

# CITY CLERK ORIGINAL

C-8184  
08/15/2012

## REAL PROPERTY PURCHASE AND EXCHANGE AGREEMENT

**DATE:** August 15, 2012

**PARTIES:** **Mandalay Communities, Inc., an Arizona corporation**  
2320 E. Baseline Road, Ste. 148-605  
Phoenix, Arizona 85042  
("Mandalay")

**City of Glendale, an Arizona municipal corporation**  
5850 West Glendale Avenue  
Glendale, Arizona 85301  
Attention: City Attorney  
("City")

**ESCROW AGENT:** **Fidelity National Title Agency, Inc.**  
Attention: Christine Hughes, AVP, Manager  
60 E. Rio Salado Parkway, Ste. 1102  
Tempe, Arizona 85281  
("Escrow Agent")

### RECITALS

I. Mandalay is the owner of certain real property identified as a part of Maricopa County Assessor Parcel Number 200-25-162A, legally described and as shown on Exhibit A attached hereto (the "Mandalay Property"). A City sidewalk currently encroaches upon the Mandalay Property.

II. The City owns real property identified as Maricopa County Assessor Parcel Number 200-25-365, legally described and as shown on Exhibit B attached hereto (the "City Property"). The City Property is located in the right-of-way of Topeka Drive.

III. Mandalay desires to develop property adjacent to the City Property as residential lots with direct legal access to Topeka Drive and therefore desires to acquire fee title to the City Property for its development purposes.

IV. The City no longer requires the City Property for right-of-way purposes and desires to exchange the City Property for the Mandalay Property to eliminate the sidewalk encroachment. The City Property consists of approximately .03 acres and the Mandalay Property consists of approximately .06 acres, and, given their present and best use, are considered to be of substantially equal value.

V. The transactions contemplated by this Agreement are authorized and governed by the GLENDALE CITY CODE, Chapter 2, Article V, Division 3, and A.R.S. §9-407.

## AGREEMENT

In consideration of the mutual promises and covenants set forth in this Real Property Purchase and Exchange Agreement (“Agreement”), the Parties above agree to an exchange of the properties identified in Exhibits A and B under the terms and conditions set forth in this Agreement.

1. SALES PRICE; ANALYSIS.

The Parties agree that the values of the properties to be exchanged are substantially equivalent in size, location and value so additional compensation need not be paid by either Party.

2. ACCEPTANCE.

This Agreement is subject to and contingent upon the approval of the City Council for the City.

3. TITLE POLICY COVERAGE AMOUNTS.

Escrow Agent shall issue a standard coverage policy of title insurance on the Mandalay Property in favor of the City in the amount of \$5,000.00 and Mandalay shall pay the cost thereof with the City to pay any excess if additional insurance is requested pursuant to Section 7 below. Escrow Agent shall issue an extended coverage policy of title insurance on the City Property in favor of Mandalay in such amount as Mandalay shall instruct Escrow Agent at Mandalay’s sole cost and expense.

4. PRELIMINARY TITLE REPORT.

Promptly following the opening of Escrow, the Escrow Agent shall deliver to the parties current commitments for title insurance (the “Reports”) issued by the Escrow Agent on both the City Property and the Mandalay Property (collectively, the “Properties”). The Reports shall show the status of title to the Properties as of the date of the Reports and shall be accompanied by legible copies of all documents referred to in the Reports.

5. REVIEW PERIOD.

A. Each Party shall have twenty (20) days (the “Review Period”) following receipt of each respective Report to approve or disapprove matters related to title as shown by the respective Report on the property being acquired by such party. If the Escrow Agent issues a supplemental or amended title report showing additional exceptions to title (an “Amended Report”), the parties shall have a period of time equal to ten (10) days (a “Supplemental Review Period”) from the date of receipt of the Amended Report and a copy of each document referred to in the Amended Report in which to give notice of dissatisfaction as to any additional exceptions. If any Party is dissatisfied with any exception to title as shown in such Report or such Amended Report, then, at its sole option, the Party may either (i) cancel this Agreement by giving written notice of cancellation to the other Party or (ii) provisionally accept, by written

notice to the other Party, the title subject to the other Party's removal of any disapproved matters, exceptions or objections, in which case the other Party shall use commercially reasonable efforts to remove the matters, exceptions, or objection or obtain title insurance endorsements, if available, satisfactory to the other Party insuring over or against such matters, provided, further however, that no Party shall be obligated to expend in excess of \$250 total in curing any title defect or defects complained of by the other Party unless expressly agreed in writing hereafter. The failure to timely object or elect to terminate under this Section shall be deemed to waive such party's right to object or to terminate this Agreement for such reason, and in such event, such exceptions shall be deemed acceptable, and the Agreement shall continue in full force and effect. If the other Party cannot remove such matters, exceptions and objections before the close of escrow, then such other Party shall give prompt written notice of same to the other Party, and thereafter the other Party may either terminate this Agreement without further obligation or waive such objections and the transaction shall close as scheduled.

B. Notwithstanding anything herein contained to the contrary, it is understood and agreed that title to the Properties shall be delivered at the close of escrow, free and clear of all monetary liens and encumbrances and that such liens and encumbrances shall be released from the Properties by the respective Party at that Party's sole expense on or before the close of escrow. This obligation survives the close of escrow.

6. DEEDS.

At the close of escrow, the City and Mandalay shall convey title to the Properties to be exchanged by Special Warranty Deed, subject to no defects, exceptions, easements, encumbrances, covenants, conditions, restrictions, mining claims or liens, except the matters set forth in the Report (other than the standard printed exceptions) which have been accepted in writing or deemed accepted by the Party accepting the deed, and any additional matters accepted in writing by that Party. The form of Deeds between the City and Mandalay, as Grantor and Grantee, respectively, are attached as Exhibit C-1 and Exhibit C-2.

7. TITLE POLICIES.

At the close of escrow, Escrow Agent shall issue any Party requesting insurance a separate standard owner's policy of title insurance issued by the Escrow Agent on the Property requested together with any endorsements required, and, if extended coverage is requested by either Party, specifically insuring against mechanics' and materialmen's liens notwithstanding that work may have been performed on the Properties, in the full amount of the sales price specified by the Party, as applicable, effective as of the close of escrow, insuring that fee simple title to the Property is vested, subject only to the usual printed exceptions and exclusions contained in such title insurance policies, and to any other matters approved in writing or deemed approved by the requesting Party. The obligation to provide the title policies called for in this Section shall be satisfied if, at the close of escrow, Escrow Agent has issued a binding commitment to issue each policy in the form required by this Section, and, if each policy is delivered within a reasonable time following the close of escrow.

8. ESCROW.

An escrow for this transaction will be established with Escrow Agent, and Escrow Agent is hereby employed to handle the escrow. This Agreement constitutes escrow instructions to the Escrow Agent and a copy shall be deposited with Escrow Agent for this purpose. If the Escrow Agent requires the execution of its standard form printed escrow instructions, the City and Mandalay agree to execute same. However, any instructions shall be construed as applying only to the Escrow Agent's employment and, if there are any conflicts between the terms of this Agreement and the terms of the printed escrow instructions, the terms of this Agreement shall control.

9. OPENING AND CLOSING DATES.

Escrow will be opened subject to the terms of this Agreement. The closing of this transaction and escrow (referred to in this Agreement as the "closing" or the "close of escrow") shall occur within ninety (90) days after the City Council for the City has approved this transaction (but in no event prior to two weeks after the expiration of any Review and Supplemental Review Period).

10. ESCROW CANCELLATION CHARGES.

If the escrow fails to close because of Mandalay's default, Mandalay shall be liable for all customary escrow charges. If the escrow fails to close because of the City's default, the City shall be liable for all customary escrow charges. If the escrow fails to close for any other reason, Mandalay and the City will each be liable for one-half of all customary escrow cancellation charges. If the escrow fails to close, all other obligations under this Agreement (except those which specifically survive termination) shall terminate.

11. CLOSING COSTS.

A. Upon the close of escrow, Mandalay agrees to pay the entire cost of a standard coverage owner's policy of title insurance in a policy amount of \$5,000.00 issued in favor of the City, and the costs of any endorsements issued in connection with the title policy for the Mandalay Property to cure any defects up to an additional \$250.00 in costs as provided above. Mandalay shall bear the entire cost of any title policy (standard or extended) and/or available endorsements requested by Mandalay for the City Property.

B. Upon the close of escrow, Mandalay shall pay the entire escrow fee charged by Escrow Agent.

C. Real estate taxes shall be prorated in the escrow at the close of escrow, based on the latest available information. Improvement liens and other special assessments shall be paid in full by Mandalay for the Mandalay Property on or before the close of escrow. Unless the Mandalay Property has been separately assessed as of the close of escrow, Escrow Agent shall determine the applicable proration of taxes for the Mandalay Property by multiplying the amount

shown in such tax bill by a fraction, the numerator of which shall be the square footage contained in the Mandalay Property and the denominator of which shall be the square footage contained in such assessor's parcel. The Parties shall cooperate to cause the County Assessor to separately assess the Mandalay Property from the remainder of the tax parcel of which it is a part promptly after the close of escrow. Any other closing costs shall be paid by Mandalay and the City according to the usual and customary practice of the Escrow Agent in Maricopa County.

D. Mandalay and the City agree that each, on or before close of escrow, will deposit with Escrow Agent an amount sufficient to pay its respective closing costs. It is anticipated that the City will pay either no closing costs or minimal closing costs.

E. The Parties agree that there has not been and shall be no broker or representative acting for either Party in this transaction that is entitled to a fee or commission.

F. The obligations of this paragraph survive close of escrow.

12. POSSESSION.

Possession of the Properties shall be delivered to the Parties upon the close of escrow. Prior to close of escrow, the Parties may enter upon the other Party's Property with representatives and agents for the purpose of examining the Property, conducting soils tests and engineering feasibility studies and planning the proposed development of the Property. **Any actual development activities begun before possession and close of escrow are done so at risk.**

13. RISK OF LOSS.

Except as otherwise provided, the risk of loss or damage to the Properties to be exchanged and all liability to third persons shall be borne by the owner of the Property to be conveyed until close of escrow. This obligation survives close of escrow.

14. REPRESENTATIONS AND WARRANTIES.

Mandalay and the City make the following representations and warranties which are agreed to constitute a material part of the consideration hereunder, which are true and accurate as of the date of this Agreement, and will be true and accurate as of the close of escrow, and which shall survive the close of escrow.

A. Authority and Enforceable Nature of this Agreement. Each Party has full power and authority to enter into and to perform its obligations under this Agreement. The person executing this Agreement on behalf of a Party has full power and authority to do so and to perform every act and to execute and deliver every document and instrument necessary or appropriate to consummate the transactions contemplated hereby. This Agreement and each of the documents and agreements to be delivered at the closing constitute a legal, valid and binding obligation, enforceable against the other Party in accordance with its terms;

B. Violations; Consents; Defaults. Neither the execution of this Agreement nor the performance hereof will result in any breach or violation of the terms of any law, rule, ordinance, or regulation or of any decree, judgment or order now in effect from any court or governmental body. There are no consents, waivers, authorizations or approvals from any third party necessary to be obtained in order to carry out the transactions contemplated by this Agreement, except as specifically stated herein. The execution and delivery of this Agreement and performance hereof will not conflict with, or result in any breach of, any of the terms, conditions or provisions of, or constitute a default under or result in the creation of any new, or the acceleration of any existing lien, charge or encumbrance, or any indenture, mortgage, lease, agreement or other instrument to which the Party or any of its assets may be bound;

C. Litigation. Neither Mandalay nor the City is a party to any pending or, to their knowledge, any threatened action, suit, proceeding or investigation, at law or in equity or otherwise, in, for or by any court or governmental board, commission, agency, department or officer, arising from or relating to the Mandalay Property or the City Property or to the past or present operations and activities upon or relating to either of the Properties;

D. Governmental Restrictions. Neither Party has received notice of, nor is aware of, any notifications, restrictions, or stipulations from the United States of America, the State of Arizona, Maricopa County, or any other governmental authority requiring any work to be done on the Properties or threatening the use of the Mandalay Property or the City Property. There are no pending, or to the knowledge of the Parties, threatened, condemnation proceedings affecting any portion of either of the Properties;

E. Title. Fee simple title to the Mandalay Property is vested in Mandalay, subject to a first lien deed of trust in favor of Mortgage Equities XII, LLC, an Arizona limited liability company Corporation ("ME XII") as further provided in Paragraph 17 below. Fee simple title to the City Property is vested in the City;

F. Leases and Agreements. There are no unrecorded leases, arrangements, agreements, understandings, options, contracts, or rights of first refusal, or liens affecting or relating to the Mandalay Property or the City Property that will exist at close of escrow;

G. Compliance. To the best of Mandalay's and the City's knowledge, each has complied, in all respects, with all laws, ordinances, rules, regulations, requirements and orders of federal, state, or local governments and/or their agencies with respect to the Properties;

H. Environmental Matters. Neither Mandalay nor the City have been advised that the Properties are in material violation of applicable environmental law, regulation, ordinance or order of any government entity, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, as amended; the Resource Conservation and Recovery Act, as amended; the Federal Clean Water Act,

as amended; the Federal Clean Air Act, as amended, the Federal Toxic Substances Control Act, as amended; and any regulations promulgated thereunder, or any other federal, state, or local laws relating to contamination of or adverse effects on the environment. In addition, neither Party has been advised that the Properties, or any underlying groundwater, contains any material concentrations of regulated substances, hazardous substances, hazardous materials, toxic substances or similar substances, residues, and waste;

I. Taxes. Mandalay does not have any liability for any taxes, or any interest or penalty in respect thereof, of any nature that may be assessed against the City or that are or may become a lien against the Mandalay Property.

J. Mechanics' Lien. No work has been performed on or about the Mandalay Property or to any improvements located thereon within six (6) months prior to the Opening Date that could give rise to any mechanics' or materialmen's liens whatsoever;

K. Existing Improvements. Neither Party warrants the condition of any existing improvements on either of the Properties. All improvements are accepted in "as is" condition.

15. INDEMNITY.

Each Party to this Agreement agrees to indemnify each other Party and hold it harmless for, from and against all claims, damages, costs and expenses (including attorneys' fees) attributable, directly or indirectly, to the breach by the indemnifying Party of any obligation hereunder, or the inaccuracy of any representation or warranty made by such indemnifying Party herein, or in any instrument delivered pursuant thereto, or in connection with the transactions contemplated hereby, except as arise out of the intentional acts or negligence of the other Party. These obligations survive close of escrow.

16. MANDALAY'S REMEDIES.

If the City fails to deposit deeds and closing costs as specified in the time and manner set forth in this Agreement, or to perform when due any other act required by this Agreement, then Mandalay's sole and exclusive remedy shall be to cancel this Agreement and the escrow, without further liability hereunder. Cancellation will be effective immediately upon Mandalay giving written notice of cancellation to City and Escrow Agent.

17. CITY'S REMEDIES.

If Mandalay fails to deposit deeds and closing costs as specified in the time and manner set forth in this Agreement, or to perform when due any other act required by this Agreement, then the City's sole and exclusive remedy shall be to cancel this Agreement and the escrow, without further liability hereunder. Cancellation will be effective immediately upon the City giving written notice of cancellation to Mandalay and Escrow Agent. Mandalay has disclosed that the Mandalay Property is subject to a first lien in favor of ME XII. It shall be Mandalay's

responsibility, at Mandalay's sole cost and expense, to cause a partial release of the ME XII first lien deed of trust as to the Mandalay Property (the "Release"). If Mandalay is unable to do so by the Closing, Mandalay shall not be deemed to be in default, but the City's remedy shall be to cancel this Agreement and the escrow.

18. COOPERATION.

The Parties to this Agreement shall cooperate fully in obtaining any necessary governmental approvals to the transfer of any item of property being exchanged pursuant to this Agreement.

19. BINDING EFFECT.

The provisions of this Agreement are binding upon, and shall inure to the benefit of, the Parties and their respective heirs, personal representatives, executors, administrators, successors and assigns. These obligations shall survive close of escrow.

20. ATTORNEYS' FEES.

If either Party brings any action in respect to its rights under this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and court costs as determined by the court. This obligation survives close of escrow.

21. WAIVERS.

No waiver of any of the provisions of this Agreement shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver be a continuing waiver. Except as expressly provided in this Agreement, no waiver shall be binding unless executed in writing by the Party making the waiver. Either Party may waive any provision of this Agreement intended for its benefit; provided, however, the waiver shall in no way excuse the other Party from the performance of any of its other obligations under this Agreement. The terms of this paragraph survive close of escrow.

22. CONSTRUCTION.

This Agreement shall be subject to, and construed according to, the laws of the State of Arizona without the application of any principles of conflicts of law that would require or permit the application of the laws of any other jurisdiction. The terms of this paragraph survive close of escrow.

23. TIME.

Time is of the essence of this Agreement.

24. NOTICES.

Notices shall be in writing and shall be given by personal delivery, by deposit in the United States mail, certified mail, return receipt requested, postage prepaid, or by express delivery service, freight prepaid, in each case by delivery to Mandalay and the City at the addresses set forth on the first page of this Agreement or at such other address as a Party may designate in writing. The date notice is given shall be the date on which the notice is delivered, if notice is given by personal delivery (including by an overnight commercial express delivery service), or five (5) calendar days after the date of deposit in the mail, if the notice is sent through the United States mail. A copy of any notice given to a Party shall also be given to the Escrow Agent by regular mail. These obligations survive the close of escrow.

25. FURTHER DOCUMENTATION.

Each Party agrees in good faith to execute such further or additional documents as may be necessary or appropriate to fully carry out the intent and purpose of this Agreement. This obligation survives close of escrow.

26. TIME PERIODS.

Except as expressly provided for herein, the time for performance of any obligation or taking any action under this Agreement shall be deemed to expire at 5:00 p.m. (Phoenix time) on the last day of the applicable time period provided herein. If the time for performance of any obligation or taking any action under this Agreement expires on a Saturday, Sunday or legal holiday, the time for performance or taking such action shall be extended to the next succeeding day which is not a Saturday, Sunday or legal holiday.

27. CONFLICTS.

This Agreement is subject to cancellation by the City, without penalty or further obligation, pursuant to ARIZONA REVISED STATUTES §38-511, if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the City is, at any time during the Agreement, an employee or agent of any other Party to the Agreement in any capacity or a consultant to another Party.

28. PROHIBITIONS.

Mandalay certifies, to the extent applicable under A.R.S. §§35-391 et seq. and 35-393 et seq., and to the extent these statutes remain in effect, that it does not have "scrutinized" business operations, as defined in the preceding statutory provisions, in the countries of Sudan or Iran.

29. AMENDMENTS.

Any amendments or modifications to this Agreement must be in writing, executed by both Parties, and are subject to City Council approval. This Agreement constitutes the entire agreement of the Parties and supersedes any negotiations, discussions, undertakings, correspondence or informal agreements of the Parties. The terms of this paragraph shall survive close of escrow.

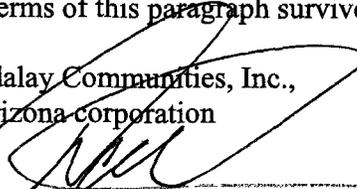
30. INTERPRETATION.

Both Parties have been or have had the opportunity to be represented by legal counsel in negotiating and approving this Agreement. This Agreement shall be interpreted, applied and enforced according to the fair meaning of its terms and shall not be construed in favor of, or against, either Party, regardless of which Party may have drafted or proposed any of its provisions or terms. The terms of this paragraph shall survive close of escrow.

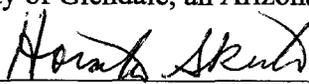
31. ORIGINALS.

This Agreement is executed in triplicate and each executed copy shall be considered an original. The terms of this paragraph survives close of escrow.

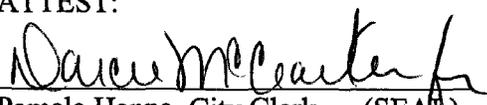
Mandalay Communities, Inc.,  
an Arizona corporation

By   
David D. Everson, President

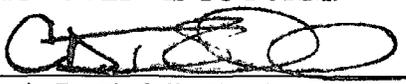
City of Glendale, an Arizona municipal corporation

  
Horatio Skeete, Acting City Manager

ATTEST:

  
Pamela Hanna, City Clerk (SEAL)

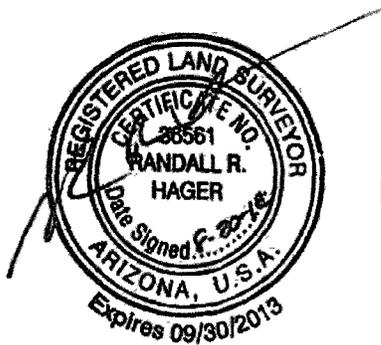
APPROVED AS TO FORM:

  
Craig D. Tindall, City Attorney

Escrow Agent hereby accepts employment to handle the escrow established by this Agreement in accordance with the terms set forth in this Agreement.

Fidelity National Title Agency, Inc.

Christine Hughes  
Christine Hughes, AVP, Manager  
Date: ~~August~~ 5, 2012  
October



**EXHIBIT "A"  
LEGAL DESCRIPTION  
SIDEWALK PARCEL  
CARMEL ESTATES**

A TRACT OF LAND BEING SITUATED IN SECTION 29, TOWNSHIP 4 NORTH, RANGE 2 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, SAID TRACT BEING A PORTION OF MARICOPA COUNTY ASSESSOR'S PARCEL NUMBER 200-25-162A, AS DESCRIBED IN TRUSTEE'S DEED RECORDED JUNE 25, 2010 IN RECORDING NUMBER 20100541509 OF RECORDS OF MARICOPA COUNTY, ARIZONA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT A POINT ON THE WEST RIGHT OF WAY OF 54<sup>TH</sup> AVENUE FOR THE SOUTHEAST CORNER THIS TRACT, FROM WHICH A CITY OF GLENDALE BRASS CAP FLUSH FOUND AT THE INTERSECTION OF TOPEKA DRIVE AND 54<sup>TH</sup> AVENUE BEARS THE FOLLOWING TWO COURSES AND DISTANCES; NORTH 88°27'39" EAST, 25.00 FEET TO THE CENTERLINE OF 54<sup>TH</sup> AVENUE, THENCE NORTH 01°32'21" WEST, 475.02 FEET;

**THENCE** LEAVING THE WEST RIGHT OF WAY OF 54<sup>TH</sup> AVENUE, AND ALONG THE NORTH LINE OF SAID CITY OF GLENDALE PARCEL, SOUTH 88°25'30" WEST, 55.93 FEET TO THE SOUTHWEST CORNER OF THIS TRACT, SAID POINT BEING THE BEGINNING OF A NON-TANGENT CURVE, SAID CURVE HAVING A RADIUS OF 56.40 FEET;

**THENCE** LEAVING THE NORTH LINE OF SAID CITY OF GLENDALE PARCEL, NORTHEASTERLY, 67.00 FEET, ALONG THE ARC OF A CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 68°04'17", AND WHOSE LONG CHORD BEARS NORTH 25°02'23" EAST, 63.13 FEET TO A POINT OF CURVATURE OF A NON-TANGENT CURVE, SAID CURVE HAVING A RADIUS OF 49.30 FEET;

**THENCE** CONTINUING NORTHEASTERLY, 33.07 FEET, ALONG THE ARC OF A CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 38°25'53", AND WHOSE LONG CHORD BEARS NORTH 13°19'41" EAST, 32.45 FEET TO A POINT OF CURVATURE OF A NON-TANGENT CURVE, SAID CURVE HAVING A RADIUS OF 59.60 FEET;

**THENCE** CONTINUING NORTHEASTERLY, 22.41 FEET, ALONG THE ARC OF A CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 21°32'51", AND WHOSE LONG CHORD BEARS NORTH 58°45'31" EAST, 22.28 FEET TO A POINT ON THE WEST RIGHT OF WAY OF SAID 54<sup>TH</sup> AVENUE FOR THE NORTHEAST CORNER OF THIS TRACT;



**THENCE** CONTINUING ALONG THE WEST RIGHT OF WAY OF 54<sup>TH</sup> AVENUE, SOUTH 01°32'21" EAST, 98.83 FEET TO THE **POINT OF BEGINNING**.

SAID TRACT CONTAINS 2,721 SQUARE FEET OR 0.06 ACRES OF LAND, MORE OR LESS.

**BASIS OF BEARINGS:** NORTH 01°32'45" WEST, BEING THE WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 4 NORTH, RANGE 2 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.

RANDALL R. HAGER  
ARIZONA REGISTERED PROFESSIONAL LAND SURVEYOR  
CERTIFICATE NO. 36561

CARDNO WRG  
9977 N 90<sup>TH</sup> STREET SUITE 350  
SCOTTSDALE, ARIZONA 85258  
PHONE: (602) 977-8000



CITY OF GLENDALE  
BRASS CAP FLUSH  
54TH AVENUE & TOPEKA DRIVE

PROPOSED TARO LANE

PROPOSED CARMEL ESTATES  
(NOT YET RECORDED)

28

29

30

EXISTING  
SIDEWALK

AREA= 2,721 SF  
0.06 AC  
OPEN SPACE  
TRACT  
'D'

54TH AVENUE

19

A.P.N.  
200-25-162-B

POINT OF  
BEGINNING

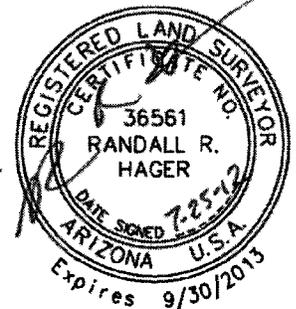
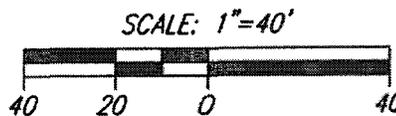
CITY OF GLENDALE  
ZONED A-1

### CURVE TABLE

CURVE	RADIUS	LENGTH	DELTA	CHORD BEARING	CHORD DISTANCE
C1	56.40	67.00'	68°04'17"	N 25°02'23" E	63.13'
C2	49.30	33.07'	38°25'53"	N 13°19'41" E	32.45'
C3	59.60'	22.41'	21°32'51"	N 58°45'31" E	22.28'

### LEGEND

- M.C.R. - MARICOPA COUNTY RECORDER  
 ● - FOUND BRASS CAP FLUSH



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CARMEL ESTATES

MANDALAY HOMES  
GLENDALE, ARIZONA

PROJECT NO. 4129988000  
DATE 7-12-12  
BY JBE  
SCALE 1"=40'  
SHEET NO 1



**EXHIBIT "B"  
LEGAL DESCRIPTION  
TRACT "G"  
A REPLAT OF CARMEL COVE – UNIT II**

A TRACT OF LAND BEING SITUATED IN SECTION 29, TOWNSHIP 4 NORTH, RANGE 2 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, SAID TRACT BEING IDENTICAL TO TRACT "G" AS SHOWN ON "A REPLAT OF CARMEL COVE UNIT II – A PLANNED RESIDENTIAL DEVELOPMENT AS RECORDED IN PLAT BOOK 475, PAGE 25, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT A POINT ON THE SOUTH RIGHT OF WAY OF TOPEKA DRIVE FOR THE NORTHEAST CORNER THIS TRACT, SAID POINT ALSO BEING IDENTICAL TO THE NORTHWEST CORNER OF LOT 66 OF SAID CARMEL COVE UNIT II, FROM WHICH A CITY OF GLENDALE BRASS CAP FLUSH FOUND AT THE INTERSECTION OF TOPEKA DRIVE AND 54<sup>TH</sup> LANE BEARS THE FOLLOWING TWO COURSES AND DISTANCES; NORTH 00°23'53" WEST, 25.00 FEET TO A CITY OF GLENDALE BRASS CAP FOUND FLUSH IN THE CENTERLINE OF TOPEKA DRIVE, THENCE SOUTH 89°36'07" WEST, 183.53 FEET;

**THENCE** LEAVING THE SOUTH RIGHT OF WAY OF TOPEKA DRIVE AND ALONG THE WEST LINE OF SAID LOT 66 OF CARMEL COVE UNIT II, SOUTH 01°33'00" EAST, 9.47 FEET TO THE SOUTHEAST CORNER OF THIS TRACT;

**THENCE** LEAVING THE WEST LINE OF SAID LOT 66 OF CARMEL COVE UNIT II, SOUTH 89°24'29" WEST, 159.01 FEET TO A POINT ON THE SOUTH RIGHT OF WAY OF TOPEKA DRIVE FOR THE SOUTHWEST CORNER OF THIS TRACT, SAID POINT ALSO BEING THE BEGINNING OF A NON-TANGENT CURVE, SAID CURVE HAVING A RADIUS OF 50.00 FEET;

**THENCE** NORTHEASTERLY ALONG THE SOUTH RIGHT OF WAY OF TOPEKA DRIVE, 22.38 FEET, ALONG THE ARC OF A CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 25°38'52", AND WHOSE LONG CHORD BEARS NORTH 76°34'54" EAST, 22.19 FEET TO A POINT OF REVERSE CURVATURE, SAID CURVE HAVING A RADIUS OF 50.00 FEET;

**THENCE** CONTINUING NORTHEASTERLY, ALONG THE SOUTH RIGHT OF WAY OF TOPEKA DRIVE, 22.55 FEET, ALONG THE ARC OF A CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 25°50'09", AND WHOSE LONG CHORD BEARS NORTH 76°40'44" EAST, 22.36 FEET TO A POINT OF TANGENCY;



**THENCE** CONTINUING ALONG THE SOUTH RIGHT OF WAY OF TOPEKA DRIVE, NORTH 89°35'57" EAST, 115.40 FEET TO THE **POINT OF BEGINNING**.

SAID TRACT CONTAINS 1,325 SQUARE FEET OR 0.03 ACRES OF LAND, MORE OR LESS.

**BASIS OF BEARINGS:** NORTH 01°32'45" WEST, BEING THE WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 4 NORTH, RANGE 2 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA.

RANDALL R. HAGER  
ARIZONA REGISTERED PROFESSIONAL LAND SURVEYOR  
CERTIFICATE NO 36561

CARDNO WRG  
9977 N 90<sup>TH</sup> STREET SUITE 350  
SCOTTSDALE, ARIZONA 85258  
PHONE: (602) 977-8000



54TH LANE

CARMEL COVE UNIT II  
BK. 475, PG. 25 M.C.R.

EXISTING 20' INGRESS/  
EGRESS EASEMENT  
TOPEKA DRIVE

EXISTING 12'  
WATER EASEMENT

S89°36'07"W

183.53'

C1

C2

N89°35'57"E

115.40'

N00°23'53"W  
25.00'

POINT OF  
BEGINNING

S01°33'00"E  
9.47'

S89°24'29"W

159.01'

EXISTING 8'  
PUE

TRACT G - 1,325 SF  
(0.03 Ac.)  
BK. 475, PG. 25

CARMEL COVE UNIT II  
BK. 475, PG. 25 M.C.R.

38

39

LOT 66

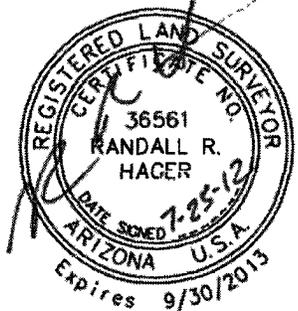
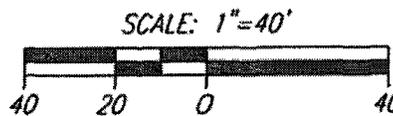
PROPOSED CARMEL ESTATES  
(NOT YET RECORDED)

### CURVE TABLE

CURVE	RADIUS	LENGTH	DELTA	CHORD BEARING	CHORD DISTANCE
C1	50.00	22.38'	25°38'52"	N 76°34'54" E	22.19'
C2	50.00	22.55'	25°50'09"	N 76°40'44" E	22.36'

### LEGEND

- M.C.R. - MARICOPA COUNTY RECORDER
- - FOUND BRASS CAP FLUSH



PHOENIX  
9977 N 90TH ST, STE 350, SCOTTSDALE, AZ 85258  
TEL: (602) 977-8000 FAX: (602) 977-8099  
www.cardno.com  
PLANNERS • ENGINEERS • LANDSCAPE ARCHITECTS • SURVEYORS

## EXISTING TRACT "G" A REPLAT OF CARMEL COVE - UNIT II

MANDALAY HOMES  
GLENDALE, ARIZONA

PROJECT NO 4129988000  
DATE: 7-12-12  
BY JBE  
SCALE: 1"=40'  
SHEET NO. 2

**Exhibit C-1**  
**Form of Special Warranty Deed (City As Grantor)**

**When recorded, mail to:**  
City Clerk, City of Glendale  
5850 W. Glendale Avenue  
Glendale, Arizona 85301

Exempt Pursuant to A.R.S. 11-1134(A)(3)

**SPECIAL WARRANTY DEED**

For the consideration of Ten Dollars and other valuable consideration, the City of Glendale, an Arizona municipal corporation, does hereby convey to Mandalay Communities, Inc., an Arizona corporation, the Grantee, that certain parcel of real property situated in Maricopa County, Arizona, and described in **Exhibit "A"** attached hereto (the "**Property**"), together with any improvements, buildings, structures and fixtures located thereon; all easements, if any, benefiting the Property; all rights, benefits, privileges, and appurtenances pertaining to the Property, to the extent Grantor has any interest in the same, if any, including the right, title and interest of Grantor in and to any property lying in or under the bed of any street, alley, road or right of way, open or proposed, abutting or adjacent to the Property and the strips, gaps or gores, if any, between the Property and abutting property.

Grantor hereby binds itself and its successors to warrant and defend the title to the Property against all acts of the Grantor herein and no other, SUBJECT, however to current taxes, assessments, reservations in patents, and all easements, rights-of-way, encumbrances, liens, covenants, conditions and restrictions as may appear of record.

Dated this \_\_\_ day of \_\_\_\_\_, 2012.

City of Glendale,  
an Arizona municipal corporation

By \_\_\_\_\_  
Horatio Skeete, Acting City Manager

STATE OF ARIZONA     )  
  )ss.  
COUNTY OF MARICOPA )

This instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2012, by HORATIO SKEETE, Acting City Manager of the City of Glendale, Arizona.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

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

My commission expires:  
\_\_\_\_\_

Exhibit A to Special Warranty Deed

Legal Description



**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**TRACT "G"**  
**A REPLAT OF CARMEL COVE – UNIT II**

A TRACT OF LAND BEING SITUATED IN SECTION 29, TOWNSHIP 4 NORTH, RANGE 2 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, SAID TRACT BEING IDENTICAL TO TRACT "G" AS SHOWN ON "A REPLAT OF CARMEL COVE UNIT II – A PLANNED RESIDENTIAL DEVELOPMENT AS RECORDED IN PLAT BOOK 475, PAGE 25, OFFICIAL RECORDS OF MARICOPA COUNTY, ARIZONA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT A POINT ON THE SOUTH RIGHT OF WAY OF TOPEKA DRIVE FOR THE NORTHEAST CORNER THIS TRACT, SAID POINT ALSO BEING IDENTICAL TO THE NORTHWEST CORNER OF LOT 66 OF SAID CARMEL COVE UNIT II, FROM WHICH A CITY OF GLENDALE BRASS CAP FLUSH FOUND AT THE INTERSECTION OF TOPEKA DRIVE AND 54<sup>TH</sup> LANE BEARS THE FOLLOWING TWO COURSES AND DISTANCES; NORTH 00°23'53" WEST, 25.00 FEET TO A CITY OF GLENDALE BRASS CAP FOUND FLUSH IN THE CENTERLINE OF TOPEKA DRIVE, THENCE SOUTH 89°36'07" WEST, 183.53 FEET;

**THENCE** LEAVING THE SOUTH RIGHT OF WAY OF TOPEKA DRIVE AND ALONG THE WEST LINE OF SAID LOT 66 OF CARMEL COVE UNIT II, SOUTH 01°33'00" EAST, 9.47 FEET TO THE SOUTHEAST CORNER OF THIS TRACT;

**THENCE** LEAVING THE WEST LINE OF SAID LOT 66 OF CARMEL COVE UNIT II, SOUTH 89°24'29" WEST, 159.01 FEET TO A POINT ON THE SOUTH RIGHT OF WAY OF TOPEKA DRIVE FOR THE SOUTHWEST CORNER OF THIS TRACT, SAID POINT ALSO BEING THE BEGINNING OF A NON-TANGENT CURVE, SAID CURVE HAVING A RADIUS OF 50.00 FEET;

**THENCE** NORTHEASTERLY ALONG THE SOUTH RIGHT OF WAY OF TOPEKA DRIVE, 22.38 FEET, ALONG THE ARC OF A CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 25°38'52", AND WHOSE LONG CHORD BEARS NORTH 76°34'54" EAST, 22.19 FEET TO A POINT OF REVERSE CURVATURE, SAID CURVE HAVING A RADIUS OF 50 00 FEET,

**THENCE** CONTINUING NORTHEASTERLY, ALONG THE SOUTH RIGHT OF WAY OF TOPEKA DRIVE, 22.55 FEET, ALONG THE ARC OF A CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 25°50'09", AND WHOSE LONG CHORD BEARS NORTH 76°40'44" EAST, 22.36 FEET TO A POINT OF TANGENCY;



**THENCE CONTINUING ALONG THE SOUTH RIGHT OF WAY OF TOPEKA DRIVE, NORTH 89°35'57" EAST, 115 40 FEET TO THE POINT OF BEGINNING.**

**SAID TRACT CONTAINS 1,325 SQUARE FEET OR 0 03 ACRES OF LAND, MORE OR LESS**

**BASIS OF BEARINGS NORTH 01°32'45" WEST, BEING THE WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 4 NORTH, RANGE 2 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA**

**RANDALL R HAGER  
ARIZONA REGISTERED PROFESSIONAL LAND SURVEYOR  
CERTIFICATE NO 36561**

**CARDNO WRG  
9977 N 90<sup>TH</sup> STREET SUITE 350  
SCOTTSDALE, ARIZONA 85258  
PHONE: (602) 977-8000**



Exhibit C-2  
**Form of Special Warranty Deed (Mandalay As Grantor)**

**When recorded, mail to:**  
City Clerk, City of Glendale  
5850 W. Glendale Avenue  
Glendale, Arizona 85301

Exempt Pursuant to A.R.S. 11-1134(A)(3)

**SPECIAL WARRANTY DEED**

For the consideration of Ten Dollars and other valuable consideration, Mandalay Communities, Inc., an Arizona corporation, does hereby convey to the City of Glendale, an Arizona municipal corporation, the Grantee, that certain parcel of real property situated in Maricopa County, Arizona, and described in **Exhibit "A"** attached hereto (the "**Property**"), together with any improvements, buildings, structures and fixtures located thereon; all easements, if any, benefiting the Property; all rights, benefits, privileges, and appurtenances pertaining to the Property, to the extent Grantor has any interest in the same, if any, including the right, title and interest of Grantor in and to any property lying in or under the bed of any street, alley, road or right of way, open or proposed, abutting or adjacent to the Property and the strips, gaps or gores, if any, between the Property and abutting property.

Grantor hereby binds itself and its successors to warrant and defend the title to the Property against all acts of the Grantor herein and no other, SUBJECT, however to current taxes, assessments, reservations in patents, and all easements, rights-of-way, encumbrances, liens, covenants, conditions and restrictions as may appear of record

Dated this \_\_\_ day of \_\_\_\_\_, 2012.

Mandalay Communities, Inc ,  
an Arizona corporation

By \_\_\_\_\_  
David D. Everson, President

STATE OF ARIZONA     )  
                                  )ss.  
COUNTY OF MARICOPA )

This instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2012, by DAVID D. EVERSON, the President of Mandalay Communities, Inc., an Arizona corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

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

My commission expires:  
\_\_\_\_\_

Exhibit A to Special Warranty Deed

Legal Description



**EXHIBIT "A"  
LEGAL DESCRIPTION  
SIDEWALK PARCEL  
CARMEL ESTATES**

A TRACT OF LAND BEING SITUATED IN SECTION 29, TOWNSHIP 4 NORTH, RANGE 2 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, SAID TRACT BEING A PORTION OF MARICOPA COUNTY ASSESSOR'S PARCEL NUMBER 200-25-162A, AS DESCRIBED IN TRUSTEE'S DEED RECORDED JUNE 25, 2010 IN RECORDING NUMBER 20100541509 OF RECORDS OF MARICOPA COUNTY, ARIZONA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS

**BEGINNING** AT A POINT ON THE WEST RIGHT OF WAY OF 54<sup>TH</sup> AVENUE FOR THE SOUTHEAST CORNER THIS TRACT, FROM WHICH A CITY OF GLENDALE BRASS CAP FLUSH FOUND AT THE INTERSECTION OF TOPEKA DRIVE AND 54<sup>TH</sup> AVENUE BEARS THE FOLLOWING TWO COURSES AND DISTANCES, NORTH 88°27'39" EAST, 25.00 FEET TO THE CENTERLINE OF 54<sup>TH</sup> AVENUE, THENCE NORTH 01°32'21" WEST, 475.02 FEET;

**THENCE** LEAVING THE WEST RIGHT OF WAY OF 54<sup>TH</sup> AVENUE, AND ALONG THE NORTH LINE OF SAID CITY OF GLENDALE PARCEL, SOUTH 88°25'30" WEST, 55.93 FEET TO THE SOUTHWEST CORNER OF THIS TRACT, SAID POINT BEING THE BEGINNING OF A NON-TANGENT CURVE, SAID CURVE HAVING A RADIUS OF 56.40 FEET;

**THENCE** LEAVING THE NORTH LINE OF SAID CITY OF GLENDALE PARCEL, NORTHEASTERLY, 67.00 FEET, ALONG THE ARC OF A CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 68°04'17", AND WHOSE LONG CHORD BEARS NORTH 25°02'23" EAST, 63.13 FEET TO A POINT OF CURVATURE OF A NON-TANGENT CURVE, SAID CURVE HAVING A RADIUS OF 49.30 FEET,

**THENCE** CONTINUING NORTHEASTERLY, 33.07 FEET, ALONG THE ARC OF A CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 38°25'53", AND WHOSE LONG CHORD BEARS NORTH 13°19'41" EAST, 32.45 FEET TO A POINT OF CURVATURE OF A NON-TANGENT CURVE, SAID CURVE HAVING A RADIUS OF 59.60 FEET,

**THENCE** CONTINUING NORTHEASTERLY, 22.41 FEET, ALONG THE ARC OF A CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 21°32'51", AND WHOSE LONG CHORD BEARS NORTH 58°45'31" EAST, 22.28 FEET TO A POINT ON THE WEST RIGHT OF WAY OF SAID 54<sup>TH</sup> AVENUE FOR THE NORTHEAST CORNER OF THIS TRACT;



**THENCE CONTINUING ALONG THE WEST RIGHT OF WAY OF 54<sup>TH</sup> AVENUE, SOUTH 01°32'21" EAST, 98 83 FEET TO THE POINT OF BEGINNING**

SAID TRACT CONTAINS 2,721 SQUARE FEET OR 0 06 ACRES OF LAND, MORE OR LESS

**BASIS OF BEARINGS** NORTH 01°32'45" WEST, BEING THE WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 4 NORTH, RANGE 2 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA

RANDALL R HAGER  
ARIZONA REGISTERED PROFESSIONAL LAND SURVEYOR  
CERTIFICATE NO 36561

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