

CITY OF VINELAND

**RESOLUTION NO. 2022- 317**

**RESOLUTION AUTHORIZING THE EXECUTION OF A SETTLEMENT AGREEMENT AND GENERAL RELEASE BY AND BETWEEN THE CITY OF VINELAND AND KRISTIAN KIRCHNER IN THE MATTER FILED IN THE SUPERIOR COURT OF NEW JERSEY, LAW DIVISION, DOCKET NO. CUM-L-318-17 AND CUM-L-423-14**

**WHEREAS**, a lawsuit was filed by Kristian Kirchner against the City of Vineland among other individuals mentioned in the lawsuit (collectively the Parties) bearing Docket No. CUM-L-318-17 and thereafter consolidated with the matter bearing Docket No. CUM-L-423-14 (collectively, Complaint); and

**WHEREAS**, the Parties wish to settle all controversies among them including those claims asserted in the Complaint; and

**WHEREAS**, the City of Vineland as well as all defendants identified in the Complaint deny each and every allegation made against them in the Complaint and settlement is entered to end the litigation and compromise the claims of the Parties; and

**WHEREAS**, the proposed settlement is for the City to pay Kristian Kirchner \$400,000.00 of which the City shall pay the balance of its deductible and the remainder to be paid through the City's liability carrier which shall be in full satisfaction of the claims of Kristian Kirchner as is more fully described in the Settlement Agreement and General 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 General Release in the form and substance attached hereto and made a part hereof.

Adopted:

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

ATTEST:

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

**SETTLEMENT AGREEMENT AND GENERAL RELEASE**

This Settlement Agreement and General Release (“Agreement”) is made and entered into as of this \_\_\_\_ day of July, 2022, between KRISTIAN KIRCHNER (referred to herein as “KIRCHNER”), plaintiff in a certain civil action pending in the Superior Court of New Jersey, Cumberland County, Law Division, and captioned Kristian Kirchner v. City of Vineland, et als., Docket No. CUM-L-318-17, consolidated with the case of Kristian Kirchner v. City of Vineland, Docket No. CUM-L-423-14 (referred herein together as the “Civil Action”), on the one hand, and the CITY OF VINELAND (referred to herein as “VINELAND”), TIMOTHY CODISPOTI and JOHN LAURIA (referred to together as the “VINELAND DEFENDANTS”) on the other hand.

By means of this Agreement, KIRCHNER intends to fully and unconditionally release any and all claims he, his heirs, administrators, executors, personal representatives, beneficiaries, and assigns may have against the VINELAND DEFENDANTS and their affiliates, predecessors, successors, parents, subsidiaries, divisions, assigns, officers, directors, shareholders, representatives, employees, former employees, current and former elected officials, insurers, attorneys, consultants and agents, (collectively referred to as “Releasees”), the remaining terms of which Agreement are now fully set forth in Paragraphs I through XXVII below.

**WHEREAS** KIRCHNER was formerly employed by VINELAND;

**WHEREAS** KIRCHNER has asserted certain allegations against VINELAND and the VINELAND DEFENDANTS related to his employment with VINELAND and related to a May 1, 2015 incident involving the search of KIRCHNER’S home and removal of KIRCHNER from his home (the “Allegations”);

**WHEREAS** Releasees deny and continue to deny the Allegations asserted by KIRCHNER;

**WHEREAS** the Parties mutually desire to settle the Allegations 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”);

**IT IS HEREBY AGREED** among the Parties as follows:

**I. Consideration**

In full consideration of KIRCHNER entering into this Agreement, VINELAND agrees to the following:

- a. VINELAND AND ITS INSURERS will make a “Settlement Payment” in the total amount of four hundred thousand dollars (\$400,000.00), said settlement amount being fully and completely inclusive of all attorney’s fees and costs incurred in this matter, including interest. KIRCHNER agrees that, but for this Settlement Agreement, KIRCHNER would not be entitled to the aforesaid payment and other terms of settlement described in the subsections of this

Agreement. The settlement amount shall be paid by VINELAND and its Insurers in two (2) checks:

- i. \$170,640.43 made payable to the “Law Offices of Richard M. Pescatore, P.C., as attorneys for Kristian Kirchner”; and
- ii. \$229,359.57 made payable to “Kristian Kirchner”.

Payments shall be delivered to the Law Offices of Richard M. Pescatore, 1055 East Landis Avenue, Vineland, New Jersey 08360.

- b. VINELAND will provide KIRCHNER with a Police Department Retirement Badge and Photo ID, both of which will state “Retired Officer” (VINELAND agrees that in the event of damage or loss of KIRCHNER’s Police Department Retirement Badge and Photo ID, it shall provide KIRCHNER with a new Police Department Retirement Badge and Photo ID upon request in a prompt manner).
- c. VINELAND will return to KIRCHNER certain items, identified and attached to this Agreement as Exhibit “A”, that were confiscated from KIRCHNER’s home on May 1, 2015.

KIRCHNER will provide a signed copy of this Agreement, an executed Form W-9, direct his attorney to complete a Form W-9, conduct a child support judgment search and provide the completed forms to Madden & Madden, P.A., via email from KIRCHNER’s counsel to Michael V. Madden, Esq.

VINELAND shall deliver the payments identified in Section I(a) and the property identified in Sections I(b) & I(c) to the Law Offices of Richard M. Pescatore, 1055 East Landis Avenue, Vineland, New Jersey 08360 within thirty (30) days of KIRCHNER’S counsel’s email to Madden & Madden, P.A. enclosing a signed copy of this Agreement, KIRCHNER’s W-9, KIRCHNER’s counsel’s W-9, and KIRCHNER’s child support judgment search. VINELAND shall also deliver within thirty (30) days to KIRCHNER’s counsel a fully executed copy of this Agreement, signed by an appropriate representative with authority to bind VINELAND and signed by each of the individual VINELAND DEFENDANTS, and a copy of the Resolution of the City of Vineland approving this Agreement.

This Settlement Payment describes valuable consideration to which KIRCHNER would not otherwise be entitled. KIRCHNER 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 him or with whom he has consulted or who have done anything in connection with the Released Claims.

## **II. Agreement Respecting KIRCHNER’S Employment**

KIRCHNER agrees that his employment with the VINELAND Police Department has been permanently and irrevocably severed. KIRCHNER also agrees that he will never apply for or otherwise seek employment or re-employment with VINELAND or any of the Releasees. KIRCHNER further agrees that VINELAND and the Releasees have no obligation to employ,

rehire, re-employ, recall or hire him in the future and that this Agreement is sufficient and appropriate justification for denying employment or re-employment and for terminating KIRCHNER'S employment should he be re-hired. By virtue of this settlement, KIRCHNER acknowledges that he has received all wages, bonuses, and other benefits and compensation due to him as a result of his employment with VINELAND, specifically excepting any and all benefits KIRCHNER is or may be entitled to pursuant to the New Jersey Worker's Compensation Act and excepting any and all benefits KIRCHNER is or may be entitled to as a disabled/retired police officer of VINELAND.

### **III. Covenant to Not Pursue Further Legal Action**

KIRCHNER hereby covenants and agrees that the Civil Action shall be dismissed with prejudice and without costs. KIRCHNER shall take no further action against VINELAND or any other person or entity, including any Releasee, based upon the matters set forth within KIRCHNER's pleadings and/or based upon any other cause of action that KIRCHNER may have stemming or originating from KIRCHNER's employment with VINELAND, or the May 1, 2015 incident, from the beginning of time until the date this document is executed, specifically excepting KIRCHNER's currently pending workers' compensation claim to which KIRCHNER retains all rights to prosecute pursuant to the New Jersey Worker's Compensation Act.

### **IV. General Release**

Whereas KIRCHNER brought the Civil Action alleging damages for claims as set forth in his pleadings in the Civil Action, including, but not limited to, claims that he suffered harassment, hostile work environment, retaliation and discrimination, and in consideration for the terms and conditions set forth herein, KIRCHNER, and his heirs, successors and assigns, hereby voluntarily waive, generally release and discharge Releasees from any and all rights or claims that KIRCHNER may have against Releasees, the individual Releasees being released in their individual and official capacities, for any and all reasons, including, but not limited to, claims of employment discrimination, hostile work environment, retaliation or harassment with regards to any alleged protected category, status or class, including but not limited to political affiliation, political activity, age, sex, religion, race, disability, familial status or national origin, breach of contract, wrongful resignation, retaliation, hostile work environment, wrongful discharge, intentional and/or negligent infliction of emotional distress, defamation, libel, slander, personal injury, lost wages, and any other economic and/or non-economic damages whatsoever for anything that has happened from the beginning of time to the date that this document is executed. KIRCHNER specifically waives any claims which were or could have been set forth in the Civil Action, as well as any rights that KIRCHNER may have under:

- The United States Constitution;
- Title VII of the Civil Rights Act of 1964, as amended;
- The Civil Rights Act of 1991;
- Sections 1981-1988 of Title 42 of the United States Code, as amended;
- The Employment Retirement Income Security Act of 1974, as amended;
- The Immigration Reform and Control Act, as amended;
- The Americans with Disabilities Act of 1990, as amended;
- The Age Discrimination in Employment Act of 1967, as amended;

- The Workers' Adjustment and Retraining Notification Act, as amended;
- The Occupational Safety and Health Act, as amended;
- The Older Workers Benefits Protection Act;
- The Equal Pay Act;
- The Family Medical Leave Act;
- The Fair Labor Standards Act;
- The New Jersey Constitution;
- The New Jersey Law Against Discrimination;
- The New Jersey Family Leave Act;
- The New Jersey State Wage and Hour Law;
- The New Jersey and Federal Conscientious Employee Protection Acts;
- The New Jersey Equal Pay Law;
- The New Jersey Civil Rights Act;
- Individuals with Disabilities Education Act;
- Any other federal, state or local civil or human rights law or any other local, state or federal law, regulation or ordinance;
- Any public policy, contract, tort or common law; and/or

Any allegation for costs, fees or other expenses, including attorney's fees, incurred in the lawsuit or in any of these matters, that he, his heirs, administrators, executors, personal representatives, beneficiaries, and assigns may have against Releasees for compensatory or punitive damages or other legal or equitable relief of any type or description. KIRCHNER releases all claims, including those for counsel fees and/or costs related to the Civil Action and/or other matters, and each party shall bear their own attorneys' fees and costs. This Release applies to claims resulting from anything which has happened up to now. These claims shall be referred to as the "Released Claims."

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; and (d) KIRCHNER's currently pending workers' compensation claim to which KIRCHNER retains all rights to prosecute pursuant to the New Jersey Worker's Compensation Act.

**V. Release Includes Unknown Claims**

- A. KIRCHNER 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 the Releasees, individually or collectively, that have accrued prior to his execution of this Agreement.
- B. KIRCHNER 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.

- C. KIRCHNER represents and acknowledges (i) that he and his attorneys have conducted whatever investigation was deemed necessary by he and his attorneys to ascertain all facts and matters related to this Agreement; (ii) that he has consulted with and received advice from legal counsel concerning this Agreement; and (iii) that he is not relying in any way on any statement or representation by VINELAND or their attorneys, except as expressly stated herein, in reaching his decision to enter into this Agreement.

**VI. No Assignment or Transfer of Released Claims**

KIRCHNER represents and warrants that as of the Effective Date, KIRCHNER 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. KIRCHNER 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.

**VII. No Admission of Liability**

KIRCHNER understands and agrees that this Agreement is a release of disputed claims and does not constitute an admission of liability on the part of the VINELAND DEFENDANTS as to any matters whatsoever, including but not limited to any violation of any federal, state or local statute, ordinance or regulation, constitutional right, public policy, common law duty or contractual obligation. RELEASEES specifically deny that they engaged in any wrongdoing and merely intend by this Agreement to avoid further litigation and buy their peace.

The Parties mutually desire to settle the CIVIL ACTION 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.

**VIII. Settlement not conditioned on Tax Consequences**

The Parties acknowledge that this settlement is not conditioned or contingent upon the tax consequences, or lack thereof, associated with KIRCHNER's receipt of the settlement proceeds discussed above. KIRCHNER agrees that he has had sufficient time to consult an accountant, tax attorney, or other competent professional regarding the tax consequences, or lack thereof, associated with KIRCHNER's receipt of the settlement proceeds discussed above. Further, KIRCHNER understands and agrees that VINELAND has not withheld any amount from the agreed upon payment made pursuant hereto for federal, state, or local taxes or other withholdings. KIRCHNER agrees that he shall be liable for any damage, loss, liability, or expense, including penalties, interests, and his own attorneys' fees, arising out of any actions, suits, proceedings, demands, judgments, or other loss resulting from any action, of any nature whatsoever, to require

any party to pay any such taxes or other withholdings which arise from the payment made hereunder.

KIRCHNER further agrees to indemnify, but not defend, the RELEASEES and hold them harmless from the assessment of any taxes owed by him (along with interest, penalties or other liabilities, excluding attorneys' fees, related to these taxes) and for any taxes arising out of or with respect to the Settlement Payment.

#### **IX. Modification**

No provision of this Agreement may be changed, altered, modified or waived except in writing signed by KIRCHNER and a duly authorized representative of VINELAND, which writing shall specifically reference this Agreement and the provision which the parties intend to waive or modify.

#### **X. Confidentiality**

KIRCHNER represents that he has and will keep the terms of this Agreement 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) KIRCHNER may disclose the financial terms of the Agreement to his attorney, financial advisor/auditor/accountant, spouse, clergy, and tax authorities if necessary after first obtaining that individual's agreement to keep the information confidential and not disclose it to others. To the extent permissible by law and subject to the provisions of the New Jersey Open Public Records Act ("OPRA") and New Jersey's Common Law Right to Know, the VINELAND DEFENDANTS represent that they will keep the terms of this Agreement 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 if they are required to reveal such information pursuant to legal process or by a regulatory body or agency. To the extent permissible by law and subject to the provisions of OPRA and New Jersey's Common Law Right to Know, VINELAND agrees that it shall direct its agents, representatives and employees with knowledge of this Agreement or the CIVIL ACTION, including employees Matthew Browne, Pedro Casiano, Brad Marchesano, Anthony Ruberti, Charles Capelli, Gary Apel, Craig Scarpa, Gregory Pacitto, and Leonard Wolf, to keep the terms of this Agreement 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 if they are required to reveal such information pursuant to legal process or by a regulatory body or agency. **Although the parties may have agreed to keep the settlement and underlying facts confidential, such provision against the employer, if any, is unenforceable against the employer if the employee publicly reveals sufficient details of the claim so that the employer is reasonably identifiable.**

KIRCHNER will say nothing about this Agreement, the CIVIL ACTION or the Released Claims to any past, present or future employees of the City. If KIRCHNER or the individual VINELAND DEFENDANTS are asked about this Agreement, the CIVIL ACTION or the

Released Claims they may only respond, "The matter has been resolved." VINELAND agrees that it shall direct its agents, representatives and employees with knowledge of this Agreement or the CIVIL ACTION, including employees Matthew Browne, Pedro Casiano, Brad Marchesano, Anthony Ruberti, Charles Capelli, Gary Apel, Craig Scarpa, Gregory Pacitto, and Leonard Wolf, to state "The matter has been resolved," if asked about this Agreement, the CIVIL ACTION or the Released Claims. Should KIRCHNER be requested to disclose the 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 Michael V. Madden, Esquire at Madden & Madden, P.A., 108 Kings Highway East, Suite 200, Haddonfield, New Jersey 08033. KIRCHNER further agrees that Releasees have standing to object to the disclosure on KIRCHNER's behalf, as well as on their own behalf. Assuming Releasees object to the request, KIRCHNER agrees to await the final outcome of the objection before making any disclosures about this Agreement or its terms, unless awaiting the final outcome of the objection would cause KIRCHNER to be in violation of a court order or lawfully served subpoena. Releasees shall bear all costs and attorney fees relating to their objection to disclosure.

KIRCHNER further understands and acknowledges that during the course of his employment with VINELAND, and during this CIVIL ACTION, KIRCHNER has had access to and learned about confidential, documents, materials, and other information, in tangible and intangible form, of and relating to RELEASEES ("Confidential Information"). KIRCHNER further understands and acknowledges that improper use or disclosure of the Confidential Information by KIRCHNER might cause RELEASEES to incur financial costs, damage to reputation, loss of business advantage, liability under confidentiality agreements with third parties, civil damages, and criminal penalties.

For purposes of this Agreement, Confidential Information includes, but is not limited to, all information that is marked or otherwise identified or treated as confidential in this CIVIL ACTION, or that would otherwise appear to a reasonable person to be confidential or proprietary in the context and circumstances in which the information is known or used. Notwithstanding the above, KIRCHNER's duty of confidentiality and non-disclosure under this Agreement as to information and materials obtained during his employment with VINELAND, shall be no greater than any other retired VINELAND Police Officer. Information and materials obtained during employment that have not been subject to a written confidentiality provision applicable to all previously retired Vineland Police Officers shall not be deemed Confidential Information under this Agreement.

KIRCHNER understands and agrees that Confidential Information is subject to the terms and conditions of this Agreement and shall only be disclosed in conformance with the Consent Confidentiality Order entered in the CIVIL ACTION. Confidential Information shall not include information that is generally available to and known by the public at the time of disclosure to Employee, provided that the disclosure is through no direct or indirect fault of KIRCHNER or person(s) acting on his behalf. KIRCHNER agrees and covenants to treat all Confidential Information as strictly confidential and not to directly or indirectly disclose, publish, communicate, or make available the Confidential Information, or allow it to be disclosed, published, communicated, or made available, in whole or part, to any entity or person whatsoever.



Nothing herein shall be construed to prevent disclosure of Confidential Information as may be required by applicable law or regulation, or pursuant to the valid order of a court of competent jurisdiction or an authorized government agency, provided that the disclosure does not exceed the extent of disclosure required by such law, regulation, or order. Should KIRCHNER be requested to disclose any Confidential Information 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 Michael V. Madden, Esquire at Madden & Madden, P.A., 108 Kings Highway East, Suite 200, Haddonfield, New Jersey 08033.

**XI. Mutual Non-Disparagement**

To the extent permitted by law, KIRCHNER and the VINELAND DEFENDANTS mutually agree to each other that neither they, nor any employee or agent, will make, publish or communicate any derogatory, false or disparaging statements regarding the past behavior of one another to any person or entity. VINELAND agrees that it shall specifically direct its employees Matthew Browne, Pedro Casiano, Brad Marchesano, Anthony Ruberti, Charles Capelli, Gary Apel, Craig Scarpa, Gregory Pacitto, and Leonard Wolf to refrain from making any derogatory, false, or disparaging statements regarding the past behavior of KIRCHNER to any person or entity.

**XII. Dismissal**

Contemporaneously with the execution of this Agreement, KIRCHNER and the VINELAND DEFENDANTS, through their respective counsel, shall execute the Stipulation of Dismissal, a copy of which is appended hereto as Exhibit "B", which shall be filed promptly in the Court in which the Civil Action is pending following receipt by KIRCHNER's counsel of those payment amounts and property set forth in Section I(a)-(c).

**XIII. Severability**

In the event any provision of this Agreement should be held to be unenforceable, each and all of the other provisions of this Agreement shall remain in full force and effect.

**XIV. Attorneys' Fees, Costs and Expenses**

KIRCHNER understands and agrees that the aforesaid payments to him include and encompass therein any and all claims with respect to attorneys' fees, costs, and expenses for or by any and all attorneys who have represented him or with whom he has consulted or who have done anything in connection with the Civil Action and/or the Released Claims. KIRCHNER shall not seek anything further from the VINELAND DEFENDANTS other than what is specified in this Agreement.

**XV. Entire Agreement**

The Parties hereto 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. The Parties 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. The Parties hereto further acknowledge and agree that language proposed for, deleted from, or otherwise changed in the various drafts of this Agreement, but not included herein, shall not be considered in any way in the interpretation and application of this Agreement and shall not in any way affect the rights and obligations of the parties hereto.

**XVI. Understanding**

KIRCHNER acknowledges and represents that he has read this Agreement in full and, with advice of counsel, understands and voluntarily consents and agrees to each and every provision contained herein.

**XVII. Applicable Law and Mutual Submission to Jurisdiction**

This Agreement shall be construed and enforced according to the laws of the State of New Jersey. KIRCHNER agrees to submit any and all disputes arising out of or based on this Agreement to the jurisdiction of the courts of the State of New Jersey.

**XVIII. Counterparts Acceptable**

This Agreement may be executed in any number of counterparts and each such counterpart shall have the same force and binding effect as if executed by all parties.

**XIX. Jury Trial Waiver**

KIRCHNER irrevocably and unconditionally waives his right to a trial by jury in any action or proceeding seeking to enforce or alleging the breach of any provision of this Agreement.

**XX. Effective Date of Agreement**

This Settlement Agreement shall not become effective or enforceable until this Agreement is fully executed by all parties hereto (“effective date”).

**XXI. Section Headings**

Section Headings contained in this Agreement are for convenience of reference only and shall not affect the meaning of any provision herein.

**XXII. Non-reimbursement Expenses**

The parties to this Agreement understand that many common medical expenses are not payable or reimbursable under the Medicare Program. These medical expenses, not covered by Medicare but which may be necessary in the ongoing treatment of KIRCHNER's alleged injuries, and without any admission of liability on the part of the Releasees, have been taken into consideration in the calculation and settlement of KIRCHNER's future medical expenses. Funds for these non-Medicare covered medical expenses have been included in the lump sum settlement amount and shall not be paid from any Medicare allocation amount.

### **XXIII. Benefit Eligibility**

KIRCHNER acknowledges that any decision regarding entitlement to Social Security Benefits or Medicaid benefits, including the amount and duration of payments, and offset reimbursement for prior payments, is exclusively in the jurisdiction of the Social Security Administration, the United States Government, and the US Federal Courts, and is determined by Federal Law and Regulations. As such, the United States Government is not bound by any of the terms of this Release.

### **XXIV. Future Benefits**

KIRCHNER has been apprised of his right to seek assistance from legal counsel of his choosing or directly from the Social Security Administration or other Government Agencies regarding the impact this Release may have on his current or future entitlement to Social Security or other Governmental benefits. KIRCHNER acknowledges that acceptance of these Settlement Funds may effect this rights to other Governmental benefits, insurance benefits, disability benefits or pension benefits. Notwithstanding this possibility, KIRCHNER desires to enter into this Settlement Agreement to settle his claims according to the terms set forth herein.

### **XXV. Medicare Recovery Action**

KIRCHNER agrees to hold harmless and indemnify Releasees from any cause of action, including but not limited to an action by CMS to recover or recoup Medicare Benefits or loss of Medicare Benefits, if CMS determines that the money set aside has been spent inappropriately or for any recover sought by Medicare, including past, present and future conditional payments. KIRCHNER agrees not to use designated Medicare allocation funds to pay claims for conditional payments that may have been made by Medicare.

### **XXVI. Acknowledgement**

KIRCHNER acknowledges that:

- a. Neither Releasees, nor their agents, representatives or employees have made any representations to him 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 consideration described herein, which he acknowledges as adequate and satisfactory to him and in addition to anything to which he 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 KIRCHNER 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.

**XXVII. Certification of Understanding and Competence**

KIRCHNER 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 and the May 1, 2015 incident up to the date of this Agreement; (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 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.

**[Signatures affixed on following pages.]**

IN WITNESS WHEREOF, the undersigned have executed this Agreement on the date shown below.

**KRISTIAN KIRCHNER**

\_\_\_\_\_

Date: \_\_\_\_\_

Sworn to and subscribed to before me on this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
NOTARY PUBLIC

**CITY OF VINELAND**

By: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

Sworn to and subscribed to before me on this \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
NOTARY PUBLIC

**TIMOTHY CODISPOTI**

\_\_\_\_\_

Date: \_\_\_\_\_

**JOHN LAURIA**

\_\_\_\_\_

Date: \_\_\_\_\_

# EXHIBIT A

- Green 7.62 ammo can (storage container)
- Green 9mm Frangible ammo can (storage container)
- Green 7.62 ammo can (storage container)
- Green 7.62 ammo can (storage container)
- Soft armor plate
- Shoprite Baby wipes
- J&J First Aid Kit
- VPD Badge #4636 Personally Purchased
- Passport Services Card #450949211

# EXHIBIT B