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April 2, 2020

TO: District Deputy Commissioners
District Highway Maintenance Directors
District Technical Services Directors
District Permit Managers

**PERMIT
OPERATIONS
MEMORANDUM 20-01**
Supersedes OM 10-06

FROM: Monica Hartke-Tarr
Statewide Permits Director

SUBJECT: Policy for Public Art and Landscaping on INDOT Right-of-Way

1.0 Policy and purpose

In response to a growing interest in communities to install public art and landscaping enhancements (“enhancements”) within state-owned or state-controlled right-of-way, INDOT has developed this policy to implement a systematic process to evaluate proposed enhancements.

Art and landscaping do not directly serve a transportation purpose; however, they can contribute to the corridor by: creating a visually appealing vista along roadsides; making unique statements about community character; enhancing the sense of place through which a highway passes; and by creating a positive public response. Environmental and public involvement processes offer opportunities for community partnerships regarding the aesthetic qualities of a corridor or highway project.

These enhancements are alternative, non-highway uses of the right-of-way. Enhancements warrant careful consideration and evaluation through an INDOT permitting process. A permit is required even if the enhancement is incorporated as part of a construction project, and even if the enhancement is attached to or on a transportation facility (e.g., art on a bridge, or a sculpture in an interchange infield area).

Existing installations should not be considered as precedent, as they preceded the current policy’s implementation. Public art and landscaping is considered a temporary occupancy of a transportation facility, and INDOT reserves the right to require removal when necessary.

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2.0 What enhancements require a public art and landscaping permit?

This type of permit application is appropriate for the following, non-exhaustive list of enhancements:

- gateway signs,
- landscaping,
- welcome signs,¹
- murals,
- special enhancements to provide corridor with continuity or identity, and
- bridge aesthetics.²

Those pursuing any of the preceding, or similar, enhancements within INDOT right-of-way must apply for a public art and landscaping permit.

3.0 Who can apply for a public art and landscaping permit?

The application must be submitted by a representative of the enhancement's sponsor group or organization ("Sponsor"), such as a:

- city,
- town,
- county, or
- private organization with documented support from a local government.

4.0 Public art and landscaping permit application process

The process begins by submitting a complete application through the INDOT Electronic Permitting System (EPS).

The application form and related documents for public art and landscaping permits can be found and completed at: <https://www.in.gov/indot/2727.htm>

Select "**Miscellaneous Permit**" type, and under the drop-down menu, select "**Public Art and Landscaping**" subcategory to complete an application for a permit. The fee to submit a miscellaneous permit is \$15.

More information how to navigate EPS:

https://www.in.gov/indot/files/EPS_Customer_User_Guide.pdf

¹ Additional guidelines on welcome signs can be found in [Operations Memo 95-18](#).

² Additional guidelines on bridge aesthetic requests can be found in the [Bridge Aesthetics Policy](#)

To be considered a complete application, the following are required:

- must be submitted through EPS,
- must be signed by the Sponsor (or an authorized representative of the Sponsor),
- must include all policy components identified, and
- must include a maintenance plan.

Public art and landscaping enhancements must be designed, installed, maintained, and paid for by the Sponsor (unless the enhancement is implemented as part of a construction project).

4.1 Application review process

The Public Art Services Team will conduct a review of the enhancement proposal after a complete application has been submitted. Placement and composition of the enhancement will be evaluated, with all comments collected within EPS. The review process is illustrated in **Attachment 1**.

The enhancement must receive all required approvals of the Public Art Services Team before a permit can be approved. If the permit is approved, the Sponsor will be required to enter into a maintenance agreement with INDOT prior to the issuance of the permit. No work may begin until a maintenance agreement has been executed and a permit is issued.

4.2 Public Art Services Team (the “Team”)

Members of the Team review enhancement proposals and provide comments in EPS. Team members include, but are not limited to:

- Statewide Permits Director
- District Permit Manager
- District Technical Services Director
- District Highway Maintenance Director
- District Construction Director
- Central Office Traffic Administration Manager
- Central Office Roadside Maintenance Specialist
- Central Office Bridge Design Division Director
- Central Office Environmental Services Division Director
- FHWA representative (for all enhancements located within interstate right-of-way)
- Other experts, as needed

4.3 Permit approval

After receiving a recommendation from the Team, the District Deputy Commissioner will provide the conditional approval, prior to the generation of a maintenance agreement and issuance of the permit. Enhancements within the interstate right-of-way will also require approval from FHWA. Final permit approval will only occur after a fully executed agreement.

INDOT is required to submit Public Art and Landscaping enhancements within interstate right-of-way to the FHWA Indiana Division Office for review and approval under 23 USC 106 and 111, and 23 CFR § 625.2(a).

4.4 Permit denial

INDOT retains the right to determine which enhancements are suitable and/or acceptable to be placed within the state-owned or state-controlled right-of-way.

Issuance or denial of the permit is within INDOT's sole discretion.

Potential reasons for denial include, but are not limited to:

- Location is in the median area of a controlled-access highway
- Advertising in the enhancement
- The enhancement obstructs drivers' sight distance, or could distract drivers (such as bright lights, flashing lights, moving parts or loud sounds)
- A conflict with existing or potential use or maintenance agreement
- Interference with traffic control devices
- Interference with the roadway's clear zone
- Not meeting requirements of the Indiana Manual on Uniform Traffic Control Devices ([IMUTCD](#))
- Incomplete information

5.0 Application package

The public art and landscaping enhancement application package is the core element of the permit application. Meeting all essential criteria will help ensure the application is processed and reviewed accurately and efficiently. Failure to submit a complete enhancement application package may lead to a denial of the application or a delay in processing.

5.1 Enhancement plan elements

The following criteria must be addressed and documented in the application:

1. **Sponsor's enhancement team:** The Sponsor and those responsible for installation and maintenance of the proposed enhancement.
2. **Traffic control:** The application must describe any temporary traffic control needed for installation and maintenance. When a lane shoulder closure is needed on a multilane highway, a temporary traffic control plan must follow [IMUTCD](#) Part 6 and be implemented by a contractor prequalified in traffic control by INDOT. Interstate lane and shoulder closures must be done in accordance with the [Interstate Highway Congestion Policy](#) (IHCP). INDOT's Work Zone Safety section may be contacted with questions concerning the IHCP.

3. **Maintenance:** The plan should provide for safe maintenance access and must establish agreements with local public agencies for maintenance where appropriate. If there is a potential for vandalism, this issue should be addressed in any associated maintenance agreements.
4. **Endorsement:** A statement from the local public agency endorsing the proposed enhancement must be included in the plan (e.g., documentation of local community input, such as minutes from a public meeting).
5. **Clearly identified subject:** The subject of the proposed enhancement must be clearly identified. Details of the public art and landscaping — including a written description and preliminary designs or sketches — must be included.
6. **Visibility:** Enhancements visible from the road must contribute positively to corridor continuity and the view from the road. Proposed enhancements only visible to the community or adjacent to the neighborhood side of a structure may be allowed more flexibility in design than those visible from the road.
7. **Safety and security:** Proposed enhancements must not negatively impact safety and must not create a distraction to drivers or an “attractive nuisance” (something that might entice children and endanger their safety). Enhancements must not obscure motorists’ sight distance, traffic control devices, lighting or affect the clear zone (including full mature growth of plantings). Enhancements in a median must be outside the clear zone for both directions of travel.
8. **Asset preservation and assessment:** Enhancements must not adversely affect the service life of INDOT facilities, or the ability to access and maintain all components of INDOT bridges or structures. Details of any proposed attachment hardware must be reviewed by an INDOT Bridge Asset Engineer. All bridge components must adhere to [Bridge Aesthetics Policy](#) requirements.
9. **Environmental and other considerations:** A description of the proposed enhancement’s impact on social, cultural, and environmental resources must be included. INDOT will not approve the addition of an enhancement on a historic bridge or structure, or within an ecologically-sensitive area. The Sponsor must abide by all state and federal environmental commitments, policies, and regulations. Further, the Sponsor must acknowledge its obligation to secure any permits (in addition to the permit being applied for from INDOT), approvals, etc., as required. Documentation of these permits, approvals, etc., must be included in the permit application.
10. **Potential conflicts:** Sponsor must affirm that an existing right-of-way title report has been run to confirm there are no conflicting uses of the right-of-way at the proposed site, and ensure that there will be no utility conflict, or any other conflict.
11. **Compliance:** The plan must demonstrate compliance with all applicable federal and state policies and procedures, including the [IMUTCD](#), the [Indiana Design Manual](#), and the AASHTO Roadside Design Guide.

5.2 Supporting documentation

Documentation accompanying the plan must provide enough detail and description to convey what the proposed enhancement will look like when installed. In the event landscaping materials are used, documentation must include a depiction of the plants at their maturity demonstrating the mature height and spread of trees and/or shrubs.

The final application package must include the following accompanying documents:

1. **Cover sheet:** Must include appropriate approval signatures and certification of the plan by an Indiana-licensed Professional Engineer (if involving structural development) and a licensed Landscape Architect (if involving landscaping components) unless otherwise approved by INDOT. For those applications that include the planting of trees, the local tree board must also approve tree selection, placement, planting standards, and maintenance criteria of the application and maintenance agreement. In the absence of a tree board, an International Society of Arboriculture (ISA) certified arborist, or a representative of the Indiana Department of Natural Resources Community and Urban Forestry Program may serve as this signatory.
2. **Overview:** Must include justification, and letters of recommendation or documentation showing community support, for the proposed enhancement.
3. **Location information:**
 - A written description using landmarks or GPS coordinates,
 - aerial imagery, and
 - photos of the area at the time of submission.
4. **Scaled drawings:** Details of the proposed enhancement, including proposed materials and finishes.
5. **Detail design plan sheets:** Sheets must include detailed measurements. The plans must locate every component in relation to the roadway, shoulder, right-of-way, clear zone, safety hardware, and drainage features, as well as information needed to determine the proposed enhancement's exact placement in relation to surroundings. Plans that include structural components must be signed and sealed by an Indiana-licensed Professional Engineer unless otherwise approved by INDOT.
6. **Installation plan:** Must include a detailed schedule and the temporary traffic control plan.
7. **Maintenance plan:** Must include detailed maintenance requirements for the service life of the proposed enhancement, including frequency of maintenance and required traffic control plans. Details must include the expected service life and cover all foreseeable components of maintaining the installed enhancement, including any necessary inspection of structural elements, vegetation control, and seasonal or periodic maintenance such as mulching, trimming, watering, fertilizing, removal of noxious weeds, etc. The maintenance plan must also include the parameters of when work will be completed, and identify who will complete all maintenance.

6.0 Enhancement design criteria restrictions and requirements

Design criteria must be applied to all enhancements proposed to be installed (painted, built, placed, grown, etc.) by permit and construction projects. The design criteria include a general list of prohibited characteristics and design parameters, and requirements.

- Proposed enhancements must not contain characteristics that will distract drivers, pose a safety risk, or impact traffic flow.
- Sculptures must not be kinetic in nature or have moving parts.
- Proposed enhancements must not be brightly lit, contain flashing art, highly-reflective qualities, or artwork with animation.

- The size of a proposed enhancement should be relative to its context and location in the landscape. Enhancements must not have large structures (generally limited to no more than 15 feet in height).
- Proposed enhancements must not conflict with any state or federal environmental commitments, policies and regulations.
- Crosswalk enhancements must be in accordance with Part 3 of the [IMUTCD](#). Painted art and colored pavement markings are prohibited on or within crosswalk lines.
- Pavement murals, painted or other art, and colored pavement markings are prohibited within the travel lane and shoulder.
- No painted art will be allowed on pavement or curbs.
- Proposed enhancements must not have a topic, theme, or elements that could foreseeably cause a negative public reaction.
- Proposed enhancements must not contain an advertisement in any form — actual or perceived — including a message, text, slogan, logo, graphic, distinctive emblem, trademark, web address, or phone number that identifies a commercial business or a product or service offered by businesses, business complexes, schools, attractions, historical or tourist locations, malls, or other organizations (charitable, non-profit, fraternal, religious, political organizations, etc.).
- Proposed enhancements must not be designed with the sole intention to provide greater visibility to existing or future businesses or advertisements.
- Proposed enhancements must not interfere with INDOT’s ability to perform routine maintenance on the right-of-way.
- Proposed enhancements must not resemble a traffic control device (a sign, signal, marking, or other device to regulate, warn, or guide traffic).
- Proposed enhancements must not obscure the view from the main travelled way of existing lawfully-erected and permitted advertising structure.
- Proposed enhancements must not reduce or interfere with intersection sight distance, stopping sight distance, and passing sight distance for drivers.
- Proposed enhancements must not distract or create a blind spot where illegal activity can take place, see [Section 5.1](#) on safety and security.
- Proposed enhancements, including mature landscaping elements that will be greater than 4 inches in diameter at breast height, must not be located within 100% of the clear zone, and preferably should not be located within 200% of the clear zone. Enhancements within the interstate right-of-way must not be located within 200% of the clear zone. This also prohibits the placement of enhancements behind an existing or proposed barrier or guardrail within 200% of the clear zone on interstates. For example, if the interstate clear zone is 30 feet, an enhancement will not be allowed within 60 feet of the roadway (200% of 30 feet).
- Proposed enhancements must not protrude into pedestrian access routes (e.g., sidewalks, shared use paths). The [Public Rights-of-Way Accessibility Guidelines \(PROWAG\)](#) contains accessibility requirements within public right-of-way.

- Proposed enhancements attached to a bridge must be placed in accordance with the [Bridge Aesthetics Policy](#). In summary, enhancements must be above the bridge low structure elevation, maintaining a vertical clearance that is above the minimum requirements.
- Proposed enhancements must not impede water drainage from the right-of-way or cause additional maintenance for INDOT.
- Proposed enhancements that include a breakaway support must adhere to breakaway support requirements contained in Chapter 49 of the [Indiana Design Manual](#).
- Any sign used to guide traffic (e.g., street names or community wayfinding signs) must be compliant with the [IMUTCD](#). Signs which do not guide traffic (e.g., jurisdiction name signs or neighborhood name signs) are not subject to this requirement.
- Proposed enhancements within interstate right-of-way may only include the name of the roadway, government entity, and/or a seal/emblem that is the official designation adopted by the jurisdiction. Other text, symbols, or logos are strictly prohibited.
- Proposed enhancements should be designed to enhance surroundings.
- Proposed enhancements must be designed to an appropriate scale for the roadway.

7.0 Specific requirements by enhancement type

7.1 Landscaped Areas

- Landscaped areas must be composed of a minimum of 80% Indiana native vegetation as defined by the FHWA's Office of Natural and Human Environment. See list of [Native Plants for Landscape Use in Indiana](#). For example: 80 out of 100 plugs/plants must be native species; 80% of the landscaped area must be comprised of native species.
- Landscaped areas must not contain any noxious or detrimental species, as defined and regulated by United States Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS), Indiana Code, and Indiana Administrative Code. Management of noxious weed populations within the area of the enhancement becomes the responsibility of the Sponsor.
- Landscaped areas must not contain any invasive plant species, found in the [Indiana Invasive Species Council's \(IISC\) Invasive Plant List](#), or defined by Indiana Code or Indiana Administrative Code. Management of invasive plants populations within the area of the enhancement becomes the responsibility of the Sponsor.
- Landscaped areas designated as "no mow" or similar, must clearly define maintenance requirements of the defined area in the maintenance agreement.

7.2 Painted artwork on concrete slope walls under bridges

Any painted art on the concrete slope wall of a bridge must include specifications for the use of anti-skid or anti-slip paint to ensure the safety of workers during maintenance or inspection. For additional information, see the [Bridge Aesthetics Policy](#).

7.3 Artwork on traffic signal controller cabinet

- Artwork on a signal controller cabinet must use vinyl wrap, not paint.
- The artwork wrap must not obstruct the signal commission number label or vents on the cabinet.

8.0 Performance bond and right to removal

To secure the Sponsor's obligations under this policy, INDOT may require a performance bond. The term of the bond will be from the start of the installation until the earliest of the following:

1. INDOT notifies the Sponsor that the area will be maintained going forward by INDOT.
2. The Sponsor removes the enhancement as specified by INDOT, restoring the right-of-way to its original condition.

Proceeds of the bond are paid to INDOT if the Sponsor fails to honor the obligation to remove materials within 60 days after INDOT notifies the Sponsor that materials must be removed.

Regarding ownership of materials removed:

1. If the Sponsor removes the enhancement pursuant to INDOT's request, then ownership of all materials remains the Sponsor's.
2. If the enhancement must be removed by INDOT, then removed materials become the property of INDOT.

If INDOT must remove the enhancement, the Sponsor will be charged for the complete cost of removal, including without limitation, all administrative court costs.

9.0 Right of entry

As part of any approved permit and agreement, INDOT will grant the Sponsor (and its contractors and subcontractors) permission to enter upon state-owned or state-controlled right-of-way for the sole purpose of constructing, installing, and maintaining the enhancement in the areas listed. The Sponsor must notify the INDOT District Permit Manager of the intent to commence work, providing a minimum of **five business days'** notice.

10.0 Installation and maintenance of enhancements

Following approval of a permit application to install enhancements in INDOT's right-of-way, the Sponsor must comply with this policy and all other applicable policies, laws, regulations, and requirements as the enhancement is installed and maintained.

10.1 Installation

Installation of all enhancements must be done by a contractor prequalified with INDOT, or by an entity otherwise approved by INDOT. The contractor is expected to adhere to the INDOT Standard Specifications. The contractor will communicate with the District Construction Director or

designee for guidance regarding the Standard Specifications. Safety of the traveling public and of workers in the right-of-way is of utmost importance and must not be compromised.

All installation, maintenance, and removal of art or landscaping must be completed in accordance with current procedures for temporary traffic control and work zone safety, including but not limited to the procedures defined in the [INDOT Policies, Processes, and Procedures on Work Zone Safety and Mobility](#), [Work Zone Traffic Control Guidelines](#), and [IMUTCD](#). Compliance with all applicable safety procedures, laws and regulations is the responsibility of the Sponsor.

For permitted enhancements located within interstate right-of-way and other limited-access facilities, INDOT requires a separate permit each time on-site maintenance is performed.

10.2 Maintenance of public art and landscaping requirements

1. **Inspections:** Public art structural components must be inspected every 24 months from the date of completion, to ensure the enhancement will not fall into disrepair, impose a safety hazard, become dirty, damaged, or disappear. For all projects located on a bridge, inspections must also include a bridge inspector.
2. **Frequency of maintenance:** All landscaped areas must have maintenance performed a minimum of four times per year.
3. **Weed control:** Maintenance must include mowing and the removal of noxious weeds and invasive plants.
4. **Trimming and pruning:** Shrub trimming or tree pruning must be completed at the proper time recommended for the species. It is recommended that the Sponsor follow standards set forth by American Standards Institute (ANSI) within standard A300 for all woody vegetation management, and comply with any state and federal environmental commitments, policies and regulations (e.g., threatened or endangered species restrictions).
5. **Litter and debris removal:** All debris, litter, and other refuse must be removed from the landscaped area and legally disposed, including prior to mowing as detailed below.
6. **Mowing:** All landscaped areas (excluding “no mow” areas as depicted in [Attachments 2a, 2b, and 2c](#)) between an entrance or exit ramp and the mainline portion of a highway must have the entire grass area mowed on a schedule consistent with schedule implemented for the surrounding INDOT right-of-way.

All turf type grassy area must be mowed on schedule consistent with the schedule implemented for the surrounding INDOT right-of-way.

Litter collections must occur prior to mowing. If the landscaping is placed in an area such that mowing is not required, litter collection must still be performed.

Minimum areas for mowing and litter collection, depending on design, are detailed in Attachment 2:

- Infield area bounded by an entrance or exit ramp, crossroad, and mainline portion of a highway (see [Attachment 2a](#)).

- Outfield area bounded by an entrance or exit ramp, crossroad, mainline portion, and highway right-of-way (see [Attachment 2a](#)).
- Entire island area (see [Attachment 2b](#)).
- A minimum of 500 feet on either side of the landscaped area, between the right-of-way and the mainline highway (see [Attachment 2c](#)).

To obtain detailed mowing schedule, please contact the associated INDOT District annually to receive instructions.

11.0 Terms of permits and agreements; renewal

The term of all permits is for a period of one year. The term for all maintenance agreements is for a period of 10 years, unless a longer term agreed upon by the parties. Prior to expiration, the agreement may be renewed for an additional term of 10 years in accordance with the maintenance agreement. Prior to any renewals, an updated maintenance plan must be submitted by the Sponsor and agreed upon by District Highway Maintenance Director.

Any permit or maintenance agreement that INDOT enters into with the Sponsor will expressly state the art and/or landscaping will remain a secondary interest to INDOT, and INDOT reserves the right to require removal of the enhancement when necessary.

12.0 Inspections

The Sponsor must set an appointment with INDOT Maintenance staff to review the overall condition of the installation enhancements once per calendar year. The appointment should be conducted one year from the date of issuance of the permit. INDOT Maintenance will conduct its annual inspection and enter a summary of the findings in EPS.

If the Sponsor is in noncompliant with the maintenance agreement, a written notice outlining a course of action will be provided to the Sponsor and logged into EPS. Failure to adhere to the requirements set forth in the agreement may result in termination of the agreement or removal of the enhancement in accordance with the agreement.

13.0 Documentation requirements

The plan, complete with approval signatures, annual inspection reports must be retained by the appropriate District in EPS, along with photos of the completed work.

14.0 Federal Highway Administration

14.1 FHWA regulatory authority

FHWA regulations require that all real property in the right-of-way of Federal Aid Highways, including airspace, be devoted exclusively to public highway purposes. The FHWA may approve an enhancement based on a determination that it is in the public interest and will not impair the highway or interfere with the free flow of traffic, 23 CFR § 1.23. Regulations also provide that FHWA will cooperate with state and local agencies to provide opportunities to display original works of art in the right-of-way, 23 CFR § 752.2(b).

14.2 Role of FHWA

FHWA will review and approve all enhancements within the interstate right-of-way and participate in the technical review as part of the Team for those requests. The review and comments will be based on the agreed upon design criteria in [Section 6.0](#). After the technical review comments are resolved and incorporated in the final design of the enhancement, FHWA will provide approval. FHWA may provide technical assistance on other enhancements off the interstate at the request of INDOT.

Comments or technical questions about this policy can be directed to INDOT's Permit Division.

Appendix of Attachments

[Attachment 1 – Process Summary Flowchart](#)

[Attachment 2a – Mowing/litter pickup limits – Interchanges](#)

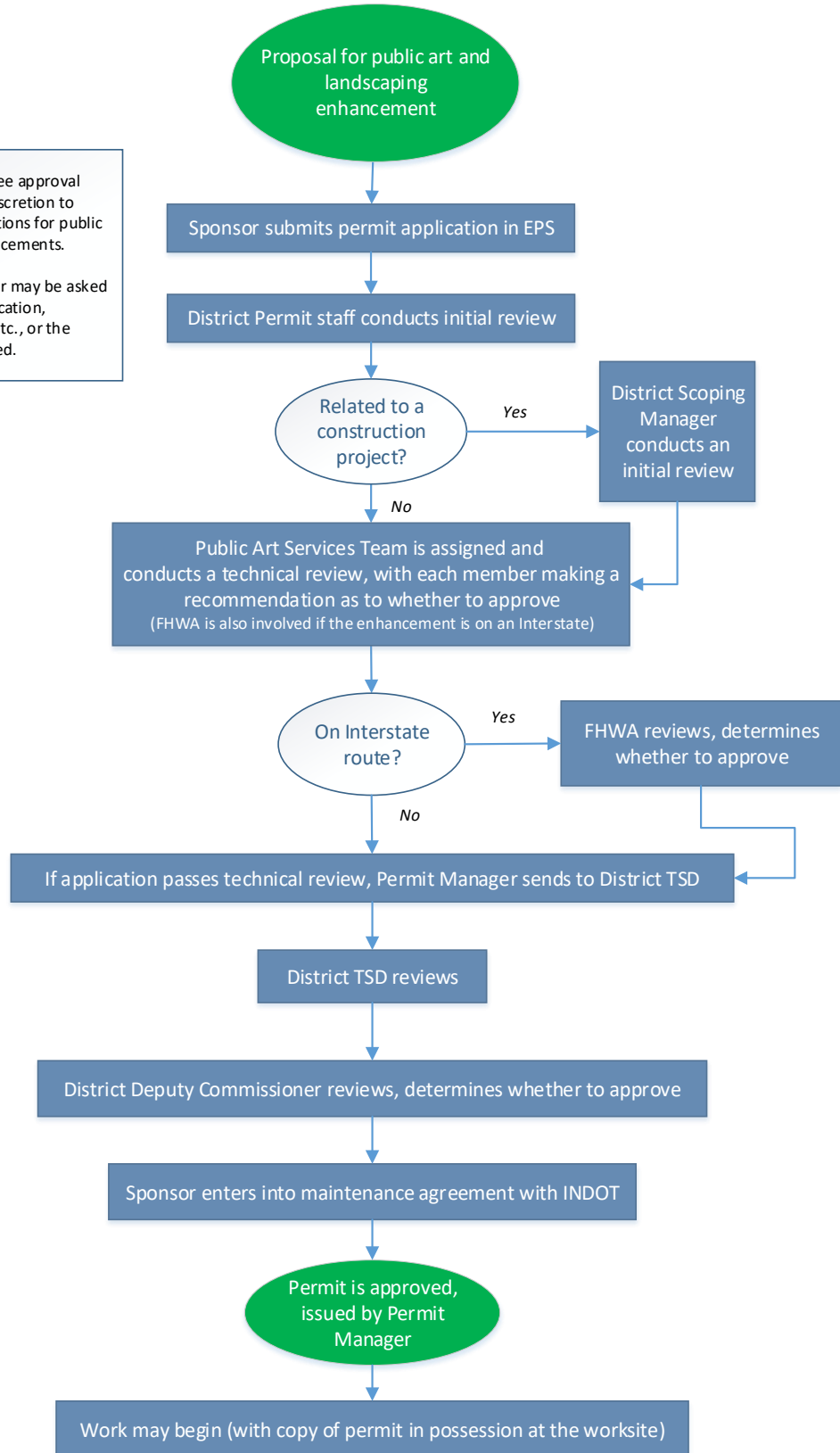
[Attachment 2b – Mowing/litter pickup limits – Islands](#)

[Attachment 2c – Mowing/litter pickup limits – Roadside](#)

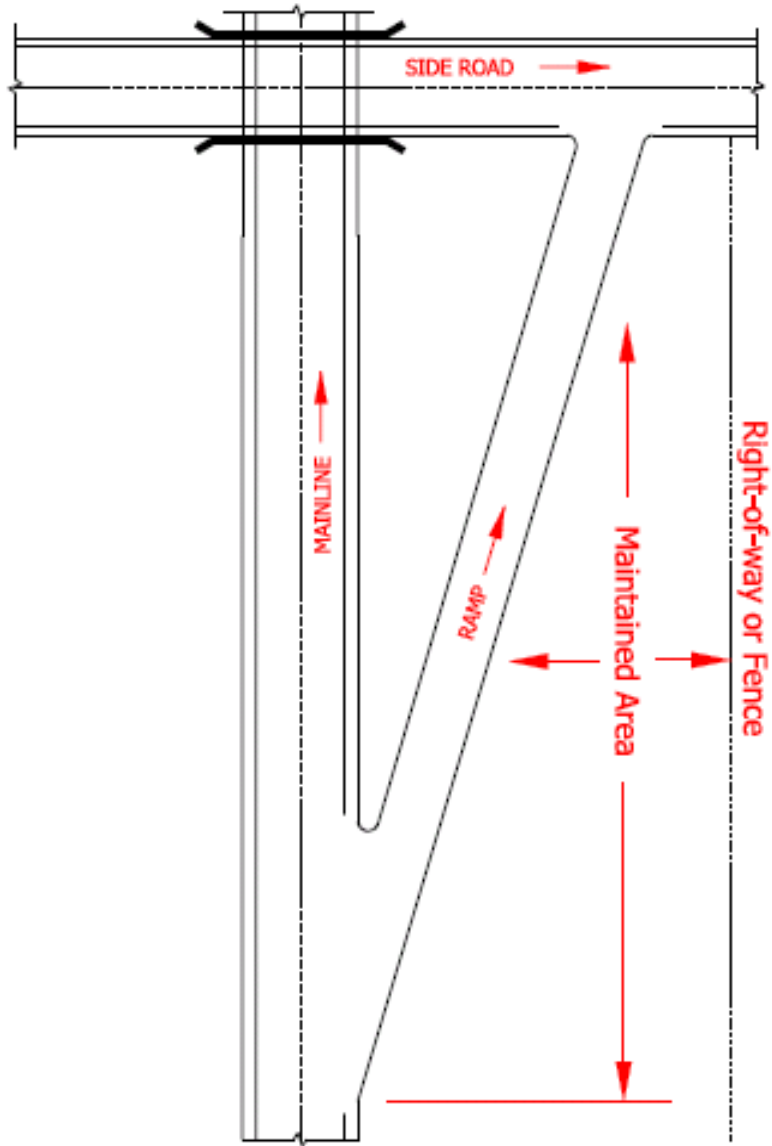
Attachment 1 – Review process flowchart

INDOT does not guarantee approval of permits and retains discretion to approve or deny applications for public art or landscaping enhancements.

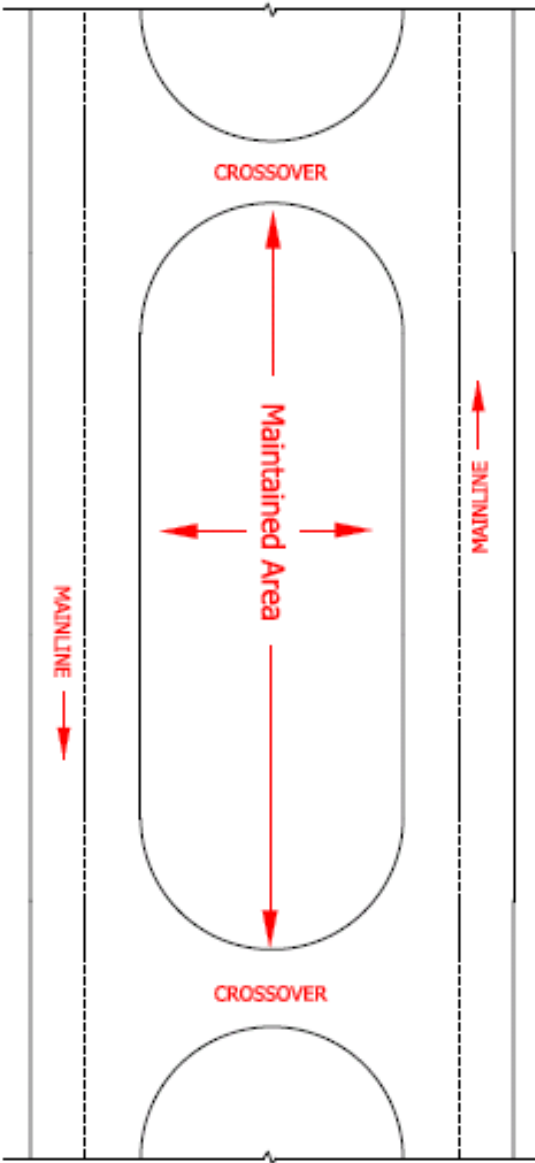
At each step, the Sponsor may be asked for revisions to the application, additional information, etc., or the application may be denied.



Attachment 2a – Diagrams of mowing/litter pickup limits – Interchanges



Attachment 2b – Diagrams of mowing/litter pickup limits – Islands



Attachment 2c – Diagrams of mowing/litter pickup limits – Roadside

