

## SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS

This Settlement Agreement and Release of All Claims (the “Settlement Agreement”) is made and entered into by and among the Settling Parties as of the date that it is fully executed (the “Effective Date”) for the purpose of mutually resolving all disputes.

The terms of this Settlement Agreement are as follows:

### 1. SETTLING PARTIES

The Settling Parties include:

**A. Plaintiffs:** Manuel Castaneda, Rosa Castaneda, and Better Way, LLC, and their heirs, spouses, agents, successors, executors, representatives, administrators, and assigns, (collectively referred to as “Plaintiffs”) and

**B. Defendant:** City of Depoe Bay, and its heirs, agents, successors, executors, representatives, administrators, and assigns (collectively referred to as “Defendant”).

### 2. RECITALS

**A. Lawsuit:** Plaintiffs filed a lawsuit against Defendant in the United States District Court, District of Oregon, Eugene Division on November 30, 2023, which bears the following caption:

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
EUGENE DIVISION

MANUEL CASTANEDA, ROSA CASTANEDA,  
and BETTER WAY, LLC, an Oregon limited  
liability company,

Case No. 6:23-cv-01803-MC

Plaintiffs,

v.

CITY OF DEPOE BAY, a municipality and  
political subdivision of the State of Oregon,

Defendant.

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**B. Plaintiffs' Allegations:** Within their lawsuit, Plaintiffs allege that Defendant interfered with Plaintiffs' use of 130 NW Sunset Street, Depoe Bay, Oregon 97341, Zone, Map, and Tax Lot: Residential R-4, 09-11-05-CA #13500; deprived Plaintiffs of their property rights and liberty interests; and treated Plaintiffs differently from their similarly situated neighbors. Plaintiffs further allege that they incurred economic damages due to Defendant's "unconstitutional and illegal conduct," and asserted the following federal and state law claims for relief: (1) Takings, U.S. Constitution, Fifth Amendment; (2) Takings, Oregon Constitution Art. I, § 18; (3) Inverse Condemnation; (4) Due Process, U.S. Constitution, Fifth and Fourteenth Amendments; and (5) Equal Protection, U.S. Constitution.

**C. No Admission of Fault, Wrongdoing or Liability:** Defendant expressly denies all allegations raised in Plaintiffs' lawsuit, including any and all claims that it violated any local, state, or federal law, breached any duty or obligation, or committed any wrongdoing of any type whatsoever, and expressly denies that it is liable in any fashion to Plaintiffs for any allegations they assert in their lawsuit or otherwise. Nothing contained within this Settlement Agreement shall be construed to be an admission of guilt or liability, or of a concession of any kind and shall not be admissible in any proceeding as evidence of improper conduct by the Settling Parties except as necessary to enforce the terms of this Settlement Agreement.

**D. Complete and Final Compromise:** The Settling Parties have determined that it is in their mutual best interests to resolve all disputes between them by settlement to avoid the expense and burden of any further litigation, and accordingly, hereby enter into this Settlement Agreement as a complete and final compromise of all matters including disputed areas of fact and law, and that Plaintiffs' lawsuit shall be settled based on the terms and conditions stated herein.

### **3. CONSIDERATIONS SUPPORTING SETTLEMENT**

**A. Monetary Consideration:** In exchange for the promises and representations stated herein, and the property conveyance and releases described below, Defendant shall pay a total of Two Million Three Hundred and Ninety Thousand Dollars (\$2,390,000) (the "Monetary Consideration") by check payable to "Better Way, LLC." Better Way, LLC shall

deliver the appropriate IRS W-9 form to Defendant within five (5) business days of the Effective Date. Defendant shall hand-deliver the Monetary Consideration to Plaintiffs' attorneys within fifteen (15) business days of the Effective Date and receipt of the appropriate IRS W-9 form, whichever one occurs later. Plaintiffs represent and warrant that Better Way, LLC has the sole and exclusive right to receive the Monetary Consideration.

**B. Property Conveyance:** In exchange for the promises and representations stated herein and the monetary consideration described above, Better Way, LLC shall convey the land, and any interest therein, located and identified as 130 NW Sunset Street, Depoe Bay, Oregon 97341, Zone, Map, and Tax Lot: Residential R-4, 09-11-05-CA #13500 (the "Conveyed Property"), to Defendant by Statutory Warranty Deed, a copy of which is attached to and incorporated herein as Attachment A. Better Way, LLC shall execute the Statutory Warranty Deed (the "Executed Deed") concurrently with this Settlement Agreement. Plaintiffs shall record the Executed Deed with the Lincoln County Clerk's Office, and pay any costs associated with recording the Executed Deed, no sooner than ten (10) business days from the date Defendant hand-delivers the Monetary Consideration to Plaintiffs' attorneys.

**C. Dismissal of Lawsuit:** In exchange for the promises and representations stated herein and the monetary consideration described above, Plaintiffs shall cause a General Judgment of Dismissal to be entered as to all claims, without an award of costs or fees to any party, in the aforesaid federal district court lawsuit within ten (10) business days from receipt of the Monetary Consideration.

**D. Complete Release of Claims:**

1. In exchange for the promises and representations stated herein and the monetary consideration described above, Plaintiffs hereby completely, irrevocably and unconditionally release, acquit and forever discharge Defendant from any and all past, present, and future claims, rights, obligations, liabilities, actions, suits, and demands for relief of any kind whatsoever, including costs, expenses, and attorneys' fees, and from damages of every kind, nature, or basis whatsoever that Plaintiffs may have against Defendant, whether legal, equitable, statutory, common law, or otherwise, arising out of or in any

way related to any of the acts or omissions alleged in the aforesaid federal district court lawsuit, or which could have been raised at any time prior to the Effective Date of this Settlement Agreement, whether known or unknown, whether anticipated or unanticipated, and whether it exists now or accrues at any time in the future. Plaintiffs further hereby completely, irrevocably and unconditionally waive and assume the risk that there may be claims for damages which Plaintiffs do not know or suspect exist, and if known, would materially affect Plaintiffs' decision to enter this Settlement Agreement; and Plaintiffs expressly declare and represent that if, after the Effective Date of this Settlement Agreement, they discover evidence different from or in addition to the evidence which they now know of or possess, this Settlement Agreement shall remain in full force and effect. Defendant shall be entitled to costs, expenses, and attorney fees should Plaintiffs, at any time following the Effective Date, commence, maintain, or prosecute any action at law or assert any claim against Defendant for damages or losses of any kind or nature arising out of or in any way related to any of the acts or omissions alleged in the aforesaid federal district court lawsuit, or which could have been raised at any time prior to the Effective Date of this Settlement Agreement, whether known or unknown, whether anticipated or unanticipated, and whether it exists now or accrues at any time in the future.

2. In exchange for the promises and representations stated herein and the monetary consideration described above, Defendant hereby completely, irrevocably and unconditionally releases, acquits and forever discharges Plaintiffs from any and all past, present, and future claims, rights, obligations, liabilities, actions, suits, and demands for relief of any kind whatsoever, including costs, expenses, and attorneys' fees, and from damages of every kind, nature, or basis whatsoever that Defendant may have against Plaintiffs, whether legal, equitable, statutory, common law, or otherwise, arising out of or in any way related to any of the acts or omissions alleged in the aforesaid federal

district court lawsuit, or which could have been raised at any time prior to the Effective Date of this Settlement Agreement, whether known or unknown, whether anticipated or unanticipated, and whether it exists now or accrues at any time in the future. Defendant further hereby completely, irrevocably and unconditionally waives and assumes the risk that there may be claims which Defendant does not know or suspect exist, and if known, would materially affect Defendant's decision to enter this Settlement Agreement; and Defendant expressly declares and represents that if, after the Effective Date of this Settlement Agreement, it discovers evidence different from or in addition to the evidence which it now knows of or possesses, this Settlement Agreement shall remain in full force and effect. Plaintiffs shall be entitled to costs, expenses, and attorney fees should Defendant, at any time following the Effective Date, commence, maintain, or prosecute any action at law or assert any claim against Plaintiffs for damages or losses of any kind or nature arising out of or in any way related to any of the acts or omissions alleged in the aforesaid federal district court lawsuit, or which could have been raised at any time prior to the Effective Date of this Settlement Agreement, whether known or unknown, whether anticipated or unanticipated, and whether it exists now or accrues at any time in the future.

#### **4. GENERAL TERMS AND CONDITIONS**

**A. Taxes:** The Settling Parties hereby warrant and represent that they have not relied upon any statement made by any other Settling Party concerning the tax effect or consequences of the Monetary Consideration or of this Settlement Agreement, nor has any Settling Party warranted or represented how the United States Internal Revenue Services, the Oregon Department of Revenue, or any other governmental agency or authority will treat the Monetary Consideration and this Settlement Agreement for tax purposes. Plaintiffs warrant and represent that any tax effect or consequences arising from the

Monetary Consideration and this Settlement Agreement are the sole and separate obligations of Plaintiffs.

**B. Further Assurances:** The Settling Parties shall execute and deliver any further documents, instruments, and other agreements as are necessary to carry out the terms and purposes of this Settlement Agreement.

**C. Costs and Expenses:** The Settling Party shall bear their own costs, expenses, and attorney fees incurred in and arising out of the matters in dispute which are the subject of this Settlement Agreement.

**D. Voluntary Agreement and Knowing Release:** The Settling Parties hereby warrant and represent that they have the legal capacity to execute this Settlement Agreement that they freely and voluntarily accept the terms, conditions, and provisions of this Settlement Agreement. The Settling Parties further warrant and represent that they have independently read this Settlement Agreement in its entirety and that they apprised themselves of sufficient relevant information and had a sufficient opportunity to consult with an attorney so that they may exercise their own independent judgment in deciding whether to execute this release.

**E. Legal Representation:** Plaintiffs have been represented by Joseph L. Franco, OSB # 073913, Sarah Molinoff, OSB #215833, and Greg Mina, OSB #195310 of Holland & Knight LLP, 601 SW Second Ave, Suite 1800, Portland, Oregon 97204. Defendant has been represented by Kenneth S. Montoya, OSB #064467, and Keegan C. Murphy, ORSB #194264, of Montoya Law, LLC, 205 Mission Street SE, Suite 201, Salem, Oregon 97302, as well as Blake J. Robinson, OSB #084543 and Marcus Eyth, OSB #091041 of Davis Wright Tremaine LLP, 560 SW 10<sup>th</sup> Ave, Suite 700, Portland, Oregon 97205.

**F. Rule of Construction Against Drafter.** The Settling Parties and their respective attorneys have reviewed, revised, and negotiated, or had the opportunity to review, revise, or negotiate the terms, conditions, and language of this Settlement Agreement. As such, this Settlement Agreement shall not be strictly construed against any particular Settling Party and any rule that would otherwise require any ambiguities in this Settlement Agreement to be interpreted against the drafter(s) is hereby expressly waived.

**G. Invalidity and Severability:** If any provision contained within this Settlement Agreement is for any reason held to be invalid, illegal, void, or unenforceable in any respect, such provision shall be deemed modified so as to constitute a provision conforming as nearly as possible to such invalid, illegal, void, or unenforceable provision while still remaining valid and enforceable. All other remaining terms and provisions of this Settlement Agreement shall remain in full force and effect and shall not be affected by the invalid, illegal, void, or unenforceable provision or by its severance from this Settlement Agreement.

**H. Waiver of Terms and Conditions:** The waivers and releases of claims in this Settlement Agreement are intended to be broad and comprehensive and to reach the maximum scope and extent permitted by law. The failure by any Settling Party to enforce at any time, or for any period of time, one or more of the terms or conditions of this Settlement Agreement shall not be a waiver of such terms or conditions or of such party's right to enforce each and every term and condition of this Settlement Agreement.

**I. Entire Binding Agreement:** This Settlement Agreement contains the entire agreement between and among the Settling Parties regarding the matters set forth herein. The terms of this Settlement Agreement are contractual and not a mere recital, and are conclusive and binding on the Settling Parties, and their heirs, representatives, executors, administrators, successors, insurers and assigns.

**J. Governing Law and Dispute Resolution.** This Settling Agreement shall be construed and interpreted in accordance with the laws of the state of Oregon without regard to its principles of conflicts of laws. The terms of this Settlement Agreement are contractual and are not a mere recital. Any dispute relating to this Settlement Agreement shall be submitted to the Honorable John V. Acosta. Judge Acosta's ruling shall be final and binding.

**K. Amendments and Modifications.** This Settlement Agreement may not be amended or modified except in writing signed by all Settling Parties.

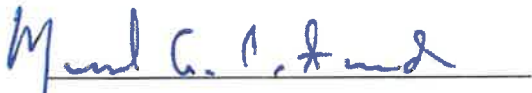
**L. Counterparts.** This Settlement Agreement may be executed in one or more counterparts, including but not limited to facsimile or electronically scanned .pdf

counterparts, and all so executed shall constitute one agreement, binding on all the Settling Parties, even though all Settling Parties are not signatories to the original or the same counterpart. Any counterpart of this Settlement Agreement, which has attached to it separate signature pages, which altogether contain the signatures of all Settling Parties, is for all purposes deemed a fully executed instrument.

**M. Effectiveness.** This Settlement Agreement shall become effective immediately following execution by each of the Settling Parties.

**We, the undersigned, hereby declare that we have read the foregoing Settlement Agreement carefully and in its entirety; we fully understand its contents; there is no consideration, payment, promise, inducement, or agreement of any kind other than what is expressed herein; we voluntarily and knowingly accept its terms and provisions as the complete and final agreement; and we hereby execute the Settlement Agreement as our free and voluntary act and deed.**

**IT IS SO AGREED BY THE SETTLING PARTIES:**

  
Manuel Castaneda

07-07-2026  
Date

  
Rosa Castaneda

7/7/26  
Date

  
Better Way, LLC

07-07-2026  
Date

Authorized Representative Name: MANUEL A. CASTANEDA

Kimberly A Wollenburg

City of Depoe Bay

7/8/26

Date

Authorized Representative Name:

Kimberly A Wollenburg

**APPROVED AS TO FORM:**

Joseph L. Franco

Joseph L. Franco, OSB # 073913

Of Counsel for Plaintiffs

7/6/26

Date

Kenneth S. Montoya

Kenneth S. Montoya, OSB # 064467

Of Counsel for Defendant

Date

**Attachment A to Settlement Agreement and Release of All Claims**

After Recording Return To:  
City of Depoe Bay  
P.O. Box 8  
Depoe Bay OR 97341

Until a change is requested, all tax statements will be sent to:  
City of Depoe Bay  
P.O. Box 8  
Depoe Bay OR 97341

**STATUTORY WARRANTY DEED**

Better Way, LLC, an Oregon limited liability company, Grantor, conveys and warrants to City of Depoe Bay, an Oregon municipal corporation, Grantee, that certain real property situated in Lincoln County, Oregon and described on Exhibit A, attached hereto and incorporated herein, free of encumbrances except those matters specifically set forth on Exhibit B, attached hereto and incorporated herein.

The true consideration for this conveyance consists of other value given which is the whole of the consideration.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

[Signature appears on the following page]



**EXHIBIT A**  
Legal Description of Property

**PARCEL 1:**

BEGINNING AT THE SOUTHWEST CORNER OF LOT 1, BLOCK 23, SUNDOWNE ADDITION TO DEPOE BAY, IN LINCOLN COUNTY, OREGON; THENCE EAST ALONG THE SOUTH LINE OF SAID LOT 1 A DISTANCE OF 42 FEET TO A HEXAGON GUN BARREL; THENCE NORTHERLY TO A PIPE SET ON THE NORTH LINE OF SAID LOT 1 THAT IS 34.6 FEET EASTERLY WHEN MEASURED ALONG THE NORTH LINE OF SAID LOT 1 FROM THE NORTHWEST CORNER OF SAID LOT 1; THENCE WESTERLY ALONG THE NORTH LINE OF SAID LOT 1 A DISTANCE OF 34.6 FEET TO THE NORTHWEST CORNER OF SAID LOT 1; THENCE SOUTHERLY ALONG THE WEST LINE OF SAID LOT 1 TO THE POINT OF BEGINNING.

NOTE: THIS LEGAL DESCRIPTION WAS CREATED PRIOR TO JANUARY 1, 2008.

**PARCEL 2:**

LOT 2, BLOCK 23, SUNDOWNE ADDITION TO DEPOE BAY, IN LINCOLN COUNTY, OREGON.

**EXHIBIT B**  
Permitted Exceptions

1. Deed dated October 3, 1929 and recorded January 15, 1930 in Book 58, Page 261, Deed Records.
2. Easement, including terms and provisions contained therein:  
Recording Information: October 12, 1960 in Book 211, Page 608, Deed Records  
In Favor of: Adjacent property  
For: Septic drain line
3. Easement, including terms and provisions contained therein:  
Recording Information: August 07, 2001 in Book 427, Page 1410, Microfilm Records  
In Favor of: William and Fran Just  
For: Encroachment

