



**CITY OF CREEDE
ORDINANCE NO. 363**

AN ORDINANCE ANNEXING THE CREEDE RESOURCES PROPERTY

WHEREAS, on April 9, 2010 Creede Resources, Inc., a Colorado corporation, filed with the City Clerk for the City of Creede (“City”) the petition for annexation (“Petition”) requesting that the Town Board of the City (“Town Board”) commence proceedings to annex to the City certain unincorporated tract or tracts of land located in Mineral County, Colorado, and described on **Exhibit A: Creede Resources Property** attached hereto and incorporated herein by this reference (the “Annexation Property”); and

WHEREAS, the Town Board, by Resolution Number 2010-06, and by Resolution Number 2010-08, has determined with regard to the Petition that, pursuant to Section 31-12-110, C.R.S.: (1) the applicable parts of Sections 31-12-104 and 31-12-105, C.R.S., have been met; (2) an election is not required under Sections 31-12-107(2) or 31-12-112, C.R.S.; and (3) no additional terms and conditions are to be imposed on the Petition; and

WHEREAS, annexation proceedings to annex the Annexation Property have not commenced for annexation of all or part of the Annexation Property to another municipality; and

WHEREAS, the Town Board finds that it is in the best interests of the City to annex the Property to the City; and

WHEREAS, the Town Board held a public hearing on January 10, 2011; received all evidence and testimony presented with regard to the annexation of the Annexation Property at such public hearings; and at the conclusion of such public hearings the Town Board considered such evidence and testimony so introduced, and by this Ordinance sets forth its findings of fact and conclusions, stated as follows:

THE TOWN BOARD MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS:

1. The submission, processing, consideration and approval of the Petition have fully met and complied with all applicable laws and regulations of the State of Colorado and the City, including, without limitation, Article II, Section 30 of the Colorado constitution and Sections 31-12-101 through 31-12-123, C.R.S.
2. All public hearings concerning whether the City should annex the Annexation Property have been held and conducted in accordance with all applicable laws and regulations of the State of Colorado and the City.
3. All notices required for the public hearings at which the Town Board considered the Petition were properly and timely published, posted or mailed in accordance with all applicable laws and regulations of the State of Colorado and the City.



4. In order to encourage well-ordered development to the City, it is desirable that the Annexation Property be annexed to the Town.

5. The annexation of the Annexation Property to the City is in the best interests of the public health, safety and general welfare of the people of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF THE CITY OF CREEDE, COLORADO that:

Section 1. Annexation. The Annexation Property as described on the annexation map and accompanying Petition is hereby annexed into the City of Creede, Colorado.

Section 2. Executing and Filing Documents. The Mayor and City Clerk are hereby authorized to execute all necessary documents to complete the annexation of the Annexation Property. As required by statute, the City shall:

- (a) File one copy of the annexation map with the original of this Ordinance in the office of the City Clerk for the City; and
- (b) File for recording three certified copies of this Ordinance and of the map of the area annexed containing a legal description of such area with the Clerk and Recorder of Eagle County, Colorado.

Section 3. Publication. The City Clerk is hereby authorized and directed to publish this Ordinance by title only in the Mineral County Miner, a newspaper of general circulation within the City on the next available publication date. The City Clerk is ordered to publish this Ordinance by posting notice of adoption of this Ordinance on final reading by title in at least three public places within the City and posting at the office of the City Clerk, which notice shall contain a statement that a copy of the ordinance in full is available for public inspection in the office of the City Clerk during normal business hours.

Section 4. Effective Date. This Ordinance shall take effect thirty (30) days after final passage in accordance with Colorado Revised Statutes.

[signature page follows]



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Eryn K Wintz
Mineral County Clerk

**INTRODUCED, APPROVED, PASSED ON FIRST READING AND FINAL READING
on January 10, 2011.**

BY:

Deborah Roughton-Miles, Mayor

ATTEST:

Pamela J. Wilson, City Clerk





**EXHIBIT A: ANNEXATION PETITION AND
LEGAL DESCRIPTION OF ANNEXATION PROPERTY**

**PETITION FOR ANNEXATION
CREEDE RESOURCES INC. PROPERTY**

TO THE BOARD OF TRUSTEES OF THE CITY OF CREEDE, COLORADO:

The undersigned ("**Petitioner**"), in accordance with the Municipal Annexation Act of 1965 as set forth in Article 12, Title 31, Colorado Revised Statutes ("**C.R.S.**"), as amended and as in effect on the submission date set forth below ("**Annexation Act**"), hereby petitions ("**Petition**") the Board of Trustees of the City of Creede, Colorado ("**Town Board**"), to annex to the City of Creede ("**City**") the unincorporated territory located in the County of Mineral, State of Colorado, which property is more particularly described in **Exhibit A: Legal Description of Creede Resources Inc. Property** attached hereto and incorporated herein by reference ("**Property**").

In support of this Petition, Petition alleges that:

1. Annexation of the Property into the City of Creede is desirable and necessary.
2. The requirements of C.R.S. §31-12-104 and §31-12-105 have been met.
3. Not less than one-sixth (1/6) of the perimeter of the Property is contiguous with the Town's current municipal boundaries.
4. A community of interest exists between the Property and the Town.
5. The Property is integrated with or is capable of being integrated with the Town.
6. The signer of this Petition comprises the landowner of more than fifty percent (50%) of the territory included in the area proposed to be annexed, exclusive of streets and alleys.
7. The signer of this Petition comprises the landowner of one hundred percent (100%) of the territory included in the area proposed to be annexed, exclusive of streets and alleys, as landownership is defined for the purposes of C.R.S. §31-12-107(1)(g).
8. This Petition is accompanied by four copies of an annexation map containing, among other things, the following information:
 - a. A written legal description of the boundaries of the Property;
 - b. A map showing the boundary of the Property;
 - c. Within the annexation boundary map, a showing of the location of each ownership tract in unplatted land and, if part or all of the area is platted, the boundaries and the plat numbers of plots or lots and blocks;
 - d. **Next** to the boundary of the Property, a drawing of the contiguous boundary of the City abutting the Property and the contiguous boundary of any other municipality abutting the Property.



9. In connection with the processing of this Petition, the Petitioner requests that the City approve and execute an annexation and development agreement ("**Annexation and Development Agreement**") which establishes vested property rights for a site specific development plan for the Property for an agreed upon term pursuant to Article 68, Title 24, Colorado Revised Statutes.

10. Petition has filed this Petition subject to the following conditions:

- a. that the Town Board approve an Annexation and Development Agreement concurrently with approval of zoning at the same hearing as and immediately following the Town Board approval of annexation of the Property;
- b. that the Annexation and Development Agreement and zoning approval are acceptable to the Petitioner, including any revisions or conditions approved by the Town Board at the hearing, which determination by Petitioner shall be made at the bearing or by the end of three (3) business days following the hearing;
- c. that the Town Board approvals become final and non-appealable;
- d. the annexation shall not become effective, and neither Petitioner nor the City shall file the annexation ordinance and map with the Mineral County Clerk and Recorder until after the effective date of both the ordinance approving the annexation and the ordinance approving the zoning and Annexation and Development Agreement; and,
- e. Petitioner reserves the right to withdraw this Petition if Petitioner objects to and rejects the Annexation and Development Agreement and/or approval of zoning for the Property, which notice of objection and rejection and withdrawal of this Petition shall be provided in writing to the City by the end of three (3) business days following the final action by the Town Board to approve the Annexation and Development Agreement and zoning for the Property, and which right of Petitioner to withdraw this Petitioner shall thereafter be waived and released if not exercised timely.

11. Upon the annexation of the Property becoming effective, the Property shall become subject to all ordinances, resolutions, rules and regulations of the City, except as otherwise set forth in the Annexation and Development Agreement.

12. Except for the terms and conditions' of this Petition and of the Annexation and Development Agreement, which terms and conditions the Petitioner expressly approves and therefore do not constitute an imposition of additional terms and conditions within the meaning of C.R.S. §31-12-107(1)(g), Petitioner requests that no additional terms and conditions be imposed upon annexation of the Property to the City.

THEREFORE, Petitioner requests that the Town Board of the City of Creede approve and complete the annexation of the Property pursuant to the provisions of the Municipal Annexation Act of 1965, as amended.

Signature of Land Owner 

Date: 4/9/10

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EXHIBIT A: LEGAL DESCRIPTION OF CREEDE RESOURCES INC. PROPERTY

A parcel of land located in the Southeast Quarter of the Southeast Quarter (SE¹/₄SE¹/₄) of Section 36, Township 42 North, Range 1 West, in the Southwest Quarter (SW¹/₄) of Section 31, Township 42 North, Range 1 East, and in the Northwest Quarter (NW¹/₄) of Section 6, Township 41 North, Range 1 East, New Mexico Principal Meridian, Mineral County, Colorado, being more particularly described as follows:

Beginning at a point on the West line of said SW¹/₄ from which the West Quarter Corner of said Section 31 bears N 00°06'58" W a distance of 380.00 feet;

1. Thence N 89°55'59" E a distance of 384.75 feet to a point on the West right of way line of Colorado State Highway 149;

Thence along said right of way for the following ten (11) courses:

2. Thence S 14°46'18" E along said right of way a distance of 845.80 feet;

3. Thence S 24°02'18" E a distance of 319.30 feet;

4. Thence S 28°49'18" E a distance of 875.00 feet;

5. Thence S 04°40'18" E a distance of 309.90 feet;

6. Thence S 19°24'18" E a distance of 179.10 feet;

7. Thence S 52°04'52" E a distance of 287.50 feet;

8. Thence S 87°11'58" E a distance of 64.20 feet;

9. Thence along the arc of a non-tangent curve to the left (Curve Data: Radius = 5830.00'; Central Angle = 00°29'06"; Chord Bearing = S 32°18'15" E; Chord Length = 49.35') a distance of 49.35 feet;

10. Thence S 32°32'51" E a distance of 1276.57 feet to a Colorado Department of Transportation right of way monument;

11. Thence S 34°34'27" E a distance of 409.70 feet;

12. Thence along the arc of a curve to the left (Curve Data: Radius = 2010.00; Central Angle = 06°18'17"; Chord Bearing = S 41°42'09" E; Chord Length = 221.07') a distance of 221.18 feet to a point on the East line of said Northwest Quarter of Section 6 from which the North Quarter Corner of said Section bears N 01°06'08" E a distance of 1565.54 feet;

13. Thence S 01°06'08" W along the East line of said NW¹/₄ a distance of 109.14 feet to a point on the East right of way of the historic Denver and Rio Grande Western Railroad;

14. Thence S 01°06'08" W a distance of 130.73 feet to a point on the West right of way of said Railroad;

15. Thence S 01°06'08" W along said East line said NW¹/₄ a distance of 887.69 feet to the Center Quarter corner of said Section 6, monumented by a steel bar with a 2.5" brass cap set by The General Land Office;

16. Thence N 89°11'10" W along the south line of the Northwest Quarter (NW¹/₄) of said Section 6 a distance of 729.90 feet to the Southeast corner of that parcel deeded to the City of Creede (Book 112-B, Pages 59-61);

17. Thence N 25°31'15" W along the East line of said parcel a distance of 1504.4 feet to the Northeast corner of said parcel;

18. Thence S 57°23'20" W a distance of 375.98 feet to a point on the apparent centerline of Colorado Hwy. 149;



thence for the following fourteen (9) courses along said center line;

19. Thence N 33°27'57" W a distance of 486.75 feet;
20. Thence N 22°51'57" W a distance of 416.00 feet;
21. Thence N 28°03'57" W a distance of 540.00 feet;
22. Thence N 30°32'57" W a distance of 455.00 feet;
23. Thence N 30°37'24" W a distance of 60.71 feet;
24. Thence N 30°33'45" W a distance of 278.28 feet;
25. Thence N 27°24'48" W a distance of 303.28 feet;
26. Thence N 24°08'43" W a distance of 177.96 feet;
27. Thence N 21°04'11" W a distance of 122.65 feet;
28. Thence N 71°28'29" W a distance of 657.17 feet;
29. Thence S 74°02'5P W a distance of 262.17 to a point on the West line of the SVASE1/4 of Section 36;
30. Thence N 01°10'53" E along said West line a distance of 424.85 feet to the Southeast Sixteenth Corner of said Section 36, monumented by a 31/4" aluminum cap set by PLS No. 23520;
31. Thence N 89°08'12" E along the north line of the Southeast 1309.41 feet to a the South Sixteenth Corner of Sections 31 and 36;
32. Thence N 00°06'58" W along the section line a distance of 1038.78 feet to the True Point of Beginning, containing 151.44 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:

1. An easement for the Sanitary sewer system for the city of Creede, recorded in Book 112-B at Pages 59 thru 61, in the office of the Mineral County Clerk and Recorder.
2. An extendible 10 year License Agreement for a multi-use trail for the benefit of the public effective May 01, 2002. The memorandum of the license agreement is recorded at Reception No. 60111 in the office of the Mineral County Clerk and Recorder.
3. The exclusive 16.5 foot wide utility easement recorded in Book 113-I at Pages 248 and 249.
4. The exclusive 16.5 foot wide utility easement recorded in Book 113-I at Pages 250 and 251.
5. An easement for the existing Colorado State Highway 149.
6. The existing right of way for the historic Denver and Rio Grande Western Railroad.

