

ANNEXATION AGREEMENT

THIS AGREEMENT is made effective and entered into this ____ day of _____, 2025 (“**Effective Date**”), by and among **167TH STREET PROPERTIES, LLC**, a Kansas limited liability company (hereinafter “**Landowner**”) and the **CITY OF OLATHE**, Johnson County, Kansas, a municipal corporation duly organized under the laws of the State of Kansas (“**City**”) (collectively, the “**Parties**”, and each, individually, a “**Party**”).

WHEREAS, Landowner is the owner of record of a parcel of real estate (Parcel No. 6F231422-3001) containing approximately 37.56± acres of land situated in Johnson County, Kansas, as more particularly described on **Exhibit A**, which is attached hereto and made a part of this Agreement (collectively, the “**Property**”); and

WHEREAS, the Property is located adjacent to the city limits of the City, but is not otherwise situated within the limits of any other municipality; and

WHEREAS, Landowner (or its designee or a future grantee) desires to develop the Property, which may include office, manufacturing, warehouse/distribution, and other appropriate purposes approved by the City, and further desires to submit to the City applications for the issuance of industrial revenue bonds for the purpose of real property tax abatement and sales tax exemption on building materials and equipment associated with such development, rezoning, site plans, plats, and other related documents for these purposes; and

WHEREAS, City desires to annex the Property and to ensure that the development of the Property is compatible with surrounding land uses; and that, subject to the provisions of this Agreement, adequate public facilities exist concurrent with the impact of such development; and that development of the Property will be consistent with the City’s Comprehensive Plan, if applicable; and

WHEREAS, subject to and in accordance with the provisions of this Agreement, including all the conditions herein contained, Landowner consents to having the Property annexed into the City and acknowledges that adequate public services must be available at the time the development is being constructed and occupied for use; and

WHEREAS, this annexation is anticipated to provide significant benefits to the City that might otherwise be unattainable, increasing the vitality of the City’s economy, and expanding the local tax base; and

WHEREAS, the Parties desire to enter into an agreement to set the conditions of annexation of the Property pursuant to K.S.A. 12-534, prior to the act of annexation; and

WHEREAS, this Agreement sets forth the understandings and agreements of annexation between the Parties hereto, which are in accord with the annexation policy of the City; and

NOW, THEREFORE, the parties hereto agree to the annexation of the Property, subject to the following terms and conditions:

1. **Acknowledgement.** The above recitals are true and correct, are incorporated in this Agreement by reference thereto, and form a material part of this Agreement upon which the Parties have relied, including, but not limited to the assertions that the Landowner owns the Property, and that the respective Parties are each empowered to enter into this Agreement and make binding commitments.
2. **Project Approvals.** City understands that the future grantee of Landowner intends to submit applications for:

A. Land Use Approvals.

- i. Rezoning, preliminary and final development plans, and preliminary and final plats, and any changes that may be needed to the City's comprehensive plan, to develop the Property as an industrial and logistics business park, which may include commercial, office, manufacturing, warehouse/distribution, and other appropriate uses approved by the City, depicted on the concept plan attached hereto as **Exhibit B** (the "**Project**").
- ii. The Parties agree to work together to agree on design specifications for the 167th Street and Lone Elm Road improvements to be constructed by a future grantee of Landowner or its assigns as part of the Project and as requested by the future grantee of Landowner or its assigns, can be dedicated to the City as public streets owned and maintained by the City. In the event the City requires improvements to 167th Street and/or Lone Elm Road, the City will provide credits towards the required amounts of transportation improvements excise tax to be paid on a final plat pursuant to Olathe Municipal Code Section 3.35.060.

B. Public Incentives.

- i. Issuance of industrial revenue bonds ("IRBs") for—
 1. Entire Project: Sales tax exemption on construction materials and furniture, fixtures, and equipment and real property tax abatement
 2. A master resolution of intent to issue separate IRBs over time for each of the two (2) industrial buildings constructed on the Property; and

3. Real property tax abatement in accordance with City Council Policy F-5, including 80% real estate tax abatement in the form of a 10-year fixed-PILOT payment for each phased building over time (escalating annually by 2.0%) for all speculative warehouse/distribution-type facilities constructed on the Property, and a lesser percentage for any other types of development on the Property, with a methodology in accordance with the valuation process used to determine other IRB fixed PILOT schedules within the City.
- ii. Transfer/Assignment. Land and completed buildings on the Property, along with the IRB rights, can be transferred, leased, and assigned, as applicable, to third parties without City consent.

Collectively, Paragraphs 2(A) and (B) above are referred to herein as the “**Project Approvals**”.

3. **City Authority & Landowner Authority.** Landowner acknowledges that the Project Approvals are subject to the plenary legislative and quasi-judicial discretion of the Governing Body of the City. No assurances of Project Approvals have been made or relied upon by the Landowner, and this Agreement shall in no way inhibit or affect the ability of the City or its officials from properly performing their legislative and quasi-judicial functions, including but not limited to, the outright denial of the annexation petition described herein, or the land use approvals described herein. City acknowledges that should the Project Approvals not be obtained by the future grantee of Landowner or no sale of the Property occurs and in accordance with the provisions of this Agreement, Landowner may cause the Property to be de-annexed in accordance with the provisions of Paragraph 23 below.
4. **Petition.** In accordance with K.S.A. 12-520 (a)(7), because the Property adjoins the City and Landowner desires to voluntarily annex the Property into the City, Landowner will file a written petition for annexation of the Property with the City, on a form substantially similar to **Exhibit C** (attached hereto and incorporated herein by reference). Landowner agrees to prepare, at the future grantee’s sole expense, all materials necessary for the annexation, including, without limitation, the annexation petition, associated legal description, and associated map for annexation.
5. **Annexation Procedure.** The City agrees to take any and all appropriate actions, at City’s expense, as are required by the annexation laws of the state of Kansas applicable to annexing cities which are necessary with respect to the subject annexation petition, including, but not limited to, the publication of all required notices and the holding of all required hearings regarding the same.
6. **City Services.** Upon annexation, the Property shall utilize all applicable City services except as otherwise provided herein or agreed to by the Parties. If the aforementioned Public Incentives are approved for the Project, the owner of the Property will use its best efforts to comply with the City’s IRB policies (but any specific terms set forth in this

Agreement will control over such policies) and make use of the City's solid waste and recycling services to serve the Property.

7. **Applicable City Laws & Regulations.** Upon annexation the Property shall be subject to all laws, codes, ordinances, fees, assessments, taxes, usage charges, rules, policies and regulations of the City, now existing or as may hereinafter be amended, enacted, and/or enforced, as applicable to all other property presently situated within the corporate limits of the City, and nothing herein shall be interpreted to limit the enforceability or application of such, except as provided herein. The anticipated fees, assessments and taxes applicable to the Property are specified as follows:
 - A. Park Excise Tax of \$0.07 per square foot of gross floor area – payable upon building permit issuance.
 - B. Intermediate Traffic Signal Excise Tax pursuant to Olathe Municipal Code, Section 3.35.030 – payable upon plat recording.
 - C. Transportation Improvement (Street Excise) Tax of \$0.215 per square foot of platted land - payable upon plat recording.
 - D. Sanitary Sewer System Development Fee as determined by water meter size, payable upon building permit issuance.
 - E. Building Permit fees as set forth in Olathe Municipal Code 15.02.180.
 - F. Plan Review fees – as set forth in Olathe Municipal Code 15.02.180..
 - G. Stormwater Permit fee - as set forth in Olathe Municipal Code 17.12.050.
8. **Stormwater Management.** The Parties agree and acknowledge that upon annexation the Property shall be subject to the provisions of Title 17 of the Olathe Municipal Code, any amendments thereto, relating to stormwater management and the development or improvement of lands within a designated stream or stream corridor but only to the extent the Property would be subject thereto by the terms of said Title 17.
9. **Annexation Ordinance.** This Agreement is expressly contingent on the passage of annexation ordinances covering all of the Property by the City's Governing Body and conformance with Kansas annexation laws. The City will not undertake annexation of only a portion of the Property. If for any reason annexation ordinances covering the Property are not passed by the City's governing body within forty-five (45) days following the filing of the petition for annexation, any annexation application for the Property shall be considered withdrawn and this Agreement shall be terminated and shall be of no force and effect thereafter except for those provisions which by their terms survive termination. If the City does not annex all of the Property, no party will be liable to any other for any costs that the other party has incurred in the negotiation of this Agreement, or in any other matter related to the potential annexation of the Property and this provision shall survive termination of this Agreement. This Agreement is intended to be recorded, by the City, in the land records of Johnson County, Kansas at Landowner's expense, but not until after the passage of the annexation ordinance.
10. **Cooperation.** The Parties agree that the development of the Property is in the best interests of both Parties and requires their ongoing cooperation. Landowner hereby agrees to fully comply, and/or cause its future grantee to comply, with all City requirements and to assist

the City to the fullest extent possible. The City hereby states its intent to cooperate with the Landowner in the resolution of mutual problems and its willingness to facilitate the development of the Property, as contemplated by the provisions of this Agreement, including obtaining necessary off-site easements to extend any public infrastructure needed for the development of the Property, unless prohibited by law. The City shall assist the development of the Property by expeditiously processing the submission of proper plans, complete applications, and plats (to the extent applicable) as may be uniformly required under any City ordinance, resolution, regulation, or policy and not unduly hinder or delay the development of the Property. Such intention does not preclude City staff from making professional recommendations regarding the Project Approvals which are in conflict with Landowner's and/or future grantees requests and/or desires pertaining to any of the Project Approvals.

11. **Entire Agreement.** This Agreement reflects an understanding between the Parties concerning the major points of development of the Property after annexation. Any prior negotiations, comments, plans or understandings not expressly set forth herein are of no further force and effect to the extent they may be inconsistent with the terms hereof. However, it is intended and expected that additional details will be addressed from time to time as part of the ordinary development review and permitting processes. This Agreement is not intended to modify, limit or restrict the ordinary review authority of the City and its staff, commissions, committees, and/or governing body to impose conditions on, or deny, certain aspects of the proposed development of the Property as deemed appropriate in the City's sole discretion.
12. **Limited Beneficiaries.** This Agreement is solely for the benefit of the Parties hereto, and no right or cause of action shall accrue by reason hereof to or for the benefit of any third party which is not a Party hereto, except as set forth below and in Paragraph 13 hereof. Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon or give any person or entity any right, remedy or claim under or by reason of this Agreement or any provisions or conditions hereof, other than the Parties hereto and their respective designates, representatives, successors and/or assigns pursuant to Paragraph 13 hereof.
13. **Authority; Successors & Assigns.** Each Party hereby stipulates that it is duly authorized to enter into this Agreement and be bound by the terms and conditions set forth herein. The terms of this Agreement shall be binding upon the successors and assigns and legal representatives of the Parties hereto. Landowner may assign this Agreement and any right herein to an entity not a party hereto who purchases all or any part of the Property from Landowner without the consent of the City.
14. **Exhibits.** The exhibits to this Agreement are hereby incorporated into this Agreement and are an integral part of this Agreement.
15. **Breach & Enforcement.** The Parties agree and hereby stipulate that any Party may, by civil action, mandamus, injunction, specific performance, or other proceedings, enforce and compel performance of this Agreement, or declare this Agreement null and void, in addition to other remedies available. Upon breach by Landowner, the City may refuse the

issuance of any permits or other approvals or authorizations relating to development of the Property.

16. **Applicable Law.** The laws of the State of Kansas shall govern the interpretation and enforcement of this Agreement. In any action to enforce or interpret the terms of this Agreement, venue shall be in Johnson County, Kansas.
17. **Severability.** If any provision of this Agreement, the deletion of which would not adversely affect the receipt of any material benefit by any Party to the Agreement or substantially increase the burden of any Party to the Agreement, shall be held to be unconstitutional, invalid or unenforceable to any extent by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and the same shall not affect in any respect whatsoever the validity or enforceability of the remainder of the Agreement.
18. **Compliance with Applicable Laws.** If State or Federal laws are enacted after execution of this Agreement which are applicable to and preclude the Parties' compliance with the terms of this Agreement, this Agreement shall be modified or revoked as is necessary to comply with the relevant State or Federal laws and the intent of the Parties hereto; provided, however, that the City agrees that it shall not modify this Agreement in any manner which would in any way be inconsistent with the intent of the Parties to provide for development of the property in accordance with the terms and conditions hereof.
19. **Mutual Assent.** This Agreement is the result of bona fide arms' length negotiations between the Parties and the Parties contributed substantially and materially to the preparation of the Agreement. Accordingly, this Agreement shall not be construed or interpreted more strictly against any one Party than against any other Party.
20. **Waivers.** No waiver by either Party of any term or condition of this Agreement shall be deemed to be or construed as a waiver of any other term or condition, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach of the same provision of this Agreement.
21. **Amendments.** This Agreement may not be amended, changed or modified, and material provisions hereunder may not be waived, except by a written document approved and executed by all Parties.
22. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same document.
23. **De-Annexation.**
 - A. For any Project Approvals submitted to the City in substantial conformance with this Agreement for formal review and approval no later than one hundred eighty (180) days after the Effective Date hereof, if the City fails to approve any of such

Project Approvals under terms and conditions satisfactory to both Parties within 300 days after the Effective Date hereof, or

- B. Landowner does not close on the sale of the Property to a future grantee within 300 days after the Effective Date hereof.
- C. Landowner shall have the right to make demand upon the City in writing requesting de-annexation of either part or all of the Property, whereby the City shall take all steps necessary to de-annex such Property; except that, Landowner shall have no such right with respect to any Project Approval for which Landowner withdrew the relevant application before the City could formally consider it. If the City shall have failed to de-annex such property within one hundred twenty (120) days of the City's receipt of Landowner's written request for de-annexation pursuant hereto, Landowner shall have the right to obtain from the District Court of Johnson County, Kansas, such orders and judgments as may be required to enforce City's agreement to de-annex such property in accordance herewith, including recovery of the costs and expenses of said litigation including reasonable attorney's fees. All provisions of this Paragraph 23 shall survive termination of this Agreement.

[SIGNATURE PAGES BELOW]

IN WITNESS WHEREOF, the above parties have signed as of the date written above.

CITY OF OLATHE, KANSAS

John W. Bacon, Mayor

Brenda D. Swearingian, City Clerk

(SEAL)

ACKNOWLEDGMENT

STATE OF KANSAS)
) ss:
COUNTY OF JOHNSON)

BE IT REMEMBERED, that on this _____ day of _____, 2025, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came **JOHN W. BACON**, Mayor of the City of Olathe, Kansas, and **BRENDA D. SWEARINGIAN**, City Clerk of said City, who are personally known to me to be the same persons who executed, as such officers, the within instrument on behalf of said City, and such persons duly acknowledged the execution of the same to be the act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Notary Public

My Appointment Expires:

LANDOWNER

167TH STREET PROPERTIES, LLC, a Kansas
limited liability company

By: Susan M. Mackey
Name: Susan M. Mackey
Its: Manager

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

On this 28th day of July, 2025 before me appeared Susan M. Mackey, to me personally known, who being by me duly sworn, did say that she is the Manager of **167TH STREET PROPERTIES, LLC**, a Kansas limited liability company, and that she, as such and being authorized so to do, executed the foregoing instrument for the purposes therein contained on behalf of said entity.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Stanley Woodward
Notary Public

My Appointment Expires:

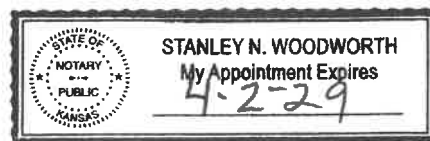


EXHIBIT A

Property Legal Description & Map

Legal Description:

EXHIBIT A

All of the North Half of the Northeast Quarter of Section 22, Township 14, Range 23, Johnson County, Kansas, except part in road.

Less and except: A tract of land located in the Northeast Quarter of Section 22, Township 14, Range 23, Johnson County, Kansas, being more particularly described as follows:

Beginning at the Northwest Corner of the Northeast Quarter of said Section 22, Township 14, Range 23; thence N 88° 02' 04" E, along the North line of said Northeast Quarter a distance of 1336.41 feet to a point; thence S 01°52' 39" E, a distance of 1332.12 feet to a point; thence S 88° 11' 21" W, a distance of 1343.07 feet to a point; thence N 01° 35' 25" W, a distance of 1328.52 feet to the Point of Beginning, containing 1,782,266.1011 square feet or 40.9152 acres more or less.

Less and except:

Right-of-Way

All that part of a tract of land described in Kansas Warranty Deeds found in Book 201506, at Page 3684, 3685, 3686 and 3687, in the Johnson County Register of Deeds Office, lying in the Northeast Quarter of Section 22, Township 14 South, Range 23 East, in Johnson County, Kansas, described by Kenneth J. Dedrick, PS-1067, on this 19th Day of November 2017 as follows:

Commencing at the Northeast corner of said Northeast Quarter;

thence South 88°02'04" West (this and all following bearing are based on the Johnson County Control Network) along the North line of said Northwest Quarter, a distance of 44.93 feet;

thence South 01°57'56" East, a distance of 20.00 feet to the intersection of the South right-of-way line of 167th Street and the West right-of-way line of Lone Elm Road, said point being the **POINT OF BEGINNING**;

thence South 02°09'56" East along said West right-of-way line, a distance of 260.20 feet;

thence North 87°50'04" East along said West right-of-way line, a distance of 5.00 feet;

thence South 02°09'56" East along said West right-of-way line, a distance of 591.71 feet;

thence North 06°13'02" West, a distance of 212.28 feet;

thence North 03°33'46" West, a distance of 410.13 feet;

thence North 13°51'58" West, a distance of 173.96 feet;

thence North 80°39'20" West, a distance of 101.98 feet;

thence South 88°02'04" West, a distance of 230.75 feet;

thence North 83°26'05" West, a distance of 269.65 feet to a point on said South right-of-way line;

thence North 88°02'04" East along said South right-of-way line, a distance of 652.48 feet to the **Point of Beginning**.

General Depiction:



Johnson County Parcel ID:

Parcel No. 6F231422-3001

EXHIBIT B

Conceptual Plan

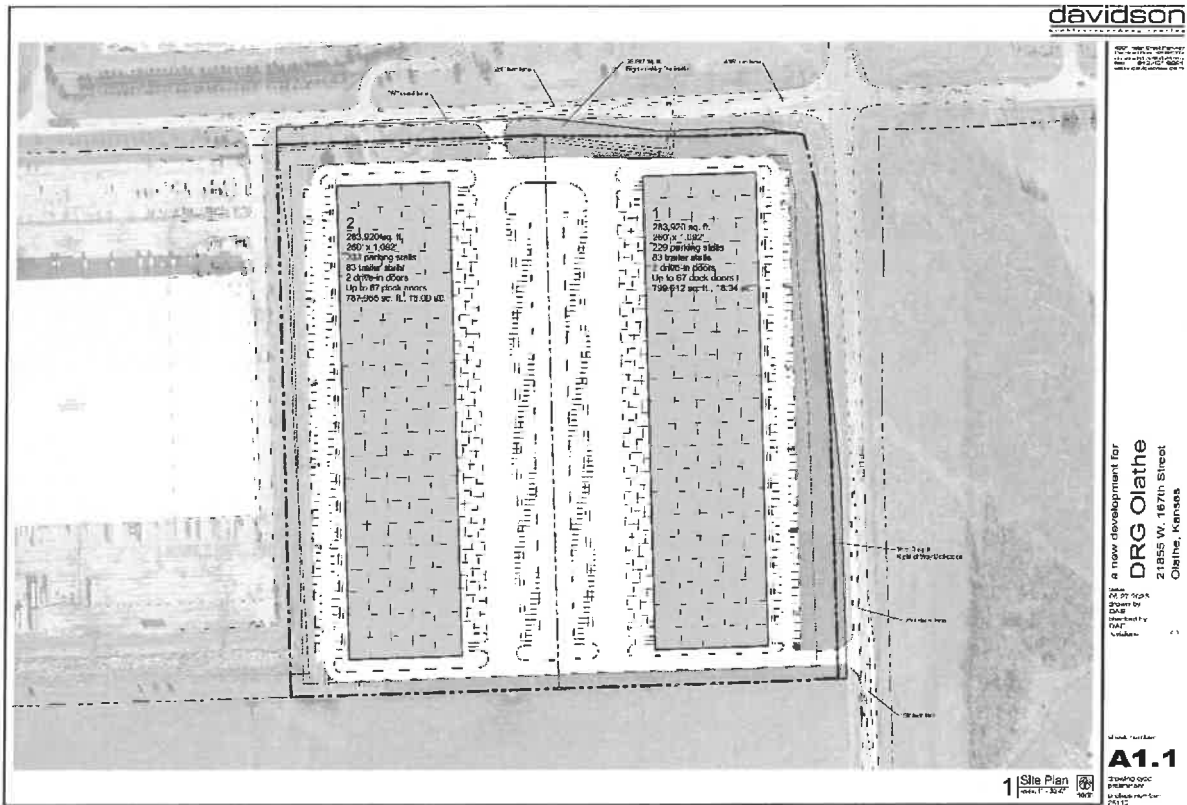


EXHIBIT C

PETITION FOR ANNEXATION
(FORM)

TO THE CITY COUNCIL OF THE CITY OF OLATHE, KANSAS:

I, SUSAN M. MACKEY, the Manager of 167TH STREET PROPERTIES, LLC, respectfully state:

1. That 167TH STREET PROPERTIES, LLC, a Kansas limited liability company, is the record owner of the following described land located in Johnson County, Kansas:

See attached Exhibit 1

2. That such land adjoins the City of Olathe, Kansas, as is shown on the map attached hereto and incorporated by reference herein.
3. That I respectfully request that such land be annexed and incorporated to the City of Olathe, Kansas, and do hereby consent to such annexation.

Signature page below

167TH STREET PROPERTIES, LLC,
a Kansas limited liability company

By: X
Name: Susan M. Mackey
Its: Manager

21855 W. 167th Street
Address

Olathe, KS 66062
City, State Zip Code

816-589-0568
Phone Number

CERTIFICATION

STATE OF KANSAS)
) SS.
COUNTY OF JOHNSON)

Susan M. Mackey, as Manager, hereby certifies that she signed the foregoing Petition for Annexation as the free act and deed and certifies that 167TH STREET PROPERTIES, LLC, a Kansas limited liability company, is the legal owner of the real estate described in the foregoing Petition for Annexation.

Subscribed to and sworn to before me this 28th day of July, 2025.

Stanley N. Woodworth
Notary Public

My Appointment expires:

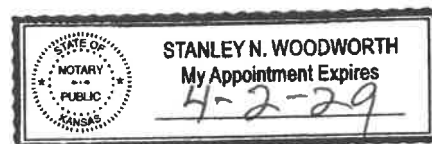


EXHIBIT 1

The legal description of the land that is the subject of this petition is set forth below, to-wit:

EXHIBIT A

All of the North Half of the Northeast Quarter of Section 22, Township 14, Range 23, Johnson County, Kansas, except part in road.

Less and except: A tract of land located in the Northeast Quarter of Section 22, Township 14, Range 23, Johnson County, Kansas, being more particularly described as follows:

Beginning at the Northwest Corner of the Northeast Quarter of said Section 22, Township 14, Range 23; thence N 88° 02' 04" E, along the North line of said Northeast Quarter a distance of 1336.41 feet to a point; thence S 01° 52' 39" E, a distance of 1332.12 feet to a point; thence S 88° 11' 21" W, a distance of 1343.07 feet to a point; thence N 01° 35' 25" W, a distance of 1328.52 feet to the Point of Beginning, containing 1,782,266.1011 square feet or 40.9152 acres more or less.

A map showing the boundaries of Fire District No. 2 and the lands proposed to be detached thereto and transferred into the City of Olathe, Kansas is attached below.



DETACHMENT PETITION

I, Susan M. Mackey, the Manager of 167TH STREET PROPERTIES, LLC, a Kansas limited liability company, and the undersigned landowner, hereby petition the Board of County Commissioners of Johnson County, Kansas, pursuant to K.S.A. 19-3604, to detach this land from the boundaries of Fire District No. 2 of Johnson County, Kansas (Fire District), and transfer such land into the City of Olathe, Kansas, for fire protection services. The legal description of the land that is the subject of this petition is set forth below, to-wit:

Johnson County Parcel ID:

Parcel No. 6F231422-3001

Legal Description:

EXHIBIT A

All of the North Half of the Northeast Quarter of Section 22, Township 14, Range 23, Johnson County, Kansas, except part in road.

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A map showing the boundaries of Fire District No. 2 and the lands proposed to be detached thereto and transferred into the City of Olathe, Kansas is attached hereto as "Exhibit A."

(Signature page follows)

Signature: X Susan M. Mackey

Print name: Susan M. Mackey, Manager

167th Street Properties, LLC

Parcel No. 6F231422-3001
21855 W. 167th Street
Olathe, KS 66062

Date: 7-28-25

CERTIFICATION

STATE OF KANSAS)
)
COUNTY OF JOHNSON) SS.

Susan M. Mackey, as Manager, hereby certifies that she signed the foregoing Petition for Annexation as the free act and deed and certifies that 167TH STREET PROPERTIES, LLC, a Kansas limited liability company, is the legal owner of the real estate described in the foregoing Petition for Annexation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Subscribed to and sworn to before me this 28th day of July, 2025.

Stanley N. Woodworth
Notary Public

My Appointment expires:



EXHIBIT A