



Metropolitan Nashville and Davidson County, TN

Legislation Text

File #: RS2021-1283, **Version:** 1

A resolution authorizing the Metropolitan Department of Law to compromise and settle the Metropolitan Government of Nashville and Davidson County's property damage claim against BOP Nest Nashville, LLC, Cambridge Swinerton, Inc., Hayward Baker, Inc. and Keller North America, Inc. in the amount of \$128,570.12 and that said amount be paid to the Water and Sewer GSD Stormwater Capital Projects Fund.

WHEREAS, a stormwater line, owned and operated by the Metropolitan Government in Alley No. 71 in downtown Nashville, was damaged by soil nails that were placed during the construction of the Olmstead Project, which began in 2015. Cambridge Swinerton, Inc. was the general contractor, and Keller North America, Inc. and Hayward Baker, Inc. were the contractors responsible for the design and use of the soil nails on the project. The Metropolitan Government incurred costs for temporary remedial work and repairs to the stormwater line totaling \$128,570.12.

WHEREAS, after investigation, the Metropolitan Department of Law believes that the settlement listed in Section 1 is fair and reasonable and in the best interest of the Metropolitan Government and recommends that any and all claims or causes of action brought or that could have been brought by the Metropolitan Government of Nashville and Davidson County related to the events detailed above be compromised and settled for \$128,570.12, and that this amount be paid to the Water and Sewer GSD Stormwater Capital Projects Fund.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1: The Metropolitan Department of Law is authorized to compromise and settle the property damage claim of the Metropolitan Government for the sum of \$128,570.12 with said amount to be paid to the Water and Sewer GSD Stormwater Capital Projects Fund.

Section 2: This resolution shall take effect from and after its adoption, the welfare of the Metropolitan Government of Nashville and Davidson County requiring it.

Analysis

On February 8, 2019, Metro Water Services (MWS) received an email from representatives of the Hyatt House Hotel (Hyatt House) advising them of flooding in their underground parking garage. Hyatt House representatives suspected that the flood was due to a blockage in the stormwater line in the alley adjacent to their property.

MWS investigated and discovered that soil nails had punctured the stormwater line. The soil nails caused concrete, grout, and gravel to get into the line and harden, causing blockages. These nails were put in place during the construction of the Olmsted Nashville apartment complex, currently known as "The Burnham Nashville". Cambridge Swinerton Builders was the general contractor for the Olmsted project. Hayward Baker and Keller North American were responsible for design and construction of temporary and premanent shoring walls that placed soil nails, which penetrated the stormwater line. The property was purchased by BOP Nest

Nashville, LLC after the project's completion, but before the discovery of the damage to the stormwater line.

In July 2019, MWS engaged in a temporary remedial project to prevent flooding in the Hyatt House garage. The cost of this remedial work was \$16,090. In October 2020, MWS completed a project to repair the damage to the line. The cost of this repair work was \$112,480.12. The total cost for the remedial work and repair was \$128,570.12.

Metro asserted general negligence claims against Cambridge Swinerton, Inc., Hayward Baker, Inc. and Keller North America Inc. Metro also asserted a nuisance claim against BOP Nest Nashville, LLC. After negotiation, Cambridge Swinerton, Inc., Hayward Baker, Inc. and Keller North America Inc. have agreed to pay all of Metro's costs to repair the damages. The Department of Law recommends settlement of this claim for \$128,570.12, Metro's full cost of repair.

Fiscal Note: This \$128,570.12 settlement, would be paid to the Water and Sewer GSD Stormwater Capital Projects Fund.