

SETTLEMENT AGREEMENT AND MUTUAL RELEASES

THIS SETTLEMENT AGREEMENT AND MUTUAL RELEASES ("Agreement") is entered into this ___ day of June, 2009, by and between the Town of Hayden, Colorado ("Town"), Robinson Construction Co., ("Robinson") and Safeco Insurance Company of America ("Safeco"), herein collectively referred to as the "Parties",

WITNESSETH:

WHEREAS, Town duly authorized development of The Villages of Hayden, Phase 1, Filing 1 pursuant to applications and related materials submitted by 4S Development, Ltd. ("4S"), as set forth in Ordinance 566 (the "Development"); and

WHEREAS, 4S entered into a contract in writing with Robinson, dated June 19, 2006 (the "Contract"), to construct certain improvements for the Development pursuant to plans and specifications prepared by Boundaries Unlimited, Inc.; and

WHEREAS, Town and 4S entered into a Subdivision Improvements Agreement for Villages at Hayden Filing I pursuant to which 4S posted certain security for the completion of certain improvements for the Development, ; and

WHEREAS, Robinson has performed most, but not all, of the work provided in the Contract, but has not received payment from 4S for all such work performed, and has recorded a Mechanic's Lien dated September 10, 2007, in the amount of \$1,411,090.76 to secure payment of amounts unpaid for work performed; and

WHEREAS, 4S is in default of its obligations under both the Contract and the Subdivision Improvements Agreement, is insolvent, and is the subject of a bankruptcy proceeding; and

WHEREAS, Town has obtained the security posted by 4S for the completion of the described improvements; and

WHEREAS, disputes have arisen between the Parties relative to the validity of Safeco Construction Contract Bond # 6438268 dated November 17, 2006 (the "Construction Contract Bond") and the completion of certain construction, all as asserted or capable of being asserted in an action pending in the U.S. District Court for the District of Colorado captioned "Robinson v. Town and Safeco," Case No. 08-CV-01805 (the "Litigation"); and

WHEREAS, the Parties desire to compromise and settle all such disputes in accordance with the terms of this Agreement; and

WHEREAS, Town wishes to have certain work completed by Robinson and to make payment to Robinson therefor from the security posted by 4S as herein set forth, and Robinson is willing to complete that work upon the terms of this Agreement,

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein set forth, it is agreed:

1. Upon the execution of this Agreement, Town will deposit with Land America Title Insurance Company ("Escrow") the sum of \$ 60,000.00, as the estimated cost of items 2a-f below.

2. Upon confirmation of such deposit, Robinson will arrange for or perform the following work (the "Work"), and will prosecute the Work with reasonable diligence to completion:

- a. Install the concrete ADA pedestrian ramps;
- b. Complete the park amenities – mounds, irrigation system, soft surface path, sidewalk, trees and native seeding in accordance with the previously approved plans dated 6/05/06;
- c. Complete the Landmark Consultants, Inc additional correction items 1 through 5 and 1 through 4 that resulted from the May 7, 2009, inspection report from Robert Frank and Frank Fox contained in the letter dated May 1, 2009, to Russ Martin, Town Manager;
- d. Complete the Landmark Consultants, Inc punch list items 1-54 that resulted from the November 3rd, 2008, inspection report from Frank Fox and Matt Egan contained in the letter dated November 6th, 2008, to Russ Martin, Town Manager;
- e. Robinson will provide the Town with a Maintenance Bond, in the amount of \$100,000.00, in a form satisfactory to the Town, to warrant the work as described as the Landmark Consultants, Inc additional correction items 1 through 5 that resulted from the May 7, 2009, inspection report from Robert Frank and Frank Fox contained in the letter dated May 19, 2009, to Russ Martin, Town Manager;
- f. Robinson will not be responsible for construction of any sidewalks, driveways, trails, landscaping, or other items not specifically described above.

3. Robinson shall comply with all provisions of the Contract applicable to the Work, and shall comply with all laws and regulations. Town warrants and represents that Robinson may have full access to the site of the work, and that Robinson's work is not subject to any requirements for the payment of any particular rate of wages nor the posting of any bond. Robinson warrants and represents that it will make payment to all persons supplying labor, materials or equipment used in the Work. Robinson will provide the Town with a copy of the Contract upon deposit of the funds with the Escrow.

4. Upon completion of items 2a-f as set forth above, Robinson shall present to Town and Escrow its certification of such completion and Escrow shall disburse to the order of Robinson the funds deposited by the Town.

5. Town shall have reasonable access to the site of the Work for inspection and observation. Upon completion of the Work, the Development will be deemed completed and accepted of record by Town, and Town will issue permits for construction of single and multi-family homes upon proper application.

6. Upon the Town's deposit of the Escrow in paragraph 1 and Robinson's delivery of the Maintenance Bond in paragraph 2(e), Town and Safeco each release and forever discharge the other from any and all claims or demand of whatsoever nature heretofore or hereafter arising relative to the Development, the Contract or the Construction Contract Bond, including but not limited to any and all claims asserted or capable of being asserted in the Litigation.

7. Upon the Town's deposit of the Escrow in paragraph 1 and Robinson's delivery of the Maintenance Bond in paragraph 2(e), Town and Robinson and all of Robinson's related and affiliated entities, insurers, agents, and officers each release and forever discharge the other from any and all claims or demand of whatsoever nature heretofore or hereafter arising relative to the Development, the Contract or that certain Construction Contract Bond described in the Litigation, including but not limited to any and all claims asserted or capable of being asserted in the Litigation, except only those arising out of this Agreement. Town and Robinson each specifically reserve all claims against persons and firms not Party to this Agreement.

8. Upon the Town's deposit of the Escrow in paragraph 1 and Robinson's delivery of the Maintenance Bond in paragraph 2(e) the Parties will file a stipulated motion to dismiss the Litigation with prejudice and without costs or attorney fees.

9. Nothing in this Agreement shall limit or otherwise restrict Safeco's ability to seek recovery or indemnity from Robinson in connection with the Litigation or the Construction Contract Bond.

10. Each Party warrants its authority to enter into and execute this Agreement. This Agreement is binding upon the Parties, their representatives, successors and assigns. Except as expressly set forth herein, this Agreement shall not operate for the benefit of any other party. Except as expressly set forth herein, all terms and conditions relative to the subject of the matters described in this Agreement are set forth in this Agreement. This Agreement may not be modified except in writing executed by all Parties. This Agreement may be signed in counterparts. Facsimile signatures shall have the same force and effect as original signatures.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date above set forth, and the individuals signing below warrant their authority so to do.

TOWN OF HAYDEN, COLORADO

By [Signature]
Title: Mayor

Approved as to form:

Its attorney

ROBINSON CONSTRUCTION CO.

By _____
Title: _____

Approved as to form:

Its attorney

SAFECO INS. CO. OF AMERICA

By _____
Title: _____

Approved as to form:

Its attorney