



## Legislation Details (With Text)

**File #:** 1280-2022      **Version:** 1

**Type:** Ordinance      **Status:** Passed

**File created:** 4/28/2022      **In control:** Criminal Justice & Judiciary Committee

**On agenda:** 5/9/2022      **Final action:** 5/11/2022

**Title:** To approve the settlement in the case of the City of Columbus v. Citynet LLC, Case No. 18-cv-010485; to accept a deposit of \$29,069.63 to be deposited into the Sanitary Sewer Operating Fund (6100); and to declare an emergency.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
5/11/2022	1	ACTING CITY CLERK	Attest	
5/10/2022	1	MAYOR	Signed	
5/9/2022	1	COUNCIL PRESIDENT	Signed	
5/9/2022	1	Columbus City Council	Approved	Pass

Citynet, LLC's ("Citynet") predecessor cross-bored conduits through a City of Columbus ("City") sewer located under the intersection of Oak Street and Washington Ave. The conduits resulted in damage to the City sewer. In 2017, a utility crew found a void beneath the street caused by the cross-bored conduits. The City demanded that Citynet, who then owned the conduits, remove and relocate them but Citynet refused. Consequently, the City had to pay a contractor to remove and relocate Citynet's conduits and to mend the break in the sewer caused by the encroaching conduits. This project cost the City \$50,763.86.

In 2018, the City filed suit in the Franklin County Court of Common Pleas for trespass alleging that Citynet trespassed on City property by intentionally causing its conduits to remain cross-bored through the sewer. The Court found Citynet liable for trespass for failing to remove the conduits that were cross-bored through the City's sewer when demanded to do so by the City. Although the Court granted summary judgment on liability for Citynet failing to remove the conduits, it found a genuine dispute of material fact regarding damages. More specifically, the Court found that Citynet is only liable for the damages proximately caused by "its failure to remove the conduits from the sewer and then reroute them." The Court found that Citynet is not responsible for the damage caused when its predecessor drilled through the sewer and is therefore not required to pay for the cost of repairing the sewer. The total cost to remove and relocate the conduits and to repair the sewer was \$50,763.86. The parties have agreed to settle the case for \$29,069.63.

**FISCAL IMPACT:** This ordinance authorizes a deposit of \$29,069.63 to be accepted by the Treasurer and deposited into the Sanitary Sewer Operating Fund (6100).

**EMERGENCY DESIGNATION:** Emergency designation is requested to expedite payment of the settlement to the City without delay. The City will invoice Citynet for the payment amount as soon as practicable upon passage.

To approve the settlement in the case of the *City of Columbus v. Citynet LLC*, Case No. 18-cv-010485; to accept a deposit of \$29,069.63 to be deposited into the Sanitary Sewer Operating Fund (6100); and to declare an emergency.

**WHEREAS**, the City filed a lawsuit titled *City of Columbus v. Citynet LLC*, Case No. 18-cv-010845 against Citynet LLC in the Franklin County Court of Common Pleas alleging a trespass on City property by intentionally causing its conduits to remain cross-bored through the City sewer; and

**WHEREAS**, the Court found Citynet liable for trespass for failing to remove the conduits that were cross-bored through the City's sewer when demanded to do so by the City; and

**WHEREAS**, more specifically, the Court found that Citynet is only liable for the damages proximately caused by "its failure to remove the conduits from the sewer and then reroute them." The Court found that Citynet is not responsible for the damage caused when its predecessor drilled through the sewer and is therefore not required to pay for the cost of repairing the sewer; and

**WHEREAS**, the total cost to remove and relocate the conduits and to repair the sewer was \$50,763.86; and

**WHEREAS**, the parties have agreed to settle the case for \$29,069.63 to cover the costs associated with Citynet's failure to remove the conduits from the sewer and then reroute them as being in the best interests of the citizens of the City; and

**WHEREAS**, the City will invoice CityNet in the amount of \$29,069.63, as soon as practicable, and once received, deposit into the Sanitary Sewer Operating Fund (6100).

**WHEREAS**, an emergency in the usual daily operations of the Department of Public Utilities, in that it is necessary for this Council to authorize the approval of the settlement and authorize the City Attorney to sign the settlement agreement ordinance to be effective immediately in order for the parties to effectuate the settlement and to accept the agreed to sum without delay; **NOW, THEREFORE**,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**SECTION 1:** That City Council hereby accepts the recommendation of the City Attorney and authorizes approval of the settlement of the *City of Columbus v. Citynet LLC*, Case No. 18-cv- 010845 in the Franklin County Court of Common Pleas.

**SECTION 2:** That the City Attorney is hereby authorized and directed to sign the settlement agreement that will provide payment in the amount of \$29,069.63 to cover the costs associated with Citynet's failure to remove the conduits from the sewer and then reroute them.

**SECTION 3:** That the City Attorney is hereby authorized to take all steps necessary to resolve these matters in accordance with the terms of the Settlement.

**SECTION 4.** That the Treasurer's Office is hereby authorized and directed to accept and deposit \$29,069.63 into the Sanitary Sewer Operating Fund (6100).

**SECTION 5:** That for the reasons stated in the preamble hereto, which is made a part hereof, this ordinance is hereby declared to be an emergency measure and shall take effect and be in force after passage and approval by the Mayor, or 10 days after passage if the Mayor neither vetoes nor approves the same.