted).
- **Anticipated Legal Action.** Several environmental interest groups announced plans in mid-November to file suits regarding the ICC environmental impact statement process. Per the June 23, 2006 Federal Register, the deadline for submission of claims seeking judicial review of the Federal agency actions is December 20, 2006.

## SECTION D. PROJECT SCHEDULE AND NEXT STEPS

The discussion of the Planning Board schedule and next steps serves two purposes:

- To help place the role of each Planning Board status report or action item in context, and
- To provide background for the discussion of proposed parkland transfer activities during the several months.

Attachment Three summarizes the Planning Board's ICC briefing schedule since 2003. As described in Status Report #2, staff now categorizes the Planning Board's review and decisions to date in three parts:

**Part I. The ICC Study** phase, from Project Planning kickoff in 2003 through the Record of Decision in May 2006

**Part II. The ICC Project** phase for the mainline roadway construction, from Record of Decision through construction, and

**Part III. Compensatory Mitigation (CM) and Environmental Stewardship (ES)** projects

Staff finds that the **Planning Board (and the full Commission) will need to act at least three more times after December 7 regarding real property matters** on the ICC project:

- To transfer parkland in Contract A (west of Georgia Avenue) to SHA. This transfer needs to occur prior to construction activities, for which a Notice-to-Proceed is scheduled for March 2007. Discussions between M-NCPPC and SHA

regarding final terms and conditions of the property transfer are ongoing and must be completed prior to transfer. Staff anticipates a property transfer in January 2007.

- To transfer parkland in Contract B (between Georgia Avenue and US 29) to SHA. This transfer needs to occur prior to construction activities in Contract B, for which a Notice-to-Proceed is anticipated in early 2008.
- To transfer replacement parkland properties from SHA to M-NCPPC, consisting of four sub-categories:
  - 1) Approximately 7.6 acres of property in the Upper Paint Branch SPA, described in the ROD Section 4(f) Addendum, can be transferred at any time.
  - 2) On other properties, including the Southern Asia Adventist Property, the McNeill Property, and the Dungan Property North (if not already dedicated to M-NCPPC through the subdivision process), SHA must complete titling information prior to transfer.
  - 3) On several properties, most notably the Casey Hoyles Mill Property, the Llewellyn Property, and the Peach Orchard/Allnut Property, SHA must complete either restoration or Compensatory Mitigation/Environmental Stewardship projects such as reforestation. Staff is discussing the review processes for these projects (as described under the Section D of this status report) and the timing of property transfer and parkland dedication will be pending the outcome of the review process discussions.
  - 4) SHA will also offer to M-NCPPC any ALARF (or Designated Transportation Areas) property adjacent to parkland remaining unused for transportation purposes at the end of the construction process. The amount of this property is unknown; the Design-Build process provides a financial incentive for contractors to minimize the use of these properties.

Three additional types of Planning Board regulatory actions may also be required:

- Staff hopes that SHA will concur that there are opportunities in Contract B and Contract C to revise limits of disturbance for selected locations within or adjacent to parkland, similar to the September 28, 2006 Planning Board review of two locations in Contract A.
- Staff is working with SHA and the Department of Natural Resources (DNR) to evaluate whether or not we should request that DNR delegate Forest Conservation responsibilities for certain projects (notably CM and ES projects) to M-NCPPC. If the delegation does not occur, then DNR conducts both reforestation and forest conservation activities on all ICC related projects. If delegation does occur, then the Planning Board will have a regulatory review of Forest Conservation Plans for those projects.

- DNR has expressed interest in placing conservation easements on certain areas of parkland to ensure that CM or ES projects are retained in perpetuity. As far as staff is aware, the ROD proscribes only one such conservation easement (through ROD Commitment #120); the preservation of forest on the Casey at Hoyles Mill property. Staff will consider conservation easements on a case-by-case basis and recommend the Planning Board consider them on their individual merits. The first such case is likely to be for the wetlands creation site NW-128, currently under construction.

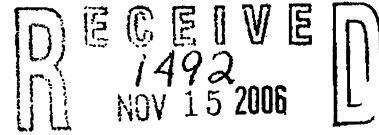
Robert L. Ehrlich, Jr., *Governor*  
Michael S. Steele, *Lt. Governor*



Robert L. Flanagan, *Secretary*  
Neil J. Pedersen, *Administrator*

Maryland Department of Transportation

November 6, 2006



OFFICE OF THE CHAIRMAN  
THE MARYLAND NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

Royce Hanson, Chairman  
The Montgomery County Planning Board  
The Maryland-National Capital Park and Planning Commission  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Dear Chairman Hanson:

Thank you and your staff for taking the time to review all of the material provided to you regarding the Mandatory Referral No. 0608-SHA-1 for the Intercounty Connector (ICC). The State Highway Administration (SHA) has reviewed the letter from former Chairman Derick Berlage to Secretary Robert L. Flanagan, dated July 28, and would like to respond to the sixteen items listed as "Attachment A: Conditions of Approval." In addition, we have included a point-by-point response to "Attachment B: Detailed Recommendations." This response serves to finalize the mandatory referral process. Thanks go to Mr. Dan Hardy, in particular, for his outstanding work in helping to facilitate the mandatory referral process.

As stated in your letter, we agree that the ICC is a complex project. We compliment your staff members for their ability to adapt to the performance-based approach of design-build, and we appreciate their willingness to work through plans and specifications that may be in a different format and content than they may have seen on most SHA projects. We look forward to continued success in the coordination of the design-build projects, the design and construction of the stewardship and mitigation projects, and the right-of-way acquisitions. "Attachment C: Schedule for Right-of-Way Transfer" contains our schedule for right-of-way transfers with M-NCPPC as previously agreed upon. I also thank Mr. Bill Greis, who has worked closely and cooperatively with our Office of Real Estate on preparation for the planned right-of-way transfers and payments.

The attachment also outlines our schedule for parkland mitigation as approved by M-NCPPC on September 21, 2005. As you may know, the ICC parkland mitigation package, at nearly eight acres of replacement parkland for every acre impacted by the project, is unprecedented in its range and scope.

My telephone number/toll-free number is 410-545-0400 or 1-800-206-0770

Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • [www.marylandroads.com](http://www.marylandroads.com)



Mr. Royce Hanson  
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As you will see in greater detail on Attachments A and B, we appreciate the comments you have shared and will continue to work with your staff to clarify our approach as the project moves forward. Our dialogue will continue through various mechanisms, including your staff's involvement, the Interagency Working Group (IAWG), and the Environmental Management Team. We also look forward to finalizing a process for which the ICC team will coordinate design and construction activities for the agreed-upon stewardship and mitigation projects that are being developed on parkland or land that will become parkland.

Thank you, again, for your partnership in this process. If you have any further questions or comments, please do not hesitate to contact Ms. Melinda Peters, Director of the Office of the Intercounty Connector, SHA at 410-545-8829, toll-free 866-462-0020 or via email at [iccproject@sha.state.md.us](mailto:iccproject@sha.state.md.us). You may also contact Mr. Alan Straus, who is assisting Ms. Peters with the coordination of issues pertaining to the M-NCPPC. Mr. Straus can be reached at 410-891-9274.

Sincerely,



Neil J. Pedersen  
Administrator

Attachments

cc: Mr. Dan Hardy, Project Manager for the Intercounty Connector, M-NCPPC  
Ms. Melinda Peters, Director, Office of the Intercounty Connector, SHA  
Mr. Alan Straus, Community Outreach, GEC

## ATTACHMENT A – RESPONSE TO CONDITIONS OF APPROVAL

### PROCEDURAL

**Item 1:** Submit an independent Mandatory Referral for Intercounty Connector (ICC) Contracts B and C if material changes are made to the Design-Build process, including the revision of performance specifications developed for Contract A other than to incorporate site-specific references as noted below.

*Response:* *SHA agrees that if significant changes arise for Contracts B and C, an independent Mandatory Referral may be necessary. Similar to our approach for Contract A, where we have incorporated many of the comments received from M-NCPPC, we will continue our coordination for the subsequent contracts. The State Highway Administration (SHA) does not currently anticipate material changes to the RFP for Contracts B and C that would necessitate submission of an additional independent mandatory referral.*

**Item 2:** As part of the Environmental Management Plan, develop written guidance incorporating our Technical Review and Park Permitting process that will, per our 1989 Memorandum of Understanding (MOU), describe ways for the Maryland-National Capital Park and Planning Commission (M-NCPPC) representatives overseeing all construction impacting parkland, including Paint Branch trout stream monitoring, to halt and/or modify construction activities as needed to protect these resources, especially in the case of episodic or emergency situations.

*Response:* *The Environmental Management Plan will document the process for agencies to oversee construction activities that may affect resources under their jurisdiction, including M-NCPPC. Episodic or emergency situations can be immediately addressed by M-NCPPC observers with the parties involved (SHA inspection staff, contractor field crews, etc.), quickly followed by formal notification to the SHA Construction Manager. Since the contractor is under contract to the SHA, SHA will be the sole agency responsible for the modification of activities.*

**Item 3:** Develop appropriate legal interagency instruments (such as MOU or property deed restriction) to document:

- a) Agreements for the schedule and process to remove, relocate, and/or replace physical facilities on property needed for ICC construction, including the active playing fields in Layhill Local Park and Northwest Branch Recreational Park and facilities associated with the National Capital Trolley Museum.

- b) Agreements regarding the use and restoration of park property that will be the subject of either temporary construction easements or perpetual drainage easements.
- c) Agreements for perpetual maintenance and liability of MdTA property beneath ICC bridge structures adjacent to stream valley parks to retain passive recreation uses.

*Response:*

- a) *SHA will address the replacement of impacted facilities either through a construction contract for replacement facilities or through the normal SHA right-of-way acquisition process. For example, the active playing field at the NW 128 wetland creation site as well as the active fields at Layhill Local Park will be replaced as part of the Llewellyn Fields mitigation project, committed to by SHA in the Record of Decision. Impacts to the National Capital Trolley Museum will be addressed as part of the right-of-way acquisition process. In addition, SHA is working with M-NCPPC staff and the Trolley Museum to identify a process that will facilitate the timely relocation of the affected facilities.*
- b) *SHA will work with M-NCPPC regarding temporary construction easements and perpetual drainage easements where applicable. SHA has standard requirements for easements that provide protection to both the property owner and SHA for the purpose of the easement that is needed.*
- c) *We recognize that the connectivity of the trails through the north-south stream valley parks is critical to MNCPPC. SHA/MdTA will address perpetual maintenance and liability issues associated with these trail connections beneath ICC bridge structures as part of a future agreement between MNCPPC and MdTA (the future owner of the facility).*

**Item 4:**

Develop and distribute details of a public outreach and community involvement program to be conducted during design and construction. The program must include more proactive means by which public expectations can be established and then met, to both communicate and solicit feedback regarding the roadway design and construction process, as well as to reduce the levels of uncertainty currently expressed by directly impacted property owners and occupants.

*Response:*

*SHA is continuing its extensive public outreach and community involvement program during design and construction. These efforts include the recent mailing of the first in a series of project newsletters, establishment of a*

*project website, and on-going outreach efforts with local homeowner associations. Details of the plan have been forwarded to M-NCPPC as requested and staff will be informed of any meetings that we hold with communities.*

**Item 5:** Consider the following elements in the development of the RFP and the review of the Design-Build proposals:

- a) Seek to implement the highest quality product that fully utilizes the available budget.
- b) Structure the overall compensation package in such a way that incentives for performance are given equal or greater weight than the combined incentives for cost savings and liquidated damages for exceeding project completion date projections.
- c) Where discretionary choices are available, consider the protection of natural resources particularly those in Special Protection Areas, as the project's highest priority.

**Response:**

- a) *SHA will seek to implement the highest quality product while being fiscally responsible to Maryland's tax payers. The Design Build and Competitive Sealed Proposal process will help to achieve this goal, allowing final contractor selection based on a combination of price and quality. SHA will work to achieve the highest quality, acknowledging the fiscal responsibility to maintain the approved project budget.*
- b) *The incentives will be structured to ensure that the design-build team continues to look for opportunities to minimize impacts while taking into account the fiscal constraints of the project.*
- c) *The SHA agrees that protection of the environment is the highest priority, including work that will be performed in the Special Protection Areas.*

## **ENVIRONMENTAL AND PARKLANDS RESOURCE PROTECTION**

**Item 6:** Develop an agreement as soon as possible between the Maryland State Highway Administration (SHA), the Montgomery County Department of Permitting Services (DPS), and M-NCPPC that:

- a) Is developed expeditiously to be in place prior to commencement of further design work in Special Protection Areas (SPAs).

- b) Establishes the process for and timing of Planning Board review and approval of SPA water quality plans to allow any Planning Board recommendations to be incorporated into the Design-Build process and final impervious waiver and mitigation package.
- c) Outlines the content of and review processes for Water Quality Plans within the Upper Rock Creek and Upper Paint Branch SPA .
- d) Establishes points of involvement for DPS, such as inclusion in Interagency Working Group.

*Response:*

*The SHA continues to work with DPS regarding design and review of facilities within the SPA, including review process and points of involvement for DPS. SHA is committed to the design intent of the SPA requirements, and continues to work with DPS regarding process issues in the context of design build. SHA is now preparing a concurrence letter for DPS review, and will assist M-NCPPC staff with any updates to the Planning Board.*

**Item 7:**

Provide significant financial incentives for the Design-Build contractor to further address and reduce impacts to the highest quality forests beyond the level identified in the ROD commitments by:

- a) Providing incentives based on specific guidance in Attachment B (comment PS310-1), and
- b) Including in the RFP an explicit request for proposals to demonstrate how the impacts in the most sensitive areas of the right-of-way will be reduced and including the evaluation of these proposals in the establishment of the best value award.

*Response:*

- a) *SHA agrees that forest incentives should be included in the contract, and is working with the environmental agencies to determine the amount of the incentive. This incentive will be determined in the context of overall project budget constraints. SHA continues to work to reduce forest impacts, and as an example, has recently partnered with M-NCPPC to revise the preliminary design and associated limit of disturbance in three locations within Contract A. Additional opportunities for forest reduction, similar to the suggestions that are now being included in Contract A will be assessed in future construction segments.*
- b) *SHA agrees that the environmental component of the project is an important factor in the evaluation of the proposals, and has included questions in the RFP that will help in the establishment of the "best value" award.*

**Item 8:** Limit available planting species to reduce the threat of non-native invasive (NNI) species and commit to the limited program of NNI inspection and removal on park property (Attachment B comments PS301-1 to PS301-4).

*Response:* *SHA will limit available planting species to reduce the threat of non-native invasive (NNI) species. However, the SHA cannot implement a program of NNI inspection and removal on park property outside of the ICC right-of-way. SHA will coordinate with M-NCPPC in their own NNI program on edge areas.*

**Item 9:** Consider three levels of incorporation of comments regarding environmental resources in Attachment B. First, consider application to the entire project, as suggested. If a recommendation cannot be accepted in that regard, next consider application to the portions of the project where the LOD is bounded by park property on both sides. Finally, consider application of comments to the portions of the project within 25 feet of any adjacent park property.

*Response:* *We have reviewed the comments in Attachment B in light of the requested priorities. Our detailed response to Attachment B is enclosed with this letter.*

#### **COMMUNITY PLANNING AND DESIGN**

**Item 10:** Regarding the Western Maintenance Facility, our strong preference is that the State not site this facility on either the Casey 6 or Casey 7 properties. If the facility must go on one of these properties, the better location would be on the Casey 6 property adjacent to the ICC. If the Western Maintenance Facility is located on Casey 7, it would jeopardize housing options for the Shady Grove Sector Plan, seriously compromising the adopted Shady Grove Sector Plan.

*Response:* *SHA/MdTA studied various alternate locations throughout the planning process. Based on factors such as location, access, schedule and cost, SHA/MdTA has determined that Casey 7 is the optimum location for this facility. The property contract purchaser, EYA, has met with the SHA/MdTA to further discuss this issue and is preparing alternate designs for Casey 6. SHA/MdTA will continue to review and assess suggestions from EYA on this topic as they are developed further. Meanwhile, the study team is moving forward on geotechnical investigations and design on Casey 7.*

**Item 11:** Improve the parkway character of the ICC roadway by elements (Attachment B, PS 301-5 through 301-11) that:

- a) Provide additional space for landscaping,

- b) Increase the density of required plantings,
- c) Specify additional planting requirements with typical planting zone layouts, reduction in clear zones where guardrail is provided, and planting specifications for the community side of noise walls,
- d) Increase the level of aesthetic treatments for structural elements,
- e) Include ornamental lighting and railing specifications,
- f) Simplify the design options to achieve a more unified treatment; and,
- g) Provide greater detail regarding visual conformity of elements.

*Response:*

*The SHA agrees that aesthetics are an important aspect of this project. Accordingly, SHA has developed aesthetic guidelines to enhance the appearance of the ICC from both a user's perspective and from the neighboring land uses. The guidelines address landscaping, treatment of structural elements, and the overall visual impact of the roadway. Although opinion may differ on the specific aesthetic treatment to be used, we have developed an aesthetic plan for the corridor that SHA/MdTA believes fits within the area and is a step above most roadways in Maryland. Additional information is included in our detailed response to Attachment B, enclosed with this letter.*

## **MULTI-MODAL TRANSPORTATION**

**Item 12:** Participate in continuing discussions and Planning Board work sessions with the County, M-NCPPC, and the public regarding:

- a) The implementation schedule for the portions of the state's bike plan that are not adjacent to the ICC, and
- b) The master plan and implementation status for those portions of the ICC for which the County master plan recommends a bike path but the state proposal does not.

*Response:*

*The ICC bike plan identifies a continuous cross county route along a portion of existing and proposed trails. As documented in the ROD, the SHA has committed to building a portion of the trail along the ICC, and will continue to partner with M-NCPPC regarding details of the overall plan.*

**Item 13:** Incorporate the following elements of the hiker-biker trail into the Design-Build contracts:

- a) Construct the easternmost ICC bridge across Northwest Branch in a manner so that a future bike trail crossing of the stream valley could be suspended from the structure,
- b) Extend the trail beneath Norbeck Road (MD 28) as well as providing the at-grade crossing at Wintergate Drive,
- c) Provide either traffic signal phases or grade separated pedestrian crossings of Georgia Avenue (MD 97), Layhill Road (MD 182), and New Hampshire Avenue (MD 650), and
- d) Include other recommendations described in Attachment B (PS 309-1 through PS 309-8).

*Response:*

- a) *SHA/MdTA is constructing the ICC so as not to preclude a trail along the ICC at this location. Many trail alignment options will likely be developed, some of which could involve attachment of the trail to the bridge structure. However, the details of the trail location are insufficient for the bridge design to address all of the potential options. For these reasons, SHA is unable to design the structure to accommodate specific trail alignment options;*
- b) *SHA will construct the at-grade crossing at MD 28 and Wintergate Drive, but will not extend the trail beneath MD 28 as well. This is a duplicate movement that adds cost and impacts;*
- c) *SHA will provide traffic signal phases for pedestrians at the locations noted; and,*
- d) *SHA has reviewed the other recommendations described in Attachment B. Our detailed response is enclosed with this letter.*

**Item 14:**

Provide a sequencing plan for implementation of the ICC interchanges at Georgia Avenue (MD 97) and at US 29 that shows how:

- a) the design will work both prior to the construction of adjacent interchanges (MD 97 at MD 28 and US 29 at Fairland Road),
- b) safe traffic and pedestrian accommodations will be accommodated in the ICC-open-to-traffic condition, and
- c) reconstruction efforts for the subsequent adjacent interchange connections can be phased to minimize cost and community disruption.



*Response: The SHA is developing details for the implementation of the ICC interchanges at MD 97 and US 29 to address these areas of concern. Coordination continues on this item with M-NCPPC, Montgomery County Department of Public Works and Transportation, and the Inter-Agency Working Group (IAWG).*

**Item 15:** Incorporate additional design references and details related to transportation improvements in Attachment B, including elements such as design speeds, sidewalk connections and clear zones, and roadway abandonment procedures.

*Response: SHA has reviewed the other recommendations described in Attachment B. Many of these comments have been addressed as part of our ongoing refinement of the Contract A documents, and we will continue the dialogue for subsequent Contracts B and C. Our detailed response is enclosed with this letter.*

## **CONCLUSION**

**Item 16:** The Planning Board's approval of this mandatory referral is conditional upon successful achievement of these conditions. We will consider the status or progress toward achievement and compliance with these conditions as we receive monthly or more frequent status reports during Planning Board public sessions from both M-NCPPC and SHA staff. The Planning Board approvals of land transfers, including easements, will be subject to the consideration of progress on all conditions described herein.

*Response: The SHA will continue to work with M-NCPPC staff as this project moves forward including the Interagency working group (IAWG), the Environmental Management Team (EMT), and any other staff coordination necessary. SHA will also assist staff in periodic briefings to the Planning Board at major milestones for the project including land transfer and construction notice to proceeds. With this coordination level, SHA believes that MNCPPC staff should be able handle regular briefings with the Planning Board.*

**ATTACHMENT B. DETAILED RECOMMENDATIONS**  
**SHA RESPONSE**  
*[Insert Date]*

The staff recommendations in Section A of this report incorporate the following detailed recommendations. The recommendations are listed in the following order:

- o PS 301 – Planting and Landscaping
- o PS 303 – Drainage
- o PS 305 - Traffic
- o PS 308 - Structures
- o PS 309 – Roadway
- o PS 310 - Environmental
- o GEN - General comments not necessarily related to individual performance specifications

Performance specifications references are to the draft versions submitted with the mandatory referral as of May 4, 2006. As part of the Interagency Working Group, staff continues to work with other agencies in an iterative process to continue the refinement of the project performance specifications.

**Legend:**

Agreement

Clarification

<b>PS 301 PLANTING AND LANDSCAPING PERFORMANCE SPECIFICATIONS</b>	
PS 301-1	<p>The species list for 4.1.5 “Forest Edge” and 4.1.9 “Reforestation Areas” must be changed so that the following species are eliminated:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> <i>Liquidamber styraciflua</i>/sweet gum</li> <li><input type="checkbox"/> <i>Quercus phellos</i>/ilow oak</li> <li><input type="checkbox"/> <i>Claudrastris kentuckea</i>/American yellowwood</li> <li><input type="checkbox"/> <i>Magnolia virginiana</i>/sweetbay magnolia</li> </ul> <p>Response: The species list in Section 4.1.5 and Section 4.1.9 will be modified as requested. <i>Ulmus parviflora</i> will be removed from Section 4.1.10. SHA continues to evaluate if <i>Sericia Lespedeza</i> will be removed from the seed mix described in Section 4.1.11.3.</p>

**PS 301 PLANTING AND LANDSCAPING PERFORMANCE SPECIFICATIONS**

- Cornus racemosa*/gray dogwood
- Myrica pennsylvanica*/bayberry
- Amelanchier laevis*/Allegheny Serviceberry mountains
- Pinus Taeda*/Loblolly pine
- Itea virginia*/Virginia sweetpire
- Rhus aromatica*/Fragrant sumac
- Viburnum lentago*/Nannyberry viburnum

In addition to the elimination of the above species from the lists, *Ulmus parviflora* (Chinese or Lacebark Elm) should be removed from the Street Tree list, in Section 4.1.10, since it is listed as a species of "Local Concern and Monitoring Category" on the US Forest Service Eastern Region web site.

Whether adjacent to park property or not; no SWM facility Seed Mix should have *Sericia Lespedeza* (aka *Lespedeza cuneata* = Chinese bush clover) as part of the seed mix. (4.1.11.3) This plant is a known invasive in dozens of states, is on the official Noxious Weed list for several states.

**PS 301 PLANTING AND LANDSCAPING PERFORMANCE SPECIFICATIONS**

<p>PS 301-2</p>	<p>The Design-Builder is responsible for monitoring and removing non-native (NNI) species on M-NCPPC property within 150 feet of the Limit of Disturbance for a period of two years after construction has completed.</p> <p>The area for NNI species management on M-NCPPC property shall be inspected twice annually: once in June and once in August. If NNIs are present, they shall be treated according to the guidelines contained in "M-NCPPC Best Management Practices for Control of Non-Native Invasives."</p> <p>The preferred method of removal is the use of power hand tools and/or hand tools in combination with chemical control. Only glyphosate and triclopyr are approved for use on park property. Chemicals shall be used in accordance with the instructions contained on the label. Chemicals shall be treated with an EPA approved blue marker dye in order to keep track of which plants have been treated.</p>	<p>Response: SHA will limit available planting species to reduce the threat of non-native invasive (NNI) species. However, the SHA cannot implement a program of NNI inspection and removal on park property outside of the ICC right-of-way. SHA will coordinate with M-NCPPC in their own NNI program on edge areas.</p>
<p>PS 301-3</p>	<p>M-NCPPC shall be notified two weeks prior to the removal of any NNIs.</p> <p>Include <i>Jasminum nudiflorum</i> (Winter Jasmine) as a species appropriate for landscaping retaining walls and noise walls in Section 4.1.13.</p>	<p>Response: <i>Jasminum nudiflorum</i> will be included in Section 4.1.13.</p>
<p>PS 301-4</p>	<p>Increase the minimum density for all planting zones as follows:</p> <ul style="list-style-type: none"> <li>• 2 evergreens for every 3,000 square feet</li> <li>• 2 shade trees for every 1,500 square feet</li> <li>• 2 shrubs for every 400 square feet</li> </ul>	<p>Response: The minimum density will be increased for a number of the planting zones.</p>

**PS 301 PLANTING AND LANDSCAPING PERFORMANCE SPECIFICATIONS**

PS 301-5	<p>The RFP should provide illustrative planting plans for the different planting zone types to ensure better response by contractors and visual compatibility with adjacent community.</p>	<p>Response: The RFP will not include illustrative planting plans; the RFP currently includes a Landscape Concept Plan for Contract A. In response to the RFP, the reduced candidate DB Teams are required to submit a sample planting plan for a 4000 linear foot section of Contract A for review and evaluation by the SHA/MdTA/GEC.</p>
PS 301-6	<p>The following specifications should be added:</p> <ul style="list-style-type: none"> <li>• Specify a precast ashlar stone pattern for all retaining walls, abutments, and noise walls.</li> <li>• Identify Federal Standard color references for all structural elements of bridges, retaining walls, guardrails, signposts, and noise walls.</li> </ul>	<p>Response: The Administration's goal is for the ICC to present a variety of formliner finishes on structural elements, rather than have one single finish for the entire length of the corridor.</p> <p>Federal Standard color numbers have been provided for some routine elements. However, the concrete stains desired do not lend themselves to a Federal Standard color definition. The Administration has attempted to convey the colors desired through the use of descriptive text and color renderings and will ultimately review and approve the final design.</p>

**PS 301 PLANTING AND LANDSCAPING PERFORMANCE SPECIFICATIONS**

PS 301-7

Further develop the design character for bridges over roadways to incorporate more use of ornamental railings, balusters, and lighting to improve community's views, pedestrian needs and relationship to parks. Design treatments for different conditions are recommended as follows:

Type A: ICC bridges over roadways should have low ornamental railings, intermittent low balusters to break up the long horizontal spans, and lighting on end posts. Precast stonework should be used on the face of structures except balusters and end posts. Higher railings are not required because no pedestrian access is provided in these locations along the ICC.

Type B: Roadway bridges over the ICC that have sidewalks or bikeways need higher ornamental railings that are framed by intermittent balusters, and lighting on end walls. Precast stonework should be used on the face of structures except balusters and end posts.

Type C: Community Gateway bridges over the ICC, as identified in the May 2006 Aesthetic Elements document, need to have the proposed railings vertically divided by intermittent balusters and bumped out baluster bases for ornamental lighting. Precast stonework should be used on the face of the structures except on balusters and end posts.

Type D: Park bridges do not require revisions to structural design of the bridges. However, both bridges need to incorporate precast ashlar stone patterns into the face of the structures to be more compatible with the park setting. The same treatment should be applied to the US 29 interchange bridges where, given the three-level ramping system, ornamental features are not required and uniformity with the adjacent US 29 interchange design must also be considered.

Response: The goal for most of the bridges on the ICC is to be unobtrusive but attractive. The desire is to keep embellishments to a minimum while providing a pleasing structure.

Ornamental railings, balusters and light poles, have been limited to bridges located at key access points to the ICC, which have been designated as gateways.

**PS 301 PLANTING AND LANDSCAPING PERFORMANCE SPECIFICATIONS**

PS 301-7

Concrete beams are preferred where the ICC passes over parks or intersecting roadways because they transmit less road noise to the user below.

Pedestrian and bike path width recommendations are indicated as followed (with a "+" indicating bike path accommodation)

Type A: 8 feet sidewalks under bridge  
 Type A+: 8 feet sidewalk on one side under bridge, 12 feet bike path on other side under bridge  
 Type B: 8 feet sidewalks on bridge  
 Type B+: 8 feet sidewalk on one side of bridge, 12 feet bike path on other side of bridge  
 Type C: 8 feet sidewalks on bridge  
 Type C+: 8 feet sidewalk on bridge, 14 feet bike path on other side of bridge  
 Type D: no pedestrian or bike accommodation on bridge  
 Type D+: 14 feet bike path on one side of bridge

Incorporate the following gateway treatments for each of the cross streets bridge structures:

Oakmont Avenue Type A (low ornamental railing, lighting at the end posts)  
 Crabbs Branch Way Type A+ (low ornamental railing, lighting at the end posts)  
 Shady Grove Road Type A (low ornamental railing, lighting at the end posts)  
 Redland Road Type B (high ornamental railing, lighting at the end posts)  
 Olde Mill Run Type C (Community Gateway with out lighting)  
 Needwood Road Type B+ (high ornamental railing, lighting at end posts)  
 Rock Creek Type D (Linear park bridge with low railing)  
 Muncaster Mill Road Type B (high ornamental railing, lighting at end posts)

Response: The Design-Builder is not precluded from using concrete beams for ICC bridges crossing parks and surface streets.

The sidewalk and bike path requirements have previously been agreed upon by the Administration and Montgomery County DPW&T during planning.

For the purposes of aesthetics, the ICC is generally considered to begin north and east of the Metro Access interchange. The goal for most of the bridges on the ICC is to be unobtrusive but attractive. The desire is to keep embellishments to a minimum while providing a pleasing structure.

Oakmont: This bridge is only being widened to the median. No work is being proposed to the exterior parapets.  
 Crabbs Branch Way: These bridges are proposed to mimic the existing bridges and continue the appearance of the I-370 bridges that are immediately adjacent. They are also prior to the point where the ICC begins aesthetically.  
 Olde Mill Run: The characteristics of the portals create a community gateway. Since noise barriers are required, ornamental railings are not feasible.

**PS 301 PLANTING AND LANDSCAPING PERFORMANCE SPECIFICATIONS**

PS 301-7

North Branch Type D+ (Linear park bridge with low railing)  
 North Branch Trib Type D+ (Linear park bridge with low railing)  
 Emory Lane Type B+ (high ornamental railing, lighting at end posts)  
 Northwest Branch Type D (Arched bridge with low railing)  
 Georgia Avenue Type C+ (Community Gateway with lighting)  
 Norbeck Road Type C+ (Community Gateway with lighting)  
 Longmead Crossing Drive Type B (high railing, with lighting at end posts)  
 Layhill Road Type C (Community Gateway with lighting)  
 Northwest Br 1 Type D (Linear park bridge with low railing)  
 Bonifant Rd/NW 2 Type D (Linear park bridge with low railing)  
 Northwest Br 3 Type D (Linear park bridge with low railing)  
 Notley Road Type B (high ornamental railing, lighting at end posts)  
 New Hampshire Avenue Type C (Community Gateway with lighting)  
 Good Hope Type D (Linear Park with low railing)  
 Gum Springs/Upper Paint Branch Type D (Linear park bridge with low railing)  
 Route 29 Interchange Type D (Linear park bridge with low railing) (bike path is separate from bridge)  
 Briggs Chaney Road Type B+ (high ornamental railing, lighting at end posts)

Rock Creek: The arch bridge is a commitment made to the National Park Service during planning and was coordinated with IAWG.  
 North Branch: The railing provided has been sized to safely contain and re-direct traffic while providing a viewshed to the stream valley.  
 North Branch Trib: The railing provided has been sized to safely contain and re-direct traffic while providing a viewshed to the stream valley.  
 Georgia Ave.: A Gateway is being provided.  
 Layhill: A Gateway is being provided.  
 NW1: A park bridge is being provided.  
 Bonifant/NW2: A park bridge is being provided.  
 NW3: A park bridge is being provided.  
 New Hampshire: A Gateway is being provided.  
 Good Hope: A park bridge is being provided.  
 Gum/Paint: A park bridge is being provided.  
 US29: The interchange bridges are generally receiving a stone formliner finish on the outside of the parapets and the wingwalls.



**PS 301 PLANTING AND LANDSCAPING PERFORMANCE SPECIFICATIONS**

<p>PS 301-8</p>	<p>Increase the curvature on all curved cheek walls except the Community Gateway (Type C) bridges.</p> <p>For the signature arch bridge over the Rock Creek main stem the cheek wall curve should match the structure's curve.</p>	<p>Response: The Administration finds the curvature of the wingwalls acceptable as shown.</p> <p>Matching the curvature on the arch would result in excessively large wingwalls that are difficult to construct and may be unattractive (excessive).</p>
<p>PS 301-9</p>	<p>Noise walls should follow the Aesthetics Element Option 3 (stone with concrete posts) with the same ashlar stone pattern on the noise walls that is used on the bridge structures and retaining walls. The performance specifications should require use of wall types that can support this pattern.</p> <p>Specify a Federal Standard color reference for the noise walls that is darker in value than shown on the proposed Aesthetic Elements.</p> <p>Performance specifications must include a minimum one-foot offset between noise walls and retaining walls for planting of vines even in the most restricted right of way areas. Where rights of way are less restricted, the standard offset should be six to eight feet.</p>	<p>Response: A variety of noise barrier finishes are proposed in keeping with the Administration's desire to have multiple complementary elements rather than a single, repeating feature. The performance specifications specify an aesthetic option for each noise barrier location. Any wall system selected will have to accommodate the required aesthetics.</p> <p>The colors shown are complementary and consistent with the colors desired on the bridges and retaining walls.</p> <p>A 3-foot wide minimum planting buffer is required between noise barriers and retaining walls where feasible.</p>

**PS 301 PLANTING AND LANDSCAPING PERFORMANCE SPECIFICATIONS**

PS 301-10	All fencing along tops of retaining walls and culverts and as needed to separate shared-use path from roadway should be wire mesh instead of chain link.	Response: The wire mesh is significantly more expensive than chain link. The wire mesh has also been a maintenance problem since the welded mesh causes the coatings to quickly break down causing unsightly rust stains. The Administration does not perceive the aesthetic benefit to be commensurate with the increased cost and potential maintenance issues.
PS 301-11	New roadway lighting should include cut off fixtures to avoid unwanted glare	Response: Lighting will be as described in the Performance Specification, which includes "cut-off" lighting.
PS 301-12	Revise Section 4.1 to specify that the referenced clear zones can be significantly reduced to allow planting of trees and other materials closer to the edge of pavement if guardrails or topography meet applicable safety standards.	Response: The Performance Specification text will be modified to respond to the comment.
PS 301-13	Include planting specifications for the community side of the noise walls including species, density, sizes, and spacing requirements.	Response: Planting on the community side of the noise walls will be addressed in Roadside Screening Areas (RB) text.

**PS 303 DRAINAGE SPECIFICATIONS**

PS 303-1	Section 3.2A; Add Dry Swale design standards within SPAs to section regarding Grass Channel Credit requirements.	Response: This request has been incorporated in Section 3.7B.
PS 303-2	In Section 3.3.1 Insert new C): Culverts will be designed in accordance to the goals, principles and practices outlined in the most recent version of the Montgomery County Guidelines for Environmentally Sensitive Culvert Design. Specifically, culverts should be sized to span the entire cross section of the main drainage course upstream and downstream without internal supports or multiple cells. Orientation and alignment of proposed culverts shall minimize alterations in channel scope and discharge impacts from existing conditions and maintain base flow channel. Additional in-channel measures may be required to prevent scour or channel incising.	Response: Through discussions with DEP and MDNR staff it was determined that MDE culvert design protocols for fish passage and erosion protection would suffice for the project.
PS 303-3	Consider elevating the priority of Montgomery County Code 19-65(a)(2)(B)	Response: SHA has reviewed this request but does not concur with elevating this Code to a higher priority.
PS 303-4	Page 6 of 36 - Move existing D) up to end of new Cadd to end of existing C (new D) paragraph: If both H&H requirements consistent with biosensitive design, along with wildlife accommodation, cannot be met at a specific stream crossing so designated, the Agency, in consultation with the Environmental Management Team, will determine the appropriate design goal.	Response: These comments are already covered in the Environmental Performance Specifications.
PS 303-5	Page 7 of 36 - Table 4: Add the following columns: amphibian culvert passage (at Stations 150+00 and 173+30); structure type; MNCPPC property upstream and downstream.	Response: The crossings mentioned already require deer passage accommodation either in the hydraulic cell or a separate cell, and the soil conditions in the deer passage cell to be conducive to amphibian passage as well. No additional amphibian passage requirements need to be added to the project.

**PS 303 DRAINAGE SPECIFICATIONS**

<p>PS 303-6</p>	<p>Page 8 of 36 - Add to end of D): Design features such as flow deflectors or other instream measures shall be installed as necessary to maintain the existing baseflow channel dimensions, depth, and flow velocities. These measures shall account for grade control adjacent to structures and re-deposition of streambed material should scour of natural bottom materials occur during high flows.</p>	<p>Response: Through discussions between SHA, MCDEP and MDNR staff it was determined that MDE culvert design protocols for fish passage would be used to protect the quality of stream habitat.</p>
<p>PS 303-7</p>	<p>Page 9 of 36 - H) add new sentence to end: All ditches shall have a minimum bottom width of two feet if flow is to exceed 0.5 cfs for the 2-year storm event, and 1-foot bottom width otherwise.</p> <p>Ditch inverts shall be scarified prior to stabilization to promote infiltration except as noted in Paragraph K of this section.</p>	<p>Response: Ditches must meet MDE Grass Channel Credit requirements if being used to convey roadway runoff, otherwise SHA ditch design criteria rules.</p> <p>Response: Comment will be incorporated.</p>
	<p>I) Insert into 2nd sentence after "is temporary matting": ...that is photodegradable or biodegradable, and shall be...</p>	<p>Response: Type A and Type B mattings referenced in the performance specifications refer to SHA's Blue Book specification. Type A matting is temporary, Type B is permanent / turf reinforcement matting.</p>
	<p>K) Add sentence to end of paragraph: Note that side ditches in excess of five feet in height do not qualify for grass channel credit for SWM treatment.</p>	<p>Response: The grass channel filters pollutants through reduced velocity between grass blades and those facilities in fill are not precluded from consideration by MDE.</p>
	<p>L) Add to end of second sentence: ...and the Environmental Performance Specification for permitted wetland impacts and wetland avoidance incentives.</p>	<p>Response: Comment will be incorporated.</p>
	<p>N) Add sentence to end of paragraph: All outfalls shall be designed to prevent downslope scour. In cases where discharges from outfalls may reconstitute and create erosion beyond limits of disturbance, additional prevention measures may be required.</p>	<p>Response: All culverts must meet MDE roadway construction and Erosion and Sediment Control design requirements, including outfall energy dissipation.</p>

**PS 303 DRAINAGE SPECIFICATIONS**

PS 303-8	Page 13 of 36 - 3.4 Add new paragraph to end of section: The cleanup of spills shall take precedence over all other work at the site. In case of a spill, MDE and SHA shall be notified immediately.	Response: Comment will be incorporated.
PS 303-9	Page 15 of 36, D - Add new paragraph before D): Where areas to be used for SWM facilities are adjacent to MNCPPC property, the decision shall be coordinated with MNCPPC to minimize loss of natural resources within the right-of-way.	Response: Roadway construction footprint has been minimized to the extent that the Administration is comfortable, balancing 4(f) and constructability needs. If a Design Builder can further reduce impact he will be compensated as allowed in the performance specifications.
	Add new paragraph after D): Where outfall discharges onto MNCPPC property, safe conveyance shall be analyzed down into the floodplain and MNCPPC review shall be obtained.	Response: Outfall design will meet MDE requirements at a minimum, and MDE will be reviewing and approving outfall protection designs.
	Add new paragraph after E): Drainage areas to proposed outfall points shall not be substantially increased (greater than 25% or 2 acres) as a result of the project. Any outfalls that receive additional flows during any storm event shall be analyzed for drainage course stability below the outfalls	Response: Already an MDE requirement, except for the drainage area part. Except where mandated by COE permit conditions, significant drainage area diversions are not expected. Each design point must be documented to be a stable receiving watercourse for proposed discharges.
PS 303-10	3.7 C) insert "MNCPPC" before....and Montgomery County Department of Permitting Services"	Response: MNCPPC will have staff assigned as part of our EMT that will be involved in review of design. Therefore, there is no need to add staff to the plan review process in place for the ICC
	C) Also insert "road and" before "bridge deck"(per ROD commitment #29)	Response: Comment will be incorporated.

**PS 303 DRAINAGE SPECIFICATIONS**

	<p>D) Refer contractor to a table indicating the anticipated locations of dry surface ponds and dry underground chambers.</p> <p>Add new F) In areas that are not captured in structural treatment facilities, provisions shall be provided within conveyance system for litter collection.</p> <p>3.7.1 A) rewrite: The best fit given the site context and minimization of footprint shall be considered.</p> <p>C) rewrite: BMPs shall be designed to be low maintenance.</p>	<p>Response: Surface pond locations are shown on the RFP plates and a table of anticipated underground SWM locations is provided.</p> <p>Response: Areas not captured in structural treatment systems are expected to be relatively small. Litter collection devices (besides normal roadway maintenance operations) are impractical on small conveyances.</p> <p>Response: Comment will be incorporated.</p>
<p>PS 303-11</p>	<p>Page 17 of 36</p> <p>3.7.2 A) General note: soil amendment is needed in conjunction with this, otherwise the highly compacted soils will be impervious.</p> <p>3.7.3 C) Add to end of paragraph: These areas will not be considered for infiltration or W.Q. credits.</p>	<p>Response: Upon review, the original text is acceptable. No changes will be made.</p> <p>Response: Under 3.7.2.A.4, language was added to amend soils as necessary to promote infiltration after pavement removal operations, if there are any.</p> <p>Response: MDE allows use of grassed channels for more reasons than just groundwater recharge.</p>
<p>PS 303-12</p>	<p>Page 19 of 36 - Table 6: In title, replace "Anticipated" with "Required"</p>	<p>Response: "Anticipated" will be retained. The DB must build the project within the constraints listed. The volumes and exact locations of underground facilities is not known at this time.</p>

**PS 303 DRAINAGE SPECIFICATIONS**

PS 303-13	<p>Page 23 of 36</p> <p>3.8 Add note to this section about ESC areas which are temporary: "If forest is cleared for ESC and the ESC area does not become a permanent SWM, the area shall be restored and reforested."</p>	<p>Response: This comment will be incorporated.</p>
PS 303-14	<p>Page 24 of 36C) Need to identify a maximum size limit of an EDA, within and outside of SPAs.</p>	<p>Response: SHA will review the Design Builder's proposals before identifying a maximum size limit.</p>
PS 303-15	<p>Page 27 of 36 - No values are yet available for the daily penalties. Recommend that they be at least \$5,000 for a C and \$10,000 for a D, and \$25,000 for an F, per EDA, if more than one EDA is open. Penalty fees should be higher in SPAs.</p>	<p>Response: By law, daily damages are allowed only. They will be determined by the SHA and will be part of the final contract documents.</p>
	<p>Design Builder responsibilities: Something much more substantial than stakes and flagging will be needed to demarcate wetlands, LOD, etc. Consider 4-foot high woven wire fence with stakes 10 feet on center.</p>	<p>Response: Wetland demarcation is addressed in PS 310 Environmental Performance Specifications.</p>
	<p>Middle of same paragraph: Park representative would like to inspect demarcation along with SHA and MDE when adjacent to Park property.</p>	<p>Response: MNCPPC staff will have a person assigned as part of our EMT. In addition, park representatives can inspect any aspect of construction from the park side of the right of way or easement line.</p>
PS 303-16	<p>Page 28 of 36 - First full sentence: Add "or fencing" to sentence: The D-B shall not remove any erosion/sediment control...</p>	<p>Response: This addition will be incorporated.</p>
PS 303-17	<p>Page 29 of 36 - The last paragraph starting with Potential strategies should apply to all areas, not SPAs. Move up to end of C.</p>	<p>Response: This does not apply to all areas, only SPA's.</p>
	<p>C) Add: ...drainage areas adjacent to wetlands, floodplains, and streams shall...</p>	<p>Response: This addition is not necessary because floodplains are adjacent to streams.</p>

**PS 303 DRAINAGE SPECIFICATIONS**

<p>C) Add to end: Clearing/disturbance to areas beyond those required for grading and construction should be minimized through use of linear ESC measures, stabilization techniques, and construction sequencing.</p>	<p>Response: Roadway construction footprint has been minimized to the extent the Administration is comfortable, balancing 4(f) and constructability needs. If a Design Builder can further reduce impact he will be compensated as allowed in the Performance Specifications.</p>
<p>Add new: E) Where underground SWM is provided, the detention vaults should be incorporated into erosion control facilities to the extent possible.</p>	<p>Response: Incentives presented in the Performance Specifications are sufficient to encourage the Design Builder to minimize disturbed area footprint.</p>
<p>Add new: F) Where SWM ponds are provided, those facilities should be incorporated into the ESC plan.</p>	<p>Response: Incentives presented in the Performance Specifications are sufficient to encourage the Design Builder to minimize disturbed area footprint.</p>
<p>Page 30 of 36 - Add new bullets:</p> <ul style="list-style-type: none"> <li>• Minimize disturbed areas</li> </ul>	<p>Response: This is stated or implied through out the regulations, etc.</p>
<ul style="list-style-type: none"> <li>• Double linkage super-silt fence</li> </ul>	<p>Response: Unclear what is being requested.</p>
<ul style="list-style-type: none"> <li>• Compost socks incorporated with silt fence</li> </ul>	<p>Response: This bullet will be added.</p>
<ul style="list-style-type: none"> <li>• Sodding for immediate stabilization</li> </ul>	<p>Response: This bullet is already covered in D).</p>
<p>Sheet flow discharge: replace “mulch tubes” with “compost socks”</p>	<p>Response: This change will be incorporated.</p>
<p>Second bullet under Concentrated Flow: Stone check dams, compost socks, linings, strip sod, or other...</p>	<p>Response: This change will be incorporated.</p>
<p>PS 303-18</p>	



**PS 303 DRAINAGE SPECIFICATIONS**

PS 303-19	<p>Page 31 of 36 - First bullet: ...to forecast rain events by pumping to approved filter bag(s) (delete and mulch berm(s)) or other approved...</p> <p>4.1 E) Underdrain connections, location clearouts, and outlets. F) Add at end: and instream measures required to maintain long-term stream stability</p> <p>Page 32 of 36 4.1 B) add to end: The plan shall also contain fencing for the LOD, tree protection, and wetland/buffer protection.</p> <p>Page 33 of 36 - SWM Engineering Report Contents: add bullets:</p> <ul style="list-style-type: none"> <li>• Pre- and post- drainage area maps</li> <li>• Pre- and post- flows for each outfall for 1-, 2-, 5-, 10-, and 100-year storms</li> </ul>	<p>Response: Any ESC devices must be “approved” by MDE, and is a requirement throughout. Other ideas, such as mulch berms, should not be deleted because they may be viable options in certain cases.</p> <p>Response: Modifications to E) and F) will be included as noted.</p> <p>Response: Areas to be fenced, fencing requirements, including tree protection fencing, and wetland/buffer protection is addressed in PS 310 Environmental Performance Specifications</p> <p>Response: These bullets are not necessary, as they are already covered in the SWM Guidelines.</p>
PS 303-20	<p>Page. 36 of 36 G) Add at end: for pre- and post-construction flows.</p>	<p>Response: This addition is not necessary, as it is already covered in the SWM Guidelines.</p>

**PS 305 TRAFFIC PERFORMANCE SPECIFICATIONS**

PS 305-1	<p>Tables 2 and 3. Include the “Revised Draft Guidelines for Accessible Public Rights-of-Way, FHWA, November 2005”</p>	<p>Response: This addition is not necessary, as SHA's Accessibility Guidelines for Pedestrian Facilities along State Highways is included as a Standard Document in both Tables 2 and 3. Also, the SHA document is more stringent than the FHWA version.</p>
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**PS 305 TRAFFIC PERFORMANCE SPECIFICATIONS**

PS 305-2	Section 4.9 – Require rubrail where sufficient offsets are not provided.	Response: More information is needed to address this comment, including definition of “rubrail”.
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**PS 308 STRUCTURES PERFORMANCE SPECIFICATIONS**

PS 308-1	<p>Page 9 of 25:                      3.7.1 Add sentence at end of first paragraph: “Orientation and location of abutments and piers shall be designed to minimize impacts to natural resources.”</p>	<p>Response: The RFP plans require the substructure units be oriented generally parallel to the stream valley. The substructure limitations are also documented in the various permits, commitment tracking database, and the performance specification.</p>
PS 308-2	<p>Page 13 of 25:                      3.7.13 Add statement” “Slope protection shall not interfere with wildlife migration”</p>	<p>Response: The various permits address the requirements for wildlife passage over slope protection. Generally, the structures where wildlife passage is a concern have been oversized to provide significant areas of natural terrain for wildlife. Slope protection on steep embankments under bridges at the abutments is necessary to prevent erosion of the slopes.</p>
PS 308-3	<p>Page 21 of 25                      3.10.1 Add C) Alignment of culverts and wingwalls shall be designed to match existing conditions and minimize adverse impacts to receiving waters.</p>	<p>Response: This type of information is covered in PS303.</p>
PS 308-4	<p>Page 21 of 25:                      3.10.5 Specify paved solid bottom culverts; at end of sentence: Additional depth requirements may be stated in other sections of the RFP; General note: for 72-inch diameter or larger culverts, must be buried two feet</p>	<p>Response: This type of information is covered in PS303.</p>

**PS 308 STRUCTURES PERFORMANCE SPECIFICATIONS**

PS 308-5	All new bridges that carry the ICC above a local roadway must span the master plan recommended right-of-way for the roadway.	Response: Bridges carrying the ICC over local roadways have been sized to match master plan roadway sections. Bridges do not span the entire right-of-way.
PS 308-6	Substructures for the Georgia Avenue busway and ultimate MD 28 crossings of the ICC should be included in the Design-Build contract to minimize future reconstruction costs	Response: The abutments for MD97 are continuous for the full width of the roadway to accommodate future widening. Piers can be constructed at a later date without reconstructing the proposed bridge. SHA is evaluating the extent of substructure to be constructed as part if the ICC at MD 28.

**PS 309 - ROADWAY PERFORMANCE SPECIFICATIONS**

PS 309-1	Add "SHA Bicycle and Pedestrian Design Guidelines, February 2006 DRAFT" to the Table 1 references for design	Response: The SHA prefers not to insert the subject guidelines because they are still in draft format. We believe that the standards and references already included in the performance specification are sufficient to govern design of the bicycle and pedestrian facilities for the project.
PS 309-2	Add the AASHTO Guide for the Development of Bicycle Facilities (included in Table 1) as a referenced in Section 4.9 on Sidewalks and Shared Use Path specifications	Response: The AASHTO Guide for the Development of Bicycle Facilities has already been included by virtue of it's inclusion in Table 1. Specific mention of it on the text is not required and would be contrary to the conventions used in writing the performance specifications.

**PS 309 - ROADWAY PERFORMANCE SPECIFICATIONS**

PS 309-3	<p>Where the shared-use path is located on the community side of noise walls, design features that incorporate Crime Prevention Through Environmental Design (CPTED) features must be considered, including the potential for emergency phones. In addition to more clearly describing the types and designs for deer fencing gates, the PS should specify minimum distances for shared-use path from fencing and trees. Staff recommends where space permits a desirable clearance of 10 feet from noise walls and fences to the nearest trail edge. In addition, the path should avoid tree root zones of mature trees.</p>	<p>Response: CPTED features are currently not included in the contract documents. With respect to path clearances, the standards and references already included in the roadway performance specification are sufficient to govern design of the bicycle and pedestrian facilities for the project. The planting and landscaping performance specification includes language with regard to minimizing and avoiding impacts from all design features to root zones adjacent to the LOD.</p>
PS 309-4	<p>At-grade crossings for the shared use path should include 8 feet wide ADA ramps and 10 feet wide crosswalks.</p>	<p>Response: The Roadway performance specification has been modified to include the requirement for 8 foot wide ADA ramps.</p>
PS 309-5	<p>At all shared use path termini at roadways, the path design should include placement of bollards to prevent illegal vehicular access to the path.</p>	<p>Response: The Roadway performance specification has been modified to include the requirement for bollards.</p>
PS 309-6	<p>Incorporate a graded 30 feet natural surface shelf along the western abutment of the ICC bridge over the North Branch of Rock Creek to facilitate future construction of the planned North Branch hiker-biker trail</p>	<p>Response: A 15' wide graded shelf has been provided.</p>
PS 309-7	<p>SHA/MdTA to commit to providing signs identifying Intercounty Connector on bridge abutments or piers adjacent to the four Countywide Park Trails passing under ICC at such time as trails are completed and designated</p>	<p>Response: Pursuant to current MdTA policy, signs will not be placed on bridges. Responsibility for signing identifying the ICC will be deferred until such time as the trails are designed by M-NCPPC.</p>
PS 309-8	<p>The minimum 10 feet shared-use path width stated in Section 4.9 should also specify the application of a minimum 2 feet clear zone on each side of the 10 feet path.</p>	<p>Response: It is unnecessary to specify this requirement as design standard AASHTO Guide for the Development of Bicycle Facilities will require it.</p>

**PS 309 - ROADWAY PERFORMANCE SPECIFICATIONS**

PS 309-9	No roadway should have a design speed more than 5 MPH greater than the current posted speed.	Response: Posted and Design speeds for county roadways have been coordinated with Montgomery County DPW.
PS 309-10	Specify a 55 MPH design speed for the future Georgia Avenue Busway and ensure that accommodation is provided for northbound Georgia Avenue express buses to turn west onto the ICC without delaying those express buses continuing north on Georgia Avenue.	Response: The design speed of the Georgia Avenue Busway will be governed by Georgia Avenue and the required typical section for the busway which has been coordinated with the county. A separate design speed for the busway is not required.
PS 309-11	Section 3.11.1: Add "Back side of sign panels to be painted to match supporting structure."	Response: The sign structures remain in place for 20 or 30 years or more, whereas sign panels must be replaced every 5 years on average. Therefore, to ensure a uniform appearance over time, and to be sensitive to maintenance cost issues, it is not practical to paint the backs of the sign panels to match the supports.

**PS 310 - ENVIRONMENTAL PERFORMANCE SPECIFICATIONS**

PS 310-1	<p>Similar to avoidance incentives included in the draft Request for Proposals (RFP) for wetland and stream impacts, staff recommends that there be significant financial incentives for retaining forest within the permitted Limit of Disturbance/Right of Way (LOD/ROW). The incentive should be proportionate to forest quality as follows:</p> <p>Exhibit 5 of the staff June 29, 2006 memo to the Planning Board lists areas along the ICC alignment that contain significant forest resources. Staff believes that these are areas where the contractor could protect mature forests within the LOD/ROW shown in the FEIS documents. The State Highway Administration (SHA) has recognized the need for these incentives; however, the avoidance incentive proposed for these resources</p>	<p>Response:</p> <p>Early in the planning study the Project Team determined the environmental goals of the ICC. SHA determined that the improvement/enhancement to the existing water quality is the most important environmental goal of this project. This goal is supported by the Maryland Department of the Environment and The US Army Corps of Engineers. Therefore, the wetland and stream incentive was determined at a high rate for the project as</p>
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**PS 310 - ENVIRONMENTAL PERFORMANCE SPECIFICATIONS**

by SHA does not reflect the value of forested habitats within M-NCPPC property. As with wetlands, the incentive must be equivalent to the value of the resource. Staff finds that the value of these resources is as important as the wetlands in the project, for which incentives are placed at up to \$450,000 per acre within SPA and \$300,000 per acre elsewhere. The incentives for Category A and Category B forest should be similarly valued, and reimbursement incentives to the Design/Builder (DB) for forest protection should be provided in increments of 0.25 acres.

well as the incentive for the implementation of erosion sediment control during construction. Placing this high incentive communicates to the D/B that goal is a high priority and ensures that he will not save another resource at the risk of effecting water quality.

In the past, SHA has never issued an incentive program for reduction of forest impacts. However, SHA recognizes the high quality of the forest in certain areas of the project and has therefore, established a forest incentive in the contract. A significant amount of research and analysis went into determining this incentive amount including talking to contractors.

M-NCPPC voiced concern that the proposed forest incentive would not get the D/B attention. However, the \$40,000 incentive on the US 113 project proved to be effective, and resulted in the reduction of approximately 7 acres of wetland impacts that were permitted for the project.

**PS 310 - ENVIRONMENTAL PERFORMANCE SPECIFICATIONS**

PS 310-2	The RFP should also require the contractor to document how impacts to the meadow where an SWM pond is contemplated in the vicinity of Stations 295 through 303, within can be eliminated or reduced. This meadow is within the Upper Paint Branch Special Protection Area	Response: SPA requirements are not addressed in this Performance Specification. See Drainage Performance Specification.
PS 310-3	Page 6: Reference ROD Commitment to obtain DPS concurrence for Preliminary / Final Water Quality Plans in Special Protection Areas.	Response: Discussion with DPS is underway to determine their level of concurrence and involvement in the review of the Preliminary / Final Water Quality Plans in Special Protection Areas.
PS 310-4	Page 9 of 27: 3.3.3 A - Notify the Administration, MDE, and MCDEP 48 hours prior to any stream dewatering...	Response: The D/B will contact the Administration who will in turn contact MDE and MCDEP.
	B) Include sentence: Fish screening shall be used to prevent uptake of aquatic biota during dewatering.	Response: Comment to be incorporated.

**PS 310 - ENVIRONMENTAL PERFORMANCE SPECIFICATIONS**

<p>PS 310-5</p>	<p>D – This needs to be split out as its own numbered section (the same as TW and RTE Time of Year Restrictions), and re-worked to specify activities that are prohibited and those that can occur in Use III waters during stream restriction periods. As written, this subsection is not protective of the environment.</p> <p>At a minimum, grading activities with direct impact to receiving waters will be strictly restricted, including outfalls from ESC practices controlling ___ acres or more. Certain activities (within a specific size limitation) may occur with the use of redundant inlet protection, specific dewatering requirements, thermal impact protection, etc. in accordance with MDDNR and MCDEP guidance and past experience with construction activities in SPAs.</p>	<p>Response: COMAR is cited in Performance Specification, specifics were removed to avoid conflicts</p> <p>ESC is not addressed in this Performance Specification. See Drainage Performance Specification.</p>
<p>Page 9 of 27: 3.3.4 Include the following text for type of temporary wetland protection fencing:</p> <ol style="list-style-type: none"> <li>1. The wetland fencing locations should be staked prior to the pre-construction meeting.</li> </ol>	<p>Response: Comment will be incorporated.</p>	
<ol style="list-style-type: none"> <li>2. Install a super silt fence along the buffer line.</li> <li>3. Outside of the LOD line and beyond the super silt fence, install a 14 gauge 2-inch x 4-inch welded wire fence supported by steel T-bar posts (minimum 4 feet high) with high visibility flagging...or,</li> <li>4. Orange blaze fence at least 4 feet high, 2-inch anchor posts with not less than 1/3 of the anchor post below grade, maximum 8-foot spacing between anchor posts, 2-inch x inch lumber cross bracing, and 6-8-inch wire "U" to secure bottom of fence.</li> </ol>		<p>Response: These items are covered in SHA standard specifications.</p>



**PS 310 - ENVIRONMENTAL PERFORMANCE SPECIFICATIONS**

PS 310-6	Page 10 of 27: 3.3.4.- End of B: Additional Award Penalties will be assessed in the amount of _____ per square foot for any inadvertent impacts, in addition to the cost of restoration and mitigation.	Response:SHA decided not to add an additional award penalty for inadvertent impacts beyond the cost of restoration and mitigation
PS 310-7	Page 10 of 27: 3.3.4. Eliminate the following species mentioned for stabilization: Oats (uniola sp.) and rye (secale cereale). Replace them with native species such as: perennial ryegrass (Lolium perenne), Virginia Wild Rye (elymus virginicus), and other native forbs and grasses	Response: These species are taken from the standard MDE BMP notes, which is part of the MDE permit approval. SHA continues to evaluate the possibility of modification of the seed mix.
PS 310-8	Page 11 of 27: 3.3.4.3 The areas should be revegetated with both seed and plugs.	Response:The D/B at a minimum is required to re-seed with a native emergent seed mix. This does not preclude the D/B from using plugs if he desires.
PS 310-9	Page 11 of 27: 3.3.4.4 The fourth sentence of this paragraph, should state, "No grubbing of vegetation that grows beneath the proposed bridges throughout the ICC alignment shall be allowed, except where needed to construct foundations or to place slope protection."	Response: This performance specification is consistent with ACOE permit conditions.
PS 310-10	Page 12 of 27: 3.3.4.4 First full paragraph after first sentence - add: Additional stream stabilization measures may be required to ensure stability of restored sections.	Response: Comment will be incorporated.

**PS 310 - ENVIRONMENTAL PERFORMANCE SPECIFICATIONS**

	<p>The first full paragraph states, "There are NO temporary wetland impacts identified or permitted in the Project." This statement contradicts the statement made in 3.3.4.3 of this same section. There are temporary impacts to wetlands within the ICC corridor.</p> <p>Second paragraph after first sentence: Locations of crossings, access routes, and staging areas shall be submitted to SHA and MNCPPC for approval. The areas shall be fenced to prevent encroachment beyond the agreed to LOD.</p>	<p>Response: There are temporary wetland impacts identified for the overall ICC Project. However, there are no temporary wetland impacts identified in the permit for Contract A.</p> <p>The D/B will provide to the Administration.</p>
PS 310-11	<p>Pg. 12 of 27: 3.3.4.5 Section (C) should include replacement of organic matter in addition to topsoil.</p>	<p>Response: Comment will be incorporated.</p>
	<p>Section (G) should require replacement to the LOD, not just within 30 feet of the stream bank</p>	<p>Response: Comment will be incorporated into the Landscape Performance Specification.</p>
PS 310-12	<p>Page 12 of 27: 3.3.4.6 Change "reduce the potential for creating fish blockages" to "avoid the creation of fish blockages."</p>	<p>Response: Comment will be incorporated.</p>
PS 310-13	<p>Page 13 of 27: 3.3.4.8 Add requirement that no bridge piers to be constructed within 20 feet of stream banks.</p>	<p>Response: This performance specification is consistent with the ACOE permit conditions.</p>
PS 310-14	<p>Page 14 of 27: 3.3.4.9 Allow incentives for stream impact avoidance to be calculated in 25 foot increments rather than 100 foot increments</p>	<p>Response: SHA has used this increment on previous SHA projects and has determined that it is appropriate for this project.</p>
PS 310-15	<p>Page 16 of 27: 3.3.6.2 Change beginning of period to avoid disturbance from "April 1" to "March 1."</p>	<p>Response: The April 1 date is in accordance with DNR requirements.</p>

**PS 310 - ENVIRONMENTAL PERFORMANCE SPECIFICATIONS**

PS 310-16	Page 17 of 27: 3.3.6.3 For culverts where amphibian passage is proposed (Stations 150 and 174), in addition to maintaining a baseflow where fish pass, the culvert should have a moist shelf that permits the passage of non-aquatic amphibians without desiccation.	Response: This performance specification is consistent with the MDE and ACOE permit special conditions.
PS 310-17	Page 22 of 27: 3.5.3 To control odors and dust, this paragraph states the use of “polymers, spray-on tackifiers, and barriers.” These applications could have negative corollary effects on water quality, air quality, vegetation, etc. The M-NCPPC prefers the application of non-persistent, natural dust control measures.	Response: Comment will be incorporated.

**PS 310 - ENVIRONMENTAL PERFORMANCE SPECIFICATIONS**

PS 310-18

Add specification regarding tree protection areas:

Response: Tree preservation and protection is covered in SHA standard specifications Section 120

1. Trees and tree save areas shown to be preserved on the site plans shall be protected by tree protection fence. Tree protection fencing consisting of 4-foot high, 14 gauge welded wire attached to 6-foot steel posts driven 18 inches into the ground and placed no further than 10 feet apart shall be erected at the limits of clearing and grading as shown on the erosion and sediment control sheets in all areas.
  2. The tree protection fencing shall be made clearly visible to all construction personnel. The fencing shall be installed prior to any clearing and grading activities on the site, including the demolition of any existing structures. The installation of tree protection fence shall be performed under the supervision of a certified arborist. Prior to the commencement of any clearing, grading, or demolition activities, the project's certified arborist shall verify in writing that the tree protection fence has been properly installed.
  3. In the event any tree or portion thereof is dead or dying due to construction or environmental changes resulting from construction and/or clearing along parkland, and poses a hazard to either life or property, the D/B shall take such action as necessary to eliminate the hazard carefully.
- Specific tree preservation activities designed to maximize the survivability of trees designated for preservation shall be provided. Activities may include, but are not limited to, crown pruning, root pruning, mulching, and the application of compost.

**GEN - GENERAL COMMENTS**

GEN-1	<p>The State and County must follow County Code procedures for the abandonment and closure of public roads.</p>	<p>Response: The abandonment and closure of public roads has been coordinated with Montgomery County DPW. Additional coordination will be performed as necessary.</p>
GEN-2	<p>At Shady Grove Road. The existing bike lanes should be retained and 10 feet wide sidewalks should be included under the structure.</p>	<p>Response: The existing Shady Grove Road and 5' sidewalks are being maintained. A 5' offset from the back of each sidewalk to the face of the abutment is provided.</p>
	<p>Ramp I at Shady Grove Road needs to be constructed to functionally retain or replace the Shady Grove Access Road bike path being built by DPWT. Continuous sidewalks should be provided on both sides of Shady Grove Road through the reconstructed Metro Access Road interchange, and a sidewalk should be provided along the east side of Ramp I between Shady Grove Road and the Shady Grove Access Road Bike Path.</p>	<p>Response: Existing sidewalks and paths will be maintained.</p>
	<p>A crosswalk is needed on the east leg of Shady Grove Road at Ramp I so that access to and from the westbound bike lane can be provided.</p>	<p>Response: Appropriate crosswalk locations will be determined as part of the final design.</p>

**GEN - GENERAL COMMENTS**

GEN-3	Ensure that the Notley Road overpass structure provides sidewalk connections to Royal Forest Lane and Paula Lynn Drive.	<p>Response: The Notley Road bridge will include sidewalks, as well as the approach roadway improvements to the bridge. Sidewalks are proposed within the Notley Road improvements from approximately 100' north of Paula Lynn Drive to Royal Forest Lane. Therefore, a sidewalk connection is made to Royal Forest Lane via a crosswalk to the north side of Royal Forest Lane. However, given that sidewalks do not currently exist along Notley Road or Paula Lynn Drive and that the Notley Road improvements are not required to extend to Paula Lynn Drive, the proposed sidewalk will terminate short of Paula Lynn Drive. Future extension of sidewalks along Notley Road to Paula Lynn Drive are not precluded.</p>
GEN-4	Provide a bike path connection between the ICC and Colesville Manor Drive.	<p>Response: This connection is beyond the scope of the current plan, and would require additional study by Montgomery County if desired.</p>
GEN-5	Provide a striped crosswalk at the proposed intersection of MD 355 and Ramp L at O'Neill Drive.  Accommodate the through-movement from Ramp L to O'Neill Drive.	<p>Response: Appropriate crosswalk locations will be determined as part of the final design.  Response: The movement from Ramp L to O'Neill Drive is not precluded. Final details regarding the operations of the signalized intersection will be developed by the design build team.</p>

**GEN - GENERAL COMMENTS**

	<p>Consider reconfiguring the end of Ramp L so that an island is created at MD 355 between the right-turn lane and the other two lanes so that a protected crossing of MD 355 could be provided.</p>	<p>Response: The RFP plans are concepts and are not intended to show details such as divisional islands that will be necessary for the intersection to function as desired. The design build team will be responsible for the final design of all details, including the consideration of safe pedestrian passage.</p>
<p>GEN-6</p>	<p>Consider the provision of sufficient space to accommodate a future pedestrian path on the east side of Ramp M under the ICC and Ramp L bridges.</p>	<p>Response: The existing ICC over Ramp M bridge structure will remain. There does not appear to be sufficient room under the existing bridge to safely accommodate a pedestrian path.</p>
<p>GEN-7</p>	<p>Consider rerouting the proposed bike path within the US 29 interchange to be more around the eastern perimeter of the interchange, allowing a direct connection with the trail at the approved cul-de-sac on Stravinsky Drive, which leads to the Tanglewood community. Provision for this tie-in has been made as part of the Fairland View development.</p>	<p>Response: The ultimate location of the bike path is dependant upon the interchange layout proposed by the design builder. This connection is beyond the scope of the current plan, and would require additional study by Montgomery County if desired.</p>

## **ATTACHMENT C – SCHEDULE FOR RIGHT-OF-WAY TRANSFER**

### **Property transfer – M-NCPPC to SHA**

- ALARF full takes – Transferred effective August 1, 2006 (board action taken on July 6, 2006);
- ALARF partial takes for Contracts A and C – Plats are completed; developing dollar value at this time; properties are ready for Board transfer;
- ALARF partial takes for Contract B – Plats will be complete by mid-November; anticipate having dollar value established and properties ready for transfer by early December;
- Contract A parkland – plats and deed are complete; property ready to transfer;
- Contract C parkland- N/A; and
- Contract B parkland – Plats and deed will be complete by early December for Board action.

### **Property transfer – SHA to M-NCPPC (based on September 21, 2005 letter):**

- Casey Property at Hoyles Mill – Offer to be made to property owner by early 2007 (property will require reforestation);
- Llewellyn Property – Approximately 2009 (transfer once construction of ball fields is complete);
- Peach Orchard/Allnut Property – Approximately 2009 (transfer once construction of wetlands and reforestation is complete);
- Southern Asia Adventist Property – Offer to be made to property owner by December 2006; and
- McNeil Property – Offer to be made to property owner by December 2006.





Robert L. Ehrlich, Jr., *Governor*  
Michael S. Steele, *Lt. Governor*

Robert L. Flanagan, *Secretary*  
Neil J. Pedersen, *Administrator*

Maryland Department of Transportation

November 2, 2006

Mr. Robert C. Hubbard, Director  
Montgomery County Department of Permitting Services  
Second Floor  
255 Rockville Pike  
Rockville, Maryland 20850

Dear Mr. Hubbard:

The Maryland State Highway Administration (SHA) and the Maryland Transportation Authority (MdTA) are pursuing construction of the Intercounty Connector (ICC) from I-270 in Montgomery County to US 1 in Prince George's County. The approximately 18-mile-long route selected for construction passes through two Montgomery County Special Protection Areas (SPAs): North Branch Rock Creek SPA (an approximately 0.8 mile-long section) and Upper Paint Branch SPA (an approximately 2.5 mile-long section). The purpose of this letter is to provide you with background information about the ICC in the context of Montgomery County SPA requirements. In addition, we are seeking your concurrence that the ICC Design-Build process, including the rigorous performance specifications in our contract procurement documents, will meet both the spirit and the technical requirements of your County SPA criteria.

We are fully aware of the valuable natural resources in the vicinity of the ICC in Montgomery County and are committed to affording a higher level of protection to the resources both during construction and during operation of the road. Throughout the planning process for the ICC, and as seen in the Draft and Final Environmental Impact Statements (DEIS and FEIS) and Federal Highway Administration's (FHWA) Record of Decision (ROD), it has been our goal and commitment to produce a highway that would meet the intent of Montgomery County's Executive Regulation 29-95 titled "Regulations for Water Quality Review – Special Protection Areas." A requirement that SHA obtain concurrence from your office regarding stormwater management in SPAs is included in the ROD's language. That language from, Attachment E – Summary List of Project Commitments, Commitment #29 states:

"Design of the ICC will use the following SWM design parameters, which go beyond current minimum standards, to reduce overall impacts to water resources." A bulleted item that follows that statement reads: "Meet Montgomery County Department of Permitting Services (MCDPS) SPA Stormwater Criteria and gain MCDPS concurrence for water quality plans within SPAs."

My telephone number/toll-free number is 410-545-8829  
*Maryland Relay Service for Impaired Hearing or Speech* 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • [www.marylandroads.com](http://www.marylandroads.com)

Mr. Robert C. Hubbard  
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To address the issue of concurrence, Mr. Stan Wong, Mr. Rick Brush, and Mr. Mark Etheridge of your staff, as well as Mr. Bob Simpson from the Montgomery County Department of Public Works and Transportation (MCDPWT), Ms. Mary Dolan from the Maryland-National Capital Park and Planning Commission (MNCPPC), Mr. Daniel O'Leary (ICC Hydrology and Hydraulics Discipline Leader), and I met on October 5, 2006. During the meeting it became apparent and we agreed with your staff that the ICC Design-Build process does not easily fit into the Water Quality Plan process at Montgomery County Department of Public Services (MCDPS).

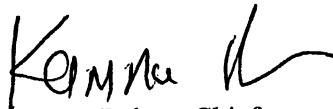
Design-Build provides design requirements to potential bidders in a Request for Proposals (RFP) prior to bidding, and does not allow latitude or delay for changing design requirements once the project is awarded. MCDPS' process requires MCDPS input at specific points during project design to determine design requirements. Given that the ICC process will not yield the traditional design plans at predetermined intervals, the team turned its focus to finding points of agreement on the goals of the project and of the County process.

SHA coordinated with MCDPS Water Resources Plan Review staff during the ICC planning process and has met with the Montgomery County Department of Environmental Protection (MCDEP), MNCPPC, MDE, the Maryland Department of Natural Resources (MDNR,) the U.S. Army Corps of Engineers (USACOE,) and the U.S. Fish & Wildlife Service (USFWS) regarding stream protection strategies. We are comfortable that our stormwater management and erosion and sediment control design requirements meet the intent of the rigorous SPA requirements and are in the best interests of water resource protection. Attached for your information is a summary of the ICC approach to stormwater management, similar to what has been filed with MDE to begin review for Contract A, from I-270 to east of Georgia Avenue (MD 97), including North Branch Rock Creek SPA. Documents available for public review, including the ICC FEIS / Final Section 4(f) Evaluation, FHWA's ROD, RFP for Contract A (Drainage Performance Specifications are in Appendix A, Section 303) and other information, can be found on the ICC website: <http://www.iccproject.com>.

Mr. Robert C. Hubbard  
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We are confident that providing the robust and rigorous performance specifications to the eventual Design-Build teams will yield a design that meets or exceeds both the State and County SWM and water quality goals. Please indicate your concurrence that the ICC meets the typical design parameters and intent of a SPA Water Quality Plan by signature on the line provided below and return one original copy to me at the letterhead address. If you have any questions or would like to discuss this matter further please contact me at 410-545-8390.

Sincerely,



Karuna Pujara, Chief  
Highway Hydraulics Division

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Concurrence: Mr. Robert C. Hubbard, Director \_\_\_\_\_ Date \_\_\_\_\_  
Montgomery County Department of Permitting Services

cc: Mr. Rick Brush, Manager, Water Resources Plan Review, Montgomery County  
Department of Permitting Services  
Ms. Mary Dolan, Planning Board Staff Contact, Montgomery County, M-NCPPC  
Mr. Dan Hardy, Project Manager for the Intercounty Connector, M-NCPPC  
Ms. Melinda B. Peters, Director, Office of the Intercounty Connector  
Mr. Bob Simpson, Team Leader, Master/Sector Plan Transportation Review,  
Montgomery County Department of Public Works and Transportation  
Mr. Stan Wong, Division Chief, Land Development Division, M-NCPPC

## ATTACHMENT THREE

### Intercounty Connector Planning Board Briefing Schedule

December 1, 2006

## PART I. ICC STUDY

### Prior SHA Activities

- Scoping Public Open Houses - June 2003
- Alternatives Public Workshops - November 13, 15, and 19, 2003

### County Council Activities

- Comment on ARDS per November Public Workshops - December 1, 2003

**Study Briefing # 1 - January 22, 2004 (2.0 hours - no public testimony) - COMPLETED**

#### Topics:

- Review ICC Study Background and Schedule
- Review Draft Alternates Retained for Detailed Study (ARDS)
- Review County Council Comments on ARDS
- Review 1989 Memorandum of Understanding (MOU) with SHA re: parkland impacts
- Review M-NCPPC staff involvement in SHA study

### Interim SHA Activities

- ARDS selection - February 2004

**Study Briefing # 2 - March 4, 2004 (1.5 hours - no public testimony) - COMPLETED**

#### "Property Owner" topics

- Staff proposal defining how "equal quality" parkland will be assessed per MOU (Hench)
- Means by which park owner statements can influence Section 4(f) impacts analysis (SHA)

#### "Planning / Zoning Authority" topics

- Review proposed briefing schedule (Valladares)
- Confirmation that Planning Board process dovetails with SHA process (SHA)
- Update on selected ARDS package (SHA), response to Council / Board comments

**Interim SHA Activities**

- Draft Environmental Stewardship materials - March 2004
- Expert Land Use Panel Analysis Findings - June 2004
- Draft Travel Demand Analysis materials - April 2004
- Draft Cultural Resources Effects materials - May 2004
- Preliminary Draft Socioeconomic and Land Use Technical Report - 10 May 2004.
- Preliminary Draft Noise Quality Technical Report - 10 May 2004.
- Draft Section 4(f) Evaluation materials - May 2004

<b>Study Briefing # 3 – June 3, 2004 (2 hours – no public testimony) - COMPLETED</b>	
<b>“Property Owner” topics</b>	<b>“Planning / Zoning Authority” topics</b>
<ul style="list-style-type: none"> <li>• Review of SHA Draft Section 4(f) Impacts report</li> <li>• Staff proposal for candidate replacement parklands that would satisfy MOU (Hench)</li> <li>• Staff proposal for Section 4(f) impacts analysis</li> </ul>	<ul style="list-style-type: none"> <li>• Review proposed briefing schedule (Valladares)</li> <li>• Review SHA’s interim draft technical report findings</li> <li>• Review Environmental Stewardship process and findings</li> <li>• Staff proposal for policy guidance on balancing natural / cultural / community resource protection and enhancement</li> </ul>

**Interim SHA Activities**

- Public Informational Update Meetings - June 2004
- Draft Natural Environmental Technical Report - June 2004
- Draft Air Quality Technical Report - June 2004

<b>Study Briefing # 4 – July 15, 2004 (4 hours) - COMPLETED</b>	
<b>Include Public Testimony on Staff Recommendations</b>	
<b>“Property Owner” topics</b>	<b>“Planning / Zoning Authority” topics</b>
<ul style="list-style-type: none"> <li>• <b>Planning Board comment to SHA on staff proposals for MOU and candidate replacement parkland</b></li> </ul>	<ul style="list-style-type: none"> <li>• Review proposed briefing schedule (Valladares)</li> <li>• <b>Planning Board comment to SHA on staff proposals for policy guidance on balancing natural / cultural / community resource protection and enhancement</b></li> <li>• Review SHA’s interim technical report findings</li> <li>• Review Environmental Stewardship process and findings</li> </ul>

**Interim SHA Activities**

- DEIS Publication – November 22, 2004
- Joint Location, Design and Corps of Engineers Section 404 Public Hearings - January 4, 5 & 8, 2005

<b>Study Briefing # 5 – January 13, 2005 (2 hours – no public testimony) – COMPLETED</b>	
<p>“Property Owner” topics</p> <ul style="list-style-type: none"> <li>• Review draft 4(f) findings</li> <li>• Staff proposal on parkland mitigation concepts for inclusion in FEIS (both Corridor 1 and Corridor 2)</li> <li>• Park staffing impacts</li> <li>• FY 05 &amp; 06 Operating and CIP Budget/Work Program impacts</li> </ul>	<p>“Planning / Zoning Authority” topics</p> <ul style="list-style-type: none"> <li>• Review DEIS summary of findings</li> <li>• Air Quality Conformity/COG</li> <li>• Review SHA Public Hearings</li> <li>• Present menu of options for Preferred Alternative</li> <li>• Planning Board comment on additional supplementary information requested of staff for Briefing #6</li> <li>• Review proposed briefing schedule</li> </ul>

**Interim SHA Activities**

- Joint Location & Design / Section 404 Public Hearing - **January 29, 2005**

<b>Study Briefing # 6 – February 3, 2005 (4.5 hours) – COMPLETED</b>	
<b>Include Public Testimony on Staff Preferred Alternative Recommendations</b>	
<p>“Property Owner” topics</p> <ul style="list-style-type: none"> <li>• As necessary</li> </ul>	<p>“Planning / Zoning Authority” topics</p> <ul style="list-style-type: none"> <li>• <b>Planning Board recommendations on Preferred Alternative.</b></li> <li>• Review proposed briefing schedule</li> </ul>

**Interim Activities**

- Conceptual Mitigation Package to IAWG - March 2005
- Preliminary FEIS preparation - May 2005
- Identification of State Preferred Alternative - July 11, 2005

<b>Study Briefing # 7 – July 28, 2005 (2.5 hours) - COMPLETED</b>	
<b>Include Public Testimony on Parkland Mitigation Package</b>	
<b>“Property Owner” topics</b>	<b>“Planning / Zoning Authority” topics</b>
<ul style="list-style-type: none"> <li>• Planning Board comments to SHA on staff proposals for parkland mitigation and compensation concepts for SHA/MdTA Preferred Alternative.</li> </ul>	<ul style="list-style-type: none"> <li>• Review proposed briefing schedule</li> </ul>

<b>Study Briefing # 8 – September 15, 2005 (2 hours) - COMPLETED</b>	
<b>Parkland Replacement</b>	
<b>“Property Owner” topics</b>	<b>“Planning / Zoning Authority” topics</b>
<ul style="list-style-type: none"> <li>• Recommendations on appropriate Parkland Replacement Mitigation</li> </ul>	<ul style="list-style-type: none"> <li>• Review proposed briefing schedule</li> </ul>

**Interim Activities**

- FEIS Publication – January 3, 2006
- FHWA Record of Decision – May 29, 2006
- COE issues 404(C) permit – June 13, 2006
- MDE issues non-tidal wetlands, waterway construction and 401 permits – June 23, 2006

## PART II. ICC PROJECT

**MCPB Resolution 06-61- July 6, 2006 – COMPLETED**  
Include Public Testimony on ALARF Property Transfer  
Fourteen ALARF parcels needed in their entirety for the ICC

**ICC Project Mandatory Referral- July 13, 2006 – COMPLETED**  
MR 06809-SHA-1 – Public Testimony

**ICC Project Mandatory Referral–July 20, 2006 – COMPLETED**  
Mandatory Referral MR 06809-SHA-1 – Discussion

- Staff recommendations summarized in 15 summary comments, with 77 comments in Attachment B
- Planning Board added 16<sup>th</sup> condition to continue monthly status report briefings

**Status Report # 1–September 21, 2006 – COMPLETED**  
Most elements of briefing deferred from September 14, 2006 roundtable

**Project Briefing # 1–September 28, 2006 – COMPLETED**  
Include Public Testimony on Revising Limits of Disturbance at Station 174 and Station 324

### Interim Activities

- SHA response to Planning Board’s mandatory referral MR 06809-SHA-1 correspondence

**Status Report # 2–October 26, 2006 – COMPLETED**

### Interim Activities

- SHA completes final Contract A RFP Addendum



**MCPB Resolution – December 7, 2006**  
**Include Public Testimony on ALARF Property Transfer**  
Remaining portions of ALARF parcels needed for the ICC

**Status Report #3 – December 7, 2006**

**MCPB Resolution – Tentatively scheduled for January 18, 2007**  
**Include Public Testimony on Park Property Transfer**  
Transfer of parkland from M-NCPPC to SHA for Contract A

**Status Report #4 - Tentatively scheduled for January 18, 2007**

**Status Report #5 - Tentatively scheduled for February 8, 2007**

**Status Report #6 - Tentatively scheduled for March 8, 2007**

**MCPB Resolution – Tentatively scheduled for March 8, 2007**  
**Include Public Testimony on Park Property Transfer**  
Transfer of parkland from M-NCPPC to SHA for Contract B  
Includes agreements regarding all replacement property transfers from SHA to M-NCPPC

**Continuing status reports as warranted by events or associated with related  
Planning Board actions**

## **PART III. ICC MITIGATION/STEWARDSHIP PROJECTS**

**Project NW-128 - July 13, 2006 – COMPLETED  
Mandatory Referral MR 06903-SHA-1 on wetlands creation site**

Future mandatory referral reviews to be scheduled beginning in early 2007.