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RESOLUTION NO. 14-301

BOARD OF COUNTY COMMISSIONERS  
COUNTY OF EL PASO, STATE OF COLORADO

RESOLUTION APPROVING MEDIATION SETTLEMENT AGREEMENT  
REGARDING THE MATTER OF THE BOARD OF COUNTY  
COMMISSIONERS OF THE COUNTY OF EL PASO, COLORADO v.  
BROOKMOOR HOMEOWNERS ASSOCIATION AND MOUNTAIN DESERT  
INVESTMENTS, LLC

WHEREAS, pursuant to C.R.S. §§ 30-11-101(1), 30-11-103 and 30-11-107(1), the Board of County Commissioners of El Paso County, Colorado (hereinafter "Board"), has the legislative authority to make all contracts and to settle all accounts of the County and to exercise such other and further powers as are conferred by law; and

WHEREAS, there is a pending lawsuit in El Paso County District Court filed under case number 2013CV1006 by the Board against the Brookmoor Homeowners Association and Mountain Desert Investments, LLC involving violations of the Brookmoor PUD Plan; and

WHEREAS, the Board desires, by means of a Mediation Settlement Agreement ("Agreement"), attached hereto as Exhibit 1, to settle and dismiss claims against the Brookmoor Homeowners Association and Mountain Desert Investments, LLC in exchange for consideration described in Exhibit 1; and

WHEREAS, the Agreement and consideration therein between the Board, the Brookmoor Homeowners Association, and Mountain Desert Investments, LLC is the proper means to reach full and final settlement of all claims made by the Board; and

WHEREAS, it is necessary that the Agreement be approved by the Board in order to effectuate the settlement described in Exhibit 1.

NOW, THEREFORE, BE IT RESOLVED, that the Board of County Commissioners hereby approves the Mediation Settlement Agreement pertaining to claims made by the Board regarding violations of the Brookmoor PUD Plan as fully described in Exhibit 1.

BE IT FURTHER RESOLVED, that Dennis Hisey, Chair of the Board of County Commissioners, or Amy Lathen, Vice Chair, be and is hereby appointed and authorized to execute all reasonable and necessary documents on behalf of the Board in order to complete the transaction described herein.

WAYNE W. WILLIAMS  
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El Paso County, CO



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DONE THIS 19<sup>th</sup> day of August, 2014 at Colorado Springs, Colorado.

**BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO**



By: Wayne W. Williams  
Wayne W. Williams  
El Paso County Clerk and Recorder

By: Dennis Hisey  
Dennis Hisey, Chair

## MEDIATION SETTLEMENT AGREEMENT

This Mediation Settlement Agreement is made and entered into this 6<sup>th</sup> day of August, 2014 by and between the Board of County Commissioners of the County of El Paso (the "County"), Brookmoor Homeowner's Association ("Brookmoor"), Ricardo and Laura Gomez ("Gomez"), and Mountain Desert Investments, Inc. ("Mountain") (collectively the "Parties").

In settlement of the claims, counterclaims, or cross-claims (collectively "Claims") which were or could have been asserted in El Paso County District Court Case No. 2013CV1006 (the "Action"), the Parties stipulate and agree as follows:

1. Boundary Wall. The County agrees that the Boundary Wall which is located along the perimeter of the Brookmoor Subdivision including that portion which is located on the Gomez's property (as shown on the attached Exhibit A) may remain in its current location, and dimensions. The Claim by the County to abate or remove the Boundary Wall is withdrawn, with prejudice. The Parties agree to cooperate with one another to amend the Brookmoor PUD plan to reflect the Boundary Wall as it currently exists; the County will waive application fees for the amendment.

2. Back Gate. The County and Brookmoor will enter into a stipulation identical to or substantially similar to the document attached as Exhibit B within fifteen (15) days of the Effective Date.

3. Payment. The County intends to move a portion of Lake Woodmoor Drive to correct the sight distance limitations existing at the entry to the Brookmoor Subdivision. The remaining Parties shall pay to the County within fifteen (15) days of the Effective Date of this Agreement (Section 7. below), the following amounts to defray the costs of future improvements:

- a. Brookmoor. Eighteen Thousand Four Hundred Fifty and no/100 dollars (\$18,450.00)
- b. Mountain. Three Thousand One Hundred and no/100 dollars (\$3,100.00)
- c. Gomez. Three Thousand Five Hundred and no/100 dollars (\$3,500.00)

4. Release. Upon and in consideration of payment of the sums set forth in paragraph number 3, the County, Brookmoor, including all its members, Mountain, and Gomez release and discharge each other, their officers, directors, agents, attorneys, successors and assigns from any claim, demand, action, cause of action of any nature whatsoever which relates to or derives from

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the facts or circumstances that were alleged in the Action, including but not limited to those related to the construction of the Boundary Wall, and any and all claims related to the Action that could have been brought by Gomez had they been a party to the Action.

5. Dismissal. Upon payment in accordance with Section 3 above, the Parties will execute and file a Stipulation for Dismissal with Prejudice, of all claims which were or could have been asserted in the Action.

6. No Admission of Liability. Despite the execution and performance of this Agreement by the Parties, no party acknowledges or admits liability in regard to the subject matter of this action.

7. Approval. The parties acknowledge that this Agreement requires the approval of the Board of County Commissioners at a public meeting. The County will schedule consideration of the matter at the next available opportunity. This Agreement shall be effective upon such Approval by the County ("Effective Date"). Pending consideration and approval by the County, The provisions of this Agreement shall constitute the irrevocable offer of Brookmoor, Mountain and Gomez.

8. Enforcement. In the event of any legal proceedings to enforce any term of this Agreement, the prevailing party (or parties) shall recover all reasonable costs and expenses, including attorneys' fees.

9. Counterparts. This Agreement may be executed in counterparts with each separately signed counterpart, when taken together, shall be deemed to be a complete contract of the Parties.

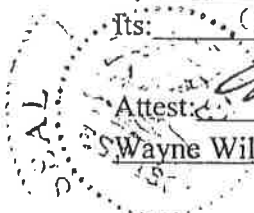
**BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY**

**BROOKMOOR HOMEOWNERS  
ASSOCIATION**

By: [Signature]  
Its: \_\_\_\_\_


By: Sylvia J. Cornell  
Its: President

Attest: [Signature]  
Wayne Williams, Clerk and Recorder



RVA  
SIC  
[Signature]

**MOUNTAIN DESERT INVESTMENTS, INC.**

By:   
Its: MANAGER MICHAEL L. BRENNAN

**RICARDO GOMEZ**

**LAURA GOMEZ**





Approved as to form:

**Office of the County Attorney  
of El Paso County, Colorado  
Attorneys for Board of County Commissioners  
of the County of El Paso**

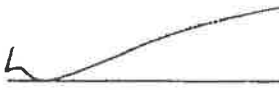
**Flynn Wright & Fredman, LLC  
Attorneys for Brookmoor Homeowners  
Association**

  
Steven Klaffky, Assistant County Attorney

  
Jane B. Fredman

**Anderson Dude & Lebel, PC  
Attorneys for Mountain Desert Investments, Inc.**

**Sparks Willson Borges Brandt  
& Johnson, PC  
Attorneys for Ricardo and Laura Gomez**

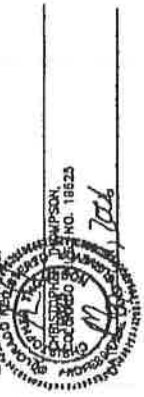
  
Bryce Meighan

  
Scott W. Johnson

SK  
JBF  
BA

# IMPROVEMENT LOCATION CERTIFICATE

I HEREBY CERTIFY THAT THIS IMPROVEMENT LOCATION CERTIFICATE WAS PREPARED FOR VANTAGE HOMES CORPORATION, A CORPORATION ORGANIZED UNDER THE LAWS OF THE STATE OF COLORADO, AND THAT IT IS NOT TO BE RELIED UPON FOR THE ESTABLISHMENT OF FENCE, BUILDING OR OTHER FUTURE IMPROVEMENTS UNLESS I FURTHER CERTIFY THAT THE IMPROVEMENTS ON THE ABOVE DESCRIBED PARCEL, ON THIS DATE, AUGUST 25th, 2006, EXCEPT UTILITY CONNECTIONS, ARE ENTIRELY WITHIN THE BOUNDARIES OF THE PARCEL, EXCEPT AS SHOWN, THAT THERE ARE NO ENCROACHMENTS ON THE DESCRIBED PREMISES BY IMPROVEMENTS ON ANY ADJOINING PREMISES, EXCEPT AS INDICATED, AND THAT THERE IS NO APPARENT EVIDENCE OR SIGN OF ANY EASEMENT CROSSING OR BURDENING ANY PART OF SAID PARCEL, EXCEPT AS SHOWN.



LEGAL DESCRIPTION: LOT 1, BROOKHURST FILING NO. 1 AS RECORDED UNDER RECEPTION NUMBER 87800533 IN THE CITY OF COLORADO SPRINGS, EL PASO COUNTY, COLORADO.

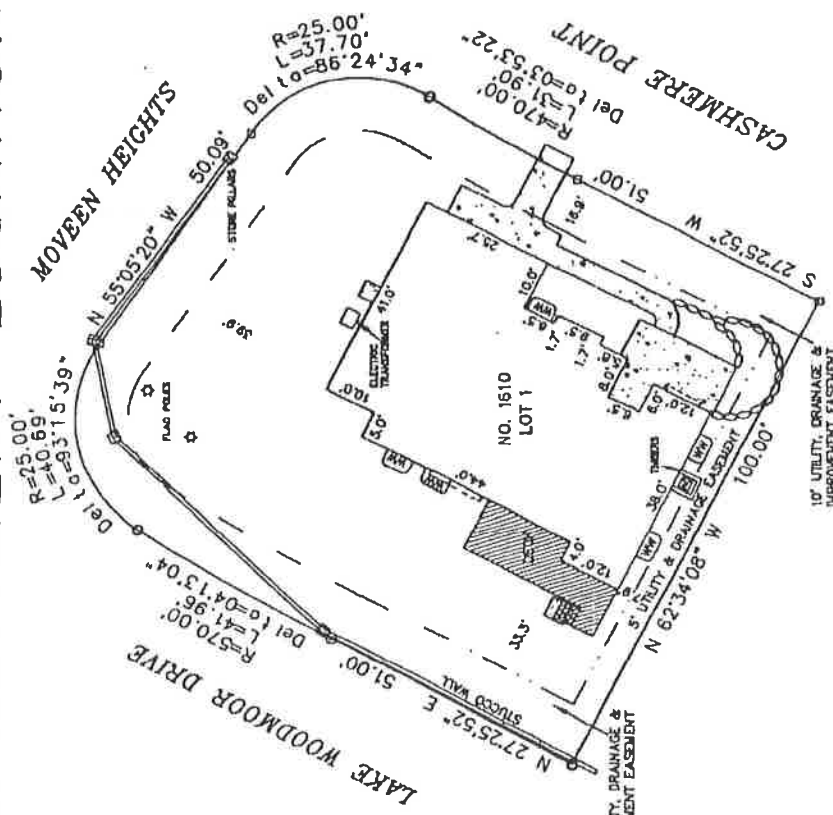
ADDRESS: 1610 CASHMERE POINT COLORADO SPRINGS, EL PASO COUNTY, COLORADO

FLOOD PLAIN CERTIFICATION: PURSUANT TO NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP NO. 17040C0074E (EFFECTIVE DATE MARCH 17, 1997) THE DESCRIBED AREA IS IN ZONE V-1 AN AREA DETERMINED TO BE OUTSIDE THE BOUNDS OF THE 100 YEAR FLOOD PLAIN.

EASEMENTS: ALL EASEMENTS SHOWN HEREON ARE BASED ONLY ON THE RECORDED SUBDIVISION PLAT NOTED IN THE LEGAL DESCRIPTION. NO OTHER EASEMENTS OF RECORD ARE SHOWN.

NOTE: TIES SHOWN ARE AT RIGHT ANGLES FROM THE PROPERTY LINE TO THE EXTERIOR FOUNDATION CORNERS.

**ROCKY MOUNTAIN LAND SERVICES**  
1633 SOUTH TELON STREET  
COLORADO SPRINGS, COLORADO  
718-630-0559



NOTE: THE IMPROVEMENTS WERE UPDATED ON MARCH 14th, 2006

- ⊙ INDICATES A SET NAIL AND WASHER IN CONCRETE, NO. 19925, RMLS
- INDICATES A FOUND REBAR AND ALUMINUM CAP NO. 31161, J R ENG.
- INDICATES A FOUND REBAR AND YELLOW PLASTIC CAP NO. 18465, LDC INC.

SCALE: 1" = 20'  
JOB NO. 25132



BAI  
JBF  
SK

DRAFT STIPULATION BETWEEN  
COUNTY AND HOA

1. The emergency gate, as depicted in the PUD Development Plan and associated County approvals, shall be used only for emergency access. Emergency access is defined as access for emergency responders, evacuation, and ingress and egress in the event of an imminent threat to personal safety or property that can only be safely avoided by using the emergency gate.
2. The Brookmoor HOA will maintain a combination code lock on the outside of the emergency gate which will be interlocked with the first responders' Knox lock.
3. The Brookmoor HOA board will pass a resolution providing for procedures for enforcing the use of the Gate in order to comply with paragraph 1, and other enforcement remedies.
4. For a period of one year from the Effective Dates, the HOA may permit use of the emergency gate by construction vehicles which are too large to enter through the front gate, or entering for the purpose of developing the subdivision. At the end of the year, the emergency gate may only be used for emergency access, unless the HOA amends the PUD Plan through the County's public and use process. The County agrees to waive any of the HOA's application fees for such amendment.



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