

## SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT (“**Agreement**”) is made and entered into as of the 24<sup>th</sup> day of June, 2024 (the “**Effective Date**”) by and among THE CITY OF BISBEE (“**City**”), on the one side, and CRAIG T. REECE and ANNE C. BUSH (collectively, the “**Debtors**”) on the other side. The City and Debtors are referred to individually herein as a “**Party**,” and collectively as the “**Parties**.”

### **I. RECITALS:**

1. WHEREAS, on or about February 14, 2024, there was a fire (the “**Main Street Fire**”) that originated at Debtors’ property located at 30 Main St., Bisbee, Arizona, Cochise County Parcel No. 103-62-163 (the “**Property**”) and more fully legally described in Exhibit “A,” which is attached hereto and incorporated herein; and,

2. WHEREAS, Debtors did not maintain property damage insurance on the Property; and,

3. WHEREAS, in connection with the City’s inspection obligations and to protect the safety of the local residents, the City declared an emergency in connection with the aftermath of the Main Street Fire, which required the closure of Main Street and Commerce Street; and,

4. WHEREAS, as a direct result of the Main Street Fire, the City was required to implement certain emergency safety measures to ensure that the various building structures damaged by the Main Street Fire did not collapse into Main Street or Commerce Street; and,

5. WHEREAS, the City expended in excess of \$163,790.22 associated with the necessary emergency measures directly related to the Property and on May 13, 2024, 2024, the City recorded a lien against the Property in the amount of \$163,790.22 (the “**City’s Lien**”); and,

6. WHEREAS, Debtors will attest under penalty of perjury that they do not have sufficient cash, funds, accounts, investments or other assets in which to address the cleanup obligations for the Property and wish to transfer ownership of the Property to the City in accordance with the terms of this Agreement; and,

7. WHEREAS, the Parties expressly acknowledge and agree that any liability Debtors have as a result of the Main Street Fire to other parties prior to the transfer of ownership of the Property to the City shall remain the obligations of Debtors and the City is not acquiring or waiving any such liabilities; and,

8. WHEREAS, upon transfer of the Property to the City, the City will be responsible for the future cleanup and remediation of the Property; and,

9. WHEREAS, the Parties desire to settle all claims and differences related to the Main Street Fire and the City’s Lien and have entered into this Agreement in order to resolve any pending issues through settlement rather than through litigation.

NOW THEREFORE, in consideration of the foregoing, the mutual agreements herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

## II. SETTLEMENT TERMS:

A. Recitals: The Parties acknowledge that the Recitals set forth above are true and correct, and are incorporated herein into this Agreement.

B. Transfer of Property: The City has agreed to accept the Property free and clear of any liens and encumbrances, except for the City's Lien. Debtors shall immediately provide the City with a Warranty Deed for the Property, which transfer of the Property shall be handled through Pioneer Title Agency.

C. Payment Terms: The Debtors shall pay the City Lien amount through equal monthly installments of \$500.00 per month ("**Installments**") beginning on August 1, 2024, and continuing on the first of every month thereafter until paid in full. The Installments will be secured through a Deed of Trust as provided for herein. All payments shall be sent to "City of Bisbee" and mailed to the City's current City Hall address. Debtors may prepay any Installment, including the remaining balance of the City Lien, without any penalty.

D. Default: Default shall be defined as a failure of the City to receive a payment within ten (10) calendar days from the first of every month. In the event of a Default, the City shall provide written notice of such Default and provide the Debtors with fifteen (15) calendar days to cure such Default. If the Debtors fail to cure within the fifteen (15) calendar day cure period then all remaining Installments due shall be increased to \$1,000.00 ("**Default Installments**"). Any Default that remains uncured for more than sixty (60) calendar days shall entitle the City to foreclose on the Deed of Trust provided for herein without further notice.

E. Deed of Trust: Within fourteen (14) calendar days of the Effective Date of this Agreement, Debtors shall execute a deed of trust ("**Deed**") for their real property located at \_\_\_\_\_, Bisbee, Arizona (the "**Security Property**") securing the amount of the City's Lien of \$163,790.22 ("**Secured Amount**"). The Deed shall be second only to a current deed of trust. Upon Default not timely cured by Debtors, the City shall be entitled, without further notice, to immediately foreclose the Deed and at which time the City may declare the remaining Secured Amount immediately due and payable.

F. Joint and Several Liability: The Debtors shall each be jointly and severally liable under the terms of this Agreement.

G. Release of Liens: Upon receipt of the total Secured Amount, the City shall release all liens it possesses encumbering Debtors' Security Property. The City shall file all documents necessary to effectuate such releases no later than fourteen (14) days after receipt of the total Secured Amount.

→ PARCEL # 11045001E, LOT C  
A PORTION OF SECTION 22, TOWNSHIP 22 SOUTH,  
RANGE 22 EAST, GILA AND SAG RIVER MERIDIAN,  
COCHISE COUNTY, ARIZONA

H. Notice: All notices, demands or other communications relative to this MOU must be in writing and are deemed duly delivered upon personal delivery, or as of the second business day after mailing by United States mail, postage prepaid, registered or certified, return receipt requested, addressed to the Parties at their respective addresses set forth below, or at such other address as a Party may designate in writing pursuant to the terms of this paragraph, or by any nationally recognized express or overnight delivery service (e.g., Federal Express or UPS), with all postage and other delivery charges prepaid as follows:

If to City: CITY OF BISBEE  
c/o City Manager's Office  
76 Erie Street  
Bisbee, Arizona 85603

If to any of the Debtors: Craig Reece and Anne Bush  
PO Box 1817  
Bisbee, AZ 85603

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If either Party changes address, they must give written notice to the other Party. Notice of change of address is deemed effective five (5) days after mailing by the Party changing address.

I. Severability: The Parties agree that should any part of this Agreement be held invalid or void, the remainder of the Agreement shall remain in full force and effect.

J. Each person signing this Agreement represents and warrants that he or she is authorized to sign on behalf of and bind the Party on whose behalf this document has been executed.

K. The Parties have read this Agreement and each is fully aware and understands all of its terms and legal consequences. The Parties represent that they have consulted with, and have received advice from independent legal counsel in connection with their review and execution of this Agreement, or have had sufficient opportunity and have declined to do so.

L. This Agreement may be executed in counterparts, each of which, when so executed, shall be an original, but such counterparts together shall constitute one and the same instrument and agreement. Facsimile or electronic signatures shall have the same force and effect as original signatures.

M. This Agreement shall be binding upon the Parties hereto and each of their respective successors and assigns.

N. The Parties agree that irreparable damage would result from any Party's breach of this Agreement and further agree that a non-breaching Party may have no adequate remedy at law to redress such breach. Therefore, the Parties agree that, in the event of a breach of this Agreement, specific performance and/or injunctive relief is appropriate to remedy any such breach of this Agreement. As such, the Party against whom specific performance is sought is barred and

estopped from alleging that specific performance cannot be awarded because the moving Party has an adequate remedy at law. To clarify, the only defense that a defending Party may assert against a request for specific performance is a defense based upon the merits that no breach has occurred. Notwithstanding the foregoing, nothing contained in this section shall be deemed a waiver by any non-breaching Party hereto of any other rights or remedies available at law or in equity to redress any other Part's breach of this Agreement.

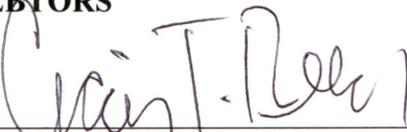
O. This Agreement contains the complete agreement between the Parties and no other document shall be relied upon by any of the Parties to supplement, modify, change, or affect the terms of this Agreement, unless entered into after the date of this Agreement and signed by all Parties hereto.

P. The Parties shall reasonably cooperate with each other to implement the terms and conditions of this Agreement and shall execute necessary documents to effectuate the terms of this Agreement.

Q. All Parties shall bear their own costs and attorneys' fees. In the event that any Party breaches this Agreement, the non-breaching Party shall be entitled to an award of its reasonable attorneys' fees and costs incurred in the enforcement of this Agreement.

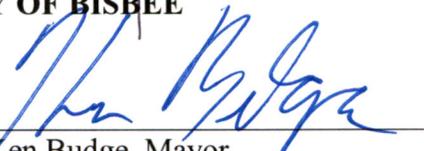
R. This Agreement shall be deemed to be made under, shall be construed in accordance with, and shall be governed by the internal, substantive laws of the State of Arizona (without reference to conflict of law principles). Any action brought to interpret, enforce, or construe any provision of this Agreement shall be commenced and maintained in the Superior Court of the State of Arizona in and for the County of Cochise (or, as may be appropriate, in the Justice Courts of Cochise County, Arizona, or in the United States District Court for the District of Arizona, if, but only if, the Superior Court lacks or declines jurisdiction over such action). The Parties irrevocably consent to jurisdiction and venue in such courts for such purposes and agree not to seek transfer or removal of any action commenced in accordance with the terms of this Section.

**DEBTORS**

  
\_\_\_\_\_  
Craig T. Reece

  
\_\_\_\_\_  
Anne C. Bush

**CITY OF BISBEE**

By:   
\_\_\_\_\_  
Ken Budge, Mayor

**ATTEST:**

Mina Williams, for  
Ashlee Coronado, City Clerk

**APPROVED AS TO FORM:**

  
Joseph D. Estes, City Attorney

**EXHIBIT "A"**

BISBEE E17.02' OF LOT 24 BY M&B BEG AT NE COR OF LOT 24 BLK 4 BISBEE TWNS  
S6DEG 35MIN W78.22' S86DEG 38MIN W17.46' N6DEG 35MIN E80' S83DEG 25MIN E17.02'  
TO BEG