

**PETITION FOR ANNEXATION
(KGCB Industries LLC)**

TO: THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO:

The undersigned (the “**Petitioner**”), being the owner of more than fifty percent (50%) of the property proposed to be annexed, exclusive of public streets and alleys, which property is described in Exhibit A attached hereto and incorporated herein by this reference (the “**Property**”), hereby petitions (this “**Petition**”) the Town Council (the “**Council**”) of the Town of Castle Rock, Colorado (the “**Town**”), for annexation of the Property in accordance with the provisions of Title 31, Article 12, Part 1, C.R.S., as amended, and Section 30(1)(b) of Article II of the Colorado Constitution.

In support of this Petition, Petitioner states the following:

1. It is desirable and necessary that the Property be annexed to the Town.
2. The condition set forth in Section 30(1)(b) of Article II of the Colorado Constitution has been met, the provisions of Section 30 of Article II of the Colorado Constitution have been complied with, and the requirements of Sections 31-12-104 and 31-12-105, C.R.S., exist or have been met in that:
 - a. Not less than one sixth (1/6) of the perimeter of the Property is contiguous with the existing boundaries of the Town.
 - b. Contiguity with the Town is not established by: (i) use of any boundary of an area: previously annexed to the Town that, at the time of its annexation, was not contiguous at any point with the boundary of the Town, was not otherwise in compliance with Section 31-12-104(1)(a), C.R.S., and was located more than three miles from the nearest boundary of the Town (“**Non-Contiguous Area**”); or (ii) use of any boundary of territory subsequently annexed directly to, or indirectly connected through subsequent annexations to, a Non-Contiguous Area.
 - c. A community of interest exists between the Property and the Town.
 - d. The Property is urban or will be urbanized in the near future.
 - e. The Property is integrated or is capable of being integrated with the Town.
 - f. In establishing the boundaries of the Property, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, has been divided into separate parts or parcels without the written consent of the landowners thereof unless such tracts or parcels are separated by a dedicated street, road, or other public way.
 - g. In establishing the boundaries of the Property, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, comprising twenty acres or more (which, together with the buildings and improvements situated thereon, has a valuation for assessment in excess of \$200,000 for ad valorem tax purposes for the year next preceding the annexation) has been included in the Property without the written consent of the landowner.
 - h. No annexation proceedings have been commenced for the annexation of part or all of the Property to another municipality.

- i. Annexation of the Property will not result in the detachment of area from any school district and the attachment of the same to another school district.
- j. Annexation of the Property will not have the effect of extending a municipal boundary more than three miles in any direction from any point of the Town boundary in any one year.
- k. In establishing the boundaries of the Property, if a portion of a platted street or alley is annexed, the entire width of said street or alley is included, and the Town shall not deny reasonable access to landowners, owner of an easement, or the owner of a franchise adjoining a platted street or alley which has been annexed by the Town but is not bounded on both sides by the Town.
- l. The Property is not presently a part of any incorporated town, city and county, or city.

3. Petitioner comprises more than fifty percent (50%) of the landowners in the Property and owns more than fifty percent (50%) of the Property, excluding public streets, and alleys and any land owned by the Town as set forth on Exhibit B.

4. Petitioner requests that the Town of Castle Rock approve the annexation of the Property.

5. Accompanying this Petition are four (4) copies of an annexation map/plat showing the seal of a registered engineer or land surveyor, containing the following information:

a. On the Cover Page:

(i) The names and addresses for each owner, developer, plan preparer, land planner, engineer and land surveyor.

(ii) A sheet index.

(iii) A vicinity map showing the site, a north arrow, bar scale and nearest major roads.

(iv) A written legal description of the boundaries of the Property.

(v) A contiguity statement in the form of a summary table including the total area to be annexed, total perimeter, perimeter contiguous to the Town boundary, and one-sixth (1/6) of the perimeter.

(vi) Signature blocks for the Surveyor's Certificate, Planning Commission Recommendation, Town Council Approval, and the Douglas County Clerk and Recorder's Certificate.

b. On the map/plat:

(i) A north arrow.

(ii) A showing of property lines and easements.

(iii) A benchmarks statement and basis of bearings statement.

(iv) A showing of the location of each ownership tract in unplatted land and, if part or all of the Property is platted, the boundaries and the plat numbers of plots or of lots and blocks.

(v) A showing of all adjoining and internal streets and right-of-ways, labeled with street names.

(vi) A legend.

6. Petitioner has filed this Petition subject to, and Petitioner's consent to annexation of the Property to the Town is conditioned upon satisfaction of, the following conditions, any one or more of which Petitioner may waive in writing in Petitioner's sole discretion:

a. Concurrently with Town Council approving annexation of the Property, the Town approves such ordinances, resolutions and/or other written instruments as may be required to effect approval of each of the Applications in a form that is substantially consistent with the applications Petitioner submits in connection with this Petition (the "**Approvals**").

b. Pursuant to Section 31-12-107(1)(e), C.R.S., Petitioner reserves the sole, exclusive and unilateral right to withdraw this Petition by so notifying the Clerk of the Town in writing at any point prior to the later to occur of:

(i) if no Legal Challenge (defined in Paragraph 7) occurs prior to such date, the 30th day after publication following Town Council's approval of the final ordinance(s), resolutions and/or other final action(s) granting the Approvals; and

(ii) if a Legal Challenge occurs, the date of final, non-appealable resolution of such Legal Challenge.

c. Prior to expiration of the period described in the foregoing Paragraph 6.b, without Petitioner having withdrawn the Petition, neither Petitioner nor the Town shall cause or permit the recording of the annexation ordinance or the annexation map, recording of which are conditions to effectiveness of the annexation as set forth in Section 31-12-113(2)(b), C.R.S., or the recording of any other instruments effecting the Approvals.

7. For the purposes of this Petition, "**Legal Challenge**" means either:

a. any third party commences any legal proceeding or other action that directly or indirectly challenges the Town's annexation of the Property of the Town's granting of the Approvals; or

b. any third party submits a petition for referendum seeking to reverse or nullify any of the Approvals.

8. Upon recording of the annexation ordinance and the annexation map such that the annexation of the Property has become legally effective in accordance with Section 31-12-113(2)(b), C.R.S., and subject to the conditions set forth in this Petition and to be set forth in the Development Agreement, the Property shall become subject to the Town's Charter and all ordinances, resolutions, rules, and regulations of the Town, except as otherwise may be set forth in the Development Agreement, and except for general property taxes of the Town which shall become effective on January 1 of the next succeeding year following the date on which annexation of the Property becomes legally effective.

9. Petitioner acknowledges that, from and after the date on which the annexation of the Property becomes legally effective and subject to the terms and provisions of the Approvals, the Property, the owners thereof, and the uses thereon shall be:

- a. subject to all taxes and fees imposed by the Town;
- b. bound by any taxes imposed and voter authorization obtained pursuant to Article X, Section 20 of the Colorado Constitution prior to the annexation of the Property; and
- c. Petitioner hereby waives any claims it may have under Article X, Section 20 of the Colorado Constitution related to such taxes imposed and voter authorization obtained prior to annexation of the Property.

10. Except for the terms and conditions of this Petition, and of the Approvals, which terms and conditions Petitioner expressly approves and therefore do not constitute an imposition of additional terms and conditions within the meaning of Sections 31-12-107(4), 110(2), 111 or 112(1), C.R.S., Petitioner requests that no additional terms and conditions be imposed upon annexation of the Property to the Town.

WHEREFORE, Petitioner respectfully requests that the Town Council approve the annexation of the Property.

CALIFORNIA JURAT WITH AFFIANT STATEMENT

GOVERNMENT CODE § 8202

- See Attached Document (Notary to cross out lines 1-6 below)
- See Statement Below (Lines 1-6 to be completed only by document signer[s], *not* Notary)

1 _____

2 _____

3 _____

4 _____

5 _____

6 _____

Signature of Document Signer No. 1

Signature of Document Signer No. 2 (if any)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
 County of orange

Subscribed and sworn to (or affirmed) before me
 on this 25th day of February, 2021,
 by _____
Date Month Year

(1) Jon C. Suddarth

(and (2) _____),
Name(s) of Signer(s)

proved to me on the basis of satisfactory evidence
 to be the person(s) who appeared before me.



Signature Gina Panuco
Signature of Notary Public

Seal
 Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document Castle Rock, CO
Title or Type of Document: Affidavit of Circulator **Document Date:** 2-25-21
Number of Pages: 10 **Signer(s) Other Than Named Above:** _____

Exhibit A
(Legal description of property to be annexed)

Parcel 1 (2351-340-00-090)

A TRACT OF LAND SITUATED PARTLY IN THE NORTHEAST 1/4 OF SECTION 34, AND PARTLY IN THE NORTHWEST 1/4 OF SECTION 35, ALL IN TOWNSHIP 7 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF DOUGLAS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST 1/4 CORNER OF SAID SECTION 34;
THENCE NORTHERLY ALONG THE EAST LINE OF SAID NORTHEAST 1/4 A DISTANCE OF 379.68 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF THE STATE HIGHWAY, THE TRUE POINT OF BEGINNING;
THENCE ON AN ANGLE TO THE LEFT OF 28 DEGREES 42 MINUTES 30 SECONDS A DISTANCE OF 232.92 FEET ALONG THE SAID WESTERLY RIGHT OF WAY LINE;
THENCE ON AN ANGLE TO THE LEFT OF 90 DEGREES 00 MINUTES 00 SECONDS A DISTANCE OF 320.29 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF THE DENVER AND RIO GRANDE RAILROAD;
THENCE ON AN ANGLE TO THE LEFT OF 87 DEGREES 27 MINUTES 15 SECONDS A DISTANCE OF 305.79 FEET ALONG SAID EASTERLY RIGHT OF WAY LINE;
THENCE ON AN ANGLE TO THE LEFT 90 DEGREES 13 MINUTES 45 SECONDS A DISTANCE OF 334.15 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF THE STATE HIGHWAY;
THENCE ON AN ANGLE TO THE LEFT OF 92 DEGREES 19 MINUTES 00 SECONDS A DISTANCE OF 86.08 FEET ALONG SAID WESTERLY RIGHT OF WAY LINE TO THE POINT OF BEGINNING, COUNTY OF DOUGLAS, STATE OF COLORADO.

Parcel 2 (2351-341-00-008)

A TRACT OF LAND SITUATED IN THE NORTHEAST 1/4 OF SECTION 34, TOWNSHIP 7 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST ONE QUARTER CORNER OF SECTION 34; THENCE NORTH ALONG THE EAST LINE OF SAID NORTHEAST 1/4 A DISTANCE OF 379.68 FEET TO THE WEST RIGHT OF WAY LINE OF STATE HIGHWAY; THENCE NORTHWESTERLY ALONG SAID WEST RIGHT OF WAY LINE ON A DEFLECTION ANGLE TO THE LEFT OF 28 DEGREES 42 MINUTES 30 SECONDS A DISTANCE OF 232.92 FEET TO THE NORTHEASTERLY CORNER OF THE SWEENEY PROPERTY (BOOK 938, PAGE 1074 OF THE DOUGLAS COUNTY RECORDS); THENCE SOUTHWESTERLY ON A DEFLECTION ANGLE TO THE LEFT OF 90 DEGREES 00 MINUTES 00 SECONDS A DISTANCE OF 320.29 FEET TO THE NORTHWESTERLY CORNER OF THE SWEENEY PROPERTY AND TO THE TRUE POINT OF BEGINNING; THENCE SOUTHEASTERLY ON A DEFLECTION ANGLE TO THE LEFT OF 92 DEGREES 32 MINUTES 45 SECONDS ALONG A LINE 150 FEET EASTERLY OF AND PARALLEL WITH THE CENTERLINE OF THE RAILROAD A DISTANCE OF 477.83 TO THE SOUTH LINE OF THE NORTHEAST 1/4; THENCE WEST ALONG SAID SOUTH LINE A DISTANCE OF 109.49 FEET TO A LINE 50 FEET EAST OF AND PARALLEL WITH THE CENTERLINE OF THE RAILROAD; THENCE NORTHWESTERLY ALONG SAID PARALLEL LINE A DISTANCE OF 428.79 FEET TO THE WESTERLY EXTENSION OF THE NORTH LINE OF THE SWEENEY PROPERTY; THENCE EASTERLY ALONG SAID WESTERLY EXTENSION A DISTANCE OF 100.10 FEET TO THE POINT OF BEGINNING.

EXCEPTING FROM THE ABOVE ANY PORTION CONVEYED TO DOUGLAS COUNTY IN DEED RECORDED AUGUST 30, 1927 IN BOOK 73 AT PAGE [239](#).

Parcels 3 (2352-352-00-006) and 4 (2351-340-00-035)

A TRACT OF LAND SITUATED IN THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 35 AND IN THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 34, TOWNSHIP 7 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 34;
THENCE NORTH 89 DEGREES 32 MINUTES 53 SECONDS WEST ALONG THE SOUTH LINE OF SAID SOUTHEAST 1/4 OF THE NORTHEAST 1/4 A DISTANCE OF 178.79 FEET TO THE EAST RIGHT OF WAY LINE OF THE DENVER & RIO GRANDE WESTERN RAILROAD;
THENCE NORTH 23 DEGREES 34 MINUTES 37 SECONDS WEST ALONG SAID EAST RIGHT OF WAY LINE A DISTANCE OF 172.04 FEET;
THENCE NORTH 64 DEGREES 22 MINUTES 08 SECONDS EAST A DISTANCE OF 334.15 FEET TO THE WEST RIGHT OF WAY LINE OF LIGGETT ROAD;
THENCE SOUTH 27 DEGREES 56 MINUTES 52 SECONDS EAST ALONG SAID WEST RIGHT OF WAY LINE A DISTANCE OF 347.75 FEET TO THE SOUTH LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 35;
THENCE NORTH 89 DEGREES 03 MINUTES 33 SECONDS WEST ALONG SAID SOUTH LINE A DISTANCE OF 216.68 FEET TO THE POINT OF BEGINNING.

EXCEPTING FROM THE ABOVE ANY PORTION CONVEYED TO DOUGLAS COUNTY IN DEED RECORDED AUGUST 30, 1927 IN BOOK 73 AT PAGE [239](#).

Exhibit B
(Legal description of Petitioner's property to be annexed)

Parcel 1 (2351-340-00-090)

A TRACT OF LAND SITUATED PARTLY IN THE NORTHEAST 1/4 OF SECTION 34, AND PARTLY IN THE NORTHWEST 1/4 OF SECTION 35, ALL IN TOWNSHIP 7 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF DOUGLAS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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THENCE NORTHERLY ALONG THE EAST LINE OF SAID NORTHEAST 1/4 A DISTANCE OF 379.68 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF THE STATE HIGHWAY, THE TRUE POINT OF BEGINNING;
THENCE ON AN ANGLE TO THE LEFT OF 28 DEGREES 42 MINUTES 30 SECONDS A DISTANCE OF 232.92 FEET ALONG THE SAID WESTERLY RIGHT OF WAY LINE;
THENCE ON AN ANGLE TO THE LEFT OF 90 DEGREES 00 MINUTES 00 SECONDS A DISTANCE OF 320.29 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF THE DENVER AND RIO GRANDE RAILROAD;
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Parcel 2 (2351-341-00-008)

WEST OF THE 6TH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST ONE QUARTER CORNER OF SECTION 34; THENCE NORTH ALONG THE EAST LINE OF SAID NORTHEAST 1/4 A DISTANCE OF 379.68 FEET TO THE WEST RIGHT OF WAY LINE OF STATE HIGHWAY; THENCE NORTHWESTERLY ALONG SAID WEST RIGHT OF WAY LINE ON A DEFLECTION ANGLE TO THE LEFT OF 28 DEGREES 42 MINUTES 30 SECONDS A DISTANCE OF 232.92 FEET TO THE NORTHEASTERLY CORNER OF THE SWEENEY PROPERTY (BOOK 938, PAGE 1074 OF THE DOUGLAS COUNTY RECORDS); THENCE SOUTHWESTERLY ON A DEFLECTION ANGLE TO THE LEFT OF 90 DEGREES 00 MINUTES 00 SECONDS A DISTANCE OF 320.29 FEET TO THE NORTHWESTERLY CORNER OF THE SWEENEY PROPERTY AND TO THE TRUE POINT OF BEGINNING; THENCE SOUTHEASTERLY ON A DEFLECTION ANGLE TO THE LEFT OF 92 DEGREES 32 MINUTES 45 SECONDS ALONG A LINE 150 FEET EASTERLY OF AND PARALLEL WITH THE CENTERLINE OF THE RAILROAD A DISTANCE OF 477.83 TO THE SOUTH LINE OF THE NORTHEAST 1/4; THENCE WEST ALONG SAID SOUTH LINE A DISTANCE OF 109.49 FEET TO A LINE 50 FEET EAST OF AND PARALLEL WITH THE CENTERLINE OF THE RAILROAD; THENCE NORTHWESTERLY ALONG SAID PARALLEL LINE A DISTANCE OF 428.79 FEET TO THE WESTERLY EXTENSION OF THE NORTH LINE OF THE SWEENEY PROPERTY; THENCE EASTERLY ALONG SAID WESTERLY EXTENSION A DISTANCE OF 100.10 FEET TO THE POINT OF BEGINNING.

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THENCE SOUTH 27 DEGREES 56 MINUTES 52 SECONDS EAST ALONG SAID WEST RIGHT OF WAY LINE A DISTANCE OF 347.75 FEET TO THE SOUTH LINE OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 35;
THENCE NORTH 89 DEGREES 03 MINUTES 33 SECONDS WEST ALONG SAID SOUTH LINE A DISTANCE OF 216.68 FEET TO THE POINT OF BEGINNING.

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