

ADVERTISEMENT FOR PROPOSALS

The City of St. Peters is seeking proposals for the “22-145 – Mid Rivers Mall Dr - St. Peters Howell Rd Lane Improvements (CMAQ 5615(602))” until 2:00 p.m. local time, April 21, 2022. This will be a Non-Public opening. The purpose of this project is to provide construction phase services and prepare all required plans and specifications required to acquire needed property rights and bid the construction of turn lanes and signal improvements at the Mid Rivers Mall Drive and St. Peters Howell Road signalized intersection.

The RFQ can be received by sending a request to Bids@stpetersmo.net and specifying in the subject line “22-145 – Mid Rivers Mall Dr - St. Peters Howell Rd Lane Improvements (CMAQ 5615(602))”, or by obtaining at City of St. Peters, One St. Peters Centre Boulevard, St. Peters, Missouri 63376 beginning Thursday, March 31, 2022.

If your firm would like to be considered for providing these consulting services, please prepare a Technical Proposal. This proposal should include any information which might help us in the selection process, such as the persons or team you would assign to each project, the backgrounds of those individuals, and other projects your company has recently completed or are now active. The proposal shall be submitted in quadruplicate, in a sealed container, and clearly marked with the Consultant’s name and **“City of St. Peters – 22-145 - Mid Rivers Mall Drive – St. Peters Howell Rd Lane Improvements (CMAQ 5615(602))”**. The proposal must be received by the City of St. Peters Purchasing Department by 2:00 p.m., local time, April 21, 2022.

All questions regarding the project and proposal submittal are to be submitted via e-mail to Bids@stpetersmo.net and specify in the subject line “RFQ No. 22-145 – Mid Rivers Mall Dr - St. Peters Howell Rd Lane Improvements (CMAQ 5615(602))”, or by mail to City of St. Peters, One St. Peters Centre Boulevard, St. Peters, Missouri 63376 before noon local time, April 14, 2022.

The City of St. Peters will evaluate firms based on a) experience and competence, b) the capacity of the firm to perform the work in the timeframe needed, c) past performance.

Once a proposal is selected, a contract will be negotiated, with the firm, based on a mutually agreed upon scope of services. This project has received federal reimbursement funding through the Transportation Alternatives Program (TAP) administered by the East-West Gateway Coordinating Council of Governments. A DBE goal of 12% has been determined by Missouri Department of Transportation for the Preliminary Engineering portion of the project.

DBE firms must be listed in the MRCC DBE Directory located on MoDOT’s website at www.modot.gov, in order to be counted as participation towards an established DBE Goal. We encourage DBE firms to submit proposals as prime consultants for any project they feel can be managed by their firm.

It is required that your firm’s Statement of Qualification (RSMo 8.285 through 8.291) and an Affidavit of Compliance with the federal work authorization program along with a copy of your firm’s E-Verify Memorandum of Understanding (15 CSR 60-15.020) be submitted with your firm’s technical proposal and with your firm’s Letter of Interest. It is also required that your firm be prequalified with MoDOT and listed in [MoDOT’s Approved Consultant Prequalification List](#).

The City reserves the right to waive any informality and to accept the proposal most advantageous to the City.



City of St. Peters, Missouri
One St. Peters Centre Boulevard
P. O. Box 9
St. Peters, Missouri 63376

Request for Statement of Qualifications and Proposal for Engineering Services

Purpose:	The City of St. Peters is seeking proposals from qualified Consulting Engineering Firms to provide professional engineering services for the construction of turn lanes and signal improvements at the Mid Rivers Mall Drive and St. Peters Howell Road signalized intersection.
RFQ No.	22-145 – Mid Rivers Mall Dr - St. Peters Howell Rd Lane Improvements (CMAQ 5615(602))
Available	Thursday, March 31, 2022
Deadline for Submissions:	2:00 p.m. local time, Thursday, April 21, 2022 (Non-Public Opening) Late or faxed bid proposals will be rejected.
Submit Proposal To:	Purchasing City of St. Peters One St. Peters Centre Blvd. P. O. Box 9 St. Peters, MO 63376
Special Instructions:	<ul style="list-style-type: none">• A DBE goal of 12% has been established for this project• Clearly mark outside of sealed envelope with "RFQ No. 22-145 – Mid Rivers Mall Dr - St. Peters Howell Rd Lane Improvements (CMAQ 5615(602))" along with the Consultant's name• Submit 1 original and 3 copies of your proposal• With submittal of your firm's Letter of Interest include:<ul style="list-style-type: none">○ Statement of Qualification (RSMo 8.285 – 8.291)○ Affidavit of Compliance with the Federal Work Authorization Program (Original must be included)○ Copy of your E-Verify Memorandum of Understanding (MOU) (15 CSR 60-15.020)
Direct All Inquiries to:	bids@stpetersmo.net with "22-145 – Mid Rivers Mall Dr - St. Peters Howell Rd Lane Improvements (CMAQ 5615(602))" in the subject line. The last time for questions is before noon local time, Thursday, April 14, 2022.

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that your firm be prequalified with MoDOT and listed in [MoDOT's Approved Consultant Prequalification List](#).

The City reserves the right to waive any informality and to accept the proposal most advantageous to the City.

**GENERAL INFORMATION
FOR ENGINEERING SERVICES
22-145 - MID RIVERS MALL DR - ST. PETERS HOWELL RD LANE IMPROVEMENTS
(CMAQ 5615(602))**

1.0 GENERAL

The City of St. Peters, hereinafter called "CITY", is seeking qualifications to prepare plans and specifications for the Mid Rivers Mall Dr – St. Peters Howell Rd Lane Improvements (CMAQ 5615(602)).

The selected Consultant shall provide all necessary field investigation and design required to comply with the Missouri Department of Transportation (MoDOT) Engineering Policy Guide (EPG) and EPG Section 136 Local Public Agency (LPA) Manual.

The CITY will select one qualified CONSULTANT based on submitted Statements of Qualifications and Proposals to perform all tasks as described in this document. Once a CONSULTANT is selected a contract will be negotiated based on a mutually agreed upon scope of services. The CITY has allocated \$60,270.00 for the engineering services, \$40,000.00 for right of way and \$455,240.00 for construction of this project.

All responses, inquiries, or correspondence relating to, or in reference to, this request, and all reports, charts, displays, schedules, exhibits and other documentation by the respondents received by the City shall be public records subject to disclosure pursuant to Chapter 610, RSMo. The City retains the right to use any or all system ideas presented in any response, whether amended or not. Selection or rejection of the respondent does not affect this right.

2.0 INSTRUCTIONS FOR SUBMITTING PROPOSALS

The CONSULTANT shall prepare a Technical Proposal with an estimate of total staff hours required each phase of the project as outlined in Section 6 of this Request for Proposal. The CONSULTANT shall submit one original and (3) copies of the proposal in a sealed envelope clearly marked with the CONSULTANT's name and "RFQ No. 22-145 – Mid Rivers Mall Dr - St. Peters Howell Rd Lane Improvements (CMAQ 5615(602))". The proposal must be received by the City of St. Peters Purchasing Department by 2:00 p.m. local time, April 21, 2022. All questions regarding the project and proposal submittal are to be submitted via e-mail to Bids@stpetersmo.net and specify in the subject line "RFQ No. 22-145 – Mid Rivers Mall Dr - St. Peters Howell Rd Lane Improvements (CMAQ 5615(602))", or by mail to City of St. Peters, Attention: Purchasing, One St. Peters Centre Boulevard, St. Peters, Missouri 63376 before noon local time, April 14, 2022.

2.1 Technical Proposal

The Technical Proposal shall include a schedule of tasks and projected work plan for the project. It shall also include discussions of any proposed modifications, or revisions to the scope of services. The Technical Proposal shall consist of the following information, presented in the order that follows.

1. Transmittal Letter
2. Introduction
3. General Business Information:
 - a. Identity of CONSULTANT and legal status.

- b. Name, address, and telephone number of contact person and person legally authorized to enter into a contract on behalf of the CONSULTANT.
 - c. Description of insurance coverage and deductibles (refer to Section 9 for listing of minimum requirements).
- 4. Project Understanding - include the following:
 - a. Provide a statement of the CONSULTANT's understanding of the major challenges and opportunities included in the project, as well as the CONSULTANT's basic ideas for addressing these issues.
- 5. Qualifications of CONSULTANT / Professional Registration:
 - a. Experience of CONSULTANT and project team specifically on similar projects; include the names of clients, brief project description and the project team's involvement in the project.
 - b. Describe what expertise the CONSULTANT, the project team, and any sub-consultants will bring to the project.
- 6. Project Approach and Schedule –include the following:
 - a. Include a listing and description of the major phases or tasks to be performed during the project, and identify key staff (or sub-consultants) that will be assigned to these phases or tasks.
 - b. Include an estimate of the hours required to complete the project, categorized by the level of consultant staff performing the work in each phase.
 - c. Include an organizational chart for the project, indicating key personnel and their primary responsibilities.
 - d. Include resumes of the key personnel highlighted on the project organizational chart.
 - e. Provide a proposed schedule for the project, in calendar days, including earliest anticipated start date, estimated time for completion of tasks and project, and suitable review time.
 - f. Indicate the location of the office(s) where various project services are to be performed. The level of staffing dedicated to the local office shall be clearly identified.
- 7. Quality Assurance / Quality and Cost Control:
 - a. Describe the CONSULTANT's quality assurance/quality control policies and procedures and describe how they will relate to the project.
 - b. Provide comparisons of original engineering proposal to actual final engineering costs for similar projects that have been constructed in the last 5 years. The CONSULTANT may provide justification for any discrepancies that may exist with this information.
 - c. Provide comparisons of engineer's cost estimate to actual construction costs for similar projects that have been constructed in the last 5 years. The CONSULTANT may provide justification for any discrepancies that may exist with this information.

3.0 CONSULTANT SELECTION METHOD

The method of final selection of the CONSULTANT for the project will be based upon review of the Technical Proposal conducted by the CITY review committee. The CITY reserves the right to reject any or all proposals for any reason. The selection process used by the CITY will generally consist of the following:

1. Review and evaluation of the Technical Proposals using the following criteria:

Experience & Technical Competence

Each CONSULTANT will be rated based on the qualifications of employees designated to this specific job and their understanding of the project scope, for example, assigning between 30 and 21 points for the most qualified personnel. Those rated between 20 and 11 points are considered good but lack extensive experience in the particular type of service desired. A value of 10 or less points is assigned to firms with well-qualified personnel who have no experience in the proposed area of work.

Capacity & Capability

Each CONSULTANT will be evaluated based on experience on similar and related types of work it has performed. They will also be rated on their project approach, project schedule, and quality assurance. For example, assigning between 30 and 21 points is for many years of established practice in the proposed type of work and related studies. A value of between 20 and 11 points may be assigned for above average experience, while 10 or less points may be given for experience adequate to perform the contract. The points for a firm with little operating experience in the selected field may be reduced further. Ratings will be reduced for a level of personnel inadequate to handle the firm's indicated workload.

Past Record of Performance

Each CONSULTANT will be rated based on the CITY's previous experience with the CONSULTANT and members of the proposed design team, including technical ability, control of costs, quality of work, availability, ability to meet schedules, and responsiveness. This will also include information supplied by references. A maximum of 40 points will be assigned to firms with exceptional performance and reducing the points for less experience.

Consultant Selection Rating

County:
Roadway:
Project:
Date:

Consultant	Experience & Technical Competence (Max. 30 points)	Capacity & Capability (Max. 30 points)	Past Record of Performance (Max. 40 points)	Total 100

Raters:

2. From this review, the CITY will rank each Technical Proposal in order to determine the most qualified CONSULTANTS. From this group, the CITY will select the CONSULTANT it considers the best qualified for the project and begin negotiations for an engineering services agreement for the project.
3. If the CITY is unable to negotiate a satisfactory contract with the CONSULTANT selected for the project, negotiations with that firm shall be terminated. The CITY will then undertake negotiations with the second ranked CONSULTANT for the project.
4. If the CITY is unable to negotiate a contract with any of the selected CONSULTANTS, the CITY shall reevaluate the necessary services, including the scope and reasonable fee requirements, and again compile a list of qualified CONSULTANTS.
5. The final engineering service agreement for the project will be on a “lump sum” basis with a guaranteed maximum limit for all services indicated in the proposal for that project.

4.0 BACKGROUND

The CITY has received St. Charles County Road Board and East-West Gateway TIP funds for design, property acquisition, and construction of a channelized right turn lane for northbound Mid Rivers Mall Drive (MRMD) at St. Peters Howell Road. The improvements will also construct additional lanes on St. Peters Howell Road westbound at MRMD to provide separate left, thru, and right turn lanes. The westbound right turn lane will be channelized. Sidewalk on the southeast corner of the intersection will be replaced and the signal equipment on that corner will be replaced to accommodate the lane additions. The signal heads for the westbound approach will be updated to accommodate the lane additions.

A TEAP study was conducted in 2019 for the intersection. Field observation revealed that traffic demand in the westbound shared thru/right lane is not entirely served every cycle during the afternoon peak period. The westbound right-turn traffic is allowed to turn right on red at this location, and vehicles have adequate gaps along MRMD to do so. However, large queues of vehicles build when a vehicle is waiting to travel thru the intersection forcing the westbound right-turn traffic to wait behind the thru vehicle until the westbound green phase is on. This results in excessive travel delay and encourages illegal cut thru of traffic thru the property at the northeast corner of the intersection.

In 2021 the City submitted an application to East-West Gateway for federal CMAQ funds for funding of the entire project, including construction. In order to receive the requested 80% federal reimbursement the project must be consistent with the East-West Gateway CMAQ application. Additionally in 2021, the City submitted an application to St. Charles County Road Board for funding 80% of the remaining 20% local match of the project, including construction, not funded by federal funds. In order to receive the requested 80% reimbursement of the remaining local match cost for ROW and construction from the County the project must be consistent with the St. Charles County Road Board application.

The City will consider additional improvements proposed by the consultant.

The Consultant's design shall provide said improvements while minimizing impacts to adjacent utilities and properties. All plans and specifications shall be compliant with all applicable sections of the Missouri Department of Transportation (MoDOT) Engineering Policy Guide (EPG) and EPG Section 136 (Local Public Agency (LPA) Manual). Roadway lighting, roadway and bike/pedestrian improvements, and traffic signals shall be designed in accordance with the City of St. Peters Design Criteria and Standard Specifications for Street Construction and St. Louis County Standard Specifications for Highway Construction. Any items not found in the City of St. Peters Design Criteria and Standard Specifications for Street Construction and St. Louis County Standard Specifications for Highway Construction shall be designed in accordance with the Missouri Standard Specifications for Highway Construction. All storm sewer improvements shall be designed in accordance with the Metropolitan St. Louis Sewer District's Standard Construction Specifications for Sewers and Drainage Facilities.

The Consultant shall perform all tasks necessary to prepare alignment, preliminary, right-of-way and final construction plans and specifications for bidding to be reviewed and approved by the

City of St. Peters and St. Charles County. The Consultant shall also prepare and provide all necessary metes and bounds descriptions and exhibits for all required easements and right-of-way necessary to construct the project. The Consultant shall at all stages of the project design, correspond and coordinate with all area utility companies with assets within the project limits and design proposed improvements to minimize existing utility conflicts and relocations. The consultant shall perform all necessary tasks to properly design the project and obtain all necessary permits. Said task shall include, but not be limited to, surveying, geotechnical investigations, hydraulic studies, environmental and historic preservation services/permits including the preparation of PS&E and final documents. The Consultant shall also provide all required construction phase services necessary for proper construction and documentation of these projects.

There is a DBE goal of 12% for this project.

5.0 CITY OF ST. PETERS RESPONSIBILITIES

The CITY shall provide the following services to assist the CONSULTANT:

1. Provide information as to the requirements of the project.
2. Assist the Engineer by providing existing CITY information, records, and reports pertinent to the project.
3. Furnish the Engineer, as required for performance of the services, data prepared by others, which the Engineer may use at their discretion subject to their verification, provided that such data is specifically required to be provided by the CITY.
4. Provide access to and make provisions for the Engineer to enter upon City and other public and private properties required to perform the services. The ENGINEER shall notify the CITY with sufficient advance notice in writing of any request to enter private property so that the CITY may obtain or confirm the existence of appropriate rights of entry.
5. Provide suitable rooms in CITY facilities to the Engineer to conduct progress meetings and workshops.

6. Review all studies, reports, sketches, drawings, specifications, proposals, and other documents presented by the Engineer and render in writing decisions pertaining thereto within reasonable time so as not to delay the service of the Engineer.
7. Endeavor to give notice to the Engineer whenever the City observes or otherwise becomes aware of a defect in the project or changed circumstances; provided however, that the failure of the CITY to provide such notice to the Engineer shall in no way affect the ENGINEER's obligations under this Agreement, nor shall such failure relieve the ENGINEER from any liability for its failure to discover and correct any such fault, defect, error, omission, or inconsistency.
8. Prepare bid documents utilizing CONSULTANT prepared plans, bid proposal, standard conditions, special conditions and any applicable specification provided by the CONSULTANT. This will include preparation and submittal for MODOT PS&E approval as the project will receive federal funds.
9. Perform all property acquisition activities utilizing plans, specifications and exhibits prepared by the CONSULTANT.
10. Review, comment and issue applicable City of St. Peters permits from permit applications prepared by the CONSULTANT.

6.0 CONSULTANT'S RESPONSIBILITIES

The CONSULTANT shall prepare all plans and specifications in compliance with all applicable sections of the Missouri Department of Transportation (MoDOT) Engineering Policy Guide (EPG) and EPG Section 136 (Local Public Agency (LPA) Manual). The CONSULTANT's responsibilities associated with this project will include, but not be limited to the following:

1. Turn Lanes and Signal Improvements: The engineering responsibilities may include but are not limited to the preparation of Preliminary plans, Contract plans, Right of Way Plans, preparing and submitting necessary permits, contract documents, assisting with the bidding process for ADA compliant sidewalks and preparation of PS&E and final documents. The engineering responsibilities may include but are not limited to the preparation of Preliminary plans, Contract plans and Right of Way Plans. Design services may include, surveying, preparation of metes and bounds descriptions and exhibits, geotechnical investigations, public involvement, environmental and historic preservation services/permits, contract documents, assisting with the bidding process, utility coordination/permits and traffic controls including the preparation of PS&E and final documents.

6.1 PROJECT STARTUP MEETING

The CONSULTANT shall attend a Project startup meeting with CITY staff to discuss in detail the scope of the project and collect existing data from the CITY.

6.2 REVIEW AND CONFIRM EXISTING DATA

The CONSULTANT shall review available data and provide a memorandum to CITY outlining the sustainability of the existing data to support the project goals, additional data needs and next steps and anticipated results.

6.3 DESIGN CRITERIA

All plans and specifications shall be compliant with all applicable sections of the Missouri Department of Transportation (MODOT) Engineering Policy Guide (EPG) and EPG Section 136 (Local Public Agency (LPA) Manual), unless otherwise stated in this document. The CONSULTANT shall use the following standards in the design of the project:

1. The roadway, traffic signal and bike/pedestrian components shall be designed in accordance with the City of St. Peters Design Criteria and Standard Specifications for Street Construction, City of St. Peters Traffic Signal Specifications, and St. Louis County Standard Specifications for Highway Construction.
2. All storm sewer improvements shall be designed in accordance with the Metropolitan St. Louis Sewer District's Standard Construction Specifications for Sewers and Drainage Facilities.
3. In estimating peak discharges, the methods listed in "Urban Hydrology for Small Watersheds" (technical release No. 55) published by the Soil Conservation Service shall be used.
4. When encroaching or crossing Flood Hazard areas, the "Flood Insurance Study – City of St. Peters, Missouri and St. Charles County, Missouri and its supporting maps shall be consulted. The analysis of the effects that the road improvements will have on the base flood elevations shall be made using the Corps of Engineer's HEC-RAS computer program.
5. The various publications of the U.S. Department of Transportation in their hydraulic Engineering Circular shall be used as appropriate.
6. All traffic control signing and pavement markings shall meet the provisions of the "Manual on Uniform Traffic Control Devices" published by the U.S. Department of Transportation.
7. The design and any City owned utility line relocations shall be in accordance with the City of St. Peters Standards for Water and Sewer Extensions.

6.4 FINAL REPORT

The CONSULTANT shall develop report and meet with CITY. Report shall include recommendations to provide planning level project costs, sketches of all alternatives and recommendations on most cost effective approach.

7.0 TENTATIVE SCHEDULE

The following is a tentative design schedule for this project, any variance from this schedule shall be discussed in the CONSULTANT's Project Approach.

Issue Request for Statement of Qualifications	March 31, 2022
Receive Statement of Qualifications	April 21, 2022
Award Contract	May 2, 2022
Issue Notice to Proceed	May 16, 2022
Project Startup Meeting	Week of May 23, 2022

Submit Conceptual Plan and Estimate (10% Design)	July 29, 2022
Preliminary Plans (30% Design)	August 29, 2022
Right-of-Way Plans	September 29, 2022
Final Plans and Specifications	December 31, 2022

8.0 INVOICING

The CONSULTANT shall present an invoice to the CITY's Purchasing Department with each required submittal for services rendered and expenses resulting there from. The invoice shall include the following information:

1. Submittal record.
2. Description of services provided to date.
3. Description of services pending.
4. Amount of basic services fee.
5. Amount of optional services fee.
6. Total Amount.

Additional invoicing and payment information can be found in the Sample Agreement

9.0 INSURANCE REQUIREMENTS

CONSULTANT shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the CONSULTANT, his agents, representatives, employees or subcontractors, including those insurance coverages set forth below. All such insurance policies shall name the CITY as an additional insured with the exception of the Workers' Compensation/Employer's Liability Policy and Professional Errors and Omissions Insurance, with a subrogation waiver on all policies except Professional Liability. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, or by such other method approved by the CITY, has been given to the CITY. The cost of such insurance shall be included in the CONSULTANT'S proposal.

9.1 MINIMUM LIMITS OF INSURANCE

CONSULTANT shall maintain limits no less than:

1. Workers' Compensation for statutory limits and Employer's Liability minimum \$500,000 limit.
2. Comprehensive General Liability to cover claims which may arise from operations under this contract. The policy shall include, but not be limited to, protection for the following hazards:
 - a. Premises and Operations-Bodily Injury and Property Damage Liability
 - b. Independent Contractors Coverage
 - c. Products & Completed Operations liability coverage
 - d. Personal Injury/Advertising Injury Liability
 - e. Broad Form Property Damage
 - f. Contractual Liability
 - g. Explosion, collapse and underground damage, if applicable

The above policy shall be written with limits of at least \$1,000,000 each occurrence and \$2,000,000 aggregate.

3. Business Automobile Policy (Comprehensive Automobile Liability Insurance) provides coverage for all owned, non-owned and hired vehicles. Minimum limits should be at least \$1,000,000 Each Occurrence Bodily Injury Liability and Property Damage Liability.
4. Umbrella/Excess Liability – Limit of \$1,000,000 which will be excess of the primary limits for General Liability, Auto Liability and Employer Liability.
5. Professional Errors and Omissions Insurance: If CONSULTANT is an architect, engineer, surveyor, or consultant, CONSULTANT agrees to obtain Professional Errors and Omissions Insurance. CONSULTANT shall also require all professional subcontractors to obtain and maintain similar insurance with similar limits in connection with subcontracted work. Limit of Liability should be no less than \$2,000,000 Per Claim/\$2,000,000 Annual Aggregate.

9.2 DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductibles or self-insured retentions must be declared to and approved by the CITY. At the option of the CITY, either; the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials and employees; or the CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administrative and defense expense.

9.3 OTHER INSURANCE PROVISIONS

The CONSULTANT shall also obtain and pay for insurance policies that contain, or are endorsed to contain, the following provisions:

1. CONSULTANT'S Contingent or Protective Liability and Property Damage to protect the CONSULTANT from any and all claims arising from the operations of sub-consultant employed by the CONSULTANT.
2. The coverage shall be for a minimum of \$2,000,000 unless otherwise stated in the Contract Documents, and shall contain no special limitations on the scope of protection afforded to the CITY, its officers, officials, employees or volunteers.
3. The CONSULTANT's insurance coverage SHALL BE PRIMARY INSURANCE as respects the CITY, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees or volunteers shall be excess of the CONSULTANT's insurance and shall not contribute with it.
4. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the CITY, its officers, officials, employees or volunteers.
5. The CONSULTANT's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

9.4 ACCEPTABILITY OF INSURERS

Insurance is to be placed with insurers with a Bests' rating of no less than A:VI.

9.5 VERIFICATION OF COVERAGE

CONSULTANT shall furnish the CITY with certificates of insurance. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf, and are to be received and approved by the CITY before work commences. The CITY reserves the right to require complete, certified copies of all required insurance policies, at any time.

9.6 SUBCONSULTANTS

CONSULTANT shall include all subconsultants as insureds under its policies or shall furnish separate certificates of each subconsultant. All coverages for subconsultants shall be subject to all of the requirements stated herein.

**APPENDIX A
DRAFT AGREEMENT
FOR ENGINEERING SERVICES
22-145 – ENGINEERING SERVICES FOR MID RIVERS MALL DR – ST. PETERS
HOWELL RD LANE IMPROVEMENTS (CMAQ 5615(602))**

This Agreement, entered into in the City of St. Peters, County of St. Charles, State of Missouri this _____ day of _____, 2022, is by and between the City of St. Peters, Missouri, a Missouri municipal corporation, hereinafter referred to as CITY, and INSERT NAME., a Missouri corporation, hereinafter referred to as ENGINEER.

WITNESSETH:

WHEREAS, the CITY is seeking professional and technical services to complete Mid Rivers Mall Dr - St. Peters Howell Rd Lane Improvements (CMAQ 5615(602)) (the PROJECT); and

WHEREAS, the ENGINEER has submitted a proposal to provide professional and technical services, and

WHEREAS, the CITY and the ENGINEER have held subsequent meetings after the submittal of the proposal to define the terms and conditions of such professional and technical services, which terms and conditions are specified herein.

NOW THEREFORE, in consideration of the foregoing recitals and the terms and conditions of such professional and technical services, which terms and conditions are specified herein.

ARTICLE 1 - GENERAL

The ENGINEER shall serve as the CITY'S professional and technical representative in providing professional engineering services for Mid Rivers Mall Dr - St. Peters Howell Rd Lane Improvements (CMAQ 5615(602)) and shall also provide consultation and advice to the CITY during the performance of these services.

ARTICLE 2 – DEFINITIONS

The meaning and intent of the following terms in this Agreement shall be as follows:

2.1 **COST**: Includes direct labor expense, plus a percentage of direct labor expense for total indirect costs, plus other direct costs at actual out-of-pocket expense.

2.2 **DIRECT LABOR EXPENSE**: Includes the direct compensation payable to employees for time specifically chargeable to the PROJECT, with the average hourly labor rate being the annual direct compensation divided by 2,080.

2.3 **FIXED FEE**: A dollar amount to compensate the ENGINEER for contingencies, interest on invested capital, professional expertise, readiness to serve, risk management, other non-reimbursable costs, and profit. The amount varies with the complexity and size of a given project and the scope of the engineering services required. The fee shall be

calculated as a percentage of the total initial contractual sum of direct labor expenses, other direct costs and total indirect costs chargeable to the PROJECT.

2.4 OTHER DIRECT COSTS: Includes such items as subcontract expenses, computer run time and CADD charges, special equipment rental, special material purchases, reproduction costs, mileage, traveling expenses, and living costs for personnel on assignment away from their home office, and other incidental expenses directly chargeable to the PROJECT, charged at actual cost to the ENGINEER.

2.5 TOTAL INDIRECT COSTS: Includes labor overhead and general and administration overhead costs. Overhead expenses shall also include costs of all required insurance, including professional liability coverage for the project. Labor overhead includes allowances for sick leave, vacation and holiday, plus unemployment, excise and other payroll taxes; and statutory and usual contributions for Social Security; Worker's Compensation Insurance, retirement benefits, and medical and other insurance benefits. General and administrative overhead costs shall include costs of preparing proposals for the PROJECT and also consist of costs not directly identifiable with any specific project and include allowable general corporate overhead such as office rent, accounting and insurances. The provisional rate for total indirect costs indicated in the attached proposal is for use during the performance of this contract. The provisional rate may be revised by mutual consent of the parties if such a rate varies significantly from the actual rate experienced during the period of performance under this Agreement.

ARTICLE 3 - SERVICES TO BE PERFORMED BY ENGINEER

ENGINEER shall perform the Services described in Attachment A, Scope of Services. ENGINEER shall have no liability for defects in the Services attributable to ENGINEER'S reliance upon or use of data, design criteria, drawings, specifications, or other information that the City is required to furnish under this Agreement; provided that such reliance is reasonable and not a breach of any contractual obligation, warranty or standard of care under this Agreement.

ARTICLE 4 - COMPENSATION

CITY shall pay ENGINEER the amounts stated in Attachment B, Compensation. Prices quoted are firm for the duration of the Project. CITY shall not be liable for any taxes assessed against the ENGINEER's income.

Requests for progress payments for services rendered will be made by the ENGINEER monthly as the work progresses by the ENGINEER submitting a correctly detailed invoice for work performed prior to the request for payment, along with all other required submittals, all in accordance with the terms of this Agreement.

All invoices, payroll records, supporting documentation, and payment certifications shall be submitted to the Purchasing Department, City Hall, One St. Peters Centre Blvd., P O Box 9, St. Peters, Missouri 63376 who will forward to the Project Manager (the CITY staff official in charge of the Project). For purposes of payment, the ENGINEER's invoices and requests for payment shall be deemed to be duly delivered to the CITY ten days after the CITY's Project Manager certifies to the CITY Purchasing Department that the invoice is for a correct amount, was properly submitted in accordance with the contract documents, and that all required and necessary supporting documents required by the contract or requested by the CITY have been submitted by the ENGINEER to support the invoice.

The CITY's Project Manager shall act on the ENGINEER's payment request by either:

- a. Approving the request for payment as submitted
- b. Approving a lesser amount that the Project Manager determines is due the ENGINEER, informing the ENGINEER in writing of his reasons for approving the amended amount.
- c. Rejecting the request for payment, informing the ENGINEER in writing of his reasons for rejecting it.

If there are errors in the invoice, it is not for a proper amount, additional supporting information is required by the CITY, or there are other defects in the invoice, the CITY's Project Manager shall return the invoice to the ENGINEER with a request to correct the errors. The invoice will not be deemed to be duly delivered until the errors are corrected, additional requested information is supplied, and the City staff official in charge of the Project certifies to the CITY Purchasing Department that the invoice is for a correct amount, was properly submitted in accordance with the contract documents, and that all required and necessary supporting documents required by the contract or requested by the CITY have been submitted by the ENGINEER to support the invoice.

Within thirty (30) calendar days from the date that the ENGINEER's invoice or amended invoice is duly delivered to the CITY, the CITY shall either:

- a. Pay the request for payment as certified by the CITY's Project Manager.
- b. Pay such other amount as the CITY determines is actually due the ENGINEER, informing the ENGINEER and the Project Manager in writing of his reasons for paying the amended amount.
- c. Reject the invoice and inform the ENGINEER and the Project Manager in writing of the reasons for rejecting the invoice.

The City may withhold payment in whole or in part on a request for payment or invoice because of, but not limited to, the following reasons, even if such reasons are discovered subsequent to approval of a request for payment by the CITY's Project Manager or the CITY.

- a. Defective work or material not remedied.
- b. Evidence indicating the probable filing of claims by other parties against the ENGINEER or against the CITY because of the ENGINEER's work.
- c. Failure of the ENGINEER to make payments to subcontractors, consultants, material suppliers, or labor.
- d. Damage to the CITY's or another's property or work.
- e. Unsatisfactory job progress;
- f. Disputed work;
- g. Failure to comply with any material provision of the contract;
- h. Reasonable evidence that a subcontractor, consultant, or material supplier cannot be fully compensated under its contract with the ENGINEER for the unpaid balance of the contract sum;
- i. Citation by the enforcing authority for acts of the ENGINEER or its consultants or subcontractors that do not comply with any material provision of the contract or that result in a violation of any federal, state or local law, regulation or ordinance applicable to that Project causing additional costs, delays, or damages to the CITY;

- j. Funds from a State grant are not timely received by the CITY;
- k. Failure to fulfill any condition precedent to payment;
- l. Failure to provide all appropriate, requested, or required documentation and certifications in complete and acceptable form; or
- m. Any other cause or reason permitted by law.

Only properly submitted invoices for valid charges will become due and payable.

The ENGINEER may submit an invoice at substantial completion of the Services requesting that the CITY pay ninety-eight percent of the retainage, less any offsets or deductions authorized in this Agreement or otherwise authorized by law. "Substantial Completion" means that point where all of the Services have been performed and accepted by the CITY except for the delivery of the completed final product. If the CITY determines the work is not substantially completed and accepted, then the CITY shall provide a written explanation of why the work is not considered substantially completed and accepted within fourteen calendar days of the date that the substantial completion invoice is duly delivered to the CITY. If there are any remaining minor items to be completed at substantial completion, an amount equal to one hundred fifty percent (150%) of the value of each item as determined by the CITY shall be withheld until such items are fully and finally completed.

The ENGINEER may submit a final invoice upon the satisfactory completion of all the Services required by this Agreement. The CITY shall make final payment of all moneys owed to the ENGINEER, including any retainage withheld under this Agreement, less any offsets or deductions authorized in the contract or otherwise authorized by law, within thirty days of the due date. The final payment due date shall be the date of the earliest of the following events:

- a. Completion of the Project and filing with the CITY of all required documentation and certifications, in complete and acceptable form, in accordance with the terms and conditions of the contract;
- b. The Project is certified by the CITY as having been completed, including the filing of all documentation and certifications required by the contract, in complete and acceptable form.

As part of the documentation and certifications required for final payment, the ENGINEER must also provide to the CITY the following:

- a. Written certification and verification by the ENGINEER and any consultants and subcontractors that the ENGINEER has made all payments to any subconsultants or subcontractors used to complete the Project and there are no outstanding claims by or against them;
- b. Certification from the CITY's Project Manager that the Project is fully and finally complete with no other work remaining to be performed, and no claims arising from or related to the ENGINEER's Services are outstanding;
- c. Certification from the CITY's Project Manager that the final invoice is for the proper amount; and
- d. All funds from state or federal sources for the Project have been received by the CITY.

No additional services or overtime services shall be payable by the CITY unless the CITY has approved them in writing as an Amendment as additional services for an additional

fee before those services are provided. Any adjustments to the rates and amounts of ENGINEER's compensation shall be negotiated in good faith. CITY agrees to pay for such additional services or extra work only if the consultant specifies it as extra work to be performed for an extra fee in advance of the work being formed. No request for payment for extra work shall be valid unless it has been accepted in compliance with RSMo. §432.070. The CITY shall not be obligated to pay any sums beyond the stated not-to-exceed price unless the CITY agrees to do so after the execution of this Agreement in compliance with RSMo. §432.070.

ARTICLE 5 - CITY'S RESPONSIBILITIES

CITY shall be responsible for all matters described in Attachment C, City's Responsibilities. CITY shall not be responsible for discovering deficiencies in the technical accuracy of Engineer's services. Engineer shall correct deficiencies in its Services without compensation, unless such corrective action is directly attributable to deficiencies in CITY-furnished information.

ARTICLE 6 – INSURANCE REQUIREMENTS

ENGINEER shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the ENGINEER, his agents, representatives, employees or subcontractors, including those insurance coverages set forth below. All such insurance policies shall name the CITY as an additional insured with the exception of the Workers' Compensation/Employer's Liability Policy and Professional Errors and Omissions Insurance, with a subrogation waiver on all policies except Professional Liability. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, or by such other method approved by the CITY, has been given to the CITY. The cost of such insurance shall be included in the ENGINEER'S proposal.

6.1 MINIMUM LIMITS OF INSURANCE

ENGINEER shall maintain limits no less than:

1. Workers' Compensation for statutory limits and Employer's Liability minimum \$500,000 limit.
2. Comprehensive General Liability to cover claims which may arise from operations under this contract. The policy shall include, but not be limited to, protection for the following hazards:
 - a. Premises and Operations-Bodily Injury and Property Damage Liability
 - b. Independent Contractors Coverage
 - c. Products & Completed Operations liability coverage
 - d. Personal Injury/Advertising Injury Liability
 - e. Broad Form Property Damage
 - f. Contractual Liability
 - g. Explosion, collapse and underground damage, if applicableThe above policy shall be written with limits of at least \$1,000,000 each occurrence and \$2,000,000 aggregate.

3. Business Automobile Policy (Comprehensive Automobile Liability Insurance) provides coverage for all owned, non-owned and hired vehicles. Minimum limits should be at least \$1,000,000 Each Occurrence Bodily Injury Liability and Property Damage Liability.
4. Umbrella/Excess Liability – Limit of \$1,000,000 which will be excess of the primary limits for General Liability, Auto Liability and Employer Liability.
5. Professional Errors and Omissions Insurance: If ENGINEER is an architect, engineer, surveyor, or consultant, ENGINEER agrees to obtain Professional Errors and Omissions Insurance. ENGINEER shall also require all professional subcontractors to obtain and maintain similar insurance with similar limits in connection with subcontracted work. Limit of Liability should be no less than \$2,000,000 Per Claim/\$2,000,000 Annual Aggregate.

6.2 DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductibles or self-insured retentions must be declared to and approved by the CITY. At the option of the CITY, either; the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials and employees; or the CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administrative and defense expense.

6.3 OTHER INSURANCE PROVISIONS

The ENGINEER shall also obtain and pay for insurance policies that contain, or are endorsed to contain, the following provisions:

1. ENGINEER'S Contingent or Protective Liability and Property Damage to protect the ENGINEER from any and all claims arising from the operations of subconsultant employed by the ENGINEER.
2. The coverage shall be for a minimum of \$2,000,000 unless otherwise stated in the Contract Documents, and shall contain no special limitations on the scope of protection afforded to the CITY, its officers, officials, employees or volunteers.
3. The ENGINEER's insurance coverage SHALL BE PRIMARY INSURANCE as respects the CITY, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees or volunteers shall be excess of the ENGINEER's insurance and shall not contribute with it.
4. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the CITY, its officers, officials, employees or volunteers.
5. The ENGINEER's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6.4 ACCEPTABILITY OF INSURERS

Insurance is to be placed with insurers with a Bests' rating of no less than A:VI.

6.5 VERIFICATION OF COVERAGE

ENGINEER shall furnish the CITY with certificates of insurance. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf, and are to be received and approved by the CITY before work commences. The CITY reserves the right to require complete, certified copies of all required insurance policies, at any time.

6.6 SUBCONSULTANTS

ENGINEER shall include all subconsultants as insureds under its policies or shall furnish separate certificates of each subconsultant. All coverages for subconsultants shall be subject to all of the requirements stated herein.

No portion of the work covered by this contract, except as provided herein, shall be sublet or transferred without the written consent of the CITY. The subletting of the work shall in no way relieve ENGINEER of his primary responsibility for the quality and performance of the work.

It is the intention of ENGINEER to engage subcontractors for the purposes of:

Sub-Consultant Name	Address	Services
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ARTICLE 7 – COVENANT AGAINST CONTINGENT FEES

ENGINEER warrants that they have not employed or retained any company or person, other than a bona fide employee working for their company, to solicit or secure this contract, and that they have not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warranty, the CITY shall have the right to annul this agreement without liability, or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee, plus reasonable attorney's fees. For breach or violation of this warranty, the CITY shall have the right to rescind this contract without liability.

ARTICLE 8 – INTELLECTUAL PROPERTY -- OWNERSHIP OF DOCUMENTS -- REUSE OF DOCUMENTS

All original documents, studies, drawings, maps and plans prepared by the ENGINEER for the project, and all right, title and interest, including all rights under federal and state copyright and intellectual property laws in the drawings, specifications, reports, plans, analyses, and other documents prepared by the ENGINEER for this Project (collectively, "Instruments of Service") and the electronic methods of reproducing such documents are hereby conveyed, assigned and transferred by ENGINEER and its consultants to CITY and shall be deemed to be the property of the CITY. CITY shall retain legal title to such Instruments of Service, whether or not the Project for which they may be made is completed. No further compensation shall be due to ENGINEER for CITY's use of the Instruments of Service, whether during performance of this Agreement or after is termination or completion. All Instruments of Service, including services in electronic form, shall be furnished to CITY in a format requested by CITY, including electronic format.

Any reuse without prior written verification or adaptation by ENGINEER for the specific purpose intended will be at CITY's sole risk and without liability or legal exposure to Engineer.

Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings/hard copies and the electronic files, the sealed drawings/hard copies will govern.

If ENGINEER will be preparing, drafting, displaying, reproducing, or otherwise using, in any manner or form, any information, document, or material that is subject to a copyright, trademark, patent, or other property or privacy right, then ENGINEER must: Obtain all necessary licenses, authorizations, and approvals related to its use; include the CITY in any approval, authorization, or license related to its use; and indemnify and hold harmless the CITY related to ENGINEER's alleged infringing or otherwise improper or unauthorized use. Accordingly, the ENGINEER must protect, indemnify, and hold harmless the CITY from and against all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, suits, or actions, and attorneys' fees and the costs of the defense of the CITY, in any suit, including appeals, based upon or arising out of any allegation of infringement, violation, unauthorized use, or conversion of any patent, copyright, trademark or trade name, license, proprietary right, or other related property or privacy interest in connection with, or as a result of, this contract or the performance by the ENGINEER of any of its activities or obligations under this Agreement.

ENGINEER shall maintain all records, survey notes, design documents, cost and accounting records, construction records and other records pertaining to this contract and to the project covered by this contract, for a period of not less than three years following final payment. Said records shall be made available for inspection by authorized representatives of the CITY, MoDOT or the federal government during regular working hours at ENGINEER'S place of business.

ARTICLE 9 – INDEMNIFICATION

ENGINEER shall indemnify, defend, and save and hold harmless the CITY, its officers, agents and employees from any and all liability, claims, suits, demands, actions, damages and expenses (including reasonable attorney fees) of whatsoever kind and by whomsoever brought against the CITY, its officers, agents and employees, arising from, relating to, or in connection with any breach of this Agreement, any willful or negligent act, or error or omission of ENGINEER or ENGINEER's employees, consultants, subcontractors, or agents in the performance of this Agreement. This requirement shall be included in all of the ENGINEER's subcontract and consultant agreements. Notwithstanding any other provisions of this Agreement, the CITY reserves the right to seek recovery from the ENGINEER for any claims, suits, actions, damages, and/or cost resulting from damages to life and property of any kind arising out of or resulting from services rendered by the ENGINEER under this Agreement.

ARTICLE 10 – TERMINATION AND SUSPENSION

- A. The CITY may, without being in breach hereof, suspend or terminate ENGINEER'S services under this Agreement, or any part of them, for cause or for the convenience of the CITY. ENGINEER shall not accelerate performance of services during the fifteen (15) day period without the express written request of

the CITY.

- B. ENGINEER shall remain liable to the CITY for any claims or damages occasioned by any failure, default, or negligent errors and/or omission in carrying out the provisions of this Agreement during its life, including those giving rise to a termination for non-performance or breach by ENGINEER. This liability shall survive and shall not be waived, or estopped by final payment under this Agreement.
- C. ENGINEER shall not be liable for any errors or omissions contained in deliverables which are incomplete as a result of a suspension or termination where ENGINEER is deprived of the opportunity to complete ENGINEER'S services.

Termination For Default

The CITY may terminate the Agreement in whole or in part, and from time to time, whenever the CITY, determines that the ENGINEER is:

- a. defaulting in performance or is not complying with any provision of this Agreement;
- b. failing to make satisfactory progress in the prosecution of the Agreement;
or
- c. endangering the performance of this Agreement.

The CITY will provide the ENGINEER with a ten calendar day written notice to cure the default. The termination for default is effective on the date specified in the CITY's written notice. However, if the CITY determines that default contributes to the curtailment of an essential service or poses an immediate threat to life, health, or property, the CITY may terminate the Agreement immediately upon issuing oral or written notice to the ENGINEER without any prior notice or opportunity to cure. Upon termination, the ENGINEER is not entitled to any further compensation. In addition to any other remedies provided by law or the Agreement, the ENGINEER must compensate the CITY for any damages suffered, and also any additional costs that are incurred by the CITY to obtain substitute performance. A termination for default is a termination for convenience if the termination for default is later found to be without justification.

Termination For Convenience

This Agreement may be terminated by the CITY, in whole or in part, upon written notice to the ENGINEER, when the CITY determines this to be in its best interest. The termination for convenience is effective on the date specified in the CITY's written notice. In the event of such termination, the CITY shall pay the ENGINEER its compensation and expenses to and through the actual date of termination. The payment will make no other allowances for damages or anticipated fees or profits.

Suspension of Services.

CITY may suspend performance of this Agreement for CITY's convenience upon written notice to Engineer. ENGINEER shall suspend performance of the Services on a schedule acceptable to CITY. ENGINEER shall only be entitled to compensation for Services performed through the date of suspension. If Services are resumed, ENGINEER shall receive compensation only for Services provided after the date that Services are resumed.

ARTICLE 11 - COMMUNICATIONS

Any communication required by this Agreement shall be made in writing to the address specified below:

IF TO ENGINEER:

IF TO CITY: Amanda L. Rich, P.E., PTOE
City of St. Peters
One St. Peters Centre Blvd.
St. Peters, MO 63376
Ph: (636) 477-6600, ext. x1423
Fax: (636) 992-2016
E-mail: arich@stpetersmo.net

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of ENGINEER and CITY.

ARTICLE 12 - SUCCESSORS AND ASSIGNS

CITY and ENGINEER each binds itself and its directors, officers, partners, successors, executors, administrators, assigns, and legal representatives to the other party to this Agreement and to the directors, officers, partners, successors, executors, administrators, assigns, and legal representatives of such other party in respect to all provisions of this Agreement.

ARTICLE 13 – ASSIGNMENT

No portion of the contract shall be sublet, assigned, transferred, or otherwise disposed of, except with the written consent of the other Party. Written consent to sublet, assign, or otherwise dispose of any portion of the contract shall not be construed so as to relieve ENGINEER or CITY of any responsibility for the fulfillment of this Agreement.

ARTICLE 14 – CHANGES

The CITY may increase or decrease the scope of services of this Agreement. No changes will be made in the scope of services, the time of performance, the fees to be paid or other provisions, which may increase or decrease the total cost of the project without prior written order of the CITY and the execution of a suitable Amendment to this Agreement. In this event, a supplement to this agreement shall be executed and submitted for the approval of MoDOT prior to performing the additional or changed work or incurring any additional cost thereof.

Neither the CITY nor the ENGINEER may authorize any substantive change in this Agreement by oral or other directions in lieu of a written contract Amendment.

The total maximum amount to be paid by the CITY shall not exceed the cost ceilings stated in Attachment B without a written Amendment to this Agreement.

If during the progress of the work, the ENGINEER anticipates that he may exceed the cost ceilings set forth in Attachment B, he shall notify the CITY in writing, setting forth the status of the project and the reasons for the possible overrun. If, in the opinion of the CITY, the potential overrun is justified, the parties will negotiate and execute a written Amendment to this Agreement modifying the scope of services and/or the cost ceiling provisions of Attachment B. If, in the opinion of the CITY, the potential cost overrun is not justified, the ENGINEER must complete the work without exceeding the contract-ceiling price stated in Attachment B.

ARTICLE 15 – THIRD PARTY RIGHTS

Nothing herein shall be construed to give any rights or benefits to anyone other than CITY and ENGINEER.

ARTICLE 16 – PRE-EXISTING CONTAMINATION

Anything herein to the contrary notwithstanding, title to, ownership of, and legal responsibility and liability for any and all pre-existing contamination shall at all times remain with CITY, except for pre-existing contamination that is moved, disturbed, or added to by the ENGINEER. "Pre-existing contamination" is any federally reportable quantity of hazardous or toxic substance, material, or condition present at the Project site(s) concerned, which was not brought onto such site(s) by the ENGINEER.

ARTICLE 17 – DELAYS IN PERFORMANCE

Neither CITY nor ENGINEER shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war, riots, and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage; judicial restraint; and inability to procure permits, licenses, or authorizations from any local, state or federal agency for any of the supplies, materials, accesses, or services required to be provided by either CITY or ENGINEER under this Agreement.

Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other Party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

ARTICLE 18 – PROFESSIONAL RESPONSIBILITY AND STANDARD OF CARE.

By execution of this Agreement, the ENGINEER represents and agrees that (a) it is an experienced and registered ENGINEERING firm having the ability and skill necessary to perform all the services required of it under this Agreement in connection with scope and complexity of the Project; (b) it has the capabilities and resources necessary to perform its obligations under this Agreement; (c) the person(s) directly in charge of the professional engineering work are duly licensed and registered under the laws of Missouri; and (d) it is familiar with all current laws, rules, and regulations that are applicable to the design and construction of the Project, and that all drawings, plans, specifications and other documents prepared by the ENGINEER must be prepared in accordance with, and must accurately reflect and incorporate, appropriate laws, rules and regulations. Notwithstanding anything to the contrary contained in this Agreement, CITY and ENGINEER agree and acknowledge that CITY is entering into this Agreement in reliance on ENGINEER's stated experience and abilities with respect to performing the Services for this Project. The ENGINEER accepts the relationship of trust and confidence established between it and the CITY by this Agreement. ENGINEER covenants with CITY to use its best efforts, skill, judgment and abilities to perform the services under this Agreement. ENGINEER represents covenants and agrees that there are no obligations, commitments or impediments of any kind that will limit or prevent performance of the Services under this Agreement. The ENGINEER represents and agrees that the reports, analyses, plans, drawings, specifications and other documents prepared by it pursuant to this Agreement must be complete and functional for the purposes intended, except as to any deficiencies that are due to causes beyond the control of the ENGINEER. The ENGINEER agrees to act in a reasonable, responsive and timely manner in the performance of all services under this Agreement. The ENGINEER is responsible for the completeness and accuracy of all documents, submitted by or through the ENGINEER and for their compliance with all applicable codes, ordinances, regulations, laws, and statutes. The ENGINEER's liability for errors and omissions under this Agreement will be interpreted consistent with the standard of care applicable to professional ENGINEERS. The ENGINEER shall be responsible for providing services, at no additional cost to the CITY, that are made necessary by major defects or deficiencies in the contractor's work which the ENGINEER should have discovered through the exercise of reasonable care.

ENGINEER shall be responsible for working with the CITY in determining the appropriate design parameters and construction specifications for the project using good engineering judgment based on the specific site conditions, CITY needs, and guidance provided in the most current version of EPG 136 LPA Policy. If the project is on the state highway system or is a bridge project, then the latest version of MoDOT's Engineering Policy Guide (EPG) and Missouri Standard Specifications for Highway Construction shall be used (see EPG 136.7). The project plans must also be in compliance with the latest ADA (Americans with Disabilities Act) Regulations.

ARTICLE 19 – WORK AUTHORIZATION

Pursuant to RSMo. § 285.530, the ENGINEER must affirm its enrollment and participation in a federal work authorization program with respect to the employees proposed to work in connection with the services requested in this contract by:

1. Submitting a completed, notarized Affidavit of Work Authorization; and
2. Providing proper documentation affirming the bidder/engineer's enrollment and participation in a valid federal work authorization program for the

employees proposed to work in connection with the services requested in this Contract.

An example of a valid federal work authorization program is E-Verify. Acceptable enrollment and participation documentation in the E-Verify program consists of: (1) a valid, completed copy of the first page of the E-Verify Memorandum of Understanding (MOU) identifying the bidder; and (2) a valid copy of the MOU signature page completed and signed by the bidder, the Social Security Administration, and the Department of Homeland Security – Verification Division.

ARTICLE 20 – REMEDIES NOT WAIVED.

No delay, omission or forbearance to exercise any right, power, or remedy accruing to the CITY shall impair any such right, power or remedy, or shall be construed to be a waiver of any breach or default under this Agreement. Every such right, power or remedy may be exercised from time-to-time and as often as deemed expedient.

ARTICLE 21 – SAFETY

The ENGINEER shall be solely responsible for the safety of its employees, agents, consultants, and subcontractors on the Project. The ENGINEER shall adopt all necessary safety plans and make all required postings before commencing its Services. The ENGINEER shall retain all required records.

ARTICLE 22 - PROFESSIONAL ENDORSEMENT

All plans, specifications and other documents shall be endorsed by ENGINEER and shall reflect the name and seal of the Professional Engineer endorsing the work. By signing and sealing the PS&E submittals the Engineer of Record will be representing to MoDOT that the design is meeting the intent of the federal aid programs.

ARTICLE 23 - DECISIONS UNDER THIS CONTRACT

The CITY will determine the acceptability of work performed under this contract and will decide all questions which may arise concerning the project. The CITY's decision shall be final and conclusive.

ARTICLE 24 - COMPLIANCE WITH LAWS

ENGINEER shall comply with all federal, state, and local laws, ordinances, and regulations applicable to the work, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d, 2000e), as well as with any applicable titles of the Americans with Disabilities Act (42 U.S.C. 12101, et seq.) and non-discrimination clauses incorporated herein, and shall procure all licenses and permits necessary for the fulfillment of obligations under this contract.

ARTICLE 25- NONDISCRIMINATION

ENGINEER, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the ground of race, color or national origin in the selection and retention of subcontractors. ENGINEER will comply with state and federal related to nondiscrimination, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d, 2000e), as well as with any applicable titles of the Americans with Disabilities Act (42 U.S.C. 12101, et seq.). More specifically, ENGINEER will comply with the regulations of the Department of Transportation relative to nondiscrimination in federally assisted programs of the Department of Transportation, as contained in 49 CFR 21 through Appendix H and 23

CFR 710.405 which are herein incorporated by reference and made a part of this contract. In all solicitations either by competitive bidding or negotiation made by ENGINEER for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by ENGINEER'S obligations under this contract and the regulations relative to non-discrimination on the ground of color, race or national origin.

ARTICLE 26– LOBBY CERTIFICATION

CERTIFICATION ON LOBBYING: Since federal funds are being used for this agreement, ENGINEER'S signature on this agreement constitutes the execution of all certifications on lobbying which are required by 49 C.F.R. Part 20 including Appendix A and B to Part 20. ENGINEER agrees to abide by all certification or disclosure requirements in 49 C.F.R. Part 20 which are incorporated herein by reference.

ARTICLE 27 - DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS:

- A. DBE Goal: The following DBE goal has been established for this Agreement. The dollar value of services and related equipment, supplies, and materials used in furtherance thereof which is credited toward this goal will be based on the amount actually paid to DBE firms. The goal for the percentage of services to be awarded to DBE firms is 12% of the total Agreement dollar value.
- B. DBE Participation Obtained by ENGINEER: ENGINEER has obtained DBE participation, and agrees to use DBE firms to complete, 12% of the total services to be performed under this Agreement, by dollar value. The DBE firms which ENGINEER shall use, and the type and dollar value of the services each DBE will perform, is as follows:

DBE Firm Name	
Street & Complete Mailing Address	
Type of DBE Service	
Total Value of DBE Subcontract	
Contract Amount to Apply to Total DBE Goal	
Percentage of subcontract Dollar Value Applicable to Total Goal	

ARTICLE 28 - PERIOD OF SERVICE

ENGINEER will commence work within two weeks after receiving notice to proceed from the CITY. The general phases of work will be completed in accordance with the following schedule:

- A. Mid Rivers Mall Drive – St. Peters Howell Road Lane Improvements Project will be submitted in draft form within XX days of receiving notice-to-proceed. Work on this plan will be completed by XXX, so final invoice can be submitted by XXX.

The CITY will grant time extensions for delays due to unforeseeable causes beyond the control of and without fault or negligence of ENGINEER. Requests for extensions of time shall be made in writing by ENGINEER, before that phase of work is scheduled to be completed, stating fully the events giving rise to the request and justification for the time extension requested.

ARTICLE 29 - RETENTION OF RECORDS

The Engineer shall maintain all records, survey notes, design documents, cost and accounting records, construction records and other records pertaining to this contract and to the project covered by this contract, for a period of not less than three years following final payment. Said records shall be made available for inspection by authorized representatives of the Local Agency, MODOT or the federal government during regular working hours at the Engineer's place of business.

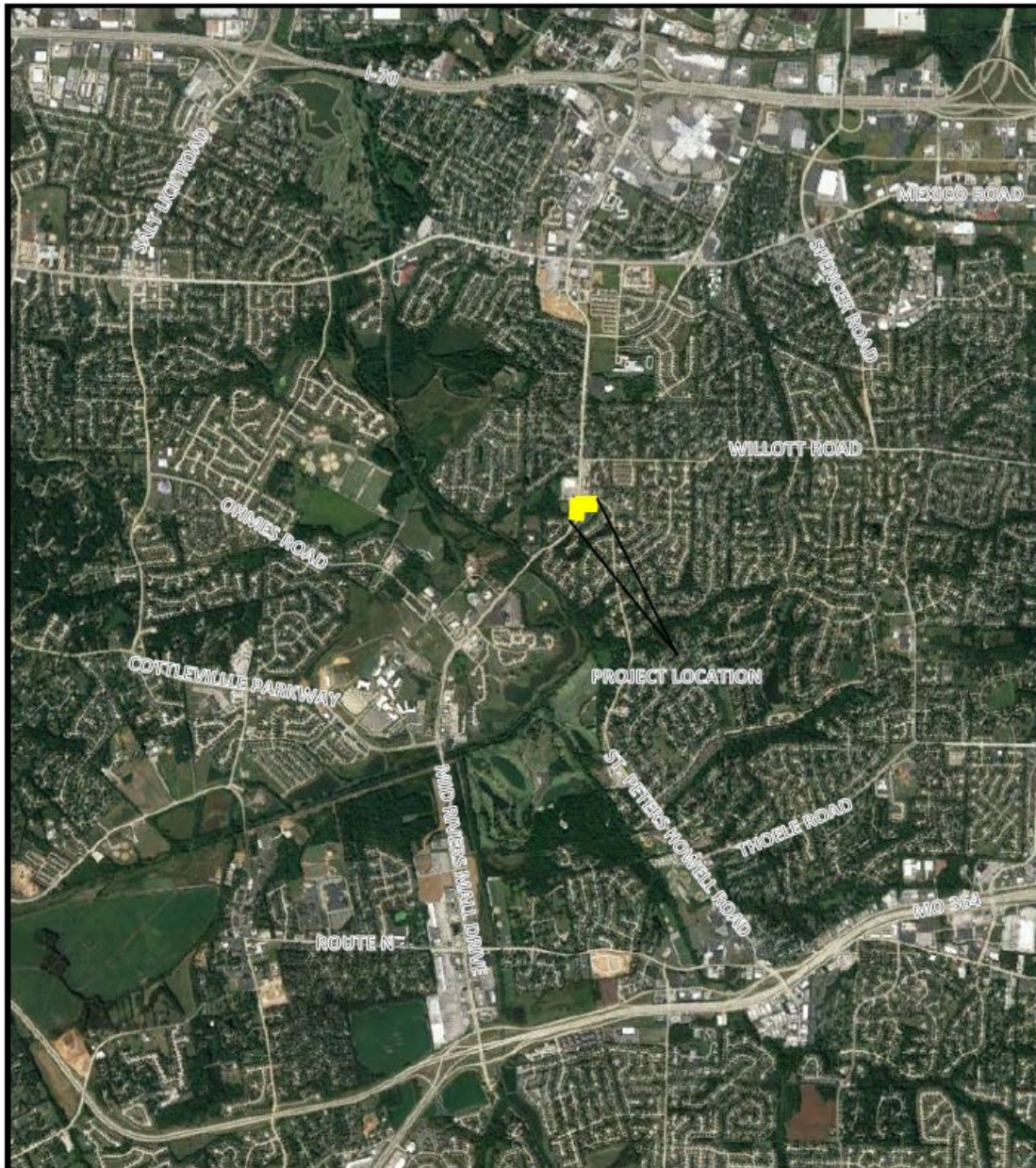
IN WITNESS WHEREOF, CITY and ENGINEER have executed this Agreement effective as of the date first written above.

City of St. Peters			
City		Engineer	
Signature:		Signature:	
Print Name:	Russell W. Batzel	Print Name:	
Title:	City Administrator	Title:	
Date:		Date:	

I hereby certify under Section 50.660 RSMo there is either: (1) a balance of funds, otherwise unencumbered, to the credit of the appropriation to which the obligation contained herein is chargeable, and a cash balance otherwise unencumbered, in the Treasury, to the credit of the fund from which payment is to be made, each sufficient to meet the obligation contained herein; or (2) bonds or taxes have been authorized by vote of the people and there is a sufficient unencumbered amount of the bonds yet to be sold or of the taxes levied and yet to be collected to meet the obligation in case there is not a sufficient unencumbered cash balance in the treasury.

Signature:	
Print Name:	Beth French
Title:	Director of Finance
Date:	

**APPENDIX B
PROJECT LOCATION MAP**



**Mid Rivers Mall Dr – St. Peters Howell Rd
Lane Improvements
Project Location Map**



APPENDIX C

St. Charles County Road Board Application

Mid Rivers Mall Dr – St. Peters Howell Rd Lane Improvements

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APPENDIX D

East-West Gateway CMAQ Application

Mid Rivers Mall Dr – St. Peters Howell Rd Lane Improvements

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APPENDIX E

TEAP Intersection Study

Mid Rivers Mall Drive at St. Peters Howell Road

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APPENDIX F
AFFIDAVIT ENROLLMENT IN FEDERAL WORK AUTHORIZATION PROGRAM

STATE OF _____

COUNTY OF _____

AFFIDAVIT

(as required by Section 285.530, Revised Statutes of Missouri)

As used in this Affidavit, the following terms shall have the following meanings:

EMPLOYEE:

Any person performing work or service of any kind or character for hire within the State of Missouri.

FEDERAL WORK AUTHORIZATION PROGRAM:

Any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603.

KNOWINGLY:

A person acts knowingly or with knowledge,

(a) with respect to the person's conduct or to attendant circumstances when the person is aware of the nature of the person's conduct or that those circumstances exist; or

(b) with respect to a result of the person's conduct when the person is aware that the person's conduct is practically certain to cause that result.

UNAUTHORIZED ALIEN:

An alien who does not have the legal right or authorization under federal law to work in the United States, as defined in 8 U.S.C. 1324a(h)(3).

BEFORE ME, the undersigned authority, personally appeared _____,
who, being duly sworn, states on his oath or affirmation as follows:

1. My name is _____

and I am currently the _____

of _____ (hereinafter
"Contractor"),

whose business address is _____, and I
am authorized to make this Affidavit.

2. I am of sound mind and capable of making this Affidavit and am personally acquainted with the facts stated herein.

3. Contractor is enrolled in and participates in a federal work authorization program with respect to the employees working in connection with the following services contracted between Contractor and the City of St Peters.

4. Contractor does not knowingly employ any person who is an unauthorized alien in connection with the contracted services set forth above.

5. Attached hereto is documentation affirming Contractor's enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. Further, Affiant saith not.

[SIGNATURE]

[printed name], Affiant

Subscribed and sworn to before me this _____ day of _____, _____