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TOWN OF PAGOSA SPRINGS, COLORADO

**ORDINANCE NO. 789
(SERIES 2013)**

AN ORDINANCE VACATING PUBLIC UTILITY EASEMENTS AND THE APACHE STREET BRIDGE CONSTRUCTION ACCESS EASEMENT WITHIN BLOCK 68, THROUGH LOTS 1-A, 2A-1, 2A-2, 2A-3, 2A-4 AND 2A-5 WITHIN THE CORPORATE LIMITS OF THE TOWN OF PAGOSA SPRINGS

WHEREAS, the Town of Pagosa Springs ("Town") is a home rule municipality duly organized and existing under Article XX of the Colorado Constitution and the Pagosa Springs Home Rule Charter of 2003 as amended in 2012 ("Charter"); and

WHEREAS, On March 03, 1998, the Town Vacated the S. 4th Street public right-of-way within Block 68 via Ordinance No. 503, reserving utility easements for their continued use; and

WHEREAS, On March 3, 1998, a 30 foot wide tract along the Lots now known as Lots 1-A, Lots 2A-1, 2A-2, 2A-3, 2A-4 and 2A-5 in Block 68 was recorded under reception # 98001787, that included a 10 foot wide utility easement along the eastern edge of such 30 foot wide tract.

WHEREAS, On May 18, 2007, the Town approved the recordation of Plat #845 under reception #20704374, with the intent of amending the 30 foot wide tract along the Lots now known as Lots 1-A, Lots 2A-1, 2A-2, 2A-3, 2A-4 and 2A-5 in Block 68 that was recorded under reception # 98001787, to a 15 foot wide Town owned tract along the 4/5th Alley and adding a 15 foot wide Town owned tract along Apache Street, with both combined are now known as Tract A of Block 68; and

WHEREAS, the Town will secured from the current property owners a dedicated 10 foot wide public utility easement in Block 68 along the east boundary of the S. 4/5th Alley, along the western boundary of Lots 1-A, 2A-1, 2A-2, 2A-3, 2A-4 and 2A-5; and

WHEREAS, The 4/5th alley in Block 68 of the Town of Pagosa Springs is 20 feet wide with the eastern adjoining town owned Tract A, providing a 35 feet wide Public Right-Of-Way and public utility easement, and the additional of a 10 foot wide public utility easement adjacent to the eastern boundary of Tract A, on the western edge of 1-A, 2A-1, 2A-2, 2A-3, 2A-4 and 2A-5, will serve as additional public utility easement width for the general use of the installation of public utilities; and

WHEREAS, On March 03, 1998, the Town secured an easement for the purposes of Access for the Construction of the Apache Street bridge, along the eastern edge of what was then known as Lot 2 of Block 68 and what is now known as Lots 1-A, 2A-1, 2A-2, 2A-3, 2A-4 and 2A-5 in Block 68 within the corporate limits Town of Pagosa Springs, recorded under reception # 98001787; and

Rtn: Town of Pagosa Springs
Po Box 1859
Pagosa Springs CO 81147



WHEREAS, The Town has access along the northern side of the west Apache Street abutment that is within the existing S. 4th Street Public Right-of-Way that extends into the river from Apache Street on the NW side of the bridge abutment; and

WHEREAS, The Apache Street bridge construction was completed in 1998 and it is determined that the bridge construction and access easement along the eastern edge of Lots 1-A, 2A-1, 2A-2, 2A-3, 2A-4 and 2A-5 in Block 68 within the corporate limits Town of Pagosa Springs is no longer needed to provide access to the bridge abutment since the town has subsequently secured a dedicated 15 foot easement along the northern edge of lot 1-A and the S. 4th Street ROW on the north side of the west side of the river are sufficient for the general purpose maintenance access to the bridge abutment on the west side of the river ; and

WHEREAS, The applicant and the TOWN has notified all public utility providers as recognized by the TOWN, serving notice of such proposed vacation of Public Utility Easements, and that all Public Utility providers have confirmed that no utilities currently exist in the subject public utility easements and that there is not a need to maintain such utility easements.

WHEREAS, on June 25, 2013, the Planning Commission approved a recommendation to the Town Council to "Approve the Vacation of the S. 4th Street public utility easement in Block 68 within the corporate limits of the Town of Pagosa Springs;" and

WHEREAS, the Town wishes to formally and expressly vacate such Public Utility Easements within the corporate limits of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, as follows:

SECTION 1 – Incorporation of Recitals and Findings. The above Recitals and Findings of the Town Council are hereby incorporated into this Ordinance.

SECTION 2 – Vacation of Utility Easements. The Town hereby divests itself of all of its right or interest of the public utility easement along the former vacated S. 4th Street ROW in Block 68, within the corporate limits of the Town of Pagosa Springs, see **Exhibit A.**

SECTION 3 – Vacation of Utility Easements. The Town hereby divests itself of all of its right or interest of the 10 foot wide public utility easement, recorded under reception # 98001787, within the western boundary of the subject Lots now known as Lots 1-A, Lots 2A-1, 2A-2, 2A-3, 2A-4 and 2A-5 in Block 68 within the corporate limits of the Town of Pagosa Springs, see **Exhibit B.**



SECTION 4 – Vacation of Apache Street Bridge Construction Easement. The Town hereby divests itself of all of its right or interest of the Apache Street Bridge construction and access easement along the eastern edge of Lots 1-A, 2A-1, 2A-2, 2A-3, 2A-4 and 2A-5 in Block 68 within the corporate limits Town of Pagosa Springs, see **Exhibit B**.

SECTION 5 – Vacation Contingent on 10 wide public utility easement . Vacation of the subject public utility easements is contingent upon the Town receiving a dedicated 10 wide public utility easement along the eastern boundary of the 35 foot wide 4/5th Alley ROW within Block 68 of the Town of Pagosa Springs along lots 1-A, 2A-1, 2A-2, 2A-3, 2A-4 and 2A-5.

SECTION 6 – Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

SECTION 7 – Effective Date. This Ordinance shall become effective and be in force immediately after final passage at second reading and upon receiving a dedicated 10' wide public utility easement along the western boundary of Lots 1-A, 2A-1, 2A-2, 2A-3, 2A-4 and 2A-5, adjoining Tract A, within Block 68 of the Town of Pagosa Springs.

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INTRODUCED, READ, AND ORDERED PUBLISHED PURSUANT TO SECTION 3.9, B) OF THE PAGOSA SPRINGS HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE 2nd DAY OF JULY, 2013.

TOWN OF PAGOSA SPRINGS,
COLORADO

By: 
Ross Aragón, Mayor

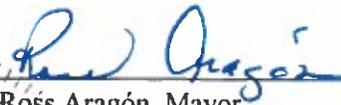
Attest:


April Hessman, Town Clerk

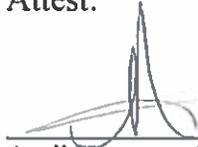


FINALLY ADOPTED, ~~PASSED~~, APPROVED, AND ORDERED PUBLISHED PURSUANT TO SECTION 3.9, D) OF THE PAGOSA SPRINGS HOME RULE CHARTER, BY THE TOWN COUNCIL OF THE TOWN OF PAGOSA SPRINGS, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS REGULAR MEETING HELD AT THE TOWN OF PAGOSA SPRINGS, ON THE 18th DAY OF JULY, 2013.

TOWN OF PAGOSA SPRINGS,
COLORADO

By: 
Ross Aragón, Mayor

Attest:


April Hessman, Town Clerk

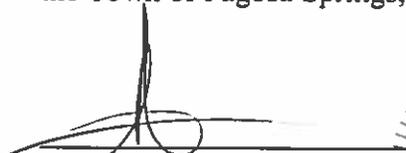




CERTIFICATE OF PUBLICATION

I, the duly elected, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 789 (Series 2013) was approved by the Town Council of the Town of Pagosa Springs on first reading at its regular meeting held on the 2nd day of July, 2013, and was published by title only, along with a statement that the full text of the Ordinance, including any amendments, is available for public inspection at the office of the Town Clerk at Town Hall, on the Town's official website, on July 3, 2013, which date was at least ten (10) days prior to the date of Town Council consideration on second reading.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this 19th day of July, 2013.



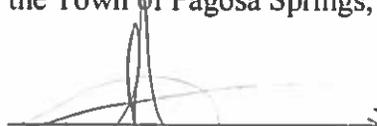
April Hessman, Town Clerk

(S E A L)



I, the duly elected, qualified and acting Town Clerk of the Town of Pagosa Springs, Colorado, do hereby certify the foregoing Ordinance No. 789 (Series 2013) was approved by the Town Council of the Town of Pagosa Springs on second reading, at its regular meeting held on the 18th day of July, 2013, and was published by title only, along with a statement indicating the effective date of the Ordinance and that the full text of the Ordinance is available at the office of the Town Clerk, on the Town's official website, on July 19, 2013.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Town of Pagosa Springs, Colorado, this 19th day of July, 2013.



April Hessman, Town Clerk

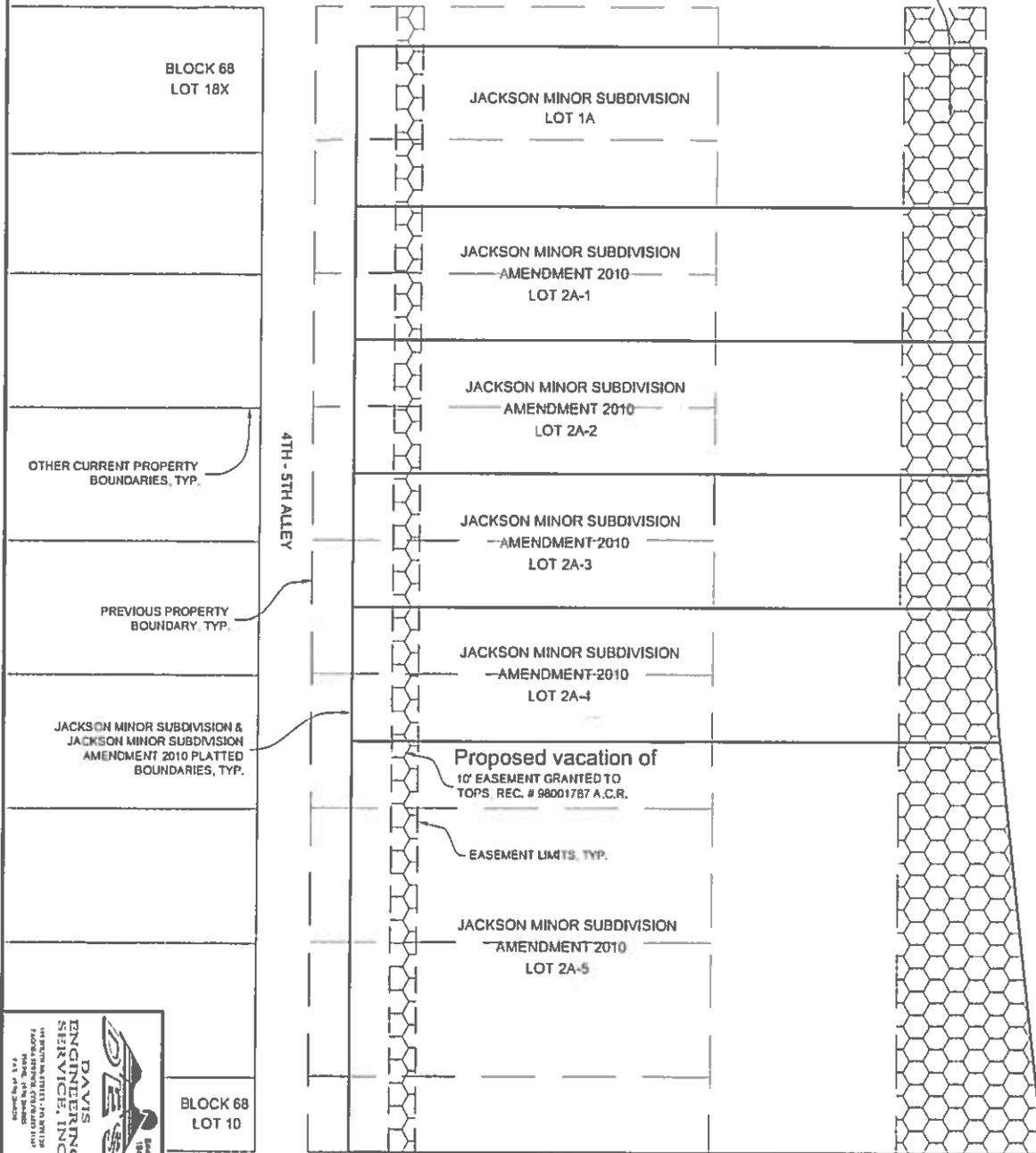
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EXHIBIT B - ORDINANCE 789

APACHE STREET

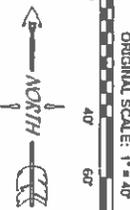
Proposed Vacation of
EASEMENT GRANTED TO TOPS,
LOT 2, BLOCK 67, ORIGINAL
TOWNSITE OF PAGOSA SPRINGS,
REC. # 98001787 A.C.R.



DAVIS ENGINEERING SERVICES, INC.
141 Herich Avenue
Pagosa Springs, CO 81417
Phone: 970-261-1100
Fax: 970-261-1100

BLOCK 68
LOT 10

LOT	AREA	ACRES	DATE	STATUS
1 OF 1	1.00	1.00	06/28/13	PLATTED
EXHIBIT OF EX LOT 2 BLOCK 67 EASEMENT & EX 10' EASEMENT ADJACENT TO WIDENED ALLEY				
Located in Portions of Block 67 and Block 68, TOWNSITE OF PAGOSA SPRINGS, COLORADO				
PREPARED BY: SWS				
DATE: 06/28/13				
PROJECT: P06277				



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7 of 7 ODC R\$41.00 D\$0.00

June Madrid
Archuleta County