

SUBJECT

BOARD RESOLUTION NO. 18-248

Pertaining to a Settlement Agreement and Release with Lowertown Acquisition Company, LLC regarding a loss at 366 Jackson Street in the City of Saint Paul.

BACKGROUND INFORMATION

Staff is seeking approval of a Settlement Agreement and Release that provides for payment in the amount of \$40,000 as full settlement of claims for damages to the property and contents at 366 Jackson Street, MN, arising from a water main break on 5th Street between Jackson and Sibley which occurred the morning of June 13, 2016.

On the morning of June 13, 2016 Saint Paul Regional Water Services (SPRWS) Dispatch Office received a report of a water main break on 5th St. E. between Jackson and Sibley St. SPRWS crews were immediately dispatched to this area, controlled the water flow and commenced repairs.

This section of water main was originally installed in 1895. SPRWS records indicate three previous main breaks in this vicinity occurred in 1995, 2002 and 2012. The break history and other risk factors resulted in this section of water main being identified as a priority for replacement in 2014 within the next 5 years.

On July 18, 2016 SPRWS received a damage claim from 366 Jackson Street, Lowertown Acquisition Company, LLC. The initial claim was denied based on ordinances giving the Board immunity from claims for damages due to water main breaks.

The Plaintiffs brought a suit that claimed, based on the break history and SPRWS' own main replacement prioritization designations as compiled with the help of a consultant, SPRWS had knowledge/notice the water main was in poor repair.

The Plaintiffs claim included damages in the amount of approximately \$210,000 for repairs to the property at 366 Jackson St. SPRWS entered into court ordered mediation on January 11, 2018, which resulted in a settlement in the amount of \$40,000, subject to Board approval.

The settlement was reached in consultation with City Attorney's office. The settlement is not an admission of liability but is a payment to avoid the cost and risk of litigation.

See attached Settlement Agreement and Release.

RECOMMENDATION

Approval is recommended.