

**RESOLUTION NO. 37-2008**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF BENSON, ARIZONA, EXECUTING A FULL RELEASE UNDER THE TERMS OF THAT CERTAIN THIRD PARTY TRUST AGREEMENT DATED SEPTEMBER 13, 2005, BY AND BETWEEN PIONEER TITLE AGENCY, INC., AN ARIZONA CORPORATION, ACTING AS TRUSTEE UNDER TRUST NO. 308560 AND THE CITY OF BENSON, REGARDING PROPERTIES HELD BY COCHISE TERRACE L.L.C., AN ARIZONA LIMITED LIABILITY COMPANY.**

WHEREAS, the City of Benson entered into a Third Party Trust Agreement, entered into on September 13, 2005, and recorded on October 18, 2005, at Fee No. 0510-39965, with Pioneer Title Agency, Inc., an Arizona corporation, acting as Trustee under Trust No. 308560, whereby said Agreement provided means of assuring the completion of the Cochise Terrace subdivision improvements as required by the Annexation Development Agreement entered into on May 20, 1997, and recorded on November 9, 1993, at Fee No. 9311-30558, and the City of Benson Subdivision Regulations; and,

WHEREAS, a contract to transfer a portion of the Cochise Terrace, which is subject to the aforementioned Agreements, has been entered into and this Resolution releasing Trustee is required to effectuate the real property transfer; and,

WHEREAS, this full release shall have no force and effect on the remaining property within the Cochise Terrace subdivision and the remaining property within the Cochise Terrace subdivision shall continue to be encumbered by the terms of said Third Party Trust Agreement.

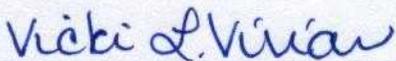
BE IT NOW HEREBY RESOLVED that the portion of the real property within Cochise Terrace subdivision as more particularly described on Exhibit "A", attached hereto and by reference, incorporated herein is hereby released under the terms of the Third Party Trust Agreement, executed by and between, Pioneer Title Agency, Inc., an Arizona corporation as Trustee under Trust No. 308560 and the City of Benson, dated September 13, 2005, and recorded on October 18, 2005, at Fee No. 308560, records of Cochise County, State of Arizona, and the Trustee is hereby released from any further duties. Further, the City of Benson does hereby release, without covenant or warranty, express or implied, unto the parties legally entitled thereto all right, title and interest in said property.

Resolved and adopted this 9<sup>th</sup> day of June, 2008 by the Mayor and City Council of Benson, Arizona.



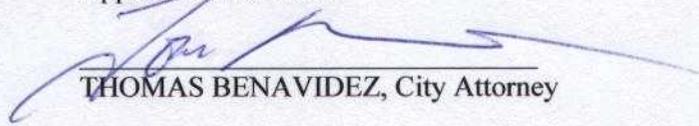
MARK M. FENN, Mayor

ATTEST:



VICKI L. VIVIAN, City Clerk

Approved as to form:



THOMAS BENAVIDEZ, City Attorney

**EXHIBIT "A"**

**Lots 76 through 163, inclusive, Common Area B & C OF COCHISE TERRACE, as shown in book 15 of Maps, Pages 42 and 42A, which is a Resubdivision of Plat Maps recorded as Book 13, Page 91 and 91C of Official records of Cochise County, Arizona;**

