

**Transportation Advisory Board**  
of the Metropolitan Council of the Twin Cities

---

**ACTION TRANSMITTAL No. 2015-11**

**DATE:** January 6, 2015  
**TO:** TAC Funding and Programming Committee  
**PREPARED BY:** Joe Barbeau, Senior Planner (651-602-1705)  
**SUBJECT:** Program Year Extension Request: North Creek Regional Greenway Trail  
**REQUESTED ACTION:** The City of Lakeville requests a program year extension for the North Creek Regional Greenway Trail (SP# 188-090-002) to 2016.  
**RECOMMENDED MOTION:** Recommend that the Transportation Advisory Board approve the program year extension request to move the North Creek Regional Greenway Trail (SP# 188-090-002) to 2016.

**BACKGROUND AND PURPOSE OF ACTION:** The City of Lakeville received \$817,645 in federal Transportation Enhancements (now Transportation Alternatives) funds in the 2011 solicitation for construction of the North Creek Regional Greenway Trail in 2015. Property acquisition has been more difficult than expected and the City is requesting a one-year program year extension to provide additional time to negotiate a permanent easement with a landowner and allow the project to be bid during a favorable bidding climate. 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 its 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 2016. 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.

---

**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	



City of Lakeville  
*Positioned to Thrive*

December 31, 2014

Mr. Karl Keel, P.E.  
Chair, TAC Funding and Programming Committee  
Metropolitan Council  
390 Robert Street, North  
St. Paul, MN 55101-1805

RE: PROGRAM EXTENSION REQUEST FOR SP 188-090-002  
NORTH CREEK REGIONAL GREENWAY TRAIL

Dear Mr. Keel:

The City of Lakeville respectfully requests that the Funding and Programming Committee consider a program year change for the above referenced project. The project's current program year is 2015 and includes the construction of a greenway trail from 173<sup>rd</sup> Street West to the western regional trail at the city's border with the City of Farmington.

There currently are no continuous regional trails within Lakeville. There are existing trails along many arterial roadways and within parks in Lakeville and Dakota County. However, the community lacks continuous regional trails that provide longer connections for both recreation and transportation purposes. The proposed project is planned to connect two existing segments of the North Creek Regional Greenway in Lakeville and further the development of the regional trail system in Dakota County. When complete, the North Creek Regional Greenway will connect Eagan, Apple Valley, Lakeville, Farmington, and Empire Township. When this trail segment is complete, the proposed project will connect residential neighborhoods with parks and walking and bicycling opportunities. The proposed project, whose benefits reach far beyond the City of Lakeville, is in jeopardy of possibly not being constructed due to unexpected circumstances in property acquisition. Additional time to amicably negotiate permanent easement would maintain a good relationship with a landowner and allow the project to be bid during a favorable bidding climate.

We request the Funding and Programming Committee's support for extending Lakeville's project program year to 2016. If additional information is needed, please contact me at 952-985-4601 or by e-mail at [baltergott@lakevillemn.gov](mailto:baltergott@lakevillemn.gov).

Sincerely,

Brett Altergott  
Parks & Recreation Director

Enclosure

Cc: Scott Eue, MnDOT State Aid  
Colleen Brown, MnDOT State Aid  
Joe Barbeau, Metropolitan Council  
Al Singer, Dakota County  
Matt Mohs, WSB & Associates

**REQUEST FOR PROGRAM YEAR EXTENSION  
for  
SP 188-090-002**

**NORTH CREEK TRAIL GREENWAY IMPROVEMENTS IN  
THE CITY OF LAKEVILLE, DAKOTA COUNTY**

**REQUESTED BY:**

**BRETT ALTERGOTT  
LAKEVILLE PARKS & RECREATION DIRECTOR  
Phone: 952-985-4601  
E-mail: [baltergott@lakevillemn.gov](mailto:baltergott@lakevillemn.gov)**

## 1. Progress Schedule

The schedule below outlines the progress of the project to date and anticipates future dates assuming the program year extension is granted.

City of Lakeville hired WSB & Associates	May 2014
Wetland Delineation	July 2014
Topographic Survey	July 2014
Early Coordination Letters	June – November 2014
Alignment Development	September – November 2014
Project Memorandum Submittal	December 1, 2014
Easement Acquisition Negotiation	October 2014 – July 2015
Submit construction plans for review & approval	October 2015
Construction plan approval	December 2015
Project letting	February 2016
Project construction	April – November 2016

## 2. Right-of-Way (Permanent Easement) Acquisition

Permanent easement needs have been identified.

**Figure A** identifies a permanent easement granted by Henry Brandtjen and a platted outlot that will be acquired from KJ Walk as part of the platting process of their proposed development.

**Figure B** identifies a permanent easement that will be obtained from the City of Apple Valley and permanent easement that Dakota County is attempting to purchase from Mikell Smith. The City of Apple Valley has committed the land to the City of Lakeville for the purposes of a regional trail. Dakota County continues to negotiate the purchase of permanent easement with Mikell Smith.

**Figure C** identifies a permanent easement that Dakota County is attempting to purchase from Mikell Smith. Dakota County continues to negotiate the purchase of permanent easement with Mikell Smith.

## 3. Plans

The preliminary trail alignment and layout have been developed. The plan preparation is estimated at 40 percent complete. Attached is an exhibit showing the proposed alignment (Project Layout - **Figure D**).

#### **4. Permits**

Below is a list of permits that will be required for the project. The permits will be applied for during final design.

Permits required for the project include:

- USACE Section 404
- DNR Public Waters Permit
- Minnesota Pollution Control Agency National Pollutant Discharge Elimination System Permit
- Minnesota Pollution Control Agency Section 401 Permit
- Watershed District
- Wetland Conservation Act / BWSR

#### **5. Approvals**

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

#### **6. Project Costs to Date**

The City of Lakeville has spent approximately \$65,000 (through November 2014) in preliminary planning, meetings, wetland delineation, topographic survey, and the preparation of the Project Memorandum.

#### **7. Justification for Program Year Extension Request**

There are currently no continuous regional trails within Lakeville. There are existing trails along many arterial roadways and within parks in Lakeville and Dakota County. However, the community lacks continuous regional trails that provide longer connections for both recreation and transportation purposes.

The proposed project is planned to connect to existing segments of the North Creek Regional Greenway in Lakeville and further the development of the regional trail system in Dakota County. When complete, the North Creek Regional Greenway will connect Eagan, Apple Valley, Lakeville, Farmington, and Empire Township. When this trail segment is complete, the proposed project will connect residential neighborhoods with parks and walking and bicycling opportunities. This connection is important to the City of Lakeville and its residents as well as regional trail users throughout Dakota County.

A permanent easement for the trail has been granted by Henry Brandtjen and will be granted by the City of Apple Valley. A platted outlot in the KJ Walk development will be in place for the proposed trail. The remaining easement needs are on the Mikell Smith properties.

The City of Lakeville is working in partnership with Dakota County to construct the North Creek Greenway trail. Dakota County is contributing the financial match to the project via purchasing permanent easement from Mr. Mikell Smith and has experienced problems during acquisition negotiations. Mr. Smith verbally committed to the project and cooperation with Dakota County

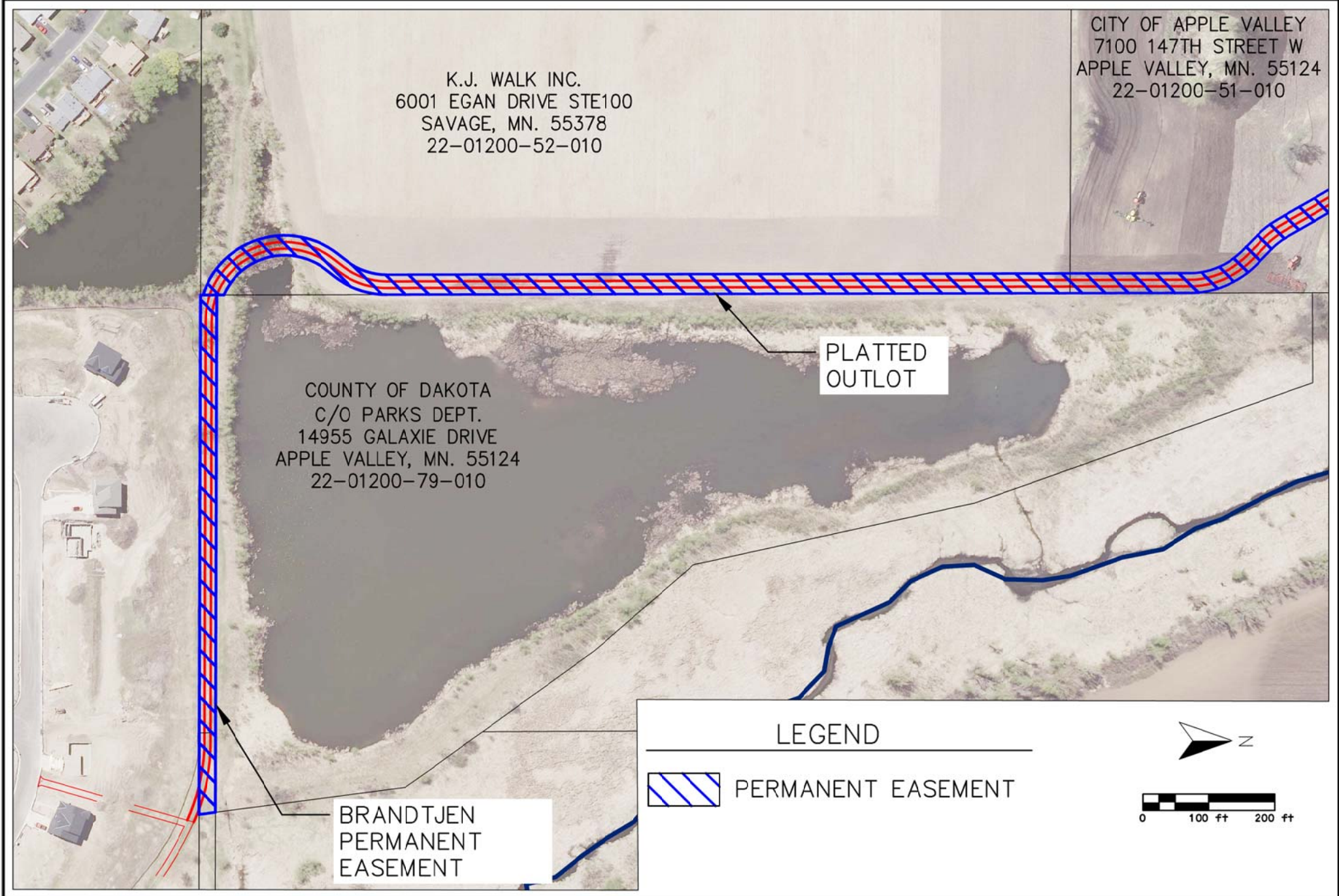
but changed his approach in the fall of 2014. Repeated attempts to cooperate with Mr. Smith have failed. Dakota County has ordered an appraisal for easement purchase negotiation and it is to be ready within the next two weeks.

The city has a strong desire to maximize the grant by receiving early bids (February 2015). The plans for the trail are currently under development – but have intentionally been put on hold while easement acquisition negotiations continue with Mr. Smith as well as negotiations on the exact alignment through his property. This has delayed plan submittal to State Aid, which in turn, will result in the city missing its targeted letting date. A late bid likely will increase the cost of construction beyond the city's budget (possibly in the range of 10 to 20 percent or \$90,000 to \$180,000) and make it infeasible for the city to construct – the budget does not allow for excessive cost overages.

If an extension is not granted, Dakota County and the City of Lakeville will be forced to decide whether or not to condemn the property or simply return the grant funds because the city's budget would not be able to cover excessive cost overages. Both agencies prefer to work out an easement purchase that is amicable to all parties. Condemning the property will sour the relationship between the land owner and the agencies as well as put the project in an unfavorable bidding climate. The City of Lakeville and Dakota County both understand the significance of the trail construction but do not want to create any problems with the land owner by pursuing condemnation. Returning the grant funds is not a favorable option because the trail connection is an important piece of the county's greenway plan. Neither the city nor county have the funds to build the trail without financial assistance. If an agreement with the property owner is not in place by April 1 (when final plans need to be submitted), the city will be unable to submit the required right of way certificate. Even if the city pursues condemnation, it will not be able to construct this important project within a favorable bid window in 2015. As a result, the city would need to return the grant funds as it does not have the budget to cover the excessive cost overages that would result from bidding the project later in 2015.

If an extension is granted, this would allow Dakota County to continue on its current course with Mr. Smith and avoid condemnation this spring. Design submittals and approvals could be ready for early bidding in 2016.

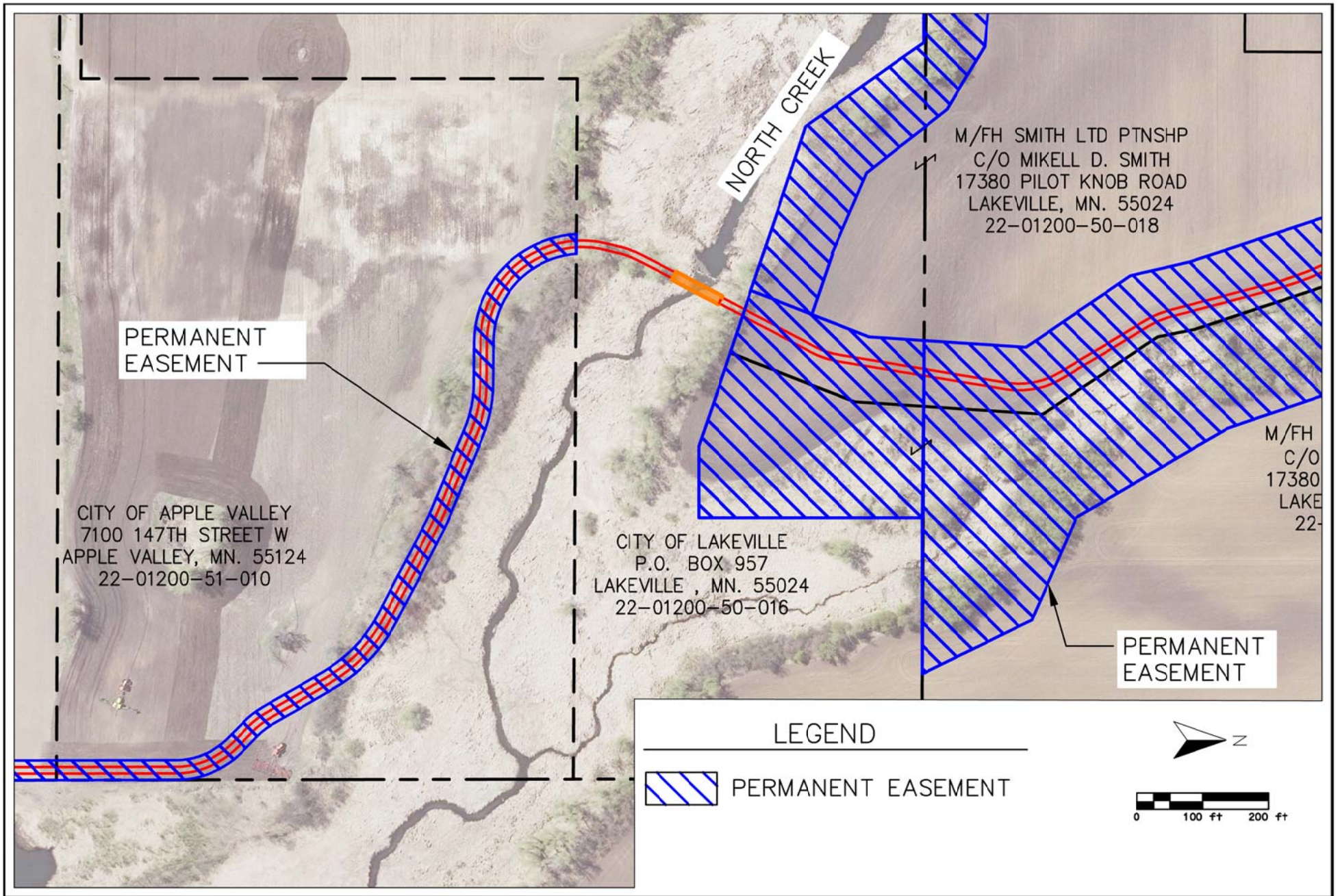
In the near term, the City of Lakeville and Dakota County will continue to work with the property owner to purchase the easement and move forward with design plans for the project.



**North Creek Greenway**  
**City of Lakeville, Minnesota**  
**S.P. 188-090-002**

December 2014

**Figure A**  
**Right of Way**

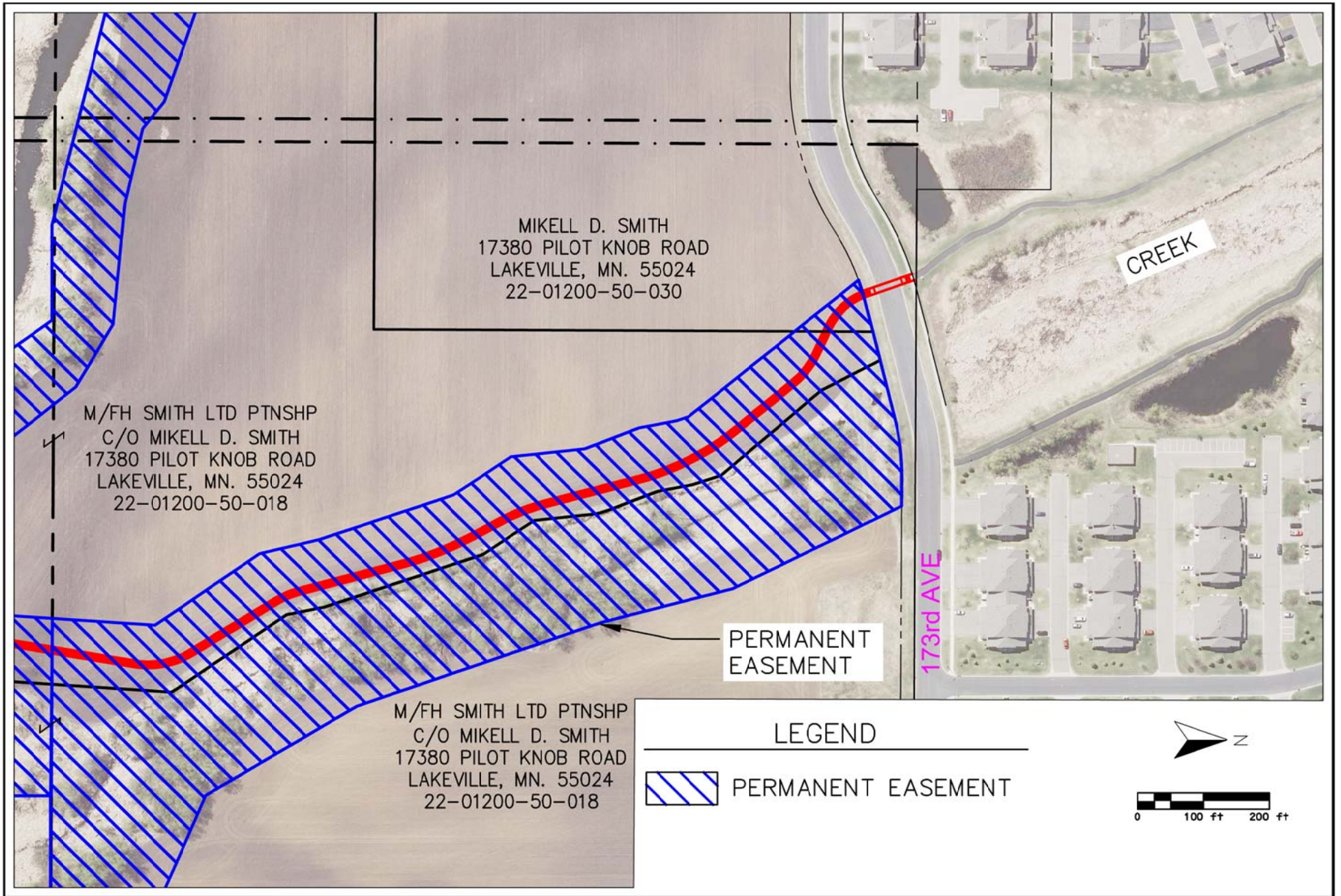


**North Creek Greenway**  
**City of Lakeville, Minnesota**  
**S.P. 188-090-002**

December 2014

**Figure B**  
**Right of Way**

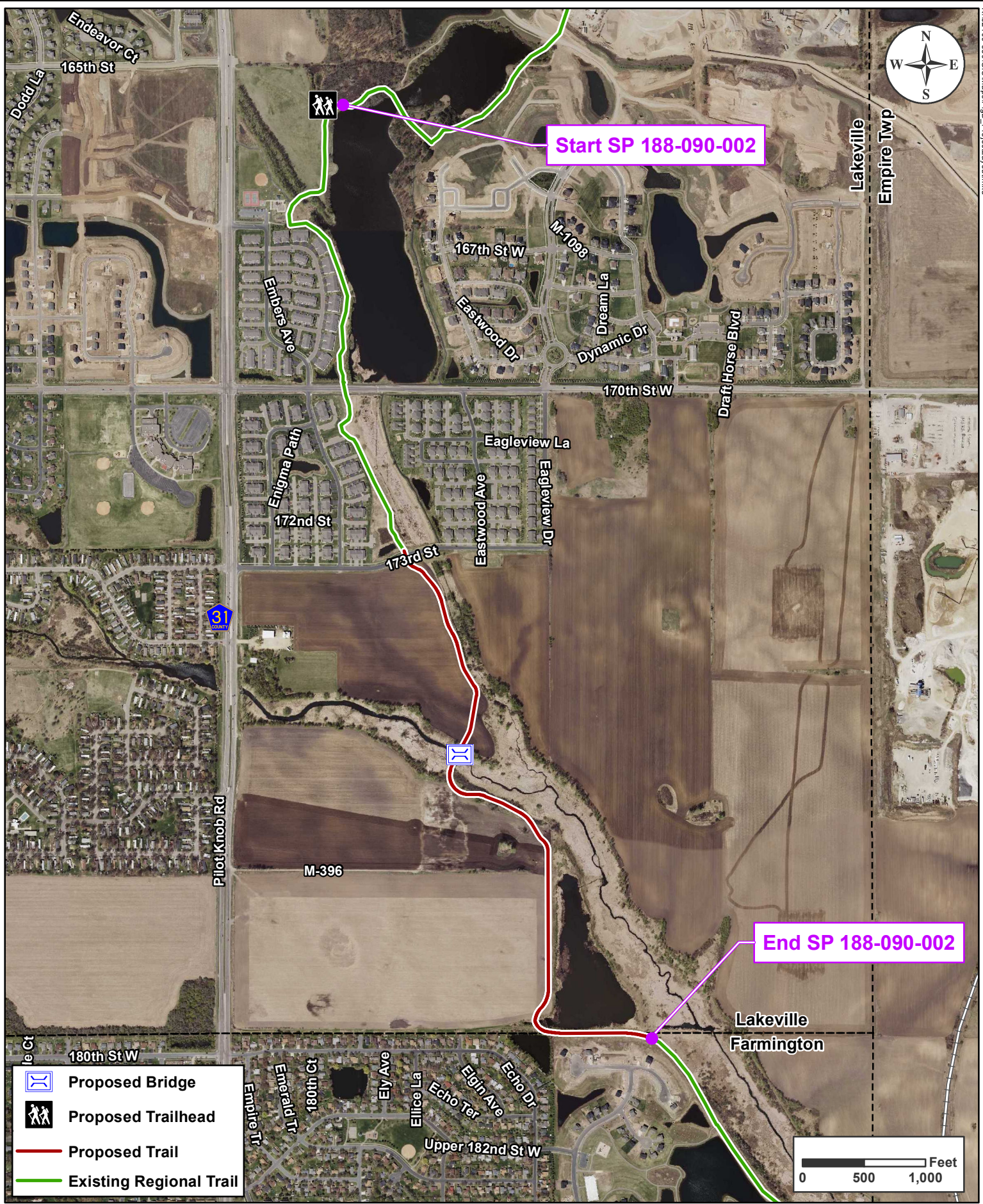






**North Creek Greenway**  
**City of Lakeville, Minnesota**  
**S.P. 188-090-002**

December 2014

**Figure C**  
**Right of Way**



-  Proposed Bridge
-  Proposed Trailhead
-  Proposed Trail
-  Existing Regional Trail



**Figure D: Project Layout**  
**North Creek Greenway Trail - City of Lakeville, MN**  
**SP 188-090-002<sup>0</sup> December 2014**





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 October 2015  
If prior to June 30 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 Prior to December 31, 2015  
If prior to December 31 of the year following the original program year, enter 1. 1

ENGINEERS ESTIMATE OF COSTS

Completed If checked enter 2. 2  
Date December 1, 2014  
 Not Complete  
Anticipated Date of Completion \_\_\_\_\_  
If prior to December 31 of the year following the original program year, enter 1. \_\_\_\_\_

AUTHORIZED

Anticipated Letting Date February 2016 .  
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