

**CATALINA SHADOWS
PLANNED AREA DEVELOPMENT DISTRICT
(PAD) #10**

Oro Valley, Arizona

**ADOPTED BY ORDINANCE (O)95-41
JUNE 27, 1995**

CONTENTS

Contents

Section 1.1	Introduction.....	5
Section 1.2	Statement of Intent	5
Section 1.3	Development Standards.....	5
A.	TZ-3 SINGLE FAMILY RESIDENCE ZONE	5
B.	LANDSCAPE PLANS	7
C.	PRIVATE REVIEW OF HOUSE PLANS.....	7

Exhibits

EXHIBIT A	CATALINA SHADOWS PLANNED AREA DEVELOPMENT (PAD) DISTRICT	8
EXHIBIT B	ORDINANCE NO. (O) 95-41	9
EXHIBIT C	LEGAL DESCRIPTION	11
EXHIBIT D	LEGAL DESCRIPTION FOR “COMMUNITY”	12
EXHIBIT E	ANNEXATION DEVELOPMENT AGREEMENT	13

CONTENTS

Section 1.1 Introduction

The Zoning district TZ-3 is hereby established by this PAD. This underlying district will utilize Pima County development standards as required by the pre-annexation agreement.

The attached map identifies the location of the Sharpe parcel which is approximately 170 acres in size, lies north of Palisades Road and one-half mile east of First Avenue.

The 170 acre area referenced above was platted in 1987 (Catalina Shadows Estates) and 1988 (Catalina Shadows Resubdivision) with the existing Pima County Single Family Residential (CR-3) zoning.

Section 1.2 Statement of Intent

To provide for development under standards described herein.

Section 1.3 Development Standards

Development in this PAD shall be governed by the TZ-3 district described below. The regulations of development not addressed by the TZ-3 district will be governed by the appropriate provisions of the Oro Valley Zoning Code Revised.

A. TZ-3 SINGLE FAMILY RESIDENCE ZONE

Sec. 101 Permitted uses.

1. Uses permitted:
 - a. Single detached or one-family dwelling;
 - b. Temporary trailer or mobile or manufactured home: for one year during construction of a residence on the same property;
 - c. Agriculture and horticulture, flower and vegetable gardening, nursery or greenhouse used only for propagation and culture and not for retail sales;
 - d. Private school;
 - e. College or Governmental structure;
 - f. Community service agency;
 - g. Library;
 - h. Playground or athletic field;

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- i. Community storage garage provided;
 - (1) Said garage is used for the storage of private passenger vehicles only, and;
 - (2) The entrances and exits for said garage are on a public alley or directly abut a public street;
 - j. Temporary real estate office;
 - k. Museum.

Sec. 201 Conditional uses.
None.

Sec. 301 Development Standards - General

- 1. Minimum lot area: Eight thousand square feet.
- 2. Minimum area per dwelling unit: Eight thousand square feet.
- 3. Minimum lot width: Sixty feet.
- 4. Minimum yard requirements:
 - a. Front: Twenty feet;
 - b. Side: Eight feet each;
 - c. Rear: Twenty-five feet.
- 5. Building height limitations:
 - a. Maximum height: Thirty-four feet;
 - b. Maximum stories: Two.
- 6. Minimum distance between main buildings: Sixteen feet, Except – (Editor’s Note: Incomplete sentence.)
- 7. Buildable area: Not to exceed forty percent of the lot, including all structures, except swimming pools.

Sec. 401 Development Standards - Accessory Structures.

- 1. Permitted coverage: Maximum five percent of the individual lot area.
- 2. Height limitation: Twelve feet.
- 3. Minimum distance requirements:

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- a. To main building when detached: Seven feet;
 - b. To front lot line when detached: Fifty feet;
 - c. To side lot lines: Four feet, twenty feet if used for small animals;
 - d. To rear lot line: Four feet, twenty feet if used for small animals.

B. LANDSCAPE PLANS

The municipality agrees to accept that certain Landscape Revegetation & Slope Mitigation Plan for Catalina Shadows Estates Phase 4, Lots 155-166, 246-390, 482-486 and 501-527, dated August 16, 1994, and approved by Pima County on August 17, 1994 ("Landscape Plan").

C. PRIVATE REVIEW OF HOUSE PLANS

In connection with the review and approval of plans relating the construction of houses on the Property, that plans for homes to be built on the Property which have not been previously approved by Pima County shall nonetheless be subject to current Pima County Standards and Shall Not be subject to review by the Oro Valley Development Review Board or otherwise subject to review under Oro Valley standards. Plans previously approved by Pima County need not be submitted to Municipality for approval and such plans shall be deemed approved by the Town of Oro Valley.

EXHIBIT A CATALINA SHADOWS PLANNED AREA DEVELOPMENT (PAD) DISTRICT

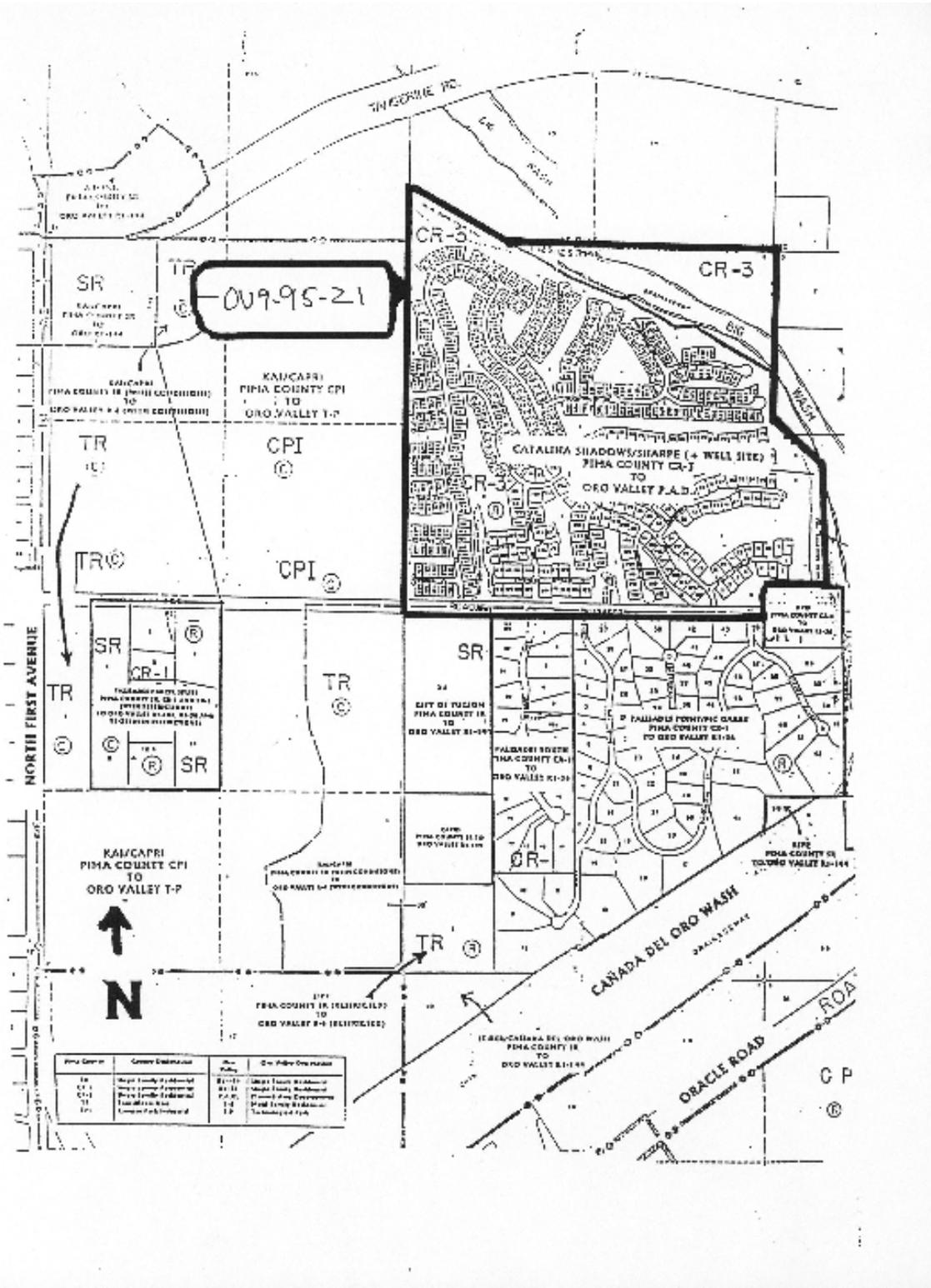


EXHIBIT B ORDINANCE NO. (O) 95-41

AN ORDINANCE AMENDING THE TOWN OF ORO VALLEY ZONING MAP TO ESTABLISH TOWN ZONING IN CONFORMANCE WITH PRE-EXISTING PIMA COUNTY ZONING ON REAL PROPERTY, KNOWN AS THE CATALINA SHADOWS/SHARPE SUBDIVISION AND WELL SITE PROPERTY (170 ACRES), WHICH WAS ANNEXED INTO THE TOWN OF ORO VALLEY BY ANNEXATION ORDINANCE NO. (0)94-29, AND REPEALING ALL ORDINANCES IN CONFLICT HEREWITH

WHEREAS, on the 10th day of December, 1994, the Town of Oro Valley, by Ordinance Number (0)94-29, annexed certain real property known as the Catalina Shadows/Sharpe Subdivision and Well site, said property is located north of Palisades Road and one-half mile east of First Avenue, and is further described by map and legal description in Exhibits "A" and "B" attached hereto, and

WHEREAS, the Town of Oro Valley is required by applicable State statute to apply appropriate and comparable Town municipal zoning to the newly annexed area; and

WHEREAS, the pre-existing Pima County zoning for said property was Pima County CR-3 (Single Residence), and

WHEREAS, the Planning and Zoning Commission of the Town of Oro Valley, Arizona has considered at a public hearing the appropriate zoning district to be applied in translation of the area annexed by Ordinance Number (0)94-29, and has made its recommendations known to Town Council:

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF ORO VALLEY:

SECTION 1. That the Zoning Map of the Town of Oro Valley, as adopted by Ordinance Number 58, as amended, be and the same is further amended to include all that certain real property as described further in Exhibits "A" and "B" by map and legal description, annexed by Ordinance No. (0)94-29.

SECTION 2. That certain real property as further described in Exhibits "A" and "B" attached herewith, known as the Catalina Shadows/Sharpe Subdivision and Well site property (170 Acres), which was annexed to the Town of Oro Valley by Town of Ordinance Number (0)94-29 is hereby rezoned from Pima County CR-3 (Single Residence) to Oro Valley Planned Area Development (PAD) and the standards of that zoning district shall apply to all future development of this property. Said property is specifically as shown on the trap and legal description, Exhibits "A" and "B", copies of which are attached hereto and made a part hereof.

SECTION 3. That all ordinances and parts of ordinances in conflict herewith be and the same are hereby repealed to the extent of such conflict;

SECTION 4. That this ordinance and the various parts thereof are hereby declared to be severable. If any section, sub-section, sentence, clause, word or

phrase of this ordinance is, for any reason, held to be unconstitutional, such holdings shall not affect the validity of the remaining portion of this ordinance.

SECTION 5. Any person found guilty of violating any provision of this code shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not to exceed one thousand dollars or by imprisonment. Each day that a violation continues shall be a separate offense punishable as described herein.

PASSED AND ADOPTED by the Mayor and Town Council of the Town of Oro Valley, Arizona this 27th day of June , 1995.

EXHIBIT C LEGAL DESCRIPTION

Lots 302 thru 390 of Catalina Shadows Estates Phase 4, a subdivision recorded in Book 46 of Maps at Page 1, records of Pima County, Arizona.

(Chicago Title Trust No. 12,086)

Lots 8, 11, 12, 16, 52, 67 thru 71, 75 thru 76, 84, 88 thru 93, 108, 146, 159, 161 thru 163 and 167 thru 168, of Catalina Shadows Resubdivision, a subdivision recorded in Book 42 of Maps and Plats at page 60, records of Pima County, Arizona.

(Chicago Title Trust No. 12,054)

Lots 155 thru 166, 168, 189, 200, 223, 227, 234 thru 236, 239 thru 301, 482 thru 496, 498 thru 527, of Catalina Shadows Estates, a subdivision recorded in Book 41 at Page 24, records of Pima County, Arizona.

(Stewart Title Trust No. 3434)

EXHIBIT D LEGAL DESCRIPTION FOR “COMMUNITY”

ALSO REFERRED TO AS “CATALINA SHADOWS”

The term Community or Catalina Shadows shall include all of the following property:

Lots 1 through 68 and Block 1 of Catalina Shadows Estates as recorded in Book 37 of Maps and Flats at page 71, records of Pima County, Arizona.

Lots 69 through 540 and Common Areas A and B of Catalina Shadows Estates as recorded in Book 41 of Maps and Plats at page 24, records of Pima County, Arizona, being a resubdivision of a portion of Catalina Shadows Estates, Block 1 as recorded in Book 37 of Maps and Plats at page 71, records of Pima County, Arizona.

Lots 1 through 169 and Common Areas A and B of Catalina Shadows Resubdivision as recorded in Book 42 of Maps and Plats at page 60, records of Pima County, Arizona, being a resubdivision of Lots 69 through 154 and Lots 412 through 481 of Catalina Shadows Estates, Lots 69 through 540 and Common Areas A and B as recorded in Book 41 of Maps and Plats at page 24, records of Pima County, Arizona, also being a resubdivision of. Lots 1 through 68 of Catalina Shadows Lots 1 through 68 and Common Areas A and B as recorded in Book 40 of Maps and Plats at page 32, records of Pima County, Arizona.

Lots 302 through 390 and Common Area A of Catalina Shadows Estates Phase 4 as recorded in Book 46 of Maps and Plats at page 1-1 through 1-4 thereof, being a resubdivision of Lots 302 through 411 and 528 through 540 of Catalina Shadows Estates as recorded in Book 41 of Maps and Plats at page 24, records of Pima County, Arizona.

EXHIBIT E ANNEXATION DEVELOPMENT AGREEMENT

THIS ANNEXATION DEVELOPMENT AGREEMENT by and between the Town of Oro Valley, Arizona, a municipal corporation (“Municipality”), Chicago Title Insurance Company, a Missouri corporation, not in its corporate capacity but acting solely as trustee under Trust No. 12086 and Trust No. 12054, Stewart Title and Trust of Tucson, an Arizona corporation, as trustee under Trust No. 3434 only and not in its corporate capacity, and Palisades Development Company, an Arizona corporation (collectively “Owner”), and Catalina Shadows Homeowner’s Association, an Arizona non-profit corporation (“Association”) is entered into as of the 5th day of October, 1994.

WITNESSETH:

WHEREAS, as of June 22, 1994, with respect to Chicago Title Trust No. 12086 and Trust No. 12054, and as of August 10, 1994, with respect to Stewart Title Trust No. 3434, Owner was the owner of that certain real property located on the north side of Palisades Road approximately one mile east of First Avenue, Pima County, Arizona consisting of approximately 410 residential lots and legally described in Exhibit “A” attached hereto and incorporated herein by this reference (“Property”);

WHEREAS, the Property consists of 230 vacant lots which have been improved with streets, curbs, gutters and all utilities (“Developed Lots”) and approximately 180 vacant unimproved platted lots (which includes lots in the process of being developed) (“Platted Lots”);

WHEREAS, the Property represents the final phases of a development commonly known as “Catalina Shadows” and legally described in Exhibit “B” attached hereto and incorporated herein by this reference (the “Community” or “Catalina Shadows”);

WHEREAS, several builders have built model homes and production homes in the earlier phases of the Community and intend to continue to build and sell homes in the Property from the same model home area as used to market homes in the earlier phases;

WHEREAS, Association is the owner of certain property (“Association Property”), including without limitation common area and private streets which are located in or about the Property or the Community;

WHEREAS, Owner, Association and the Municipality desire that the Property and the Association Property be annexed into the corporate limits of the Municipality pursuant to the provisions of A.R.S. § 9-471, et seq., and be developed as an integral part of the Municipality and in accordance with the existing comprehensive plan for the Municipality (“General Plan”), and the annexation, zoning and development of the Property and the Association Property, as contemplated by this Agreement, is acknowledged by the Municipality to be consistent with the Municipality’s General Plan;

WHEREAS, Municipality and Owner are authorized by A.R.S. § 9-500.05 to enter into development agreements in connection with an annexation;

WHEREAS, Municipality and Owner desire to provide for the orderly development of the Property, and continued development of the Community in a manner consistent with the existing development of the Community, by entering into this Annexation Development Agreement (“Agreement”), and Municipality and Owner intend that Owner in developing the Property and homebuilders in building homes in the Property shall comply with such zoning, development and homebuilding rules, regulations, ordinances, requirements and standards (collectively “Standards”) substantially identical to such zoning, development and homebuilding Standards in effect when the Property was under the jurisdiction of Pima County, and without limiting the generality of the foregoing:

(1) The zoning and zoning conditions, the plat, the improvement plans (including without limitation, grading, paving, sewer, landscaping, water and other utilities), engineering reports (including without limitation, hydrology), and other Standards relating to development of the Property, house design and construction, building codes, building permits, certificates of occupancy and sales and marketing of the Property and houses constructed thereon, shall be subject to the same Standards and be interpreted in a manner identical to the interpretation thereof by Pima County, and

(2) The permitted uses for the Property upon annexation, the density and intensity of such uses and the phasing over time of construction and development of the Property, zoning ordinances, development standards and conceptual plans shall be identical to those approved by Pima County and shall be interpreted in a manner identical to the interpretation thereof by Pima County.

In the event of a conflict between the provisions of this Section 1.01 and any other provisions contained herein to the contrary, the provisions of this Section 1.01 shall prevail.

WHEREAS, Municipality and Owner acknowledge and agree that the development of the Property pursuant to this Agreement will result in planning and economic benefits to the Municipality and its residents by (i) assuring the orderly development of the Property, consistent with the Municipality’s General Plan, (ii) increasing revenues to Municipality based upon, among other things, the construction of improvements in the areas to be annexed and the distribution of State shared revenues to the Municipality, and (iii) creating jobs through the development of the Property and Municipality and Owner further acknowledged that the development of the Property pursuant to this Agreement will significantly benefit Owner and the Association by allowing Owner the ability to develop the Property in accordance with the existing conditions (prior to annexation) and by providing the Association and its members the benefits inherent in living in the Municipality;

WHEREAS, the covenants and acknowledgements contained herein have been made in consideration of annexation into the Municipality of the Property and other terms and conditions set forth in this Agreement;

WHEREAS, the Mayor and Council of the Municipality have authorized the execution of this Agreement by unanimous vote;

NOW, THEREFORE, in consideration of premises and the mutual covenants contained herein, the parties hereto agree as follows:

ARTICLE ONE

INTENT; DEFINITIONS

1.01. Intent. Municipality and Owner desire to provide for the orderly development of the Property, and continued development of the Community in a manner consistent with the existing development of the Community, by entering into this Annexation Development Agreement (“Agreement”), and Municipality and Owner intend that Owner in developing the Property and homebuilders in building homes in the Property shall comply with such zoning, development and homebuilding rules, regulations, ordinances, requirements and standards (collectively “Standards”) substantially identical to such zoning, development and homebuilding Standards in effect when the Property was under the jurisdiction of Pima County, and without limiting the generality of the foregoing:

(1) The zoning and zoning conditions, the plat, the improvement plans (including without limitation, grading, paving, sewer, landscaping, water and other utilities), engineering reports (including without limitation, hydrology), and other Standards relating to development of the Property, house design and construction, building codes, building permits, certificates of occupancy and sales and marketing of the Property and houses constructed thereon. shall be subject to the same Standards and be interpreted in a manner identical to the interpretation thereof by Pima County, and

(2) The permitted uses for the Property upon annexation, the density and intensity of such uses and the phasing over time of construction and development of the Property, zoning ordinances, development standards and conceptual plans shall be identical to those approved by Pima County and shall be interpreted in a manner identical to the interpretation thereof by Pima County.

In the event of a conflict between the provisions of this Section 1.01 and any other provisions contained herein to the contrary, the provisions of this Section 1.01 shall prevail.

1.02 Definitions. When used in this Agreement, the following terms shall have the following meanings unless otherwise specifically defined.

“Agreement” shall mean this Annexation Development Agreement entered into by and between Owner and Municipality.

“Association” shall mean the Catalina Shadows Homeowners’ Association.

“Concept Master Plan.” See Section 4.02.

“Consultants.” See Section 2.07.

“Effective Date” shall mean the date annexation proceedings to annex the Property to the Municipality are final.

“Existing”, whether or not this term is capitalized, shall mean as in existence on the Effective Date of this Agreement, unless the context clearly intends a different meaning.

“House Plans” shall mean any and all architectural, landscape and other plans related to the construction of a house in Catalina Shadows and approved by Pima County regardless of whether such plan has been approved for Owner or for a builder constructing or planning to construct homes in the Property.

“Impact Fees” shall mean development fees imposed pursuant to A.R.S. § 9-463.05.

“Municipality” shall mean the Town of Oro Valley, Arizona, a municipal corporation.

“Offsite Improvement Costs.” See Section 4.12.

“Owner” shall mean Chicago Title Insurance Company, a Missouri corporation, not in its corporate capacity but acting solely as trustee under Trust No. 12086, Stewart Title and Trust of Tucson, an Arizona corporation, as trustee under Trust No. 3434 only and not in its corporate capacity, and Palisades Development Company, an Arizona corporation

“Plans” shall mean the paving, grading, landscaping, water, sewer and other plans and related specifications relating to the development of the Property, including any and all variances granted by Pima County or other authority.

“Plats” shall mean that certain plat of Catalina Shadows Estates Phase 4, Lots 302-390 and Common Area “A”, executed by the Clerk of the Board of Supervisors for Pima County on May 3, 1994, as recorded in the records of the Pima County Recorder in Book 46, pages 1-4; that certain plat of Catalina Shadows Resubdivision, Lots 1-169 and Common Areas “A” & “B”, executed by the Clerk of the Board of Supervisors for Pima County on November 1, 1988, as recorded in the records of the Pima County Recorder in Book 42, page 60; and that certain plat of Catalina Shadows Estates, Lots 69-540 and Common Areas “A” & “B”, executed by the Clerk of the Board of Supervisors for Pima County on April 21, 1987, as recorded in the records of the Pima County Recorder in Book 41, page 24.

“Property” shall mean that portion of that certain real property, commonly known as Catalina Shadows located on the north side of Palisades Road approximately one mile east of First Avenue, Pima County, Arizona, consisting of approximately 410 residential lots and legally described in Exhibit “A” attached hereto and incorporated herein by this reference.

“Subdivision Regulations” shall mean those regulations relating to subdivision design and development contained in the Zoning Code.

“Zoning Code” shall mean Oro Valley Zoning Code revised and adopted May 13, 1981 by the Oro Valley Mayor and Council as Ordinance No. 58, and amended from time to time.

ARTICLE TWO

ANNEXATION

2.01. Agreement to Annex. Municipality and Owner agree to annex the Property to the Municipality pursuant to the terms of this Agreement and subject to the requirements of A.R.S. § 9-471, et seq., relating to annexation of territory.

2.02. Petition. Municipality has, prior to the date hereof, prepared and submitted to Owner a Petition for annexation of the Property for inclusion within the corporate limits of the Municipality. Upon approval and execution of this Agreement by the Mayor and Council of Municipality, and in consideration therefore, Owner shall execute and deliver the annexation petition to the Municipality and, thereafter, the Municipality shall undertake to perform all necessary acts and procedures in order that the Property is annexed and included within the corporate limits of the Municipality.

2.03. Costs of Annexation. All procedural and administrative costs and expenses pertaining to the annexation shall be paid by the Municipality. Owner and Municipality shall bear their own legal and consulting costs and expenses incurred in the negotiation and preparation of this Agreement.

2.05. Recording. Pursuant to A.R.S. § 9-500.05, this Agreement shall be recorded with the County Recorder of Pima County by the Municipality no later than ten (10) days after the date of this Agreement.

ARTICLE THREE

EFFECTIVE DATE, DURATION AND AMENDMENT

3.01. Effective Date. This Agreement relates to property located outside the incorporated area of the Municipality and pursuant to A.R.S. § 9-500.05(A), this Agreement does not become operative unless annexation proceedings to annex the Property to the Municipality are completed on or before December 1, 1994, or such later date as agreed upon in writing by the Municipality and Owner. The "Effective Date" shall mean the date annexation proceedings to annex the Property to the Municipality are final.

3.02. Duration. This Agreement shall continue in full force and effect from the Effective Date for a period of ten years thereafter unless sooner canceled or extended by mutual agreement of Municipality and Owner or amended as provided herein.

3.03. Amendment. Pursuant to A.R.S. § 9-500.05(C) this Agreement may be amended or canceled, in whole or in part, by mutual consent of Municipality, Owner or their successors-in-interest, owning collectively more than one-half of the existing lots in the Property and in the event of cancellation, Municipality shall not be obligated to perform those services arising solely because of the annexation, except Municipality shall maintain services to existing development, Municipality shall provide services to any property where a building permit has been issued and has not lapsed or expired, and the provisions of this Agreement relating to the Association shall continue in full force and effect.

ARTICLE FOUR

USES AND DEVELOPMENT OF PROPERTY

4.01. Consistency with County Zoning. As an integral part of the annexation, the Municipality is required to impose original zoning of the Municipality upon the Property in accordance with A.R.S. § 9-471(L) and other applicable law. In connection therewith:

(A) Municipality shall adopt zoning classifications pursuant to A.R.S. §9 471(L) which shall be effective on the Effective Date; and

(B) Municipality shall adopt as original zoning for the Property, the Zoning Code classification of Planned Area Development (PAD), set forth in Article 10.3 of the Zoning Code, as modified by the Plans, the Plats and the specifications set forth in the Plats for the Property, and subject to those zoning provisions attached hereto as Exhibit "C" and incorporated herein by this reference (Pima County CR-3 Zoning Ordinance) and those additional provisions set forth in Exhibit "D" attached hereto and incorporated herein by this reference (Pima County Standard and Special Conditions), and subject to any variances to any of the foregoing which have been previously granted by Pima County or other authority.

4.02. Municipal Zoning. Owner intends to develop the Property in general accordance with the concept master use plan ("Concept Master Plan"), which Concept Master Plan is constituted by the Plats and the Plans and specifications for the Property, including any Existing variances thereto, all of which have been approved by Pima County, Arizona and the applicable utility companies. Municipality shall establish original zoning of the Municipality upon the Property in accordance with such Concept Master Plan including any variances included in such Concept Master Plan and notwithstanding that such Concept Master Plan may not be in accordance with the current Zoning Code, or Subdivision Regulations or other rules, regulations or ordinances of the Town of Oro Valley.

4.03. Plat, Plans, Specifications and House Plans. The Plat, Plans, related specifications and House Plans which have been approved by Pima County or other governmental or utility authority, shall continue in full force and effect after the Effective Date and shall not be amended, modified, rescinded or altered in any manner without the express written consent of Owner, and Municipality agrees to abide by such Existing Plat, Plans, specifications and House Plans and to interpret such Plat, Plans, specifications and House Plans in the same manner as such Plat, Plans, specifications and House Plans have been and are interpreted by Pima County. Without limiting the generality of the foregoing, Municipality agrees to accept and approve, without change, any and all Plats, Plans, specifications, and House Plans previously approved by Pima County.

4.04. Landscape Plans. Municipality agrees to accept that certain Landscape, Revegetation & Slope Mitigation Plan for Catalina Shadows Estates Phase 4, Lots 155-166, 246-390, 482-496 and 501-527, dated August 16, 1994, and approved by Pima County on August 17, 1994 ("Landscape Plan"). Without limiting the generality of the foregoing, and in keeping with the custom and practice in Pima County, Municipality, Owner and Association agree that Owner shall be responsible for the maintenance of all landscaping installed pursuant to the Landscape Plan for a period of two years after the initial installation, and the Association shall be responsible for such maintenance thereafter. No further landscaping, except for the landscaping provided pursuant to the Landscape

Plan, shall be required to be installed by or at the cost of Owner or any builders acquiring lots from Owner in the Property.

4.05. Regulatory Standards and Costs. No economic, developmental, regulatory or financial requirements are imposed or shall be imposed upon Owner which are greater than or in addition to those currently imposed by Pima County, except for sales taxes and Impact Fees.

4.06. Private Review of Plats, Plans and Specifications (Design Certification). In connection with the review and approval of any plat, grading, paving, landscape, utility or other improvement plans, or related specifications, Municipality and Owner agree that upon Owner's (or Third Party Beneficiary's) election and agreement to bear the costs thereof, Municipality shall retain or employ one or more registered civil (or equivalent) engineers, approved in advance by Municipality and Owner, who shall serve as consultants to the Municipality but only upon the request of Owner (or Third Party Beneficiary) at Owner's (or Third Party Beneficiary's) expense where the Owner (or Third Party Beneficiary) determines such engineer is necessary after disagreement between the Municipality and Owner (or Third Party Beneficiary) and such engineer shall review and approve any plats, grading, paving, landscape, utility or other improvement plans, or related specifications, and such engineer's recommendations shall be accepted by the Municipality, except in the case of substantial variance from Pima County standards (as modified by any and all variances previously granted by Pima County). Plans previously approved by Pima County need not be submitted to Municipality for approval and such plans shall be deemed approved by Municipality.

4.07. Private Review of House Plans (Design Certification). In connection with the review and approval of plans relating to the construction of houses on the Property, Municipality and Owner agree that upon Owner's (or Third Party Beneficiary's) election and agreement to bear the cost thereof, Municipality shall retain or employ one or more registered architects, approved in advance by Municipality and Owner, who shall serve as consultants to the Municipality, but only upon the request of the Owner (or Third Party Beneficiary) at Owner's (or Third Party Beneficiary's) expense when the Owner (or Third Party Beneficiary) determines such architect is necessary after disagreement between Municipality and Owner (or Third Party Beneficiary), and such architect shall review and approve such house plans and such architect's recommendations shall be accepted by the Municipality shall accept, except in the case of substantial variance from Pima County standards (as modified by any and all variances previously granted by Pima County). It is the intent of Municipality and Owner that plans for homes to be built in the Property which have not been previously been approved by Pima County shall nonetheless be subject to Pima County standards and shall not be subject to review by the Oro Valley Development Review Board or otherwise subject to review under Oro Valley standards. Plans previously approved by Pima County need not be submitted to Municipality for approval and such plans shall be deemed approved by Municipality.

4.08. Private Improvement Agreements - Development. Municipality and Owner and a registered civil (or equivalent) engineer, approved in advanced by Owner and Municipality shall enter into an agreement ("Private Improvement Agreement" or "PIA") whereby such engineer shall serve as a consultant to the Municipality, but only upon the request of the Owner (or Third Party Beneficiary) at Owner's (or Third Party Beneficiary's) expense when the Owner (or Third Party Beneficiary) determines such architect is necessary after disagreement

between Municipality and Owner (or Third Party Beneficiary), and such architect shall inspect the development of the Property and certify to the Municipality that the subdivision or subdivisions developed on the Property are built in accordance with the plans and specifications approved by Pima County, Arizona, and the recommendations of the Consultant shall be accepted by the Municipality. Notwithstanding any other provisions contained in this Agreement to the contrary, to the extent Pima County (or a Consultant engaged by Owner or Pima County pursuant to a Private Improvement Agreement by and between Owner and Pima County) has inspected and certified to Pima County all or a portion of the development of all or a portion of the Property, that the subdivision or subdivisions developed on the Property are built in accordance with the plans and specifications approved by Pima County, Municipality agrees to accept such inspection and certification and agrees not to require further inspection or certification in connection therewith, except in the case of substantial variance from Pima County standards (as modified by any and all variances previously granted by Pima County).

4.09. Private Improvement Agreements - Construction. Municipality and Owner and a registered architect, said architect being approved in advance by Municipality and Owner, shall enter into an agreement ("Private Improvement Agreement" or "PIA") whereby such architect shall serve as a consultant to the Municipality, but only upon the request of the Owner (or Third Party Beneficiary) at Owner's (or Third Party Beneficiary's) expense when the Owner (or Third Party Beneficiary) determines such architect is necessary after disagreement between Municipality and Owner, and such architect shall inspect the construction of houses on the Property and certify to the Municipality that the house or houses constructed on the Property are built in accordance with the plans and specifications approved by Pima County, Arizona, and the recommendations of Consultant shall be accepted by the Municipality. Notwithstanding any other provisions contained in this Agreement to the contrary, to the extent Pima County or a Consultant engaged by Owner or Pima County pursuant to a Private Improvement Agreement by and between Owner and Pima County, has inspected and certified to Pima County all or a portion of the development of all or a portion of the Property, that the subdivision or subdivisions developed on the Property are built in accordance with the plans and specifications approved by Pima County, Municipality agrees to accept such inspection and certification and agrees not to require further inspection or certification in connection therewith, except in the case of substantial variance from Pima County standards (as modified by any and all variances previously granted by Pima County). It is the intent of Municipality and Owner that plans for homes to be built in the Property which have not been previously been approved by Pima County shall nonetheless be subject to Pima County standards and shall not be subject to review by the Oro Valley Development Review Board or otherwise subject to review under Oro Valley standards.

4.10. Sales Tax. Municipality agrees that it shall not impose a sales tax, transaction privilege tax or a similar form of tax in connection with the sale of houses within Catalina Shadows to the extent such sale is based upon a contract entered into on or before the Effective Date.

4.11. Assurances Agreements. In the event that there exists assurances agreements by and between Pima County and Owner relating to the development of all or a portion of the Property which assurance agreements have not yet been released as of the Effective Date, then Municipality and Owner shall enter into substitute assurance agreements with terms substantially identical to those of the prior assurance agreement between Owner and Pima

County, and the Consultant shall inspect the development of the Property, and in accordance with Section 4.08 above, certify to Municipality that the development of the Property is in accordance with the plat, plans and specifications approved by Pima County and in such event, Municipality shall immediately release such substitute assurances.

4.12. Intergovernmental Agreements. In order to further the intent of this Agreement, Municipality agrees to use its best efforts to enter into intergovernmental agreements with Pima County whereby Pima County may continue to take actions with respect to the Property, including without limitation plat and improvement plan approval, house plan approval, development inspection and certification, and house construction inspection and certification. Further, to the extent a Consultant may be engaged by Owner or Municipality pursuant to this Article Four, Pima County or an agency of Pima County may likewise be engaged to perform the tasks of such a Consultant.

4.13 Development Fees. Owner understands that the Municipality is considering adoption of a development impact fee ordinance pursuant to authority granted by A.R.S. § 9-463.05 (the "DIFO"). The Municipality has represented to Owner that the Property will not be affected by the DIFO, as that proposed regulation was drawn as of August 22, 1994. Those representations notwithstanding, the parties agree that Owner shall be given a credit against the amount of any future development impact fee assessed by the Municipality for the value of (a) land dedicated for public use, (b) improvements to public rights-of-way or other public facilities, or (c) monies paid in lieu of such dedications or improvements as a condition for the zoning, subdivision or development of the Property (collectively, the "Exactions"), regardless of whether the Exactions were conveyed, constructed or paid by Owner prior to or after the Annexation Date, provided the Exactions confer a benefit upon the general public and are related to the public improvements for which the development impact fee is assessed by the Municipality. Credit given by the Municipality for Exactions shall be applied to the entire Property on a proportional basis. For example, if the development impact fee is levied on each dwelling unit constructed on the Property, the credit will be distributed to all dwelling units, even though some may have been constructed before imposition of the development impact fee.

ARTICLE FIVE

PUBLIC INFRASTRUCTURE

5.01. Ownership and Acceptance Infrastructure for Maintenance. Except as otherwise set forth herein, the infrastructure to be constructed pursuant to the provisions of this Section 5.01 hereof or in connection with the provision of the services described in this Section 5.01 hereof shall be owned by the Municipality, or, in the case of infrastructure related to the provision of utilities, by the applicable utility provider. Maintenance of infrastructure shall be the responsibility of the respective owner thereof. Certification, by a Professional Engineer licensed or registered in the State of Arizona, selected by mutual agreement of Owner and Municipality, that roads, water, sewer or other facilities are built in accordance with plans and specifications approved by the Municipality shall be conclusive evidence that such roads, water, sewer or other facilities are built in accordance with plans and specifications approved by the Municipality and shall require Municipality to immediately accept the same for maintenance.

WHEREAS. Municipality agrees that it shall, upon completion, accept for maintenance all streets located with Catalina Shadows; provide that (i) Owner or Association slurry seals the streets after completion of construction of substantially all of the houses on such street (or segment of a street, in the case of streets over 600 feet in length), and (ii) the owner of all property adjacent to such street grants Municipality an easement of six feet behind the sidewalk for roadway maintenance and signage, and such maintenance from and after the Effective Date shall be the sole responsibility of Municipality at no cost to Owner, Association or owners of homes or lots within Catalina Shadows, except as part of any taxes or other fees imposed uniformly throughout Municipality.

ARTICLE SIX

OTHER DEVELOPMENT-RELATED MATTERS

6.01. Signage. Municipality agrees to allow all existing signs, to the extent in compliance with existing Pima County ordinances, rules and regulations, whether located on the Property or off the Property for the purposes of advertising or directing prospective builders, developers, home buyers or other visitors to the Property, and Municipality further agrees to allow for expansion of such signs which are currently used for advertising the homes of more than one builder so that they may be used for new builders constructing homes on the Property, but in no event shall any such multi-builder signs be expanded to a size greater than fifty percent larger than the existing sign, or greater than existing Pima County standards, whichever is less.

6.02. Moratoria. Municipality agrees that until the Property is fully developed, it shall not impose a moratorium upon zoning, subdividing, platting, building permits, utility connections, nor shall Municipality take any other actions which would have the effect of imposing a moratorium upon continued development within the Property in accordance with applicable zoning. Further, Municipality agrees that it will not refuse to expand necessary infrastructure to allow for the continued development of the Property in accordance with applicable zoning provided that Owner provides the necessary funding for such infrastructure or arranges for such funding through a community facilities district, an improvement district, or other source. This provision shall not apply to a moratorium which affects the Property imposed by state, federal or county government, nor shall this provision preclude Municipality from imposing a temporary moratorium in response to major floods, earthquakes, fires or similar natural disasters necessitating such action. Further, this provision shall not require Owner to provide any infrastructure except to the extent required by the Existing Plat or Plans.

ARTICLE SEVEN

REPRESENTATIONS, WARRANTIES AND COVENANTS OF MUNICIPALITY

7.01. General. The Municipality represents, warrants and covenants to Owner and Association as follows:

(A) Consistency with Plan. This Development Agreement, the original municipal zoning, and the density and intensity of uses, as contemplated hereby, are consistent with Municipality's general plan and specific plan, if any, as defined in A.R.S. §9-461, applicable to the Property on the date this Agreement is executed.

(B) Conformance with this Agreement. This Agreement and the action to be taken pursuant hereto are in accordance with the Zoning Code, Subdivision Regulations and all other rules, regulations and ordinances of Municipality.

(C) Design Certification and Private Improvement Agreements. The provisions of Sections 4.06, 4.07, 4.08 and 4.09 of this Agreement are in conformance with the Zoning Code, Subdivision Regulations and all applicable rules, regulations and ordinances of Municipality.

(D) Authority. Municipality has full power and authority to enter into this Agreement and any other documents contemplated by this Agreement and to carry out its obligations hereunder and thereunder, and the persons executing this Agreement in behalf of Municipality are duly authorized so to do.

ARTICLE EIGHT

REPRESENTATIONS OF OWNER

8.01. General. The Owner represents, warrants and covenants to Municipality as follows:

(A) Title. Owner is the owner of the Property.

(B) Authority. Owner has full power and authority to enter into this Agreement and any other documents contemplated by this Agreement and to carry out its obligations hereunder and thereunder, and the persons executing this Agreement in behalf of Owner are duly authorized so to do.

ARTICLE NINE

REPRESENTATIONS OF ASSOCIATION

9.01. General. The Association represents, warrants and covenants to Municipality as follows:

(A) Title. The Association is the owner of the Association Property.

(B) Authority. The Association, has full power and authority to enter into this Agreement and any other documents contemplated by this Agreement and to carry out its obligations hereunder and thereunder, and the persons executing this Agreement in behalf of the Association are duly authorized so to do.

ARTICLE TEN

OTHER PROVISIONS

10.01. Notices. Any notice to be given or served (and any election to be made or delivered) upon any party hereto in connection with this Agreement must be in writing and shall be deemed to have been given and received (or made and delivered) three (3) days after a Certified or Registered letter containing such notice (or election), properly addressed, with postage prepaid, is deposited in the United States mail; and, if given otherwise than by Registered or Certified mail, it shall be deemed to have been given (or made) when delivered to and received by the party to whom it is addressed. Such notice shall be given to the parties at the following addresses:

OWNER

Chicago Title Insurance Company Trust No. 12086
and Trust No. 12054
6245 East Broadway Boulevard
Tucson, Arizona 85711
Attn: Lyndel Taylor, Trust Officer

Stewart Title & Trust of Tucson Trust No. 3434
3777 East Broadway
Tucson, Arizona 85716
Attn: Pat Spaulding

Palisades Development Company
c/o Sharpe & Associates
4817 North Ventana Ridge Place
Tucson, Arizona 85715
Attn: Robert Sharpe

With required copies to:

Stephen J. Lenihan, Esq.
180 West Ft. Lowell
Tucson, Arizona 85705

MUNICIPALITY

Town of Oro Valley
11000 North La Canada
Oro Valley, Arizona 85737
Attn: Chuck Sweet, Town Manager

ASSOCIATION

Catalina Shadows Homeowners' Association
c/o Chicago Title Insurance Company Trust No. 12054
6245 East Broadway Boulevard
Tucson, Arizona 85711
Attn: Lyndel Taylor, Trust Officer

A party may change the address at which the party shall receive notice pursuant to this Agreement by giving written notice of such new address in the same manner as any other notice shall be given in accordance with this section.

10.02. Binding Effect. This Agreement shall run with the Property. The burdens of this Agreement are binding on and the benefits of this Agreement inure to the parties to this Agreement and to all their successors in interest and assigns pursuant to the provisions of A.R.S. § 9-500.05.

10.03. Attorneys' Fees. If any party defaults hereunder the defaulting party shall pay the other party's reasonable attorneys' fees, expert witness fees, deposition and trial transcript costs and cost of court and other similar costs or fees paid or incurred by the other party by reason of or in connection with the default (whether or not legal or other proceedings are instituted). In the event any party hereto finds it necessary to bring an action at law or other proceeding against any other party to enforce any of the terms, covenants or conditions hereof or any instrument executed pursuant to this Agreement, or by reason of any breach hereunder, the party prevailing in any such action or other proceeding shall be paid all costs and reasonable attorneys' fees by the other party, and in the event any judgment is secured by such prevailing party, all such costs and attorneys' fees shall be included in any such judgment. attorneys' fees to be set by the court and not by jury. In the event of an alleged default, the parties shall employ a mutually agreed upon arbitrator or, if a single arbitrator is not mutually agreeable, then each side shall select an arbitrator and the two (2) so selected shall select a third individual who shall constitute a three (3) person panel to arbitrate the matter.

10.04. Indemnification. Each party hereto shall indemnify and hold the other forever harmless from any damages, costs, expenses, claims, causes of action and losses, including consequential damages, resulting from breach by the indemnifying party of any or all of the warranties, representations or covenants contained herein.

10.05. Captions. The article and section headings appearing in this Agreement are inserted as a matter of convenience and are for reference purposes only, and in no way control or affect the meaning or construction of any of the provisions hereof.

10.06. Cross Reference. Any reference in this Agreement to an “Article”, a “Section” or “Subsection” shall be construed, respectively, as referring to the article, section or subsection of this Agreement in which the reference appears.

10.07. Exhibits. The exhibits to this Agreement are fully incorporated herein as if set forth at length in the body of this Agreement.

10.08. Governing Law. This Agreement has been entered into in the State of Arizona, and all questions with respect to this Agreement and the rights and liabilities of the parties hereto shall be governed by the laws of the State of Arizona, except as otherwise set forth herein, and venue for any legal action shall be in Pima County.

10.09. No Partnership; Third Parties. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between the parties hereto. No term or provision of this Agreement is intended to, or shall, be for the benefit of any person, firm, organization or corporation not a party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action, except as specifically set forth herein.

10.10. Terminology. Whenever the context so requires, in this Agreement, the masculine gender includes the feminine and/or neuter and the singular number includes the plural. The use herein of the words “including” or “include” when following any statement, term or matter shall not be construed to limit such statement, term or matter to those specific terms or matters, or similar terms or matters, set forth immediately following such statement. term or matter, whether or not non-limiting language (such as “without limitation” or “but not limited to” or words of similar import) is used with reference thereto.

10.11. Time of Essence. Time is of the essence of this Agreement; however, in the event the provisions of this Agreement require any act to be done or action to be taken hereunder on a date, or on or before a date, which is a Saturday, Sunday or legal holiday, such act or action shall be deemed to have been validly taken on the next succeeding day which is not a Saturday, Sunday or legal holiday.

10.12. Waiver. No waiver by any party of a breach of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant, condition or agreement hereof, and no delay in exercising any right or remedy shall constitute a waiver thereof.

10.13. Severability. Should any section, subsection., clause or other provision of this Agreement be determined, by a court of competent jurisdiction, to be invalid, such invalidity shall not affect other sections, subsections, clauses or other provisions of this Agreement which can be given effect without the invalid section, subsection, clause or other provision, and to this end, the provisions of this Agreement are severable.

10.14. Default. In the event of any default or other non-performance of any term or provision of this Agreement, the non-defaulting party shall be entitled to all remedies at law or in equity, including the right to enforce this Agreement by action for specific performance or to file an action for damages, which rights and remedies shall be cumulative and not exclusive.

10.15. Further Assurances. Each party agrees to execute such further documents, instruments and other writings and to perform such acts as either party may reasonably request in order to fully effectuate the purpose of this Agreement.

10.16. Construction. The terms and provisions of this Agreement represent the results of negotiations between Municipality and Owner, each of which has been represented by counsel of its own choosing, and none of which have acted under any duress or compulsions whether legal, economic or otherwise. Consequently, the terms and provisions of this Agreement shall be interpreted and construed in accordance with their usual and customary meanings, and the Municipality and Owner hereby waive the application of any rule of law which would otherwise be applicable in connection with the interpretation and construction of this Agreement including without limitation any rule of law to the effect that ambiguous or conflicting terms or provisions contained in the executed draft of this Agreement shall be interpreted or construed against the party whose attorney prepared the executed draft or any earlier draft of this Agreement.

10.17. Third Party Beneficiaries. Municipality, Owner and Association acknowledge and agree that the provisions of this Agreement are for the benefit of each of the parties hereto as well as for the benefit of purchasers of lots in Catalina Shadows, including without limitation. Maxim Development. KE&G, High Desert Homes. A.F. Sterling and Scotia Joint Venture.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement as of the day and year first written above.

