

**TOWN OF MINTURN, COLORADO
RESOLUTION NO. 18 – SERIES 2010**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MINTURN,
COLORADO CONCERNING THE PETITION FOR ANNEXATION, EAGLE
COUNTY SCHOOL DISTRICT MALOIT PARK PARCEL NO. 1**

WHEREAS, Pursuant to Section 31-12-107 (1) (a), C.R.S., a Petition for annexation to the Town of Minturn, Colorado of unincorporated land located in the County of Eagle, State of Colorado as more particularly described in the petition for annexation, a copy of which is attached hereto and incorporated herein by reference, has been submitted to the Town Clerk of the Town of Minturn and was referred to the Town Council of the Town of Minturn as a communication.

**NOW THEREFOR BE IT RESOLVED BY THE TOWN COUNCIL OF THE
TOWN OF MINTURN, COUNTY OF EAGLE, STATE OF COLORADO:**

Section 1. Findings. The Town Council of the Town of Minturn makes the following findings:

- a. The Petition for Annexation was filed with the Town Clerk of the Town of Minturn on November 17, 2010
- b. The Town Clerk of the Town of Minturn has referred to the Town Council as a communication the Petition for Annexation of a certain parcel of real property (herein referred to as the “subject property”, as more specifically described in the Petition for Annexation;
- c. The Town Council referred the Petition for Annexation to staff for review, staff has submitted a summary of review of the Petition for Annexation, recommending to the Town Council that the Petition for Annexation be found in substantial compliance with the requirements of Section 30 of Article II of the State Constitution and Section 31-12-107 (1), C.R.S.;
- d. The Town Council specifically finds upon review of the Petition for Annexation, that the Petition for Annexation is in substantial compliance with the requirements of Section 30 of Article II of the State Constitution and Section 31-12-107 (1), C.R.S.;
- e. The Town Council finds and determines that a public hearing should be held to determine if the proposed annexation complies with Section 30 of Article II of the State Constitution and Sections 31-12-104 and 31-12-105, C.R.S., or such parts thereof as may be required to establish eligibility for annexation to the Town of Minturn under the terms of Section 30 of Article II of the State Constitution and Sections 31-12-101, *et. seq.*, C.R.S.;
- f. The Town Council finds the requirements relating to a request for annexation under Minturn’s Three Mile Plan for Annexation have been fulfilled;
- g. The Town Council further finds and determines that passage of this Resolution

initiates annexation proceedings in accordance with Section 30 of Article II of the State Constitution and Sections 31-12-107 (1) and 31-12-108, C.R.S.; and

- h.** The Town Council directs that an annexation impact report concerning the proposed annexation shall be timely prepared as required by and consistent with the requirements of Sections 31-12-108.5, C.R.S. Since a separate and companion Petition for Annexation, Eagle County School District Maloit Park Parcel No. 2 has been found in substantial compliance with the requirements of Section 30 of Article II of the State Constitution and Section 31-12-107(1), C.R.S., such report may address both of the proposed annexation Maloit Park Parcel Nos. 1 and 2 pursuant to Section 31-12-104 (1) (a), C.R.S.

Section 2. Hearing. A hearing on the Petition for Annexation shall be held January 19, 2011 at 7:00 p.m. at the Minturn Town Center, 302 Pine Street, Minturn, Colorado, as the time, date, and place of a hearing by the Town Council to determine if the proposed annexation complies with Section 30 of Article II of the State Constitution and Sec. 31-12-104 and 31-12-105, C.R.S. (such date in not less than thirty days nor more than sixty days after the effective date of resolution).

Section 3. Publication. The Town Council directs the Town Clerk to publish and give notice required under Sec. 31-12-108(2) C.R.S.

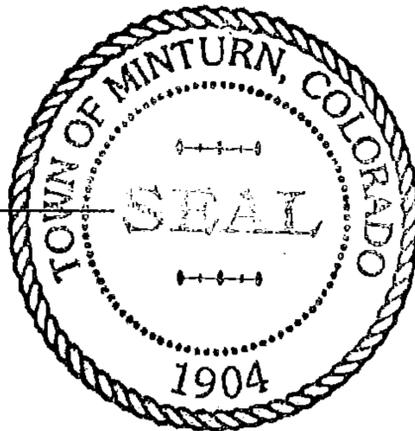
INTRODUCED, READ, APPROVED, ADOPTED AND RESOLVED this 1st day of December, 2010.

TOWN OF MINTURN

By: Hawkeye Flaherty
Mayor

ATTEST:

[Signature]
Town Clerk



PETITION FOR ANNEXATION

Eagle County School District Maloit Park Parcel No. 1

TO THE TOWN COUNCIL OF THE TOWN OF MINTURN, COLORADO:

The undersigned, Eagle County School District RE50J, a Colorado school district, ("**Petitioner**"), in accordance with the Municipal Annexation Act of 1965, as amended, as set forth in Article 12, Title 31, Colorado Revised Statutes, hereby petitions (the "**Petition**") the Town Council of the Town of Minturn, Colorado, a Colorado home rule municipal corporation (the "**Town**" or the "**Town of Minturn**") to annex to the Town of Minturn the unincorporated territory located in the County of Eagle, State of Colorado, known as the Eagle County School District Maloit Park Parcel No. 1, legally described on Exhibit A attached hereto and incorporated herein by reference (the "**Annexation Property**"), and in support of this Petition, Petitioner alleges that:

1. This Petition satisfies the requirement of Article II, Section 30 of the Constitution of the State of Colorado in that it is signed by persons comprising more than fifty percent (50%) of the landowners in the Annexation Property area and who own more than fifty percent (50%) of said area, excluding public streets and alleys.

2. Not less than one-sixth (1/6) of the perimeter of the Annexation Property is contiguous with the Town of Minturn. The contiguity was not established by use of any boundary of an area which was previously annexed to the Town if the area, at the time of its annexation, was not contiguous at any point with the boundary of the Town, was not otherwise in compliance with C.R.S. Sec. 31-12-104(1)(a) and was located more than three miles from the nearest boundary of the Town. Nor was such contiguity established by use of any boundary of territory which is subsequently annexed directly to, or which is indirectly connected through subsequent annexations to such an area.

3. A community of interest exists between the Annexation Property and the Town of Minturn; the Annexation Property is urban or will be urbanized in the near future; and the Annexation Property is integrated with or is capable of being integrated with the Town of Minturn.

4. There are several adult residents of the Annexation Property, more than fifty percent (50%) of which make use of the variety of recreational, civic, social, religious, industrial and commercial facilities within the Town of Minturn.

5. The Annexation Property is not agricultural, and the Landowner of the Annexation Property does not intend to devote the Annexation Property to agricultural use.

6. It is physically practicable to extend to the Annexation Property those urban services which the Town of Minturn provides in common to all of its citizens on the same terms

and conditions as such services are made available to such citizens, to the extent such services are not currently so extended.

7. In establishing the boundaries of the Annexation Property, because the Annexation Parcel is greater than 20 acres and because one hundred percent of the landowners of such parcel have signed this Petition as Petitioner, no land which is held in identical ownership, whether consisting of a single tract or parcel of real estate or two or more contiguous tracts or parcels of real estate:

- (a.) is being divided into separate parts or parcels without the written consent of the landowner or landowners thereof; or
- (b.) comprising 20 acres or more and together with buildings and improvements situate thereon having a valuation for assessment in excess of \$200,000.00 for ad valorem tax purposes for the year next preceding the proposed annexation, is included in the Annexation Property without the written consent of the landowner or landowners.

8. The Annexation Property is not presently a part of any incorporated city, city and county, or town; nor have any proceedings been commenced for annexation of part or all of the Annexation Property to any other municipality; nor has any election for annexation of the Annexation Property or substantially the same territory to the Town of Minturn been held within the twelve months immediately preceding the filing of this Petition.

9. The proposed annexation will not result in detachment of the area from any school district or attachment of the same area to another school district.

10. At least fifty percent of the Annexation Property is within the three mile limit set forth in C.R.S. § 31-12-105(1)(e)(I) and the proposed annexation will not extend the municipal boundary of the Town of Minturn more than three miles in any direction from any point of the current municipal boundary.

11. The contiguity of the proposed annexation is not achieved by annexing all or a portion of a platted street or alley, a public or private right of way, a public or private transportation right-of-way or area, or a lake, reservoir, stream, or other natural or artificial waterway and therefore the provisions of C.R.S. §31-12-105(1)(e)(II), (e.1), (e.3), and (f) do not apply.

12. The proposed annexation will not result in the denial of reasonable access to any landowner, owner of an easement, or owner of a franchise adjoining a platted street or alley which has been annexed by the Town of Minturn but is not bounded on both sides by the Town of Minturn.

13. It is desirable and necessary that the Annexation Property be annexed to the Town of Minturn.

14. The requirements of C.R.S. §§ 31-12-104 and 31-12-105 exist or have been met.
15. The signer of this Petition comprises the landowner of more than fifty percent (50%) of the territory included in the Annexation Property, exclusive of streets and alleys.
16. The affidavit of the circulator of this Petition certifying that each signature on this Petition is the signature of the person whose name it purports to be and certifying the accuracy of the date of such signature is attached hereto as Exhibit B and is incorporated herein by this reference.
17. 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 Annexation Property;
 - (b.) A map showing the boundary of the Annexation Property;
 - (c.) Within the annexation 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 the plots or of lots and blocks; and
 - (d.) Next to the boundary of the Annexation Property, a drawing of the contiguous boundary with the Town of Minturn, the annexing municipality, abutting the Annexation Property; no other municipality abuts the Annexation Property and therefore no contiguous boundary of any other municipality is drawn.
18. The Petitioner is the landowner of one hundred percent (100%) of the Annexation Property, exclusive of streets and alleys, and hereby consents to the establishment of the boundaries of the Annexation Property as shown on the annexation map submitted herewith and the annexation of the same into the Town of Minturn.
19. Upon the effective date of the annexation ordinance effectuating the annexation contemplated in this Petition, and subject to the conditions set forth in this Petition and in the Annexation Agreement, all lands within the Annexation Property shall become subject to all applicable ordinances, resolutions, rules and regulations of the Town of Minturn, except for general property taxes of the Town of Minturn which shall become effective on January 1 of the next succeeding year following the effective date of the annexation ordinance to the extent they apply to the Annexation Parcel.
20. Upon the determination that this Petition is valid and in substantial compliance with the provisions of C.R.S. § 31-12-107 and upon the submission of appropriate applications for zoning and subdivision approval, the Petitioner requests that the Town of Minturn institute zoning and subdivision approval processes for the Annexation Property in accordance with C.R.S. § 31-12-115, approval of which shall be satisfactory to both Petitioner and the Town of Minturn.

THEREFORE, Petitioner requests that the Town Council of the Town of Minturn complete and approve the annexation of Eagle County School District Maloit Park Parcel No. 1 pursuant to the provisions of the Municipal Annexation Act of 1965, as amended.

Respectfully signed this 22nd day of October 2009.
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PETITIONER/LANDOWNER:

EAGLE COUNTY SCHOOL DISTRICT RE50J,
A COLORADO SCHOOL DISTRICT

By: 
President Board of Education, authorized signatory
Date: 10/22/2010

Mailing Address of Petitioner:

Eagle County School District RE-50J

P.O. Box 740

Eagle, CO 81631

EXHIBIT A
TO PETITION FOR ANNEXATION

LEGAL DESCRIPTION OF ANNEXATION PROPERTY
EAGLE COUNTY SCHOOL DISTRICT MALOIT PARK PARCEL NO. 1

A tract of land embracing a portion of Homestead Entry Survey No. 46 in the Northwest Quarter and the West One-half of the Northeast Quarter of Section 2 of unsurveyed Township 6 South Range 81 West of the Sixth Principal Meridian, being also a portion of the parcel described in the Deed and Agreement recorded March 19, 1984 in Book 380 at Page 574, more particularly described as follows:

Beginning at corner No. 7 of Homestead Entry Survey No. 46 (HES 46), a found 24X13X10" granite stone scribed "7 HES 46", whence a 250' witness corner (found 2" aluminum cap on 5/8" rebar, "LS 33655") bears N89°51'07"E, 674.15 feet; thence S00°15'10"W, 1916.70 feet to Corner No. 6 of said HES 46 (18"X7" granite stone scribed "6-HES 46"; thence S46°35'38"E, 980.10 feet to Corner No. 5 of said HES 46 (1.3'X0.6' granite stone scribed "5-HES 46"; thence N43°35'12"E, 1177.60 feet to Corner No. 4 of said HES 46 (1.4'X0.5' quartzite stone scribed "4-HES 46"; thence N01°52'29"E, 1741.90 feet to a point on Line 7-2 of said HES 46; thence S89°51'07"W, 1458.51 feet to the Point of Beginning.

The described parcel contains 75.907 acres more or less.

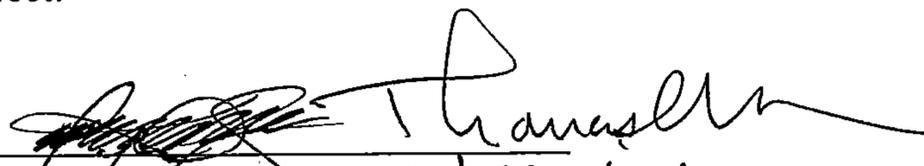
County of Eagle
State of Colorado

EXHIBIT B
TO PETITION FOR ANNEXATION

AFFIDAVIT OF CIRCULATOR
EAGLE COUNTY SCHOOL DISTRICT MALOIT PARK PARCEL NO. 1

The undersigned, being of lawful age, being first duly sworn upon oath deposes and says:

That she/he was the circulator of the foregoing Petition for Annexation of Eagle County School District RE50J into the Town of Minturn, the body of which document consists of four (4) pages, with attached Exhibit A consisting of one (1) pages and this Exhibit B consisting of one (1) page, and that the signature of Connie Kincaid-Strahan an authorized signatory, thereon was witnessed by the circulator and is the true and original signature of the individual whose name it purports to be, and that the date of such signature is correct.

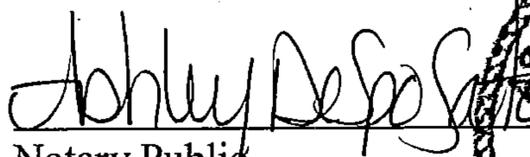

By: Thomas A. Braun
President, Board of Education

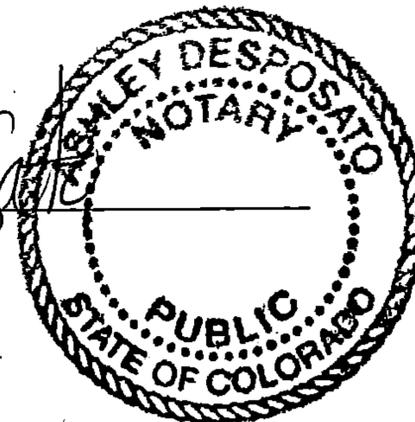
STATE OF COLORADO)
) ss.
COUNTY OF EAGLE)

The foregoing AFFIDAVIT OF CIRCULATOR was subscribed and sworn to before me this 17 day of Nov 2009, by THOMAS A. BRAUN
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Witness my hand and official seal.

My commission expires: 9/24/2012


Notary Public



My Commission Expires 09/24/2012