

CITY OF VINELAND

**RESOLUTION NO. 2024-560**

**RESOLUTION AUTHORIZING THE EXECUTION OF A SETTLEMENT AGREEMENT BY AND BETWEEN THE CITY OF VINELAND AND MARK A. CHANEY IN THE MATTER FILED IN THE SUPERIOR COURT OF NEW JERSEY, LAW DIVISION, DOCKET NO. CUM-L-000179-20.**

**WHEREAS**, a law suit was filed by Mark A. Chaney (Chaney) against the City of Vineland bearing Docket No CUM-L-000179-20 (Complaint) wherein he asserted discrimination claims related to his employment; and

**WHEREAS**, the City vigorously and wholly denies each and every allegation made by Chaney and has done so throughout the litigation wherein the City was represented by a law firm chosen by the City's insurance carrier pursuant to a policy of insurance with said carrier; and

**WHEREAS**, in accordance with the laws upon which Chaney has relied, such claims permit the payment of fees to a prevailing plaintiff, commonly known as "fee shifting," and in many cases, attorney fees generated during litigation can substantially increase the value of a prevailing plaintiff's claims; and

**WHEREAS**, Chaney has demanded, as a settlement, a payment in the amount of \$360,000.00, including attorneys fees, which was accepted by the City's carrier as their concern is the fee shifting aspect of plaintiff's claims, which, if Chaney is a prevailing party, could include substantial attorneys fees exceeding the settlement amount; and

**WHEREAS**, in accordance with the terms of the policy of insurance, should the carrier wish to settle and the insured refuses to do so, believing their case to be one that is very defensible, the carrier may offer as payment the amount of the acceptable settlement which would then relieve them of any further obligation for legal representation and/or payment towards any claims by a prevailing party, and

**WHEREAS**, in order to protect the interests of the City, determining it to be in the best interest of the City to allow the settlement and payment from the carrier, the Parties wish to settle all controversies among them including those claims asserted in the Complaint; and

**WHEREAS**, the proposed settlement is for the City to pay Mark A. Chaney \$360,000.00 of which the City shall contribute \$45,043.46 and the balance to be paid through the City's liability carrier which shall be in full satisfaction of the claims of Mark A. Chaney as is more fully described in the Settlement Agreement and Release attached hereto and made a part hereof.

**NOW THEREFORE BE IT RESOLVED** by the Council of the City of Vineland that the Mayor and Clerk are authorized to execute a Settlement Agreement and Release in the form and substance attached hereto and made a part hereof.

Adopted: November 26, 2024

\_\_\_\_\_  
President of Council eaa

ATTEST:

\_\_\_\_\_  
City Clerk kp

## SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (“Agreement”) is executed by and between Mark A. Chaney (“Chaney”), on the one hand, and the City of Vineland (“Vineland”), on the other hand. In this Agreement, “Releasees” refers to the City of Vineland and its past, present, and future parents, divisions, subsidiaries, and affiliates, predecessors, successors and assigns, and each of its past, present, and future trustees, directors, members, partners, officers, shareholders, managers, insurers, employees (excluding Chaney), agents, servants, attorneys, and representatives.

**WHEREAS** Chaney has been employed by the City of Vineland;

**WHEREAS** Chaney filed a Complaint against the City of Vineland entitled Mark A. Chaney v The City of Vineland, bearing Docket No. CUM-L-000179-20, in the Superior Court of New Jersey, Law Division, Cumberland County, which Complaint asserted claims related to his employment with the City of Vineland (the “Litigation”); and

**WHEREAS** Releasees vigorously and wholly deny each and every allegation made by Chaney in the Litigation and enter into this settlement for reasons other than the merits of Chaney’s claims, including but not limited to avoiding the cost of litigation; and

**WHEREAS** the parties mutually desire to settle the Litigation as well as any and all disputes between them, which settlement shall not be deemed or construed to be an admission of liability or wrongdoing as to any matters whatsoever, and to enter into this Settlement Agreement and General Release of Claims (the “Agreement”);

### TERMS

1. **Employment Status.** Nothing within this Agreement shall be construed as a contract of employment between Chaney and the City of Vineland.

2. **Release.** Chaney, for and in consideration of the undertakings of Releasees set forth in Paragraph 3 herein, and intending to be legally bound, does hereby REMISE, RELEASE AND FOREVER DISCHARGE each of Releasees from all actions, suits, claims and demands in law or equity, the individual Releasees being released in their individual and corporate capacities, whether known or unknown, that he ever had, now has, or hereafter may have, from the beginning of time to the date of this Agreement.

(a) This release includes but is not limited to all claims which were or could have been alleged relating to Chaney’s employment with the City of Vineland, including but not limited to claims of wrongful termination, failure to hire/promote, retaliation, breach of express or implied contract, fraud, misrepresentation, negligent and/or intentional infliction of emotional distress, claims of wrongful termination, retaliation, harassment and/or discrimination, lost wages or benefits, compensation of any nature, personal injury, claims of reputational injury and/or defamation, claims for unpaid medical bills, as well as any claims under:

- Civil Rights Act of 1964, as amended (Title VII);
- Civil Rights Acts of 1866 and 1991;
- Sections 1981-1988 of Title 42 of the United States Code, as amended

- Federal Americans with Disabilities Act of 1990, as amended (ADA);
- Federal Family and Medical Leave Act of 1993 (FMLA);
- Federal Employee Retirement Income Security Act of 1974, as amended (ERISA);
- Federal Occupational Health and Safety Act, as amended (OSHA);
- National Labor Relations Act (NLRA);
- Federal Executive Orders 11246 and 11141;
- Worker Adjustment and Retraining Notification Act of 1989, as amended (WARN);
- The Immigration Reform and Control Act of 1986, as amended (IRCA),
- Federal Equal Pay Act (EPA);
- Federal Fair Labor Standards Act (FLSA);
- New Jersey Civil Rights Act (NJCRA);
- New Jersey Law Against Discrimination (NJLAD);
- New Jersey Conscientious Employee Protection Act (CEPA);
- New Jersey Security and Financial Empowerment Act (SAFE);
- New Jersey Wage Payment Law (NJWPL);
- New Jersey Wage and Hour Law (NJWHL);
- New Jersey Prevailing Wage Act;
- New Jersey Family Leave Act (NJFLA);
- Rehabilitation Act of 1973;
- Sarbanes Oxley Act of 2002;
- The New Jersey and United States Constitutions;
- Any unjust or wrongful termination theory;
- Any claim for breach of contract, fraud or material misrepresentation;
- Any negligent retention, hiring, or supervision theory;
- Any right or claim based on an alleged privacy violation;
- Any claims for defamation or slander; or;
- Any claims under public policy or common law;
- Any claims under any other federal, state or local civil or human rights law or any other local, state or federal law, regulation or ordinance; or
- Any theories now or hereafter recognized;

that he, his heirs, administrators, executors, personal representatives, beneficiaries, and assigns may have against Releasees. These claims shall be referred to as the “Released Claims.”

(b) This release also includes claims which Chaney may have for any type of damages cognizable under any of the laws referenced herein, including, but not limited to, any and all claims for economic and/or non-economic damages, compensatory damages, punitive damages, and attorneys’ fees and costs.

(c) **Unknown Claims.** Chaney understands and agrees that the Released Claims are intended to and do include any and all claims of every nature and kind whatsoever (whether known, unknown, suspected, or unsuspected and whether pursuant to any law or cause of action presently in effect or which may be enacted or created in the future) which he has or may have against Releasees, individually or collectively. Chaney further acknowledges that he may hereafter discover facts different from or in addition to those which he now knows or believes to be true with respect to the Released Claims and agrees that, in such event, this Agreement shall nevertheless be and remain effective in all respects, notwithstanding such

different or additional facts, or the discovery thereof. Notwithstanding anything stated anywhere else in the Agreement, Employee does not release any claims for worker's compensation benefits.

(d) **No Assignment or Transfer of Released Claims.** Chaney represents and warrants that Chaney has not assigned, transferred, or hypothecated, or purported to assign, transfer, or hypothecate, to any person, firm, corporation, association, or entity whatsoever any of the Released Claims. Chaney hereby agrees to indemnify and hold harmless Releasees against, without limitation, any and all rights, claims, warranties, demands, debts, obligations, liabilities, costs, expenses (including attorneys' fees), causes of action, and judgments based on, arising out of, or connected with any such transfer, assignment, or hypothecation, or purported transfer, assignment, or hypothecation.

(e) Chaney promises and agrees not to commence, prosecute or cause or permit to be commenced or prosecuted against Releasees any action or proceeding based upon any claim, demand, cause of action, obligation, damage or liability that is the subject matter of this Agreement and/or the Litigation, subject to applicable law. Chaney represents and agrees that he has not and will not make or file or cause to be made or filed any claim, charge, allegation or complaint, whether formal or informal, or information with any governmental or administrative agency, department, division or court, whether federal, state or local, subject to applicable law.

(f) Chaney also agrees that this release should be interpreted as broadly as possible to achieve her intention to waive all of his claims against Releasees.

(g) **Claims Not Released.** Notwithstanding any other provision of this Release, the following are **not** barred by the Release: (a) claims relating to the validity of this Agreement; (b) claims by either party to enforce this Agreement; (c) claims that legally may not be waived (i.e., worker's compensation claims); (d) claims arising after the execution of this Agreement that are not encompassed by the Released Claims.

3. **Consideration.** In full consideration of Chaney entering into this Agreement and on account of Chaney's emotional distress and non-economic damages, Releasees will make a "Settlement Payment" in the total amount of \$360,000, delivered in two (2) checks payable as follows: 1) the amount of TWO HUNDRED TWENTY-EIGHT THOUSAND SIXTY-THREE DOLLARS AND TWELVE CENTS (\$228,063.12) issued to "Mark A. Chaney" (Form 1099 reporting); and 2) the amount of ONE HUNDRED THIRTY ONE THOUSAND NINE HUNDRED THIRTY-SIX DOLLARS AND EIGHTY-EIGHT CENTS (\$131,936.88) issued to "Blaney, Donohue & Weinberg". The check shall be delivered to: William Blaney, 2123 Dune Drive, Suite 11, Avalon, NJ 08202.

Chaney and Chaney's counsel will complete a Form W-9, conduct a child support judgment search and provide the completed forms, along with an original signed copy of this Agreement, to Timothy R. Bieg, Esquire at Madden & Madden, P.A., 108 Kings Highway East, Suite 200, Haddonfield, NJ 08033. The Settlement Payment will be delivered within 30 days of Releasees' counsel's receipt of the Agreement fully executed by Chaney, the W-9 Forms, a clear child support judgment search, an executed Stipulation of Dismissal pursuant to Paragraph 11.

This Settlement Payment describes valuable consideration to which Chaney would not otherwise be entitled. Chaney understands and agrees that the Settlement Payment includes and encompasses any and all claims with respect to attorneys' fees, costs, and expenses for or by any and all attorneys who have represented her or with whom he has consulted or who have done anything in connection with the Released Claims.

4. **IRS Issues.** The parties acknowledge that this settlement is not conditioned or contingent upon the tax consequences, or lack thereof, associated with Chaney's receipt of the Settlement Payment. Further, Chaney understands and agrees that Releasees have not withheld any amount from the Settlement Payment for federal, state, or local taxes or other withholdings. Releasees will issue the appropriate IRS Form 1099s in connection with the Settlement Payment at the appropriate time. Releasees make no representations or warranties regarding any tax issues for any payment provided for in this Agreement, and Chaney acknowledges that he has not relied upon any advice from Releasees concerning tax liability, if any, for the amounts to be paid under this Agreement. Chaney also acknowledges that he is responsible for any and all tax liability or consequences which may be assessed arising from the payment and characterization of these proceeds, and Chaney agrees to defend and indemnify and hold Releasees harmless against any and all tax liability, interest, and/or penalties with respect to the Settlement Payment.

5. **No Future Payments Except Those Described Herein.** Except as set forth in this Agreement, it is expressly agreed and understood by the parties that Releasees do not have, and will not have, any obligation to provide Chaney at any time in the future with any payments, benefits, or consideration other than that set forth in Paragraph 3 above.

6. **Non-Admissions.** Releasees and Chaney agree and acknowledge that this Agreement is not to be construed as an admission by Releasees of any violation of any federal, state or local statute, ordinance or regulation, constitutional right, public policy, common law duty or contractual obligation, or that any decisions or actions taken in connection with Chaney were unwarranted, unjustified, wrongful or otherwise unlawful. Releasees specifically deny that they engaged in any wrongdoing and specifically deny any liability to Chaney or to any other person and/or entity.

7. **Confidentiality.** Chaney represents that he has and will keep the terms of this Agreement, the Litigation and all matters concerning or relating to the settlement in strictest confidence, including the substance of the negotiations leading up to the settlement, and not disclose them to anyone, except as follows: (1) if he is required to reveal such information pursuant to legal process or by a regulatory body or agency, subject to Releasees' rights detailed below; and (2) Chaney may disclose the financial terms of the Agreement to her spouse, attorney, financial advisor/auditor/accountant, and tax authorities, if necessary, after first obtaining that individual's agreement to keep the information confidential and not disclose it to others. **Although the parties may have agreed to keep the settlement and underlying facts confidential, such provision is unenforceable against the employer if the employee publicly reveals sufficient details of the claim so that the employer is reasonably identifiable.**

Chaney will say nothing about this Agreement, the Litigation or the Released Claims to any past, present or future employees of Releasees. If Chaney is asked about the Litigation or this Agreement, he may only respond, "The matter has been resolved." If Chaney, or anyone to whom

he has disclosed the information protected by this paragraph, breaches this confidentiality provision, Chaney may be liable to Releasees for actual damages.

Should Chaney be requested to disclose the confidential terms and matters addressed in the Agreement in connection with any judicial, administrative or other proceeding, he agrees immediately to notify Releasees of the request by sending such notification in writing by First Class Mail to the attention of Timothy R. Bieg, Esquire at Madden & Madden, P.A., 108 Kings Highway East, Suite 200, Haddonfield, NJ 08033. Assuming Releasees object to the request, Chaney agrees to await the final outcome of the objection before making any disclosures about this Agreement or its terms.

8. **Mutual Non-Disparagement.** Vineland agrees not to make, publish or cause to be made or published, any statement in writing or orally that reasonably could be construed as injurious to or disparaging of the reputation or standing of Chaney. Chaney agrees and promises not to make, publish or cause to be made or published, any statement in writing or orally that reasonably could be construed as injurious to or disparaging of the reputation or standing of Vineland and/or the employees, businesses and practices of same. Chaney agrees and promises not to speak to Vineland's employees concerning his employment, Vineland, the Litigation and/or this Agreement. Nothing in this Agreement shall have the purpose or effect of concealing the allegations of the Litigation, in accordance with N.J.S.A. 10:5-12.8(a), and any disclosure or statement made pursuant to N.J.S.A. 10:5-12.8(a) shall not be deemed a violation of this Agreement.

9. **Consideration Period.** Chaney acknowledges that he has been provided with a reasonable period of time to consider the terms of this offer. By signing and returning this Agreement, Chaney acknowledges that the consideration period afforded her a reasonable period of time to consider fully each and every term of this Agreement, including the General Release of Claims, and that he has given the terms full and complete consideration.

10. **Dismissal of the Litigation.** The parties agree that their legal counsel will sign a Stipulation of Dismissal, dismissing the Litigation with prejudice. Chaney will instruct his counsel to sign the stipulation and return it to Releasees' counsel, who agrees to hold the stipulation in trust and not file it with the Court until receipt of the Settlement Payment is confirmed.

11. **Governing Law.** This Agreement shall be executed and delivered in the State of New Jersey. All provisions hereof and all rights, obligations and liabilities arising hereunder shall be construed in accordance with the laws of the State of New Jersey, except if preempted by federal law. Any action to enforce the terms of this Agreement shall be filed in the State of New Jersey only.

12. **Waiver.** If any party, by its actions or omissions, waives or is adjudged to have waived any breach of this Agreement, any such waiver shall not operate as a waiver of any other subsequent breach of this Agreement.

13. **Successor and Assigns.** This Agreement is binding upon and shall inure to the benefit of the parties and their respective heirs, executors, administrators, personal or legal representatives, successors and/or assigns.

14. **Severability.** If any provision of this Agreement is or shall be declared invalid or unenforceable by a court of competent jurisdiction, the remaining provisions shall not be affected thereby and shall remain in full force and effect.

15. **Integration and Modification.** The parties acknowledge that this Agreement constitutes a full, final, and complete settlement of their differences and supersedes and replaces any and all other written or oral exchanges, agreements, understandings, arrangements, or negotiations between or among them relating to the subject matter hereof, and affirmatively state that there are no other prior or contemporaneous agreements, exchanges, representations, arrangements, or understandings, written or oral, between or among them relating to the subject matter hereof other than that as set forth herein, and that this Agreement contains the sole and entire Agreement between them with respect to the subject matter hereof. This Agreement contains all of the promises and understandings of the parties. There are no other agreements or understandings except as set forth herein, and this Agreement may be amended only by a written agreement signed by the parties, which agreement shall specifically reference this Agreement and the provision which the parties intend to waive or modify.

16. **Counterparts and Signatures.** This Agreement may be executed in any number of counterparts, and may be executed on copies, each of which shall be deemed an original, including electronic signatures, and each such counterpart shall have the same force and binding effect as if executed by all parties. The parties agree that notarized signatures are not required and further agree not to contest the authenticity of any signature to this Agreement.

17. **Acknowledgement.** Chaney acknowledges that:

(a) Neither Releasees, nor their agents, representatives or employees have made any representations to her concerning the terms or effects of this Agreement, other than those contained in the Agreement;

(b) He has the intention of releasing all claims recited herein in exchange for the payments and other consideration described herein, which he acknowledges as adequate and satisfactory to her and in addition to anything to which she otherwise is entitled;

(c) He has no past-due obligations for child support payments under N.J.S.A. 2A:17-56.23b(a);

(d) No Medicare or Medicaid payments have been made to or on behalf of Chaney relating to the Litigation, and no liens, claims, demands, subrogated interests, or causes of action of any nature or character exist or have been asserted arising from or related to his employment with Vineland;

(e) He has been given a reasonable period of time to consider the terms of this Agreement;

(f) He has been advised and given an adequate amount of time to review this Agreement and has reviewed this Agreement with his counsel; and

(g) He is competent to understand the contents and effect of this Agreement and that his decision to enter into this Agreement has not been influenced in any way by fraud, duress, coercion, mistake or misleading information.

**18. Certification of Understanding and Competence.** Chaney acknowledges (a) that he is competent to understand the content and effect of this Agreement; (b) that he understands that by entering into this Agreement, he is releasing forever Releasees from any claim or liability (including claims for attorney's fees and costs) arising from his employment relationship with Vineland; (c) that he is entering into this Agreement of his own free will in exchange for the consideration to be given to him as listed in Paragraph 3, above, which he agrees is adequate and satisfactory; and (d) that Vineland and Releasees have not made any representations to him concerning the terms or effects of this Agreement, other than those contained in the Agreement.

**IN WITNESS THEREOF**, the parties have executed this Agreement on the date shown below.

Dated: \_\_\_\_\_

\_\_\_\_\_  
**MARK A. CHANEY**

**CITY OF VINELAND**

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
**CITY OF VINELAND**