

ACTION TRANSMITTAL No. 2018-57

DATE: November 21, 2018

TO: Technical Advisory Committee

FROM: TAC Funding and Programming Committee

PREPARED BY: Joe Barbeau, Senior Planner (651-602-1705)

SUBJECT: Program Year Extension Request: Burnsville Lake Marion Greenway

REQUESTED ACTION: The City of Burnsville requests a program year extension for its Lake Marion Greenway trail construction project (SP# 179-090-005) to 2020.

RECOMMENDED MOTION: That the Technical Advisory Committee recommend to TAB approval of the program year extension request to move Burnsville's Lake Marion Greenway Trail construction project (SP# 179-090-005) to 2020.

BACKGROUND AND PURPOSE OF ACTION: The City of Burnsville received \$1,598,400 in Surface Transportation Block Grant (STBG) Program funding for program year 2019 in the 2016 Regional Solicitation. The City is requesting an extension of the program year to 2020 following delays due to needed alignment shifts. These realignments are needed after an unsuccessful negotiation with a railroad and working with Minnesota Department of Natural Resources to mitigate wetland impacts.

RELATIONSHIP TO REGIONAL POLICY: The Transportation Advisory Board (TAB) adopted the Program Year Policy in April 2013 and updated it in August 2014 to assist with management and timely delivery of transportation projects awarded federal funding through the TAB's Regional Solicitation. The policy includes a procedure to request a one-year extension based on extenuating circumstances within certain guidelines.

STAFF ANALYSIS: Based on the score on the attached worksheet, staff recommends approval of the program year extension to 2020. It is important to note that an extension of the program year does not guarantee federal funding will be available in that year. The project sponsor is responsible for completing the project in the new program year and covering the federal share of the project until federal funding becomes available. At this time the project would be in line for 2022 reimbursement of federal funds, though an earlier reimbursement may occur if funding becomes available. In that case the TAB Federal Funds Management Process would be followed. The program year change would be administered in the annual Transportation Improvement Program (TIP) update and does not require a separate TIP amendment.

COMMITTEE COMMENTS AND ACTION: At its November 15, 2018, meeting, the Funding & Programming Committee voted unanimously to recommend approval of the program year extension request to move Burnsville's Lake Marion Greenway Trail construction project to 2020.

ROUTING

TO	ACTION REQUESTED	DATE COMPLETED
TAC Funding & Programming Committee	Review & Recommend	11-15-2018
Technical Advisory Committee	Review & Recommend	
Transportation Advisory Board	Review & Approve	

October 15, 2018

Mr. Paul Oehme
Chair, TAC Funding and Programming Committee
Metropolitan Council
390 Robert Street North
St. Paul, MN 55101

Re: Program Year Extension
S.P. 179-090-005
Lake Marion Greenway
Burnsville, Dakota County, Minnesota

Dear Mr. Oehme:

The City of Burnsville respectfully requests that the Metropolitan Council TAC Funding and Programming Committee consider a one-year Program Year Extension for the above referenced project. The project's current program year is 2019 and includes construction of 2.7 miles of multi-use trail as part of the Lake Marion Greenway.

The City of Burnsville has been working diligently on the design and coordination of the Lake Marion Greenway since 2016. The original alignment for the trail was around the north or south side of the wetland complex within Kelleher Park. As part of the alignment study, both on-site meetings and off-site meters were conducted with the Minnesota Department of Natural Resources (DNR). The DNR identified the potential for rare and endangered species both within the wetlands as well as upland areas. Time was spent investigating the environmental restrictions of the wetland complex. The DNR was unaware of many of the features present in this location. We believe an alignment and elevated boardwalk has been agreed upon by all parties but this has also resulted in an increased cost and delay in development of the plan set.

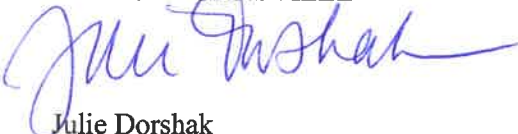
The trail alignment goes under the existing CSAH42 bridge. After numerous discussions with the Canadian Pacific Railroad, they have indicated that they are unwilling to allow the trail to encroach into the railroad right of way under the bridge. Therefore, the trail needs to be shifted to the west closer to the existing bridge abutment to be out of the railroad right of way. To achieve this alignment, a wall needs to be built under the bridge to support the fill slope which results in significant increased cost.

The county/city has had many discussions and the county recently secured the additional contributions to construct the project. Prior to the county's commitment to the additional funds, the federal funds would have been forfeited due to lack of project funding. Now the current obstacle is the funding year deadline.

The enclosed information provides details on our request. If you have any questions or require any additional information, please contact me at (952) 895-4509 or julie.dorshak@burnsvillemn.gov.

Sincerely,

CITY OF BURNSVILLE



Julie Dorshak
Recreation and Community Services Manager

REQUEST FOR PROGRAM YEAR EXTENSION
S.P. 179-090-005
Lake Marion Greenway
Burnsville, Dakota County, Minnesota

1. PROJECT BACKGROUND

a) Project Name:

Lake Marion Greenway (from Sunset Pond Park to Burnsville Parkway adjacent to Kelleher Park) in the City of Burnsville

b) Location Map:

A project location map is attached as **Figure 1**.

c) Sponsoring Agency:

City of Burnsville

d) Other Participating Agencies:

Dakota County, Scott County, City of Savage, Minnesota DNR

e) Project Description:

Dakota County's greenway vision encompasses 200 miles of regional greenways. The Lake Marion Greenway is one of these regional greenways, which is envisioned as a continuous regional destination trail for non-motorized transportation. When it is completed, the Lake Marion Greenway will connect Burnsville, Savage, Credit River Township, Lakeville and Farmington. The Lake Marion Greenway will link the Minnesota River and the Minnesota River Greenway to Murphy-Hanrehan Park Reserve, Ritter Farm Park, Lake Marion, downtown Lakeville, South Creek and downtown Farmington, where it will connect with the North Creek Greenway.

The Lake Marion Greenway is approximately 3 miles long and is located starting at Sunset Pond Park to Burnsville Parkway adjacent to Kelleher Park / Murphy-Hanrehan Regional Park Reserve.

f) Funding Category:

The project is funded with Federal Transportation Alternatives Program (TAP) funds.

g) Federal Funds Allocated:

Federal funds in the amount of \$1,598,400 have been secured for Fiscal Year 2019.

2. PROJECT PROGRESS

a) Project Schedule:

Program Schedule for Program Year Extension is attached as **Attachment 1**.

- City of Burnsville hired WSB..... December 21, 2016
- Public Open HouseApril 6 and August 23, 2017

- DNR Coordination Summer 2017-Present
 - Wetland Delineation Approved Fall 2017
 - Coordination with Agencies 2017-Present
 - Project Memo Early Coordination Responses September 30, 2018
 - Draft Project Memo - State Aid Review October 2018
 - Construction Plans & Engineer’s estimate submitted to MnDOT June 2019*
 - Right of Way Acquisition December 2019*
 - Bid Project January 2020*
- *dates based on receiving the program year extension

b) Right-of-Way Acquisition:

The project will require approximately:

- 5.9 acres of permanent easements from 24 parcels; and
- 4.3 acres of temporary easements from 15 parcels
- 15 of the 24 parcels are park properties

c) Plans:

Preliminary Layout and Plan preparation is estimate at percent complete.

d) Permits:

The following table is a list of anticipated permitting agencies and the status of their reviews:

Permits Required	
Agency/Permit	Status
USACE Section 404	Permit will be obtained prior to construction.
DNR - Public Waters	Permit will be obtained prior to construction.
DNR - Water	Permit will be obtained, if needed (for dewatering).
MPCA - NPDES	Permit will be obtained prior to construction.
MPCA - Section 401	Permit will be obtained prior to construction.
Wetland /BWSR	Permit will be obtained prior to construction.
Roadway (Canadian Pacific)	Grading permit to be obtained prior to construction.
City of Burnsville	A Conditional Use Permit will be obtained prior to construction.

e) Approvals:

The proposed improvements will require approval from MnDOT in addition to the permit approvals identified above.

f) Identified Funds Spent to Date on Project:

To date the City has spent funds in excess of \$122,000 on preliminary design, public engagement, wetland delineation, topography survey, the preparation of the project memorandum, Kittentail survey, and geotechnical investigation along with coordination with DNR, City of Savage, Dakota and Scott County and property owners in the area of the project.

3. JUSTIFICATION FOR EXTENSION

a) What is unique about this project that requires an extension of the program year?

The Lake Marion Greenway as two segments that have unique features that have led to the time delay in project development.

Trail Alignment under the CSAH 42 bridge:

The trail alignment goes under the existing CSAH42 bridge. After numerous discussions with the Canadian Pacific Railroad, they are not going to allow the trail to encroach into the railroad right of way under the bridge. The trail needs to be shifted to the west closer to the existing bridge abutment to be out of the railroad right of way. To achieve this alignment, a wall needs to be built under the bridge to support the fill slope. Due to the constrained conditions under the bridge, it has been determined that a soil nail wall is likely the best solution but costs about \$1,000,000 more than originally estimated.

Trail Alignment through the wetland in Kelleher Park:

The original alignment for the trail was around the north or south side of the wetland complex within Kelleher Park. As part of the alignment study, both on-site meetings and off-site meters were conducted with the Minnesota Department of Natural Resources (DNR). The DNR identified the potential for rare and endangered species both within the wetlands as well as upland areas. As a result, WSB staff conducted a Kittentail Survey and Inventory. This survey was conducted within the upland areas located in the southwest corner of Kelleher Park. The DNR was concerned with proposed trail alignments within these two areas either directly impacting these rare plants or impacting the surrounding environments. Following this inventory and study of plant environments, it was recommended to avoid these two areas to preserve the Kittentail population that currently exists thereby removing potential trail alignment corridors previously explored. Without the ability to develop a trail around the north or south side of the wetland, exploration of the boardwalk system to cross the wetland complex became apparent.

Discussions were initiated with the environmental staff from the City of Burnsville as well as the Department of Natural Resources (DNR).

Indications were provided that the Kelleher wetlands could potentially contain

areas of calcareous fens and other rare and endangered species. Several boardwalk alignment options were explored to cross the nearly 70-acre wetland to help minimize impacts to the wetland environment as well as project costs. Evaluations of the wetland complex was conducted by staff from the DNR, City of Burnsville, and WSB. Evaluations were made by the use of aerial photography, drone obtained visual surveys, on the ground evaluations, and past data received from the City of Burnsville and DNR. Following evaluations, a preferred trail / boardwalk alignment was developed through the wetland complex to ensure avoidance of “high quality wetlands” pockets and areas of calcareous fens. To avoid impacts to pockets of these wetland species, the trail alignment through the wetland was shifted. One example is a portion of the proposed boardwalk in the northeast corner of the wetland was shifted to enter the wetland further west than originally proposed. This shift was made to avoid impacts to identified higher quality wetlands and calcareous fen pockets.

Within the wetland itself, a boardwalk system will be utilized rather than a bituminous trail on fill to minimize environmental impacts. The boardwalk will be elevated high enough above the surface to avoid permanent shading of the vegetation below. Construction of the boardwalk will most likely occur during the winter, when the wetland is frozen, to minimize vegetation damage and rutting in the wetland. Further efforts to minimize the temporary impacts from construction, such as construction methods and materials, will be reviewed with the DNR and U.S. Army Corps of Engineers during project permitting.

- A portion of the project boundary is within and adjacent to an area the Minnesota Biological Survey (MBS) has identified as a Site of Outstanding Biodiversity Significance. Sites of Biodiversity Significance have varying levels of native biodiversity and are ranked based on the relative significance of this biodiversity at a statewide level. Sites ranked as Outstanding contain the best occurrences of the rarest species, the most outstanding examples of the rarest native plant communities, and/or the largest, most intact functional landscapes present in the state. This particular site contains several high quality native plant communities and state protected plants.
- A calcareous fen was documented in the direct vicinity of Alternative 1. A calcareous fen is a rare and distinctive peat-accumulating wetland that is legally protected in Minnesota. The Wetlands Conservation Act states that calcareous fens may not be filled, drained, or otherwise degraded, wholly or partially, by any activity, except as provided for in a management plan approved by the commissioner of the Department of Natural Resources. Many of the unique characteristics of calcareous fens result from the upwelling of groundwater through calcareous substrates.

Because of this dependence on groundwater hydrology, calcareous fens can be affected by nearby activities or even those several miles away. As such, it is important the project does not alter the hydrological conditions of the fen.

- Surveys have been completed in the area of the proposed project resulting in multiple records of kitten-tails (*Besseyia bullii*), a state-listed threatened plant, within the vicinity of the trail alignment. As currently proposed, the trail alignment avoids known occurrences of kitten-tails. However, given the protected status of this species and the near-by known occurrences within the Kelleher Wetlands, an avoidance plan will be required.

Due to the sensitivity of the features found in the wetland complex, the trail alignment refinement has been significant with the requirement for an elevated boardwalk system which is estimated to cost \$1.2 million for approximately 1300 feet of boardwalk.

Time was spent investigating the environmental restrictions of the wetland complex. The DNR didn't realize many of the features were present in this location. We think an alignment and elevated boardwalk have been agreed upon by all parties. The next item to resolve was the increased project cost. Between the retaining wall under the CSAH 42 bridge and the newly proposed boardwalk, the overall project was approximately \$2.2M short of funding. The county/city had many discussions and the county recently secured the additional contributions to construct the project. Prior to the county's commitment to the additional funds, the federal funds would have been forfeited due to lack of project funding. Now the current obstacle is the funding year deadline.

b) What are the financial impacts if this project does not meet its current program year?

If federal funds are surrendered, the trail construction will be postponed until an alternate source of funding can be secured. Additionally, some of the funding expended to date could become lost if funding cannot be secured in a timely manner. The city has spent funds in excess of \$122,000. The city's funds were utilized to complete the wetland delineation, project memorandum and preliminary design. The wetland delineation and project memorandum will likely have to be redone by the time an alternate source of funding is secured.

c) What are the implications if the project does not obtain the requested extension?

The project cannot be delivered within the current funding year due to the right of way process time frame. Time was spent evaluating the Kittentail populations, high quality wetlands and calcareous fen so placement of the trail and boardwalk would be acceptable to the DNR. The elevated boardwalk system is much more expensive than the previously proposed trail. Time was spent discussing the boardwalk system, cost and potential funding sources.

Dakota County has committed to provide additional funding to the project for the increased cost of the boardwalk system and retaining wall. Without the current federal funds, the project will be short funding and the project will not move forward at this time.

d) What actions will the agency take to resolve the problem facing the project in the next three to six months?

The City of Burnsville will continue to work closely with the DNR on the restrictions/requirements for the calcareous fen and believe the trail location utilizing an elevated boardwalk system will meet the DNR requirements.

The Project Memo draft has been reviewed, comments will be incorporated, and the document will be finalized.

The trail design and construction plan development are underway. The construction plan is being developed with the anticipated alignment through the wetland and will only require modification if the DNR has comments during their review.

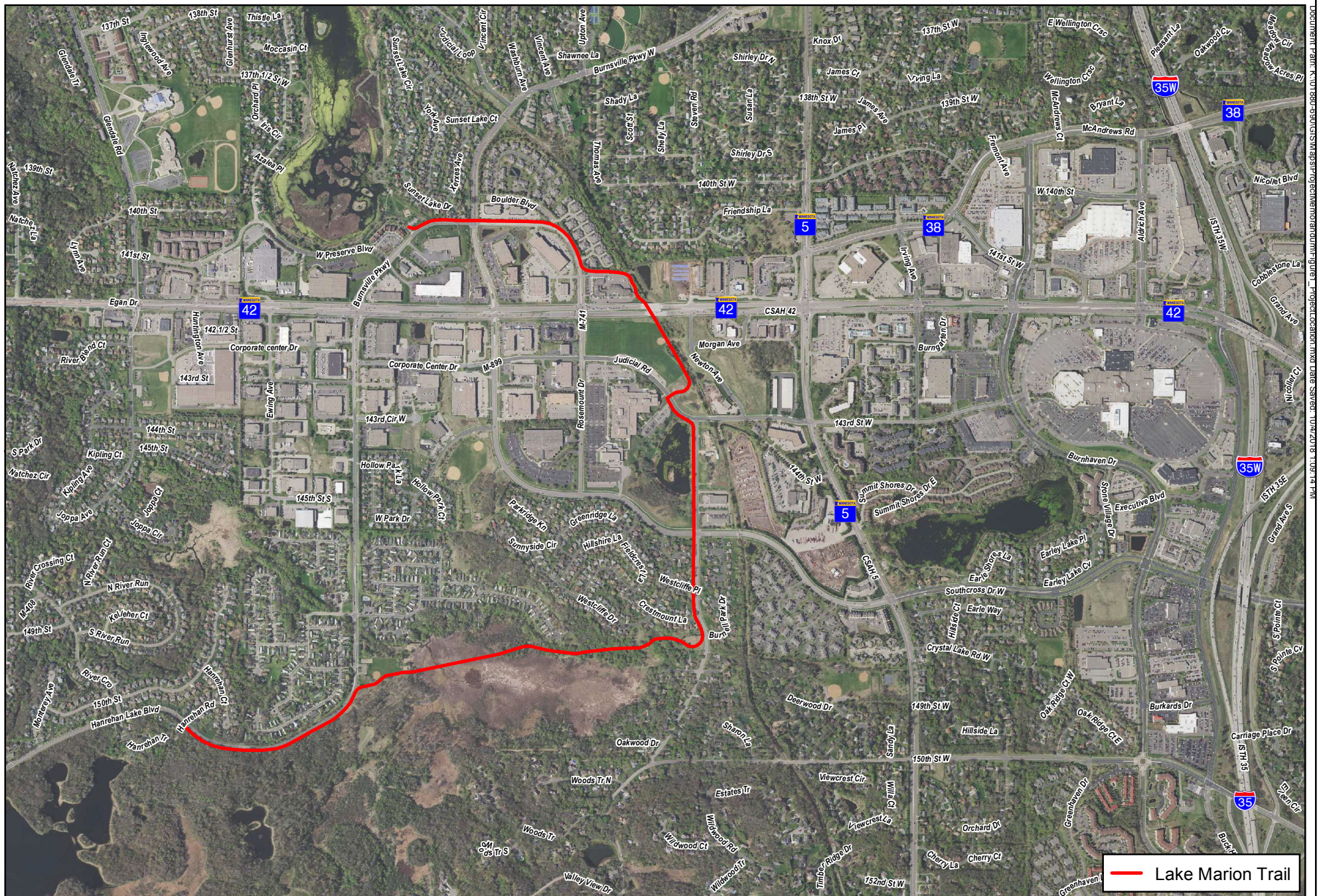
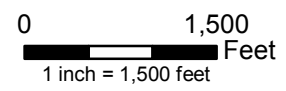


Figure 1 - Project Location
 Lake Marion Trail
 Burnsville, Minnesota



Document Path: K:\01880-0000\GIS\MapServer\project\location\map_data_server\1016_2018_10_07_14_17.mxd

Attachment 1: PROGRESS SCHEDULE FOR PROGRAM YEAR EXTENSION

October 12, 2018

INSTRUCTIONS:

1. Check status of project under each major heading.
2. Enter dates as requested for each major heading.
3. Enter points as suggested by each applicable response.
4. Total points received in the TOTAL POINTS line on the last page. **The minimum score to be eligible to request an extension is seven points.**

ENVIRONMENTAL DOCUMENTATION

PROJECT MEMORANDUM

Reviewed by State Aid If checked enter 4. 4
 Date of approval October 2018

____ Completed/Approved If checked enter 5. _____
 Date of approval _____

____ EA
____ Completed/Approved If checked enter 2. _____
 Date of approval _____

EITHER

____ Not Complete
 Anticipated Date of Completion _____
 If prior to January 31st of the program year, enter 1. _____

OPPORTUNITY FOR PUBLIC HEARING (not necessary for project memorandum)

____ Completed
 Date of Hearing _____ If checked enter 2. _____
____ Not Complete
 Anticipated Date of Completion _____
 If prior to February 28th of the program year, enter 1. _____

FINAL ENVIRONMENTAL ASSESSMENT (not required for project memorandum)

____ Completed/FONSI Approved If checked enter 2. _____
 Date of approval _____
____ Not Complete
 Anticipated Date of Completion _____
 If prior to March 31st of the program year, enter 1. _____

STUDY REPORT (required for Environmental Assessment Only)

Complete/Approved If checked enter 1. _____
Date of Approval _____
 Not Complete
Anticipated Date of Completion _____

CONSTRUCTION PLANS

Completed (includes signature of District State Aid Engineer)
Date _____ If checked enter 3. _____
 Completed (approved by District State Aid as to SA Standards but not signed)
Date _____ If checked enter 2. _____
 Not Complete
Anticipated Date of Completion June 2019
If prior to June 30th of the program year, enter 1. 1

RIGHT OF WAY ACQUISITION

Completed (includes approval of R/W Cert. #1 or #1A) If checked enter 2. _____
Date _____
 Not Complete
Anticipated Date of Completion December 2019
If prior to December 31st of the year following the original program year, enter 1. 1

ENGINEERS ESTIMATE OF COSTS

Completed If checked enter 2. _____
Date _____
 Not Complete
Anticipated Date of Completion June 2019
If prior to December 31st of the year following the original program year, enter 1. 1

AUTHORIZED

Anticipated Letting Date January 2020.
Anticipated letting date must be prior to June 30
in the year following the original program year,
so that authorization can be completed prior to
June 30 of the extended program year.

TOTAL POINTS _____ 7