

RESOLUTION R2021-158
A RESOLUTION OF THE CITY OF SHAKOPEE, MINNESOTA AUTHORIZING ENTRY TO PROPERTY FOR THE
T.H. 169 PEDESTRIAN BRIDGE PROJECT

WHEREAS, the City Council deemed it necessary and expedient that the City of Shakopee, Minnesota (the “City”) construct certain improvements, to-wit: the T.H. 169 Pedestrian Bridge Project, CIF-22-002 (the “Project”), which includes the design, easement acquisition, and construction of a trail and pedestrian bridge across T.H. 169, creating a regional pedestrian connection across the state highway between the Southbridge neighborhood and Quarry Lake Park; and

WHEREAS, funding for designing the Project, acquisition of necessary right-of-way for construction of the Project, and construction of the Project has been obtained or committed; and

WHEREAS, the City Council has approved the preferred trail and pedestrian bridge alignment for the Project; and

WHEREAS, it is necessary for the City to acquire various easements from a parcel of real estate affected by the Project located at 5800 12th Avenue East (Property Tax Identification No. 27.219004.0) (the “Property”); and

WHEREAS, the Project will require construction of permanent bridge, trail, and retaining wall facilities on the Property; and

WHEREAS, it is necessary for City employees and agents to enter the Property for purposes of geotechnical investigation, surveying, soil boring, and other similar activities in order to finalize the design of the bridge and wall facilities included in the Project; and

WHEREAS, pursuant to Minnesota Statutes, Section 117.041, Subdivision 1, “for the purposes of making surveys and examinations relative to Minnesota Statutes, Chapter 117, it is lawful to enter upon any land, doing no damage”; and

WHEREAS, pursuant to Minnesota Statutes, Section 117.041, Subdivision 3(a), the City Council may authorize entry upon properties within the City for purposes of investigation, monitoring, testing, surveying, boring, or other similar activities necessary or appropriate to perform geotechnical investigations; and

WHEREAS, pursuant to Minnesota Statutes, Section 117.041, Subdivision 3(b), “At least ten days before entering the property, the political subdivision must serve notice on the property owner requesting permission, stating the approximate time and purpose of the entry, and giving the owner the option of refusing entry. If the property owner refuses to consent to the entry, the political subdivision must apply for a court order authorizing the entry and the removal of any sample or portion from the property, giving notice of the Court order to the property owner. The court shall issue an order if the political subdivision meets the standards in paragraph (a). Notices under this paragraph must be served in the same manner as a summons in a civil action”; and

WHEREAS, pursuant to Minnesota Statutes, Section 117.041, Subdivision 3(c), “the political subdivision must not cause any unnecessary damage to the property and must compensate the property owner for any damages actually incurred as a result of the geotechnical investigations”.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHAKOPEE, MINNESOTA AS FOLLOWS:

1. That at least ten days before employees or agents of the City propose to enter the Property for geotechnical investigations, survey, soil borings, or other inspections and examinations, Kennedy & Graven, Chartered, counsel for the City in connection with the Project, is directed to serve written notice on the owner of the Property, requesting permission to enter the Property, stating the approximate time and purpose of the entry, and giving the owner the option of refusing entry to the Property;
2. If the owner of the Property refuses to consent to the entry, counsel for the City is directed to apply for a court order authorizing the entry and the removal of any sample or portion from the Property, serving notice upon the owner of the Property of the court hearing at which the City will ask the court to grant the proposed order, and serving a copy of the proposed order upon the owner of the Property in the same manner as a summons in a civil action.
3. If an order is granted pursuant to the City’s request, counsel for the City is directed to serve a copy of the Court’s order upon the owner of the Property.
4. The Director of Public Works is directed to advise City employees, contractors and agents who enter the Property that they should attempt to avoid doing unnecessary damage to the property in the course of their entry upon the Property because the City will be required to compensate the Property owner for damages actually incurred as a result of the geotechnical investigations.

Adopted in regular session of the City Council of the City of Shakopee, Minnesota, held this 3rd day of November, 2021.

Mayor of the City of Shakopee

ATTEST:

City Clerk

Prepared by:
City of Shakopee
485 Gorman Street
Shakopee, MN 55379