

LAW OFFICES
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CHRISTOPHER B. BACON
RICHARD N. ROE
FRANK H. JENKINS, JR.
KRISTOPHER C. KUCKELMAN

GEORGE A. LOWE (1924 - 2011)
ROY G. LOWE (1926-2011)
ROY S. LOWE (1887-1976)

April 7, 2021

Daniel Yoza
Assistant City Attorney
City of Olathe, Kansas
Olathe City Hall
100 East Santa Fe Street, Second Floor
Olathe, KS 66061

Hand-Delivered

Re: Northwest Consolidated Fire District Detachment Agreement with the City of Olathe 2021

Dear Dan:

Enclosed are three fully executed copies of the Agreement Detaching Property Within Johnson County From Northwest Consolidated Fire District To The City of Olathe.

Please provide me with one fully executed copy of the agreement for the District.

Thank you for your assistance in this matter.

Very truly yours,

LOWE LAW FIRM, LLP

By: 
Frank H. Jenkins, Jr.

FHJ:nm
Enclosures

**AGREEMENT DETACHING PROPERTY WITHIN JOHNSON COUNTY FROM
NORTHWEST CONSOLIDATED FIRE DISTRICT TO THE CITY OF OLATHE**

THIS AGREEMENT made and entered into this _____ day of _____, 2021, between the City of Olathe, Kansas (hereafter referred to as "City"), and Johnson County Northwest Consolidated Fire District (hereafter "District"), each party having been organized and now existing under the laws of the State of Kansas.

WITNESSETH:

WHEREAS, the District has been duly created and authorized under the provisions of K.S.A. 19-3613 *et seq.* to provide fire protection services to certain territory in Johnson County, and,

WHEREAS, the Governing Body of the District is authorized by the provisions of K.S.A. 19-3623f, acting jointly with the governing body of a city, to detach and exclude from the existing territory of the District any of its territory which may have been included within the corporate limits of such city by subsequent annexation, and,

WHEREAS, certain territory of the District as originally created has been annexed by subsequent action of the City pursuant to K.S.A. 12-520 so that it is now included within the corporate limits of the City, and,

WHEREAS, in the judgment of the Governing Body of the District, such annexed territory, because of its location, density, and proximity to existing fire stations and facilities of the City in relation to the station and facilities of the District, may be best protected by the City, and properly provided with fire protection in such annexed areas, and,

WHEREAS, the City through its annexation ordinance has reaffirmed its interest in and willingness to assume fire protection for such annexed territories, and has negotiated the detachment of such territories, all pursuant to the authority granted by K.S.A. 19-3623f, and

WHEREAS, the Governing Body of the District has determined that the detachment and exclusion of such territory by the City will not materially jeopardize or affect the remaining tax base or affect the ability of the remaining territory of the District to support and provide for adequate fire protection for the District and would not impair or render less effective or efficient the existing fire stations and operations within the remaining territory of the District. The Governing Body of the District has determined that detachment of these parcels is in the best interest of the patrons in the detached areas.

NOW THEREFORE in consideration of the above recitals, the City and the District agree to the following:

1. That property annexed by the City pursuant to Ordinance No. 19-43, Ordinance No. 19-51, and Ordinance No. 19-81 which is currently located within the territory of the District and which has not been previously detached (a copy of the annexation ordinances is attached hereto as Exhibit 1) shall be detached and excluded from the boundaries of the District and shall be transferred to and provided fire protection services by the City, subject to the requirements set forth in K.S.A. 19-3623f. A Map of such property is attached hereto as Exhibit 2, and legal description is attached hereto as Exhibit 3.

2. In accordance with K.S.A. 12-546, because the Property was annexed into the City but will not be detached from the District in the tax year when the annexations occurred, the parties hereby agree that the District will continue to levy taxes for fire service against the Property and provide fire service to the Property until December 31, 2021. Thereafter, the City will levy taxes for fire service against the Property and will provide fire service to the Property. All general obligation bonds issued by the District for the acquisition or construction of fire stations or buildings, the acquisition of sites therefor and the purchase of firefighting equipment for use in the District, which were issued prior to the effective date of the annexation of the Property, as herein provided, shall continue as an obligation of the Property at the time such bonds were issued, all as provided for in K.S.A. 19-3623f.

3. This Agreement shall be governed by, enforced and construed in accordance with the laws of the State of Kansas.

4. This Agreement shall be binding upon and shall inure to the benefit of the City, the District, and their respective successors and assigns.

5. In the event any one or more of the provisions of this Agreement shall be held invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

6. This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

7. The terms and provisions of this Agreement neither include or effect the transfer of any real or personal property owned by the District nor the payment of compensation therefor.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed below.

CITY OF OLATHE, KANSAS

By: _____

Mayor

ATTEST:

City Clerk

(SEAL)

APPROVED AS TO FORM:

City Attorney

JOHNSON COUNTY NORTHWEST
CONSOLIDATED FIRE DISTRICT

Walter H. Daniel
Chairperson

ATTEST:

R.W. Garrett
Secretary

APPROVED AS TO FORM:

James J. [Signature]
Fire District Attorney

EXHIBIT 1

ORDINANCE NO. 19-43

AN ORDINANCE ANNEXING CERTAIN LANDS TO THE CITY OF OLATHE, KANSAS, IN CONFORMITY WITH THE PROVISIONS OF K.S.A. 12-520(a)(7), AND AMENDMENTS THERETO.

WHEREAS, the Governing Body of the City of Olathe, Kansas, has received a petition from the owners of the following described real property requesting that such property be annexed to the City of Olathe, Kansas (ANX19-0002):

THE SOUTHEAST ¼ OF THE NORTHEAST ¼ OF SECTION 13, TOWNSHIP 13, RANGE 22, JOHNSON COUNTY, KANSAS, SUBJECT TO THAT PART IN ROADS.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: Pursuant to K.S.A. 12-520(a)(7), the Governing Body of the City of Olathe, Kansas, deems it advisable to annex the following land, to-wit:

THE SOUTHEAST ¼ OF THE NORTHEAST ¼ OF SECTION 13, TOWNSHIP 13, RANGE 22, JOHNSON COUNTY, KANSAS, SUBJECT TO THAT PART IN ROADS;

including any and all adjacent right-of-way,

and that said land is hereby annexed and made a part of the City of Olathe, Kansas.

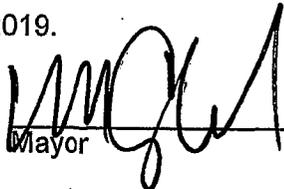
SECTION TWO: That the City of Olathe, Kansas, recognizes that the above-described property is within the boundaries of the Northwest Consolidated Fire District, Johnson County, Kansas, and that for purposes of fire protection, the City of Olathe, Kansas, hereby agrees that upon annexation and detachment from the Fire District in accordance with applicable law, the property shall be the sole and complete responsibility of the City of Olathe, Kansas.

SECTION THREE: The City Clerk shall file a certified copy of this Ordinance with the County Clerk, the Department of Records and Tax Administration, and the Election Commissioner of Johnson County, Kansas.

SECTION FOUR: That this Ordinance shall take effect and be in force from and after its passage and publication as provided by law.

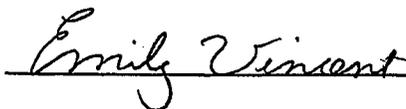
PASSED by the Governing Body this 6th day of August, 2019.

SIGNED by the Mayor this 6th day of August, 2019.



Mayor

ATTEST:

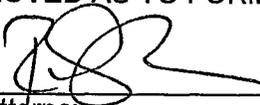




City Clerk

(SEAL)

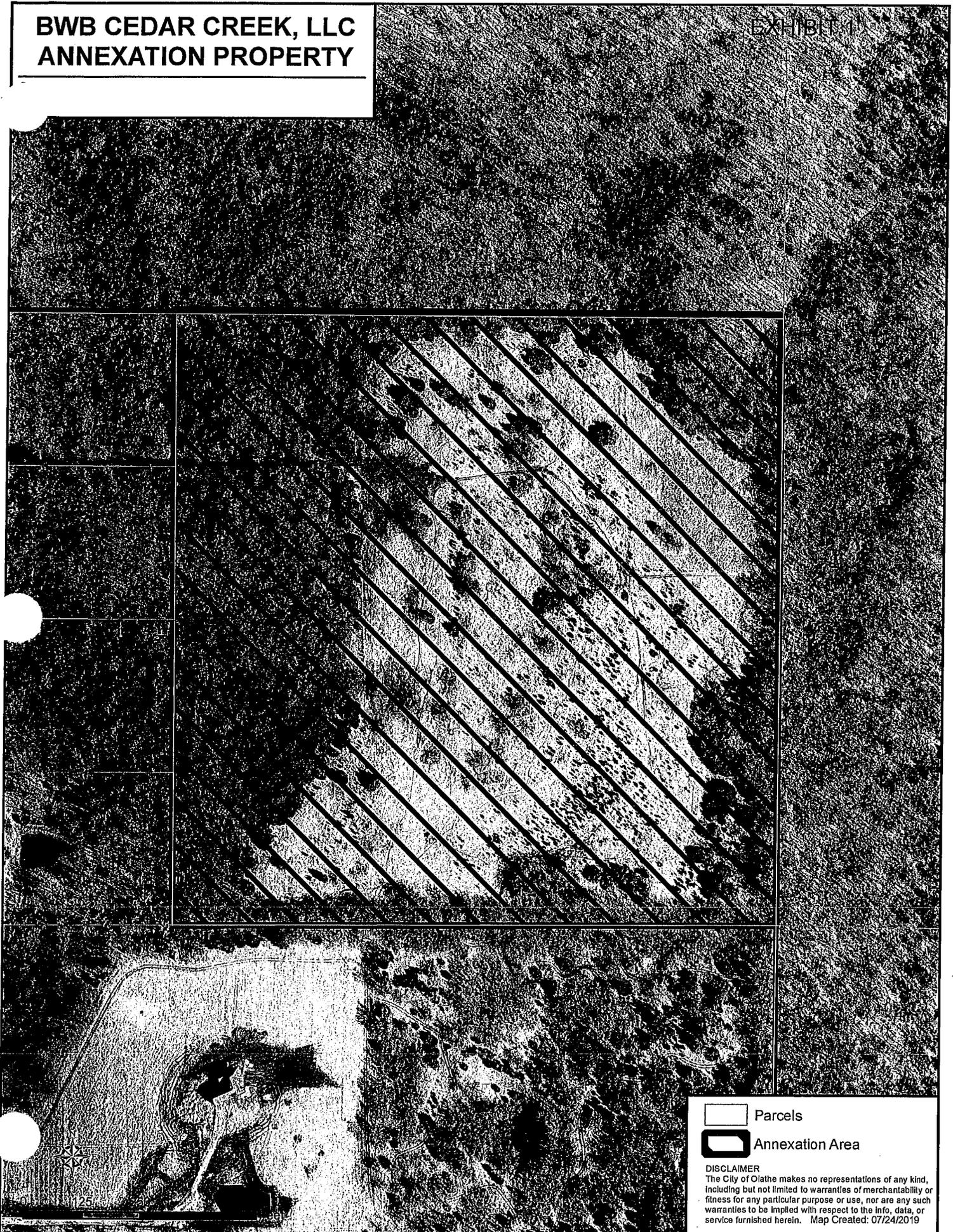
APPROVED AS TO FORM:



City Attorney

**BWB CEDAR CREEK, LLC
ANNEXATION PROPERTY**

EXHIBIT 1



-  Parcels
-  Annexation Area

DISCLAIMER
The City of Olathe makes no representations of any kind, including but not limited to warranties of merchantability or fitness for any particular purpose or use, nor are any such warranties to be implied with respect to the info, data, or service furnished herein. Map Created: 07/24/2019

STATE OF KANSAS
JOHNSON COUNTY, SS

Brandon Humble, being first duly sworn, deposes and says: That he is the editor of **THE GARDNER NEWS** A weekly newspaper printed in the State of Kansas, and published in and of general circulation in Johnson County, Kansas and that said newspaper is a bi-weekly published at least weekly, 52 times a year; has been published continuously and uninterruptedly in said county and state for a period of more than five years prior to the first publication of said notice; and has been admitted at the post office in Gardner, Kansas in said county as second class matter.

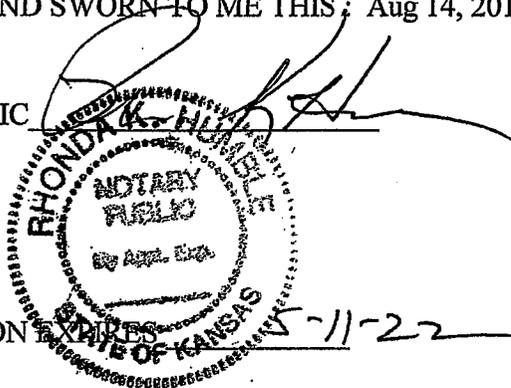
That the attached notice is a true copy there of and was published in the regular and entire issue of said newspaper for 1 consecutive weeks(s),

The first publication there of being made as aforesaid on 8/14/2019
Publications being made on the following:

EDITOR *Brandon Humble*

SUBSCRIBED AND SWORN TO ME THIS : Aug 14, 2019

NOTARY PUBLIC



MY COMMISSION

COST-----

ADDITIONAL COPIES-----

IN THE DISTRICT COURT OF JOHNSON, COUNTY KANSAS-----

The within Proof Of Publication approved

Public Notice

First published in *The Gardner News* Wednesday, Aug. 14, 2019
PUBLICATION SUMMARY OF ORDINANCE NO. 19-43, PASSED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS ON THE 6th DAY OF AUGUST 2019.
SUMMARY
On August 6, 2019, the Governing Body of the City of Olathe, Kansas passed Ordinance No. 19-43, pertaining to annexation.
This ordinance annexes approximately 39.4± acres located approximately ¼ mile east of S. Moonlight Terrace and ½ mile north of W. 119th Street into the corporate boundaries of the City of Olathe. The complete text of this ordinance may be obtained or viewed free of charge at the office of the Olathe City Clerk, Olathe City Hall, 100 East Santa Fe Street, Olathe, Kansas, or on the City's official website address: <http://www.olatheks.org/government/city-clerk/public-notices>, where a reproduction of the original ordinance will be available for a minimum of one week following this summary publication.
This summary is certified this 7th day of August, 2019.
/s/ Ronald R. Shaver
Ronald R. Shaver
Assistant City Attorney

ORDINANCE NO. 19-51

AN ORDINANCE ANNEXING CERTAIN LANDS TO THE CITY OF OLATHE, KANSAS, IN CONFORMITY WITH THE PROVISIONS OF K.S.A. 12-520(a)(7), AND AMENDMENTS THERETO.

WHEREAS, the Governing Body of the City of Olathe, Kansas, has received petitions from the owners of the following described real property requesting that such property be annexed to the City of Olathe, Kansas (ANX-19-003):

THE NORTH HALF OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 13, TOWNSHIP 13, RANGE 22, IN JOHNSON COUNTY, KANSAS, EXCEPT PART IN ROAD.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: Pursuant to K.S.A. 12-520(a)(7), the Governing Body of the City of Olathe, Kansas, deems it advisable to annex the following land, to-wit:

THE NORTH HALF OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 13, TOWNSHIP 13, RANGE 22, IN JOHNSON COUNTY, KANSAS, EXCEPT PART IN ROAD,

including any and all adjacent right-of-way,

and that said land is hereby annexed and made a part of the City of Olathe, Kansas.

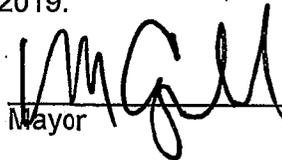
SECTION TWO: That the City of Olathe, Kansas, recognizes that the above-described property is within the boundaries of the Northwest Consolidated Fire District, Johnson County, Kansas, and that for purposes of fire protection, the City of Olathe, Kansas, hereby agrees that upon annexation and detachment from the Fire District in accordance with applicable law, the property shall be the sole and complete responsibility of the City of Olathe, Kansas.

SECTION THREE: The City Clerk shall file a certified copy of this Ordinance with the County Clerk, the Department of Records and Tax Administration, and the Election Commissioner of Johnson County, Kansas.

SECTION FOUR: That this Ordinance shall take effect and be in force from and after its passage and publication as provided by law.

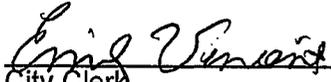
PASSED by the Governing Body this 20th day of August, 2019.

SIGNED by the Mayor this 20th day of August, 2019.



Mayor

ATTEST:



City Clerk

(SEAL)

APPROVED AS TO FORM:



City Attorney



11425 Moonlight Terrace Annexation Property

Moonlight Ter

W 115Th St

-  Parcels
-  Annexation Area
-  Current City Boundary

DISCLAIMER
The City of Olathe makes no representations of any kind, including but not limited to warranties of merchantability or fitness for any particular purpose or use, nor are any such warranties to be implied with respect to the info, data, or service furnished herein. Map Created: 07/31/2019

PUBLICATION SUMMARY OF ORDINANCE NO. 19-51, PASSED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS ON THE 20th DAY OF AUGUST 2019.

SUMMARY

On August 20, 2019, the Governing Body of the City of Olathe, Kansas passed Ordinance No. 19-51, pertaining to annexation.

This ordinance annexes approximately 9.92± acres located at 11425 Moonlight Terrace, approximately 330 feet north of 115th Street, into the corporate boundaries of the City of Olathe. The complete text of this ordinance may be obtained or viewed free of charge at the office of the Olathe City Clerk, Olathe City Hall, 100 East Santa Fe Street, Olathe, Kansas, or on the City's official website address <http://www.olatheks.org/government/city-clerk/public-notices>, where a reproduction of the original ordinance will be available for a minimum of one week following this summary publication.

This summary is certified this 21st day of August, 2019.

/s/ Ronald R. Shaver

Ronald R. Shaver
City Attorney

Publish one time and return one Proof of Publication to the City Clerk and one to the City Attorney.

STATE OF KANSAS
JOHNSON COUNTY, SS

Brandon Humble, being first duly sworn, deposes and says: That he is the editor of
THE GARDNER NEWS A weekly newspaper printed in the State of Kansas, and published in
and of general circulation in Johnson County, Kansas and that said newspaper is a bi-
weekly published at least weekly, 52 times a year; has been published continuously and
uninterruptedly in said county and state for a period of more than five years prior to the first
publication of said notice; and has been admitted at the post office in Gardner, Kansas in said
county as second class matter.

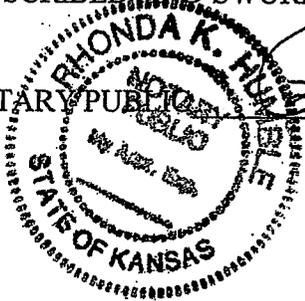
That the attached notice is a true copy there of and was published in the regular and entire issue
of said newspaper for 1 consecutive weeks(s),

The first publication there of being made as aforesaid on 8/28/2019
Publications being made on the following:

EDITOR *Brandon Humble*

SUBSCRIBED AND SWORN TO ME THIS : Aug 28, 2019

NOTARY PUBLIC



MY COMMISSION EXPIRES

5-11-22

COST-----

ADDITIONAL COPIES-----

IN THE DISTRICT COURT OF JOHNSON, COUNTY KANSAS-----

The within Proof Of Publication approved

-----JUDGE

Public Notice

First published in *The Gardner News*
Wednesday, Aug. 28, 2019

PUBLICATION SUMMARY OF ORDINANCE NO. 19-51, PASSED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS ON THE 20TH DAY OF AUGUST 2019.

SUMMARY

On August 20, 2019, the Governing Body of the City of Olathe, Kansas passed Ordinance No. 19-51, pertaining to annexation.

This ordinance annexes approximately 9.92+ acres located at 11425 Moonlight Terrace, approximately 330 feet north of 115th Street, into the corporate boundaries of the City of Olathe. The complete text of this ordinance may be obtained or viewed free of charge at the office of the Olathe City Clerk, Olathe City Hall, 100 East Santa Fe Street, Olathe, Kansas, or on the City's official website address <http://www.olatheks.org/government/city-clerk/public-notices>, where a reproduction of the original ordinance will be available for a minimum of one week following this summary publication.

This summary is certified this 21st day of August, 2019.

/s/ Ronald R. Shaver
Ronald R. Shaver
City Attorney

ORDINANCE NO. 19-81

AN ORDINANCE ANNEXING CERTAIN LANDS TO THE CITY OF OLATHE, KANSAS, IN CONFORMITY WITH THE PROVISIONS OF K.S.A. 12-520(a)(7), AND AMENDMENTS THERETO.

WHEREAS, the Governing Body of the City of Olathe, Kansas, has received petitions from the owners of the following described real property requesting that such property be annexed to the City of Olathe, Kansas (ANX-19-0004):

The West ½ of the East ½ of the East ½ of the Southeast ¼ of Section 20, Township 13, Range 23, Johnson County, Kansas, except that part in roads.

And

The West ½ of the East ½ of the Southeast ¼ of Section 20, Township 13, Range 23, Johnson County, Kansas, except that part in roads.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS:

SECTION ONE: Pursuant to K.S.A. 12-520(a)(7), the Governing Body of the City of Olathe, Kansas, deems it advisable to annex the following land, to-wit:

The West ½ of the East ½ of the East ½ of the Southeast ¼ of Section 20, Township 13, Range 23, Johnson County, Kansas,

And

The West ½ of the East ½ of the Southeast ¼ of Section 20, Township 13, Range 23, Johnson County, Kansas,

including any and all adjacent right-of-way,

and that said land is hereby annexed and made a part of the City of Olathe, Kansas.

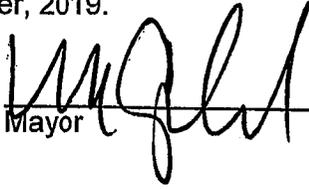
SECTION TWO: That the City of Olathe, Kansas, recognizes that the above-described property is within the boundaries of the Northwest Consolidated Fire District, Johnson County, Kansas, and that for purposes of fire protection, the City of Olathe, Kansas, hereby agrees that upon annexation and detachment from the Fire District in accordance with applicable law, the property shall be the sole and complete responsibility of the City of Olathe, Kansas.

SECTION THREE: The City Clerk shall file a certified copy of this Ordinance with the County Clerk, the Department of Records and Tax Administration, and the Election Commissioner of Johnson County, Kansas.

SECTION FOUR: That this Ordinance shall take effect and be in force from and after its passage and publication as provided by law.

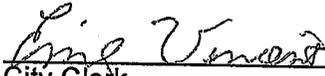
PASSED by the Governing Body this 17th day of December, 2019.

SIGNED by the Mayor this 17th day of December, 2019.



Mayor

ATTEST:



City Clerk

(SEAL)



APPROVED AS TO FORM:



City Attorney

WxW, LLC
ANNEXATION PROPERTY
Exhibit B

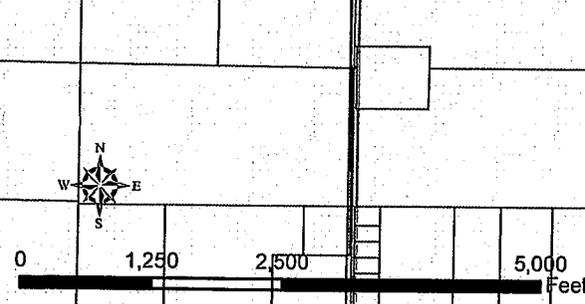


-  Parcels
-  Annexation Area

DISCLAIMER
The City of Olathe makes no representations of any kind, including but not limited to warranties of merchantability or fitness for any particular purpose or use, nor are any such warranties to be implied with respect to the info, data, or service furnished herein. Map Created: 11/22/2019

EXHIBIT 2

Annexation Ordinances 19-43, 19-51, & 19-81



Legend

- Parcels
- Annexation Area
- NW Consolidated Fire District
- Olathe Fire District

DISCLAIMER
The City of Olathe makes no representations of any kind, including but not limited to warranties of merchantability or fitness for any particular purpose or use, nor are any such warranties to be implied with respect to the info, data, or service furnished herein. Map Created: 12/14/2020

EXHIBIT 3

Legal description of detachment – Ordinances 19-43, 19-51, and 19-81

THE SOUTHEAST $\frac{1}{4}$ OF THE NORTHEAST $\frac{1}{4}$ OF SECTION 13, TOWNSHIP 13, RANGE 22, JOHNSON COUNTY, KANSAS, SUBJECT TO THAT PART IN ROADS;

including any and all adjacent right-of-way,
and

THE NORTH HALF OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 13, TOWNSHIP 13, RANGE 22, IN JOHNSON COUNTY, KANSAS, EXCEPT PART IN ROAD,

including any and all adjacent right-of-way,
and

THE WEST $\frac{1}{2}$ OF THE EAST $\frac{1}{2}$ OF THE EAST $\frac{1}{2}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 20, TOWNSHIP 13, RANGE 23, JOHNSON COUNTY, KANSAS,

including any and all adjacent right-of-way,
and

THE WEST $\frac{1}{2}$ OF THE EAST $\frac{1}{2}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 20, TOWNSHIP 13, RANGE 23, JOHNSON COUNTY, KANSAS,

including any and all adjacent right-of-way,