

Transportation Advisory Board
of the Metropolitan Council of the Twin Cities

ACTION TRANSMITTAL

No. 2012-01

DATE: January 12, 2012
TO: Transportation Advisory Board
FROM: Technical Advisory Committee
SUBJECT: Sunset Date Extension for Dakota County SP#91-090-59 Mississippi River Regional Trail Rosemount Segment

MOTION: That the TAB approve a one year sunset date extension from March 31, 2012 to March 31, 2013 for Dakota County SP#91-090-59 Mississippi River Regional Trail in Rosemount.

BACKGROUND AND PURPOSE OF ACTION: This project was awarded \$1.09 million in federal Transportation Enhancement funding through the 2007 regional solicitation and originally programmed in 2011. It is part of the Mississippi River Regional Trail (MRRT), which involves the construction of 3.8 miles of off-road bituminous trail in the city of Rosemount. Dakota County has had difficulty negotiating an agreement with the Union Pacific Railroad for permanent and temporary easements and two trail/rail crossings. Also, the agreement reached with the Flint Hills refinery for an easement has resulted in 2.5 miles of security fencing being added to the project that was not previously considered. The TAC unanimously agreed to recommend granting the sunset date extension.

RELATIONSHIP TO REGIONAL POLICY: Projects awarded federal transportation funds through the regional solicitation process have a sunset date of March 31 following the original program year. The sunset date is the date when the federal funds are no longer available to the project. The sunset date is regional policy intended to be an incentive for local project sponsors to implement their project in a timely manner.

ROUTING

TO	ACTION REQUESTED	DATE COMPLETED
TAC Funding & Programming Committee	Review & Recommend	December 15, 2011
Technical Advisory Committee	Review & Recommend	January 4, 2012
TAB Programming Committee	Review & Recommend	
Transportation Advisory Board	Review & Approve	



Physical Development Division
Lynn Thompson, Director

Dakota County
Western Service Center
14955 Galaxie Avenue
Apple Valley, MN 55124

952-891-7000
Fax 952-891-7031
www.dakotacounty.us

Environmental Mgmt Dept
Office of GIS
Parks and Open Space
Surveyor's Office
Transit Office
Transportation Department
Water Resources Department

December 8, 2011

Mr. James Andrews
Transportation Planner
Metropolitan Council
390 Robert Street North
St. Paul, MN 55101-1805

Re: Request for Sunset Date Extension S.P. 091-090-059
Mississippi River Regional Trail

Dear Mr. Andrew,

Dakota County respectfully requests a one year sunset date extension for a segment of the Mississippi River Regional Trail project within the City of Rosemount. This 3.8 mile long segment traverses from the City of Inver Grove Heights southerly and easterly through Rosemount to the Spring Lake Park Reserve. We request consideration of this extension by the Transportation Advisory Board, Funding and Programming Committee at their December 15, 2011 meeting.

The enclosed information provides the project background, progress and justification of the extension request. Dakota County has aggressively pursued this project and seeks support for the sunset date extension.

If you have any questions, I can be reached at bruce.blair@co.dakota.mn.us and 952.891.7990.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce Blair".

Bruce Blair

C: Steve Sullivan, Dakota County Parks and Open Space Director
Colleen Van Wagner, MN/DOT Metro District State Aid

SUNSET DATE EXTENSION REQUEST
S.P. 091-090-059

The Mississippi River Regional Trail (MRRT) – Rosemount Segment

Location: In Rosemount, from the Rosemount/Inver Grove Heights city boundary southerly and easterly through Flint Resources property to the west end of Spring Lake Park Reserve.

1. PROJECT BACKGROUND

A. Project Name:

Mississippi River Regional Trail – Rosemount Segment, within the City of Rosemount (City).

B. Location Map:

A location map is attached in **Appendix A – Exhibit 1**.

C. Sponsoring Agency:

Dakota County Parks and Open Space Department
Western Service Center
14955 Galaxie Avenue
Apple Valley, MN 55124

D. Other Participating Agencies:

The City, Minnesota Department of Natural Resources, Dakota County Soil and Water Conservation District, Vermillion Watershed Management Organization and MNDOT have been involved in the review of trail alignments. No financial participation is anticipated from these agencies.

E. Project Description:

This project involves the construction of a portion of the MRRT. The MRRT is planned to be a non-motorized regional trail connecting the Cities of South St. Paul and Hastings. Paralleling the Mississippi River, the MRRT will be 27 miles long and connect cities; recreational, historic and cultural destinations; schools; and more. Furthermore, the MRRT will connect with additional trail opportunity.

The Rosemount segment of trail involves construction of 3.8 miles of off-road bituminous trail with a desired width of 10 feet.

F. Funding Category:

The project is funded with Federal Transportation Enhancement (TE) Funds.

G. Federal Funds Allocated:

Federal funds in the amount of \$1,000,000 have been secured.

E. Identified Funds Spent to Date on Project:

To date, Dakota County derived funds have been spent on the design and preparation for right-of-way acquisition for the project. It is anticipated that Dakota County derived funds in the amount of \$240,000 will be spent preparing the project for acquisition and construction.

3. JUSTIFICATION FOR EXTENSION AND NEW ALIGNMENT REQUEST

A. What is unique about this project that requires an extension of the Sunset?

A sunset extension request has become necessary primarily due to:

1. Difficulty and delays in securing responses and approvals in a collaborative manner from the Union Pacific Railroad Company.

Nearly the entire 3.8 miles of MRRT is immediately adjacent to, or close to, active railroad owned by the Union Pacific Railroad Company. Through both a Feasibility Study process (2009-10) and final design (2010-11) considerable effort has gone into:

- A. Designing the trail to avoid the need for UPRR property or cooperation where ever reasonably possible. However due to severe topography, two existing UPRR track/Pine Bend Trail at-grade crossings, and other constraints, all reasonable MRRT alignments required some cooperation from the UPRR.
- B. Constant communication with the UPRR engineering, operations, and real estate staff, beginning in 2009, as trail planning advanced and impacts to railroad property were defined.

The approved MRRT alignment results in the need for 3.67 acres permanent easement and .62 acres of temporary easement from the UPRR and two at-grade trail/track crossings. Communication with the UPRR continues but Dakota County cannot promise the necessary permissions and permits from the UPRR will be secured by the existing sunset date of 3/31/12.

Summary of Actions

See Appendix A, Exhibit 4: Summary of Actions for a description, in chronology format, of action steps and impact to project.

B. What are the financial impacts if this project does not meet its sunset date?

The MRRT Rosemount segment will not be built if the \$1M of Federal funds for this project are not available. The County has no alternative funding source that could replace the Federal funds, especially in the current economic situation of local government. Should the Federal funds not be available, the project would be delayed indefinitely until such time as funding becomes available for some unknown source. Presently in the 2011-2015 CIP and draft 2012-2016 CIP there is no known possibility of finding the \$1M.

As more of the MRRT is constructed each of the next five years, any remaining gaps will become increasing detrimental to the public realizing the full benefit of a continuous trail.

C. How does this project implement regional policies?

The value of the trail along the Mississippi River in Dakota County and the Greater Minneapolis/St. Paul Metropolitan Area has been long recognized. The Minnesota Critical Areas Act of 1973 included a planning requirement for open space and recreation in the Mississippi Corridor, including the identification of potential sites for trail, scenic overlooks, and public accesses. The initial requirement for identifying trail locations is also included in the Mississippi National River and Recreation Area (MNRRA) Comprehensive Management Plan; the realization of a "continuous trail corridor" being one of the plan's goals. The Metropolitan Council Study on projects in the upper Mississippi River pool also identified the Mississippi River Regional Trail in Dakota County as a significant regional priority.

D. What are the implications if the project does not obtain the requested extension?

An extension of the sunset date is critical to allow time for the successful implementation of this segment of the MRRT. If the extension were not granted Dakota County would forfeit the TE funding on the project and abandon it until funding can be obtained. Abandonment until an unknown future date would seriously complicate political approval processes, render useless some of the work done to date, and be very inefficient.

Furthermore, abandonment leaves a significant gap in the MRRT. A gap of this size would result in a serious loss of public recreational potential.

Appendix A: Sunset Date Extension Request

Exhibit 1: Mississippi River Regional Trail Rosemount Segment Location Map



Appendix A: Exhibit 2 Progress Schedule for Sunset Extensions

PROGRESS SCHEDULE FOR SUNSET EXTENSIONS

ENVIRONMENTAL DOCUMENTATION

EA

X Project Memorandum (Submitted for preliminary review November 9, 2011)

Completed/Approved

Date of Approval _____

X Not Complete

Anticipated Date of Completion – Submittal to MnDOT December 20, 2011, MnDOT approval February 1, 2012.

OPPORTUNITY FOR PUBLIC HEARING (not necessary for Project Memorandum)

Completed

Date of Approval _____

Not Complete

Anticipated Date of Completion _____

FINAL ENVIRONMENTAL ASSESSMENT (Not required for Project Memorandum)

Completed/FONSI Approved

Date of Approval _____

Not Complete

Anticipated Date of Completion _____

STUDY REPORT (required for Environmental Assessment Only)

Completed

Date of Approval _____

Not Complete

Anticipated Date of Completion _____

CONSTRUCTION PLANS

Completed (Includes signature of District State Aid Engineer)

Date _____

X Not Complete

95% Plan Mn/DOT plan submittal January 31, 2012

RIGHT-OF-WAY ACQUISITION

Completed (Includes approval of right-of-way Cert. #1 or #1A)

Date of Approval _____

X Not Complete

Anticipated Date of Completion – July 2012

LETTING

Anticipated Letting Date – August 2012

Appendix A: Exhibit 4: Summary of Actions

Date	Event/Action	Impact Comment
1999	Dakota County Board approves Development Plan for the MRRT	
February 2009	Feasibility Study to determine preferred alignment initiated, assisted by Kimley Horn Consultants.	
May 2009	Feasibility Study – first alternatives developed and reviewed	
June 2009	Feasibility Study – first draft. Need to easement on UPRR property indicated.	
July 2009	Local agency review of Feasibility Study draft.	
July 2009	Contact with the UPRR established. Attempt to communicate the Feasibility Study and impact to UPRR.	<ul style="list-style-type: none"> • First contact with UPRR is 2 years, 8 months before Sunset Date
August 2009	UPRR officially declines to participate in the trail project	<ul style="list-style-type: none"> • Not an unexpected response
September 2009	Dakota County continues to try and communicate with UPRR	<ul style="list-style-type: none"> •
October 2009	Dakota County investigates UPRR property ownership, etc. to be better prepared for future conversations/negotiations.	<ul style="list-style-type: none"> •
Oct – Dec 2009	Potential alignments are reviewed, refined.	<ul style="list-style-type: none"> •
January 2010	Dakota County refines its request to UPRR for easement for the trail and at-grade trail crossing of tracks.	<ul style="list-style-type: none"> • UPRR now has specifics to respond to
May 2010	Little to no progress made with UPRR. County Attorneys review case law regarding the likelihood of successful condemnation of non-operationally dependent railroad property for trail purposes.	<ul style="list-style-type: none"> • 4 months of little movement by UPRR
June 2010	Feasibility Study is revised to reflect comment, new information, cost factors, etc.	<ul style="list-style-type: none"> •
June 2010	Still no progress dealing with UPRR.	<ul style="list-style-type: none"> • Now 5 months of little movement by UPRR
July 2010	UPRR agrees to discuss trail at-grade crossings of track	<ul style="list-style-type: none"> •
August-Sept 2010	Feasibility Study continues to be revised to reflect comment, new information, cost factors, etc.	<ul style="list-style-type: none"> •
October 2010	Another draft of the Feasibility Study is authored.	<ul style="list-style-type: none"> •
December 2010	County Board comments on, and adopts a preferred alignment. This alignment has dependencies upon the UPRR that cannot be avoided.	<ul style="list-style-type: none"> • Clarity on the minimal project needs for UPRR property are developed 15 months before the Sunset date.
December 2010	Dakota County informs the UPRR of the adopted alignment and dependencies upon the UPRR.	<ul style="list-style-type: none"> • UPRR informed of the specifics the County will be seeking
February 2011	Final Feasibility Study is produced.	<ul style="list-style-type: none"> •
April 2011	Dakota County hires WSB, Inc. for final MRRT Rosemount design as approved in the final Feasibility Study.	<ul style="list-style-type: none"> •
May/June 2011	WSB establishes contact with UPRR and details the need for UPRR cooperation.	<ul style="list-style-type: none"> •
June – August 2011	Design in process. Considerable interaction with stakeholders. Public Open House in August.	<ul style="list-style-type: none"> •
July 2011	UPRR responds with substantial demands	<ul style="list-style-type: none"> • Demands are extensive, and expensive.
July 2011	WSB and County respond to demands	<ul style="list-style-type: none"> •
August 2011	WSB, Dakota County again engage UPRR, seeking an easement and two at-grade trail/track crossings, and comment on construction plans provided. Some response from UPRR received.	<ul style="list-style-type: none"> •
August - Nov 2011	WSB and County made at least 16 attempts at communication with UPRR. Some response received but few issues have been resolved.	<ul style="list-style-type: none"> •
December 7, 2011	Still need actionable responses from UPRR.	<ul style="list-style-type: none"> •