

## **ORDINANCE No. 413**

### **VACATING A PORTION OF LOMA STREET AND AUTHORIZING THE TRANSFER OF PROPERTY**

**WHEREAS**, Colorado Revised Statute §31-15-713(1)(b) authorizes the City of Creede, a Colorado town (“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**, Allan and Clare McLean are the owners of “The East 80 feet of Lot 1, and all of Lot 2, Block 14, Creedmoor, City of Creede, County of Mineral, State of Colorado”. The property they’ve occupied over the years includes a portion of property platted as Loma Street and a fenced portion of the north portion of Lot 3, Block 14, Creedmoor, City of Creede, County of Mineral, State of Colorado; and

**WHEREAS**, Richard and Jane Morton are the owners of Lots 3 and 4, and the North 6feet, 2 inches of Lot 5, Block 14, and the South 18 feet, 10 inches of Lot 5, all of Lot 6, and the North 8.2 feet of Lot 7 in Block 14, Creedmoor, City of Creede, County of Mineral, State of Colorado; and

**WHEREAS**, The City of Creede, Allan and Clare McLean, and Richard and Jane Morton (herein “Parties”) signed and agreed to have Tract 3R, Block 14, Creedmoor, City of Creede, County of Mineral, State of Colorado surveyed and replatted with a Boundary Line Agreement (herein “Agreement”) approved by the Board of Trustees on August 7, 2018.

### **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), an eastern portion of Loma Street, Creedmoor as indicated on the “The Creede Town Hall, McLean and Morton Replat in “**Exhibit A**”, is hereby vacated.

**SECTION 2:** The Board of Trustees, hereby finds and determines that the public rights-of-way herein vacated are not now in public use and have not been in public use for many years; that this vacation will not leave any usable land without an established public access; and that this vacation is 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 this portion of eastern Loma Street the portion of Creede Avenue as indicated in "Exhibit A" to Allan and Clare McLean with the quit claim deed described in "Exhibit B".


**SECTION 4:** This parcel was re-platted by Resolution No 2018-07 and recorded in the Mineral County Clerk & Recorder's office.

**SECTION 5:** 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 6:** 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 7:** 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 10<sup>th</sup> day of September, 2018.**

**BY:**  
  
Jeffery Larson,  
Mayor

*Sup*  
*Aug 10*  
\_\_\_\_\_  
Date

**ATTEST:**  
  
Randi Snead,  
City Clerk

8/10/18  
\_\_\_\_\_  
Date

# Exhibit A

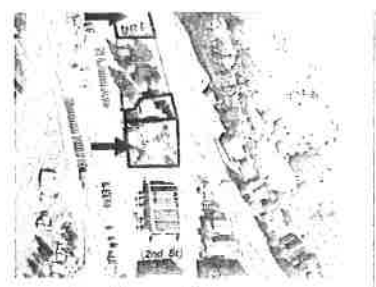
\*71281\*

## THE CREEDE TOWN HALL REPLAT MCLEAN AND MORTON F3 of 4

9/10/2018 10:48 AM  
ORDIN R\$28.00 D\$0.00

Eryn K Wintz  
Mineral County Clerk

ALL OF LOTS 1, 2, 3, 4, 5, 6 AND THE NORTH 8.2 FEET OF LOT 7, BLOCK 14, AND ALSO OF BLOCKS, CREEDMOOR (ALSO KNOWN AS AMETHYST TOWNSITE), TOGETHER WITH NORTH LOMA AVENUE, NORTH THIRD STREET AND NORTH MAIN STREET, AND THE ABANDONED RAILROAD RIGHT OF WAY, IN SUSPENDED TOWNSHIP 42 NORTH, RANGE 1 WEST, NEW MEXICO PRINCIPAL MERIDIAN, CITY OF CREEDE, MINERAL COUNTY, COLORADO



Location Map  
Not to Scale

### DEDICATION

KNOWN ALL MEN BY THESE PRESENTS THAT the undersigned are the owners of the real property located in Suspended Township 42 North, Range 1 West, New Mexico Principal Meridian, City of Creede, Mineral County, Colorado, being more particularly described by as follows:

All of Lots 1, 2, 3, 4, 5, 6 and the North 8.2 feet of Lot 7, Block 14, and all of Block 5, Creedmoor (Also known as Amethyst Townsite), City of Creede, Mineral County, Colorado.

#### SECTION 17TH

Block 5, Avenue, North Third Street and North Main Street, Creedmoor.

FURTHER THAT they have caused said real property to be replatted and designated in the CREEDE TOWN HALL MCLEAN AND MORTON REPLAT with the new lots to be known as shown hereon, and do hereby dedicate say, and all existing easements including but not limited to those shown hereon.

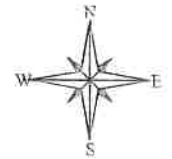
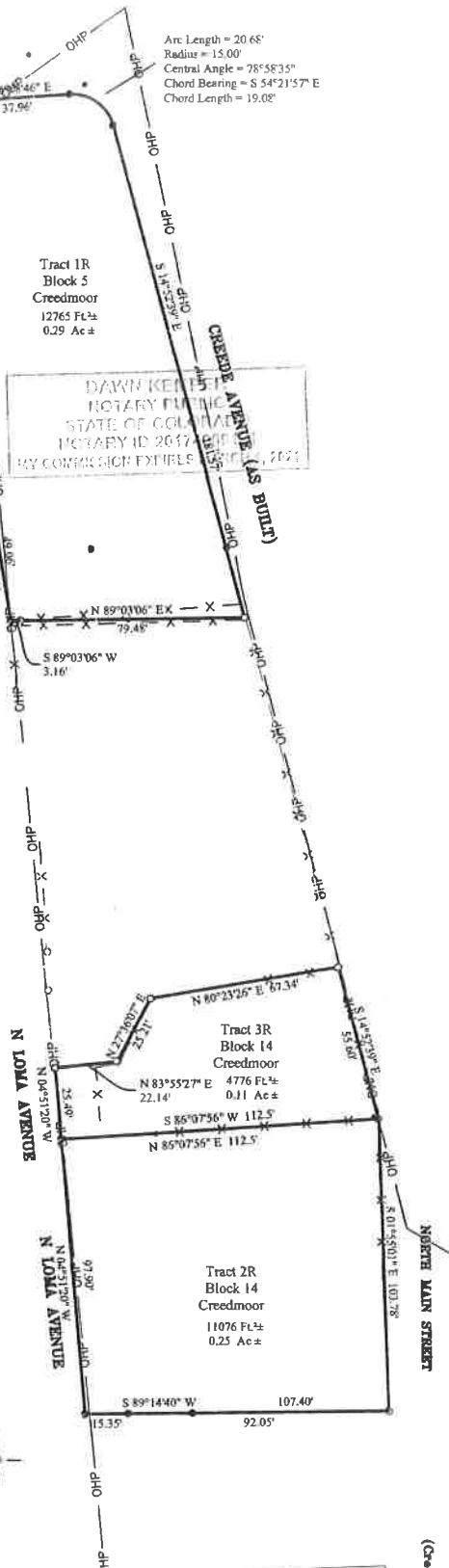
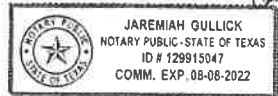
*[Signatures of J. Allen McLean and Clare McLean]*  
J. Allen McLean, Clare McLean  
Tract 1R Block 5 Creedmoor 12765 FL± 0.29 Ac±

STATE OF COLORADO }  
COUNTY OF MINERAL } SS

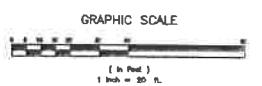
The foregoing was acknowledged before me this 31 day of August, 2018, by Richard J. Moritz and Eva Jane Moritz. Witness My Hand and Seal. My commission expires 3-1-2021 Signed, *[Notary Signature]* Notary Public

STATE OF COLORADO }  
COUNTY OF MINERAL } SS

The foregoing was acknowledged before me this 20 day of August, 2018, by J. Allen McLean and Clare McLean. Witness My Hand and Seal. My commission expires 9-8-22 Signed, *[Notary Signature]* Notary Public



BEARING BASIS  
Bearings shown hereon are based on the assumption that the South line of Tract 2R, Block 14, bears S 89°14'40" W, uncorrected as shown hereon.



- #### LEGEND
- ◆ Section or Quarter Section Corner, As Described
  - Set 24" x 1/4" 4 Rubber With 2" Aluminum Cap, PLS No. 22583
  - Recovered 1/2" Iron Pin with Red Plastic Cap, PLS No. 5442
  - Property Boundary
  - Adjacent Lot Lines Existing
  - X Existing Fence Line
  - OHP Existing Overhead Electric Line

### BOARD OF TRUSTEES CERTIFICATE

APPROVED this 17 day of September, 2018 A.D. Board of Trustees for the City of Creede, Mineral County, Colorado.

Signed: *[Signatures]* Attest: *[Signature]*  
Henry Legon, Mayor Randi Strick, Town Clerk

### SURVEYOR'S STATEMENT

I, Daniel M. Russell, a duly registered land surveyor in the State of Colorado, do hereby state that this plat was prepared from the notes of an actual field survey performed by me or under my direct supervision and is true and correct to the best of my knowledge and belief.

For and on behalf of Russell Surveyors & Associates, Inc.



### CLERK AND RECORDER'S CERTIFICATE

STATE OF COLORADO }  
COUNTY OF MINERAL } SS

I hereby certify that this instrument was filed in my office at \_\_\_\_\_ o'clock, \_\_\_\_\_ M, on \_\_\_\_\_ day of \_\_\_\_\_, 2018, and is duly recorded under Reception No. \_\_\_\_\_ and is Filed in Book No. \_\_\_\_\_ Page No. \_\_\_\_\_

SIGNED: \_\_\_\_\_ Recorder  
PLACE CLERK AND RECORDER'S BAR CODE STICKER HERE

### SURVEYOR NOTES

- There are record conflicts or discrepancies in the multiple Plat platting Lots, Blocks, and Rights of Way for the City of Creede and multiple subdivision names for the same property (Creedmoor, Amethyst and Linnwood). Plat reviewed during this survey are as follows:  
A. Old Map Block 1, Map 3 commonly referred to as the Remsen Plat of 1895 - it incorrectly shows 13 lots in Block 14.  
B. Old Map Block 1, Map 19 (might be the plat of the Butler Plat of 1907) - it correctly shows 12 lots in Block 14.  
C. The City Map of Creede County Assessor's Map as prepared by Davis Engineering Service dated 1987.  
D. The Sanborn Map of 1893 (the Sanborn Maps were Fire Insurance Maps created in the years listed).  
E. The Sanborn Map of 1894.  
F. The Sanborn Map of 1904.  
G. The Sanborn Map of 1910.  
H. The 1949 map of Creede prepared by Paul Davis, PE-LS, based on the Remsen survey recorded under Reception No. 3.  
I. The 1983 survey of the Courthouse and Wharfall Properties by John Schofield, PLS, which shows agreement with our survey of Block 14 as shown on this plat.
- This survey does not constitute a title search by Russell Surveyors & Associates, Inc. in determining ownership or easements of record. For all information regarding easements, rights-of-way and ownership, Russell Surveyors & Associates, Inc. relied upon, unless otherwise noted, information provided by the client. All record easements disclosed in the above referenced information affecting the subject property and, and apparent easements identified during the course of this survey that may affect this property are shown hereon.
- According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.
- This drawing is the property of the surveyor and is not to be reproduced, modified or used for any other project or extension of life project except by express written consent of the surveyor. The surveyor shall not be liable or held responsible for any claims, liability or costs arising out of any reuse or modification of this drawing by others.

DATE RECORDED	REVISIONS:	CLERK:
09/10/2018		City of Creede

THE CREEDE TOWN HALL, MCLEAN AND MORTON REPLAT  
ALL OF LOTS 1, 2, 3, 4, 5, 6 AND THE NORTH 8.2 FEET OF LOT 7, BLOCK 14, AND ALL OF BLOCK 5, CREEDMOOR (ALSO KNOWN AS AMETHYST TOWNSITE), IN THE SUSPENDED TOWNSHIP 42 NORTH, RANGE 1 WEST, NEW MEXICO PRINCIPAL MERIDIAN, CITY OF CREEDE, MINERAL COUNTY, COLORADO

RUSSELL SURVEYORS & ASSOCIATES, INC.  
6820 S Hwy. 17, ALAMOSA, COLORADO 81101  
website: www.russellsurveyors.com  
email: surveyors@bresnan.net  
Phone: (719) 887-3619

**Exhibit B**  
**QUIT CLAIM DEED**  
(City to McLean)

**THIS DEED**, Made this \_\_\_ day of September 2018 between the **City of Creede**, a Colorado Town, ("Grantor"), whose legal address is PO Box 457, Creede, CO 81130 and **Allan and Clare McLean** ("Grantee's") whose legal address is 175 Winged Foot Drive, Willow Park, TX 76008..

**WITNESSETH**, that Grantor, for and in consideration of the sum of THREE THOUSAND, FOUR HUNDRED SIXTY-THREE DOLLARS AND SIXTY-EIGHT CENTS (\$3,463.68), the receipt whereof is hereby confessed and acknowledged, and by these presents does hereby remise, sell, convey and QUIT-CLAIM unto the Grantee's, their heirs, successors and assigns forever all the right, title, interest, claim and demand which the Grantor has in and to the following described Tract of land, situate, lying and being in the County of Mineral and State of Colorado, described as follows:

**Tract 3R, Block 14, Creedmoor, City of Creede, County of Mineral, State of Colorado, according to the plat approved by the Board of Trustees on August 7, 2018.**

The above described Tract contains 4,776 square feet (0.11 acres), more or less and is subject to any and all easements 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**; Jeffrey Larson, Mayor of the City of Creede, Colorado has executed this Deed on the date set forth.

City of Creede, a Colorado Town

Attest:

\_\_\_\_\_  
Mayor, Jeffrey Larson                      Date

\_\_\_\_\_  
City Clerk, Randi Snead                      Date

The forgoing instrument was acknowledged before me this \_\_\_\_ day of September, 2018 by Jeffery Larson and Randi Snead.

Witness my hand and official seal.  
My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

# QUIT CLAIM DEED

(City to McLean)

**THIS DEED**, Made this 6 day of September 2018 between the **City of Creede**, a Colorado Town, ("Grantor"), whose legal address is PO Box 457, Creede, CO 81130 and **Allan and Clare McLean** ("Grantee's") whose legal address is 175 Winged Foot Dr., Willow Park, TX 76008.

**WITNESSETH**, that Grantor, for and in consideration of the sum of THREE THOUSAND, FOUR HUNDRED SIXTY-THREE DOLLARS AND SIXTY-EIGHT CENTS (\$3,463.68), the receipt whereof is hereby confessed and acknowledged, and by these presents does hereby remise, sell, convey and QUIT-CLAIM unto the Grantee's, their heirs, successors and assigns forever all the right, title, interest, claim and demand which the Grantor has in and to the following described Tract of land, situate, lying and being in the County of Mineral and State of Colorado, described as follows:

**Tract 3R, Block 14, Creedmoor, City of Creede, County of Mineral, State of Colorado, according to Resolution No. 2014-07, approved August 7, 2018.**

The above described Tract contains 4,776 square feet (0.11 acres), more or less and is subject to any and all easements 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**; Jeffrey Larson, Mayor of the City of Creede, Colorado has executed this Deed on the date set forth.

City of Creede, a Colorado Town  
Jeffrey Larson Sept 6 2018  
Mayor, Jeffrey Larson Date

Attest:  
Randi Snead 9/10/18  
City Clerk, Randi Snead Date

The forgoing instrument was acknowledged before me this 6 day of September, 2018 by Jeffery Larson and Randi Snead.

DAWN KEMPER  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20174009191  
MY COMMISSION EXPIRES MARCH 1, 2021

Witness my hand and official seal.  
My commission expires: 3.1.2021  
Dawn Kemper  
Notary Public