January 19, 2017

CONSTRUCTION MEMORANDUM
17-01

TO:
District Deputy Commissioners
District Construction Directors
District Technical Services Directors
District Area Engineers
District Project Management Director
Project Management Director
Environmental Services
Stormwater Team Lead
District LPA Coordinators
Field Engineers
Project Engineers/Supervisors

FROM: Mark A. Miller, Director
Division of Construction Management and District Support

SUBJECT: Notice of Termination (NOT)

SUPERSEDES: Construction Memorandum 14-02

The Department is required to request a Notice of Termination (NOT) on a contract, on which there is a Rule 5 permit, before they can be accepted and closed out. In order to successfully achieve an NOT and obtain acceptance for a contract, INDOT is required to have 70% uniform vegetation density for turf areas on its projects. Until the NOT is successfully obtained, INDOT is required to have weekly and post event inspections completed.

There are two (2) issues that are being covered by this memo:

1. What are the procedures required in obtaining an NOT?
2. What do you do if your project does not meet the requirements for the NOT?

There are three (3) different scenarios/contract types that should be reviewed when deciding what is required to successfully obtain an NOT. It is important to note that this memo is intended to be read in conjunction with the processes included within the attached Appendices and is intended to be complementary.

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Superseded by Memo 19-10
**Type 1 - Single Signature Contracts** makeup the majority of INDOT contracts, and do not entail design/build, either by line item or by total contract. For this type of contract, follow the attachment in Appendix A for **Single Signature Contracts NOT Process**.

The process is relatively self-explanatory but a few comments should be made. It is recommended that photographs for both the panoramic and spot locations are taken at the time of day that best minimizes shadows. This time period would normally be between 10:00 am and 2:00 pm. Also, when taking panoramic photographs make sure the general focus of the photo is on the turf areas offset from the road. Image 1 is an example of both poor placement of the roadway in the picture and poor lighting conditions. In other words, pick a time of day when a good representation of the area can be seen as in Image 2 and, do not center the road in the picture.

Environmental Services (ES) is trying to get a feel for the overall look of the turf, its health and coverage and the general slope conditions in the area. If there is any question about the contract meeting the 70% requirement, go ahead and take the photographs to send in for review (See appendix C for pictures showing examples of vegetation density). Based on what we have been seeing, it is possible that you may not have attained the 70% density but, based on where the worst areas are, they may still be serving the intended purpose of permanent storm water control. For example, an area with less growth but occurs on a flat area may be sufficient.

However, if the same density is located on a slope or area of higher erosion potential it may be determined that it is not acceptable. Another issue is the health of the turf. If the vegetation appears to be yellow in color it may be viewed as being unhealthy and may require soil enrichment, see image 3. This will be discussed further in the memo.
Type 2 - Co-signature Contracts are contracts that either are design/build contracts or contain an item for Design/Build Storm Water Management. For either of these types of contracts, follow the attachment in Appendix B for Co-signature Contracts NOT Process. Again, the process is relatively self-explanatory but, read and use the comments as given in Single Signature Contracts above.

Type 3 - Local Public Agency, (LPA) Contracts will need to follow the appropriate process based on the type of contract except that the LPA’s “Person in Responsible Charge” or its designee will fulfill the role of ES.

If your project is not approved by ES for the requirements of 70% uniform vegetative density, you will be informed that the project does not meet the requirements of IAC 327 15-5 and the NOT requirements have not been met. In this situation, the Contractor must stabilize the project and continue to perform weekly and post-event inspections. The inspections must continue until the NOT is achieved. If it is deemed that the Contractor performed the work as required by the specifications, additional costs will be considered for payment.

- Additional costs will be reviewed for payment on a case by case basis. These costs may include but are not limited to document preparation on projects that go beyond the original contract.
completion date for the reason of the NOT, for additional seeding or work needed for storm water management items, etc.

- For unhealthy vegetation areas soil mitigation measures may be considered by INDOT.
- Costs and potential costs should be discussed with the AE, especially if the magnitude of the costs will be high as INDOT may wish to consider additional options.
- If obtaining the NOT causes contract time to overrun, a time extension will not be required. It is our intent that the time it takes to get the NOT after the original completion date be covered by a Final Inspection Time Waiver just as if you had added extra work to the contract at the final inspection.

**When your project is approved** by ES for the requirements of 70% uniform vegetative density, you will receive notification that the project has met NOT requirements in accordance with IAC 325 15-5. Enter the information into the SiteManager correspondence log and attach a copy of the NOT into SiteManager.

Our current process requires that INDOT receive a formal acceptance from IDEM of the NOT submittal, Form 51514, in order for INDOT to close out the contract with a Rule 5 permit. Through an agreement between INDOT and IDEM, going forward, IDEM will accept the recommendation for NOT from INDOT Environmental Services as their notice to terminate the permit and will not send a letter formally closing the Rule 5 permit. Since IDEM will no longer provide formal acceptance of the NOT recommendation from INDOT, the PE/S will no longer need wait for the letter from IDEM prior to closing out the contract. LPA's will still require formal acceptance from IDEM in order to close out contracts with a Rule 5 permit.¹

INDOT Environmental Services will provide the PE/S a copy of the NOT submittal which will be time/date stamped by IDEM Office of Water Quality for single signature type contracts. The Contractor shall provide this IDEM time/date stamped document to both the PE/S and ES for co-signature type contracts. This document will be the authorization to proceed with completing the contract close out process.

Appendices A and B contain information outlining the steps for the NOT process for single and co-signature contract types.

Appendix C contains five pages of pictures that will help determine the different percentages of uniform vegetation density (Percentage of Green) could look like. The important thing to remember is that if the turf is green and looks healthy, go ahead and make the request to ES even if the density may only appear to be 60% +/-.

If you should have any questions relating to this memo, please do not hesitate to call the Field Engineer assigned to your district.

**ATTACHMENT:** Appendix A, B and C

MAM/ggp/kap

¹ corrected on 02/09/2017
Appendix A

**Single Signature Contracts NOT Process**

**Step 1:**
- PE will notify Environment Services, ES, or the District Storm Water Specialist, DSWS, of substantial completion.
- A site visit by the DSWS, ES, or appointed representative to review site for problem areas in developing turf and provide recommendations to correct the problems may be needed.

**Step 2:**
- The Contractor and PE/S will evaluate the project and agree 70% uniform vegetation density of permanent cover (turf or other) has been achieved.
- All temporary storm water management features shall be removed prior to the application for the NOT.
- PE/S will document that:
  - All temporary storm water features have been removed.
  - No further earth disturbing activities are planned for the project.
  - All excess silt accumulations have been removed, areas have been dressed, and vegetation has been re-established to all bare areas in accordance with the contract requirements.
  - Both parties agree that the site meets the 70% permanent vegetative density coverage for turf areas.
- PE/S will document actual site conditions by:
  - Taking panoramic photographs of turf areas while making sure the least vegetated areas are captured (photographs must be in focus).
  - Take 4 photographs from the least vegetated turf areas.
    - Photographs should be taken perpendicular to the ground
    - Taken in a standing position
    - Taken using a digital camera

**Step 3:**
- PE notifies ES of their desire to request NOT by:
  - Email the request to the Storm Water Team Leader, Rick Phillabaum, and copy appropriate persons involved with the contract (AE, PM, DSWS, etc.).
  - Attach documentation listed above (written statements and site photographs).
Appendix A

- ES Manager or Team Lead will make a determination of the site’s compliance based on PE/PS/Contractor documentation, site visit, and other sources.

  - If documentation fails to confirm compliance, ES will schedule a field review with District Construction and Contractor to discuss work that needs to be completed or considered.
    - When any necessary work is completed start back at the beginning of Step 3.

  - If documentation confirms compliance, ES will notify PE/S and copy the appropriate persons involved with the contract (AE, PM, DSWS, IDEM, etc.) of the decision to sign the NOT.

NOTES:

When the end of the allowable time for the contract is reached, District Construction will make a decision on how it is going to proceed if documentation fails to show compliance. Normally, INDOT will keep the contract open until compliance is met. Weekly and post event site inspection reports and maintenance must continue until compliance is met and the NOT is satisfied.

Superseded by Memo 19-10
Appendix B

Co-signature Contracts NOT Process

Step 1:
- PE will notify ES, or the DSWS of substantial completion.
- A site visit by the DSWS, ES, or appointed representative to review site for problem areas in developing turf and provide recommendations to correct any problems may be needed.

Step 2:
- The Contractor and PE/S will evaluate the project and agree 70% uniform vegetation density of permanent cover (turf or other) has been achieved.
- All temporary storm water management features shall be removed prior to the application for the NOT.
- The Contractor and the PE/S shall document that:
  - All temporary storm water features have been removed.
  - No further earth disturbing activities are planned for the project.
  - All excess silt accumulations have been removed, areas have been dressed, and vegetation has been re-established to all bare areas in accordance with the contract requirements.
  - Both parties agree that the site meets the 70% permanent vegetative density coverage for turf areas.
- The Contractor and PE/S will document actual site conditions by:
  - Taking panoramic photographs of turf areas while making sure the least vegetated areas are captured (photographs must be in focus).
  - Take 4 photographs from the least vegetated turf areas.
    - Photographs should be taken perpendicular to the ground
      - Taken from a standing position
      - Taken using a digital camera

Step 3:
- The Contractor sends email notification to the Storm Water Team Leader, Rick Phillabaum, of their desire to request the NOT. Copy appropriate persons involved with the contract (AE, PE/S, PM, DSWS, etc.). The email should include:
  - A request to the Storm Water Team Leader, Rick Phillabaum, for determination of the site’s compliance and willingness to sign NOT. Contractor shall copy appropriate persons involved with the contract (AE, PE/S, PM, DSWS, etc.).
Appendix B

- Attach documentation listed above (written statements and site photographs).
- The ES Manager or the Storm Water Team Leader will make a determination of site compliance based on Contractor/PE/PS documentation, site visit and other sources.
- If documentation fails to confirm compliance, then ES will schedule a field review with the PE/S and Contractor to discuss work that needs to be completed or considered.
  - When any necessary work is completed start back at the beginning of Step 3.
- If the documentation confirms compliance, ES will notify the Contractor of its decision to sign the NOT.
  - The Contractor will prepare and sign the NOT form.
  - The Contractor delivers the signed form to ES for signature.
  - The Contractor will then deliver the form to IDEM for a time-date stamp.
  - The Contractor will provide a hard copy of the IDEM time-date stamped document to ES and the PE/S.

NOTES:
When the end of the allowable time for the contract is reached, District Construction will make a decision on how it is going to proceed if documentation fails to show compliance. Normally, INDOT will keep the contract open until compliance is met. Weekly and rain event site inspection reports must continue along with maintenance of the site until compliance is met and the NOT is satisfied.
A series of pictures have been taken and analyzed using the INDOT Vegetation Analyzer. Some sample images and results are shown as follows:

<table>
<thead>
<tr>
<th>Pictures taken by Sony DSC-F505 camera under acceptable light intensity with less than 50% of green</th>
</tr>
</thead>
<tbody>
<tr>
<td><img src="image1.png" alt="Picture 1" /></td>
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<tr>
<td>Percentage of Green: 46.88%</td>
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<tr>
<td>Percentage of Gray Shades: 8.44%</td>
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<tr>
<td><img src="image2.png" alt="Picture 2" /></td>
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<tr>
<td>Percentage of Green: 48.89%</td>
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<tr>
<td>Percentage of Gray Shades: 10.00%</td>
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<tr>
<td>Pictures taken by Sony DSC-F505 camera under acceptable light intensity with more than 50% of green but less than 60% of green</td>
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<tr>
<td>---</td>
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</tbody>
</table>
| ![Image 1](image1.jpg)  
Percentage of Green: 53.66%  
Percentage of Gray Shades: 6.46% |
| ![Image 2](image2.jpg)  
Percentage of Green: 59.13%  
Percentage of Gray Shades: 8.67% |
## Appendix C

Pictures taken by Sony DSC-F505 camera under acceptable light intensity with more than 60% of green but less than 70% of green

| Percentage of Green: 68.60%  
<table>
<thead>
<tr>
<th>Percentage of Gray Shades: 6.74%</th>
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| Percentage of Green: 66.87%  
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<tr>
<th>Percentage of Gray Shades: 7.01%</th>
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<tbody>
<tr>
<td>Pictures taken by Sony DSC-F505 camera under acceptable light intensity with more than 70% of green but less than 80% of green</td>
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<tr>
<td>---</td>
</tr>
<tr>
<td>![Picture 1]</td>
</tr>
<tr>
<td>Percentage of Green: 76.22%</td>
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<tr>
<td>Percentage of Gray Shades: 7.84%</td>
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<td>![Picture 2]</td>
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<tr>
<td>Percentage of Green: 77.17%</td>
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<tr>
<td>Percentage of Gray Shades: 6.42%</td>
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Appendix C

Pictures taken by Sony DSC-F505 camera under acceptable light intensity with more than 80% of green but less than 90% of green

<table>
<thead>
<tr>
<th>Percentage of Green: 85.79%</th>
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<td>Percentage of Gray Shades: 8.12%</td>
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<table>
<thead>
<tr>
<th>Percentage of Green: 86.37%</th>
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<tbody>
<tr>
<td>Percentage of Gray Shades: 6.99%</td>
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