

RESOLUTION NO. 40-2004

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF BENSON, EXECUTING A PARTIAL RELEASE UNDER THE TERMS OF THAT CERTAIN THIRD PARTY TRUST AGREEMENT DATED SEPTEMBER 10, 2004, BY AND BETWEEN PIONEER TITLE COMPANY, INC., ACTING AS TRUSTEE UNDER TRUST NO. 00953570 AND THE CITY OF BENSON, REGARDING PROPERTIES HELD BY WHETSTONE DEVELOPMENT COMPANY, INC., OTHERWISE KNOWN AS THE WHETSTONE RANCH SUBDIVISION.

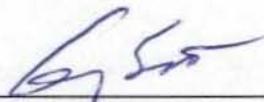
WHEREAS, the City of Benson entered into an Third Party Trust Agreement, entered into on September 10, 2004 and recorded on September 24, 2004, at Fee No. 0409-30993, with Pioneer Title Agency, Inc., acting as Trustee under Trust No. 00953570, whereby said Agreement provided means of assuring the completion of the Whetstone Ranch Subdivision improvements as required by the Annexation Development Agreement entered into on November 3, 1993 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 Whetstone Ranch Subdivision, 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 partial release shall have no force and effect on the remaining property within the Whetstone Ranch Subdivision and the remaining property within the Whetstone Ranch 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 Whetstone Ranch 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., as Trustee under Trust No. 00953570 and the City of Benson, dated September 24, 2004, and recorded on the 24th day of September, 2004, at Fee No. 0409-30993, 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 20th day of December, 2004 by the Mayor and City Council of Benson, Arizona.

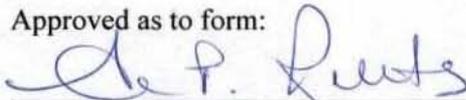


GEORGE SCOTT, Mayor

ATTEST:



KAREN H. JOHNSON, City Clerk

Approved as to form:


Ann P. Roberts, City Attorney

EXHIBIT "A"

PARCEL NO. 1:

Block 1, The Canyons at Whetstone Ranch, according to Book 15 of Maps, pages 23, 23A through 23M, Records of Cochise County, State of Arizona;

EXCEPT all reservations contained in Documents recorded in Document Nos. 9001-00683, 9004-07528, 9004-07529 and in Document No. 9512-30137, Records of Cochise County, State of Arizona.

PARCEL NO. 2:

Block 3, The Canyons at Whetstone Ranch, according to Book 15 of Maps, pages 23, 23A through 23M, Records of Cochise County, State of Arizona;

EXCEPT all reservations contained in Documents recorded in Document Nos. 9001-00683, 9004-07528, 9004-07529 and in Document No. 9512-30137, Records of Cochise County, State of Arizona.