City of Benson
City Council Communication

Regular Meeting **March 28, 2016**

To: Mayor and Council Agenda Item # 5

From: Bradley J. Hamilton, P.E. Director of Public Works/City Engineer

Subject:

Discussion and possible action regarding Resolution 10-2016 of the Mayor and Council of the City of Benson, Arizona, authorizing the Release of Assurances for the Subdivision known as Cottonwood Highlands, Lots 1 through 85, inclusive and Common Areas A, B6 through B9, inclusive and C1 through C3, inclusive

Discussion:

This resolution releases the assurances for the subdivision known as Cottonwood Highlands being held in the current Trust Assurance Agreement. The new Trust Assurance Agreement to Construct Subdivision Improvements in the previous item reflects the new ownership of Whetstone Partners, L.L.P. and continues to hold these unreleased lots in the new trust.

Staff Recommendation:

Approval of Resolution 10-2016

RESOLUTION 10-2016

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, AUTHORIZING THE RELEASE OF ASSURANCES FOR THE SUBDIVISION KNOWN AS COTTONWOOD HIGHLANDS LOTS 1 THROUGH 85, INCLUSIVE AND COMMON AREAS A, B6 THROUGH B9, INCLUSIVE AND C1 THROUGH C3, INCLUSIVE

WHEREAS, the subdivision known as Cottonwood Highlands, located within the City of Benson, has been recorded in the Office of the Cochise County Recorder at Book 15 of Maps and Plats, pages 25, 25A, 25B, 25C, 25D, 25E and 25F (hereinafter "Subdivision"); and

WHEREAS, due to the transfer of title of the Subdivision from the previous owner to Whetstone Partners, L.L.P., an Arizona Limited Liability Partnership ("Owner"), a new trust assurance agreement under Trust No. 70900369 between Owner, City and Pioneer Title Agency, Inc., which provides assurances required by A.R.S.§9-463.01 for the completion of Subdivision improvements, has been executed and approved by City; and

WHEREAS, the City desires to release the previous third party trust that had provided assurances of subdivision improvements under Trust No.00953841 as no longer necessary or useful.

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the City of Benson, Arizona, that the third party trust under Trust No. 00953841 that provided assurances of subdivision improvements for Cottonwood Highlands, Lots 1 through 170, inclusive and Common Areas A, B1 through B9, inclusive and C1 through C3, inclusive is hereby released and the City Manager is authorized to execute all necessary documents to effect this release.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, this 28th day of March, 2016.

_____
TONEY D. KING, SR., Mayor

ATTEST:

_____
VICKI L. VIVIAN, CMC, City Clerk

APPROVED AS TO FORM:

_____
MESCH, CLARK & ROTHSCHILD
By GARY J. COHEN
City's Attorney

at the request of the City of Benson

When recorded, mail to:
CITY OF BENSON
Attn: City Clerk
120 W. 6th Street
Benson, AZ 85602

CAPTION HEADING: ___Cottonwood Highlands____
Full Release of Trust Assurance

DO NOT REMOVE

THIS IS PART OF THE OFFICIAL DOCUMENT

(THIS FORM IS FOR RECORDER'S USE ONLY)

CITY OF BENSON
BENSON, ARIZONA

FULL RELEASE OF SUBDIVISION ASSURANCES

Subdivision Name: COTTONWOOD HIGHLANDS

Lot Numbers: LOTS 1- 170, INCLUSIVE AND COMMON AREAS A, B1 THROUGH B9, INCLUSIVE AND C1 THROUGH C3, INCLUSIVE

Block Number: BLOCKS 1 AND 2

Trustee: PIONEER TITLE COMPANY

Trust Number: 00953841 Agreement Date: 03-09-2005

Maps & Plats Book: 15 Pages: 25, 25A, 25B, 25C, 25D, 25E, 25F Fee Number: 050308440

Whereas, as referenced above, the City of Benson and Trustee have entered into an Agreement which provides that Trustee shall not transfer, lease, sell or convey the property contained in the Subdivision without first obtaining the written approval of the City of Benson; and

Whereas, a new trust assurance agreement under Trust No. 70900369 has been approved and executed by the parties that completely replaces Trust No. 00953841.

It is certified hereby, that Trustee has the Approval of the City of Benson to Transfer or convey the above references lot in the Subdivision to Trust No. 70900369 for the purpose of effecting a new assurance agreement.

CERTIFICATION OF COMPLETION:

_____	_____
Brad Hamilton, P.E. Date	William D. Stephens Date
City of Benson Public Works Director	City Manager

STATE OF ARIZONA)
) ss.
Cochise County)

This instrument was acknowledged and executed before me this _____ day of _____, 20_____, by _____ who acknowledged to be the _____ and by _____ who acknowledged to be the _____ that as such officers, being authorized so to do, signed the name of the City as such officers.

_____
Notary Public

My Commission Expires: _____

_____
Toney D. King, Sr., Mayor

ATTEST:

_____
Vicki L. Vivian, CMC, City Clerk

APPROVED AS TO FORM:

_____
MESCH, CLARK & ROTHSCHILD
By GARY J. COHEN
City's Attorney

revised 6/9/09