

CITY COUNCIL

The City of Orange Township, New Jersey

DATE May 5, 2020

NUMBER 193-2020

TITLE:

A RESOLUTION AUTHORIZING A SETTLEMENT AGREEMENT BETWEEN THE CITY OF ORANGE TOWNSHIP AND SCOTT CABRERA RESIDING AT 636 W. CHRISTOPHER STREET, ORANGE, NEW JERSEY FOR THE COST OF CLEANING THE BASEMENT OF HIS RESIDENCE AFTER A SEWAGE BACKUP IN THE AMOUNT OF \$4,800.00.

WHEREAS, on or about October 31, 2019, there was a sewage backup at 636 W. Christopher Street, Orange, New Jersey; and

WHEREAS, on or around November 25, 2019, Scott Cabrera paid \$4,800.00 for water damage services due to a sewage backup within his home located at 636 W. Christopher Street, Orange, New Jersey; and

WHEREAS, the City of Orange Township has determined that the City is solely at fault for the water damage at 636 W. Christopher Street; and

WHEREAS, the City has entered into a settlement agreement with Scott Cabrera to refund him the cost of cleaning his basement and to release the City from any claims arising out of the October 31, 2019 incident.

WHEREAS, the Chief Financial Officer has certified that funding is available in Account No.T-13-00-001-000-000.

NOW, THEREFORE BE IT RESOLVED, by the Municipal Council of the City of Orange Township that the proper officers of the City shall be and are hereby authorized and directed to execute the settlement agreement with Scott Cabrera granting a refund in the amount of \$4,800.00 and releasing the City from all claims arising out of the incident on October 31, 2019 at 636 W. Christopher Street.

Adopted:

Joyce L. Lanier
City Clerk

Tency A. Eason
Council President

*Vaughn Bachment on behalf of
the City Attorney*

CITY ATTORNEY

SETTLEMENT AGREEMENT AND GENERAL RELEASE

This SETTLEMENT AGREEMENT AND GENERAL RELEASE [hereinafter, the "Agreement"] is made as of this 4th day of March, 2020, by and between Parties, SCOTT CABRERA and 636 ISABELLA, LLC (Property Owners) and the City of Orange Township, its employees, officers, agents, and successors other person ("the City").

WHEREAS, the Property Owners have paid Servpro of WE-CU \$4,800.00 for water remedy and water damage services caused by an incident involving sewage backup;

WHEREAS, this agreement refers only to Invoice 54264 submitted to the City by the Property Owners dated November 25, 2019, and stamped "PAID";

WHEREAS, the City would like reimburse the property owners \$4,800.00 for the damages;

WHEREAS, the Parties were given an opportunity to consult with their respective attorneys prior to executing this Agreement and have had an adequate opportunity to consider the Agreement; and

WHEREAS, the Parties are desirous of settling any disputes among them, including those which were or could have been asserted by the Parties in the Action or otherwise, based on the terms and conditions contained in this Agreement.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree and covenant as follows:

1) **Release.** I release and give up any and all claims, actions, rights, causes of action, demands, damages, costs, loss of service, expenses compensation which I may have against you. This releases all claims, including those of which I am not aware and those not mentioned in this

Release. This Release applies to claims resulting from anything which has happened up to now.

I specifically release the following claims:

A. Any and all disputes arising out of the sewage backup that occurred at the

home located at or near the location of 636 West Christopher Street, Orland,

Neve (last name obscured) 10/31/19

B. All claims for attorney fees and costs.

2) **Payment.** I agree that I will not seek anything further including any other relief from you.

3) **Effective Date.** This Agreement is effective and binding upon the Parties as of the date set forth above.

4) **Disclosure.** The Parties agree not to disclose the terms of this settlement to any other person or entity without the prior written consent of the opposing party.

5) **Entities and Persons Bound by Agreement.** The terms of the Agreement shall be binding upon the Parties and their successors and assigns.

6) **Compromise/No Admission of Liability.** The Parties understand, represent, and warrant that this Agreement is a full and final compromise of disputed claims and not an admission of wrongdoing or liability (civil, criminal or pursuant to any internal rule or regulation) by or on the part of the Releasor.

7) **Non-Disparagement/Confidentiality.** Neither Party shall take any actions or make or solicit any statements, written or oral, which in any way disparage, criticize or otherwise reflect adversely upon either Party. To the extent permitted by law, the terms of this Agreement shall remain confidential.

8) **Enforceability and Severability.** The Parties agree and acknowledge that each of the provisions of this Agreement is reasonable and should be fully enforceable, and the Parties

waive any right to argue, assert or allege any claim to the contrary. However, if any provision of this Agreement is determined by a Court of competent jurisdiction to be unenforceable because it is overbroad or unreasonable, the Parties agree that such provision(s) may be modified and enforced to the maximum extent permissible. If any provision of this Agreement is held to be invalid and cannot be modified so as to make it enforceable, then such provision shall be deemed to be severed from the Agreement and the remaining provisions shall remain in full force and effect.

9) **Waiver of Breach.** A waiver by any Party of a breach of any of the provisions of this Agreement shall not operate or be construed as a waiver of any other provision of this Agreement or of any subsequent breach of the same or any other provisions of this Agreement. The understandings and representations of the Parties set forth in this Agreement shall survive any breach of this Agreement and be enforceable by any non-breaching Party.

10) **Entire Agreement.** This Agreement constitutes the sole and complete agreement among the Parties with respect to the settlement of the Action. None of the Parties is relying upon any representation, understanding, undertaking or agreement, whether oral or in writing, not set forth in this Agreement. This Agreement may not be amended, changed, altered, modified or terminated except in a writing signed by all the Parties hereto.

11) **Authority.** The signatories hereto warrant and represent that they are legally authorized and empowered to enter into this Agreement on behalf of the Parties.


12) **Governing Law; Jurisdiction.** This Agreement shall be construed under, subject to, and governed by the laws of the State of New Jersey, without regard to conflict of law principles.

13) **No Modification.** This Agreement shall not be modified except in accordance with a written agreement signed by all parties hereto.

14) **Further Assurances.** The Parties hereto agree to perform such other and further acts or things and to execute and deliver such other and further documents necessary and appropriate to effectuate the terms and objectives hereof.

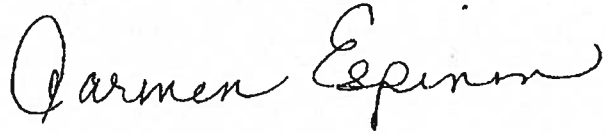
15) **Signatures.** The Parties hereby signify their agreement to the above terms by their signatures below. All signatories to this Agreement represent that they have carefully read the Agreement, have had sufficient time to review this Agreement before signing it, are represented by counsel in connection with this settlement, and have had an opportunity to consult with and have consulted with an attorney prior to signing this Agreement.

IN WITNESS WHEREOF, Scott Cabrera, by the undersigned, have executed this Agreement as of the date first above written.

SCOTT CARRERA

Scott Cabrera

Dated: 3/04/2020

Sworn and Subscribed
Before me this 4
Day of March, ~~2019~~ 2020
City of New York
~~Orange Township~~

By: Carmen Espinosa
Name:


CARMEN ESPINOSA
NOTARY PUBLIC, State of New York
No. 01ES6126334
Qualified in Bronx County,
Commission Expires May 2, 2021

Servpro of WE-CU
1094 Globe Ave
Mountainside, NJ 07092 US

908-233-7070
Office@servprowessex.com



INVOICE

INVOICE # 54264
DATE 11/25/2019
DUE DATE 12/05/2019

BILL TO
Cabrera, Scott
Scott Cabrera
636 W Christopher St.
Orange, NJ 07050

LOCATION SALES REP

| SERVICES | DESCRIPTION | AMOUNT |
|-----------------|---|-----------|
| Water Remed | Water Restoration-Water damage services performed per the itemized estimate breakdown attached. Homesite claim #2517992 Thank you for choosing SERVPRO of Central Union and Western Essex Counties! Payment is due upon receipt. | 4,413.87T |
| Third Party Fee | Late fee | 87.89T |

SUBTOTAL 4,501.76
TAX 298.24
TOTAL 4,800.00
BALANCE DUE **\$0.00**

CITY OF ORANGE TOWNSHIP
FINANCE DEPARTMENT

CERTIFICATION OF FUNDS
MUNICIPAL INSURANCE TRUST FUND

I, Chief Financial Officer for the City of Orange Township, do hereby certify to the best of my knowledge and belief that there are now sufficient funds in the Trust account of Municipal Insurance to pay:

Vendor Name: Scott Cabrera
Address#1: 636 W. Christopher St.

City: Orange
State: NJ
Zip Code: 07050

Purpose: Water/Sewer damage repair refund

Fund: Municipal Insurance Trust

Account Numbers(s): T-13-00-001-000-000

Vendor ID: CABR015

PO Number: 20-00832

Amount not to exceed: \$4,800.00

Division Head

Date

Nile Clements

4/29/2020

Chief Financial Officer

Date