

RESOLUTION # 3422

Introduced by: Council Members Present
Of the City of Berkeley, MO

A RESOLUTION OF THE COUNCIL OF THE CITY OF BERKELEY, AUTHORIZING THE MAYOR TO EXECUTE THE MAINTENANCE AGREEMENT WITH ST. LOUIS COUNTY FOR JAMES S. MCDONNELL CONNECTOR

WHEREAS, the City of Berkeley deems it necessary to be in an agreement with St. Louis County regarding maintenance of James S. McDonnell Connector, which includes Eva Ave from the North Right-of-Way Line of James S. McDonnell Blvd to its northern terminus and the established Right-of-Way of Frost Ave from the east Right-of-Way of Eva Ave to 150' East of the East Right-of-Way Line of Eva Avenue.

Now Therefore, Be It Resolved by the Council of the City of Berkeley, Missouri as Follows:

SECTION 1 The governing body hereby authorizes Mayor Theodore Hoskins to sign and execute the attached Agreement with St. Louis County regarding maintenance of James S. McDonnell Connector.

SECTION 2 The County will fund and administer the James S. McDonnell Connector reconstruction project within the limits of the City designated as St. Louis County Project # CR-1700.

SECTION 3 The City of Berkeley wishes to maintain its jurisdiction over Eva Ave and Frost Ave.

SECTION 4 The County will fund and administer the contemplated projects without changing jurisdictional authority.

SECTION 5 The Agreement is attached hereto and made a part hereof as if more fully set forth herein.

SECTION 6 This Resolution shall be in full force and effect from and after the date of its passage.

PASSED this **day of** **2017**

ATTEST:

Theodore Hoskins, Mayor

Deanna Jones, City Clerk

Final Roll Call:

Mayor Hoskins	Aye	___	Nay	___	Absent	___	Abstain	___
Councilwoman Hoskins	Aye	___	Nay	___	Absent	___	Abstain	___
Councilwoman Kirkland	Aye	___	Nay	___	Absent	___	Abstain	___
Councilwoman Mathison	Aye	___	Nay	___	Absent	___	Abstain	___
Councilman-at-Large McDaniel	Aye	___	Nay	___	Absent	___	Abstain	___
Councilwoman Mitchell	Aye	___	Nay	___	Absent	___	Abstain	___
Councilwoman Williams	Aye	___	Nay	___	Absent	___	Abstain	___

Approved As To Form:
Donnell Smith, City Attorney

**AN AGREEMENT BETWEEN ST. LOUIS COUNTY
AND THE CITY OF BERKELEY
REGARDING MAINTENANCE OF JAMES S. MCDONNELL CONNECTOR**

THIS AGREEMENT is entered into on _____, 2017 by the City of Berkeley (“CITY”) and St. Louis County (“COUNTY”).

WITNESSETH:

WHEREAS, the James S. McDonnell Connector includes Eva Avenue from the north Right-of-Way Line of James S. McDonnell Boulevard to its northern terminus and the established Right-of-Way of Frost Avenue from the east Right-of-Way Line of Eva Avenue to 150’ east of the east Right-of-Way Line of Eva Avenue.

WHEREAS, the COUNTY and CITY further desire to also fully reconstruct Eva Avenue and Frost Avenue 150 feet east of the east Right-of-Way Line of Eva Avenue, including the railroad crossing at Frost Avenue within the limits of the CITY as soon as a mutually agreeable means of funding the project can be secured; and

WHEREAS, the COUNTY will fund and administer the James S. McDonnell Connector reconstruction project within the limits of the CITY designated as Saint Louis County Project No. CR-1700; and

WHEREAS, the CITY wishes to maintain its jurisdiction over Eva Avenue and Frost Avenue; and

WHEREAS, the CITY and COUNTY wish to enter into an Maintenance Agreement to permit COUNTY to fund and administer the contemplated projects without changing jurisdictional authority; and

WHEREAS, the CITY is authorized to enter into this Agreement by Resolution # 3420, and the COUNTY is authorized to enter into this Agreement by Ordinance No. 1105.047 (2);

NOW THEREFORE, in consideration of the premises, and the promises and covenants hereafter, CITY and COUNTY agree as follows:

- (1) **SCOPE OF WORK** – The City of Berkeley agrees to grant St. Louis County a Temporary Slope and Construction License over the established Right-of-Way of Eva Avenue from the north Right-of-Way Line of James S. McDonnell Boulevard to its northern terminus and the established Right-of-Way of Frost Avenue from the east Right-of-Way Line of Eva Avenue to 150’ east of the east Right-of-Way Line of Eva Avenue. CITY shall also grant COUNTY a Temporary Slope and Construction License over any additional permanent and temporary easements obtained in the name of the CITY necessary to construct the contemplated improvements. The Temporary Slope and Construction License and all other easements shall be documented by metes and bounds description on the project Right-of-Way Plans approved by the Director of Transportation and the CITY. The Temporary Slope and Construction License shall be effective on the date of this agreement and shall terminate when the completed project is accepted by County. The Temporary Slope and Construction License does not confer any maintenance responsibilities to St.

Louis County and the CITY shall assume maintenance for all improvements within its right-of-way and permanent easements upon project acceptance.

- (2) COUNTY RESPONSIBILITY - COUNTY shall provide oversight and acceptance of the design and construction of the James S. McDonnell Connector within the boundaries stated above.
- (3) CITY RESPONSIBILITY – The CITY shall maintain the roadway and right-of-way outside the edge stripes at completion and acceptance by COUNTY of the project:
- (4) TERMINATION -- Either party may terminate this Agreement, with or without cause, upon giving the other party 90 days prior written notice.
- (5) INDEMNIFICATION – CITY shall indemnify, hold harmless and defend COUNTY, its officers and employees, from all demands, claims and causes of action for personal injury and property damage, relating to CITY’s actions pursuant to this Agreement.
- (6) FEDERAL, STATE, AND COUNTY LAWS – This Agreement shall not be construed so as to conflict with or supersede or otherwise limit any applicable law, rule, or regulation of the government of the United States, State of Missouri, or the COUNTY.
- (7) SEVERABILITY – The captions included in this Agreement are used for the purposes of convenience only and shall not be construed as limiting or otherwise affecting the Agreement itself. In the event any portion of this Agreement shall for any reason be declared invalid or unenforceable, such invalidity or unenforceability shall not affect the remaining provisions hereof.
- (8) ASSIGNMENT - Neither party shall assign, delegate, or transfer any interest in this agreement to another entity without prior written approval from the other party.
- (9) VENUE - In the event that any actions or proceedings are initiated with respect to this agreement, the parties agree that the venue thereof shall be St. Louis County, Missouri, and that this Agreement shall be governed by the laws of the State of Missouri.

IN WITNESS WHEREOF, this Agreement has been executed by the duly authorized representatives of each party and shall be operative and in effect as to each party as of the date last written below.

IN WITNESS WHEREOF, the parties have entered into this Contract on the date last written below:

Executed by the AGENCY this _____ day of _____ 20_____

Executed by the COUNTY this _____ day of _____ 20_____

CITY OF BERKELEY, MISSOURI

ST. LOUIS COUNTY, MISSOURI

Mayor

APPROVED:

Director, Transportation and Public Works

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

St. Louis County Counselor

APPROVED AS TO LEGAL FORM:

City Attorney