

**ACTION TRANSMITTAL**

**DATE:** January 9, 2014  
**TO:** TAC Funding and Programming Committee  
**PREPARED BY:** Heidi Schallberg, Senior Planner (651-602-1721)  
**SUBJECT:** Program Year Extension Request: Black Dog Greenway  
**REQUESTED ACTION:** The City of Burnsville requests a program year extension for the Black Dog Greenway (SP# 179-090-004) to 2015.  
**RECOMMENDED MOTION:** Recommend that the Transportation Advisory Board approve the program year extension request to move the Black Dog Greenway (SP# 179-090-004) to 2015.

**BACKGROUND AND PURPOSE OF ACTION:** The City of Burnsville received \$1,040,000 in federal Transportation Enhancements (now Alternatives) funds in the 2009 solicitation for construction of the Black Dog Greenway in 2014. The trail construction is related to a conversion of the Black Dog Power Plant from coal to natural gas, and the power plant plans have taken longer than expected. To avoid potential power plant construction and remediation from damaging the trail, the city is requesting a one-year program year extension. The city's request is attached.

**RELATIONSHIP TO REGIONAL POLICY:** The Transportation Advisory Board (TAB) adopted the Program Year Policy in April 2013 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:** MnDOT State Aid staff has indicated their support for the project sponsor's request. Based on the city's work on the project and the nature of the delay, staff recommends approval of the program year extension to 2015. It is important to note that an extension of the program year does not guarantee federal funding will be available in that year, and the project sponsor is responsible for funding the project until federal funding becomes available. The program year change would be administered in the annual Transportation Improvement Program (TIP) update and does not require a separate TIP amendment.

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**ROUTING**

<b>TO</b>	<b>ACTION REQUESTED</b>	<b>DATE COMPLETED</b>
TAC Funding & Programming Committee	Review & Recommend	
Technical Advisory Committee	Review & Recommend	
Transportation Advisory Board	Review & Approve	



December 18, 2013

Mr. Karl Keel P.E.  
Chair, TAC Funding and Programming Committee  
Metropolitan Council  
390 Robert Street North  
St. Paul, MN 55101

Re: Program Year Extension  
S.P. 179-090-004  
Black Dog Greenway  
Burnsville, Dakota County, Minnesota

Dear Mr. Keel:

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 primary reasons for the Program Year Extension include:

- The Black Dog Greenway is located on property owned by Xcel Energy. Since the property is owned by Xcel Energy, the construction timeline for this project is tied into the timing of an anticipated conversion of the Black Dog Power Plant from coal to natural gas. Logistically, the trail construction needs to follow the conversion of the power plant, so that construction and coal site remediation activities at the plant will not damage the new trail. This timing element was noted in the 2009 grant application.
- Xcel Energy has been working with the MN Public Utilities Commission since 2011 to determine the future power needs for the region and the best use of the facilities at the Black Dog Plant. This discussion has taken much longer than expected, and the repowering plans for the Black Dog Power Plant have just recently come into focus. This has delayed the construction timeline for the work scheduled for the Black Dog Power plant and subsequently construction of the trail.
- Xcel has recently completed a remediation plan for the site, and it is anticipated this plan will be approved by the MPCA by July, 2014. A one-year extension will allow trail construction to follow the remediation and other construction work at the plant, which is scheduled for 2015.

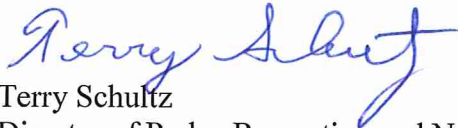
Letter to Mr. Karl Keel  
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- The City of Burnsville did not wait to start activities on the project even though final decisions for Xcel's repowering and remediation plan had not been completed. Burnsville staff began working to secure the necessary easements and developing preliminary design plans for this project in April of 2012. A draft Project Memo was prepared and was reviewed by MnDOT and FHWA in January, 2013. Finalizing the Project Memo was put on hold pending decisions that needed to be made by Xcel regarding their site plans, which ultimately impacted the location of the trail. The proposed trail location has now been finalized and the anticipated approval date for the Project Memorandum is February, 2014.
- Xcel and the City executed a Development Contract in 2012 that requires dedication of the required trail easements. Xcel has agreed to the final easements pending approval of their remediation plan by the MPCA in July of 2014.
- There is considerable excitement about the prospect of this trail project moving forward. The City of Burnsville, Dakota County and the U.S. Fish and Wildlife Service have all committed their financial support to make this trail a reality. The City is very confident that it will be able to move forward with this project within the timeframe of a one-year extension, if granted.

The enclosed information provides details on our request. If you have any questions or require any additional information please contact me at (952) 895-4505 or [terry.schultz@ci.burnsville.mn.us](mailto:terry.schultz@ci.burnsville.mn.us).

Sincerely,

CITY OF BURNSVILLE

  
Terry Schultz  
Director of Parks, Recreation and Natural Resources

Enclosures

**REQUEST FOR PROGRAM YEAR EXTENSION**  
**S.P. 179-090-004**  
**Black Dog Greenway**  
**Burnsville, Dakota County, Minnesota**

**1. PROJECT BACKGROUND**

a) **Project Name:**

Black Dog Greenway (from I-35W to TH 77) in the City of Burnsville

b) **Location Map:**

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

c) **Sponsoring Agency:**

City of Burnsville

d) **Other Participating Agencies:**

Dakota County, MnDOT, FHWA, US Fish and Wildlife, Xcel Energy

e) **Project Description:**

The Dakota County master plan for the Minnesota River Greenway provides 17 miles of trail linking Burnsville, Eagan, Mendota Heights, Mendota and Lilydale. Once in Lilydale, it connects to Lilydale Regional Park and its numerous amenities. The Black Dog Greenway is an approximately 3.75 mile segment of the Minnesota River Greenway. This segment of trail is located within the US Fish and Wildlife Service's Minnesota Valley National Wildlife Refuge and property owned by Xcel Energy. The Black Dog Greenway will provide the connection from 35W to TH 77.

f) **Funding Category:**

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

g) **Federal Funds Allocated:**

Federal funds in the amount of \$1,040,000 have been secured for Fiscal Year 2014.

**2. PROJECT PROGRESS**

a) **Project Schedule:**

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

b) **Right-of-Way Acquisition:**

The project will require temporary and permanent easements from Xcel Energy (refer to **Figure 1** for trail location) the entire project is located within Xcel energy property. The City and Xcel currently have an executed Development Agreement (**Attachment 2**) and a draft Trail Easement Agreement (**Attachment 3**). Section 7 (sheet 9 of 15) of the Development Agreement specifies the trail easement dedication and exhibit G shows the approximate alignment. The draft Trail Easement Agreement has been

reviewed by Xcel and City attorneys and will be executed upon the completion of the following items:

1. Xcel Response Action Plan (RAP) is approved
2. Revise alignment of the trail through the RAP area if needed
3. Produce easement legal descriptions and plat for execution of the trail easement agreement

**c) Plans:**

**Figure 2** provides a general trail location layout with the trail alignment sections noted as complete or pending Xcel RAP approval. The trail alignment and profile have been completed for the trail sections from 35W to the Xcel Power Plant (2.15 miles) and from TH77 west 0.75 miles, totaling 2.9 miles of the 3.75 mile project. It is estimated that the project plan is currently 20 percent complete. The alignment of the trail through the RAP section (0.87 miles) has been discussed with Xcel and will begin preliminary design with final design pending RAP approval.

**d) Permits:**

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

<b>Permits Required</b>	
<b>Agency/Permit</b>	<b>Status</b>
USACE Section 404	Permit will be obtained prior to construction.
DNR - Public Waters	Permit will be obtained prior to construction.
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.
U.S. Fish & Wildlife	Permit/agreement will be obtained prior to construction.
Xcel Energy	Agreement will be obtained prior to construction.
City of Burnsville	A Conditional Use Permit will be obtained prior to construction.

**e) Approvals:**

During the preparation of the project memorandum (PM) support letters were received from the following agencies: U.S. Fish & Wildlife Service, Xcel Energy and Dakota County. In 2012, the wetland delineation report was completed and has been sent to the following agencies: Corps of Engineers, Department of Natural Resources, Lower Minnesota River Watershed District and Coast Guard.

The following is a list of agencies with approval authority and the status of each approval:

<b>Agency</b>	<b>Approval Required</b>	<b>Status</b>
Federal Highway Administration	Project Memorandum	Initial review completed, Approval February 2014
	Net Benefit 4(f) Evaluation	Initial review completed
	Final Plan Approval	Not yet submitted, June 2014
MnDOT	Project Memorandum	Initial review completed, Approval February 2014
	Net Benefit 4(f) Evaluation	Initial review completed
	Final Plan Approval	Not yet submitted, June 2014
Dakota County	Preliminary Alignment	Completed
	Final Plan Approval	June 2014
City of Burnsville	Preliminary Alignment	completed
	Final Plan Approval	June 2014

**f) Identified Funds Spent to Date on Project:**

To date the City has spent funds in excess of \$105,000 on preliminary design, the preparation of the project memorandum and Section 4(f) Net Benefits documents, wetland delineation and city coordination of the design, project memorandum and discussions with Xcel. Attorney's fees have also been spent on the development agreement and draft trail easement with Xcel.

**3. JUSTIFICATION FOR EXTENSION**

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

The Black Dog Greenway is located within the US Fish and Wildlife Service's Minnesota Valley National Wildlife Refuge and property owned by Xcel Energy. Since the property is owned by Xcel Energy, the construction timeline for this project has always been tied into the timing of an anticipated conversion of the Black Dog Power Plant from coal to natural gas. Logistically, the trail construction needs to follow the conversion of the power plant, so that construction and coal site remediation activities at the plant will not damage the new trail. This timing element was noted in the 2009 grant application.

Xcel Energy has been working with the MN Public Utilities Commission since 2011 to determine the future power needs for the region and the best use of the

facilities at the Black Dog Plant. This discussion has taken much longer than expected, and the repowering plans for the Black Dog Power Plant have just recently come into focus. This has delayed the construction timeline for the work scheduled for the Black Dog Power plant and subsequently construction of the trail.

City of Burnsville staff began working to secure the necessary easements and developing preliminary design plans for this project in April of 2012. Since then, there have been a number of delays due to pending decisions on the conversion of the plant. Many of these decisions have now been made and the City has spent much of 2013 revising the project memo and finalizing the trail alignment and profile. Xcel has recently completed a remediation plan for the site, and it is anticipated this plan will be approved by the MPCA by July of 2014. A one year extension will allow trail construction to follow the remediation and other construction work at the Plant, which is scheduled for 2015.

Xcel has committed to providing the necessary easements for the trail and the matching funds are in place for this project to move forward. The City is very confident that it will be able to move forward with this project within the timeframe of a one year extension, if granted.

**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 \$105,000. The city's funds were utilized to complete the wetland delineation, project memorandum and preliminary design. The wetland delineation, project memorandum and Section 4(f) net benefits 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?**

An extension of the program year is critical to allow time for Xcel Energy's Black Dog Power Plant to obtain approval for the Response Action Plan for the remediation of the coal site where the proposed trail will be located. Logistically, the trail construction needs to follow the conversion of the power plant, so that construction and coal site remediation activities at the plant will not damage the new trail. This timing element was noted in the 2009 grant application.

If the extension is not granted the City would forfeit the TE funding on the project and postpone the project until funding can be obtained. Postponing the project until an unknown future date would complicate the agreement process between the City and Xcel Energy, render useless the majority of the work done to date, and be very inefficient. Furthermore, postponing leaves a gap in

the City/County/Regional trail and bike system and would put the funding secured from some of the partnering agencies at risk.

The Black Dog Trail will connect two important river crossings that are planned/funded to be completed in the next 5 years. City of Bloomington will be rehabilitating the Old Cedar Avenue Bridge in 2015-2016 providing a direct connection between the Black Dog Trail and the Mall of America. MnDOT is planning to replace the I-35W Bridge over the Minnesota River in the 2018-2020 time period. Completion of the new I-35W bridge will provide pedestrian crossing that will connect the Black Dog Trail to West Bloomington. Both connections will be important to the overall vision of recreation/access to and across the Minnesota River Valley.

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

Xcel Energy has recently completed a remediation plan (RAP) for the site, and it is anticipated this plan will be approved by the MPCA by July of 2014. Once the RAP is approved the final alignment through the RAP area can be verified and finalized in the construction documents.

The project memorandum and Section 4(f) net benefits are currently being updated. Submittal of these documents back to MnDOT and FHWA is anticipated in February. Since the documents were previously submitted, any further comments are anticipated to be minor.

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

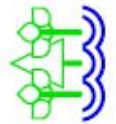


Figure 1: Location Map



Date Printed: 12/02/2013  
File Name: M:\0805-80\Cad\Exhibits\880-18 Figure 1- yr ext.dgn

**Black Dog Greenway**  
City of Burnsville, Minnesota  
S.P. 179-090-004



**Figure 1**  
**Location Map**

Figure 2: Project Layout



Date Printed: 12/14/2015  
Path: F:\Projects\12\14\2015\179-090-004\Exhibits\1880-18 Figure 2 - yr\_ext.dgn



**Black Dog Greenway**  
City of Burnsville, Minnesota  
S.P. 179-090-004

**Figure 2**  
**Plans - Project Layout**



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 2014  
If prior to June 30<sup>th</sup> 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 June 2014  
If prior to December 31<sup>st</sup> 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 2014  
If prior to December 31<sup>st</sup> of the year following the original program year, enter 1. 1

AUTHORIZED

Anticipated Letting Date January 2015.  
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 8