

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

In the Matter of the Joint Application of the City of)
Ozark and Missouri-American Water Company for)
Authority for Missouri-American Water Company to)
sell and the City of Ozark to Acquire the Spring) File No. WM-2025-_____
Valley Water System Assets located in Christian)
County)

JOINT APPLICATION AND MOTION FOR WAIVER

COME NOW City of Ozark (“Ozark”) and Missouri-American Water Company (“MAWC”), pursuant to Section 393.190, 20 CSR 4240-2.060, 20 CSR 4240-4.017, and 20 CSR 4240-10.105, and for their *Joint Application and Motion for Waiver*, state as follows to the Missouri Public Service Commission (“Commission”):

SUMMARY

MAWC seeks to sell, and Ozark desires to acquire, the Spring Valley Water System (“Spring Valley”) located in the City of Ozark. MAWC and Ozark believe that this sale is in the public interest and ensure the Spring Valley customers consistently have access to safe, reliable, and environmentally responsible resources, through improved efficiency, better resource allocation, and enhanced service for the customers of both the facilities managed by MAWC and the Spring Valley system to be acquired by Ozark.

INTRODUCTION

1. Ozark is a fourth-class city located in Christian County, Missouri. Its City Hall is located at 205 N. 1st Street, P.O. Box 295, Ozark, MO 65721 (Phone: (417) 581-2407). The City of Ozark has a population of approximately 22,500.

2. Ozark has owned and operated water and sewer systems providing service to the public for over 100 years and currently serves approximately 10,110 water accounts and 9,000 sewer accounts.

3. MAWC is a Missouri corporation with its principal office and place of business at 727 Craig Road, St. Louis, Missouri 63141. MAWC is a Missouri corporation in good standing. A certified copy of MAWC's certificate of good standing was filed with the Commission in its File No. WO-2021-0343 and is incorporated herein by reference.

4. MAWC currently provides water service to approximately 484,000 customers and sewer service to approximately 24,000 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 393.1000(7), RSMo., and is subject to the jurisdiction and supervision of the Commission as provided by law.

5. Other than cases that have been docketed at the Commission, MAWC has no pending action or final unsatisfied judgments against it from any state or federal agency or court within the past three (3) years that involve customer service. MAWC has no annual report or assessment fees that are overdue.

6. Communications regarding this application should be addressed to the undersigned counsel and to:

Donald Currence
Mayor, City of Ozark
205 N. 1st Street
P.O. Box 295
Ozark, MO 65721
Phone: (417) 581-2407
E-mail: dcurrence@ozarkmissouri.org

Stephen Kadyk, PE
Engineering Manager – Customer Development
Missouri-American Water Company
727 Craig Road
St. Louis, MO 63141
Phone: (314) 239-9515
E-mail steve.kadyk@amwater.com

THE PROPOSED SALE TRANSACTION

7. On April 9, 2024, Ozark entered into an *Agreement for Purchase of the Spring Valley Water System* (“Agreement”) with MAWC. A copy of the Agreement is attached as **Appendix A**.

8. On April 1, 2024, Ozark passed Ordinance No. 24-030 (“Ordinance”) authorizing the mayor to enter into a contract with MAWC for the acquisition of the Spring Valley water system. The Ordinance is attached hereto as **Appendix B** and verifies the authority of the Mayor of the City of Ozark to enter into the *Agreement* and seek Commission approval of the transaction. **Appendix C** verifies the authority of Rich Svindland, the President of MAWC, to enter into the Agreement and seek Commission approval of the transaction.

9. Ozark seeks to acquire the Spring Valley Water System, which is partially located in the City of Ozark and partially located in unincorporated Christian County, and to operate the system and provide service to the public.

10. The assets to be sold by MAWC were among the assets MAWC acquired from Aqua Missouri, Inc., Aqua Development, Inc., and Aqua/RU, Inc. d/b/a Aqua Missouri, Inc. pursuant to approval granted by the Commission in Case No. WO-2011-0168. At that time, MAWC acquired water and sewer systems located in Cole, Callaway, Pettis and Morgan Counties, as well as water systems located in Barry, Benton, Christian, Greene, Stone and Taney Counties. The transaction was associated with the decision by Aqua to largely exit the state of

Missouri as a regulated utility.

11. The Spring Valley system is located within the City of Ozark's water service boundary and serves approximately 120 water accounts.

ADDITIONAL INFORMATION

12. The purchaser, Ozark, will not be subject to the jurisdiction of the Commission. Thus, no balance sheet or income statement is required by 20 CSR 4240-10.105(1)(E). . MAWC is a private entity. Any taxes that have been paid by it that are associated with the Spring Valley system would not be paid by Ozark (20 CSR 4240-10.105(1)(F).

TARIFF/RATES

13. Ozark proposes to utilize the following existing customer rates for Spring Valley:

Within City Limits

First 1000 gallons = \$12.50 (minimum charge)
\$3.30 per 1000 gallons thereafter

Outside of City Limits

First 1000 gallons = \$18.75 (minimum charge)
\$4.95 per 1000 gallons thereafter

PUBLIC INTEREST

14. The proposed transfer is in the public interest. The system would be acquired by Ozark and would continue to be operated and maintained in compliance with the Department of Natural Resources regulations related to water service. Ozark currently operates a complex storage and water distribution system and is a safe and reliable water source for its customers. Ozark is fully qualified in all respects, to own and operate the Spring Valley water system.

15. Moreover, MAWC and Ozark believe that the sale of the Spring Valley system allows the companies to align their resources appropriately. As such, this acquisition should drive further economies in operational costs.

MOTION FOR WAIVER

16. Commission Rule 20 CSR 4240-4.017(1) requires “[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.” Because they did not file such a notice within the time period prescribed by that rule, Ozark and MAWC seek a waiver of the 60-day pre-filing notice requirement.

17. Under Rule 20 CSR 4240-4.017(1)(D), a waiver of the pre-filing notice requirement may be granted for good cause. In this regard, Ozark and MAWC declare, as verified below, that they have had no communication with the Office of the Commission (as defined in 20 CSR 4240-4.015(10)) within the prior 150 days regarding any substantive issue likely to be in this case. Good cause for the requested waiver exists in accordance with Commission Rule 20 CSR 4240-4.017(1)(D) (“Good cause for waiver may include, among other things, a verified declaration from the filing party that it has had no communication with the office of the commission within the prior one hundred fifty (150) days regarding any substantive issue likely to be in the case....”).

18. Therefore, as authorized by Rule 20 CSR 4240-4.017(1)(D), Ozark and MAWC move for a waiver of the 60-day notice requirement and acceptance of this application at this time.

WHEREFORE, for the reasons previously stated, Ozark and MAWC respectfully request the Commission issue an order:

(A) Waiving the 60-day notice requirement of Rule 20 CSR 4240-4.017(1) for good cause shown;

(B) Authorizing Ozark and MAWC to enter into, execute, and perform, in accordance with the terms described in the Agreement attached to this Joint Application, and take any and all other actions that may be deemed necessary and appropriate to accomplish the purposes of the Agreement and the Joint Application, and to consummate related transactions in accordance with the Agreement;

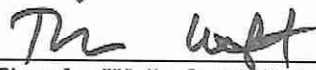
(C) Authorizing MAWC to sell and Ozark to acquire the water assets identified herein;
and,

(D) Granting such other relief as may be deemed necessary and appropriate to
accomplish the purposes of the agreements and the Joint Application and to consummate related
transactions in accordance with the agreements.

Respectfully submitted,

//S// Dean L. Cooper

Dean L. Cooper MBE #36592
BRYDON, SWEARENGEN & ENGLAND P.C.
312 E. Capitol Avenue
P.O. Box 456
Jefferson City, MO 65012
(573) 635-7166 telephone
dcooper@brydonlaw.com



Timothy W. Luft, MBE #40506
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
rachel.ncimeier@amwater.com

**ATTORNEYS FOR MISSOURI-AMERICAN
WATER COMPANY**



Amanda Callaway MBE # 62036
City of Ozark
201-B E. Brick
P.O. Box 295
Ozark, MO 65721
acallaway@ozarkmissouri.org

CITY ATTORNEY FOR CITY OF OZARK

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was sent by electronic mail, on July _____ 9 , 2024, to the following:

Office of the General Counsel
Governor Office Building
Jefferson City, MO 65101
staffcounsel@psc.mo.gov

Office of the Public Counsel
Governor Office Building
Jefferson City, MO 65101
opc@opc.mo.gov

//S// Dean L. Cooper

AFFIDAVIT

State of Missouri)
)
County of Christian) ss

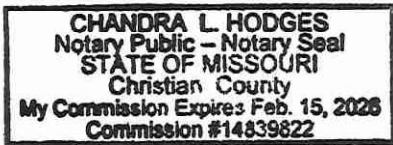
I, Donald Currence, having been duly sworn upon my oath, state that I am the Mayor of the City of Ozark ("Ozark"), that I am duly authorized to make this affidavit on behalf of the City of Ozark, that I have knowledge of the matters stated herein, and that said matters are true and correct to the best of my information, knowledge, and belief. Additionally, no representative of Ozark 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 one hundred fifty (150) days immediately preceding the filing of the Application regarding any substantive issue likely to be addressed in this case.

Donald Currence
Mayor

Subscribed and sworn before me this 14th day of June, 2024.

Chandra L. Hodges
Notary Public

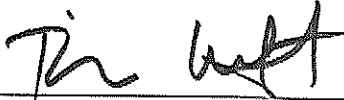
My Commission Expires 2/15/2026



AFFIDAVIT

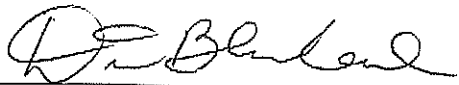
State of Missouri)
)
County of St. Louis) ss

I, Tim Luft, having been duly sworn upon my oath, state that I am the Vice-President, Legal and Secretary Missouri-American Water Company ("MAWC"), 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 the best of my information, 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 one hundred fifty (150) days immediately preceding the filing of the Application regarding any substantive issue likely to be addressed in this case.



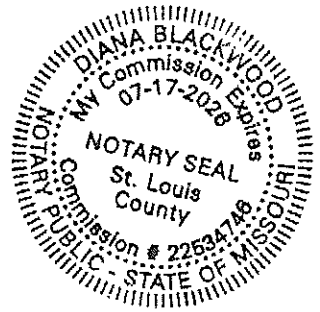
Tim Luft
Vice-President, Legal and Secretary

Subscribed and sworn before me this 10th day of June, 2024.



Notary Public

My Commission Expires 7-17-2026



APPENDICES

- Appendix A** Agreement for Purchase of the Spring Valley Water System
- Appendix B** City of Ozark Ordinance No. 24-030 granting the mayor authority to enter into a contract with Missouri-American Water Company for the acquisition of the Spring Valley water system.
- Appendix C** MAWC Verification of Authority

Agreement for Purchase of the Spring Valley Water System

This **Agreement for Purchase of the Spring Valley Water System** (the "Agreement") is made and entered into on the 9th day of April 2024, between **Missouri-American Water Company**, a Missouri corporation ("MAWC" or "Seller"), and the **City of Ozark, Missouri** ("Ozark" or "Buyer"). Hereinafter, MAWC and Ozark may be referred to individually as a "Party" or together as the "Parties."

MAWC currently owns and operates a water system in the Spring Valley subdivision near City of Ozark, Missouri (collectively, the "System"). MAWC desires to sell all the assets that constitute or are used in furtherance of the System to Ozark pursuant to the terms and conditions of this Agreement.

1. **Transfer of Assets.** On and subject to the terms and conditions of this Agreement, at the closing on the closing date, Ozark shall purchase, acquire and accept from MAWC, and MAWC shall sell, convey, transfer, assign and deliver to Ozark, free and clear of all encumbrances, the acquired assets.

2. **Consideration.** The purchase price shall be **One Hundred Ninety-Five Thousand Four Hundred and Twenty-Four Dollars and Twenty-Three cents (\$195,424.23)**.

3. **Closing Obligations of MAWC.** At closing, MAWC shall deliver or cause to be delivered to Ozark, the following documents:

- a. Bill of Sale, duly executed by MAWC;
- b. For each interest in real property and each easement and/or right-of-way affecting any real Property or Acquired Asset, a recordable 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 Ozark; and such other deeds, bills of sale, assignments, certificates of title, documents and other instruments of transfer and conveyance as may reasonably be requested by Ozark, each in form and substance reasonably satisfactory to Ozark;

4. **Closing Obligations of Ozark.** Upon closing, Ozark will have the obligation to serve the Spring Valley customers by combining Spring Valley with its existing water system.

5. **Real Property; Easements, Legal and Legal Matters.** MAWC warrants that it owns and has good and marketable title to the system and real property rights, 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. There is no unpaid property tax, levy or assessment against the property (except for taxes not yet due and payable), nor is there pending or threatened any condemnation proceeding against the real property or any portion thereof.

6. **Personal Property.** Set forth on the attached schedule is a complete and accurate listing of all the assets included which are personal property. Each item on the list 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.

7. **Environmental Matters.** Seller is in 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.

8. **Customer Information.** Seller shall provide to the Buyer the customer data in an agreed upon format within a reasonable time frame of the date of transfer.

9. **Governmental and Third-Party Approvals.** As a condition precedent to closing, Missouri-American shall obtain all necessary applicable consents and approvals from governmental authorities (MoPSC, DNR) and other third parties, acceptable to Missouri-American in its sole and absolute discretion.

10. **Due Diligence.** Ozark 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 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 Ozark deems necessary, as each of the foregoing items relate to the System or the Acquired Assets.

11. **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.

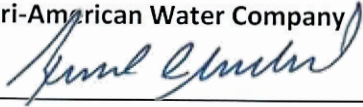
12. **Legal Fees, Costs.** Each Party is responsible for its own fees, costs and expenses. There are no brokers involved in this transaction.


13. **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 in each case addressed as follows:

(a) if to Ozark to City of Ozark, Missouri, 205 N. 1st Street, P.O. Box 295, Ozark, Missouri 65721 Attn: City Attorney.

(b) if to Missouri-American, (i) to Missouri-American Water Company, 727 Craig Road, St. Louis, Missouri 63141, Attn: Legal Department, 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.

IN WITNESS WHEREOF, the Parties have executed this Definitive Purchase Agreement as of the date first set forth above:

Missouri-American Water Company
By: 
President

City of Ozark, Missouri
By: 
Mayor

BILL NO. 3545

ORDINANCE NO. 24- 030

**AN ORDINANCE AUTHORIZING
THE MAYOR TO ENTER INTO A CONTRACT WITH MISSOURI AMERICAN
WATER COMPANY FOR THE ACQUISITION OF THE
SPRING VALLEY WATER SYSTEM**

WHEREAS, Resolution Number 1991 passed on October 2, 2023, authorized the City of Ozark (“City”) to enter into a Letter of Intent with Missouri American Water Company (“MAWC”) giving notice of the City’s intent to acquire the Spring Valley Water System for One Hundred Ninety-Five Thousand Four Hundred Twenty-Four Dollars and 23/100 (\$195,424.23); and

WHEREAS, the next step in the acquisition process was for the City and MAWC to negotiate a contract, which has been done; and

WHEREAS, this Ordinance authorizes the Mayor to enter into said contract; and

WHEREAS, the City and MAWC acknowledge that the transfer of this water system will require certain approvals, including the approval of the Missouri Public Service Commission; and

WHEREAS, appropriations have been in the Fiscal Year 2024 Budget, Budget line item 201 040-755.100.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN
OF THE CITY OF OZARK, MISSOURI as follows, that:**

SECTION 1 – The Mayor is hereby authorized to enter into a contract with Missouri American Water Company for the acquisition of the Spring Valley Water System, said agreement substantially in the form of that document attached hereto and incorporated herein as “Exhibit 1.”

SECTION 2 – This Ordinance shall be in full force and effect from and after its passage and approval.

PASSED ON APRIL 1, 2024.

	AYE	NAY	ABSENT/ABSTAIN
ALDERMAN DAVID SNIDER	X		
ALDERMAN JEAN ANN HUTCHINSON	X		
ALDERMAN HEATHER ALDER	X		
ALDERMAN BRUCE GALLOWAY	X		
ALDERMAN RJ FLORES	X		

APPROVED THIS 1ST DAY OF APRIL 2024.


DON CURRENCE, MAYOR

ATTEST:


CHANDRA HODGES, CITY CLERK

Exhibit I to Ordinance

Agreement for Purchase of the Spring Valley Water System

This **Agreement for Purchase of the Spring Valley Water System** (the "Agreement") is made and entered into on the 9th day of April 2024, between **Missouri-American Water Company**, a Missouri corporation ("MAWC" or "Seller"), and the **City of Ozark, Missouri** ("Ozark" or "Buyer"). Hereinafter, MAWC and Ozark may be referred to individually as a "Party" or together as the "Parties."

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1. **Transfer of Assets.** On and subject to the terms and conditions of this Agreement, at the closing on the closing date, Ozark shall purchase, acquire and accept from MAWC, and MAWC shall sell, convey, transfer, assign and deliver to Ozark, free and clear of all encumbrances, the acquired assets.
2. **Consideration.** The purchase price shall be **One Hundred Ninety-Five Thousand Four Hundred and Twenty-Four Dollars and Twenty-Three cents (\$195,424.23)**.
3. **Closing Obligations of MAWC.** At closing, MAWC shall deliver or cause to be delivered to Ozark, the following documents:
 - a. Bill of Sale, duly executed by MAWC;
 - b. For each interest in real property and each easement and/or right-of-way affecting any real Property or Acquired Asset, a recordable 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 Ozark; and such other deeds, bills of sale, assignments, certificates of title, documents and other instruments of transfer and conveyance as may reasonably be requested by Ozark, each in form and substance reasonably satisfactory to Ozark;
4. **Closing Obligations of Ozark.** Upon closing, Ozark will have the obligation to serve the Spring Valley customers by combining Spring Valley with its existing water system.
5. **Real Property; Easements, Legal and Legal Matters.** MAWC warrants that it owns and has good and marketable title to the system and real property rights, 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. There is no unpaid property tax, levy or assessment against the property (except for taxes not yet due and payable), nor is there pending or threatened any condemnation proceeding against the real property or any portion thereof.
6. **Personal Property.** Set forth on the attached schedule is a complete and accurate listing of all the assets included which are personal property. Each item on the list 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.
7. **Environmental Matters.** Seller is 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.

8. **Customer Information.** Seller shall provide to the Buyer the customer data in an agreed upon format within a reasonable time frame of the date of transfer.

9. **Governmental and Third-Party Approvals.** As a condition precedent to closing, Missouri-American shall obtain all necessary applicable consents and approvals from governmental authorities (MoPSC, DNR) and other third parties, acceptable to Missouri-American in its sole and absolute discretion.

10. **Due Diligence.** Ozark 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 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 Ozark deems necessary, as each of the foregoing items relate to the System or the Acquired Assets.

11. **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.

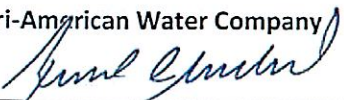
12. **Legal Fees, Costs.** Each Party is responsible for its own fees, costs and expenses. There are no brokers involved in this transaction.

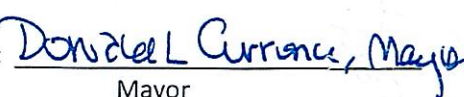
13. **Notices.** All notices, consents, requests, demands and other communications hereunder are to be in writing and are deemed to have been duly given, made or delivered in each case addressed as follows:

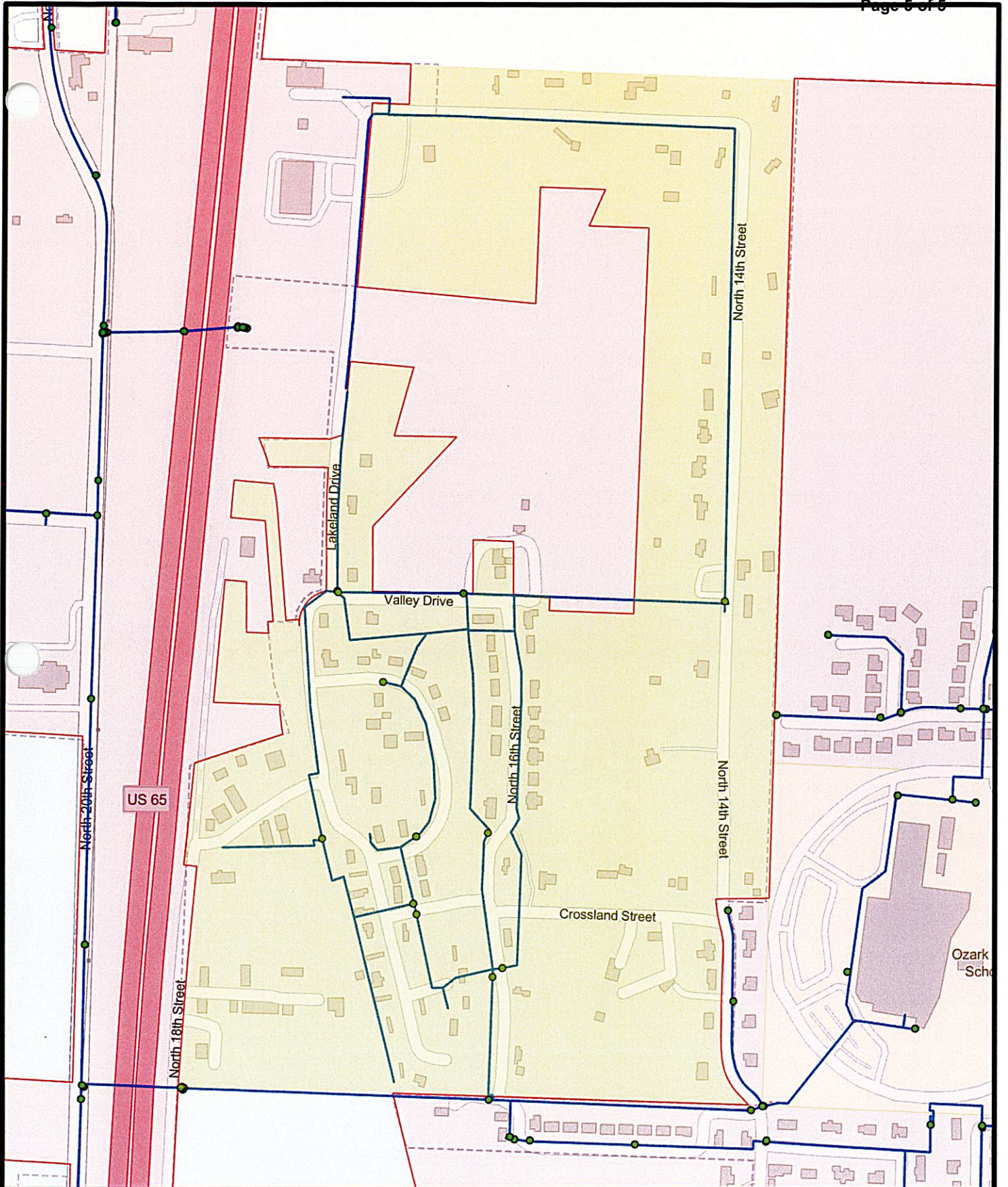
(a) if to Ozark to City of Ozark, Missouri, 205 N. 1st Street, P.O. Box 295, Ozark, Missouri 65721 Attn: City Attorney.

(b) if to Missouri-American, (i) to Missouri-American Water Company, 727 Craig Road, St. Louis, Missouri 63141, Attn: Legal Department, 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.

IN WITNESS WHEREOF, the Parties have executed this Definitive Purchase Agreement as of the date first set forth above:

Missouri-American Water Company
By: 
President

City of Ozark, Missouri
By: 
Mayor



Legend

- WATER_VALVES
- WATER_MAINS
- CITY LIMITS
- SPRING VALLEY

0 285 570 1,140 1,710 2,280 US Feet

CITY OF OZARK, MO
PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

Spring Valley Water Infrastructure

Extent Indicator

OSZARK

APPENDIX C

VERIFICATION OF AUTHORITY

COMES NOW the undersigned, the Vice-President Legal and Secretary of Missouri-American Water Company ("MAWC"), and does hereby verify that MAWC had and has the requisite authority to enter into the *Agreement for Purchase of the Spring Valley Water System* described in the Joint Application and to carry out all the obligations contained in the *Agreement for Purchase of the Spring Valley Water System*, to include actions to seek approval of the Missouri Public Service Commission.

IN WITNESS WHEREOF, the undersigned has hereto set his hand the 17th day of June, 2024.



Tim Luft, Vice-President Legal and Secretary
MISSOURI-AMERICAN WATER COMPANY

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

Subscribed and sworn before me this 17th day of June, 2024.



Notary Public

My Commission Expires 6/8/25

