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ORDINANCE No. 403

VACATING PORTIONS OF CAPITOL AVENUE AND AUTHORIZING THE CONVEYANCE OF PROPERTY

WHEREAS, Colorado Revised Statute §31-15-713(1)(b) authorizes the City of Creede, a Colorado municipality ("City") to dispose of municipally owned property upon such terms and conditions as the Board of Trustees deems appropriate; and

WHEREAS, pursuant to CRS § 43-2-303(1)(a), a municipality has the power, by adoption of an ordinance, to vacate any roadway or part thereof within its jurisdiction and in accordance with CRS § 31-15-101(1)(d) a municipality has the authority to dispose of property as it deems appropriate; and

WHEREAS, Brian F. Egolf is the owner of record for the "South Half of lot 15, and all of Lots Sixteen (16), Seventeen (17), Eighteen (18), Nineteen, (19), Twenty (20), Twenty-One (21) and Twenty-Two (22) in Block Forty-Six (46) in that part of the City of Creede platted and known as South Creede". The property he and his family have occupied over the years includes a fenced portion of property platted as Capitol Avenue. This portion of Capitol Avenue has never been established as a traveled right-of-way, but does contain an active wastewater collection line that serves the town. Mr. Egolf also has a wooden front deck (approximately 2½ feet by 30 feet) that encroaches onto Capitol Avenue; and

WHEREAS, Carl G. Jackson is the owner of "Lots 13, 14, and the North One-Half of Lot 15, all in Block 46, South Creede". The property he and his family have occupied over the years includes a fenced portion of property platted as Capitol Avenue. This portion of Capitol Avenue has never been established as a traveled right-of-way, but does contain an active wastewater collection line that serves the town; and

WHEREAS, Brian F. Egolf has agreed to convey by quit-claim deed the southern portion of Lot 22 in Block 46, South Creede to the City as a public right-of-way; and

WHEREAS, the Planning Commission reviewed and recommended the boundary line agreement at their June 15th and July 11th, 2017 meeting's and the Board of Trustees did the same at their July 18th, 2017 regularly scheduled meeting; and

WHEREAS, the Board of Trustees has determined that vacating these portions of Capitol Avenue and conveying then to the occupants is in the best interest of the town.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF CREEDE, A COLORADO TOWN, THAT:

SECTION 1: Pursuant to CRS § 31-15-101(1)(d) and CRS § 43-2-303(1)(a), these portions of Capitol Avenue as described in Exhibit A and Exhibit B, are hereby vacated.

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SECTION 2: The Board of Trustees, hereby find and determine that these vacation's will not leave any usable land without an established public access and that these vacations are in the best interest, welfare and safety of the inhabitants of Creede.

SECTION 3: Subject to the terms of this Ordinance, the "City" will Quit-Claim the portion of Capitol Avenue as described in Exhibit A, with a twenty (20) foot utility easement to Brian F. Egolf.

SECTION 4: Subject to the terms of this Ordinance, the "City" will Quit-Claim the portion of Capitol Avenue as described in Exhibit B, with a twenty (20) foot utility easement to Carl G. Jackson.

SECTION 5: Subject to the terms of this Ordinance, Brian F. Egolf will Quit-Claim the southern portion of Lot 22, Block 46, South Creede as described in Exhibit C to the City.

SECTION 5: The parcel's will be re-platted by resolution, named "Tract 1R" and "Tract 2R" of Block 46, South Creede respectively and recorded in the Mineral County Clerk & Recorder's office.

SECTION 6: City Staff is authorized to correct any typographical, grammatical, cross-reference, or other errors which may be discovered in any documents associated with this Ordinance and documents approved by this Ordinance provided that such corrections do not change the substantive terms and provisions of such documents.

SECTION 7: If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or application of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Board hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term "provision" means and includes any part, division, subdivision, section, sub section, sentence, clause or phrase; the term "application" means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

SECTION 8: This Ordinance shall take effect thirty days after the publication of this Ordinance by title only in accordance with C.R.S. §31-16-105.

INTRODUCED, APPROVED AND PASSED ON FIRST AND FINAL READING, on this 5th **day of** September, **2017.**

BY: Jeffrey A Larson 9/5/17
Mayor, Jeffrey Larson, Date

ATTEST: 9/5/17
City Clerk, Randi Snead, Date

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EXHIBIT A
QUIT CLAIM DEED
(City to Egolf)

THIS DEED, Made this 7th day of September 2017 between the **City of Creede**, a Colorado Town, whose address is PO Box 457, Creede Colorado 81130; ("Grantor") and **Brian F. Egolf** whose address is PO Box 628, Creede, Colorado 81130 ("Grantee").

WITNESSETH, that the grantor, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does remise, release, and quitclaim unto the Grantees, its successors and assigns forever, all the right title, interest, claim and demand which the Grantor has in and to the real property, together with improvements, if any, situate, lying and being in the County of Mineral and State of Colorado, described as follows:

A tract of land located in Northeast Quarter (NE¼) of Section 36, Township 42 North, Range 1 West, New Mexico Principle Meridian, Mineral County, Colorado, being more particularly described by metes and bounds as follows:

Beginning at a point on the east line of Lot 22, Block 46, South Creede, City of Creede as platted: thence N 02° 10'30" W along said east line of said block a distance of 167.80 feet to the northeast corner of the south half of Lot 15; thence along an existing fence line for the following five (5) courses;

1) thence N 88° 50'11" E a distance of 25.55 feet;
2) thence S 04° 44'41" E a distance of 109.02 feet;
3) thence S 15° 54'02" W a distance of 42.61 feet;
4) thence S 40° 24'54" W a distance of 19.39 feet;
5) thence S 55° 27'38" W a distance of 4.33 feet to the Point of Beginning, containing 0.096 acres, more or less. This tract is subject to any and all existing easements and/or rights-of-way of whatsoever nature, including but not limited to a twenty (20) foot wide easement for an existing sanitary sewer line.

SUBJECT TO any and all existing easements and/or rights of way of whatsoever nature.

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and privileges thereunto belonging or in anywise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever, of the Grantor, either in law or equity, to the only proper use, benefit and behoof of the Grantee, their heirs and assigns forever.

IN WITNESS WHEREOF; Jeff Larson, Mayor of the City of Creede, Colorado, has executed this deed on the date set forth.

Dated this 7th day of September, 2017.

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Eryn K Wintz
Mineral County Clerk

EXHIBIT B
QUIT CLAIM DEED

(City to Jackson)

THIS DEED, Made this 7th day of September 2017 between the **City of Creede**, a Colorado Town, whose address is PO Box 457, Creede Colorado 81130; ("Grantor") and **Carl G. Jackson** whose address is PO Box 195, Creede, Colorado 81130 ("Grantee").

WITNESSETH, that the grantor, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does remise, release, and quitclaim unto the Grantees, its successors and assigns forever, all the right title, interest, claim and demand which the Grantor has in and to the real property, together with improvements, if any, situate, lying and being in the County of Mineral and State of Colorado, described as follows:

A tract of land located in Northeast Quarter (NE¼) of Section 36, Township 42 North, Range 1 West, New Mexico Principle Meridian, Mineral County, Colorado, being more particularly described by metes and bounds as follows:

Beginning at the northeast of Lot 13, Block 46, South Creede, City of Creede as platted; thence along an existing fence line for the following (4) courses;:

1) thence N 88° 55'55" E a distance of 23.38 feet;
2) thence S 05° 10'59" E a distance of 62.76 feet;
3) thence N 83° 07'31" W a distance of 1.14 feet;
4) thence S 88° 50'11" W a distance of 25.55 feet;

thence N 02° 10'30" W along the east line of said Block 46 a distance of 62.50 feet to the northeast corner of Lot 13 to the Point of Beginning, containing 0.036 acres, more or less. This tract is subject to any and all existing easements and/or rights-of-way of whatsoever nature, including but not limited to a twenty (20) foot wide easement for an existing sanitary sewer line.

SUBJECT TO any and all existing easements and/or rights of way of whatsoever nature.

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and privileges thereunto belonging or in anywise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever, of the Grantor, either in law or equity, to the only proper use, benefit and behoof of the Grantee, their heirs and assigns forever.

IN WITNESS WHEREOF; Jeff Larson, Mayor of the City of Creede, Colorado, has executed this deed on the date set forth.

Dated this 7th day of September, 2017.

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EXHIBIT C
QUIT CLAIM DEED
(Egolf to City)

Brian F. Egolf ("Grantor"), whose address is PO Box 628, Creede, Colorado 81130, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does remise, release, and quitclaim unto the **City of Creede**, a Colorado Town ("Grantee"), whose address is P.O. Box 457, Creede, CO 81130 all of Grantor's right, title and interest owned, claimed, or held by Grantor in and to the real property, together with improvements, if any, in the lands in Mineral County, State of Colorado, being more particularly described as follows:

A tract of land located in Northeast Quarter (NE¼) of Section 36, Township 42 North, Range 1 West, New Mexico Principle Meridian, Mineral County, Colorado, being more particularly described by metes and bounds as follows:

Beginning at the southwest corner of Block 46, South Creede, City of Creede as platted: N 02° 10'30" W along said west line of said Block 46 a distance of 7.69; thence N 87° 49'30" E a distance of 33.23 feet; thence N 85° 39'04" E a distance of 36.73 feet; thence N 78° 57'21" E a distance of 17.84 feet; thence N 55° 27'38" E a distance of 14.74 feet to a point on the east line of said Block 46; thence S 02° 10'30" E along said east line a distance of 19.70 feet to the southeast corner of said Block 46; thence S 87°49'30" W along the south line of said Block 46 a distance of 100 feet to the Point of Beginning, containing 0.022 acres, more or less. This tract is subject to any and all existing easements and/or rights-of-way of whatsoever nature, including but not limited to a twenty (20) foot wide easement for an existing sanitary sewer line.

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and privileges thereunto belonging or in anywise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever, of the grantor, either in law or equity, to the only proper use, benefit and behoof of the grantee, their heirs and assigns forever. The City of Creede retains the right of access for the purpose of maintenance onto utility easements of record within the property.

IN WITNESS WHEREOF; Brian F. Egolf has executed this Deed on the date set forth.

Dated this 7th day of September, 2017.