

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of Missouri-American Water     )  
Company for a Certificate of Convenience     )  
and Necessity Authorizing it to Install, Own,     ) File No.     WA-2022-  
Acquire, Construct, Operate, Control,     ) File No.     SA-2022-  
Manage and Maintain a Water System and     )  
Sewer System in and around the City of     )  
Smithton, Missouri.     )

**APPLICATION AND  
MOTION FOR WAIVER**

COMES NOW Missouri-American Water Company ("MAWC") pursuant to Sections 393.140, and 393.170 RSMo, and 20 CSR 4240-2.060, 20 CSR 4240-2.080 (14) 20 CSR 4240-3.305, 20 CSR 20 4240-3.600 and 20 CSR 4240-4.017(1)(D), and for its Application and Motion for Waiver, states as follows to the Missouri Public Service Commission:

**BACKGROUND INFORMATION**

1. This Application is being filed by MAWC to obtain a Certificate of Convenience and Necessity ("CCN") to install, own, acquire, construct, operate, control, manage and maintain a water system and sewer system in and around the City of Smithton, Missouri ("Smithton"), located in Pettis County.
2. MAWC is a Missouri corporation, active and in good standing with the Missouri Secretary of State, with its principal office and place of business at 727 Craig Road, St. Louis, Missouri 63141. Pursuant to Commission regulation 20 CSR 4240-2.060(1)(G), MAWC incorporates by reference the certified copies of its articles of incorporation and its certificate of good standing previously filed in File No. WO -2020-0190.
3. MAWC currently provides water service to approximately 475,000 customers and sewer service to approximately 18,000 customers in several counties throughout the state

of Missouri. MAWC is a "water corporation," a "sewer corporation" and a "public utility" as those terms are defined in Section 386.020 and is subject to the jurisdiction and supervision of the Commission as provided by law. MAWC has no overdue Commission annual reports or assessment fees. There is no pending action or final unsatisfied judgment or decision against MAWC from any state or federal agency or court which involves customer service or rates, which action, judgment, or decision has occurred within three years of the date of this Application.

4. Communications respecting this Application should be addressed to the undersigned counsel and:

**Missouri-American Water Company:**

**Ms. Mary Beth Hercules**

Paralegal

Missouri-American Water Company

727 Craig Road

Creve Coeur, Missouri 63141

Direct Dial 314-996-2343

[marybeth.hercules@amwater.com](mailto:marybeth.hercules@amwater.com)

**CERTIFICATE OF CONVENIENCE AND NECESSITY**

5. MAWC proposes to purchase all the water and sewer assets of the currently unregulated system of Smithton, and requests permission, approval and a CCN to own, acquire, construct, operate, control, manage and maintain the water and sewer systems for the public in an area in and around Smithton, Missouri.

6. To provide service to the proposed area, MAWC will purchase the water and sewer systems from Smithton. Smithton is a fourth-class city located in Pettis County. Smithton serves approximately 220 water accounts and 220 sewer accounts. The City of Smithton has a population of approximately 510.

7. The water system consists of one elevated 50,000-gallon welded steel tank, two

deep wells and approximately 28,000 feet of 2, 4 and 6 inch water main. There are approximately 30 fire hydrants. The sewer system consists of a two-cell treatment lagoon and a collection system consisting of approximately 23,000 feet of sewer and 75 manholes.

8. On January 25, 2021, the Smithton Board of Aldermen passed Ordinance No. 692, *An Ordinance Amending Ordinance #691 Providing For Submission Of A Proposal To Be Added To The Qualified Voters Of The City For Their Approval At The General Election Called And To Be Held In The City On April 6, 2021*. A copy of the Ordinance is attached hereto as **Appendix A**. The Ordinance provided notice of an election to be held on April 6, 2021, to vote on whether the water and wastewater utility owned by the City of Smithton should be sold. The question on the ballot was: ***Shall the City of Smithton, Missouri be authorized to sell its Water and Wastewater (sewer) Utilities to Missouri American Water for the sum of \$565,001.00 (Five Hundred Sixty-Five Thousand and One Dollar)?***

9. Virtual Town Hall Meetings were held on March 11, 2021, and April 1, 2021, to discuss the proposed sale. MAWC representatives attended the virtual Town Hall Meetings and were available to answer any questions. Notifications of the Town Hall Meetings sent to the residents along with informational mailings are attached hereto as **Appendix B**. The election was held on April 6, 2021, with over 76% of the votes in favor of the sale of the water and sewer utilities of Smithton to MAWC. There were 104 total votes cast of which 80 voted "yes" and 24 voted "no".

10. On May 9, 2022, MAWC entered into a *Purchase Agreement* with Smithton. A copy of the *Purchase Agreement* is attached as **Appendix C**. The schedules and exhibits to the *Purchase Agreement* have not been created at this time. In most cases, they are prepared if, and when, approval is received from the Missouri Public Service Commission ("Commission")

to proceed with the transaction since these items are part of the closing process.

11. MAWC proposes to purchase the water and sewer utility assets of Smithton, as specifically described in, and under the terms and provisions of the *Purchase Agreement*. A legal description of the area sought to be certificated is attached as **Appendix D**. A map of the area sought to be certificated is attached to this Application as **Appendix E**.

12. Attached hereto and marked as **Appendix F-C** is a list of ten residents or landowners within the proposed service area. **Appendix F-C** has been identified as Confidential in accordance with Commission Rule 20 CSR 4240-2.135(2)(A)1, as it contains customer-specific information.

#### APPRAISAL

13. MAWC seeks to establish the ratemaking rate base associated with the Smithton water and sewer assets pursuant to Section 393.320, RSMo. Section 393.320.2 states as follows:

*The procedures contained in this section may be chosen by a large water public utility, and if so chosen shall be used by the public service commission to establish the ratemaking rate base of a small water utility during an acquisition.*

14. MAWC is a “large water public utility” as it is a “public utility that regularly provides water service or sewer service to more than eight thousand customer connections and that provides safe and adequate service.” Section 393.320.1(1), RSMo. Smithton is a “small water utility” as it is a “water system or sewer system owned by a municipality that regularly provides water service or sewer service to eight thousand or fewer customer connections.” Section 393.320.1(2), RSMo.

15. Section 393.320.3(1), RSMo requires an appraisal to be performed by three appraisers. Such an appraisal has been performed on the Smithton water and sewer systems

and is attached hereto as **Appendix G**. The appraisal references the Flinn Engineering Report which is attached hereto as **Appendix H**. The appraisal contains a joint assessment of the fair market value of the water system and sewer system.

16. Section 393.320.5(1), RSMo states, in part, that the “lesser of the purchase price or the appraised value, together with the reasonable and prudent transaction, closing, and transition costs incurred by the large water public utility, shall constitute the ratemaking rate base for the small water utility as acquired by the acquiring large water public utility...” In this case, the purchase price is (\$565,001.00 (\$565,000.00 for water system assets, and \$1.00 for sewer system assets)). Therefore, that amount together with the reasonable and prudent transaction, closing, and transition costs incurred by MAWC, shall constitute the ratemaking rate base. MAWC intends to make significant investments in the first five years of operation. The most significant improvement will be to the lagoons. The investments will include installation of a disinfection system and an ammonia removal system. Also anticipated are investments in sewer lining, point repairs and manhole rehabilitation.

#### **ADDITIONAL INFORMATION**

17. Attached hereto and marked as **Appendix I-C** is the feasibility study for the water system and **Appendix J-C** is the feasibility study for the sewer system. No external financing is anticipated. **Appendix I-C** and **Appendix J-C** have been marked as "Confidential" in accordance with Commission Rule 20 CSR 4240-2.135(2)(A)3, 4 and 6 as they contain market specific information and information representing strategies employed in contract negotiations.

18. Attached hereto and marked as **Appendix K** is an Integration Appendix that includes information relevant to the integration process of this proposed acquisition.

19. MAWC will receive a franchise from the City of Smithton.

### **TARIFFS/RATES**

20. MAWC proposes to provide water service pursuant to the existing rates currently applicable to MAWC's Warrensburg Service Area and to utilize the rules governing the rendering of water service currently found in MAWC's water tariff P.S.C. MO No. 13 until such time as the rates and rules are modified according to law.

21. MAWC proposes to provide sewer service pursuant to the existing rates currently applicable to MAWC's Pettis County Service Area and to utilize the rules governing the rendering of sewer service currently found in MAWC's sewer tariff P.S.C. MO No. 26, until such time as the rates and rules are modified according to law.

### **PUBLIC INTEREST**

22. The grant of the requested CCN (and approval of the underlying transaction) is in the public interest and will result in the provision of regulated water and sewer service to the current and future residents of the service area. The water and sewer assets of Smithton would be acquired by MAWC, a Missouri public utility, and be subject to the jurisdiction of the Commission. MAWC has considerable expertise and experience in providing water and sewer utility services to residents of the State of Missouri and is fully qualified, in all respects, to own and operate the water and sewer systems currently being operated in and around the City of Smithton.

23. The City of Smithton water and wastewater customers will benefit from this acquisition for various reasons, which include the need for investment to replace aging infrastructure, the need for investment to maintain compliance with existing and new regulations, to relieve the responsibility of operating and maintaining systems in the face of ever-increasing complexity and liability and the desire to maintain affordability.

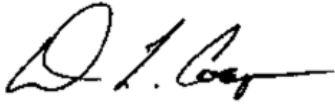
## MOTION FOR WAIVER

24. Commission Rule 20 CSR 4240-4.017(1) provides that "(a)ny person that intends to file a case shall file a notice with the secretary of the commission a minimum of sixty (60) days prior to filing such case." A notice was not filed 60 days prior to the filing of this Application. As such, and to the extent required, MAWC seeks a waiver of the 60-day notice requirement.

25. Rule 20 CSR 4240-4.017(l)(D) provides that a waiver may be granted for good cause. In this regard, MAWC declares (as verified below) that it has had no communication with the Office of the Commission (as defined by Commission Rule 20 CSR 4240-4.015(10)) within the prior 150 days regarding any substantive issue likely to be in this case, other than those pleadings filed for record. Accordingly, for good cause shown, MAWC moves for a waiver of the 60-day notice requirement of Rule 20 CSR 4240-4.017(1) and acceptance of this Application at this time.

**WHEREFORE**, MAWC requests the Commission issue an order:

1. Granting MAWC permission, approval and a Certificate of Convenience and Necessity authorizing MAWC to install, acquire, build, construct, own, operate, control, manage and maintain water and sewer systems for the public within the area referred to above;
2. Granting MAWC permission to acquire the water and sewer assets identified herein of the City of Smithton, Missouri; and,
3. Authorizing MAWC to take such actions as may be deemed necessary and appropriate to accomplish the purposes of the *Purchase Agreement* and the Application and to consummate related transactions in accordance with the *Purchase Agreement*



Dean L. Cooper MBE #36592  
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Jefferson City, MO 65102  
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[dcooper@brydonlaw.com](mailto:dcooper@brydonlaw.com)

Respectfully Submitted,

Timothy W. Luft, MBE #40506  
Rachel Niemeier, MBE #56073  
Corporate Counsel  
MISSOURI-AMERICAN WATER  
COMPANY  
727 Craig Road  
St. Louis, MO 63141  
(314) 996-2279 (Tim)  
(314) 996-2390 (Rachel)  
[timothy.luft@amwater.com](mailto:timothy.luft@amwater.com)  
[rachel.neimeier@amwater.com](mailto:rachel.neimeier@amwater.com)

**ATTORNEYS FOR MISSOURI-AMERICAN WATER COMPANY**




**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above and foregoing document was sent via electronic mail on this 12<sup>th</sup> day of August, 2022 to:

Karen Bretz  
Staff Counsel's Office  
[karen.bretz@psc.mo.gov](mailto:karen.bretz@psc.mo.gov)  
[staffcounsel@psc.mo.gov](mailto:staffcounsel@psc.mo.gov)

Marc Poston  
Office of the Public Counsel  
[opcservice@opc.mo.gov](mailto:opcservice@opc.mo.gov)



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**VERIFICATION**

State of Missouri            )  
  )  
County of St. Louis        )        ss

I, Timothy W. Luft, under penalty of perjury, and pursuant to Section 509.030, RSMo, state that I am Vice-President - Legal of Missouri-American Water Company, that I am duly authorized to make this affidavit on behalf of MAWC, that I have knowledge of the matters stated herein, and that said matters are true and correct to be best of my knowledge and belief. Additionally, no representative of MAWC has had any communication with the office of the Missouri Public Service Commission as defined in Commission Rule 20 CSR 4240-4.015(10) within the immediately preceding 150 days regarding the subject matter of this Application.

  
\_\_\_\_\_

### **List of Appendices**

|                |                                  |
|----------------|----------------------------------|
| Appendix A     | Ordinance                        |
| Appendix B     | Town Hall Meetings               |
| Appendix C     | Purchase Agreement               |
| Appendix D     | Legal Description                |
| Appendix E     | Map                              |
| Appendix F-C   | List of Ten Residents            |
| Appendix G     | Appraisal                        |
| Appendix H     | Engineering Report               |
| Appendix I – C | Feasibility Study – Water System |
| Appendix J - C | Feasibility Study – Sewer System |
| Appendix K     | Integration                      |

BILL NO 1252021

ORDINANCE NO # 692

AN ORDINANCE AMENDING ORDINANCE #691 PROVIDING FOR SUBMISSION OF A PROPOSAL TO BE ADDED TO THE QUALIFIED VOTERS OF THE CITY FOR THEIR APPROVAL AT THE GENERAL ELECTION CALLED AND TO BE HELD IN THE CITY ON APRIL 6, 2021.

WHEREAS, the City is required to submit to the qualified voters of the City the question of whether the city of Smithton, Missouri be authorized to sell its' Water and Wastewater (sewer) utility to Missouri American Water for the sum of \$565,001.

WHEREAS, the City is required to submit the question to its voters no later than the general election in April 6, 2021:

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN In the City of Smithton, Missouri, as follows:

Section 1. Pursuant to the provisions of Sections 105.010 RSMo, the Board of Aldermen, has determined that it would be appropriate to submit the proposal to the voters.

Section 2. This proposition shall be submitted to the qualified voters of the city of Smithton, Missouri, for their approval, as required by the provisions of Section 105.010 RSMo, at the election hereby called and to be held in the City on Tuesday, the sixth day of April 2021. The ballot of submission shall contain substantially the following language:

**Shall the City of Smithton be authorized to sell its Water and Wastewater (sewer)utilities to Missouri American Water for the sum of \$565,001 (Five Hundred Sixty-Five Thousand and One dollar?**

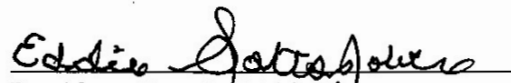
YES  NO

If you are in favor of the question, place an "X" in the box opposite "YES".


If you are opposed to the question, place an "X" in the box opposite "NO".


Section 3. This Ordinance shall be in full force and effect from and after the date of its passage and approval.

Read and passed by the Board of Aldermen of the City of Smithton, Missouri, on this 25th day of January, 2021

  
President, Board of Aldermen

Approved by the Mayor of said City on the 25<sup>th</sup> day of January, 2021.

ATTEST:  
  
Cynthia Williams, City Clerk

  
Damian Lemens, Mayor

You're invited!

# Town Hall Meetings

**YES  
ON 1**

**QUALITY WATER AND  
SEWER SERVICE FROM  
TRUSTED EXPERTS**

## APPENDIX B Page 1 of 8



**Thursday, March 11<sup>th</sup>**  
*at 7:00 PM*

**Thursday, April 1<sup>st</sup>**  
*at 7:00 PM*

**Smithton Community Center**  
200 Chestnut  
Smithton, MO 65350



## **Join us for a Town Hall Meeting.**

We hope you can join us to learn more about the proposed sale of Smithton's water and sewer systems to Missouri American Water.

We look forward to speaking with you and answering any questions you may have.

**To learn more about  
Question 1 please visit us at:**



[www.yesonquestiononesmithton.com](http://www.yesonquestiononesmithton.com)

# VOTE YES ON 1 ON APRIL 6<sup>TH</sup>

## WHY VOTE YES ON QUESTION 1?

### REGULATORY COMPLIANCE:

Missouri American Water will invest \$1.7 million in water and sewer system improvements over the next 5 years, including critical upgrades to meet regulatory requirements.

### SAFETY:

Dependable sewer service is critical to public health as it serves as a barrier protecting us from disease. Missouri American Water can make the improvements needed, both now and in the future, to protect the health and safety of the residents of Smithton.

### STABILITY:

Missouri American Water's team of nearly 700 dedicated employees keep quality water flowing and operate sewer systems efficiently. Our nearby districts in Warrensburg and Maplewood can provide operations support and have certified operators licensed by the Missouri Department of Natural Resources.

**YES  
ON 1**

LEARN MORE, ASK A QUESTION OR REQUEST A YARD SIGN AT  
[YesOnQuestionOneSmithton.com](http://YesOnQuestionOneSmithton.com)

Paid for by Missouri American Water 2323 Davis Blvd. Joplin, MO 64804



For information on upcoming town hall meetings, visit our website by taking a photo of this code.



SCAN ME



Missouri American Water  
2323 Davis Blvd  
Joplin, MO 64804

# VOTE YES ON 1 ON APRIL 6<sup>TH</sup>

## Quality Water and Sewer from Trusted Experts.

On April 6th, residents will vote on the sale of Smithton's water and sewer systems to Missouri American Water, a trusted and experienced water and sewer provider proudly serving Missourians for more than 140 years. We want to partner with Smithton by providing practical solutions to save you money and make the necessary investments to improve service, reliability, and meet future regulations.

We would be honored to serve Smithton.



**YES  
ON 1**

**WATER AND SEWER IS ALL WE DO.**

LEARN MORE, ASK A QUESTION OR REQUEST A YARD SIGN AT [YESONQUESTIONONESMITHTON.COM](http://YESONQUESTIONONESMITHTON.COM)



# VOTE YES ON 1 ON APRIL 6<sup>TH</sup>

## WHY VOTE YES ON QUESTION 1?

It's the best  
option for  
Smithton!

### Safety. Stability. Service.

Dependable water service. Fire protection. A barrier to disease. Healthy water and sewer systems provide these and more. Missouri American Water will invest \$1.7 million in system upgrades to meet future state and federal regulations. This keeps your family and community safe.

As of March 1, the Smithton Sewer System is out of compliance. Voting YES means Missouri American Water's team of nearly 700 dedicated employees will keep quality water flowing and will operate the sewer system efficiently and in compliance with state and federal regulations.

Our nearby districts in Warrensburg and Maplewood can provide operations support and have certified operators licensed by the Missouri Department of Natural Resources. This means residents will have rapid response for emergencies.

## WATER AND SEWER IS ALL WE DO!

Missouri American Water has been providing high-quality service for more than 140 years.



**YES  
ON 1**

LEARN MORE, ASK A QUESTION OR REQUEST A YARD SIGN AT  
[YesOnQuestionOneSmithton.com](http://YesOnQuestionOneSmithton.com)

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# Vote Yes on Question 1 on April 6<sup>th</sup>

## Quality Water and Sewer from Trusted Experts.

Smithton city leaders considered the options, and Missouri American Water was selected as the best choice. On April 6<sup>th</sup>, you have the opportunity to vote on the sale of the city's water and sewer systems to a trusted industry expert providing reliable water and sewer service to about 1.5 million Missourians every day. Missouri American Water partners with communities throughout the state providing practical and cost saving solutions while making the critical improvements needed to improve service and meet regulatory requirements.

### A YES VOTE MEANS

- \$1.7 million will be invested in water and sewer system improvements.
- Rapid emergency response and professional expertise.
- Smithton will receive **\$565,001** from the sale, making the city debt-free and able to focus on other community priorities.



Missouri American Water  
2323 Davis Blvd  
Joplin, MO 64804

APPENDIX B  
Page 6 of 8

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**YES  
ON 1**

**WATER AND SEWER IS ALL WE DO.**

LEARN MORE, ASK A QUESTION OR REQUEST A YARD SIGN AT [YESONQUESTIONONESMITHTON.COM](http://YESONQUESTIONONESMITHTON.COM)

# Why Vote YES on Question 1?

## Safety. Savings. Stability.

### SAFETY.

As of March 1, the Smithton Sewer System will be out of regulatory compliance. Voting **YES** means Missouri American Water will invest \$1.7 million in both water and sewer over the next 5 years, improving service reliability and keeping your family and community safe. Our nearby districts in Warrensburg and Maplewood can provide operations support and have certified operators licensed by the Missouri Department of Natural Resources. This means you will have rapid response for emergencies.

### SAVINGS.

Rates for sewer and water are going to increase because of the improvements needed. Missouri American Water can make the investment for less than the City can by itself due to economies of scale and purchasing power. This will help to stabilize rates in the long term and improve operational efficiencies.

### STABILITY.

Missouri American Water's nearly 700 dedicated employees provide high-quality water and sewer service to 1.5 million Missourians every day. For 140 years communities throughout the state have looked to us to provide practical and cost saving solutions while making necessary system improvements.



For information on upcoming town hall meetings, visit our website by taking a photo of this code.



LEARN MORE, ASK A QUESTION OR REQUEST A YARD SIGN AT  
[YesOnQuestionOneSmithton.com](http://YesOnQuestionOneSmithton.com)

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Missouri American Water  
2323 Davis Blvd  
Joplin, MO 64804

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SMV

# Vote Yes on Question 1 on April 6<sup>th</sup> The Best Option for Smithton!

On April 6<sup>th</sup>, you have the opportunity to vote on the sale of the city's water and sewer systems to a trusted industry expert with a 140-year history of providing reliable service to customers throughout the state. Smithton is facing water and sewer challenges similar to many communities throughout Missouri, with increasing regulations requiring additional investment. If passed, the city will be debt free.

*"Voting yes on Question 1 is absolutely the best move for the city, that's why the city council voted unanimously to put the measure before voters."*

– City of Smithton Mayor, Damian Lemens

## Vote Yes on 1 on April 6<sup>th</sup>



**YES  
ON 1**

**WATER AND SEWER IS ALL WE DO.**

LEARN MORE, ASK A QUESTION OR REQUEST A YARD SIGN AT [YESONQUESTIONONESMITHTON.COM](http://YESONQUESTIONONESMITHTON.COM)

## **Agreement for Purchase of Water and Wastewater System**

**This Agreement for Purchase of Water and Wastewater System** (the “Agreement”) is made and entered into on the 9th day of May, 2022 by and between **Missouri-American Water Company**, a Missouri corporation (“Buyer”), and the **City of Smithton**, formed under Missouri law and located in Pettis County, Missouri (“Seller”). Hereinafter, Buyer and Seller may be referred to individually as a “Party” or together as the “Parties”.

### **RECITALS:**

- A. Seller currently owns and operates a water treatment and distribution system and a wastewater treatment and collection system (collectively, the “System”) in Pettis County, Missouri with approximately 225 water connections and 225 wastewater connections.
- B. On April 6, 2021 there was a referendum on the sale of the System. Over 76% of the votes cast were “yes” to sell the System.
- C. Seller desires to sell substantially all of the assets that constitute or are used in furtherance of the System to Buyer pursuant to the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the foregoing recitals, and the representations, warranties, and covenants contained herein, and in exchange for other consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

### **ARTICLE 1 Definitions and Related Matters**

For purposes of this Agreement, the capitalized terms used herein shall have the meanings assigned to them herein or in the attached Exhibit 1 and, for purposes of this Agreement and all other documents executed in connection herewith, the rules of construction set forth in Exhibit 1 shall govern.

### **ARTICLE 2 Purchase and Sale of Assets; Closing**

**2.1 Transfer of Assets.** On and subject to the terms and conditions of this Agreement, at the Closing on the Closing Date and effective as of the Effective Time, Buyer shall purchase, acquire and accept from Seller, and Seller shall sell, convey, transfer, assign and deliver to Buyer, free and clear of all Encumbrances, the Acquired Assets. Notwithstanding anything to the contrary contained in this Section 2.1 or elsewhere in this Agreement, the Excluded Assets are not part of the sale and purchase contemplated hereunder, are excluded from the Acquired Assets, and shall remain the exclusive property of Seller subsequent to the Closing.

#### **2.2 Consideration.**

The consideration for the System and the Acquired Assets shall consist of the Purchase Price of **Five Hundred Sixty-Five Thousand and One Dollars (\$565,001.00)**.

(a) . At Closing, Buyer shall pay to the Seller and such other payees set forth on Schedule 2.2, in accordance with wire transfer instructions to be provided by the Seller to Buyer at least ten (10) Business Days prior to the Closing Date, in immediately available funds, an aggregate amount equal to the Purchase Price.

(b) Buyer shall deliver the Statement to Seller at least three (3) Business Days prior to the Closing Date. Seller shall provide Buyer and its representatives reasonable access, during normal business hours of Seller, to all personnel, books and records of or related to the System or the Business within Seller's direction or control as reasonably requested by Buyer to assist it in its preparation of the Statement. Buyer shall deliver to Seller a copy of the work papers prepared or used in connection with the Statement's preparation as reasonably requested by Seller to assist in its review of the Statement, and Seller shall have an opportunity, prior to the Closing Date, to review with representatives of Buyer and object to all or any part of the Statement, such review to be reasonable and in good faith. Buyer shall consider such objections, if any, in good faith but Buyer's reasonable, good faith determination with respect to the Adjustment Amount shall be final and binding for the purpose of calculating the Purchase Price.

(c) Buyer shall prepare the Allocation, which Allocation shall be binding upon Seller. The Parties shall report, act, and file Tax Returns in all respects and for all Tax purposes consistent with the Allocation. No Party shall take any Tax position (whether in audits, Tax Returns, or otherwise) that is inconsistent with or contrary to the Allocation. In the event that the Allocation is disputed by any Governmental Authority, the Party receiving notice of such dispute will promptly notify the other Party, and the Parties will consult in good faith as to how to resolve such dispute in a manner consistent with the Allocation.

**2.3 No Assumption of Liabilities.** All Liabilities of Seller, whether or not incurred in connection with the operation of the System, shall remain the sole responsibility of and shall be retained, paid, performed and discharged solely by Seller. Notwithstanding anything to the contrary contained in this Agreement, Buyer will not assume or be deemed to assume, and shall have no liability or obligation with respect to, any Liability of Seller, none of which Liabilities are part of the Contemplated Transaction

**2.4 Closing.** Unless this Agreement is first terminated pursuant to Article 8 hereof, and subject to the satisfaction or, if permissible, waiver of each of the conditions set forth in Article 5 hereof, the Closing will take place at a mutually agreeable location in the City of Trimble or such other place or by such other means (e.g., e-mail/PDF or facsimile and overnight delivery of original execution documents) as is agreed to by the Parties at 10:00 A.M., Central time, on (a) such date as is three (3) Business Days after the date on which all of the conditions set forth in Article 5 hereof shall have been satisfied or (to the extent permissible) waived (other than those conditions which, by their nature are to be satisfied or waived at Closing but subject to their satisfaction or waiver at Closing) or, if Buyer shall so elect, the final day of Seller's billing period of which such date is a part or (b) such other date as the Parties hereto may agree upon in writing. In any event, the Closing shall be effective as of the Effective Time.

**2.5 Closing Obligations.**

In addition to any other documents to be delivered under other provisions of this Agreement, at Closing:

(a) Seller shall deliver or cause to be delivered to Buyer, together with funds sufficient to pay all Taxes necessary for the transfer, filing or recording thereof, the following documents:

(i) the Bill of Sale, duly executed by Seller;

(ii) the Intangible Assignment, duly executed by Seller;

(iii) all Consents and approvals from Governmental Authorities, and third parties under Contracts, necessary to ensure that Buyer will continue to have the same full rights with respect to the Acquired Assets as Seller had immediately prior to the consummation of the Contemplated Transactions, including the written Consents, in form and substance reasonably acceptable to Buyer, of the Governmental Authorities and third parties set forth in Schedule 2.5(a)(iii);

(iv) a payoff letter from each lender from which Seller has incurred indebtedness for borrowed money which is outstanding, if any, and from each person or entity listed on Schedule 2.2, and a release of all Encumbrances relating to the Acquired Assets executed, filed and/or recorded by the holder of or parties to each such Encumbrance (including without limitation any violations cited by the Missouri Department of Natural Resources or any other Governmental Authority with authority over the System or the Acquired Assets), if any, in each case in substance and form reasonably satisfactory to Buyer and its counsel;

(v) for each interest in Real Property and each easement and/or right-of-way affecting any Real Property or Acquired Asset, whether or not identified on Schedule 3.4, a recordable warranty deed or such other appropriate document or instrument of transfer or approval, as the case may require, each in form and substance reasonably satisfactory to Buyer;

(vi) such other deeds, bills of sale, assignments, certificates of title, documents and other instruments of transfer and conveyance as may reasonably be requested by Buyer, each in form and substance reasonably satisfactory to Buyer;

(vii) a copy of each permit, license, easement, land-right and other necessary authority for the operation of the System and the Acquired Assets, in each case validly issued in the name of the Seller and in full force and effect;

(viii) the certificate contemplated by Section 5.1(d);

(ix) a legal opinion of Seller's legal counsel, affirmatively opining to such matters as Buyer or its legal counsel may reasonably request, including but not limited to the due authorization and execution of this Agreement by Seller and the enforceability thereof;

(x) a copy, certified by the Secretary of Seller to be true, complete and correct as of the Closing Date, of the governing documents and resolutions of the City and any required representatives of Seller authorizing and approving the Contemplated Transactions and as to the incumbency and signatures of the city council members of Seller executing this Agreement or any of the Transaction Documents on behalf of Seller;

(xi) to the extent such transfer is requested by Buyer, evidence satisfactory to Buyer of the transfer of all utilities with respect to the System from Seller to Buyer;

(xii) all other documents, instruments and writings required or reasonably requested by Buyer to be delivered at or prior to the Closing pursuant to this Agreement or otherwise required in connection herewith.

(b) At or prior to the Closing, Buyer shall deliver the following:

(i) to the Seller and such other payees set forth on Schedule 2.2, in accordance with wire transfer instructions to be provided by the Seller to Buyer at least ten (10) Business Days prior to the Closing Date, in immediately available funds, an aggregate amount equal to the Purchase Price;

(ii) to the Seller, the Intangible Assignments, duly executed by Buyer; and

(iii) to the Seller, all other documents, instruments and writings required or reasonably requested by Seller to be delivered at or prior to the Closing pursuant to this Agreement or otherwise required in connection herewith.

### ARTICLE 3 Representations and Warranties of Seller

Seller hereby makes the following representations and warranties to Buyer, each of which is true and correct on the date hereof, will be true and correct at Closing and shall survive the Closing and the Contemplated Transactions hereby to the extent set forth herein:

**3.1 Power and Authority.** Seller has full power and authority to conduct the Business and the System as they are now being conducted and to own, lease and operate the System and the Acquired Assets.

**3.2 Enforcement; Authority; No Conflict.**

(a) This Agreement constitutes the legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms except as such enforcement may be limited by bankruptcy, insolvency or other similar Laws affecting the rights of creditors generally and by general principles of equity. Seller has the absolute and unrestricted right, power and authority to execute and deliver this Agreement and the Transaction Documents and to consummate the Contemplated Transactions. The City of Trimble has duly authorized the execution, delivery, and performance of this Agreement by Seller and no other proceeding on the part of Seller is necessary to authorize the execution, delivery and performance of this Agreement.

(b) This Agreement has been, and the Transaction Documents will be, duly executed and delivered by Seller.

(c) Neither the execution, delivery or performance by Seller of this Agreement or the Transaction Documents nor the consummation by it of the Contemplated Transactions will (i) contravene, conflict with or result in a violation of any provisions of the governing documents of Seller, (ii) contravene, conflict with or result in a violation of or give any Governmental Authority or other Person the right to challenge any of the Contemplated Transactions or to exercise any remedy or obtain any relief under any Laws or any Order to which Seller or any of the Acquired Assets may be subject, (iii) contravene, conflict with or result in a violation of any of the terms



or requirements of or give any Governmental Authority the right to revoke, withdraw, suspend, cancel, terminate or modify any Permit or other authorization by a Governmental Authority that is held by Seller or that otherwise relates to the System or any of the Acquired Assets, (iv) contravene, conflict with or result in a violation or breach of any provision of, require the Consent of any Person under, or give any Person the right to declare a default or exercise any remedy under or to accelerate the maturity or performance of or to cancel, terminate or modify any Contract, indenture, mortgage, note, lease or other instrument or document to which Seller is a party or by which any of the Acquired Assets are bound or (v) result in the imposition or creation of any Encumbrance upon or with respect to any of the Acquired Assets.

(d) No filings or registrations with, notifications to, or authorizations, Consents or approvals of, a Governmental Authority or third party are required to be obtained or made by Seller in connection with the execution, delivery or performance by Seller of this Agreement or the Transaction Documents or the consummation by Seller of the Contemplated Transactions except related to the MoPSC approval. Neither the Contemplated Transactions nor the Transaction Documents will result in the creation of any Encumbrance against any of the Acquired Assets.

**3.3 Assets.** Seller has clear, good, and marketable title to, or a valid leasehold interest in, all of the Acquired Assets, free and clear of all Encumbrances. None of the Acquired Assets are leased or on loan by Seller to any third party. The Acquired Assets constitute all of the assets and property that, together with the rights granted or conveyed under the Transaction Documents, are necessary for the operation of the System, the Business and the Acquired Assets as conducted as of the date hereof. Upon the Closing, Buyer shall continue to be vested with good title or a valid leasehold interest in the System and all of the Acquired Assets. The Business constitutes all of the business conducted by any Person in connection with the System.

**3.4 Real Property; Easements.**

(a) Seller owns and has good and marketable title to the Real Property, free and clear of all options, leases, covenants, conditions, easements, agreements, claims, and other Encumbrances of every kind and there exists no restriction on the use or transfer of such property, in each case except as set forth on Schedule 3.4(b)(i) or Schedule 3.4(b)(ii). Set forth on Schedule 3.4(a) is a complete and accurate listing of all Real Property. Seller is not the lessor or lessee of any real property, and there are no outstanding options, rights of first refusal or rights of first offer to purchase any of the Real Property or any portion thereof or interest therein. Seller has made available to Buyer copies of all title reports, surveys, title policies and appraisals relating to the Real Property. At and after the Closing, Buyer shall have the right to maintain or use the Real Property, including the space, facilities or appurtenances outside the building lines, whether on, over or under the ground, and to conduct such activities thereon as maintained, used or conducted by Seller on the date hereof and such right is not subject to revocation. At and after the Closing, Buyer shall have all rights, easements and agreements necessary for the use and maintenance of water, sewer or other utility pipelines, poles, wires, conduits or other like facilities, and appurtenances thereto, over, across and under the Real Property.

(b) The Real Property is properly classified under applicable zoning Laws, ordinances, and regulations for the current and continued operation of the System on the Real Property. No Proceeding is pending or threatened which could adversely affect the zoning classification of the Real Property. There are sufficient parking spaces, loading docks and other

facilities at such Real Property to comply with such zoning Laws, ordinances, and regulations and Seller's use or occupancy of the Real Property is not dependent on any permitted non-conforming use or similar variance, exemption, or approval from any Governmental Authority. Seller's current use and occupancy of the Real Property and its operation of the System thereon does not violate any easement, covenant, condition, restriction or similar provision in any instrument of record or other unrecorded agreement affecting such Real Property. The present use and operation of the Real Property does not constitute a non-conforming use and is not subject to a variance. Seller has not received any notice of violation of any easements, covenants, restrictions or similar instruments and there is no basis for the issuance of any such notice or the taking of any action for such violation. Set forth on Schedule 3.4(b)(i) hereto is a true, correct and complete list of all easements relating to the Real Property or the Acquired Assets. All of such easements are valid and will be transferred to Buyer and remain in full force as of the Closing. Set forth on Schedule 3.4(b)(ii) hereto is a true, correct and complete list of all rights of way relating to the Real Property or the Acquired Assets. All of such rights of way are valid and will be transferred to Buyer and remain in full force as of the Closing. All Improvements located on, and the use presently being made of, the Real Property comply with all applicable zoning and building codes, ordinances and regulations and all applicable fire, environmental, occupational safety and health standards and similar standards established by Law and the same use thereof by Buyer following Closing will not result in any violation of any such code, ordinance, regulation or standard. There is no proposed, pending or threatened change in any such code, ordinance, regulation or standard which would adversely affect the Business, the System or the Acquired Assets.

(c) No Improvements encroach on any land that is not included in the Real Property or on any easements affecting such Real Property, or violate any building lines or set-back lines, and there are no encroachments onto the Real Property, or any portion thereof, which would interfere with the use or occupancy of such real Property or the continued operation of the System as currently conducted.

(d) There is no unpaid property Tax, levy or assessment against the Real Property (except for Encumbrances relating to Taxes not yet due and payable), nor is there pending or threatened any condemnation Proceeding against the Real Property or any portion thereof.

(e) Except as set forth in Schedule 3.4(e), there is no condition affecting the Real Property or the Improvements located thereon which requires repair or correction to restore the same to reasonable operating condition.

**3.5 Personal Property.** Set forth on Schedule 3.5(a) is a complete and accurate listing of all Acquired Assets which are personal property. Except as set forth in Schedule 3.5(b): (i) no Acquired Asset which is personal property is in the possession of others (other than immaterial items temporarily in the possession of others for maintenance or repair), (ii) neither Seller nor any of its Affiliates holds any such property on consignment, and (iii) each item of such Acquired Assets has been maintained in accordance with normal industry practice, is in good operating condition and repair (subject to normal wear and tear) and is suitable for the purposes for which it is presently used.

**3.6 No Undisclosed Liabilities.** Seller does not have any subsidiaries and does not directly or indirectly own or have any capital stock or other equity interest in any Person. Except (a) to the extent and for the amount reflected as a Liability on the balance sheet included in the Unaudited Financial Statements, (b) Liabilities incurred in the Ordinary Course of Business since the date of the balance sheet included in the Unaudited Financial Statements (none of

which will or may reasonably be expected to have an adverse effect upon the Business), or (c) as set forth on Schedule 3.6, Seller does not have any Liabilities whatsoever, known or unknown, asserted or unasserted, liquidated or unliquidated, accrued, absolute, contingent, or otherwise, there is no basis for any claim against Seller, the System or any of the Acquired Assets for any such Liability and there is no basis for any such Liability to become the Liability of Buyer from and after the Closing.

**3.7 Tax Matters.**

(a) Seller has timely and properly filed all Tax Returns that it was required to file. All such Tax Returns were complete and correct in all respects and were prepared in compliance with all applicable Laws. All Taxes owed by Seller have been paid. Seller is not the beneficiary of any extensions of time within which to file any Tax Return. No claim has ever been made by an authority in a jurisdiction where Seller does not file Tax Returns that Seller is or may be subject to taxation by that jurisdiction. There are no Encumbrances on any of the Acquired Assets that arose in connection with any failure (or alleged failure) to pay any Tax.

(b) Seller has withheld and paid all Taxes required to have been withheld and paid in connection with any amounts paid or owing to any employee, independent contractor, creditor, member, stockholder, or other third party. Forms W-2 and 1099 required with respect thereto have been properly completed and timely filed.

(c) There are no audits or examinations of any Tax Returns pending or threatened that relate to Seller's operation of the System or the Acquired Assets. Seller is not a party to any action or Proceeding by any Governmental Authority for the assessment or collection of Taxes relating to the operation of the System or Acquired Assets, nor has such event been asserted or threatened. There is no waiver or tolling of any statute of limitations in effect with respect to any Tax Returns relating to Seller's operation of the System or the Acquired Assets.

(d) None of the Acquired Assets (i) has been or could be treated as a partnership or corporation for United States federal income Tax purposes or (ii) is property that is required to be treated for Tax purposes as being owned by any other Person (other than those Acquired Assets that are leased).

(e) None of the Acquired Assets represent property or obligations of Seller, including but not limited to uncashed checks to vendors, customers or employees, non-refunded overpayments or unclaimed subscription balances, that is escheatable to any Governmental Authority under any applicable escheatment Laws as of the date hereof or that may at any time after the date hereof become escheatable to any Governmental Authority under any applicable escheatment Law.

**3.8 Contracts.** Set forth on Schedule 3.8 is a complete and correct list of all Contracts related to the System to which Seller is a party or is otherwise bound. Seller has delivered or caused to be delivered to Buyer correct and complete copies of each such Contract (including any and all amendments), a description of the terms of each such Contract which is not in writing, if any, and all documents affecting the rights or obligations of any party thereto.

**3.9 Environmental Matters.**

(a) Seller is and at all times has been in full compliance with and has not been and is not in violation of or liable under any applicable Environmental Law. Seller has no basis to

expect nor has it received any actual or threatened Order, notice or other communication from any Governmental Authority or other Person of any actual or potential violation or failure to comply with any Environmental Law or of any actual or threatened obligation to undertake or bear the cost of any Environmental, Health and Safety Liabilities with respect to the Real Property or any other properties or assets (whether real, personal or mixed) in which Seller has or has had an interest or with respect to the Real Property or any other real property at or to which Hazardous Materials were generated, manufactured, refined, transferred, imported, used or processed by Seller or any other Person for whose conduct it is or may be held responsible, or from which Hazardous Materials have been transported, treated, stored, handled, transferred, disposed, recycled or received.

(b) There are no pending or threatened claims, Encumbrances or other restrictions of any nature, resulting from any Environmental, Health and Safety Liabilities or arising under or pursuant to any Environmental Law with respect to or affecting the Real Property or any other properties and assets (whether real, personal or mixed) in which Seller has or had an interest.

(c) Neither Seller nor any other Person for whose conduct it is or may be held to be responsible has any Environmental, Health and Safety Liabilities with respect to the Real Property or with respect to any other properties and assets (whether real, personal or mixed) in which Seller (or any predecessor) has or has had an interest or at any property geologically or hydrologically adjoining the Real Property or any such other property or assets that could reasonably be expected to have a material adverse effect thereon.

(d) There are no Hazardous Materials, except those used in connection with the operation of the System and set forth in the list on Schedule 3.9(d), present on or in the Environment at the Real Property or at any geologically or hydrologically adjoining property, including any Hazardous Materials contained in barrels, above or underground storage tanks, landfills, land deposits, dumps, equipment (whether moveable or fixed) or other containers, either temporary or permanent and deposited or located in land, water, sumps or any other part of the Real Property or such adjoining property or incorporated into any structure therein or thereon. Neither Seller nor any other Person for whose conduct it is or may be held to be responsible has permitted or conducted, or is aware of, any Hazardous Activity conducted with respect to the Real Property or any other properties or assets (whether real, personal or mixed) in which Seller has or has had an interest except in material compliance with all applicable Environmental Laws. There has been no Release or threat of Release, of any Hazardous Materials at or from the Real Property or from or by any other properties and assets (whether real, personal or mixed) in which Seller has or has had an interest, or any geologically or hydrologically adjoining property, whether by Seller or any other Person.

(e) Except as set forth in Schedule 3.9(e), none of the following exists at the System or on the Real Property: (1) underground storage tanks; (2) asbestos-containing material in any form; (3) materials or equipment containing polychlorinated biphenyl; (4) groundwater monitoring wells; or (5) landfills, surface impoundments, or disposal areas.

(f) Except as set forth in Schedule 3.9(f) neither Seller nor any of its Affiliates is obligated to provide financial assurance in consideration of the System under Environmental Law.

(g) Seller has delivered to Buyer true and complete copies and results of any reports, studies, analyses, tests or monitoring possessed or initiated by Seller or its

predecessors pertaining to Hazardous Materials or Hazardous Activities in, on or under the Real Property, or concerning compliance by Seller, its predecessors, or any other Person for whose conduct Seller is or may be held to be responsible, with Environmental Laws, said reports, studies, etc. to include without limitation, any and all Phase I environmental reports now or hereafter in the possession or control of Seller.

**3.10 Permits.** Set forth on Schedule 3.10 is a complete and correct list of all Permits used by Seller in the continuing operation of the System. Such Permits constitute all those necessary for the continuing operation of the System and are all valid and subsisting and in full force and effect. No fact or circumstance exists which is reasonably likely to cause any such Permit to be revoked or materially altered subsequent to the execution of this Agreement and the Closing Date. Neither the execution of this Agreement nor the Closing do or will constitute or result in a default under or violation of any such Permit.

**3.11 Insurance.** Seller maintains and has maintained appropriate insurance necessary for the full protection of all of its assets, properties, the System, operations, products and services. All such policies are in full force and effect and Seller will use commercially reasonable efforts to cause such policies to be outstanding and in full force and effect as of Closing and immediately following the execution of this Agreement and the consummation of the Contemplated Transactions. There are no pending Proceedings arising out of, based upon or with respect to any of such policies of insurance and, to Seller's Knowledge, no basis for any such Proceedings exists. Seller is not in default with respect to any provisions contained in any such insurance policies and no insurance provider is in default with respect to such insurance policies. Set forth in Schedule 3.11 is a true and accurate list of all such insurance policies Seller maintains, and the premiums therefor have been paid in full as they have become due and payable.

**3.12 Absence of Certain Changes.** There has not been any occurrence or event which, individually or in the aggregate, has had or is reasonably expected to have any Material Adverse Effect. Seller has continually operated the System and the Business only in the Ordinary Course of Business. Without limitation of the foregoing, Seller has not entered into, amended, terminated or received notice of termination of any Permit necessary for the continued operation of the System. In addition, Seller has not taken any action in connection with the System or the Business which, if taken on or after the date hereof, would have required the prior written Consent of Buyer pursuant to Section 6.6 hereof.

**3.13 Litigation and Proceedings.** There are no Proceedings, either pending or threatened, anticipated or contemplated, against Seller or involving the operation of the System, any of the Acquired Assets, or any of Seller's agents or other personnel in their capacity as such, which could directly affect any of the Acquired Assets or the System. Seller has not been charged with, nor is it under investigation with respect to, any charge which has not been resolved to its favor concerning any violation of any applicable Law with respect to any of the Acquired Assets or the System and there is no valid basis for any such charge or investigation. Neither Seller nor any of its Affiliates has been subject to or threatened to be subject to any Proceeding or Order relating to personal injury, death or property or economic damage arising from products sold, licensed or leased and services performed by Seller or any of its Affiliates with respect to the System or the Business. No judgment, Order, writ, injunction, decree, assessment or other command of any Governmental Authority affecting Seller or any of the Acquired Assets or the System has been entered which is presently in effect. There is no Proceeding pending or, to Seller's Knowledge, threatened which challenges the validity of this Agreement or the Contemplated Transactions or otherwise seeks to prevent, directly or

indirectly, the consummation of the Contemplated Transactions, nor is there any valid basis for any such Proceeding.

**3.14 Compliance with Laws.** Seller is in compliance with all Laws, Permits, Orders, ordinances, rules and regulations, whether civil or criminal, of any federal, state, local or foreign governmental authority applicable to the System or the Business and has not committed any violation of any Law or any provision of its Articles of Incorporation or Bylaws or equivalent governing documents applicable to the Acquired Assets and/or the operation of the System. Except as set forth in Schedule 3.14 neither Seller nor any of its Affiliates has received any notice alleging such default, breach or violation.

**3.15 Financial Statements.** Attached as Schedule 3.15 are the Financial Statements. The Financial Statements have been prepared in accordance with GAAP and the Accounting Methodologies, subject in the case of the Unaudited Financial Statements to normal year-end adjustments and the absence of footnotes. The Financial Statements were derived from the books and records of Seller, are true, correct and complete in all material respects and present fairly in all material respects the financial condition, operating results and cash flows of Seller as of the dates and during the periods indicated therein (subject, in the case of the Unaudited Financial Statements, to normal year-end adjustments and the absence of footnotes).

**3.16 Transactions with Related Parties.** Except as set forth on Schedule 3.16, no city employee has any financial interest, direct or indirect, in any supplier or customer of, or other business which has any transactions or other business relationship with, Seller. Without limiting the generality of the foregoing, neither Seller nor any of its Affiliates nor any executive officer of Seller, any of its Affiliates or the Business owns, directly or indirectly, any interest in or is an owner, sole proprietor, member, stockholder, partner, director, officer, employee, consultant or agent of any Person which is a lessor, lessee, customer, licensee, or supplier of the Business and none of the employees of or servicing the Business owns, directly or indirectly, in whole or in part, any tangible property, patent, trademark, service mark, trade name, copyright, franchise, invention, Permit or license which was developed by or is used and necessary for the operation of the Business

**3.17 Customer Advances.** Set forth on Schedule 3.16 is a complete and accurate list of all unexpired Extension Deposit Agreements (or similar agreements) to which Seller is a party (each an "Extension Deposit Agreement") and which contain unexpired obligations of Seller to provide for the payment of periodic refunds to parties making advances for the construction of facilities for water service. Seller will provide to Buyer within 15 days of the execution of this Agreement (to be updated at Closing), true and complete copies of each such Extension Deposit Agreement. All records of Seller relating to each Extension Deposit Agreement is complete and accurate in all material respects and, together with the relevant Extension Deposit Agreement, is all the information reasonably required to determine Seller's, and, consequently, Buyer's obligations to each party to the Extension Deposit Agreements; and there are no disputes or disagreements with any party to an Extension Deposit Agreement relating to the amount due under that agreement or the method of calculating that amount. Schedule 3.16 may be updated at Closing only with the mutual consent of the parties.

**3.18 Accounts Receivable.** Set forth on Schedule 3.18 is a list of all the accounts receivable of Seller with respect to the System and an aging schedule related thereto, as of October 31, 2017. Such accounts receivable, together with any such accounts receivable arising between such date and the Closing Date (collectively, the "Accounts Receivable"), are

(to the extent not yet paid in full) valid, genuine and existing and arose or will have arisen from bona fide sales of products or services actually made in the Ordinary Course of Business. The Accounts Receivable are not subject to, and Seller has received no notice of, any counterclaim, set-off, defense or Encumbrance with respect to the Accounts Receivable. Except to the extent paid prior to Closing, the Accounts Receivable are and will be current and fully collectible. No agreement for deduction, free goods, discount or deferred price or quantity adjustment has been made with respect to any Accounts Receivable.

**3.19 Brokers, Finders.** Except as set forth in Schedule 3.19, no finder, broker, agent or other intermediary, acting on behalf of Seller or any of Seller's Affiliates, is entitled to a commission, fee or other compensation in connection with the negotiation or consummation of this Agreement or any of the transactions contemplated hereby.

#### ARTICLE 4 Representations and Warranties of Buyer

Buyer hereby makes the following representations and warranties to Seller:

**4.1 Organization.** Buyer is a duly organized and validly existing corporation in good standing under the Laws of Missouri and has the power and authority to own, lease and operate its assets and properties.

**4.2 Enforcement; Authority; No Conflict.**

(a) This Agreement constitutes the legal, valid and binding obligation of Buyer and is enforceable against Buyer in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency or other similar Laws affecting the rights of creditors generally and by general principles of equity. Buyer has the absolute and unrestricted right, power and authority to execute and deliver this Agreement and the Transaction Documents to which it is a party and to perform its obligations hereunder and thereunder.

(b) Neither the execution or delivery of this Agreement nor the consummation of the Contemplated Transactions shall result in: (i) a violation of or a conflict with any provision of the articles of incorporation or the bylaws of Buyer; (ii) a material breach of or default under any term, condition or provision of any Contract to which Buyer is a party, or an event which, with the giving of notice, lapse of time, or both, would result in any such breach or default; or (iii) a material violation of any applicable Law, Order, judgment, writ, injunction, decree or award or any event which, with the giving of notice, lapse of time, or both, would result in any such violation.

**4.3 Brokers, Finders.** No finder, broker, agent or other intermediary, acting on behalf of Buyer or any of Buyer's Affiliates, is entitled to a commission, fee or other compensation in connection with the negotiation or consummation of this Agreement or any of the transactions contemplated hereby.

#### ARTICLE 5 Conditions Precedent to Closing

**5.1 Conditions Precedent to the Obligations of Buyer.** Buyer's obligations to consummate the Contemplated Transactions are subject to the satisfaction in full, unless expressly waived in writing by Buyer, of each of the following conditions:

(a) **Authorization of Contemplated Transactions.** Buyer shall have obtained all necessary corporate approvals to consummate the Contemplated Transactions, including but not limited to the approval of its Board of Directors;

(b) **Representations and Warranties.** Each of the representations and warranties of Seller contained in this Agreement or in any Transaction Document shall have been true, correct and accurate in all respects on and as of the date hereof and shall also be true, correct and accurate in all material respects (other than Section 3.5 and representations and warranties qualified as to materiality, which shall have been true, correct and accurate in all respects) on and as of the Closing Date with the same force and effect as though made by Seller on and as of the Closing Date (except to the extent that any such representation or warranty is made solely as of the date hereof or as of another date earlier than the Closing Date, which shall be accurate as of such date);

(c) **Covenants.** Seller shall have performed, observed and complied in all material respects with all of its obligations, covenants, undertakings and agreements contained in this Agreement or any Transaction Document and required to be performed, observed or complied with by Seller prior to or at the Closing;

(d) **Certificates.** Seller shall have delivered to Buyer a certificate, dated as of the Closing Date and executed by an officer or other duly authorized representative of Seller, to the effect that the conditions set forth in Sections 5.1(b), (c) and (i) have been satisfied;

(e) **Proceedings.** No provision of any Law or Order shall be in effect, and no Proceeding by any Person shall be threatened or pending before any Governmental Authority, or before any arbitrator, which would: (i) prevent consummation of the Contemplated Transactions; (ii) have a likelihood of causing the Contemplated Transactions to be rescinded following consummation; (iii) adversely affect the right of Buyer to own any of the Acquired Assets; or (iv) adversely affect the System prospects or the value or condition of any of the Acquired Assets or the System;

(f) **Closing Deliverables.** Seller shall have delivered or caused to be delivered to Buyer each of the items set forth in Section 2.5(a);

(g) **Governmental and Third Party Approvals.** (i) Buyer shall have obtained a certificate of convenience and necessity and all necessary regulatory approvals by the MoPSC, or any other applicable regulatory body, and all other applicable Consents and approvals from Governmental Authorities and other third parties which are required in connection with the Contemplated Transactions, each in form and substance (including without limitation with respect to the terms and conditions contained in any such approval) acceptable to Buyer in its sole and absolute discretion, and (ii) any waiting periods under existing Laws, and all extensions thereof, the passing of which is necessary to consummate the Contemplated Transactions, shall have expired;

(h) **Due Diligence.** Buyer shall have completed and be satisfied, in its sole and absolute discretion, with the results of its due diligence review of the Acquired Assets and Seller, including without limitation with the results of any Phase I Environmental Site Assessment or other environmental assessment performed with respect to the Real Property or the Acquired Assets or chain of title search, all material contracts and operating permits and licenses of the System, and the Seller's operations, contracts, employment practices,



compliance, accounting and other items as Buyer deems necessary, as each of the foregoing items relate to the System or the Acquired Assets; and

(i) **No Material Adverse Effect.** Buyer shall have determined that there shall not have occurred any event or circumstance which, individually or in the aggregate, has had or could reasonably be expected to have a Material Adverse Effect.

**5.2 Conditions Precedent to Obligations of Seller.** Seller's obligation to consummate the Contemplated Transactions is subject to the satisfaction in full, unless expressly waived in writing by Seller, of each of the following conditions:

(a) **Representations and Warranties.** Each of the representations and warranties of Buyer contained in this Agreement or in any Transaction Document shall have been true, correct and accurate in all respects on and as of the date hereof and shall also be true, correct and accurate in all material respects (other than representations and warranties qualified as to materiality, which shall have been true, correct and accurate in all respects) on and as of the Closing Date with the same force and effect as though made by Buyer on and as of the Closing Date (except to the extent that any such representation or warranty is made solely as of the date hereof or as of another date earlier than the Closing Date, which shall be accurate as of such date);

(b) **Covenants.** Buyer shall have performed, observed and complied in all material respects with all of its obligations, covenants, undertakings and agreements contained in this Agreement or any Transaction Document and required to be performed, observed or complied with by Buyer prior to or at the Closing;

(c) **Proceedings.** No provision of any Law or Order shall be in effect which would prevent consummation of the Contemplated Transactions; and

(d) **Closing Deliverables.** Buyer shall have delivered or caused to be delivered to Seller each of the items set forth in Section 2.5(b).

## ARTICLE 6 Covenants and Special Agreements

### 6.1 **Access to Information; Confidentiality**

(a) **Access.** Between the date of this Agreement and the Closing Date, Buyer may, directly and through its representatives, make such confirmatory investigation of the System and the Acquired Assets as each deems necessary or advisable. In furtherance of the foregoing, Buyer and its representatives shall have reasonable access, upon reasonable notice during normal business hours, to all employees, properties, books, Contracts, customer lists, commitments and records of the Business, and Seller shall furnish and cause to be furnished to Buyer and its representatives such financial and operating data and other information as may from time to time be reasonably requested relating to the System, shall permit Buyer or its representatives to conduct such physical inspections and environmental audits of the Real Property as requested by Buyer and shall permit Buyer or its representatives to conduct interviews of employees of or servicing the Business. Seller and the management, employees, accountants and attorneys of or servicing the Business shall cooperate fully with Buyer and its representatives in connection with such investigation.

(b) **Confidentiality.**

(i) Prior to Closing, each Party shall ensure that all Confidential Information which such Party or any of its respective officers, directors, employees, counsel, agents, or accountants may have obtained, or may hereafter obtain, from the other Party (or create using any such information) relating to the financial condition, results of operations, System, properties, assets, Liabilities or future prospects of the other Party, any Related Person of the other Party or any customer or supplier of such other Party or any such Related Person shall not be published, disclosed or made accessible by any of them to any other Person at any time or used by any of them, in each case without the prior written Consent of the other Party; provided, however, that the restrictions of this sentence shall not apply (i) as may otherwise be required by Law, (ii) to the extent such Confidential Information shall have otherwise become publicly available, and (iii) as to Buyer, to disclosure by or on its behalf to regulatory authorities or other third parties whose Consent or approval may be required to consummate the Contemplated Transactions and to its lenders and professionals for the purpose of obtaining financing of such transactions. Following Closing, Seller shall ensure that all Confidential Information relating to the financial condition, results of operations, System, properties, assets, Liabilities or future prospects of the Buyer, any Related Person of the Buyer or any customer or supplier of the Buyer or any such Related Person shall not be published, disclosed or made accessible by any of them to any other Person at any time or used by any of them, in each case without the prior written Consent of the Buyer; provided, however, that the restrictions of this sentence shall not apply (i) as may otherwise be required by Law, (ii) to the extent such Confidential Information shall have otherwise become publicly available, and (iii) as to Buyer, to disclosure by or on its behalf to regulatory authorities or other third parties whose Consent or approval may be required to consummate the Contemplated Transactions and to its lenders and professionals for the purpose of obtaining financing of such transactions.

(ii) In the event of termination of negotiations or failure of the Contemplated Transactions to close for any reason whatsoever, each Party promptly will destroy or deliver to the other Party and will not retain any documents, work papers and other material (and any reproductions thereof) obtained by each Party or on its behalf from such other Party or its subsidiaries as a result of this proposal or in connection therewith, whether so obtained before or after the execution hereof, and will not use any information so obtained and will cause any information so obtained to be kept confidential and not used in any way detrimental to such other Party.

**6.2 Publicity; Announcements.** Until after the Closing, no press release concerning this Agreement or the transactions contemplated hereby shall be issued or made without the prior approval of the parties hereto, except as required by applicable law.

**6.3 Cooperation.** Subject to the terms and conditions of this Agreement, the Parties shall cooperate fully with each other and their respective counsel and accountants in connection with, and take or cause to be taken and do or cause to be done, any actions required to be taken under applicable Law to make effective the Contemplated Transactions as promptly as practicable. Prior to the Closing, the parties shall proceed expeditiously and in good faith to make such filings and take such other actions as may be reasonably necessary to satisfy the conditions to Closing set forth in Section 5.1(g). Any and all filing fees in respect of such filings shall be paid by Seller. From and after the Closing, the parties shall do such acts and execute such documents and instruments as may be reasonably required to make effective the transactions contemplated hereby. On or after the Closing Date, the parties shall, on request, cooperate with one another by furnishing any additional information, executing and delivering

any additional documents and instruments, including contract assignments, and doing any and all such other things as may be reasonably required by the parties or their counsel to consummate or otherwise implement the transactions contemplated by this Agreement. Should Seller, in its reasonable discretion, determine after the Closing that books, records or other materials constituting Acquired Assets are still in the possession of Seller, Seller shall promptly deliver them to Buyer at no cost to Buyer. Seller hereby agrees to cooperate with Buyer to ensure a proper transition of all customers with respect to billing and customer service activities. Buyer shall take the lead in obtaining MoPSC approval with respect to the Contemplated Transactions.

**6.4 Exclusivity.** Seller will not and will not permit its affiliates, officers, directors, employees or other agents or representatives to, at any time prior to the termination of this Agreement, directly or indirectly, (i) take any action to solicit, initiate or encourage the making of any Acquisition Proposal, or (ii) discuss or engage in negotiations concerning any Acquisition Proposal with, or further disclose any non-public information relating to Seller to, any person or entity in connection with an Acquisition Proposal, in each case, other than Buyer and its representatives.

**6.5 No Inconsistent Action.** Prior to the Closing Date, no Party shall take any action, and each Party will use its commercially reasonable efforts to prevent the occurrence of any event (but excluding events which occur in the Ordinary Course of Business and events over which such Party has no control), which would result in any of its representations, warranties or covenants contained in this Agreement or in any Transaction Document not to be true and correct, or not to be performed as contemplated, at and as of the time immediately after the occurrence of such action or event. If at any time prior to the Closing Date, a Party obtains knowledge of any facts, circumstances or situation which constitutes a breach, or will with the passage of time or the giving of notice constitute a breach, of any representation, warranty or covenant of such Party under this Agreement or any Transaction Document or will result in the failure of any of the conditions contained in Article 5 to be satisfied, such Party shall give the other Party prompt written notice thereof; provided, however, that no such notice shall cure any breach of any representation, warranty or covenant contained herein or therein or will relieve any such Party of any obligations hereunder or thereunder unless specifically agreed to in writing by the other Party.

**6.6 Conduct of Business.** Between the date of this Agreement and the Closing Date, Seller shall carry on the operation of the System, the Business and the Acquired Assets in the Ordinary Course of Business and in compliance with Law, not introduce any materially new method of management or operation, use reasonable best efforts to preserve the System, the Business and the Acquired Assets, conserve the goodwill and relationships of its customers, suppliers, Governmental Authorities and others having business relations with it, maintain in full force and effect all policies of insurance now in effect for the benefit of Seller, maintain supplies at a level which is sufficient to operate the System in accordance with past practice and maintain the Acquired Assets in substantially the condition currently existing, normal wear and tear excepted. By way of illustration and not limitation, Seller will not, between the date hereof and the Closing Date, directly or indirectly do, or prepare to do, any of the following without the prior written Consent of Buyer, (a) sell, lease, transfer or otherwise dispose of, or license, mortgage or otherwise encumber, or give a security interest in or subject to any Encumbrances, any of the Acquired Assets, (b) merge or consolidate with or acquire, or agree to merge or consolidate with or acquire (by merging or consolidating with, or by purchasing a substantial portion of the stock or assets of, or by any other manner), any business or corporation, partnership, joint venture, association or other business organization or division thereof or

otherwise change the overall character of the Business in any material way, (c) enter into any Contract other than in the Ordinary Course of Business, (d) abandon, sell, license, transfer, convey, assign, fail to maintain or otherwise dispose of any item of the transferred intellectual property, (e) make any change in any of its present accounting methods and practices, (f) make any new Tax election, or change or revoke any existing Tax election, or settle or compromise any Tax liability or file any income Tax Return prior to the last day (including extensions) prescribed by Law, in the case of any of the foregoing, material to the business, financial condition or results of operations of Seller, (g) engage in any transactions with any Related Person which would survive Closing, (h) pay, discharge, settle or satisfy any material claims or Liabilities (absolute, accrued, asserted or unasserted, contingent or otherwise), other than the payment, discharge or satisfaction, in the Ordinary Course of Business or in accordance with their terms, of Liabilities reflected or reserved against in the Financial Statements (or the notes thereto), or not required by GAAP to be so reflected or reserved, or incurred since December 31, 2016 in the Ordinary Course of Business, or waive any material benefits of, or agree to modify any material confidentiality, standstill, non-solicitation or similar agreement with respect to the Business to which Seller or any of its Affiliates is a party, (i) engage in any activity with the purpose or intent of (A) accelerating the collection of accounts receivable or (B) delaying the payment of the accounts payable, (j) enter into commitments for new capital expenditures in excess of \$25,000 in the aggregate, (k) create or issue or grant an option or other right to subscribe, purchase or redeem any of its securities or other equity interests (other than with Buyer), (l) adopt a plan of complete or partial liquidation or resolutions providing for or authorizing such a liquidation or dissolution, merger, consolidation, restructuring, recapitalization or reorganization or (m) enter into any agreement (conditional or otherwise) to do any of the foregoing.

**6.7 No Transfer at Odds with Law.** Notwithstanding anything to the contrary contained herein, nothing in this Agreement shall be deemed to require the conveyance, assignment or transfer of any Acquired Asset that by operation of applicable Law cannot be conveyed, assigned, transferred or assumed. Each Party shall continue to use reasonable best efforts to obtain at the earliest practicable date all unobtained Consents or approvals required to be obtained by it in connection with the transfer of the Acquired Assets or performance of any Transaction Document. If and when any such Consents or approvals shall be obtained, then Seller shall promptly, and hereby does, assign its rights and obligations thereunder to Buyer without payment of consideration and Buyer shall, and hereby does, without the payment of any consideration therefor, (i) assume such rights and obligations or (ii) perform (or agree to perform) under such Transaction Document, as applicable. Each Party shall execute such good and sufficient instruments as may be necessary to evidence such assignment and assumption. The entire beneficial interest in and to, and the risk of loss with respect to, the Acquired Assets shall, regardless of when legal title thereto shall be transferred to Buyer, pass to Buyer at Closing as of the Effective Time, and Seller shall, without consideration therefor, pay, assign and remit to Buyer all monies, rights and other consideration received in respect of such performance. To the extent permitted by Law, Seller shall exercise or exploit its rights in respect of such Acquired Assets only as directed by Buyer.

**6.8 Release of Encumbrances.** Seller promptly shall take such actions as shall be requested by Buyer to secure the release of all Encumbrances relating to the Acquired Assets, in each case in substance and form reasonably satisfactory to Buyer and its counsel.

**6.9 Retention of Records.** Subject to applicable Law and, subject to any applicable restrictions as to confidentiality (as to which Buyer does not provide indemnification, or the waiver of which Seller shall not have obtained after using reasonable best efforts), Seller shall

preserve any books and records relating to the System or the Business that are not delivered to Buyer hereunder for a period no less than seven (7) years after the Closing Date (or such longer period as shall be required by applicable Law), and Seller shall make available such books and records for review and copying to Buyer and its authorized representatives following the Closing at Buyer's expense upon reasonable notice during normal business hours. During such period, Seller shall permit, to the extent permitted by applicable Law and upon request of Buyer, Buyer and any of its agents, representatives, advisors or consultants reasonable access to employees of or servicing the Business for information related to periods up to and including the Closing.

#### **6.10 Tax Covenants.**

(a) Seller shall pay all Taxes of Seller, the System and the Acquired Assets for any Tax year or period (or portion thereof) ending at or before the Closing. For the purposes of this Section 6.10(a), the portion of such personal property or similar ad valorem Tax that relates to the Tax period ending as of the Closing shall be deemed to be the amount of such Tax for the entire Tax period multiplied by a fraction, the numerator of which is the number of days in the Tax period ending as of the Closing and the denominator of which is the number of days in the entire Tax period. For purpose of this Section 6.10(a), the portion of all other Taxes that relates to the Tax period ending as of the Closing shall be determined on the basis of an interim closing of the books.

(b) Each Party agrees to furnish or cause to be furnished to the other Party, upon request, as promptly as practical, such information (including reasonable access to books and records, Tax Returns and Tax filings) and assistance as is reasonably necessary for the filing of any Tax Return, the conduct of any Tax audit, and for the prosecution or defense of any claim, suit or Proceeding relating to any Tax matter. The Parties shall cooperate with each other in the conduct of any Tax audit or other Tax Proceedings and each shall execute and deliver such powers of attorney and other documents as are necessary to carry out the intent of this Section 6.10(b).

### **ARTICLE 7 Indemnification**

#### **7.1 Survival of Representations and Warranties and Covenants.**

(a) All of the representations and warranties made by Seller in this Agreement, its Schedules, or any certificates or documents delivered hereunder shall survive the Closing Date and consummation of the Contemplated Transactions for a period of three (3) years; provided, however, that the representations and warranties contained in Sections 3.1, 3.2, 3.3, 3.5, 3.6, 3.7, 3.9 and 3.19 shall survive indefinitely.

**7.2 Indemnification and Payment of Damages by Seller.** Subject to the terms of this Article 7, and to the extent allowed under Missouri law, Seller hereby agrees to fully pay, protect, defend, indemnify and hold harmless the Indemnified Persons from any and all Damages arising out of, resulting from, relating to or caused by: (i) any inaccuracy in or breach of (or any claim by any third party alleging or constituting an inaccuracy or breach of) any representation or warranty of, or any failure to perform or nonfulfillment of any provision or covenant contained in this Agreement or any other Transaction Document by, Seller; (ii) all Liabilities and/or duties of Seller, whether accruing prior to or after the Closing Date, and any Encumbrance affecting the Acquired Assets; (iii) assessments, charges and other similar claims due or owing, directly or indirectly, by Seller or otherwise as a result of or on account of

the Acquired Assets or the System at any time prior to the Closing Date; (iv) the ownership and/or operation of any of the Acquired Assets or the System prior to Closing; (v) any Proceeding now existing or hereafter arising and relating to the Acquired Assets or the System and arising from events or matters occurring prior to the Closing Date; (vi) any Excluded Assets; (vii) any and all Taxes imposed on or arising from the transfer of the Acquired Assets; (viii) intercompany accounts payable and accounts receivable by and among Seller and/or its Affiliates; (ix) transaction costs and expenses incurred by or on behalf of Seller in connection with this Agreement or the Contemplated Transactions; or (x) any matters described on Schedule 7.2.

**7.3 Indemnification By Buyer.** Buyer hereby agrees to fully pay, protect, defend, indemnify and hold harmless Seller and its respective successors and assigns, from any and all Damages incurred by any of them arising out of, resulting from, relating to or caused by (i) any inaccuracy in or breach of any representation or warranty of, or any failure to perform or nonfulfillment of any provision or covenant contained in this Agreement or any other Transaction Document by, Buyer or (ii) transaction costs and expenses incurred by or on behalf of Buyer in connection with this Agreement or the Contemplated Transactions.

**7.4 Notice of Claim.** In the event that either party seeks indemnification on behalf of an Indemnified Person, such party seeking indemnification (the "Indemnified Party") shall give reasonably prompt written notice to the indemnifying party (the "Indemnifying Party") specifying the facts constituting the basis for such claim and the amount, to the extent known, of the claim asserted; provided, however, that the right of a person or entity to be indemnified hereunder shall not be adversely affected by a failure to give such notice unless, and then only to the extent that, an Indemnifying Party is actually irrevocably and materially prejudiced thereby. Subject to the terms hereof, the Indemnifying Party shall pay the amount of any valid claim not more than 10 days after the Indemnified Party provides notice to the Indemnifying Party of such amount.

**7.5 Right to Contest Claims of Third Persons.** If an Indemnified Party is entitled to indemnification hereunder because of a claim asserted by any Third Person, the Indemnified Party shall give the Indemnifying Party reasonably prompt notice thereof after such assertion is actually known to the Indemnified Party; provided, however, that the right of a Person to be indemnified hereunder in respect of claims made by a Third Person shall not be adversely affected by a failure to give such notice unless, and then only to the extent that, an Indemnifying Party is actually irrevocably and materially prejudiced thereby. Buyer shall have the right, upon written notice to Seller, to investigate, contest or settle the Third Person Claim. Seller may thereafter participate in (but not control) the defense of any such Third Person Claim with its own counsel at its own expense. If Seller thereafter seeks to question the manner in which Buyer defended such Third Person Claim or the amount or nature of any such settlement, Seller shall have the burden to prove by clear and convincing evidence that conduct of Buyer in the defense and/or settlement of such Third Person Claim constituted gross negligence or willful misconduct. The Parties shall make available to each other all relevant information in their possession relating to any such Third Person Claim and shall cooperate in the defense thereof, provided that Buyer shall control the defense thereof. Promptly (and in any event within 10 days) following the resolution of any Third Person Claim, Seller shall pay to Buyer any amount to which Buyer is entitled pursuant to this Article 7 with respect to such Third Person Claim.

**7.6 Certain Indemnification Matters.**

(a) Notwithstanding anything contained herein or elsewhere to the contrary, all “material” and “Material Adverse Effect” or similar materiality type qualifications contained in the representations and warranties set forth in this Agreement shall be ignored and not given any effect for purposes of the indemnification provisions hereof, including, without limitation, for purposes of determining whether or not a breach of a representation or warranty has occurred and/or determining the amount of any Damages.

(b) No information or knowledge acquired, or investigations conducted, by Buyer or its representatives, of Seller or the System or otherwise shall in any way limit, or constitute a waiver of, or a defense to, any claim for indemnification by any Indemnified Persons under this Agreement.

**ARTICLE 8  
Termination**

**8.1 Termination.** This Agreement may be terminated at any time prior to the Closing only (a) by mutual written Consent of Seller and Buyer, (b) by Buyer, if the Seller is unable to obtain the assignment contemplated in section 2.5(xii) within a reasonable amount of time, (c) by Buyer, if Buyer is not in material breach of any of its representations, warranties, covenants and agreements under this Agreement and there has been a material breach of any representation, warranty, covenant or agreement contained in this Agreement on the part of Seller and Seller has not cured such breach within five (5) Business Days after receipt of notice of such breach (provided, however, that, no cure period shall be required for a breach which by its nature cannot be cured), (d) by Buyer, if, at any time before Closing, Buyer is not satisfied with the results of its due diligence review of the System and the Acquired Assets, (e) by Seller if Seller is not in material breach of any of its representations, warranties, covenants and agreements under this Agreement and there has been a material breach of any representation, warranty, covenant or agreement contained in this Agreement on the part of Buyer and Buyer has not cured such breach within five (5) Business Days after receipt of notice of such breach (provided, however, that, no cure period shall be required for a breach which by its nature cannot be cured), (f) by Seller or Buyer upon written notice to the other, if any court of competent jurisdiction or other competent Governmental Entity shall have issued a statute, rule, regulation, Order, decree or injunction or taken any other action permanently restraining, enjoining or otherwise prohibiting the Contemplated Transactions, and such statute, rule, regulation, Order, decree or injunction or other action shall have become final and non-appealable, (g) by Buyer, if all necessary regulatory approvals (including rate treatment, refunds and setting of rate base and all approvals described in Section 5.1(g)) contemplated hereby or otherwise necessary to close the Contemplated Transactions have not been obtained within 270 days of the date hereof, or (h) by Buyer if any Material Adverse Effect shall have occurred or, in the reasonable judgment of Buyer, shall be reasonably likely to occur.

**8.2 Effect of Termination.** The right of each Party to terminate this Agreement under Section 8.1 is in addition to any other rights such Party may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies. If this Agreement is terminated pursuant to Section 8.1, all further obligations of the Parties under this Agreement will terminate, except that the obligations set forth in the Confidentiality Agreement, Section 6.1(b) (“Confidentiality”), Section 6.2 (“Publicity; Announcements”), this Section 8.2 (“Effect of Termination”) or Article 9 (“General Provisions”) will survive; provided, however, that if this Agreement is terminated by a Party because of the breach of the Agreement by another

Party or because one or more of the conditions to the terminating Party's obligations under this Agreement is not satisfied as a result of the other Party's failure to comply with its obligations under this Agreement, the terminating Party's right to pursue all legal remedies will survive such termination unimpaired.

## ARTICLE 9 General Provisions

**9.1 Amendment and Modification.** No amendment, modification or supplement of any provision of this Agreement will be effective unless the same is in writing and is signed by the Parties.

**9.2 Assignments.** Seller may not assign or transfer any of its rights or obligations under this Agreement to any other Person without the prior written Consent of Buyer. Buyer may not assign its rights and obligations under this Agreement to any third party, without the prior written Consent of Seller, but may assign its rights and obligations under this Agreement to any Related Person or successor in interest without the Consent of Seller. Subject to this Section 9.2, all provisions of this Agreement are binding upon, inure to the benefit of and are enforceable by or against the Parties hereto and their respective heirs, executors, administrators or other legal representatives and permitted successors and assigns.

**9.3 Captions; Construction.** Captions contained in this Agreement and any table of contents preceding this Agreement have been inserted herein only as a matter of convenience and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision hereof. In the event of an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provisions of this Agreement.

**9.4 Counterparts; Facsimile.** This Agreement may be executed by the Parties hereto on any number of separate counterparts, and all such counterparts so executed constitute one agreement binding on all the Parties hereto notwithstanding that all the Parties hereto are not signatories to the same counterpart. For purposes of this Agreement, a document (or signature page thereto) signed and transmitted by e-mail, facsimile machine or telecopier is to be treated as an original document.

**9.5 Entire Agreement.** This Agreement and the other Transaction Documents constitute the entire agreement among the Parties hereto pertaining to the subject matter hereof and supersede all prior agreements, letters of intent, understandings, negotiations and discussions of the Parties hereto, whether oral or written, executed by the Parties pertaining to the subject matter hereof. All of the Exhibits and Schedules attached to this Agreement are deemed incorporated herein by reference.

**9.6 Governing Law.** This Agreement and the rights and obligations of the Parties hereunder are to be governed by and construed and interpreted in accordance with the Laws of the State of Missouri applicable to Contracts made and to be performed wholly within Missouri, without regard to choice or conflict of laws rules.

**9.7 Legal Fees, Costs.** Except as provided herein, all legal, consulting and advisory fees and other costs and expenses incurred in connection with this Agreement and the Contemplated Transactions are to be paid by the Party incurring such costs and expenses.



**9.8 Notices.** All notices, Consents, requests, demands and other communications hereunder are to be in writing and are deemed to have been duly given, made or delivered: (i) when delivered in person or by e-mail, (ii) three (3) Business Days after deposited in the United States mail, first class postage prepaid, or (iii) in the case of telegraph or overnight courier services, one (1) Business Day after delivery to the telegraph company or overnight courier service with payment provided, in each case addressed as follows:

(a) if to Seller, (i) to City of Smithton, Attention Mayor, City Hall, 101 Washington Street, Smithton, Missouri 65350.

(b) if to Buyer, (i) to Missouri-American Water Company, 727 Craig Road, St. Louis, Missouri 63141, Attn: Rich Svindland, President ([rich.svindland@amwater.com](mailto:rich.svindland@amwater.com)), (ii) with a copy to Missouri-American Water Company, 727 Craig Road, St. Louis, Missouri 63141, Attn: Legal Department ([tim.luft@amwater.com](mailto:tim.luft@amwater.com)) or to such other address as any Party hereto may designate by notice to the other Parties in accordance with the terms of this Section.

**9.9 Severability.** This Agreement shall be deemed severable; the invalidity or unenforceability of any term or provision of this Agreement shall not affect the validity or enforceability of this Agreement or of any other term hereof, which shall remain in full force and effect, for so long as the economic or legal substance of the Contemplated Transactions is not affected in any manner materially adverse to any Party.

**9.10 Specific Performance and Injunctive Relief; Remedies.** The Parties hereto recognize that if any or all of them fail to perform, observe or discharge any of their respective obligations under this Agreement, a remedy at law may not provide adequate relief to the other Parties hereto. Therefore, in addition to any other remedy provided for in this Agreement or under applicable Law, any Party hereto may demand specific performance of this Agreement, and such Party shall be entitled to temporary and permanent injunctive relief, in a court of competent jurisdiction at any time when any of the other Parties hereto fail to comply with any of the provisions of this Agreement applicable to such Party. To the extent permitted by applicable Law, all Parties hereto hereby irrevocably waive any defense based on the adequacy of a remedy at law which might be asserted as a bar to such Party's remedy of specific performance or injunctive relief. Except as otherwise provided herein, all rights and remedies of the parties under this Agreement are cumulative and without prejudice to any other rights or remedies under Law. Nothing contained herein shall be construed as limiting the Parties' rights to redress for fraud.

**9.11 No Third-Party Beneficiary.** This Agreement is solely for the benefit of the Parties hereto and their respective successors and permitted assigns (and those Persons entitled to recover under the indemnity provisions hereof), and no other Person (other than those Persons entitled to recover under the indemnity provisions hereof) has any right, title, priority or interest under this Agreement or the existence of this Agreement.

**9.12 Waiver of Compliance; Consents.** Any failure of a Party to comply with any obligation, covenant, agreement or condition herein may be waived by the other Party only by a written instrument signed by the Party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. Whenever this Agreement requires or permits Consent by or on behalf of any Party hereto, such Consent shall be given in writing in a manner consistent with the requirements for a waiver of compliance as set forth in this Section 9.12.

PASSED by the City Council on the 9<sup>th</sup> day of May 2022.

CITY OF SMITHTON MISSOURI



Mayor

Attest:

  
Clerk

MISSOURI-AMERICAN WATER COMPANY

  
By: Rich Svindland

Title: President

**EXHIBIT 1**  
**Definitions**

“Acquired Assets” means all right, title, and interest in and to all of the assets which are owned or held by Seller as of the Effective Time that constitute the System or that are used in the operation thereof, including, with respect to the System, all of its (a) Real Property now used and required in the ongoing operation of the System, (b) Tangible Personal Property, (c) intellectual property, goodwill associated therewith, licenses and sublicenses granted and obtained with respect thereto, and rights thereunder, remedies against past, present, and future interests therein under the Laws of all jurisdictions, (d) leases, subleases, easements, rights of way, and rights thereunder, (e) all rights of Seller in and to the Assumed Contracts, (f) all rights of Seller in and to any indentures, mortgages, instruments, Encumbrances, or guaranties secured for the operation of the System, (g) accounts, notes, and other receivables arising after the Effective Time, (h) claims, deposits, prepayments, refunds, causes of action, rights of recovery, rights of set-off, and rights of recoupment (including any such item relating to the payment of Taxes), (i) franchises, approvals, Permits, pending application for Permits and Permit renewals, exemptions from any Permits, licenses, Orders, registrations, certificates, variances, and similar rights obtained from governments and governmental agencies in each case to the extent assignable or transferable to Missouri-American, (j) books, data, records, ledgers, files, documents, correspondence, lists, plats, architectural plans, drawings, specifications, creative materials, studies, reports, and other printed or written materials related to Seller’s construction, maintenance, and operation of the System, and (k) all of the intangible rights and property, if any, of Seller utilized in the operation of the System, provided that Acquired Assets shall not include any Excluded Assets.

“Acquisition Proposal” means any offer or proposal for the acquisition of Seller, the Acquired Assets or any portion thereof, whether by way of merger, consolidation or statutory share exchange or the acquisition of shares of capital stock, the acquisition of assets or similar transaction.

“Adjustment Amount” means the amount determined in the manner described on Exhibit 3. The Adjustment Amount may be a positive or negative number, and if the Adjustment Amount is a negative number, the Purchase Price shall be less than **Five Hundred Sixty-Five Thousand and One Dollars (\$565,001.00)**.

“Affiliate” means, with respect to any Person, any Person which, directly or indirectly controls, is controlled by, or is under common control with, such Person.

“Allocation” means a reasonable and supportable allocation of the Purchase Price and the Assumed Liabilities among the Acquired Assets in accordance with Code section 1060 and the Treasury regulations thereunder (and any similar provisions of state or local Law, as appropriate).

“Assignment and Assumption Agreement” means an Assignment and Assumption Agreement for the Assumed Liabilities in form and substance reasonably acceptable to Missouri-American.

“Assumed Contracts” means the Contracts listed on Exhibit 3.

“Assumed Liabilities” means only the Liabilities arising out of, resulting from or relating to the Assumed Contracts, but only to the extent such Liabilities (A) are to be performed after the Effective Time, (B) do not arise as a consequence of any breach or default prior to the Effective

Time, and (C) are accompanied by a correlated duty of performance or payment on the part of the other party(s) thereto.

“Audited Financial Statements” means the audited balance sheets of Seller as of December 31, 2019 and 2020 and the related audited statements of income and cash flows for the twelve (12) month period ended December 31, 2019 and 2020, respectively.

“Bill of Sale” means a bill of sale for all of the Acquired Assets that are Tangible Personal Property in form and substance reasonably acceptable to Missouri-American.

“Business” means the business of Seller as the same is conducted by Seller as of the date hereof and as the same shall be conducted by Seller as of immediately prior to the Closing.

“Business Day(s)” means any day other than (i) Saturday or Sunday, or (ii) any other day on which governmental offices in the State of Missouri are permitted or required to be closed.

“Cleanup” means investigation, cleanup, removal, containment or other remediation or response actions.

“Closing” means the closing of the Contemplated Transactions.

“Closing Date” means the date on which the Closing actually occurs.

“Code” means the Internal Revenue Code of 1986, as amended, and the regulations and other guidance promulgated thereunder.

“Confidential Information” means (i) information not available to the general public concerning the System and financial affairs with respect to a Party hereto or its Affiliates, and (ii) analyses, compilations, forecasts, studies and other documents prepared on the basis of such information by the Parties or their agents, representatives, any Related Person, employees or consultants.

“Consent” means any approval, consent, ratification, waiver or other authorization.

“Contemplated Transactions” means the transactions contemplated by this Agreement and the Transaction Documents.

“Contract” means any agreement, contract, obligation, legally binding commitment or undertaking (whether written or oral and whether express or implied).

“Damages” means any and all claims, losses and other liabilities, plus reasonable attorneys’ fees and expenses, including court costs and expert witness fees and costs, incurred in connection with such claims, losses and other liabilities and/or enforcement of this Agreement.

“DNR” means the Missouri Department of Natural Resources.

“Effective Time” means 12:01 a.m. on the Closing Date.

“Encumbrance” means any charge, claim, community property interest, condition, easement, equitable interest, encumbrance, lien, mortgage, option, pledge, security interest, right of first refusal, right of way, servitude or restriction of any kind, including any restriction on use, transfer, receipt of income or exercise of any other attribute of ownership, or any repayment obligation under any grant.

“Environment” means soil, land surface or subsurface strata, surface waters (including navigable waters, ocean waters, streams, ponds, drainage basins and wetlands), groundwater, drinking water supply, stream sediments, ambient air (including indoor air), plant and animal life and any other environmental medium or natural resource.

“Environmental, Health and Safety Liabilities” means any cost, damages, expense, liability, obligation or other responsibility arising from or under Environmental Law or Occupational Safety and Health Law and consisting of or relating to (a) any environmental, health or safety matters or conditions (including on-site or off-site contamination, occupational safety and health and regulation of chemical substances or products), (b) fines, penalties, judgments, awards, settlements, legal or administrative Proceedings, damages, losses, claims, demands and response, investigative, remedial or inspection costs and expenses arising under Environmental Law or Occupational Safety and Health Law, (c) financial responsibility under Environmental Law or Occupational Safety and Health Law for cleanup costs or corrective action, including any Cleanup required by applicable Environmental Law or Occupational Safety and Health Law (whether or not such Cleanup has been required or requested by any Governmental Authority or any other Person) and for any natural resource damages, or (d) any other compliance, corrective, investigative or remedial measures required under Environmental Law or Occupational Safety and Health Law. The terms “removal,” “remedial,” and “response action,” include the types of activities covered by the United States Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., as amended, and the United States Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., as amended.

“Environmental Law” means any Law relating to pollution or protection of human health, safety, the environment, natural resources or Law relating to releases or threatened releases of Hazardous Materials into the indoor or outdoor environment (including, without limitation, ambient air, surface water, groundwater, land, surface and subsurface strata) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, release, transport or handling of Hazardous Materials.

“Excluded Assets” means (a) all cash, cash equivalents and short-term investments of Seller, including all bank accounts, demand accounts, certificates of deposit, time deposits, marketable securities, negotiable instruments and the proceeds of accounts receivable paid prior to the Closing Date, other than deposits and funds included in the Acquired Assets, (b) all accounts receivable of Seller accrued and payable prior to the Effective Time, (c) all intercompany accounts receivable of Seller and notes for those accounts receivable, (d) all Contracts to which the Seller is a party (other than the Assumed Contracts), including the Contracts listed on Schedule 3.8 (other than the Assumed Contracts listed thereon), (e) all equity interests owned or held by Seller, (f) all insurance policies of Seller and rights thereunder, (g) all causes of action, judgments, claims, reimbursements and demands of whatever nature (including rights under and pursuant to all warranties, representations and guarantees made by suppliers of products, materials or equipment, or components thereof) in favor of Seller to the extent related to any Excluded Asset or Excluded Liability, (h) all corporate minute books and stock Records of Seller and personnel Records and other Records that Seller is required by Law to retain in its possession, (i) all rights of Seller under this Agreement and the Transaction Documents and (j) all rights, properties and assets set forth on Schedule A.

“Excluded Liabilities” means any and all Liabilities of Seller, whether or not incurred in connection with the operation of the System, other than the Assumed Liabilities.

“Financial Statements” means the Audited Financial Statements and the Unaudited Financial Statements.

“Franchise Agreement” means that certain Franchise Agreement in form and substance reasonably acceptable to Missouri-American.

“Governmental Authority(ies)” means any (a) nation, state, county, city, village, district or other jurisdiction of any nature, (b) federal, state, local, municipal, foreign or other government, (c) governmental or quasi-governmental authority of any nature (including any governmental agency, branch, department, official or entity and any court or other tribunal), (d) multi-national organization or body or (e) body exercising, or entitled to exercise, any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power of any nature. For purposes of this Agreement, Seller shall not be deemed included in the definition of a “Governmental Authority.”

“Hazardous Activity” means the distribution, generation, handling, importing, management, manufacturing, processing, production, refinement, Release, storage, transfer, transportation, treatment or use (including any withdrawal or other use of groundwater) of Hazardous Materials in, on, under, about or from the System or any part thereof into the Environment, and any other act, system, operation or thing that increases the danger or risk of danger, or poses an unreasonable risk of harm to persons or property on or off the System, or that may affect the value of the System or the Business.

“Hazardous Materials” means any waste or other substance that is listed, defined, designated or classified as, or otherwise determined to be, hazardous, radioactive or toxic or a pollutant or a contaminant under or pursuant to any Environmental Law, including any admixture or solution thereof, and specifically including petroleum and all derivatives thereof or synthetic substitutes therefor and asbestos or asbestos-containing materials.

“Improvements” means all buildings, structures, fixtures, building systems and equipment, and all components thereof, including the roof, foundation, load-bearing walls, and other structural elements thereof, heating, ventilation, air conditioning, mechanical, electrical, plumbing, and other building systems, environmental control, remediation, and abatement systems, sewer, storm, and waste water systems, irrigation and other water distribution systems, parking facilities, fire protections, security, and surveillance systems, and telecommunications, computer, wiring, and cable installations, included in the Real Property.

“Indemnified Persons” means Missouri-American and Missouri-American’s Affiliates and the past, present and future officers, directors, shareholders, partners, employees, agents, attorneys, representatives, successors and assigns of each of them in their capacities as such.

“Intangible Assignments” means the assignments of all of the Acquired Assets which are intangible personal property in form and substance reasonably acceptable to Missouri-American.

“Knowledge” means (i) the actual knowledge of a particular fact by any of the Persons listed on Schedule B (each, a “Knowledge Party”), and (ii) knowledge that would have been acquired by any Knowledge Party acting reasonably and diligently in the performance of such person’s role with and duties to Seller. The words “know,” “knowing” and “known” shall be construed accordingly.

“Law(s)” means any law, rule, regulation or ordinance of any federal, foreign, state or local Governmental Authority or other provisions having the force or effect of law, including all judicial or administrative Orders and determinations, and all common law.

“Lease” means that certain real property lease in form and substance reasonably acceptable to Missouri-American.

“Liability” or “Liabilities” means any liability, indebtedness or obligation of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise and whether or not the same is required to be accrued on the financial statements of a Person.

“Material Adverse Effect” means a material adverse effect on (a) the business, assets, Liabilities (contingent or otherwise), operations or condition (financial or otherwise) of the System, the Business and the Acquired Assets, taken as a whole; provided, however, that “Material Adverse Effect” shall not include any changes resulting from general business or economic conditions, including such conditions related to the industry in which the System is operated, which do not specifically relate to the System and which are not disproportionately adverse to the System than to other businesses being operated in the industries in which the System operates, or (b) the ability of Seller to consummate the Contemplated Transactions.

“MoPSC” means the Missouri Public Service Commission.

“Occupational Safety and Health Law” means any Law designed to provide safe and healthful working conditions and to reduce occupational safety and health hazards, and any program, whether governmental or private (including those promulgated or sponsored by industry associations and insurance companies), designed to provide safe and healthful working conditions.

“Order” means any award, decision, injunction, judgment, order, ruling, subpoena or verdict entered, issued, made or rendered by any court, administrative agency or other Governmental Authority or by any arbitrator.

“Ordinary Course of Business” means, with respect to the System and the Business, only the ordinary course of commercial operations customarily engaged in by the System and the Business consistent with past practices, and specifically does not include (a) activity (i) involving the purchase or sale of the System or the Business or any product line or business unit thereof, or (ii) that requires approval by governing persons or equity holders of Seller or any of its Affiliates, as applicable, or (b) the incurrence of any Liability for any tort or any breach or violation of or default under any Contract or Law.

“Permit” means any approval, Consent, license, permit, waiver or other authorization issued, granted, given or otherwise made available by or under the authority of any Governmental Authority or pursuant to any Law.

“Person” means any individual, corporation (including any non-profit corporation), general or limited partnership, limited liability company, joint venture, cooperative, estate, trust, association, organization, labor union or other entity or Governmental Authority.

“Proceeding” means any action, arbitration, audit, hearing, investigation, litigation or suit (whether civil, criminal, administrative, investigative or informal) commenced, brought,

conducted or heard by or before, or otherwise involving, any Governmental Authority or arbitrator.

“Purchase Price” means Five Hundred Sixty Five Thousand and One Dollars (\$565,001.00).

“Real Property” means those parcels of real property and those easements or any right-of-way used in the operation of the System, together with all fixtures, fittings, buildings, structures and other Improvements erected therein or thereon.

“Records” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

“Related Person” means: (a) with respect to a particular individual, (i) each other member of such individual’s Family, (ii) any Person that is directly or indirectly controlled by such individual or one or more members of such individual’s Family, (iii) any Person in which such individual or members of such individual’s Family hold (individually or in the aggregate) a Material Interest, and (iv) any Person with respect to which such individual or one or more members of such individual’s Family serves as a director, officer, partner, executor or trustee (or in a similar capacity) and (b) with respect to a specified Person other than an individual, (i) any Person that directly or indirectly controls, is directly or indirectly controlled by, or is directly or indirectly under common control with such specified Person, (ii) any Person that holds a Material Interest in such specified Person, (iii) each Person that serves as a director, officer, partner, executor or trustee of such specified Person (or in a similar capacity), (iv) any Person in which such specified Person holds a Material Interest, (v) any Person with respect to which such specified Person serves as a general partner or a trustee (or in a similar capacity) and (vi) any Related Person of any individual described in clause (ii) or (iii). For purposes of this definition, (x) the “Family” of an individual includes (A) the individual, (B) the individual’s spouse, (C) any other natural person who is related to the individual or the individual’s spouse within the second degree, and (D) any other natural person who resides with such individual; and (y) “Material Interest” means direct or indirect beneficial ownership (as defined in Rule 13d-3 under the Securities Exchange Act of 1934) of voting securities or other voting interests representing at least five percent (5%) of the outstanding equity securities or equity interests in a Person.

“Release” means any spilling, leaking, emitting, discharging, depositing, escaping, leaching, dumping or other releasing into the Environment, whether intentional or unintentional.

“Statement” means a statement setting forth Buyer’s determination and calculation, as of the Closing Date, of the Adjustment Amount, setting forth in reasonable detail the respective components and calculations thereof and prepared in good faith and in accordance with GAAP and the Accounting Methodologies.

“Tangible Personal Property” means all machinery, equipment, tools, furniture, office equipment, computer hardware, supplies (including chemicals and spare parts), materials, vehicles and other items of tangible personal property of every kind owned or leased by Seller (wherever located and whether or not carried on Seller’s books), together with any express or implied warranty by the manufacturers or lessors of any item or component part thereof, and all maintenance records and other documents relating thereto.

“Tax” or “Taxes” means all taxes, charges, withholdings, fees, duties, levies, or other like assessments including, without limitation, income, gross receipts, ad valorem, value added,



excise, property, sales, employment, withholding, social security, Pension Benefit Guaranty Corporation premium, environmental (under Section 59A of the Code) occupation, use, service, service use, license, payroll, franchise, transfer and recording taxes, fees and charges, windfall profits, severance, customs, import, export, employment or similar taxes, charges, fees, levies or other assessments, imposed by any Governmental Authority, whether computed on a separate, consolidated, unitary, combined or any other basis, and shall include any interest, fines, penalties, assessments, or additions to tax resulting from, attributable to, or incurred in connection with any such Tax or any contest or dispute thereof, and including any Liability for the Taxes of another Person under Treasury Regulation section 1.1502-6 (or any similar provisions of state, local, or foreign Law), as transferee or successor, by Contract or otherwise.

“Tax Return” or “Tax Returns” means any return, declaration, report, claim for refund, or information return or statement relating to, or required to be filed in connection with any Taxes, including any schedule or attachment thereto and including any amendment thereof.

“Third Person” means a claimant other than an indemnified person hereunder.

“Third Person Claim” means a claim alleged by a Third Person.

“Transaction Documents” means this Agreement, the Bill of Sale, the Intangible Assignments, the Assignment and Assumption Agreement, the Franchise Agreement, the Lease and all other documents, certificates, assignments and agreements executed and/or delivered in connection with this Agreement in order to consummate the Contemplated Transactions, as the same may be amended, restated, modified or otherwise replaced from time to time.

“Unaudited Financial Statements” means the unaudited balance sheet of Seller as of June 30, 2022 and the related compiled consolidated statements of income and cash flows for the three month period then ended.

### **Rules of Construction**

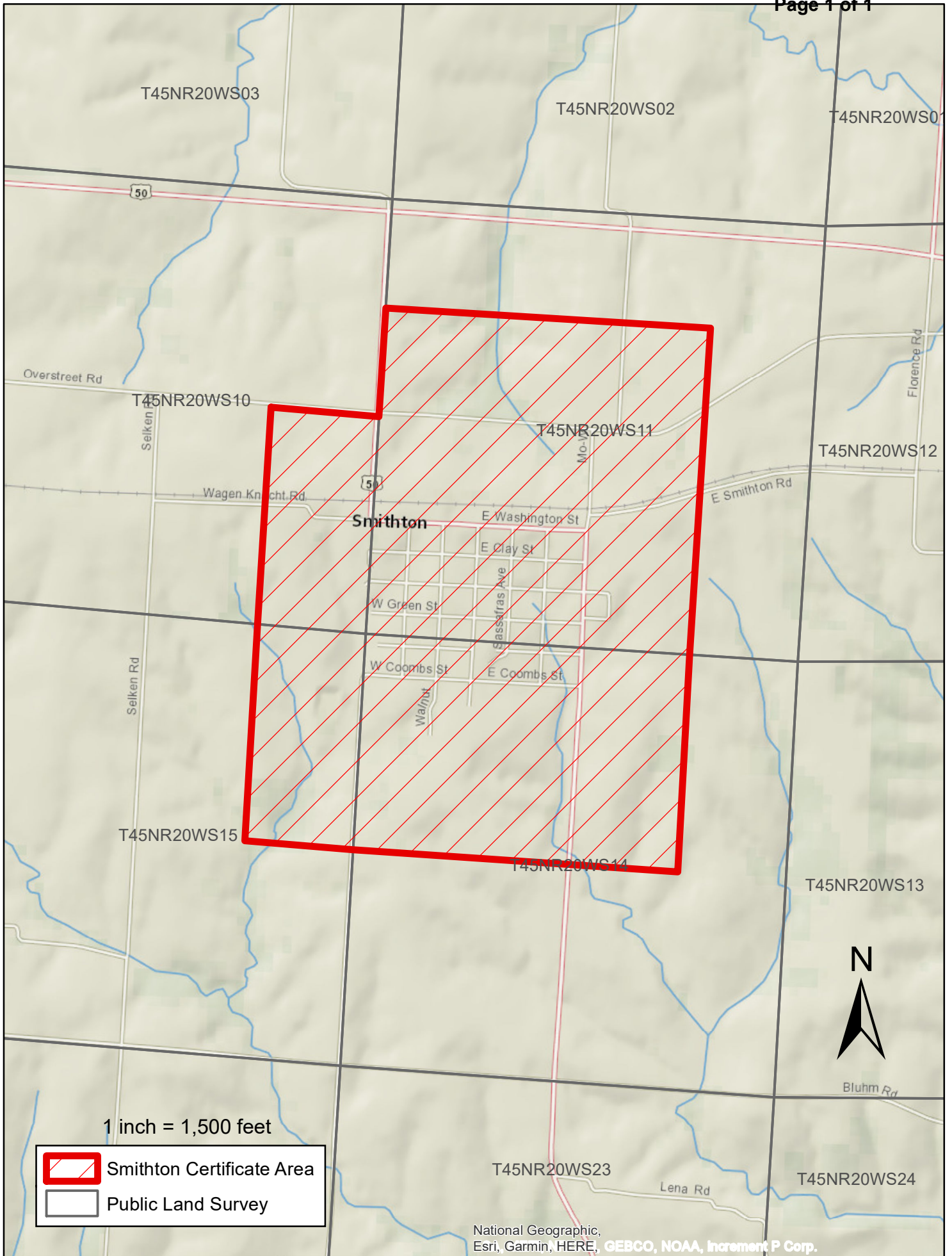
For purposes of this Agreement and the other documents executed in connection herewith, the following rules of construction shall apply, unless specifically indicated to the contrary: (i) wherever from the context it appears appropriate, each term stated in either the singular or plural shall include the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, the feminine and the neuter; (ii) the term “or” is not exclusive; (iii) the term “including” (or any form thereof) shall not be limiting or exclusive; (iv) the terms “hereof,” “herein” and “herewith” and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement as a whole (including the Schedules and Exhibits hereto) and not to any particular provision of this Agreement; (v) all references to statutes and related regulations shall include any amendments of same and any successor statutes and regulations as well as all rules and regulations promulgated thereunder, unless the context otherwise requires; (vi) all references in this Agreement or in the Schedules to this Agreement to sections, schedules, exhibits and attachments shall refer to the corresponding sections, schedules, exhibits and attachments of or to this Agreement; and (vii) all references to any instruments or agreements, including references to any of the documents executed in connection herewith, shall include any and all modifications or amendments thereto and any and all extensions or renewals thereof.

Legal Description

City of Smithton

A tract of land in part of Section 10, 11, 14 and 15 Township 45 North, Range 20 West, Pettis County, Missouri and being more particularly described as follows:

Beginning at a point being the intersection of the Center line of Overstreet Road and the North and South common line between Sections 10 and 11, Township 45 North, Range 20 West; thence North, along said common line to the Northwest corner of the Southwest Quarter of the Northwest Quarter of Section 11; thence East, along the North line of said Quarter-Quarter Section and the East prolongation to the Northeast corner of the Southwest Quarter of the Northeast Quarter of Section 11; thence South and along said East line of said Quarter-Quarter Section and its South prolongation thereof to the Southeast corner of the Southwest Quarter of the Southeast Quarter of said Section 11, being also the Northeast corner of the Northwest Quarter of the Northeast Quarter of Section 14, Township 45 North, Range 20 West; thence continuing South, along the East line of said Quarter-Quarter Section and its South prolongation to the Southeast corner of the Southwest Quarter of the Northeast Quarter of said Section 14; thence West, along the South line of said Quarter-Quarter Section and its West prolongation to the Southwest corner of Southwest Quarter of the Northwest Quarter of said Section 14, being also the Southeast corner of the Southeast Quarter of the Northeast Quarter of Section 15, Township 45 North, Range 20 West; thence West, along the South line of said Quarter-Quarter section to the Southwest corner thereof; thence North, along the West line of said Quarter-Quarter section and its North prolongation to a point on the North line of said Section 15, being also the Southwest corner of the Southeast Quarter of the Southeast Quarter of said Section 10; thence continuing North, along the West line of said Quarter-Quarter Section and the North prolongation thereof to the center of Overstreet Road; thence East, along said center line to the common line between Sections 10 and 11 and the Point of Beginning. Containing 480 acres more or less.



**Appendix F-C** has been marked CONFIDENTIAL in its entirety.

# VALUATION REPORT

## City of Smithton, Missouri Water Delivery and Wastewater Collection Systems

Prepared for:

Ms. Nikki Pacific  
Manager Business Development – Proposal & Integration  
Missouri American Water Company  
727 Craig Road  
St. Louis, Missouri 63141

Prepared by:

Chris Stallings, MAI, CCIM, MRICS  
Colliers International  
1828 Walnut Street  
Kansas City, Missouri 64108

Joseph E. Batis, MAI, AI-GRS, R/W-AC  
Edward J. Batis & Associates, Inc.  
313 N. Chicago Street  
Joliet, Illinois 60432

Edward W. Dinan, CRE, MAI  
Dinan Real Estate Advisors, Inc.  
2023 South Big Bend Boulevard  
St. Louis, Missouri 63117

|  |  |  |
|--|--|--|
| <b>COLLIERS INTERNATIONAL</b><br>1828 Walnut Street<br>Kansas City, Missouri 64108 | <b>EDWARD J. BATIS &amp; ASSOCIATES, INC.</b><br>313 N. Chicago Street<br>Joliet, Illinois 60432 | <b>DINAN REAL ESTATE ADVISORS, INC.</b><br>2023 S. Big Bend Boulevard<br>St. Louis, Missouri 63117 |
|--|--|--|

June 30, 2022

Ms. Nikki Pacific  
Business Development Manager  
Missouri American Water Company  
727 Craig Road  
St. Louis, Missouri 63141

Re: **Valuation Report**  
**City of Smithton (Pettis County), Missouri**  
**Water Delivery and Wastewater Collection Systems Appraisal**

Dear Ms. Pacific:

In accordance with your request, we have made a physical inspection on July 14, 2020, of the facilities and real estate that comprise the City of Smithton water and wastewater systems' assets.<sup>1</sup>

The water delivery and wastewater collection systems (referred to herein as "the subject properties") are owned by the City of Smithton and are located in Pettis County, Missouri. The customer count includes 225 water customers and 223 wastewater customers.

The purpose of the appraisal report was to arrive at opinions of market value of the subject water and wastewater systems as private systems (the intended use) as of the date of our inspection of the subject property systems.

This Appraisal Report is prepared in conformance with Standards Rule 2-2(a) of the 2020-2023 Edition of the *Uniform Standards of Professional Appraisal Practice* (USPAP). In addition to being prepared in compliance with USPAP, this appraisal has been prepared in accordance with the *Code of Ethics* and *Standards of Professional Practice* of the Appraisal Institute.

---

<sup>1</sup> Throughout the attached appraisal report, any reference to the appraisers' "inspection", "subject property inspection", "inspection of the subject property", "inspection of the subject water and wastewater systems", etc., refers to the appraisers' customary task of viewing the subject property for purposes of observing the condition, layout, design, and utility of the real property (land and building), as is typical in the appraisal profession and in the framework of completing the appraisal process. The reference to the term "inspection" in the context of the appraisers' work should not be interpreted to suggest the appraisers have any expertise and/or qualifications in the assessment of the condition and functionality of any mechanical and non-mechanical components of the subject property water and wastewater systems. The appraisers refer the client and intended users of the attached appraisal report to the engineer's report for an assessment of the water and wastewater systems' infrastructure components. The three professional real estate appraisers co-signing the attached appraisal report are not qualified to independently detect and assess the condition and functionality of the water and wastewater systems' infrastructure components. However, the three professional real estate appraisers co-signing the attached appraisal report assume that the water and wastewater systems' components (including the plant, pumps, and all related facilities) are in proper working order and have been maintained adequately to meet all pertinent codes and regulatory requirements.

Ms. Pacific  
Missouri American Water Company  
June 30, 2022  
Page 2

In completing our analysis of the subject property water and wastewater systems, we relied on a report prepared by Flinn Engineering, dated June 30, 2022. The Flinn Engineering report is attached to this appraisal report. Based upon our analysis of the subject property systems and taking into consideration the independent report prepared by Flinn Engineering, dated June 30, 2022, our opinions of the market values of the City of Smithton systems are as follows:

|  |   |
|--|---|
| <b>Market Value of<br/>Water Delivery System</b> | <b>Market Value of<br/>Wastewater Collection System</b> |
| <b>\$565,000</b>                                 | <b>\$670,000</b>  |

**This appraisal report is prepared subject to the Extraordinary Assumptions found on Pages 11-13.** The assumptions address several significant issues that impact the analysis and conclusions presented in the attached report, including:

- Information provided by the client and the City of Smithton
- Water and sewer mains presumed to be located in public rights-of-way
- Identification of the parcels owned in fee
- The Flinn Engineering Report
- The term "Inspection"
- Customer counts
- Presumed permanent easement for Well/Pump #2
- Presumed permanent easement for Water Storage Tank

**This appraisal report is prepared subject to Hypothetical Conditions found on Pages 14-15.**

Each of the three appraisers co-signing this appraisal report (Mr. Dinan, Mr. Batis, and Mr. Stallings) participated in the assignment by collecting and analyzing relevant data, and forming the opinions and final conclusions. In addition, Mr. Jordan Leiner of Dinan Real Estate assisted in the collection of data for this assignment. While each of the appraisers performed different tasks and were responsible for different parts of this valuation assignment, the appraisers consulted throughout the assignment with each other, the client, and representatives from the City of Smithton.

We certify that we personally have no undisclosed interest, either present or contemplated, in the real estate described herein as the subject properties; furthermore, neither the procurement of this appraisal assignment nor the negotiated compensation was contingent upon predetermined conclusions of value, value estimates which advocate the client's position, or the occurrence of any subsequent event.

Ms. Pacific  
Missouri American Water Company  
June 30, 2022  
Page 3

On behalf of Edward J. Batis & Associates, Inc., Colliers International, and Dinan Real Estate Advisors, Inc., we appreciate the opportunity to prepare this appraisal report for the Missouri American Water Company. Please feel free to contact the undersigned should you have any questions regarding the assignment.

Sincerely,



Joseph E. Batis, MAI, AI-GRS, R/W-AC  
Edward J. Batis & Associates, Inc.

General Certification Lic. #553.000493 (IL; Expires 09/21)  
General Certification Lic. #2016044083 (MO; Expires 06/22)  
General Certification Lic. #CG03684 (IA; Expires 06/22)  
General Certification Lic. #5660 (TN; Expires 06/21)  
General Certification Lic. #4001017857 (VA; Expires 06/21)



Edward W. Dinan, CRE, MAI  
Dinan Real Estate Advisors, Inc.  
State Certified General Real Estate Appraiser RA001300 (MO; Expires 06/22)



Chris Stallings, MAI, CCIM, MRICS  
Colliers International  
General Certification 202003408 (MO; Expires 06/22)



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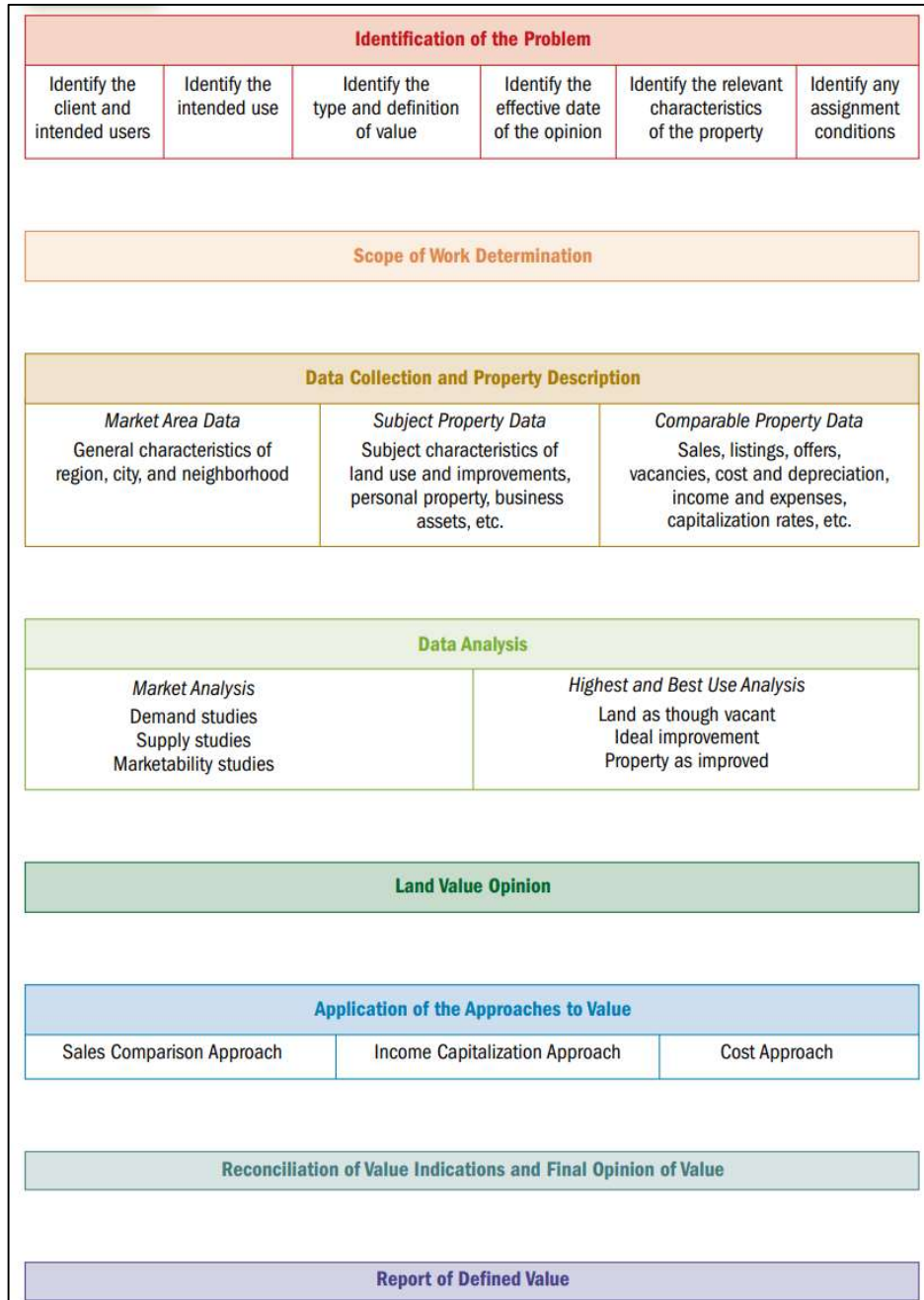
ADDENDA

**Summary of Salient Facts**

|  |   |
|--|---|
| Property Type:                                   | Water and wastewater systems  |
| Location:  | City of Smithton, Pettis County, Missouri   |
| Facilities:                                      | <p>The subject property includes the facilities that comprise the treatment and delivery of public water and the collection and treatment of wastewater.</p> <p>The water treatment and delivery system serves 225 customers and the wastewater collection and treatment system serves 223 customers.</p> <p>Please refer to the attached report prepared by Flinn Engineering for a list of the infrastructure, system assets, and facilities.</p> |
| Date of Inspection:                              | July 14, 2020   |
| Date of Value:                                   | July 14, 2020   |
| Date of Report:                                  | June 30, 2022   |
| Type of Value:                                   | Market Value  |
| Property Rights:                                 | Fee Simple Estate   |
| Value Conclusions:                               |   |
| Market Value of<br>Water Delivery System:        | \$565,000<br>Five Hundred Sixty-Five Thousand Dollars   |
| Market Value of<br>Wastewater Collection System: | \$670,000<br>Six Hundred Seventy Thousand Dollars   |

**The Appraisal Process**

The client requested opinions of market value for the City of Smithton water treatment and delivery system and the wastewater collection and treatment system. In arriving at opinions of value for the two subject property systems, we followed an orderly set of steps that has led us to the final conclusions of market value. This procedure is known as the "Appraisal Process" and is summarized in the exhibit below.



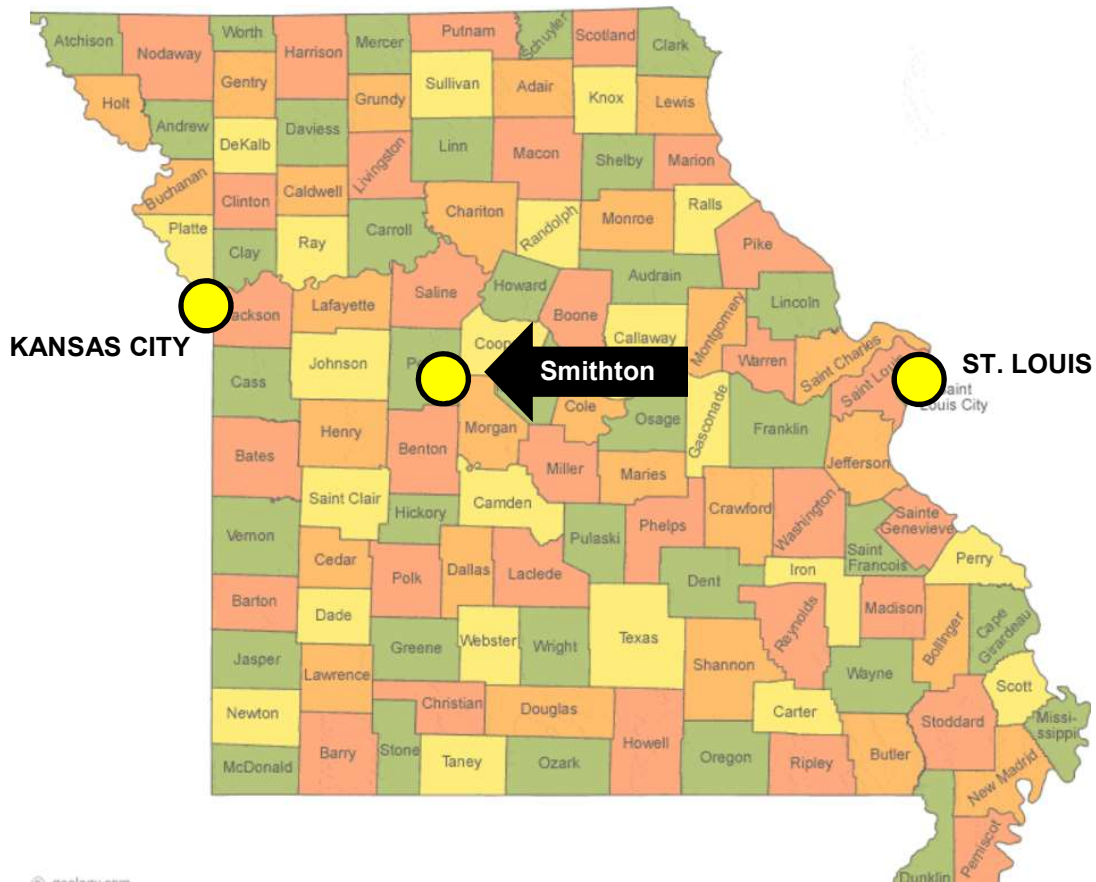
Source: The Appraisal of Real Estate, 15<sup>th</sup> Ed.,  
Published by the *Appraisal Institute*, 2020; P. 31.

**Identification of the Subject Properties**

The subject properties are a combination of water and wastewater infrastructure and related components that are owned and operated by the City of Smithton. The systems provide services to residents of the Smithton (Pettis County), Missouri.

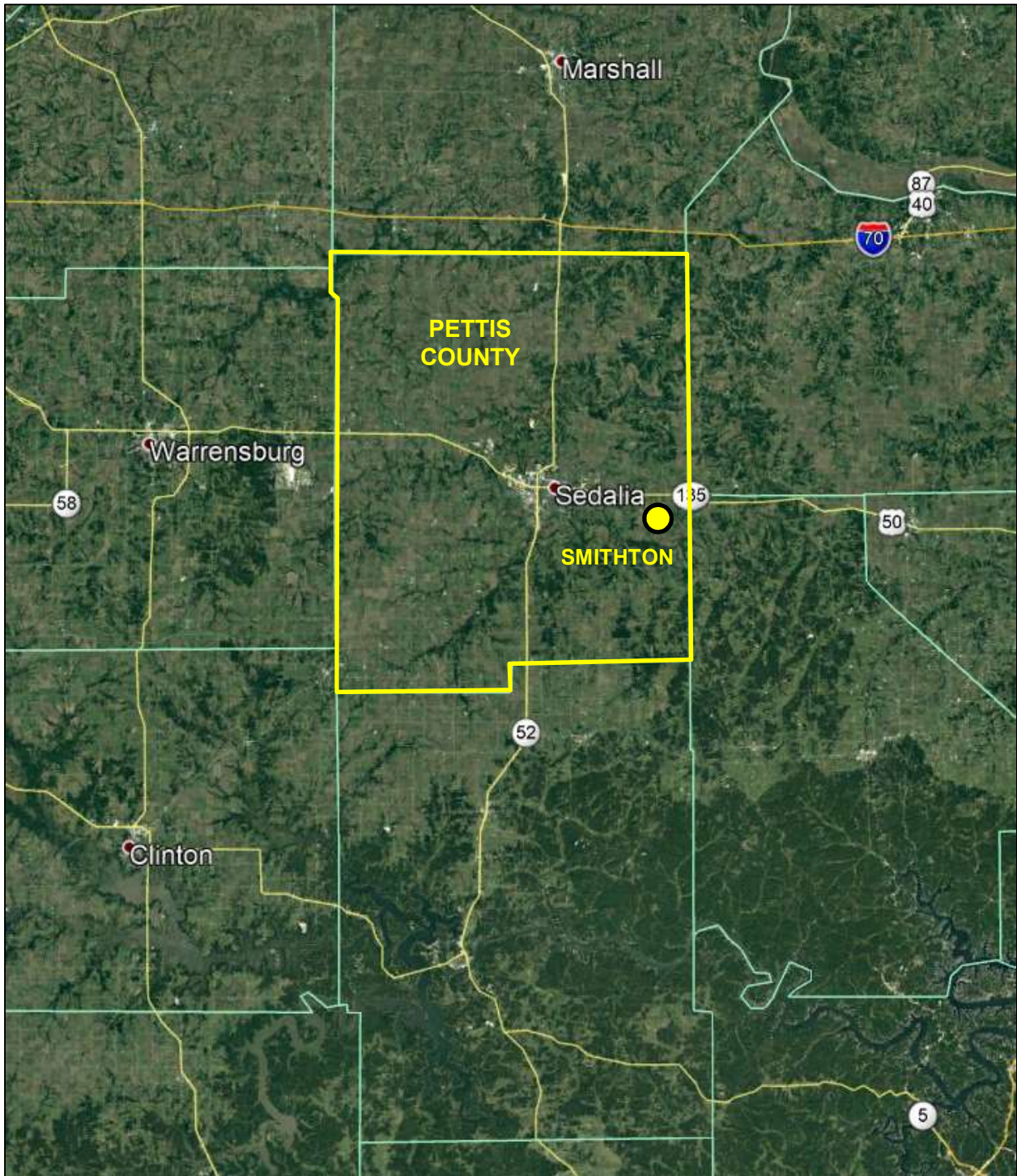
There are 225 customers for the water delivery system and 223 customers for the sewer collection system. The subject property assets include infrastructure and facilities associated with the two systems and includes three parcels of land to be conveyed in fee plus permanent easements (see Extraordinary Assumptions, Page 11 of this report).

The City of Smithton is located in the eastern part of Pettis County approximately 100 miles southeast of Kansas City and approximately 8 miles east of the City of Sedalia, the county seat of Pettis County.



**Identification of the Subject Properties**

(Continued)



## **Purpose of the Assignment and Definition of Market Value**

The purpose of this appraisal assignment is to arrive at opinions of market value for the two subject property systems.

Market value is defined as:

*The most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress.<sup>2</sup>*

Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated;
2. Both parties are well informed or well advised, and acting in what they consider their best interest;
3. A reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

## **Effective Dates**

|  |               |
|--|---------------|
| Date of physical inspection of the property: | July 14, 2020 |
| Effective date of value:                     | July 14, 2020 |
| Date of report:                              | June 30, 2022 |

---

<sup>2</sup> *The Appraisal of Real Estate*, 15th Edition, (Chicago, Illinois: Appraisal Institute, 2020), p. 48.

## Property Rights Appraised

The property rights appraised for the subject properties include the Fee Simple Estate of the properties which is defined as:

*Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat.<sup>3</sup>*

A fee simple estate implies absolute ownership unencumbered by any other interest or estate.

## Legal Descriptions

No legal descriptions have been provided for this assignment. The real property included in this valuation assignment includes four parcels of land owned in fee, presumed permanent easements for two additional facility locations, plus presumed permanent easement rights conveyed to Missouri American Water for all mains for the water and wastewater systems and related assets that are located throughout the City of Smithton. Please refer to the Extraordinary Assumptions section of this report for an explanation regarding the appraisal assignment assumptions relative to the presumed permanent easements. With respect to the four parcels owned in fee, the parcels have been identified based upon information provided by the representative of the City of Smithton at the inspection and county GIS data. In the exhibit below, the fee-owned and easement parcels are identified.

| SUMMARY OF PARCELS FOR APPRASIAL |                                       |                          |                                 |
|----------------------------------|---------------------------------------|--------------------------|---------------------------------|
| Property Identification          | Location                              | Property Owner           | Property Interest for Appraisal |
| Well/Pump #1                     | 107 E. Washington Street              | City of Smithton         | Permanent easement              |
| Well/Pump #2                     | SE corner of Coombs St. & Myrtle Ave. | Smithton School District | Permanent easement              |
| Lift Station #1                  | 320 W. Coombs Street                  | City of Smithton         | Fee estate (whole property)     |
| Lift Station #2                  | 600 Highway W                         | City of Smithton         | Fee estate (whole property)     |
| Water Storage Tank               | 302 E. Washington Street              | City of Smithton         | Permanent easement              |
| Wastewater Treatment Lagoon      | Rattlesnake Hill Road                 | City of Smithton         | Fee estate (part of whole)      |

<sup>3</sup> *The Appraisal of Real Estate*, 15<sup>th</sup> Edition, (Chicago, Illinois: Appraisal Institute, 2020), p. 60.

### **Exposure Time and Marketing Time**

The estimated marketing time of a property implicitly assumes the property would be marketed in a manner typical in the market for that particular type of property, including utilization of the normal channels of exposure; also, implicit is the assumption that the asking price would be reasonably close to the market value of the property; and, the sale terms would conform to the market value definition included herein.

Based upon the conditions which prevailed in the local market effective July 14, 2020, we have concluded a reasonable market time for the subject property systems, each as a whole, is 12 to 24 months and the exposure time for the subject properties is also estimated to be from 12 to 24 months.

### **Intended Use and Intended User of the Appraisal**

The intended use of this appraisal report is to assist the client (Missouri American Water Company) and the City of Smithton with the acquisition of the City of Smithton water and wastewater systems by the client. The intended users of this appraisal report include the client (for acquisition purposes), the City of Smithton (for asset disposition), and any regulatory agency with jurisdiction over the transfer of the water delivery and wastewater collection systems' assets from the City of Smithton to Missouri American Water Company.

### **History of the Subject Property**

Pursuant to Standards Rule 1-5 of USPAP, we are required to consider and analyze any current Agreement of Sale, option, or listing of the property being appraised. We are also required to consider and analyze any sales of the subject property that have occurred within the last three years.

To the best of our knowledge, and based upon discussions with the client and a representative of the City of Smithton, the subject property has not been the subject of any sales, listings, offerings or contracts during the last three years.



## **Scope of Work**

The subject property systems are reportedly owned and operated by the City of Smithton. In addition to receiving and reviewing numerous pertinent documents from the client pertaining to the subject property water and wastewater systems, we inspected the subject property, met with a representative from the City of Smithton, and collected market data for this assignment.

Proper and accepted appraisal methodology in the subject matter is (1) governed by Missouri legislation<sup>4</sup>, and (2) guided by the binding requirements of the Uniform Standards of Professional Appraisal Practice (USPAP).<sup>5</sup>

Explicit in the SCOPE OF WORK RULE section of the current (2020-2023) edition of USPAP is the requirement of the real estate appraiser to include research and analysis necessary to develop credible assignment results. The standard for acceptability of Scope of Work is, in part, what an appraiser's peers' actions would be in performing the same or similar assignment.<sup>6</sup>

In accordance with USPAP, consideration was given to the market standards in the appraisal profession established in other market areas by qualified appraisers performing similar assignments. In our opinion, the applicable professional standards of valuation of utility systems generally in Missouri -- and specifically in the case of the valuation of the City of Smithton systems -- are similar to those established and utilized in other market areas, including Illinois.

Illinois has similar legislation in place regulating the procedures for acquisitions of public utility systems by investor-owned companies. Although not identical, the procedures and framework for valuation are considered to be very similar.<sup>7</sup>

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<sup>4</sup> The Missouri legislation mandates the inclusion and participation of three independent professional real estate appraisers, all of which shall be licensed in the State of Missouri. Missouri Revised Statutes, Chapter 393, Section 393.321.1 (August 28, 2016).

<sup>5</sup> USPAP is developed, interpreted, and amended by The Appraisal Standards Board (ASB) of The Appraisal Foundation. State and federal regulatory authorities enforce the content of the current or applicable edition of USPAP. All state licensed/certified professional real estate appraisers must adhere to USPAP.

<sup>6</sup> USPAP, 2020-2023 Edition, Page 14.

<sup>7</sup> On August 9, 2013, P.A. 98-0213, codified as 220 ILCS 5/9-210.5, went into effect in Illinois. That Section of the Public Utilities Act ("Act") provides an alternate procedure that a large public utility may choose in establishing the ratemaking rate base of a water or sewer utility that the large public utility is acquiring. Among other things, Section 9-210.5 requires that if the utility company elects the procedures of that Section of the Act, three appraisals shall be performed, the appraisers must be selected by the Illinois Commerce Commission, and each appraiser must be State certified general real estate appraiser under the Illinois Real Estate Licensing Act of 2002.

## **Scope of Work**

(Continued)

The Illinois legislation has been in place since 2013. In Illinois, there have been several conveyances of utility systems from the public sector to investor-owned companies that were subject to the recently-enacted legislation governing such transactions.

The standards for valuation in Illinois have been established by the market and are consistently followed by the professional appraisers who engage in valuation assignments of public utility systems pursuant to the applicable governing legislation. The industry-accepted framework for the valuation of utility system assets includes the application of the Cost Approach and the application of the Sales Comparison Approach, and the omission of the Income Capitalization Approach.

The Income Capitalization Approach is not relied on in the typical appraisals of the utility systems due to the generally limited information available from the market necessary for the credible and reliable application of the Income Capitalization Approach. For instance, a proper application of the Income Capitalization Approach would require substantial detail from competing/alternate utility systems in the market, including, but not limited to, income levels from all sources (historic and future expectations), operating expense details, and market-derived capitalization rates used to convert projected net operating income into present value.

One of the factors impacting the challenges of obtaining necessary income and expense data from other systems pertains to the fact that most of the municipal-owned utility systems include public water and sanitary sewer, and often the management and budget operations for the two systems are not separated. Therefore, we have not applied the Income Capitalization Approach in the valuation of the subject property system. The omission of the Income Capitalization Approach does not result in a misleading analysis or conclusion of value. The omission of the Income Capitalization Approach is in compliance with USPAP, and is consistent with the actions of peers for similar assignments.

We applied the cost approach in arriving at an opinion of value for the system. The cost approach included an analysis and valuation of the parcels in fee, the permanent easements necessary for the water delivery and wastewater systems, the contributory value of the buildings and improvements situated on the fee parcels, and the infrastructure and components that comprise the City of Smithton water and wastewater systems.

## **Scope of Work**

(Continued)

We then reviewed limited market data pertaining to sales of other utility systems in order to apply the Sales Comparison Approach. In our selection of market data, we included transactional data pertaining to utility systems located in Illinois. The market data available for utility systems acquired in Missouri is very limited, with Missouri American Water Company being the primary entity acquiring systems. Therefore, it is reasonable and acceptable to expand the search for comparable market data to areas outside the borders of Missouri. We selected the Illinois market due to the following factors: proximity, availability of relatively current market data, similarity of legislative rules governing the valuation process, and the existence of a competitive market environment with multiple buyers influencing the balance of supply and demand.

Also required by Missouri statute pertaining to the valuation is the inclusion of a professional engineer's report addressing the depreciated cost estimates for the components and infrastructure relating to the water delivery and wastewater system. For purposes of this appraisal report, we are relying, in part, on a report prepared by Flinn Engineering, dated June 30, 2022, in which Flinn Engineering arrives at an opinion of the depreciation cost new of the infrastructure components of the City of Smithton water and wastewater systems. We reviewed the Flinn Engineering report, consulted with its author, and reviewed the data Flinn relied on in forming their opinions. Furthermore, we reviewed other engineering data and reports pertaining to the subject system as well as several other water and wastewater systems. Based upon our reviews and independent research, we find the report prepared by Flinn Engineering to be thorough, prepared in compliance with industry standards, and credible. Therefore, we have relied on the opinions rendered in the Flinn Engineering report. Our reliance on the Flinn report is consistent with the Appraisal Institute's Guide Note 4 which addresses the conditions for an appropriate reliance by appraisers of reports prepared by others.<sup>8</sup>

The Flinn Engineering report does not give any value consideration to the permanent easement rights being acquired by Missouri American Water Company as part of its acquisition of the City of Smithton water and wastewater systems, nor does the Flinn report include any contributory value for the parcels owned in fee that are included with the systems. Therefore, we arrived at an independent opinion of the market value of the easements and fee parcels being acquired as part of the purchase of the subject property water and wastewater systems by Missouri American Water Company.

Finally, we prepared this appraisal report in compliance with the applicable standards as set forth in the 2020-2023 Edition of USPAP.

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<sup>8</sup> The Appraisal Institute has adopted Guide Notes to the Institute's Standards of Professional Practice ("SPP"). The Guide Notes are not part of the SSP but provide guidance on how the standards requirements may apply to specific situations.

## **Extraordinary Assumptions**

The 2020-2023 Edition of the *Uniform Standards of Professional Appraisal Practice* (USPAP) defines an extraordinary assumption as follows:

*An assignment-specific assumption as of the effective date regarding uncertain information used in an analysis which, if found to be false, could alter the appraiser's opinions and conclusions.*

This appraisal report is prepared subject to the following Extraordinary Assumptions.

### **INFORMATION PROVIDED BY THE CLIENT AND THE CITY OF SMITHTON**

We have been provided information for this assignment by the client (Missouri American Water Company) and from the City of Smithton. The information is assumed to be correct, accurate, and complete. This includes, but is not limited to, all information pertaining to the subject property systems (financial, physical, legal) as well as all information pertaining to other systems acquired by American Water.

We reserve the right to revise all opinions and conclusions presented herein upon receiving or becoming aware of any information that is inconsistent with and/or contradicts the information provided by the client and the City of Smithton. The client and intended users are advised that if this assumption is found to be false, it could impact the analysis and opinions.

### **WATER AND SEWER MAINS PRESUMED TO BE LOCATED IN PUBLIC RIGHTS OF WAY**

The valuation of the subject property water delivery and wastewater collection systems includes the water and sewer mains that are located throughout the community and that connect the facilities. According to City Smithton officials, the water mains and sewer mains are located in public rights of way.

We reserve the right to revise all opinions and conclusions presented herein upon receiving or becoming aware of any information that is inconsistent with and/or contradicts the assumption outlined above. The client and intended users are advised that if this assumption is found to be false, it could impact the analysis and opinions.

## **Extraordinary Assumptions**

(Continued)

### **IDENTIFICATION OF THE PARCELS OWNED IN FEE**

Part of this analysis includes the valuation of three parcels of land owned in fee. Surveys of the parcels had not been performed at the time of this report; therefore, the parcels are described herein based upon information from public sources, namely the county GIS data. The information obtained from the public sources is assumed to be correct.

We reserve the right to revise all opinions and conclusions presented herein upon receiving or becoming aware of any information that is inconsistent with and/or contradicts the land sizes/characteristics as reported herein for the parcels owned by the City of Smithton. The client and intended users are advised that if this assumption is found to be false, it could impact the analysis and opinions.

### **THE FLINN ENGINEERING REPORT**

The Flinn Engineering report, dated June 30, 2022, referenced in the Scope of Work section of this report is assumed to be accurate, complete, and prepared in compliance with applicable industry standards.

We reserve the right to revise all opinions and conclusions presented herein upon receiving or becoming aware of any information that is inconsistent with and/or contradicts the information, analysis, opinions, and conclusions presented in the Flinn report. We also reserve the right to revise all opinions and conclusions presented herein upon receiving more detailed and complete information regarding the age and condition of the existing water and sewer mains. The client and intended users are advised that if this assumption is found to be false, it could impact the analysis and opinions.

### **THE TERM "INSPECTION"**

Throughout this appraisal report, any reference to the appraisers' "inspection", "subject property inspection", "inspection of the subject property", "inspection of the subject water and wastewater systems", etc., refers to the appraisers' customary task of viewing the subject property for purposes of observing the condition, layout, design, and utility of the real property (land and building), as is typical in the appraisal professional and in the framework of completing the appraisal process.

The reference to the term "inspection" in the context of the appraisers' work should not be interpreted to suggest the appraisers have any expertise and/or qualifications in the assessment of the condition and functionality of any mechanical and non-mechanical components of the subject water delivery and wastewater systems.

## **Extraordinary Assumptions**

(Continued)

The appraisers refer the client and intended/authorized users of this appraisal report to the Flinn Engineering report for an assessment of the water and wastewater systems' infrastructure components. The three professional real estate appraisers co-signing this appraisal report are not qualified to independently detect and assess the condition and functionality of the water and wastewater systems' infrastructure components. However, the three professional real estate appraisers co-signing this appraisal report assume that the water delivery and wastewater systems' components (including the plant, pumps, and all related facilities) are in proper working order and have been maintained adequately to meet all pertinent codes and regulatory requirements. The client and intended users are advised that if this assumption is found to be false, it could impact the analysis and opinions.

### **CUSTOMER COUNTS**

According to the City of Smithton, the subject property water delivery system serves 225 customers and the wastewater collection system serves 223 customers. This appraisal is based upon the assumption that the customer counts provided by City of Smithton are accurate. The client and intended users are advised that if this assumption is found to be false, it could impact the analysis and opinions.

### **PRESUMED PERMANENT EASEMENT FOR WELL/PUMP #2**

With the exception of Well #2, all of the facilities that are part of the subject properties are located on parcels of land owned by the City of Smithton. Well #2 is located on property owned by the school district. This appraisal assumes there is a permanent easement that provides reasonable access to Well #2 for the continued use, operation, maintenance, repair, inspection, etc., of Well #2. We have not been provided plats and/or easement documents to review. The client and intended users are advised that if this assumption is found to be false, it could impact the analysis and opinions.

### **PRESUMED PERMANENT EASEMENT FOR WATER STORAGE TOWER**

The City of Smithton owns the tract of land on which the water tower is located. The appraisal assumes the City of Smithton will grant a permanent easement over the whole parcel for the continued use, operation, maintenance, repair, inspection, etc., of the water tower, including reasonable means of ingress and egress. We have not been provided plats and/or easement documents to review. The client and intended users are advised that if this assumption is found to be false, it could impact the analysis and opinions.

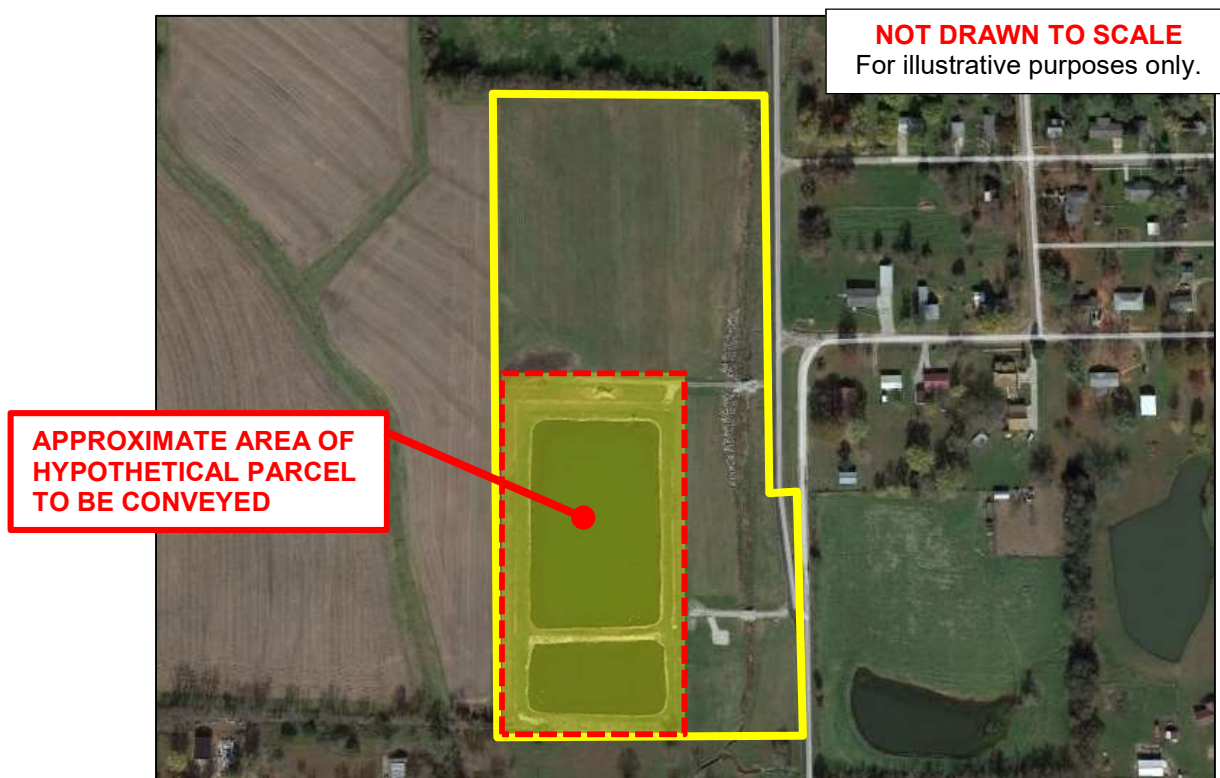
## Hypothetical Conditions

The 2020-2023 Edition of the *Uniform Standards of Professional Appraisal Practice* (USPAP) defines a hypothetical condition as follows:

*A condition, directly related to a specific assignment, which is contrary to what is known by the appraiser to exist on the effective date of the assignment results, but is used for the purpose of analysis.*

This appraisal assignment includes two hypothetical conditions.

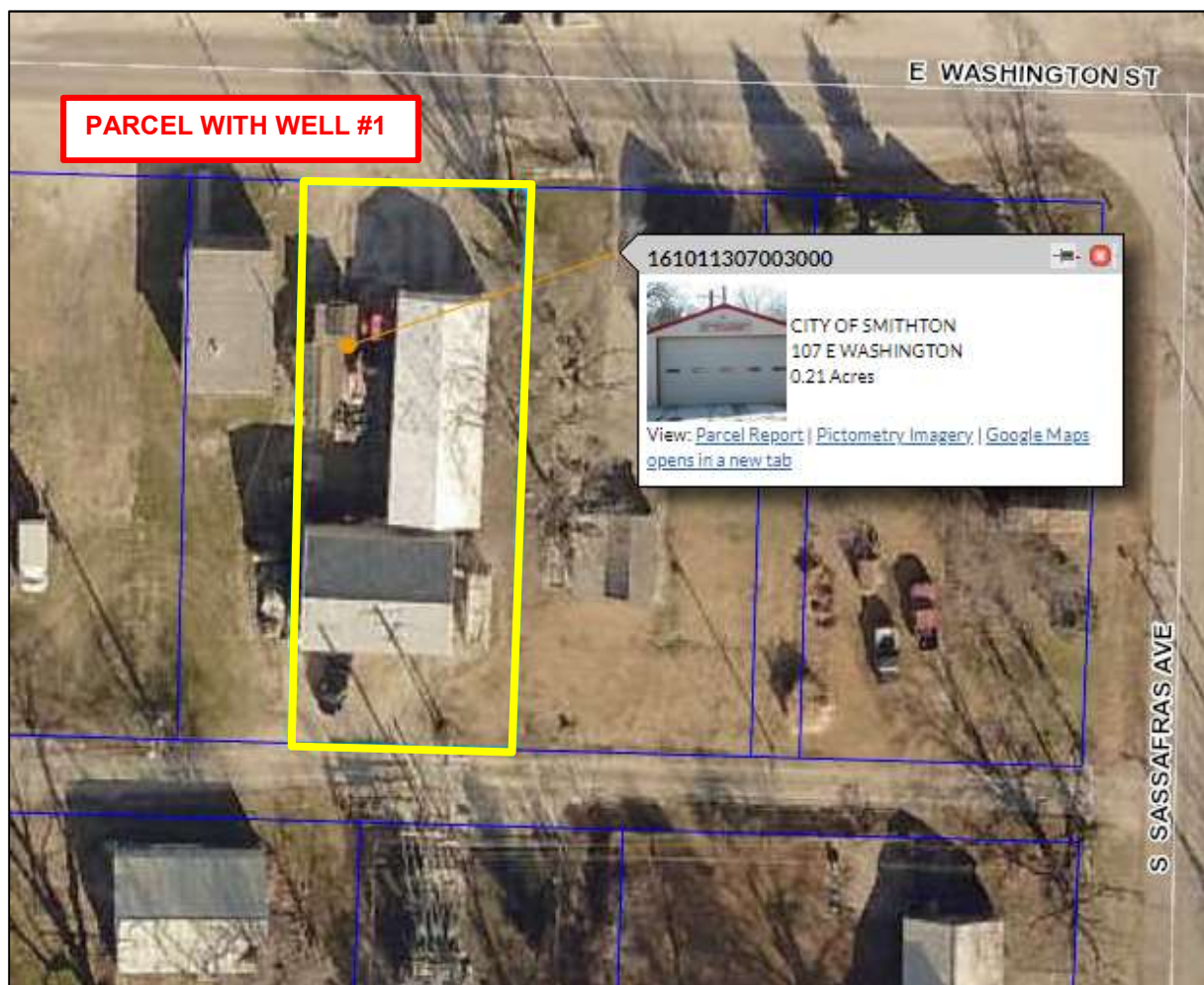
First, the asset identified as the wastewater treatment facility is located on city-owned property that contains approximately 16.5 acres (outlined in yellow in exhibit below). In addition to the wastewater treatment lagoon, 16.5-acre parcel is improved with a helipad and has vacant/unimproved land located north of the lagoon. The client seeks to acquire only a portion of the property – that part necessary for access to and the operation of the wastewater plant -- and the City of Smithton will retain ownership of the balance of the land. For purposes of this appraisal, the parcel of land assumed to be transferred as part of the acquisition contains approximately 5.5 acres (shaded in yellow and outlined in red in exhibit below). This appraisal assumes the whole property will be legally subdivided and the proposed purchaser, Missouri American Water, will be conveyed a parcel of approximately 5.5 acers with legal and reasonable means of access for the continued use, operation, maintenance, inspection, repairs, etc., of the wastewater treatment facility.



## Hypothetical Conditions

(Continued)

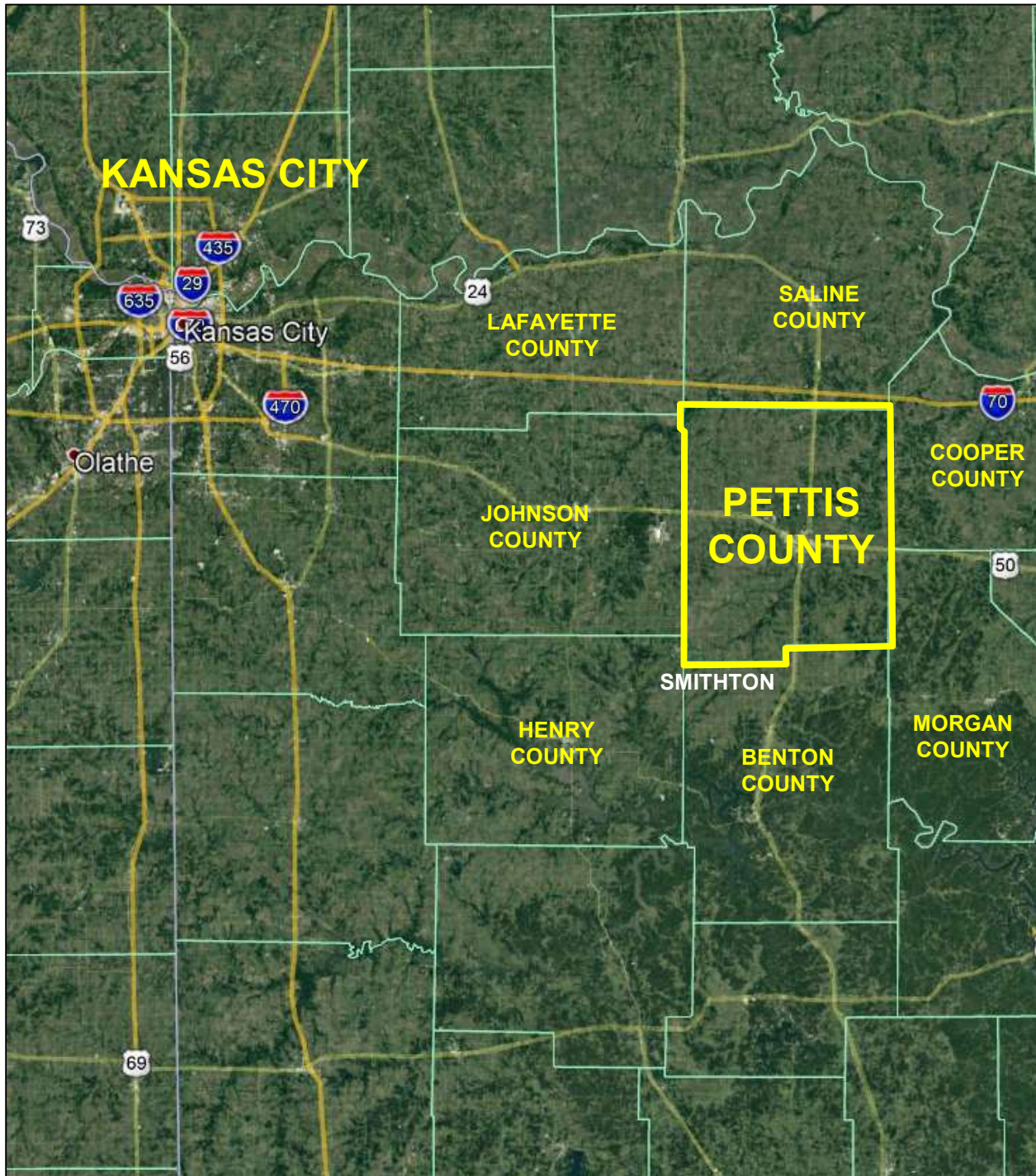
Second, the asset identified as Well #1 is located on a city-owned parcel of land that is improved with buildings that are not part of the subject property assets. The city-owned parcel is located at 107 E. Washington Street, is further identified as tax parcel 161011307003000, and is outlined in yellow in the exhibit below. This appraisal assumes there will be a permanent easement providing the necessary real property rights for the proposed purchaser to have reasonable access for the continued use, operation, maintenance, inspection, repairs, etc., of Well #1.





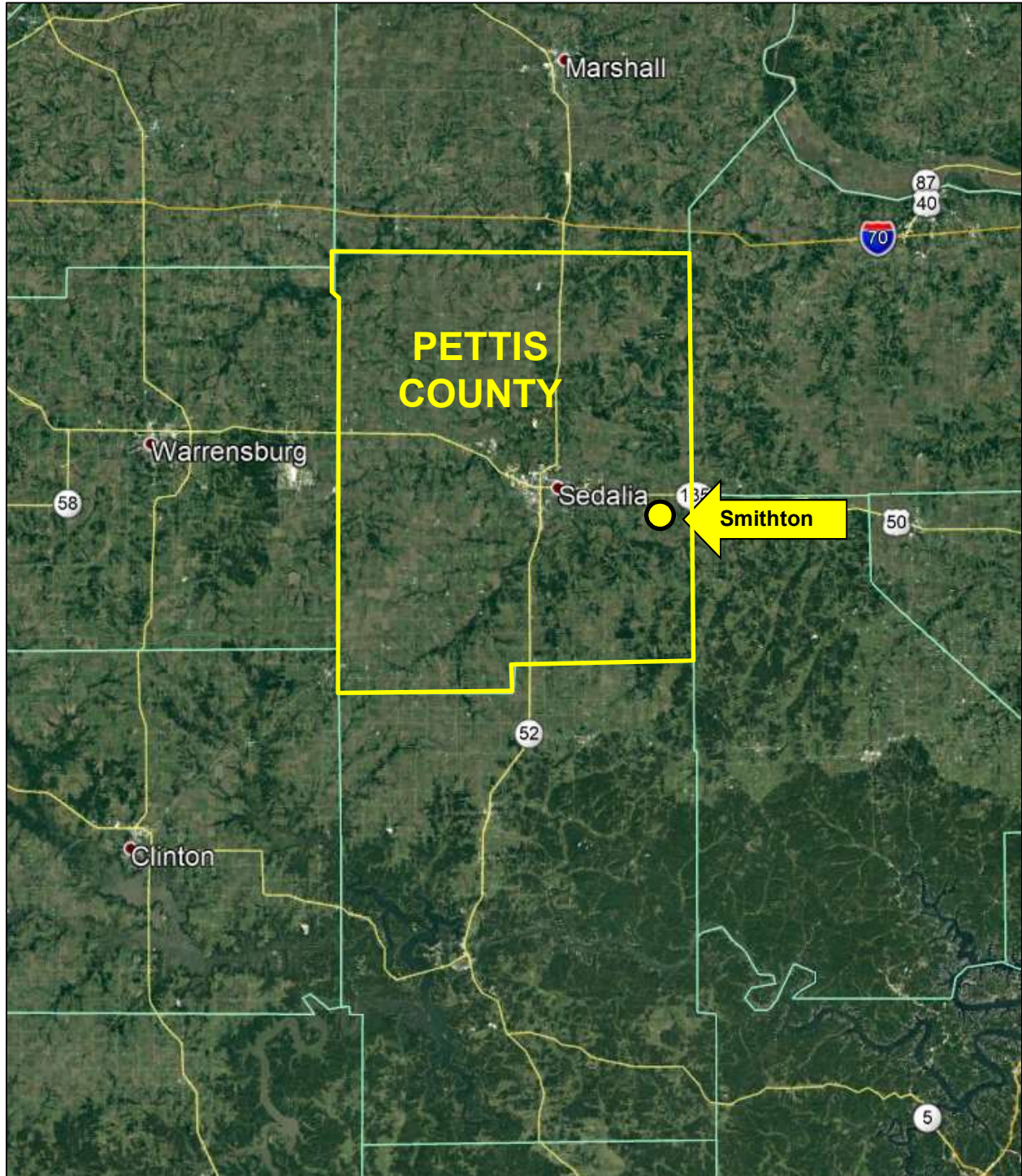
### Pettis County and City of Smithton Overview

The City of Smithton is a municipality located within Pettis County, a fourth class county in the State of Missouri. Pettis County comprises the Sedalia, Missouri Micropolitan Statistical Area which is home to the site of the Missouri State Fair, in Sedalia.



**Pettis County and City of Smithton Overview**

(Continued)



## Pettis County and City of Smithton Overview

(Continued)

The demographic information below pertaining to Lincoln County is based on U.S. Census Bureau data from 2020.

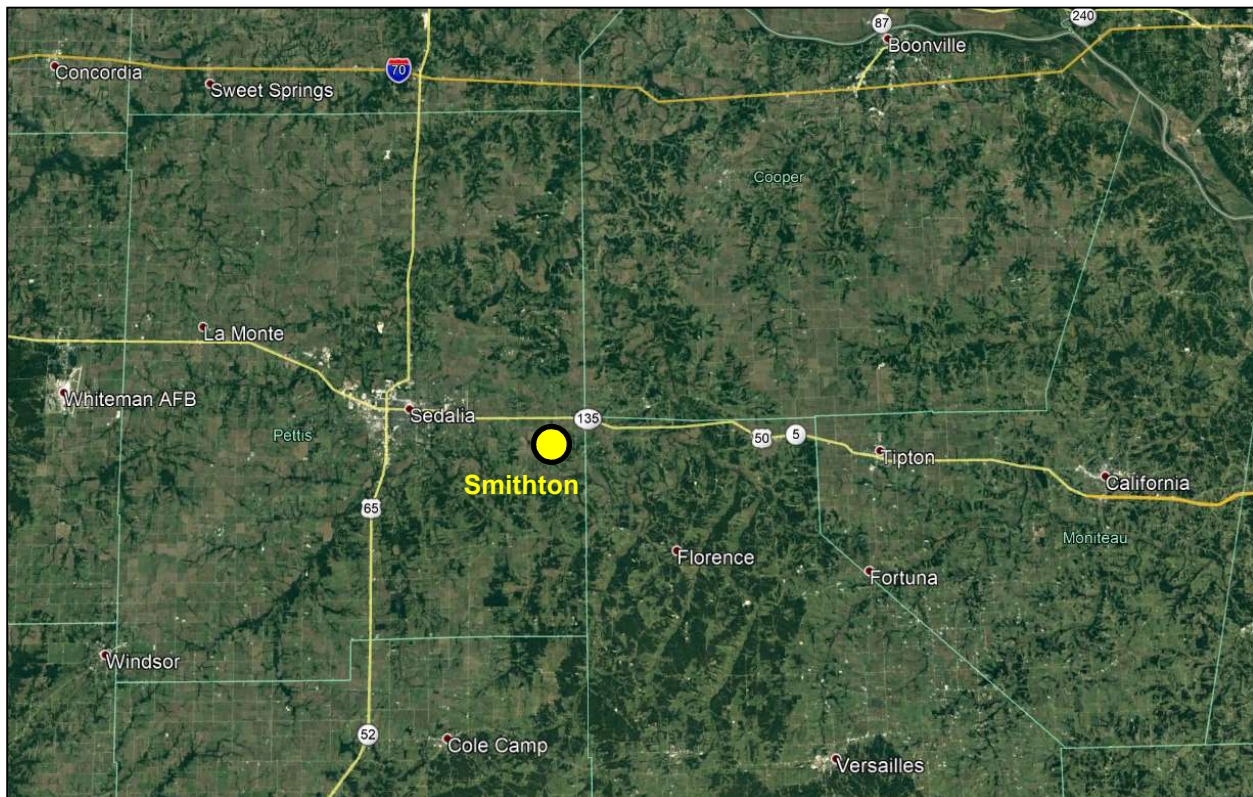
| <b>Pettis County MO Data &amp; Demographics (As of July 1, 2020)</b>   |                |  |                  |
|--|----------------|--|------------------|
| <b>POPULATION</b>  |                | <b>HOUSING</b>                           |                  |
| Total Population   | 43,404 (100%)  | Total HU (Housing Units)                 | 18,733 (100%)    |
| Population in Households   | 42,553 (98.0%) | Owner Occupied HU                        | 11,056 (59.0%)   |
| Population in Families   | 33,910 (78.1%) | Renter Occupied HU                       | 5,740 (30.6%)    |
| Population in Group Quarters <sup>1</sup>  | 851 ( 2.0%)    | Vacant Housing Units                     | 1,937 (10.3%)    |
| Population Density   | 64             | Median Home Value                        | \$125,430        |
| Diversity Index <sup>2</sup>   | 37             | Average Home Value                       | \$160,673        |
|  |                | Housing Affordability Index <sup>3</sup> | 199              |
| <b>INCOME</b>  |                | <b>HOUSEHOLDS</b>                        |                  |
| Median Household Income  | \$45,096       | Total Households                         | 16,796           |
| Average Household Income   | \$59,687       | Average Household Size                   | 2.53             |
| % of Income for Mortgage <sup>4</sup>  | 12%            | Family Households                        | 11,033           |
| Per Capita Income  | \$23,125       | Average Family Size                      | 3                |
| Wealth Index <sup>5</sup>  | 56             |  |                  |
| <b>GROWTH RATE / YEAR</b>  |                | <b>2010-2020</b>                         | <b>2020-2025</b> |
| Population   |                | 0.27%                                    | 0.28%            |
| Households   |                | 0.22%                                    | 0.24%            |
| Families   |                | 0.07%                                    | 0.14%            |
| Median Household Income  |                |  | 1.21%            |
| Per Capita Income  |                |  | 1.85%            |
| Owner Occupied HU  |                |  | 0.27%            |
| <b>Pettis County MO - Peer Comparisons by Rank and Percentile</b>  |                |  |                  |
| The table below compares Pettis County to the other 115 counties and county equivalents in Missouri by rank and percentile using July 1, 2020 data. The location Ranked # 1 has the highest value. A location that ranks higher than 75% of its peers would be in the 75th percentile of the peer group. |                |  |                  |
| Variable Description   | Rank           | Percentile                               |                  |
| Total Population   | # 26           | 78th                                     |                  |
| Population Density   | # 31           | 74th                                     |                  |
| Median Household Income  | # 59           | 50th                                     |                  |
| Housing Affordability Index  | # 58           | 50th                                     |                  |
| Per Capita Income  | # 66           | 43rd                                     |                  |
| Diversity Index  | # 16           | 87th                                     |                  |

## **Pettis County and City of Smithton Overview**

(Continued)

Smithton is a relatively small rural community located in the eastern part of the county and surrounded by undeveloped agricultural land (see exhibit below). The major roads into the community include Highway W (north/south; located on the east side of the community) and U.S. Route 50 (east/west; located north of the community and providing access to Smithton from Sedalia to the west and Tipton (Moniteau County) to the east).

The nearest interstate to Smithton is Interstate 70 (east/west; connects Kansas City to the west with Columbia and St. Louis to the east) which is located approximately 18 miles north of Smithton.



## **Pettis County and City of Smithton Overview**

(Continued)

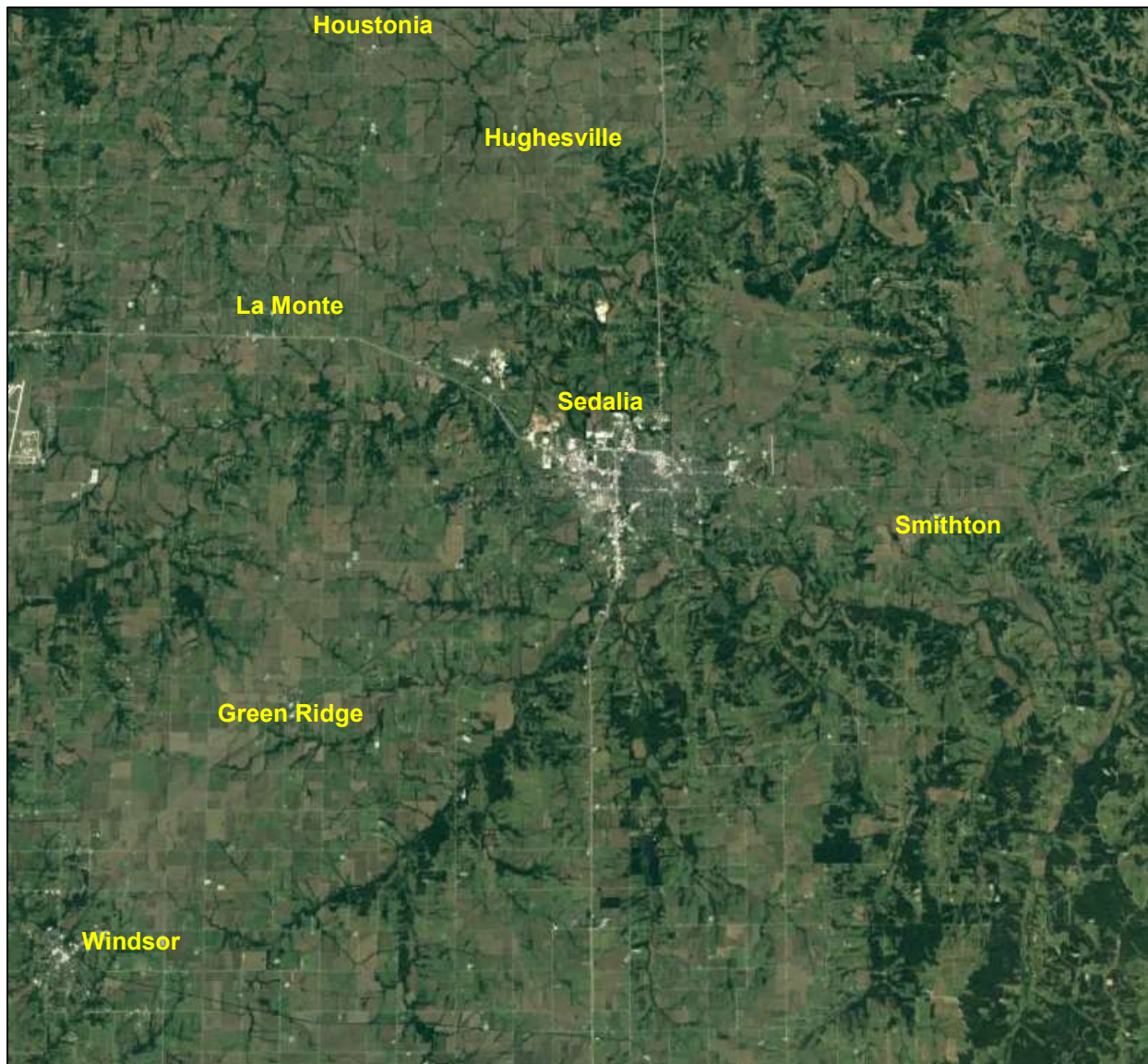
The demographic information below pertaining to Smithton is based on U.S. Census Bureau data from 2020. On the following page is a comparison of Smithton to the other communities located in Pettis County.

| <b>Smithton, MO Data &amp; Demographics (As of July 1, 2020)</b>  |             |  |                  |
|---|-------------|--|------------------|
| <b>POPULATION</b>   |             | <b>HOUSING</b>                           |                  |
| Total Population  | 565 (100%)  | Total HU (Housing Units)                 | 224 (100%)       |
| Population in Households  | 555 (98.2%) | Owner Occupied HU                        | 157 (70.1%)      |
| Population in Families  | 464 (82.1%) | Renter Occupied HU                       | 47 (21.0%)       |
| Population in Group Quarters <sup>1</sup>   | 10 ( 1.8%)  | Vacant Housing Units                     | 20 ( 8.9%)       |
| Population Density  | 1,878       | Median Home Value                        | \$80,707         |
| Diversity Index <sup>2</sup>  | 26          | Average Home Value                       | \$100,796        |
|   |             | Housing Affordability Index <sup>3</sup> | 326              |
| <b>INCOME</b>   |             | <b>HOUSEHOLDS</b>                        |                  |
| Median Household Income   | \$44,658    | Total Households                         | 204              |
| Average Household Income  | \$49,984    | Average Household Size                   | 2.72             |
| % of Income for Mortgage <sup>4</sup>   | 8%          | Family Households                        | 146              |
| Per Capita Income   | \$18,486    | Average Family Size                      | 3                |
| Wealth Index <sup>5</sup>   | 40          |  |                  |
| <b>GROWTH RATE / YEAR</b>   |             | <b>2010-2020</b>                         | <b>2020-2025</b> |
| Population  |             | -0.09%                                   | 0.07%            |
| Households  |             | -0.1%                                    | 0.0%             |
| Families  |             | -0.33%                                   | -0.14%           |
| Median Household Income   |             |  | -0.28%           |
| Per Capita Income   |             |  | 0.53%            |
| Owner Occupied HU   |             |  | -0.13%           |
| <b>Smithton, MO - Peer Comparisons by Rank and Percentile</b>   |             |  |                  |
| The table below compares Smithton to the other 1,032 incorporated cities, towns and CDPs in Missouri by rank and percentile using July 1, 2020 data. The location Ranked # 1 has the highest value. A location that ranks higher than 75% of its peers would be in the 75th percentile of the peer group. |             |  |                  |
| <b>Variable Description</b>   | <b>Rank</b> | <b>Percentile</b>                        |                  |
| Total Population  | # 478       | 54th                                     |                  |
| Population Density  | # 115       | 89th                                     |                  |
| Median Household Income   | # 587       | 43rd                                     |                  |
| Housing Affordability Index   | # 953       | 92nd                                     |                  |
| Per Capita Income   | # 925       | 10th                                     |                  |
| Diversity Index   | # 197       | 81st                                     |                  |

**Pettis County and City of Smithton Overview**

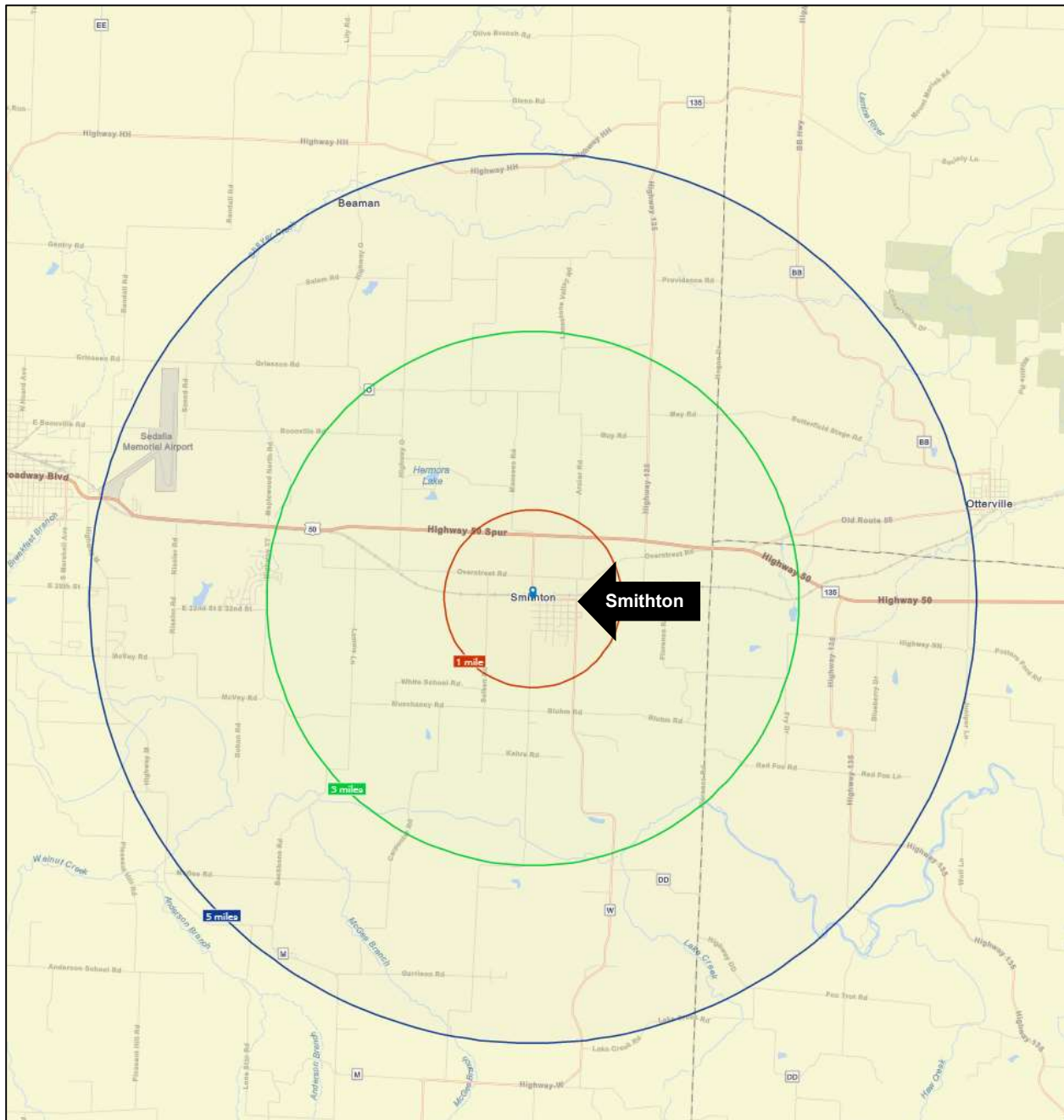
(Continued)

| <b>Pettis County - Community Demographic Data</b> |                         |                                |                           |
|---|-------------------------|--------------------------------|---------------------------|
| <b>2020 Census Bureau Data</b>                    |                         |                                |                           |
| <i>Location</i>                                   | <i>Total Population</i> | <i>Median Household Income</i> | <i>Average Home Value</i> |
| Sedalia (county seat)                             | 21,765                  | \$38,137                       | \$113,010                 |
| Smithton  | 565                     | \$44,658                       | \$100,796                 |
| Green Ridge                                       | 473                     | \$50,478                       | \$145,246                 |
| Houstonia   | 220                     | \$57,443                       | \$126,838                 |
| Hughesville                                       | 183                     | \$57,128                       | \$125,439                 |
| La Monte  | 1,148                   | \$42,073                       | \$122,465                 |
| Windsor   | 2,865                   | \$41,419                       | \$93,171                  |



## Pettis County and City of Smithton Overview (Continued)

According to U.S. Census Bureau data, the total estimated 2020 population within five miles of the City of Smithton is approximately 4,090 although the population within one mile of Smithton is approximately 645. The exhibit below shows rings of 1, 3 and 5 miles from Smithton. On the following two pages are exhibits with corresponding demographic data.



## Pettis County and City of Smithton Overview

(Continued)



### Executive Summary

Smithton, Missouri  
Rings: 1, 3, 5 mile radii

Prepared by Esri  
Latitude: 38.68339  
Longitude: -93.09751

|                        | 1 mile | 3 miles | 5 miles |
|------------------------|--------|---------|---------|
| <b>Population</b>      |        |         |         |
| 2000 Population        | 607    | 1,603   | 3,924   |
| 2010 Population        | 651    | 1,670   | 4,096   |
| 2020 Population        | 645    | 1,639   | 4,090   |
| 2025 Population        | 647    | 1,638   | 4,110   |
| 2000-2010 Annual Rate  | 0.70%  | 0.41%   | 0.43%   |
| 2010-2020 Annual Rate  | -0.09% | -0.18%  | -0.01%  |
| 2020-2025 Annual Rate  | 0.06%  | -0.01%  | 0.10%   |
| 2020 Male Population   | 49.0%  | 49.4%   | 50.1%   |
| 2020 Female Population | 50.9%  | 50.6%   | 49.9%   |
| 2020 Median Age        | 36.4   | 40.7    | 41.9    |

In the identified area, the current year population is 4,090. In 2010, the Census count in the area was 4,096. The rate of change since 2010 was -0.01% annually. The five-year projection for the population in the area is 4,110 representing a change of 0.10% annually from 2020 to 2025. Currently, the population is 50.1% male and 49.9% female.

#### Median Age

The median age in this area is 36.4, compared to U.S. median age of 38.5.

#### Race and Ethnicity

|  |       |       |       |
|--|-------|-------|-------|
| 2020 White Alone                         | 91.5% | 92.1% | 93.6% |
| 2020 Black Alone                         | 1.4%  | 1.5%  | 1.1%  |
| 2020 American Indian/Alaska Native Alone | 0.2%  | 0.5%  | 0.6%  |
| 2020 Asian Alone                         | 0.5%  | 0.5%  | 0.5%  |
| 2020 Pacific Islander Alone              | 0.0%  | 0.1%  | 0.1%  |
| 2020 Other Race                          | 3.6%  | 3.0%  | 2.1%  |
| 2020 Two or More Races                   | 2.9%  | 2.4%  | 2.0%  |
| 2020 Hispanic Origin (Any Race)          | 6.2%  | 5.4%  | 4.2%  |

Persons of Hispanic origin represent 4.2% of the population in the identified area compared to 18.8% of the U.S. population. Persons of Hispanic Origin may be of any race. The Diversity Index, which measures the probability that two people from the same area will be from different race/ethnic groups, is 19.3 in the identified area, compared to 65.1 for the U.S. as a whole.

#### Households

|                             |        |        |        |
|-----------------------------|--------|--------|--------|
| 2020 Wealth Index           | 41     | 51     | 57     |
| 2000 Households             | 222    | 547    | 1,372  |
| 2010 Households             | 238    | 586    | 1,480  |
| 2020 Total Households       | 235    | 573    | 1,474  |
| 2025 Total Households       | 235    | 571    | 1,477  |
| 2000-2010 Annual Rate       | 0.70%  | 0.69%  | 0.76%  |
| 2010-2020 Annual Rate       | -0.12% | -0.22% | -0.04% |
| 2020-2025 Annual Rate       | 0.00%  | -0.07% | 0.04%  |
| 2020 Average Household Size | 2.69   | 2.67   | 2.62   |

The household count in this area has changed from 1,480 in 2010 to 1,474 in the current year, a change of -0.04% annually. The five-year projection of households is 1,477, a change of 0.04% annually from the current year total. Average household size is currently 2.62, compared to 2.61 in the year 2010. The number of families in the current year is 1,069 in the specified area.

**Data Note:** Income is expressed in current dollars. Housing Affordability Index and Percent of Income for Mortgage calculations are only available for areas with 50 or more owner-occupied housing units.  
**Source:** U.S. Census Bureau, Census 2010 Summary File 1. Esri forecasts for 2020 and 2025. Esri converted Census 2000 data into 2010 geography.

October 14, 2020



## Pettis County and City of Smithton Overview

(Continued)



### Executive Summary

Smithton, Missouri  
Rings: 1, 3, 5 mile radii

Prepared by Esri  
Latitude: 38.68339  
Longitude: -93.09751

|                                     | 1 mile   | 3 miles  | 5 miles  |
|-------------------------------------|----------|----------|----------|
| <b>Mortgage Income</b>              |          |          |          |
| 2020 Percent of Income for Mortgage | 7.5%     | 7.6%     | 9.2%     |
| <b>Median Household Income</b>      |          |          |          |
| 2020 Median Household Income        | \$44,699 | \$47,150 | \$50,254 |
| 2025 Median Household Income        | \$44,167 | \$48,401 | \$52,278 |
| 2020-2025 Annual Rate               | -0.24%   | 0.53%    | 0.79%    |
| <b>Average Household Income</b>     |          |          |          |
| 2020 Average Household Income       | \$50,510 | \$56,707 | \$60,696 |
| 2025 Average Household Income       | \$52,099 | \$60,474 | \$65,892 |
| 2020-2025 Annual Rate               | 0.62%    | 1.29%    | 1.66%    |
| <b>Per Capita Income</b>            |          |          |          |
| 2020 Per Capita Income              | \$18,522 | \$20,374 | \$21,779 |
| 2025 Per Capita Income              | \$19,040 | \$21,668 | \$23,572 |
| 2020-2025 Annual Rate               | 0.55%    | 1.24%    | 1.59%    |

**Households by Income**  
Current median household income is \$50,254 in the area, compared to \$62,203 for all U.S. households. Median household income is projected to be \$52,278 in five years, compared to \$67,325 for all U.S. households

Current average household income is \$60,696 in this area, compared to \$90,054 for all U.S. households. Average household income is projected to be \$65,892 in five years, compared to \$99,510 for all U.S. households

Current per capita income is \$21,779 in the area, compared to the U.S. per capita income of \$34,136. The per capita income is projected to be \$23,572 in five years, compared to \$37,691 for all U.S. households

| <b>Housing</b>                     |     |     |       |
|------------------------------------|-----|-----|-------|
| 2020 Housing Affordability Index   | 313 | 310 | 258   |
| 2000 Total Housing Units           | 246 | 600 | 1,467 |
| 2000 Owner Occupied Housing Units  | 185 | 467 | 1,184 |
| 2000 Renter Occupied Housing Units | 36  | 80  | 189   |
| 2000 Vacant Housing Units          | 25  | 53  | 94    |
| 2010 Total Housing Units           | 260 | 641 | 1,595 |
| 2010 Owner Occupied Housing Units  | 191 | 486 | 1,252 |
| 2010 Renter Occupied Housing Units | 47  | 100 | 228   |
| 2010 Vacant Housing Units          | 22  | 55  | 115   |
| 2020 Total Housing Units           | 260 | 642 | 1,618 |
| 2020 Owner Occupied Housing Units  | 181 | 459 | 1,206 |
| 2020 Renter Occupied Housing Units | 54  | 114 | 267   |
| 2020 Vacant Housing Units          | 25  | 69  | 144   |
| 2025 Total Housing Units           | 260 | 643 | 1,628 |
| 2025 Owner Occupied Housing Units  | 180 | 456 | 1,207 |
| 2025 Renter Occupied Housing Units | 55  | 115 | 270   |
| 2025 Vacant Housing Units          | 25  | 72  | 151   |

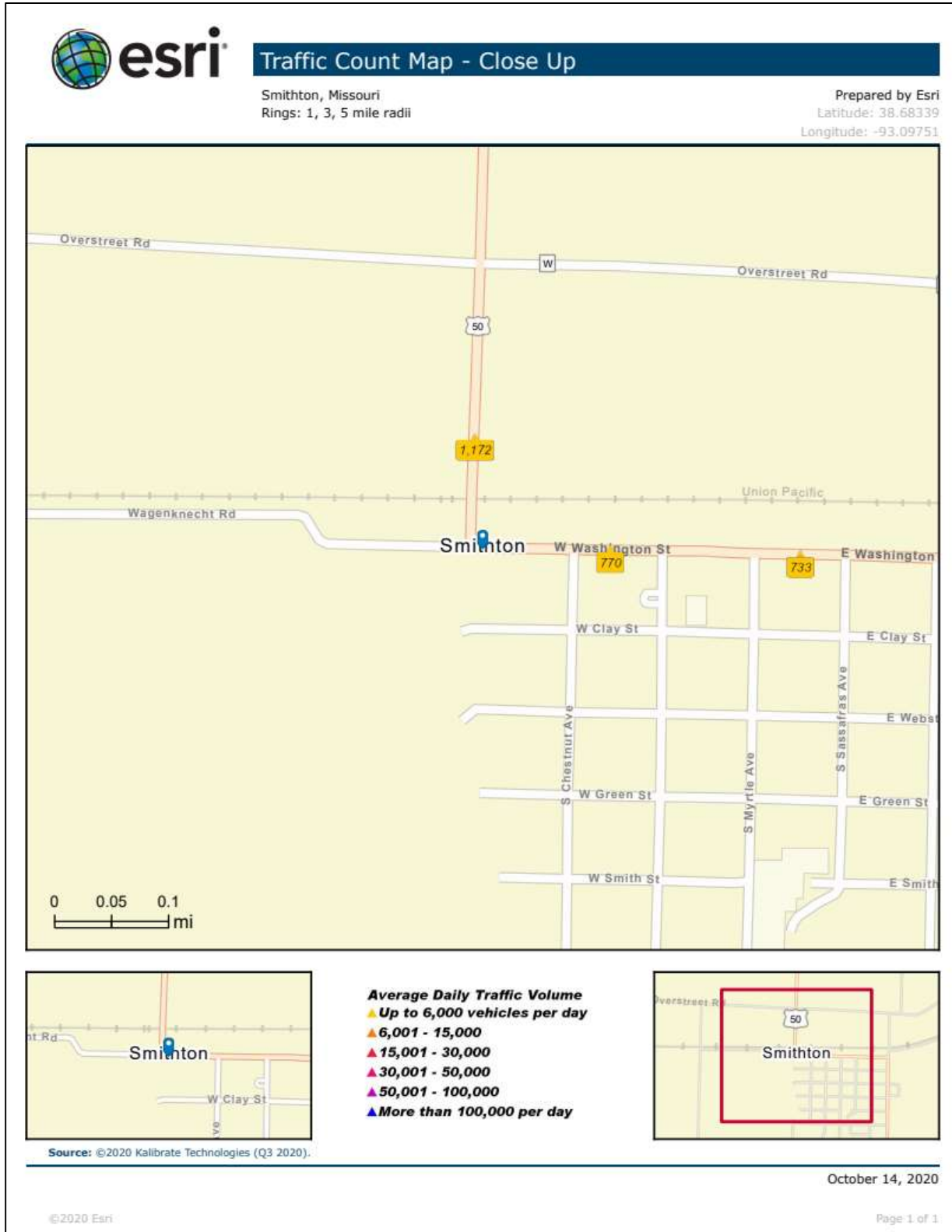
Currently, 74.5% of the 1,618 housing units in the area are owner occupied; 16.5%, renter occupied; and 8.9% are vacant. Currently, in the U.S., 56.4% of the housing units in the area are owner occupied; 32.3% are renter occupied; and 11.3% are vacant. In 2010, there were 1,595 housing units in the area - 78.5% owner occupied, 14.3% renter occupied, and 7.2% vacant. The annual rate of change in housing units since 2010 is 0.64%. Median home value in the area is \$110,405, compared to a median home value of \$235,127 for the U.S. In five years, median value is projected to change by 4.00% annually to \$134,317.

**Data Note:** Income is expressed in current dollars. Housing Affordability Index and Percent of Income for Mortgage calculations are only available for areas with 50 or more owner-occupied housing units.

**Source:** U.S. Census Bureau, Census 2010 Summary File 1. Esri forecasts for 2020 and 2025. Esri converted Census 2000 data into 2010 geography.

October 14, 2020

### Pettis County and City of Smithton Overview (Continued)



## **Pettis County and City of Smithton Overview**

(Continued)

Incorporated in 1955, the city of Smithton is a fourth class city in the State of Missouri. Smithton is located approximately five miles west of the City of Sedalia, the Pettis County Seat, and approximately twenty miles south of Interstate 70 and is generally bordered by Overstreet Road to the north, Bluhm Road to the south, Florence Road to the east, and Selken Road to the west. Nearby communities include Bearman, Clifton City, Otterville, Florence, Bahner, Spring Fork, and Sedalia.

Smithton was platted in 1859 by William E. Combs. It was named after General George R. Smith, one of the most active workers in raising funds to locate on what was called the “inland route” to distinguish it from the “river route” on the Missouri Pacific Railway, now the Union Pacific Railway which runs east and west along the northern border of the city.

According to the United States Census Bureau, the City of Smithton has a total area of 0.30 square miles. In 2018 there were 517 people and 188 households residing in the City of Smithton. The population density was 1,723 inhabitants per square mile. There were 220 housing units of which were 85.5 percent owner occupied. The average household size was 2.67. The median age in the village was 36.4 years. 30.8 percent of residents were under the age of 20; 29 percent were between the ages of 21 and 40; 10.2 percent were from 41 to 50; 20.3 percent were in the range of 51 to 64; and 9.7 percent were 65 years of age or older.

Major employers include Gargill Pork, Smithton R-VI School District, and the City of Smithton.

In summary, the subject neighborhood is an established area with adequate access to Interstate 70. The overall outlook for the neighborhood is one of relative stability with little to modest growth taking place in the foreseeable future.

## **Description of the Subject Properties**

The subject property systems include the assets and facilities that comprise the treatment and delivery of water and the collection and treatment of wastewater. The information below is from the Flinn Engineering Report, dated June 30, 2022. Please refer to the attached report prepared by Flinn Engineering for more details pertaining of the infrastructure, system assets, and facilities.

### ***Water System***

The water system includes two (2) deep wells, an elevated water storage tank, and the water distribution system.

Well #1 was constructed in 1929 and had a major improvement completed in 1993. The improvement included a pump replacement and the addition of chlorine room. In 2010, a new meter was installed on the well and pump controls were installed. The control system is used to operate both wells. The well is 2,300 feet deep and has a pumping capacity of 170 gallons per minute (gpm). Well #2 was constructed in 1983 and is 1,980 feet deep. The building includes a chlorine room. The pumping capacity is 200 gpm.

### ***Wastewater System***

The wastewater system includes a treatment plant, two (2) lift stations, and the wastewater collection system.

The wastewater treatment plant is a two-cell lagoon system with a design flow of 62,000 gallons per day, according to the MDNR Operating Permit (Appendix A of the Flinn Report). The City did not provide documentation on the lagoons. There is no chemical feed at the lagoons and sludge is retained in the lagoon. The plant was originally constructed in 1969.

Both lift stations are similar in type and size. They include two (2) pumps, but they do not include standby generators. The lift stations include heat sensors on the pumps and are automatically controlled. Each pump station pumps to separate force mains to the treatment plant. Pump Station #1 is located on Rattlesnake Hill Road near the treatment plant and pumps from the west portion of the City. Pump Station #2 is located on the southeast side of the City and pumps from the east portion of the City. The lift stations are assumed to date back to 1969 when the treatment plant was installed. Lift Station #1 was replaced in 2000.

## Description of the Subject Properties

(Continued)

### ***Land (Fee Parcels and Easements)***

There are six locations of facilities that comprise the subject property water and wastewater systems. Below is an overview of the locations followed by exhibits on the following pages including maps and details of the six locations.



### Wastewater Treatment/Lagoon

This parcel is located on the west side of the community along the west side of Rattlesnake Hill Road and is identified as tax parcel 165015000001001. The total acreage for the site is 16.5 acres, and the parcel includes vacant/undeveloped agricultural land and a helipad. However, this appraisal includes a hypothetical condition that explains the analysis includes only 5.5 acres, more or less, of the larger parcel (refer to Page 14 for additional explanation). This property is owned by the City of Smithton.

## **Description of the Subject Properties**

(Continued)

### Water Tower/Storage

This parcel is located on the north side of the community and has a common address of 302 E. Washington Street. The parcel is also identified as tax parcel 161011304005000. The parcel is located on the north side of Washington Street and contains 0.25 acres. The site is improved with a 50,000 gallon multi-leg elevated tank that was reportedly erected in 1955 and is considered to be in good condition. This property is owned by the City of Smithton. However, this assignment assumes a permanent easement for this parcel (see Extraordinary Assumption on Page 13). The permanent easement is assumed to encumber the whole property.

### Well #1 and Chlorine Room

This parcel is also located on the north side of the community and its common address is 107 E. Washington Street. The tax parcel, 161011307003000, contains 0.21 acres. The property is owned by the City of Smithton and is improved with two municipal buildings. However, the well site is estimated to consist of a 75 foot by 25 foot, or 1,875 square foot, area. The site is improved with a one-story, with a concrete slab foundation, well house of masonry construction, containing approximately 116 square feet of gross building area, that was reportedly constructed in 1929 and a one-story, with concrete slab foundation, chlorine room of concrete block construction, containing approximately 132 square feet of gross building area that was reportedly constructed in 1993. These buildings are considered to be in average condition. This appraisal includes a hypothetical condition regarding presumed permanent easement rights for access to the well (refer to Page 15 for additional explanation).

### Well #2 and Chlorine Room

This site is located on the south side East Coombs Street, in Smithton, Missouri in the southeast quadrant of its intersection with South Myrtle Avenue. The Pettis County Assessor identifies this site as Parcel Number 16-60-14-210-0030001 and calculates it to be 1.54 acres in size. However, the well site is estimated to consist of a 30 foot by 25 foot, or 750 square foot, area. According to public records, this parcel is in the name of Smithton School District R-VI. The site is improved with a one-story, with a concrete slab foundation, well building and chlorine room of corrugated metal panel construction, containing approximately 195 square feet of gross building area that was reportedly constructed in 1983. This building is considered to be in average condition. This appraisal includes an extraordinary assumption regarding the presumed permanent easement rights for access to the well (refer to Page 13 for additional explanation).

**Description of the Subject Properties**

(Continued)

**Lift Station #1**

This parcel is located on the southwest side of the community across the street from the wastewater treatment/lagoon parcel and has a common address of 320 W. Coombs Street. The property is identified as tax parcel 166014206002000 and is owned by the City of Smithton. The site contains 0.01 acres according to county GIS data.

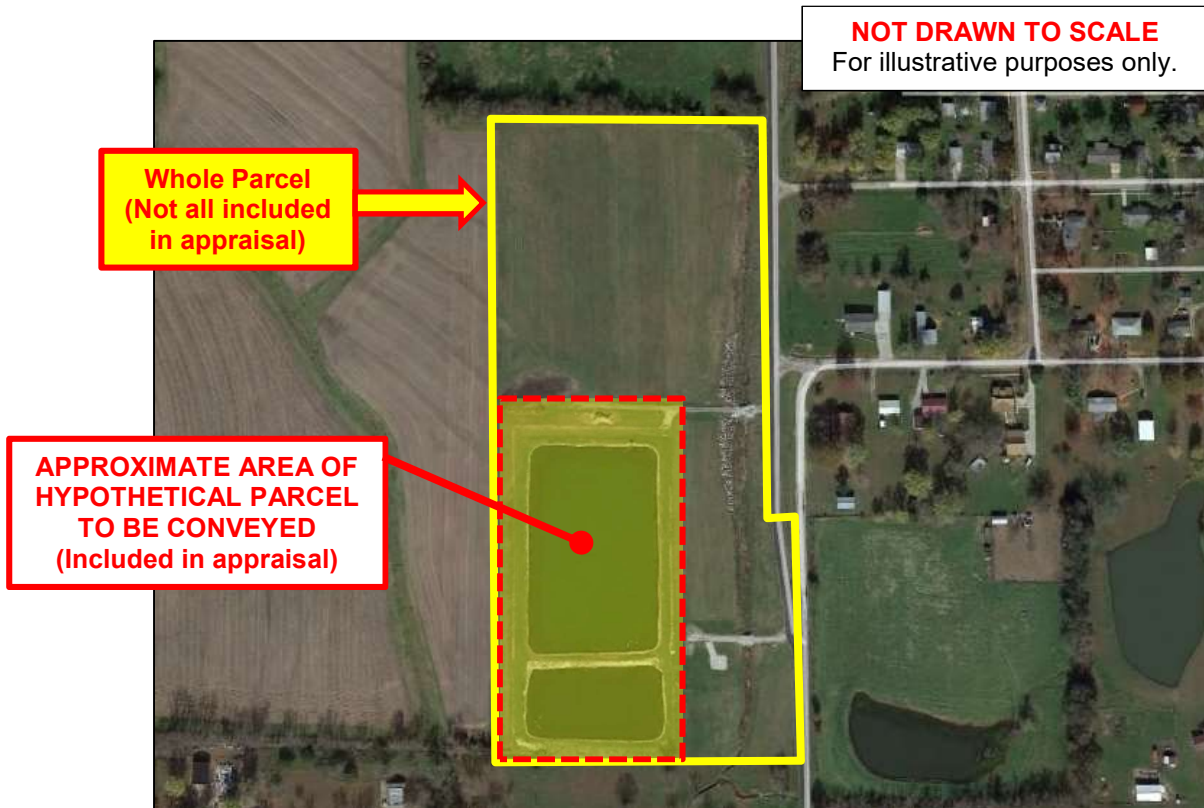
**Lift Station #2**

This parcel is located on the southeast side of the community at the southwest corner of the intersection of Coombs Street and Highway W. The property has a common address of 600 Highway W. The property is identified as tax parcel 166014210001000 and is owned by the City of Smithton. The site contains 0.05 acres according to county GIS data.

**Description of the Subject Properties**

(Continued)

Wastewater Treatment/Lagoon

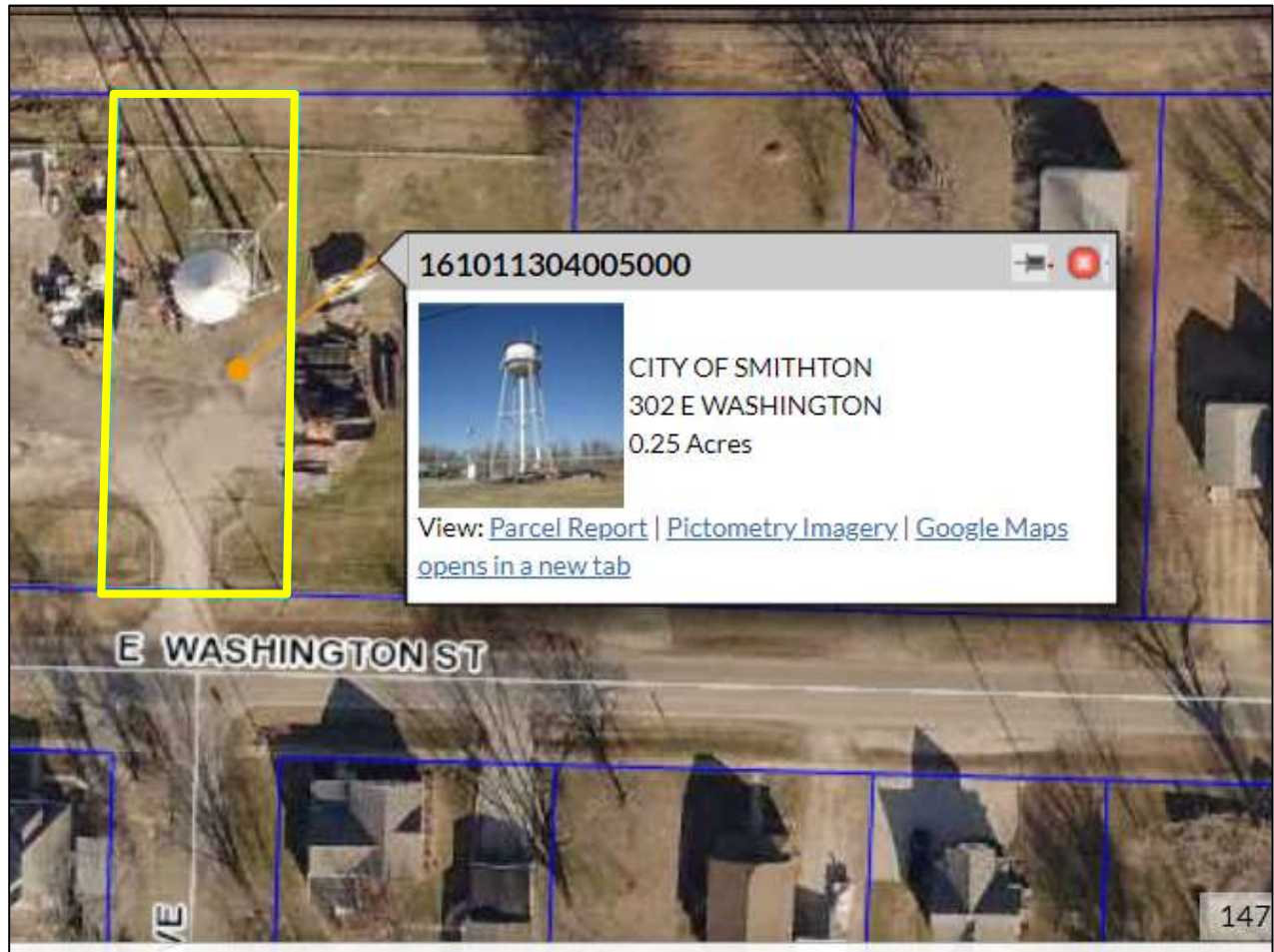




**Description of the Subject Properties**

(Continued)

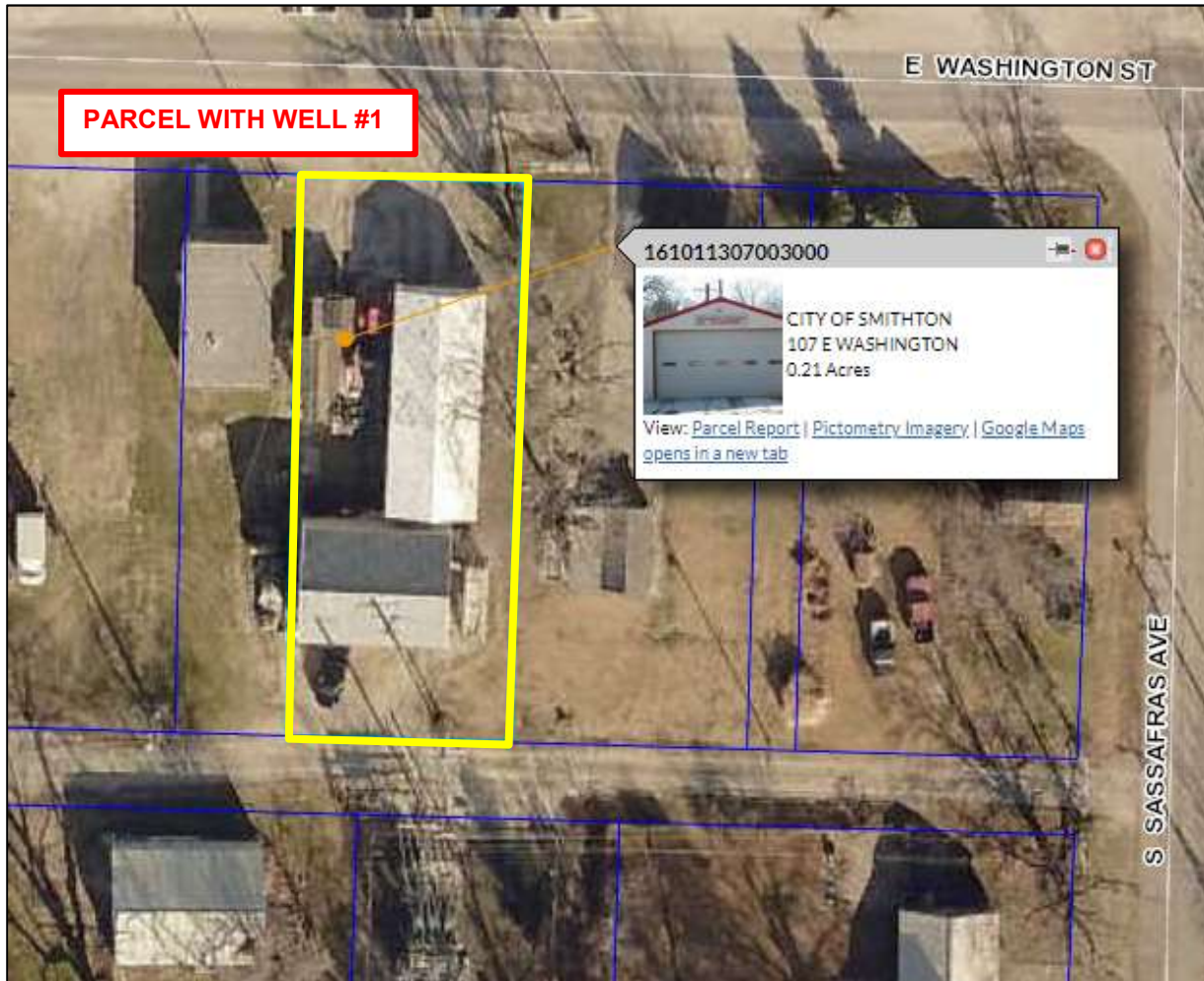
Water Tower/Storage



**Description of the Subject Properties**

(Continued)

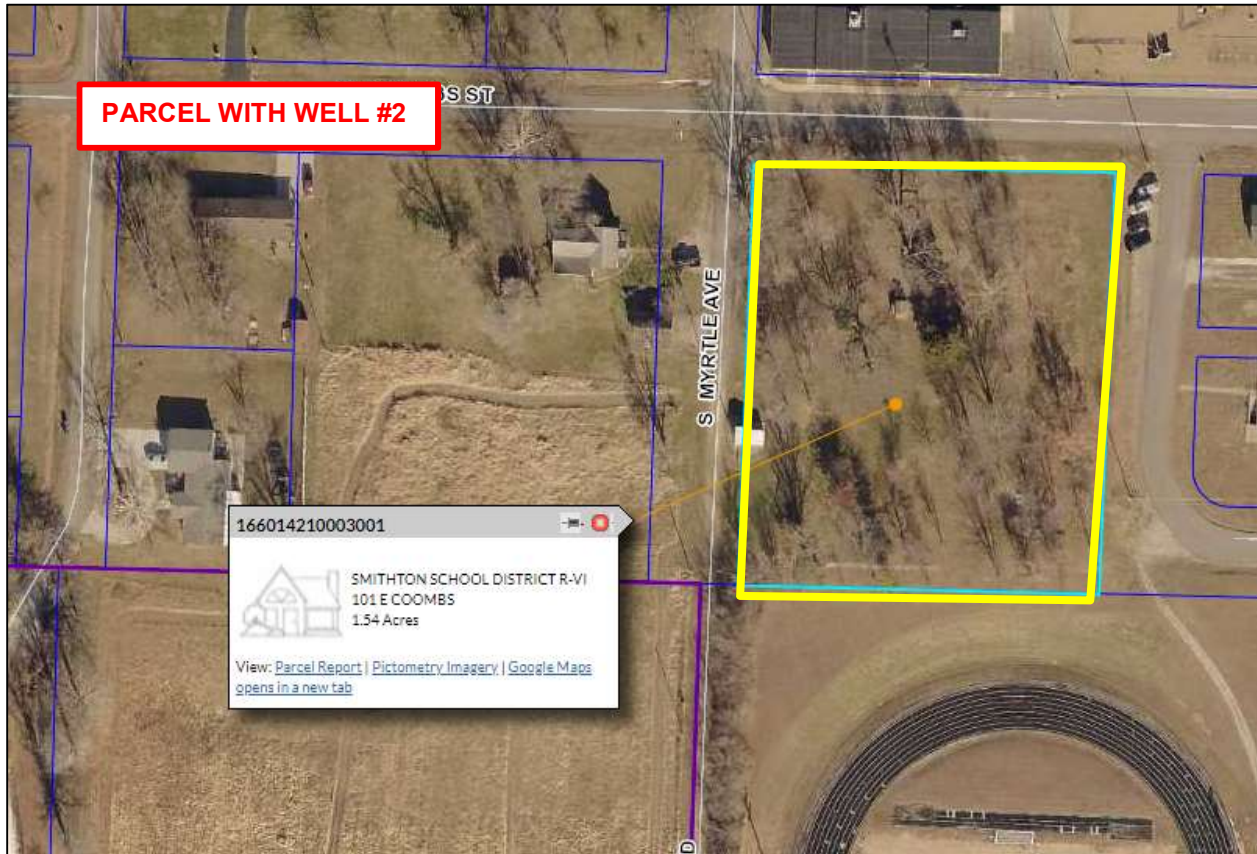
Well #1



## Description of the Subject Properties

(Continued)

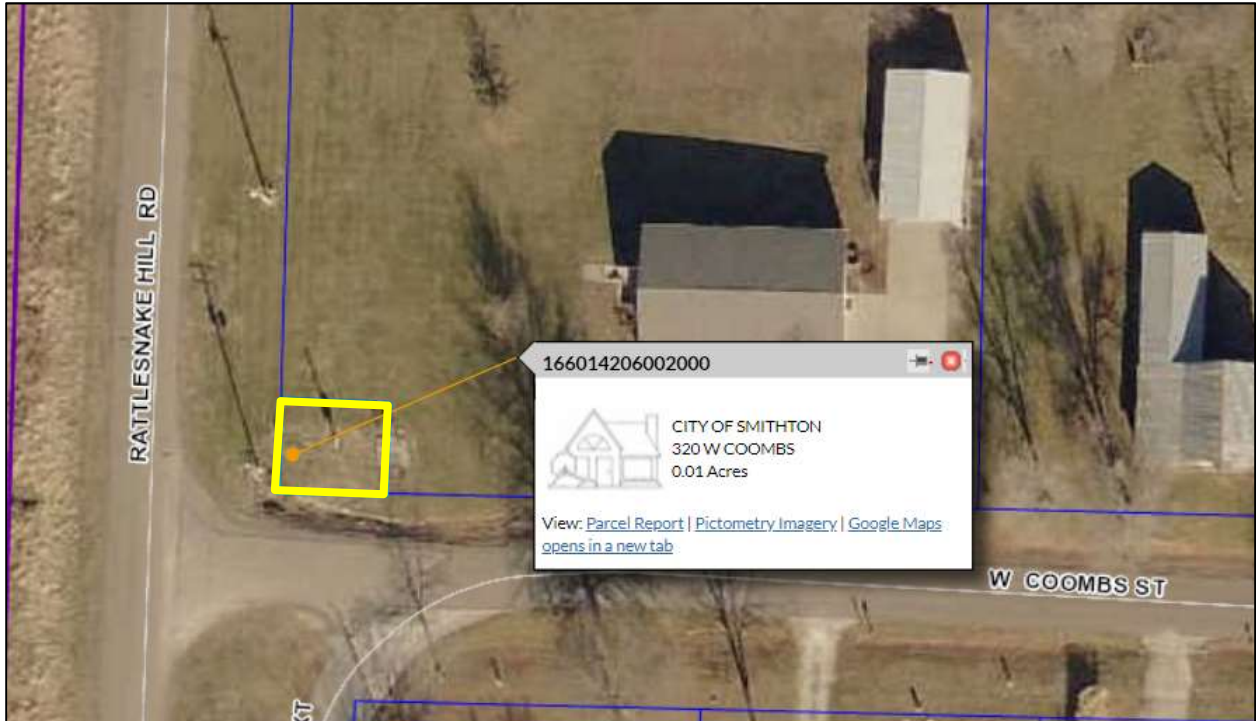
### Well #2



**Description of the Subject Properties**

(Continued)

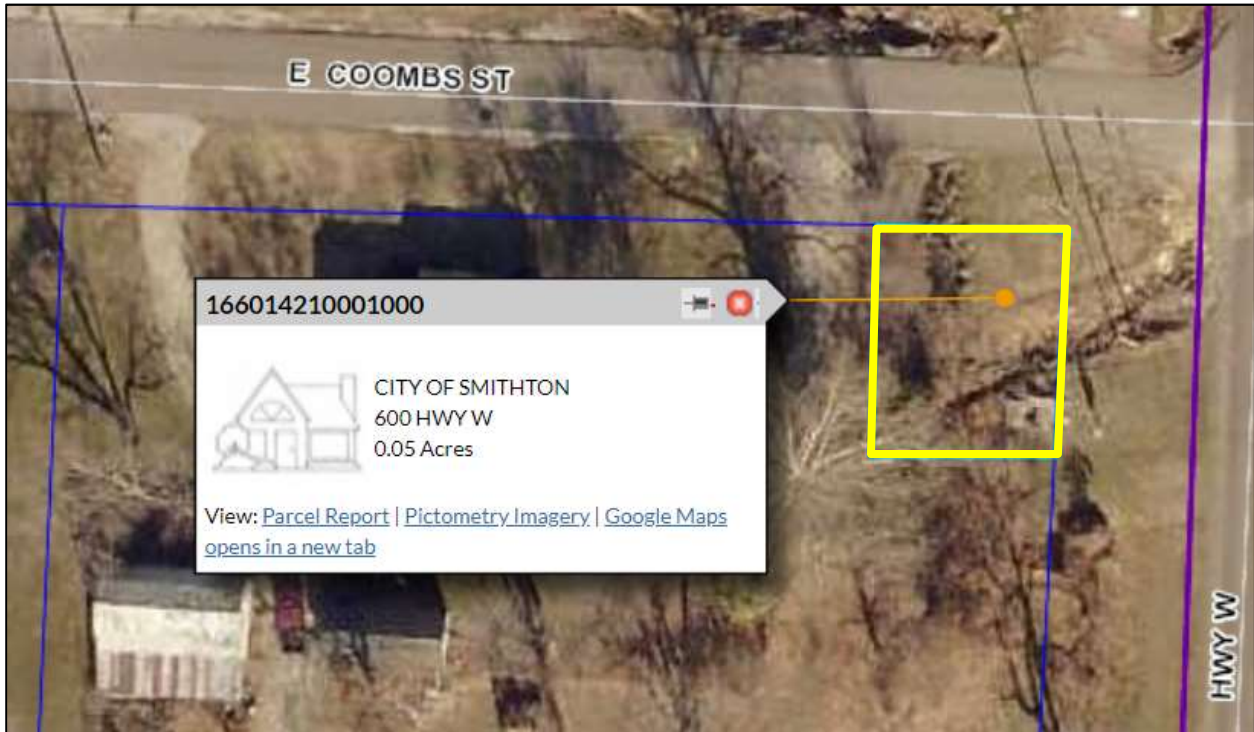
Lift Station #1



**Description of the Subject Properties**

(Continued)

Lift Station #2



**Subject Property Photographs**

**WASTEWATER TREATMENT PARCEL**

Rattlesnake Hill Road



**Subject Property Photographs**

(Continued)

**WATER STORAGE TANK**  
302 E. Washington Street



**Subject Property Photographs**

(Continued)

**Well #1**  
107 E. Washington Street





**Subject Property Photographs**

(Continued)

**Well #1**  
107 E. Washington Street



**Subject Property Photographs**

(Continued)

**Well #2**

Coombs Street south of Myrtle Avenue



**Subject Property Photographs**

(Continued)

**Lift Station #1**  
320 W. Coombs Street



**Subject Property Photographs**

(Continued)

**Lift Station #2**  
600 Highway W



## **Highest and Best Use Analysis**

The beginning point in the valuation of any real estate is the determination of the property's highest and best use. Highest and Best Use is defined in the 15<sup>th</sup> Edition of *The Appraisal of Real Estate* as follows:

*The reasonably probable and legal use of vacant land or an improved property that is physically possible, appropriately supported, and financially feasible and that results in the highest value.*

The 14<sup>th</sup> Edition states that there are four implicit steps as part of the analysis that are applied in the following order: (1) Legally Permissible, (2) Physically Possible, (3) Financially Feasible, and (4) Maximally Productive.

The subject property includes land (owned in fee and permanent easements), and infrastructure/facilities associated with the City of Smithton water delivery and wastewater systems. After considering the components of the subject property systems as a whole, and taking into account the analysis and report prepared by Flinn Engineering, it is our opinion the highest and best use of the subject property as of July 14, 2020, is its present use as a water delivery and wastewater system. Furthermore, it is our opinion the market value of the land, as vacant, is also for its present use as part of a utility infrastructure system.

## **Application of the Approaches to Value**

Normally included within the steps of the valuation process are the three classic approaches to a value estimate: the Cost Approach, the Sales Comparison Approach and the Income Capitalization Approach. Each of these approaches tends to independently serve as a guide to the valuation of the property with varying degrees of validity.

The Cost Approach gives recognition to the fact that buyers have available to them the alternative of constructing a new building when contemplating the purchase of an existing building. Thus, the cost to reproduce the property is utilized as a measure of value.

However, most properties experience varying degrees of accrued depreciation which result from physical depreciation, functional obsolescence and external obsolescence. Any of these three types of depreciation (or a combination thereof) from which the property suffers must be deducted from the estimated cost new of the improvements. The difficulty, then, in applying the Cost Approach is the ability of the appraiser to accurately extract or estimate the amount of depreciation the property being appraised suffers.

The Sales Comparison Approach is based upon the theory that the value of a property is determined by the actions of buyers and sellers in the market for comparable types of property. Recognizing no two properties are identical and that properties sell at different times under different market conditions, the application of the Sales Comparison Approach requires the appraiser to consider any differences between a respective sale and the subject property which may affect value. After the relevant differences are adjusted for, an indicated range of value results.

The theory of the Sales Comparison Approach also realizes that buyers and sellers often have motivations that are unknown to the appraiser and difficult to quantify in the adjustment process. Therefore, while this approach has certain strengths and foundation, it must be carefully applied in order to lead the appraiser to a realistic opinion of value.

And lastly, the Income Capitalization Approach is typically given very much consideration in the appraisal process for income-producing properties. The Income Capitalization Approach gives recognition to the subject property's capabilities of producing an income and that investors in the real estate market will pay a specific amount of cash, or its equivalency, to receive that income, as well as the rights of ownership of the property at the end of the income period.

The Income Capitalization Approach is applied based upon market-extracted information, most notably the income and expenses that prevail in the market for the type of property being appraised. After an appropriate estimate of income is arrived at, the income is converted to an estimate of value via a capitalization rate. The capitalization rate is also either extracted from the market or may be derived based upon a built-up method.

## **Application of the Approaches to Value**

(Continued)

After the appraiser independently applies each approach to value, the three resultant value estimates are reconciled into an overall estimate of value. In the reconciliation process, the appraiser analyzes each approach with respect to its applicability to the property being appraised. Also considered in the reconciliation process is the strength and weakness of each approach with regards to supporting market data.

Regarding the valuation of the subject property, we have applied the Cost Approach and the Sales Comparison Approach. The Income Capitalization Approach was not applied due to the unavailability of the significant amount of market data pertaining to income and expenses that would be necessary to arrive at a credible conclusion.

Following this section is a more detailed explanation of the Cost Approach and the Sales Comparison Approach.

## **Cost Approach**

The Cost Approach to Value is a technique in the appraisal process which recognizes that a prudent purchaser/investor of real estate may consider constructing a new building as an alternative to buying an existing property.

Although it holds true that a prudent purchaser would not pay more for a building than the cost of buying the land and constructing a new building which would offer similar utility, the estimated cost new of the property must be adjusted for items of depreciation which the property being appraised has suffered. Only then will the Cost Approach yield an indication of value which can be correlated with the other two approaches to arrive at the Market Value of the property.

The beginning point of the typical Cost Approach is to arrive at an estimate of the land value as vacant. The land value is arrived at by applying the Direct Comparison Approach utilizing vacant land sales from the market.

The next step is to estimate the cost new of the building. There are two primary types of cost: the Reproduction Cost and the Replacement Cost.

Reproduction Cost is defined as:

*The cost of construction, at current prices, of an exact duplicate, or replica, using the same materials, construction standards, design, layout, and quality of workmanship, and embodying all of the deficiencies, superadequacies, and obsolescence of the subject building.*<sup>9</sup>

Replacement Cost is defined as:

*The cost of construction, at current prices, of a building having utility equivalent to the building being appraised but built with modern materials and according to current standards, design, and layout.*<sup>10</sup>

If a property suffers any functional obsolescence, it is necessary to utilize the Reproduction Cost estimate. The measure of loss of value from the functional inadequacy (or superadequacy) would then be deducted as an item of depreciation.

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<sup>9</sup> *The Dictionary of Real Estate Appraisal*, Second Edition, (Chicago, Illinois: American Institute of Real Estate Appraisers, 1989), p. 254.

<sup>10</sup> Ibid.



## **Cost Approach**

(Continued)

After the cost of the property is estimated, all items of depreciation are measured and deducted from the cost to arrive at an estimate of the depreciated cost new of the improvements. The land value as vacant is then added to arrive at a total estimate of the property via the Cost Approach.

Thus, to accurately estimate the value of the property, the appraiser must:

- 1). Estimate the value of the land as vacant;
- 2). Estimate the cost new of the building;
- 3). Estimate the amount of all items of depreciation, if any;
- 4). Deduct the depreciation estimate from the cost new estimate; and
- 5). Add the estimated land value to the depreciated value of the improvements.

The starting point in the application of the Cost Approach is to arrive at an estimate of the subject property land as vacant. The land value is estimated based upon the Sales Comparison theory which basically states that no one will pay more for a parcel of land than the cost of acquiring an equally suitable parcel. Therefore, the value of the site is arrived at by measuring the actions of buyers and sellers in the market for comparable parcels of land.

With regard to the fee value of the subject property parcels owned in fee (Lift Station #1, Lift Station #2, and the Water Treatment Lagoon parcel) and the contributory value of the easements presumed to be in place for the two well pump sites and the water storage tank site, we have undertaken a study of market sales of vacant land.

The land sales are presented in two categories: Small Tract and Large Tract. The following is a summary of the adjusted market data relied on for this analysis. The subject property parcels are referred to as follows:

- Parcel A – Well #1 (assumed permanent easement)
- Parcel B – Well #2 (assumed permanent easement)
- Parcel C – Wastewater Treatment Lagoon (owned in fee)
- Parcel D – Lift Station #1 (owned in fee)
- Parcel E – Water Storage Tower (assumed permanent easement)
- Parcel F – Lift Station #2 (owned in fee)

## Cost Approach

(Continued)

| SMALL TRACT LAND SALE COMPARABLES |  |              |                                 |                   |                    |
|-----------------------------------|--|--------------|---------------------------------|-------------------|--------------------|
| TRANSACTION                       | LOCATION   | DATE OF SALE | LAND SIZE (ACRES)               | ZONING/ USE       | ADJUSTED PRICE PSF |
| 1                                 | NWC Highway E and White Oak Lane, Green Ridge    | 10/31/2019   | 5.00                            | Rural Residential | \$0.20             |
| 2                                 | 101 Rebar Road, Sedalia                          | 5/31/2019    | 7.02                            | Rural Commercial  | \$1.88             |
| 3                                 | 991 Winchester Drive, Sedalia                    | 4/2/2018     | 1.01                            | Commercial        | \$5.11             |
| 4                                 | 503 W. Newton Street, Versailles                 | 3/16/2017    | 1.12                            | Commercial        | \$2.13             |
| 5                                 | 3197 S Odell Avenue, Marshall                    | 1/4/2015     | 4.50                            | Rural Commercial  | \$0.51             |
| 6                                 | W/S Maple Street, South of Airport Road, Lincoln | Listing      | 1.50                            | Commercial        | \$0.45             |
| 7                                 | W/S Maple Street, South of Airport Road, Lincoln | Listing      | 2.80                            | Commercial        | \$0.45             |
| 8                                 | SWC Maple Street and Airport Road, Lincoln       | Listing      | 10.00                           | Commercial        | \$0.23             |
| 9                                 | SWC Maple Street and Airport Road, Lincoln       | Listing      | 14.30                           | Commercial        | \$0.29             |
|                                   |  |              | STATISTICS FOR ALL TRANSACTIONS |                   |                    |
|                                   |  |              | LOW                             | 1.01              | \$0.20             |
|                                   |  |              | HIGH                            | 14.30             | \$5.11             |
|                                   |  |              | AVERAGE                         | 5.25              | \$1.25             |
|                                   |  |              | MEDIAN                          | 4.50              | \$0.45             |

The Small Tract comparables indicate adjusted prices ranging from \$0.20/SF to \$5.11/SF with an average of \$1.25/SF and a median of \$0.45/SF depending upon location, size, and use. These comparables are utilized to value the parcels owned in fee identified herein as Parcels D and F permanent easement parcels identified herein as Parcels A, B, and E.

| LARGE TRACT LAND SALE COMPARABLES |  |              |                                 |                   |                     |
|-----------------------------------|--|--------------|---------------------------------|-------------------|---------------------|
| TRANSACTION                       | LOCATION   | DATE OF SALE | LAND SIZE (ACRES)               | ZONING/ USE       | ADJUSTED PRICE ACRE |
| 1                                 | Smasal Road, Saedalia                            | 3/3/2020     | 39.80                           | Agricultural      | \$4,617             |
| 2                                 | NWC Highway E and White Oak Lane, Green Ridge    | 10/31/2019   | 5.00                            | Rural Residential | \$8,813             |
| 3                                 | Rear Land, Smithton                              | 9/25/2019    | 10.00                           | Agricultural      | \$3,750             |
| 4                                 | 3197 S Odell Avenue, Marshall                    | 1/4/2015     | 4.50                            | Rural Commercial  | \$22,222            |
| 5                                 | W/S Maple Street, South of Airport Road, Lincoln | Listing      | 2.80                            | Commercial        | \$19,602            |
| 6                                 | SWC Maple Street and Airport Road, Lincoln       | Listing      | 10.00                           | Commercial        | \$9,801             |
| 7                                 | SWC Maple Street and Airport Road, Lincoln       | Listing      | 14.30                           | Commercial        | \$12,748            |
|                                   |  |              | STATISTICS FOR ALL TRANSACTIONS |                   |                     |
|                                   |  |              | LOW                             | 2.80              | \$3,750             |
|                                   |  |              | HIGH                            | 39.80             | \$22,222            |
|                                   |  |              | AVERAGE                         | 12.34             | \$11,650            |
|                                   |  |              | MEDIAN                          | 10.00             | \$9,801             |

The Large Tract comparables indicate adjusted prices ranging from \$3,750/acre to \$22,222/acre with an average of \$11,650/acre and a median of \$9,801/acre depending upon location, size, floodplain and use. These comparables are utilized to value the parcel owned in fee identified herein as Parcel C.

**Cost Approach**

(Continued)

**VALUATION OF THE THREE FEE PARCELS**

With respect to Parcel C (Lagoon Site), we relied on the large tract data. The subject property tract contains 5.50 acres and has below average access and utility. The unit value applicable to Parcel C based upon available market data and subject property information is \$8,000/acre, resulting in a value indication rounded to \$44,000.

With respect to Parcel D (Lift Station #1), we relied on the small tract market data. The subject property tract contains 0.01 acres and has average access and utility. The unit value applicable to Parcel D based upon available market data and subject property information is \$0.50/SF, resulting in a value indication rounded to \$200.

With respect to Parcel F (Lift Station #2), we relied on the small tract market data. The subject property tract contains 0.05 acres and has average access and utility. The unit value applicable to Parcel F based upon available market data and subject property information is \$0.50/SF, resulting in a value indication rounded to \$1,100.

Based upon this market data, we have arrived at an opinion of market value of the subject property parcels owned in fee (Parcels C, D, and F):

| VALUE OF PARCELS OWNED IN FEE |                 |                                   |                  |               |            |                          |                     |                 |
|-------------------------------|-----------------|-----------------------------------|------------------|---------------|------------|--------------------------|---------------------|-----------------|
| PARCEL                        | PARCEL NUMBER   | ADDRESS<br>CITY                   | DESCRIPTION      | SIZE<br>ACRES | SIZE<br>SF | ESTIMATED<br>PER ACRE/SF | VALUE<br>INDICATION | ROUNDED         |
| C                             | 165015000001001 | Rattlesnake Hill Road<br>Smithton | Lagoon Site      | 5.500         | 239,580    | \$8,000<br>/Acre         | \$44,000            | \$44,000        |
| D                             | 166014206002000 | 320 W. Coombs Street<br>Smithton  | Lift Station #1  | 0.010         | 436        | \$0.50<br>/SF            | \$218               | \$200           |
| F                             | 166014210001000 | 600 Hwy W<br>Garden City          | Lift Station # 2 | 0.050         | 2,178      | \$0.50<br>/SF            | \$1,089             | \$1,100         |
|                               |                 |                                   |                  |               |            |                          | <b>Total</b>        | <b>\$45,300</b> |

Based upon a review of the three locations, a review of the land values researched for Smithton and surrounding market area that are presented herein, it is our opinion the total fee simple value of the three parcels owned in fee by the City of Smithton is \$45,300.

**Cost Approach**

(Continued)

**VALUATION OF THE PRESUMED PERMANENT EASEMENT RIGHTS FOR THE THREE ADDITIONAL PROPERTIES**

The next step is to determine the contributory value of the permanent easements that are presumed to be in place for the parcels identified herein as Parcels A, B, and E.

With respect to Parcel A (Well/Pump #1), we relied on the small tract land market data. The permanent easement tract is a commercial use that contains 0.21 acres. The well/pump station is located at the rear of the property. As such, the area affected by the easement is 100% of the total site with the permanent easement representing 15% of fee value. The fee unit value applicable to Parcel A, based upon available market data and subject property information, is \$2.00/SF, resulting in a rounded contribution value indication of \$2,700.

With respect to Parcel B (Well/Pump #2), we relied on the small tract land market data. The permanent easement tract is a residential use that contains 1.54 acres. The well/pump station is located at the rear of the property. As such, the area affected by the easement is 100% of the total site with the permanent easement representing 15% of fee value. The fee unit value applicable to Parcel B, based upon available market data and subject property information, is \$0.50/SF, resulting in a rounded contribution value indication of \$5,000.

With respect to Parcel E (Water Tower Site), we relied on the small tract land market data. The permanent easement tract is a commercial use that contains 0.25 acres. The water tower is located in the center of the tract. As such, the area affected by the easement is 100% of the total site with the permanent easement representing 15% of fee value. The fee unit value applicable to Parcel E, based upon available market data and subject property information, is \$2.00/SF, resulting in a rounded contribution value indication of \$3,300.

The following table summarizes the contribution value of the presumed permanent easement rights for the additional properties:

| CONTRIBUTION VALUE OF PERMANENT EASEMENT |                 |                  |       |               |        |           |         |           |          |                 |         |  |
|--|-----------------|------------------|-------|---------------|--------|-----------|---------|-----------|----------|-----------------|---------|--|
| PARCEL                                   | PARCEL NUMBER   | DESCRIPTION      | ACRES | AREA AFFECTED |        | ESTIMATED |         | EASEMENT  |          | VALUE           |         |  |
|  |                 |                  |       | SF            | %      | SF        | FEE PSF | FEE VALUE | % OF FEE | INDICATION      | ROUNDED |  |
| A  | 161011307003000 | Well/Pump #1     | 0.210 | 9,148         | 100.0% | 9,148     | \$2.00  | \$18,295  | 15%      | \$2,744         | \$2,700 |  |
| B  | 166014210003001 | Well/Pump #2     | 1.540 | 67,082        | 100.0% | 67,082    | \$0.50  | \$33,541  | 15%      | \$5,031         | \$5,000 |  |
| E  | 161011304005000 | Water Tower Site | 0.250 | 10,890        | 100.0% | 10,890    | \$2.00  | \$21,780  | 15%      | \$3,267         | \$3,300 |  |
| <b>Total</b>                             |                 |                  |       |               |        |           |         |           |          | <b>\$11,000</b> |         |  |

**Cost Approach**

(Continued)

Based upon a review of the three locations, a review of the land values researched for Smithton and surrounding market area that are presented herein, and a review of permanent easements for water systems for other utility projects, it is our opinion the contributory value of the permanent easements presumed to be in place and encumbering Parcels A, B, and E for the benefit of the City of Smithton is \$11,000.

**CONTRIBUTION OF THE BUILDINGS**

The next component of the Cost Approach is to add the contributory value (depreciated cost new) of the buildings that are part of the subject property water system. The building contribution is arrived at by applying a cost new unit value (cost per square foot) and deducting estimated depreciation using a simple age/lift method.

The contributory value of the well house and chlorine room at the Well #1 location was concluded to be \$3,000 and the contributory value of the well house and chlorine room at the Well #2 location was concluded to be \$2,500.

## **Cost Approach**

(Continued)

### **CONSIDERATION OF THE ASSETS IDENTIFIED IN THE FLINN ENGINEERING REPORT**

The final step in the Cost Approach is to add the depreciated value of the water and wastewater assets that comprise the water and wastewater system infrastructure. With respect to the system facilities, we have consulted with Flinn Engineering, an engineering firm that is very familiar with water and wastewater facility construction costs, depreciation and valuations. A copy of the Flinn report is attached to this appraisal report.

The Flinn report includes a detailed inventory of the water and wastewater assets that are part of this analysis. The analysis by Flinn Engineering concludes an estimated depreciated book value for the water system of \$836,302 and an estimated depreciated book value for the wastewater system assets of \$147,000 (see Page 5, Table 6 of the Flinn Engineering report).

The Flinn report explains that even though the majority of the wastewater system is completely depreciated (per accounting methodology), the wastewater system is still very functional and it is reasonable to anticipate the wastewater assets have a remaining economic life well beyond the depreciation period. For example, Page 4 of the Flinn Report states that lift station equipment has a depreciation period of only 10 years, and thus, both subject property lift stations are fully depreciated. However, the Flinn Report goes on to state *“They could remain in service well beyond the depreciation period if they are continually maintained. Both stations appear to be in good condition.”* The same general statements (assets are fully depreciated) regarding the wastewater collection system are found on Page 5 of the Flinn Report.

Based upon our analysis of the real property rights, combined with the Flinn analysis, the total values of the subject property water and wastewater systems by the Cost Approach are summarized in the table on the following page.

**Cost Approach**

(Continued)

| <b>COST APPROACH SUMMARY - WATER SYSTEM</b>     |                                  |                  |
|---|----------------------------------|------------------|
| <b>CONTRIBUTORY VALUE OF PERMANENT EAEMENTS</b> |                                  |                  |
| <b>PARCEL</b>                                   | <b>DESCRIPTION</b>               | <b>VALUE</b>     |
| A   | Well/Pump #1                     | \$2,700          |
| B   | Well/Pump #2                     | \$5,000          |
| E   | Water Tower Site                 | \$3,300          |
|   | <b>Total</b>                     | <b>\$11,000</b>  |
| <b>WATER SYSTEM DEPRECIATED ASSET VALUE</b>     |                                  |                  |
|   | <b>DESCRIPTION</b>               | <b>VALUE</b>     |
|   | Water System (From Flinn Report) | \$836,302        |
|   | Buildings                        | \$5,500          |
|   | <b>Total</b>                     | <b>\$841,802</b> |
| TOTAL WATER SYSTEM                              |                                  | \$852,802        |
| <b>ROUNDED VALUE INDICATION</b>                 |                                  | <b>\$850,000</b> |

| <b>COST APPROACH SUMMARY - WASTEWATER SYSTEM</b> |                                    |                  |
|--|------------------------------------|------------------|
| <b>MARKET VALUE OF PARCELS OWNED IN FEE</b>      |                                    |                  |
| <b>PARCEL</b>                                    | <b>DESCRIPTION</b>                 | <b>VALUE</b>     |
| C  | Lagoon Site                        | \$44,000         |
| D  | Lift Station #1                    | \$200            |
| F  | Lift Station #2                    | \$1,100          |
|  | <b>Total</b>                       | <b>\$45,300</b>  |
| <b>WATER SYSTEM DEPRECIATED ASSET VALUE</b>      |                                    |                  |
|  | <b>DESCRIPTION</b>                 | <b>VALUE</b>     |
|  | Wastewater System (from Flinn Repc | \$147,000        |
|  | <b>Total</b>                       | <b>\$147,000</b> |
| TOTAL WASTEWATER SYSTEM                          |                                    | \$192,300        |
| <b>ROUNDED VALUE INDICATION</b>                  |                                    | <b>\$190,000</b> |

**Cost Approach**

(Continued)

**SUMMARY OF VALUE OPINIONS INDICATED BY COST APPROACH**

Based upon our analysis of the subject property, our independent research, and our reliance on the Flinn Engineering report, the values indicated by the Cost Approach are as follows:

**Cost Approach - Indicated Value of Smithton Water System**

**\$850,000**

Eight Hundred Fifty Thousand Dollars

**Cost Approach - Indicated Value of Smithton Wastewater System**

**\$190,000**

One Hundred Ninety Thousand Dollars



## **Sales Comparison Approach**

The Sales Comparison Approach is an approach to value which measures the actions and activity of buyers and sellers in the market and relates those actions to the property being appraised. Also referred to as the Market Approach, the underlying premise of this approach to value is that no prudent purchaser will pay more for a property than the cost of acquiring an equally suitable parcel. The fundamental concept of the Sales Comparison Approach is the Principle of Substitution, which is defined as:

*A valuation principle that states that a prudent purchaser would pay no more for real property than the cost of acquiring an equally desirable substitute on the open market. The Principle of Substitution presumes that the purchaser will consider the alternatives available and will act rationally or prudently on the basis of the information about those alternatives, and that reasonable time is available for the decision. Substitution may assume the form of the purchase of an existing property, with the same utility, or of acquiring an investment which will produce an income stream of the same size with the same risk as that involved in the property in question.*

Research of the area, state and national real estate market was completed in order to find sales of water distribution systems that included comparable features to the subject property. There have been several sale properties selected from all available sale transactions for analysis in this approach. The sales data was provided through information from the Missouri Public Service Commission, Illinois Commerce Commission, Aqua America Inc., American Water Company, and Hartman Consultants LLC.

The sales were considered to be the most comparable to the subject property in terms of arms-length sales transactions, location of the system, capital improvements supporting the water system and number of water customer accounts in the entire system. All information of the sale transactions and properties was confirmed by the previously mentioned party or parties to the transaction.

As explained in the Scope of Work section of this report, we included transactional data pertaining to utility systems located in Illinois. We did consider transactions by Missouri American Water of systems in Missouri. However, the market data available for utility systems acquired in Missouri is very limited, with Missouri American Water Company being the primary entity acquiring systems. Therefore, it is reasonable and acceptable to expand the search for comparable market data to areas outside the borders of Missouri. The following is a summary of the market data relied on for this assignment.

**Sales Comparison Approach**

(Continued)

**Sale 1****City of Rosiclare Water and Wastewater Utility (Water & Sewer)  
City of Rosiclare, Hardin County, Illinois****Closed May 29, 2020****Asset Purchase Agreement signed June 4, 2019****Price: \$480,000 Water****\$120,000 Sewer****Water system with 525 customers (\$914 per customer)****Wastewater system with 400 customers (\$300 per customer)****Seller: City of Rosiclare, IL****Buyer: Illinois American****ICC Docket #19-0733**

This sale included the transfer of a water treatment and sewer system. The water system includes two parcels of land owned in fee, one water treatment plant built in 1934, two active wells built in 1995, one 150,000 gallon water tower, one settling basin and one overflow basin. The water system purchase does not include the distribution system. The water treatment plant design maximum capacity is 350,000 gpd. The wastewater system includes four parcels of land owned in fee, one wastewater lift station built in 2017, one wastewater treatment plant built in 1951 with major improvements in 1987, and approximately 46,000 linear feet of mains.

**Sales Comparison Approach**

(Continued)

**Sale 2**

**Village of Andalusia Water and Wastewater Utility (Water & Sewer)  
Village of Andalusia, Rock Island County, Illinois**

**Closed July 20, 2020**

**Asset Purchase Agreement signed May 7, 2019**

**Price: \$1,800,000 Water**

**\$1,500,000 Sewer**

**Water system with 490 customers (\$3,674 per customer)**

**Wastewater system with 460 customers (\$3,261 per customer)**

**Seller: Village of Andalusia, IL**

**Buyer: Illinois American**

**ICC Docket #19-0732**

This sale included the transfer of a water treatment and distribution system, and sewer system. The water system includes a 310,000 gallon storage tank built in 1980, a chlorination and fluoridation water treatment plant operating in the 60 to 80 psi range, 106 hydrants, a booster pump station, and approximately 55,000 linear feet of water mains. The sewer system includes three lift stations, approximately 6,000 linear feet of force mains, 34,800 linear feet of gravity collection mains, 140 manholes, and a three cell wastewater treatment plant. The sanitary system does not include stormwater and is not a CSO type facility.

**Sales Comparison Approach**

(Continued)

**Sale #3**

**Village of Glasford Water & Wastewater Utility (Water & Sewer)  
Village of Glasford, Peoria County, Illinois**

**Closed September 19, 2019**

**Asset Purchase Agreement signed August 28, 2018**

**Water System Price: \$800,000**

**Water System with 492 Customers (\$1,626 per customer)**

**Wastewater System Price: \$1,100,000**

**Wastewater System with 482 Customers (\$2,282 per customer)**

**Seller: Village of Glasford, IL**

**Buyer: Illinois American**

**ICC Docket #18-1498**

This sale included the transfer of a water and wastewater system.

The water system is in average condition and includes a water treatment plant with a capacity of 200 gpm or 288,000 gpd with attained capacity of 150 gpm or 216,000 gpd; two active wells and one well not in service; a 125,000 gallon elevated storage tank; a 50,000 gallon ground storage tank; meters; hydrants; approximately 48,000 linear feet of water mains; four parcels of land owned in fee; and permanent easements pertaining to water mains located on private property. Well #1 is 876 feet deep; Well #2 is not in service (radius) and is 1,750 feet deep; Well #3 is 1,000 feet deep with 1,300 linear feet of 4" raw water main.

The wastewater system is in average condition and includes a 0.26 MGD DAF wastewater treatment plant with a MDF of 0.65 MGD with basic secondary treatment with filtration and sludge treatment; one lagoon; one wastewater lift station; and approximately 47,000 linear feet of mains.

**Sales Comparison Approach**

(Continued)

**Sale #4**

**Grant Park Wastewater Utility (Sewer)  
Village of Grant Park, Kankakee County, Illinois**

**Closed in December 2019**

**Asset Purchase Agreement signed May 17, 2018**

**Price: \$2,300,000**

**Wastewater System with 535 Customers (\$4,299 per customer)**

**Seller: Village of Grant Park, IL**

**Buyer: Aqua Illinois**

**ICC Docket #18-1093**

This sale included the transfer of a sewer system. The sale includes a wastewater treatment plant, one lift station, portions of two parcels of land owned in fee and permanent easement interests, and a wastewater collection system. The permanent easements pertain to properties that are utilized for the lift station, wastewater mains located on private property, an access road, and septic tanks located on private property.

## **Sales Comparison Approach**

(Continued)

### **Sale #5**

**Lawson Water and Wastewater Utilities (Water and Sewer)  
City of Lawson, Clay and Ray Counties, Missouri**

**Sold August 2018 (Letter of Intent signed April 21, 2017)**

**Price: \$4,000,000**

**Price breakout per appraisal of this system:**

**\$2,619,000 for Water System with 970 Customers (\$2,711 per customer)**

**\$1,356,000 for Sewer System with 904 Customers (\$1,515 per customer)**

**\$3,975,000 for both Water and Sewer System, rounded within client  
documentation to \$4,000,000**

**Seller: City of Lawson, MO**

**Buyer: Missouri American**

This sale included the transfer of a water system sewer system. The sale includes three parcels of land owned in fee and a permanent easement interest in nine additional tracts. The permanent easements pertain to properties that are utilized for lift stations, a water tower, and a pump station.

The water system was built in 1956 and includes two elevated water storage tanks, a pump system, and the water distribution system. The 300,000 gallon tank was constructed in the 1990-1991. The 50,000 gallon tank was constructed in the 1940s or 1950s. The sewer system includes a sewer treatment facility including a four-cell lagoon system, eight lift stations, and the sewer collection system.

An appraisal report dated July 7, 2017 of the Lawson system indicated the following expected expenditures after sale:

According to information from Lawson's current permit (MO-0091031) and the Missouri Department of Natural Resources affordability study, the regulations regarding the sewer system operations will be changing in 2020. The water will be required to be disinfected prior to discharge. In addition, a different chemical will need to be added to offset the disinfectant that was added before it can be released into a stream. This will require either a new system to be built or significant changes will need to be made to the existing facility. The chemical added is to control the ammonia levels and nutrient levels. Also, an in-cell aeration system will be needed to help remove the sludge the 1<sup>st</sup> and 2<sup>nd</sup> cells. Cost at this time are not known.

**Sales Comparison Approach**

(Continued)

**Sale #6**

**Village of Fisher Water and Sewer System (Water & Sewer)  
Fisher, Champaign County, Illinois**

**Sold March 2018 (Asset Purchase Agreement Signed July, 2017)**

**Water System Price: \$3,700,000 with 890 Customers (\$4,157 per customer)**

**Sewer System Price: \$3,100,000 with 890 Customers (\$3,483 per customer)**

**Seller: Village of Fisher**

**Buyer: Illinois American Water**

**ICC Docket #17-0339**

This sale includes a water delivery system that includes a water treatment facility, two elevated water storage tanks and two groundwater supply wells. The water treatment plant includes the treatment process, one 30,000 gallon capacity clearwell, and three pumps rated 167 GPM. The clearwell (underground storage tank) has a capacity of 30,000 gallons. Tank #1 has a capacity of 50,000 gallons and was constructed in 1936. Tank #2 has a capacity of 100,000 gallons and was constructed in 1973. The wells are both 236' deep and rated 125 GPM, drilled in 1936 and 1959. Average daily production is 135,000 per day.

This sale includes a wastewater system that includes a wastewater treatment facility with an average daily flow between 170,000 and 180,000 gallons per day.

Expenditures during the first five years after sale are estimated at \$610,000 for the water utility and \$2,300,000 for the sewer utility.

## **Sales Comparison Approach**

(Continued)

### **Sale #7**

**Village of Wardsville Utility System (Water and Sewer)  
Wardsville, Cole County, Missouri**

**Sold May, 2017 (Asset Purchase Agreement Signed December 8, 2016)**

**Price: \$2,750,000 (\$2,750,003 for both Water and Sewer System, rounded within client documentation to \$2,750,000)**

**\$795,428 for Water System with 480 Customers (\$1,657 per customer)**

**\$1,954,575 for Sewer System with 407 Customers (\$4,802 per customer)**

**Seller: Village of Wardsville**

**Buyer: Missouri American Water**

**MO Docket #WA-2017-0181**

According to a press release on April 11, 2017, from the Board of Trustees of the Village of Wardsville, Wardsville has three sewage treatment plants (Deer Haven, Churchview, and Northwest), none of which reportedly are able to meet the Missouri Department of Natural Resources and the EPA requirements regarding limitations of the amount of ammonia that can be discharged from sewage treatment plants. After a study by an engineering firm, it was determined that the three options to meet the EPA limits ranged from \$4 million to \$12 million. According to Missouri American Water, the expected capital investment after the sale includes \$305,000 for the water system and \$395,000 for the sewer system, all of which is projected to be invested over a five-year period.

Wardsville's water system (MO3010831) produces an average of 90,000 gpd. Water system assets include two (2) wells, 150,000-gallon elevated tank, 250,000-gallon ground storage tank, 300 gpm booster pump, 63 hydrants, 146 valves and over 15 miles of distribution main ranging in size from 2" to 8" in diameter.

The wastewater system includes the following treatment facilities:

Churchview WWTP (NPDES MO-0109118) is a packaged extended aeration system with a design flow of 30,000 gpd and actual flow of 15,000 gpd. It services 102 connections. Deerhaven WWTP (NPDES MO-119326) is a packaged extended aeration system with a design flow of 21,368 gpd and actual flow of 17,000 gpd. It serves 81 connections. Northwest WWTF (NPDES MO-0129658) is an aerated lagoon system with design flow of 151,000 gpd and actual flow of 44,000 gpd. It serves 212 connections.

The collection system includes five (5) pump stations, 38 brick manholes, 238 concrete manholes, approximately 9 miles of gravity sewers and 1.7 miles of force main.



**Sales Comparison Approach**

(Continued)

We were able to determine a unit value for each of the transactions. In addition, we have reviewed the respective engineering reports for all of the systems for the purpose of comparing the condition and contributory values of assets.

Most of the transactions involved conveyances of both water and wastewater systems. However, we are familiar with the transactions and in most cases the purchase includes an allocation for the separate systems.

Based upon this market data, we have concluded a unit value of \$2,500 per water customer for the subject property water system and \$3,000 per wastewater customer for the subject property wastewater system.

Based on the 225 reported water customers and 223 wastewater customers served by the City of Smithton systems, the indicated value of the subject property systems is as follows:

**SUMMARY OF WATER DELIVERY SYSTEM VALUATION****SALES COMPARISON APPROACH**

|   |                  |
|---|------------------|
| Number of Water Customers for Smithton System:              | 225              |
| Unit Value (value per customer) Concluded from Market Data: | \$2,500          |
| <b>Value of Smithton Water Delivery System (rounded):</b>   | <b>\$565,000</b> |

**SUMMARY OF WASTEWATER COLLECTION SYSTEM VALUATION****SALES COMPARISON APPROACH**

|   |                  |
|---|------------------|
| Number of Wastewater Customers for Smithton System:             | 223              |
| Unit Value (value per customer) Concluded from Market Data:     | \$3,000          |
| <b>Value of Smithton Wastewater Collection System (rounded)</b> | <b>\$670,000</b> |

## **Final Reconciliation**

The purpose of this appraisal report was to arrive at an estimate of market value for the City of Smithton water delivery and wastewater systems based upon conditions evident in the market as of July 14, 2020. We inspected the subject property, reviewed numerous reports and documents provided by the client and the City of Smithton, conducted research with regard to land values and easement valuation, and reviewed a report prepared by Flinn Engineering.

Our analysis of the City of Smithton water delivery and wastewater collection systems included the application of the Cost Approach and the Sales Comparison Approach. As explained in the report, the Income Capitalization Approach is not customarily relied on for the valuation of water delivery and wastewater collection systems acquired by investor-owned entities.

The Sales Comparison Approach included an analysis of transactions from Missouri and transactions from Illinois. As explained in this report, the Illinois market is more representative of a competitive market with balance the supply and demand forces. The market approach resulted in opinions of \$565,000 for the subject property water delivery system and \$670,000 for the subject property wastewater collection system.

The Cost Approach included the analysis and valuation of the system by its components: land (fee owned parcels and permanent easements), and facilities/infrastructure associated with the water delivery and wastewater collection systems. The Cost Approach resulted in a conclusion of value for the water delivery system of \$850,000 and a conclusion of value for the wastewater collection system of \$190,000.

Based upon a review of the market data available for both approaches to value, we have concluded that primary emphasis should be placed on the value opinions indicated by the Sales Comparison Approach. The Cost Approach was not considered to be reliable due to the fully depreciated assets that still have significant remaining economic life.

Therefore, our final value opinions for the subject property systems are as follows:

|  |   |
|--|---|
| <b>Market Value of<br/>Water Delivery System</b> | <b>Market Value of<br/>Wastewater Collection System</b> |
| <b>\$565,000</b>                                 | <b>\$670,000</b>  |

These valuation opinions are developed subject to the extraordinary assumptions and hypothetical conditions explained in this appraisal report.

## **Statement of Certification – Joseph E. Batis**

I certify that, to the best of my knowledge and belief:

- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- I have not completed a real estate appraisal of the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- my engagement in this assignment was not contingent upon developing or reporting predetermined results.
- my compensation for completing this assignment is not contingent upon the developing or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice* and in conformity with the requirements of the *Code of Professional Ethics* and the *Standards of Professional Appraisal Practice* of the Appraisal Institute.
- I have made a personal inspection of the property that is the subject of this report.
- no one other than Chris Stallings, Jordan Leiner, and Edward Dinan provided significant real property professional assistance to the person signing this certification.

As of the date of this report, Joseph E. Batis has completed the requirements of the continuing education program of the Appraisal Institute.

Furthermore, I certify that the use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

June 30, 2022

  
\_\_\_\_\_  
Joseph E. Batis, MAI, AI-GRS, R/W-AC

Edward J. Batis & Associates, Inc.

General Certification Lic. #553.000493 (IL; Expires 09/23)

General Certification Lic. #2016044083 (MO; Expires 06/24)

General Certification Lic. #CG03684 (IA; Expires 06/22)

General Certification Lic. #5660 (TN; Expires 06/23)

General Certification Lic. #4001017857 (VA; Expires 06/23)

General Certification Lic. #TX 131049 G (TX; Expires 11/22)

General Certification Lic. #A8416 (NC; Expires 06/22)

General Certification Lic. #CGA-1027103 (AZ; Expires 07/23)

General Certification Lic. #34627 (MD; Expires 04/25)

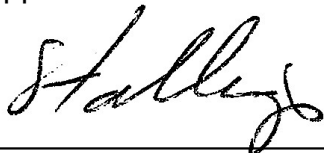
## **Statement of Certification – Chris Stallings**

I certify that, to the best of my knowledge and belief:

- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- I have not completed a real estate appraisal of the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- my engagement in this assignment was not contingent upon developing or reporting predetermined results.
- my compensation for completing this assignment is not contingent upon the developing or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice* and in conformity with the requirements of the *Code of Professional Ethics* and the *Standards of Professional Appraisal Practice* of the Appraisal Institute.
- I have not made a personal inspection of the property that is the subject of this report.
- no one other than Edward Dinan, Jordan Leiner, and Joseph E. Batis provided significant real property professional assistance to the person signing this certification.

As of the date of this report, Chris Stallings has completed the requirements of the continuing education program of the Appraisal Institute.

Furthermore, I certify that the use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.



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Chris Stallings, MAI, CCIM, MRICS  
Colliers International

June 30, 2022

## **Statement of Certification – Edward Dinan**

I certify that, to the best of my knowledge and belief:

- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- I have not completed a real estate appraisal of the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- my engagement in this assignment was not contingent upon developing or reporting predetermined results.
- my compensation for completing this assignment is not contingent upon the developing or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice* and in conformity with the requirements of the *Code of Professional Ethics* and the *Standards of Professional Appraisal Practice* of the Appraisal Institute.
- I have made a personal inspection of the property that is the subject of this report.
- no one other than Chris Stallings, Jordan Leiner, and Joseph Batis provided significant real property professional assistance to the person signing this certification.

As of the date of this report, Edward Dinan has completed the requirements of the continuing education program of the Appraisal Institute.

Furthermore, I certify that the use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.



Edward W. Dinan, CRE, MAI  
Dinan Real Estate Advisors, Inc.

June 30, 2022

**ADDENDA**

Statement of Assumptions and Limiting Conditions

Qualifications of the Appraisers

Flinn Engineering Report

## STATEMENT OF ASSUMPTION AND LIMITING CONDITIONS

The value herein estimated and/or other opinions presented are predicated on the following:

1. No responsibility is assumed for matters of a legal nature concerning the appraised property -- especially those affecting title. It is considered that the title is marketable for purposes of this report. The legal description as used herein is assumed to be correct.
2. The improvement is considered to be within the lot lines (unless otherwise stated); and, except as herein noted, is presumed to be in accordance with local zoning and building ordinances. Any plots, diagrams, and drawings found herein are to facilitate and aid the reader in picturing the subject property and are not meant to be used as references in matters of survey.
3. The appraiser assumes that there are no hidden or unapparent conditions of the property, subsoil or structure which would render it more or less valuable than otherwise comparable properties. The appraiser assumes no responsibility for such conditions or for engineering which might be required to discover such things.
4. Any description herein of the physical condition of improvements including, but not limited to, the heating, plumbing, and electrical systems, is based on visual inspection only, with no demonstration performed, and they are thus assumed to be in normal working condition. No liability is assumed for same, nor for the soundness of structural members for which no engineering tests were made.
5. The appraiser shall not be required to give testimony or appear in court by reason of this appraisal with reference to the property herein described unless prior arrangements have been made.
6. The distribution of total valuation in this report between land and improvements applies only under the existing program of utilization under the conditions stated. This appraisal and the allocations of land and building values should not be used as a reference for any other purpose and are invalid if used so.
7. That this report is to be used in its entirety and only for the purpose for which it was rendered.
8. Information, estimates, and opinions furnished to us and considered in this report were obtained from sources considered reliable and believed to be true and correct; however, no responsibility for guaranteed accuracy can be assumed by the appraiser.
9. The property is appraised as though under responsible ownership and competent management.
10. The report rendered herein is based upon the premise that the property is free and clear of all encumbrances, all mortgage indebtedness, special assessments, and liens--unless specifically set forth in the description of property rights appraised.
11. No part of this report is to be reproduced or published without the consent of its author.
12. The appraisal covers only the property described herein. Neither the figures therein, nor any analysis thereof, nor any unit values thereof derived, are to be construed as applicable to any other property, however similar it may be.
13. Neither all, nor any part, of the contents of this report, or copy thereof, shall be used for any purpose by any but the client without the previous written consent of the appraiser and/or the client; nor shall it be conveyed by any including the client to the public through advertising, public relations, news, sales, or other media, without the written consent and approval of the author--particularly as to value conclusions, the identity of the appraiser or a firm with which he is connected, or any reference to any professional society or institute or any initialed designations conferred upon the appraiser, as stated in his qualifications attached hereto.
14. Any cash flow calculations included in this report are developed from but one of a few alternatives of a possible series and are presented in that context only. Specific tax counsel should be sought from a C.P.A., or attorney, for confirmation that this data is the best alternative. This is advised since a change in value allocation, method or rate of depreciation or financing will have consequences in the taxable income.
15. This appraisal has been made in accordance with the Code of Ethics of the Appraisal Institute.
16. This report has not taken into consideration the possibility of the existence of asbestos, PCB transformers, or other toxic, hazardous or contaminated substances, and/or underground storage tanks (hazardous materials), or the cost of encapsulation or removal thereof. Should client have concern over the existence of such substances on the property, the appraiser considers it imperative for the client to retain the services of a qualified, independent engineer or contractor to determine the existence and extent of any hazardous materials, as well as the cost associated with any required or desirable treatment or removal thereof. The valuation stated herein would therefore be void, and would require further analysis to arrive at a market estimate of value.



## Christopher J. Stallings, MAI, CCIM, MRICS

MANAGING DIRECTOR | HOUSTON  
Valuation & Advisory Services



[chris.stallings@colliers.com](mailto:chris.stallings@colliers.com)

### EDUCATION AND QUALIFICATIONS

Master of Science, - Land  
Economics and Real Estate  
Texas A&M University

Bachelor of Science –  
Texas A&M University

### STATE CERTIFICATION

Texas, Maryland, Alabama,  
Arkansas, Colorado,  
Kansas, Louisiana,  
Mississippi, New Jersey,  
New Mexico, New York,  
Oklahoma, Vermont,  
Washington

### CONTACT DETAILS

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DIR +1 713 835 0088

FAX +1 713 337 1060

Colliers International  
1233 West Loop South  
Suite 1201  
Houston, TX 77027

[www.colliers.com](http://www.colliers.com)

Christopher Stallings is the Managing Director of the Houston office of Colliers International Valuation & Advisory Services. Mr. Stallings started his career in valuation and consulting in 1983 after completing a Masters Degree in Land Economics and Real Estate at Texas A&M University. He also holds the MAI designation by the Appraisal Institute as well as the CCIM and MRICS designations.

As a Managing Director, Mr. Stallings has extensive experience in commercial real estate valuation. Based on 25+ years of experience, he has significant expertise with multi-family valuation, feasibility, and market studies of conventional and affordable properties, condominiums, hotels, single and multi-tenant office buildings, industrial, retail, mixed-use developments, subdivisions, master planned communities, golf courses, marinas, and a wide variety of special purpose property types. Other valuation specialties include going concerns, FF&E and property tax appeal representation. Chris is qualified as an expert witness and has testified in numerous courts regarding real estate valuation matters.

### EXPERIENCE

Chris was a Managing Director at BBG, and Grubb & Ellis Landauer Valuation Advisory Services, LLC. Prior to becoming associated with Grubb & Ellis Landauer, Mr. Stallings was an Associate Director with Integra, Houston; he was Director and Regional Manager for the Commercial Appraisal Group with CB Richard Ellis in Houston and San Francisco and served as a Manager for Standard and Poor's Corporate Value Consulting.

### PROFESSIONAL MEMBERSHIPS AND ACCREDITATIONS

Appraisal Institute, Member (MAI), No. 7422

Certified Commercial Investment Member  
No. 7871

Royal International Charter of Surveyors  
(MRICS #1262784)

Texas Real Estate Broker No. 0351782

Texas Property Tax Consultant No. 10481

Director: Houston Chapter – Appraisal  
Institute and Region VIII Appraisal Institute

Public Relations Committee Chair –  
Appraisal Institute Region VIII

Board of Directors – Foundation Appraisers  
Coalition of Texas (FACT)

Advisory: Leadership Development &  
Advisory (LDAC) – Appraisal Institute

Member: Eagle Scout Association – BSA  
Sam Houston Area Council





**Qualifications of**  
**Joseph E. Batis, MAI, AI-GRS, R/W-AC**  
OCTOBER 2020



**EMPLOYMENT**

President of EDWARD J. BATIS & ASSOCIATES, INC. (1992 – Present), providing real estate valuation and consulting services.

**PROFESSIONAL AFFILIATIONS**

Member of the Appraisal Institute, MAI designation, AI-GRS designation (Member #63637)

Listed on the Appraisal Institute's *Litigation* and *Valuation of Conservation Easements* Professional Development Registries (Only Member in Illinois on both registries).

Member of the International Right of Way Associations, R/W-AC designation (Member #7482)

Member of the American Water Works Association (Member #03666505)

Approved Instructor – Appraisal Institute

**STATE – GENERAL CERTIFICATION APPRAISAL LICENSES**

Illinois – Missouri – Tennessee – Virginia – Iowa

**GENERAL PROFESSIONAL EXPERIENCE**

Real estate valuation services since 1983 for residential, agricultural commercial, industrial, and special purpose properties. Market areas include primarily Illinois and Chicago metropolitan area. Services provided throughout various Midwest states.

**SPECIALIZED SERVICES AND EXPERIENCE**

- Right of Way / Energy Transmission Lines / Fiber Optic Corridors / Railroad Corridors
- Power Transmission Line Corridors / Solar Energy Fields / Underground Gas Storage Fields
- Public and Investor-Owned Utility Systems (water distribution and wastewater collection)
- Valuation of Permanent and Temporary Easements
- Market Impact Studies for Corridors (Power Transmission Lines, Underground Pipelines)
  - Remainder Properties / Proposed Projects / Expansion of Infrastructure Systems

**LITIGATION, ARBITRATION, AND CONSULTING SERVICES**

- Expert Testimony (Federal and Circuit Courts, Commerce Commission Hearings)
- Value Dispute Resolution Services - Review and Rebuttal Services
- Litigation Consultation and Support Services

**DEVELOPMENT OF STATE-ACCREDITED CONTINUING EDUCATION SEMINARS**

- *Understanding Easements – What is Being Acquired? (2003)*
- *Pipelines and Easements – Can They Co-Exist? (2003)*
- *Midwest Pipeline and Corridor Easements – Aren't They All the Same? (2020)*
- *The Valuation of Water of Wastewater Systems (2020)*

**Qualifications of  
Joseph E. Batis, MAI, AI-GRS, R/W-AC**



**EXAMPLES OF SPECIALIZED VALUATION PROJECTS AND  
SPECIALIZED MARKET RESEARCH ASSIGNMENTS**

○ **PRIVATE AND PUBLIC UTILITY ASSET VALUATION (2013-PRESENT)**

Valuation and/or consulting services of assets of public water delivery and/or wastewater collection systems and natural gas delivery systems for acquisition and allocation purposes for the following communities (or private systems within the communities):

|                             |                          |                          |                         |
|-----------------------------|--------------------------|--------------------------|-------------------------|
| <i>MANTENO, IL</i>          | <i>PEOTONE, IL</i>       | <i>GRANT PARK, IL</i>    | <i>LAKEMOOR, IL</i>     |
| <i>FARMINGTON, IL</i>       | <i>MONEE, IL</i>         | <i>COTTAGE HILLS, IL</i> | <i>WASHINGTON, IL</i>   |
| <i>SADORUS, IL</i>          | <i>GLENVIEW, IL</i>      | <i>MCHEMRY, IL</i>       | <i>FISHER, IL</i>       |
| <i>NILES, IL</i>            | <i>PALOS HEIGHTS, IL</i> | <i>ALTON, IL</i>         | <i>GRANITE CITY, IL</i> |
| <i>GODFREY, IL</i>          | <i>GLASFORD, IL</i>      | <i>PEVELY, MO</i>        | <i>DESOTO, MO</i>       |
| <i>LAWSON, MO</i>           | <i>ODESSA, MO</i>        | <i>GOWER, MO</i>         | <i>GRANT PARK, IL</i>   |
| <i>SKYLINE/KANE CO., IL</i> | <i>TRIMBLE, MO</i>       | <i>BOLIVAR, MO</i>       | <i>EUREKA, MO</i>       |
| <i>DIXON, IA</i>            | <i>ANDALUSIA, IL</i>     | <i>LEONORE, IL</i>       | <i>ROSICLARE, IL</i>    |
| <i>SIDNEY, IL</i>           | <i>JERSEYVILLE, IL</i>   | <i>GARDEN CITY, MO</i>   | <i>MOSCOW MILLS, MO</i> |
| <i>WOODRIDGE, IL</i>        | <i>BOURBONNAIS, IL</i>   | <i>FRANKFORT, IL</i>     |                         |

○ **MARKET IMPACT STUDIES – SOLAR FIELD PROJECTS (2018)**

Market impact studies pertaining to the proposed development of solar energy fields in several counties in the Chicago metropolitan area. Each market study included a site analysis and “before and after” analysis to determine the impact from the proposed solar projects to properties in the immediate and general market areas of the proposed facilities.

○ **MARKET STUDY AND APPRAISAL REVIEW - CONTAMINATION (2018)**

Appraisal review services and market data research pertaining to the impact to the market values of numerous properties resulting from the contamination of underground water sources. Litigation pending.

○ **MARKET IMPACT STUDY – CONTAMINATION FROM UNDERGROUND LEAK AT NUCLEAR POWER GENERATING STATION (2007)**

Coordinated the market research, analysis, and valuation services pertaining to the impact of more than 500 properties potentially impaired by an underground leak of tritium from the Braidwood Nuclear Power Plant.

**Qualifications of  
Joseph E. Batis, MAI, AI-GRS, R/W-AC**



**EXAMPLES OF SPECIALIZED VALUATION PROJECTS AND  
SPECIALIZED MARKET RESEARCH ASSIGNMENTS**

○ **ANALYSIS AND ALLOCATION OF THE CONTRIBUTORY VALUES OF MULTIPLE  
PERMANENT EASEMENTS CO-LOCATED IN A TRANSMISSION CORRIDOR**

An analysis and valuation of the easement values for multiple contiguous and overlapping permanent easements within a right-of-way corridor, including gas pipeline easements, power transmission lines, public utility (water line) easements, and recreational easements.

○ **MANAGEMENT AND SUPERVISION OF VALUATION SERVICES FOR  
SIMULTANEOUS ACQUISITION OF EASEMENTS FOR MULTIPLE OIL  
PIPELINES (2012-2016)**

Valuation and consulting services including the coordination and management of appraisal services for acquisition and condemnation hearings, Illinois Commerce Commission hearings, and appraisal review services, rebuttal report/testimony, and settlement conferences. Project involved acquisition of permanent and temporary easements for the simultaneous construction of three interstate oil transmission lines. Responsible for management of the projects' valuation services pertaining to more than 2,000 properties in 22 counties and managing the participation of 35 appraisers, consultants, and researchers involved with the project.

○ **INTERSTATE NATURAL GAS PIPELINE PROJECT (2000-2003)**

Valuation and consulting services including the coordination and management of appraisal services for acquisition and condemnation hearings in federal court, appraisal review services, rebuttal report/testimony, and settlement conferences. Project involved acquisition of permanent and temporary easements for the construction of a natural gas transmission line. Responsible for management of the project's valuation services including more than 600 properties in 4 counties.

○ **VALUATION REVIEW SERVICES OF 1,000+ MILE RAILROAD CORRIDOR**

In 2019, provided valuation and consulting services including the review of appraisals and consulting reports pertaining to the valuation of a 1,000+ mile fiber optic corridor within a railroad corridor extending through Virginia, North Carolina, South Carolina, Tennessee and Illinois.



## Qualifications of Joseph E. Batis, MAI, AI-GRS, R/W-AC

### ***MOST RECENT APPRAISAL INSTITUTE EDUCATIONAL AND INSTRUCTOR EXPERIENCE***

|  |   |
|--|---|
| <i><b>APPRAISAL REVIEW THEORY-GENERAL (AUDIT)</b></i><br>OCTOBER 2020, PITTSBURGH, PA                            | <i><b>EMINENT DOMAIN AND CONDEMNATION</b></i><br>September 2017, Online Seminar                       |
| <i><b>THE APPRAISER AS AN EXPERT WITNESS (AUDIT)</b></i><br>SEPTEMBER 2020, PITTSBURGH, PA                       | <i><b>RATES AND RATIOS: MAKING SENSE OF GIMS, OARS, AND DCF</b></i><br>September 2017, Online Seminar |
| <i><b>MIDWEST PIPELINE AND CORRIDOR EASEMENTS (DEVELOPER &amp; PRESENTER)</b></i><br>SEPTEMBER 2020, CHICAGO, IL | <i><b>NATIONAL USPAP UPDATE COURSE</b></i><br>May 2016, Chicago, IL                                   |
| <i><b>VALUATION OF CONSERVATION EASEMENTS</b></i><br>March 2020, Ft. Lauderdale, FL                              | <i><b>NATIONAL USPAP UPDATE COURSE</b></i><br>July 2015, Columbus, OH                                 |
| <i><b>GENERAL APPRAISAL INCOME PART II (INSTRUCTOR AUDIT)</b></i><br>October 2019, Chicago, IL                   | <i><b>INSTRUCTOR WEBINAR</b></i><br>May 2015, Online Webinar  |
| <i><b>BASIC APPRAISAL PRINCIPLES (INSTRUCTOR)</b></i><br>March 2019, Chicago, IL                                 | <i><b>BUSINESS PRACTICE AND ETHICS</b></i><br>March 2015, Online Seminar                              |
| <i><b>GENERAL INCOME APPROACH (CO-INSTRUCTOR)</b></i><br>February 2019, Chicago, IL                              | <i><b>INSTRUCTOR WEBINAR</b></i><br>May and October 2014, Online Webinar                              |
| <i><b>GENERAL SALES COMPARISON APPROACH (INSTRUCTOR AUDIT)</b></i><br>February 2019, Chicago, IL                 | <i><b>GENERAL APPRAISER MARKET ANALYSIS AND HIGHEST AND BEST USE</b></i><br>January 2014, Chicago, IL |
| <i><b>GENERAL APPRAISER INCOME APPROACH PART I (INSTRUCTOR AUDIT)</b></i><br>November 2018, Nashville, TN        | <i><b>INSTRUCTOR WEBINAR</b></i><br>April and October 2013, Online Webinar                            |
| <i><b>GENERAL APPRAISER PROCEDURES (CO-INSTRUCTOR)</b></i><br>October 2018, Chicago, IL                          | <i><b>KNOWLEDGE CENTER FOR INSTRUCTORS</b></i><br>October 2012, Online Webinar                        |
| <i><b>INSTRUCTOR QUALIFYING CONFERENCE</b></i><br>September 2018, Chicago, IL                                    | <i><b>CANDIDATE FOR DESIGNATION PROGRAM</b></i><br>July 2012, Online Webinar                          |
| <i><b>ADULT LEARNING – EFFECTIVE CLASSROOM LEARNING</b></i><br>September 2018, Online Webinar                    | <i><b>NATIONAL USPAP UPDATE COURSE</b></i><br>June 2012, Chicago, IL                                  |
| <i><b>LITIGATION APPRAISING: SPECIALIZED TOPICS AND APPLICATIONS</b></i><br>July 2018, Roseville, MN             | <i><b>GENERAL APPRAISER INCOME APPROACH PART I</b></i><br>October 2011, Chicago, IL                   |
| <i><b>THE APPRAISER AS AN EXPERT WITNESS: PREPARATION AND TESTIMONY</b></i><br>May 2018, Woburn, MA              | <i><b>NATIONAL USPAP UPDATE COURSE</b></i><br>September 2011, Chicago, IL                             |
| <i><b>QUANTITATIVE ANALYSIS</b></i><br>March 2018, Chicago, IL   | <i><b>CONDEMNATION APPRAISING: PRINCIPLES AND APPLICATIONS</b></i><br>August 2011, Chicago, IL        |
| <i><b>NATIONAL USPAP UPDATE COURSE</b></i><br>February 2018, Chicago, IL   | <i><b>NATIONAL USPAP UPDATE COURSE</b></i><br>September 2009, Online Seminar                          |
|  | <i><b>EMINENT DOMAIN AND CONDEMNATION</b></i><br>September 2009, Online Seminar                       |

# DINAN REAL ESTATE ADVISORS, INC.

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**EDWARD W. DINAN, MAI, CRE®**  
**PRESIDENT**

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## **ACADEMIC**

Rockhurst College, Kansas City, Missouri, A.B., 1972

American Institute of Real Estate Appraisers

Course 1A, Memphis State University - May 1975

Course 1B, Tulane University - July 1975

Course II, University of Georgia - February 1976

Course VI, Chicago Education Center - March 1977

Appraisal Institute

Standards of Professional Practice, Parts A and B

Seminars include: Cash Equivalency, Subdivision Analysis, Rates Ratios and Reasonableness, Feasibility, Valuation of Leasehold Interests, Americans with Disability Act Review, Condemnation Process and Appraisal, Condemnation Appraising: Advanced Topics and Applications, Standards of Professional Practice, Parts A and B, Corridors And Rights-Of-Way II Symposium Valuation and Policy

Harvard Law School, Program of Instruction for Lawyers

Advanced Negotiation: Deal Design and Implementation

University of Houston

Dispute Resolution Institute

## **EXPERIENCE**

Professional experience includes market and financial feasibility studies, highest and best use analyses, transient housing and convention market surveys, analysis of redevelopment potential of existing communities, lease analysis and consultation, as well as the appraisal and evaluation of many types of properties including:

Airports

Apartments (high rise, garden, townhouse)

Banks

Casinos

Cemeteries

Condemnation Appraisals

Condominiums/Co-op/Timeshare

Duck Clubs

Farms

Golf Courses/Country Clubs

Hotels and Motels

Industrial Plants and Warehouses

Mobile Home Parks

Office Buildings

Planned Communities

Quarries/Mines

Railroad Properties

Resorts

Restaurants

Sales and Service Buildings

Schools (private, parochial, secondary, higher education)

Shopping Centers (regional, community, neighborhood)

Single Family Residential

Special Use Properties

Subdivisions

Surgical Centers

Theaters

Urban Renewal (acquisition, reuse)

Vacant Land (commercial, industrial, residential, rural, agricultural)

Vessels

In addition, Mr. Dinan has been approved as a fee appraiser for the U.S. Department of Justice, Missouri Department of Natural Resources, Missouri Department of Highways and Transportation, Illinois Department of Transportation, Probate Court of St. Louis City, as well as FNMA, FDIC, RTC, HUD, SBA, OTS, along with numerous other governmental agencies and is qualified in court as an expert witness. Mr. Dinan has also served as a hearing officer for the St. Louis County Board of Equalization.

Prior to forming Dinan Real Estate Advisors, Inc., Mr. Dinan was employed by the Turley Martin Company as Vice President of their Consulting and Appraising Division. Mr. Dinan has also participated as a guest lecturer on real estate appraising at Washington University, as well as several seminars sponsored jointly by the University of Missouri - St. Louis and the Home Builders Association of Greater St. Louis, Counselors of Real Estate®, and Law Seminars International. In addition, Mr. Dinan is approved as an instructor for the Missouri Real Estate Commission's Continuing Education Program, and has been a lectured speaker for the Bar Association of Metropolitan St. Louis. Mr. Dinan has also delivered seminars on appraisal reviews to loan officers at several financial institutions in the St. Louis area.

### **GEOGRAPHICAL AREAS OF EXPERIENCE**

Territory covered is primarily Metropolitan St. Louis, but also includes professional experience in the following 27 states: Arizona, Arkansas, California, Colorado, Connecticut, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, New York, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, Wisconsin and Wyoming.

### **PROFESSIONAL AFFILIATION**

Mr. Dinan has held virtually every position as an officer and has served on the Board of Directors for the local chapter of the Appraisal Institute. In 1990, Mr. Dinan served as President of the former American Institute of Real Estate Appraisers and coordinated its unification with the local Society Chapter. Mr. Dinan also served as a Regional Representative for Region II of the Appraisal Institute. Mr. Dinan currently serves on the Board of Directors and is a National Liaison Membership Chair for the Counselors of Real Estate® as well as serving on the Advisory Board of Great Southern Bank. In addition, Mr. Dinan has the following affiliations:

Counselor of Real Estate® - 1996

2010 National Chairman - Dispute Resolution

2011 National Liaison Vice Chair

2011 National Co-Chair - Litigation Support

2012-2017 Board of Directors

2013 Recipient of the Chairs Award presented by The Counselors of Real Estate

2013 -2014 National Liaison Membership Chair

Appraisal Institute MAI Designation, Certificate Number 6103 -1980

St. Louis Association of Realtors

Royal Institution of Chartered Surveyors - 2006

In addition, Mr. Dinan has been approved as a fee appraiser for the U.S. Department of Justice, Missouri Department of Natural Resources, Missouri Department of Highways and Transportation, Illinois Department of Transportation, Probate Court of St. Louis City, as well as FNMA, FDIC, RTC, HUD, SBA, OTS, along with numerous other governmental agencies and is qualified in court as an expert witness. Mr. Dinan has also served as a hearing officer for the St. Louis County Board of Equalization.

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