

**DARDENNE**



**PRAIRIE**

**CITY OF DARDENNE PRAIRIE  
2032 HANLEY ROAD  
DARDENNE PRAIRIE, MO 63368**

**BOARD OF ALDERMEN  
WORK SESSION AGENDA  
MAY 17, 2023  
6:00 p.m.**

**CALL MEETING TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ITEMS FOR DISCUSSION AND CONSIDERATION**

1. Resident Concern Edward Fingers
2. Occupancy Permits (Costlow)
3. Discussion on Public Comments (Costlow)

**STAFF COMMUNICATIONS**

1. City Attorney
2. City Engineer
3. City Administrator
4. Aldermen
5. Mayor

**CLOSED SESSION**

Roll call vote to hold closed session pursuant to RSMo 610.021 section \_\_\_\_\_

- Litigation and Privileged Communications (1)
- Real Estate (2)
- Personnel (3)
- Labor (9)
- Bid Specs (11)
- Audit (17)

**RETURN TO REGULAR MEETING AGENDA**

**ADJOURNMENT**

EXHIBIT B

**RBA FORM (OFFICE USE)**

MEETING DATE: 5/17/23

Regular ( X ) Work Session ( )

ATTACHMENT: YES ( ) NO ( )

Contract ( ) Ordinance ( ) Other ( )

**Request for Board Action  
By: Alderman Costlow**

Ward  2

• **Description:**

Please prepare an amendment in the proper form to Section 525 of the City Code (Occupancy Permits) as listed below:

Section 525.020 (A)

It shall be unlawful after the adoption of this Chapter for ~~any person to occupy or for any owner or agent thereof to rent or lease any premises or any part thereof for any purpose~~ any person, owner or agent to occupy or use or to permit the occupancy, re-occupancy or use of any rental dwelling, structure or unit for any purpose, including the movement of furniture or other personal property into said premises, until the owner or agent has applied for a life, health and safety occupancy certificate and a certificate has been issued by the Director.

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• **Recommendation:** Staff – Approve ( ) Disapprove ( )

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• **Summary/Explanation:**

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• **Budget Impact:** (revenue generated, estimated cost, CIP item, etc.)

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RBA requested by: \_\_\_\_\_

Date: \_\_\_\_\_

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EXHIBIT B

**RBA FORM (OFFICE USE)**

MEETING DATE: 5/13/23

Regular ( X ) Work Session ( )

ATTACHMENT: YES ( ) NO ( )

Contract ( ) Ordinance ( ) Other ( )

**Request for Board Action  
By: Alderman Costlow**

Ward  2

• **Description:**

Please prepare a Resolution in the proper form for the request below and make ready for the 5/17 Regular Meeting.

In order to protect the privacy of residents who address City boards or commissions, all resident addresses should be stricken from meeting minutes unless specifically requested by the resident. An appropriate term such as 'Self-identified as Dardenne Prairie Resident' or 'Non-resident' should be used in lieu of an address.

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• **Recommendation:** Staff – Approve ( ) Disapprove ( )

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• **Summary/Explanation:**

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• **Budget Impact:** (revenue generated, estimated cost, CIP item, etc.)

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RBA requested by: \_\_\_\_\_

Date: \_\_\_\_\_

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DARDENNE



PRAIRIE

CITY OF DARDENNE PRAIRIE  
2032 HANLEY ROAD  
DARDENNE PRAIRIE, MO 63368

BOARD OF ALDERMEN  
MEETING AGENDA  
MAY 17, 2023  
7:00 p.m.

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CALL MEETING TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

ROLL CALL

Mayor Gotway  
Alderman Costlow  
Alderman Gittemeier  
Alderman Johnson  
Alderman Ungerboeck  
Alderman Wandling  
Alderman Widaman

CONSENT AGENDA

1. Expenditures for Approval 05-17-23
2. Temp Use Permit – Fireworks Stand – Bad Boyz Fireworks – 7712 Town Square

PUBLIC COMMENT

PUBLIC HEARING

1. Rezoning Request – for the 1.59 acres of land commonly known as 1755 Hanley Rd and more particularly described in the Rezoning Request Application received by the City on March 1<sup>st</sup>, 2023, on filed with the City Clerk from Applicant John Henke.  
(Continued from 04-19-23, 05-03-23)

NEW BUSINESS

**1. Bill #23-21**

AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, APPROVING THE AMENDED RECORD PLAT FOR "THE PRAIRIE," AND AUTHORIZING THE CITY CLERK TO ATTEST AND CERTIFY APPROVAL OF SAID PLAT

**2. Bill #23-22**

AN ORDINANCE REVISING THE BUDGET FOR THE CITY OF DARDENNE PRAIRIE, MISSOURI, FOR THE FISCAL YEAR COMMENCING ON JANUARY 1, 2023, AND ENDING ON DECEMBER 31, 2023

OLD BUSINESS

**1. Bill #23-09 (First Reading 04-05-23) (Revised agreement)**

AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, ANNEXING CERTAIN ADJACENT PROPERTY GENERALLY LOCATED AT 1436 FEISE ROAD INTO THE CITY AND AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN ANNEXATION AGREEMENT WITH JASON L. HOWERTON AND MOLLY A. HOWERTON

**2. Bill #23-18**

AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, PROVIDING FOR THE REZONING OF APPROXIMATELY 1.59 ACRES OF LAND COMMONLY KNOWN AS 1755 HANLEY ROAD FROM "R-1A" SINGLE FAMILY RESIDENTIAL DISTRICT TO "R-1B" SINGLE FAMILY RESIDENTIAL DISTRICT

**3. Bill #23-19 (First Reading 04-19-23) (Revised agreement)**

AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH BRUNETTE ENTERPRISES, LLC, FOR THE MANAGEMENT AND OPERATION OF THE CITY'S CONCESSION STAND FACILITY AT CITY HALL PARK

STAFF COMMUNICATIONS

1. City Attorney
2. City Engineer
3. City Administrator
4. Aldermen
5. Mayor

CLOSED SESSION

Roll call vote to hold closed session pursuant to RSMo 610.021 section \_\_\_\_\_

- Litigation and Privileged Communications (1)
- Real Estate (2)
- Personnel (3)
- Labor (9)
- Bid Specs (11)
- Audit (17)

RETURN TO REGULAR MEETING AGENDA

ADJOURNMENT

**EXPENDITURES FOR APPROVAL  
5/17/2023**

1 AFLAC	April & May, 2023	436.56
2 Ameren	City Hall	1,214.45
3 Ameren	Concession Stand	181.65
4 Ameren	City Park	166.93
5 Ameren	Traffic Light 2	48.24
6 Ameren	Traffic Light	11.51
7 Ameren	Athletic Complex	400.58
8 Ameren	Street Lights	35.24
9 Ameren	Street Lights	179.22
10 Charter Communications	Service through 5/7/23	577.33
11 Childs Tire	Tire Repair	30.00
12 Cuivre River Electric	Light on Weldon Spring	35.62
13 Cuivre River Electric	Henke/Feise Rd. Traffic Signals	79.00
14 Cuivre River Electric	Light at Georgetown Park	38.09
15 Cuivre River Electric	Lights at St. Williams Apts.	34.76
16 Cuivre River Electric	Hanley Rd. Traffic Signal	82.00
17 Da-Com	Office Supplies	169.14
18 First Bank	Credit card charges	6,994.33
19 Gilmore Bell	Special Counsel - The Encore (Reimbursed)	65,000.00
20 Insurance - The Hartford	April & May, 2023	1,175.96
21 Insurance: Anthem	Health - May, 2023	11,276.02
22 Jonathan Fuchs	Prosecuting Attorney: May, 2023	1,100.00
23 Keeven Brothers, Inc.	Sod	445.80
24 Lou Fusz Auto Network	2023 Ford Explorer	44,325.00
25 Mark Byrne	Municipal Judge: May, 2023	500.00
26 Miracle Recreation	Playground equipment replacement	3,043.00
27 New Frontier	Pothole material	222.57
28 Parks: Various Umpires	Umpires : 5/18/22 umpires	2,907.50
29 Payroll	05-12-23 Payroll	25,908.36
30 Professional Irrigation	Activation and Backflow Testing	1,120.67
31 PWSD No. 2	City Hall Fountain	49.23
32 PWSD No. 2	City Hall	61.64
33 PWSD No. 2	Athletic Complex	69.18
34 Spire	Service to 04-30-23	110.19
35 St. Chalres County Finance	2023 Animal Control	15,512.06
36 St. Chalres County Finance	2023 Ortho Imagery	2,080.25
37 Weis Design Group	Engineering: April, 2023	12,645.77
		<b>198,267.85</b>

Approved by Board of Aldermen 05-17-23

\_\_\_\_\_  
Mayor John Gotway



City of Dardenne Prairie
2032 Hanley Road
Dardenne Prairie, MO 63368
636-561-1718

TEMPORARY USE PERMIT- FIREWORKS STANDS OR TENTS

Applications must be completed in full for each location in Dardenne Prairie and submitted to the City Clerk. (Incomplete applications will be returned.)

All permits shall expire on the eighth day following July 4th of every year.

This application must be submitted to the City Clerk along with a cashier's check for \$3000.00, site plan, letter from property owner, certificate of insurance, and emergency contact form.

5-5-23
Application Date

Location of Stand/Tent 7712 N Hwy N (Town square AVE)
Name of Business Bad Boyz Fireworks
Business Owner Jay Davidson
Address 21233 NW Service Rd.
City, State & Zip Warrenton MO 63383
Phone 573-205-1932

Name & Phone # of Senior Manager on Site Jay Davidson
Property Owner Name K. Shivaram
Property Owner Address 904 Bellerive Manor Dr
City, State, & Zip St. Louis MO 63141
Property Owner Phone 314-757-3555
MO Sales Tax # (Attach a copy of MO Retail Sales License) 19787715

Applicant Signature

NOTE: By affixing signatures to this application form, the Applicant hereby verifies that they have reviewed the applicable zoning regulations; they are familiar with the specific requirements relative to this application; and they take full responsibility for this application. The above signature further indicates that the information provided on this form and on any additional data attached hereto is true, complete, and accurate.

email JASON C 1516 @ gmail . com

To whom it may concern

The properties located at 7712 and 7706, N Highway N, Dardenne Prairie, MO, 63368, are owned by:

Tricolor LLC  
904 Bellerive Manor Drive  
Saint Louis, MO 63141

Following is the contact information for the above two properties:

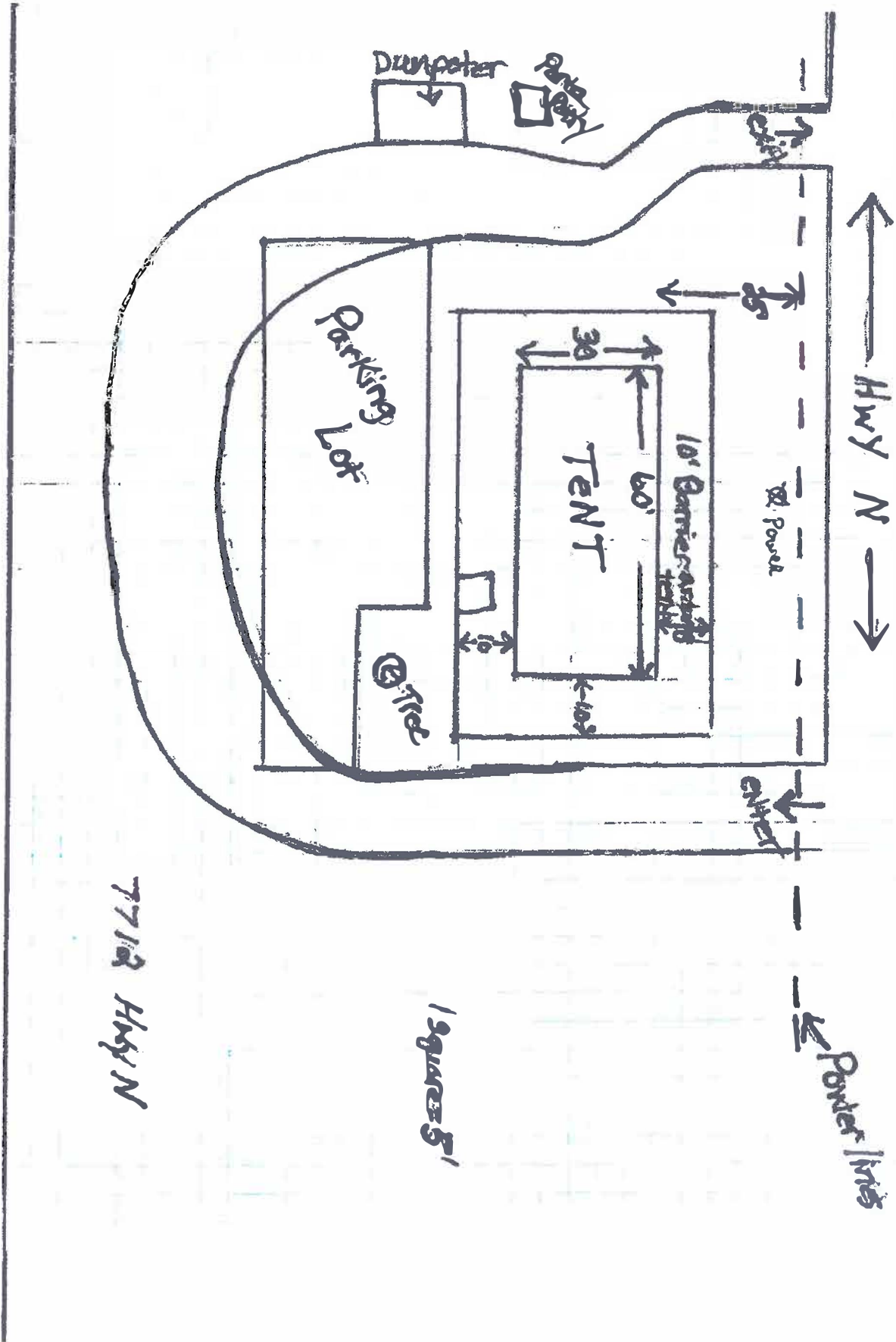
K Shivaram, 314.757.3555 (Primary contract and authorized signer)  
Siva Konala, 314.504.8894

Tricolor LLC hereby authorizes JDavidson enterprises or any of his designees to operate a firework stand at this property during the fireworks sale season in 2023.



Kalugotla Shivaram  
4/27/2023





**BILL NO. 23-21**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI,  
APPROVING THE AMENDED RECORD PLAT FOR “THE PRAIRIE,”  
AND AUTHORIZING THE CITY CLERK TO ATTEST AND CERTIFY  
APPROVAL OF SAID PLAT**

**WHEREAS**, the Villas on the Prairie, LLC, is the owner of a certain tract of land (the “Owner”) located within the City of Dardenne Prairie, Missouri (the “City”); and

**WHEREAS**, the Owner submitted an amended record plat for the development commonly known as “The Prairie” to the City for review and approval, and the Planning and Zoning Commission has recommended approval of said amended plat.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF  
THE CITY OF DARDENNE PRAIRIE, MISSOURI, AS FOLLOWS:**

**SECTION 1.** That upon review, first by the Planning and Zoning Commission and then the Board of Aldermen of the City of Dardenne Prairie, Missouri, the City of Dardenne Prairie, Missouri, does hereby approve the Amended Record Plat for The Prairie prepared by Premier Engineering, Architecture and Survey, LLC, d/b/a Premier Civil Engineering, dated April 3, 2022, and referencing Project No. 2018410, titled “An Amendment to the Record Plat for (to provide additional lot information) THE PRAIRIE” which amended plat is on file in the office of the City Clerk and is incorporated by reference herein (the “Amended Plat”).

**SECTION 2.** The City Clerk shall be and is hereby authorized to attest and certify approval of the Amended Plat and the City Clerk will maintain a copy of the Amended Plat on file with the City Records.

**SECTION 2.** Effective Date: This Ordinance shall be in full force and take effect from and after the date of its final passage and approval.

**SECTION 3.** Savings: Except as expressly set forth herein, nothing contained in this Ordinance shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in any manner connected with the subject matter hereof.

**SECTION 4.** Severability Clause: If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the Board of Aldermen that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision which had

been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

Read the first (1<sup>st</sup>) time this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Attest: \_\_\_\_\_  
City Clerk

\_\_\_\_\_  
As Presiding Officer and as Mayor

Read the second (2<sup>nd</sup>) time and passed this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Attest: \_\_\_\_\_  
City Clerk

\_\_\_\_\_  
As Presiding Officer and as Mayor

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Attest: \_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

**RBA FORM (OFFICE USE ONLY)**

MEETING DATE: 05/17/2023

Regular ( X ) Work Session ( )

ATTACHMENT: YES ( \_ ) NO ( \_ )

Contract ( \_ ) Ordinance ( X ) Other ( \_ )

**Request for Board Action  
By: City Administrator**

Ward ALL

- **Description:**
  - **Budget Amendment**

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- **Recommendation: Approval**

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- **Summary/Explanation:**

Over the course of the last month it was recently discovered a mistake in the placement of an expense item (Stump Rd Expenditures) in the revenue column. This is being corrected to accurately account for projected revenues and expenditures. The expenditure amount was also increased \$20,000 to more accurately depict real YTD costs. The reimbursement revenue under Capital Improvement Fund was also decreased accordingly to reflect actual reimbursements.

Additionally, with recent talks nationwide about the raising of the National Debt Ceiling, there has been increased discussion about the possibility of the federal government attempting to claw back monies that were not expended or at least allocated from the ARPA program in return for raising the debt limit. The looming political showdown and the constant narrative nationwide about unspent ARPA money is concerning. I fear that local governments, and the money we received, may be the sacrificial lamb in order to get an agreement in Congress. We should know within the coming weeks if this will come to fruition.

In order to ensure this possibility does not affect the city's current ARPA allocation, I am proposing the reprogramming of the funding sources for already approved expenditures to be paid by the ARPA program and not by other city funds.

Because a mere reprogramming will not cover all the allocated ARPA money, I have also moved up items from our Capital Improvement program from next year into this year's budget. This would include the completion of the current Street Sign Replacement Program as well as the replacement of the Stormwater detention basin near the City Public Works building.

Even with the addition of these items, we still leave approximately \$288,000 of ARPA money that is unallocated. An itemized list of the changes are as follows and are highlighted on the attached amended budget document:

Deleted Items:

Special Revenue Fund – Revenue –  
Stump Road Improvements - (\$80,000) net

**Added Items:**

**Capital Improvements – Expenditures**

- Street Sign Replacement - \$92,184.41 net
- Public Works Building Stormwater Detention – \$100,000 net
- Stump Road Improvements - \$120,000 net

**Amounts Modified:**

**Capital Improvement Sales Tax Fund – Revenue**

- Stump Road Improvements (reimbursement) - \$120,000 - (\$150,778) net

**Sources of Funding Modified:**

**Capital Improvements – Expenditures**

- Vehicle Replacement – \$50,000 moved from Cap Imp to ARPA Fund
- Slab Replacement Inspections 2023 - \$50,000 moved from Cap Imp to ARPA Fund
- Town Square Overlay - \$85,000 moved from Cap Imp to ARPA Fund
- Post Road Improvements - \$100,000 from Cap Imp to ARPA Fund
- 2021 M&H Contract Ord #2122 – \$1,991,166.67 from Cap/SR/Prop T to ARPA Fund

While these changes do not protect the entire allocation of ARPA money from being clawed back, I feel this is a prudent decision to have as much money allocated as possible in the event the federal government changes their rules.

As always, staff will continue to be judicious with spending and will work in consultation with the Board on any future expenditures, including those that are already budgeted.

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• **Budget Impact:** (revenue generated, estimated cost, CIP item, etc.)

The net effect on the total expenditures for this budget are an increase of \$292,184.41 and a decrease in total revenues of \$230,778.

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RBA requested by: James W. Knowles III

Date: 05/12/2023

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**BILL NO. 23-22**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE REVISING THE BUDGET FOR THE CITY OF DARDENNE PRAIRIE, MISSOURI, FOR THE FISCAL YEAR COMMENCING ON JANUARY 1, 2023, AND ENDING ON DECEMBER 31, 2023**

**WHEREAS**, on December 21<sup>st</sup>, 2022, pursuant to Ordinance No. 2229, the Board of Aldermen of the City of Dardenne Prairie adopted a budget for Fiscal Year 2023; and

**WHEREAS**, specific increases and decreases in certain line item expenditures are projected at this time to be necessary or desirable in order to address certain budgetary needs and conclude the fiscal year within authorized revenue and expenditure limits; and

**WHEREAS**, the total proposed expenditures from any fund identified in the revised budget do not exceed the estimated revenues to be received plus any unencumbered balance or less any deficit estimated for the beginning of the budget year.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, AS FOLLOWS:**

**SECTION 1.** That the Budget for the fiscal year period beginning January 1, 2023, and ending December 31, 2023, is hereby revised as described in “Exhibit A”, attached hereto and incorporated by reference herein.

**SECTION 2.** The Budget adopted pursuant to Ordinance No. 2229 is hereby amended to conform with the provisions of this Ordinance to the extent of any inconsistency herewith.

**SECTION 3. Savings Clause:** Nothing contained herein shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in any manner connected with the subject matter hereof, unless expressly set forth herein.

**SECTION 4. Severability Clause:** If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the Board of Aldermen that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

**SECTION 5.** This Ordinance shall be in full force and effect from and after its passage and approval.

Read two times and passed this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
As Presiding Officer and as Mayor  
John Gotway

Attest: \_\_\_\_\_  
Kimberlie Clark, City Clerk

Approved this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
John Gotway, Mayor

Attest: \_\_\_\_\_  
Kimberlie Clark, City Clerk

**EXHIBIT A**  
**[INSERT REVISED BUDGET]**



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE,  
MISSOURI, ANNEXING CERTAIN ADJACENT  
PROPERTY GENERALLY LOCATED AT 1436 FEISE  
ROAD INTO THE CITY AND AUTHORIZING THE CITY  
ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN  
ANNEXATION AGREEMENT WITH JASON L.  
HOWERTON AND MOLLY A. HOWERTON**

**WHEREAS**, Jason L. Howerton and Molly A. Howerton, husband and wife, (the “Owners”), are the Owners of all fee interests of record of certain real property generally located at 1436 Feise Road in St. Charles County, Missouri, which is legally described on **Exhibit A**, attached hereto and incorporated by reference herein (the “Property”), have expressed interest in voluntarily annexing the Property into the City of Dardenne Prairie, Missouri (the “City”); and

**WHEREAS**, pursuant to the provisions of Section 71.014, RSMo., as amended, the City, “[...] may annex unincorporated areas which are contiguous and compact to the existing corporate limits upon notarized petition requesting such annexation signed by the owners of all fee interests of record in all tracts located within the area to be annexed[;]” and

**WHEREAS**, on \_\_\_\_\_, 20\_\_, a Notarized Petition for Voluntary Annexation, signed by the Owners, requesting voluntary annexation of the Property into the City was filed with the City and is attached hereto as **Exhibit B** and incorporated by reference herein; and

**WHEREAS**, the Property is contiguous and compact to the existing corporate limits of the City; and

**WHEREAS**, the City is able to furnish normal municipal services to the Property within a reasonable time after annexation; and

**WHEREAS**, the Board of Aldermen of the City (the “Board of Aldermen”) does hereby find and determine that annexation of the Property into the City is reasonable and necessary to the proper development of the City; and

**WHEREAS**, the Board of Aldermen desires to enter into an Annexation Agreement with the Owners;

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, AS FOLLOWS:**

**SECTION 1.** Pursuant to the provisions of Section 71.014, RSMo., as amended, the property generally located at 1436 Feise Road, legally described on **Exhibit A**, attached hereto

and incorporated by reference herein, is hereby annexed into the City of Dardenne Prairie, Missouri.

**SECTION 2.** The boundaries of the City of Dardenne Prairie, Missouri, are hereby altered so as to encompass the property generally located at 1436 Feise Road, legally described in **Exhibit A**, which lies adjacent and contiguous to the present corporate limits of the City of Dardenne Prairie, Missouri.

**SECTION 3.** The property generally located at 1436 Feise Road, legally described in **Exhibit A** shall be part of Ward 1 of the City of Dardenne Prairie, Missouri.

**SECTION 4.** That the form, terms, and provisions of the Annexation Agreement by and between the City of Dardenne Prairie, Missouri, and Jason L. Howerton and Molly A. Howerton, as husband and wife, attached hereto, marked as **Exhibit C**, and incorporated by reference herein (the "Agreement"), be and they hereby are approved and the City Administrator is hereby authorized, empowered and directed to further negotiate, execute, acknowledge, deliver and administer on behalf of the City such Agreement in substantially the form attached hereto. The City Clerk is hereby authorized and directed to attest to the Agreement and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of the Agreement and this Ordinance.

**SECTION 5.** The City Clerk of the City of Dardenne Prairie, Missouri, is hereby ordered and directed to cause three (3) certified copies of this Ordinance to be filed with the St. Charles County Registrar.

**SECTION 6. Savings Clause:** Nothing contained herein shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in any manner connected with the subject matter hereof, unless expressly set forth herein.

**SECTION 7. Severability Clause:** If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the Board of Aldermen that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

**SECTION 8. Effective Date:** This Ordinance shall be in full force and take effect from and after its final passage and approval.

[Remainder of page left intentionally blank.]

Read two times, passed, and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
As Presiding Officer and as Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

## PRE-ANNEXATION AGREEMENT

This Pre-Annexation Agreement (“Agreement”) is made and entered into this \_\_\_\_ day of May 2022 by and among the City of Dardenne Prairie, Missouri, a municipal corporation organized and existing pursuant to the laws of the State of Missouri (the “City”); Jason L. Howerton and Molly A. Howerton, husband and wife (collectively referred to as “Owner”) (sometimes collectively referred to herein as the “Parties”).

**WHEREAS**, Owner owns certain real property located in St. Charles County, Missouri, more particularly described in **Exhibit A** attached hereto and incorporated by reference herein (the “Property”); and

**WHEREAS**, the Property is currently being used as a “home occupation” consisting of lawn mower and small engine repair services and a “single-family dwelling” (collectively, the “Uses”), as those terms are understood pursuant to the Unified Development Ordinance of St. Charles County, Missouri (the “UDO”), a copy of which is on file in the Office of the Registrar of St. Charles County, Missouri, and incorporated by reference as though fully set forth herein; and

**WHEREAS**, the unincorporated area comprising the Property is contiguous and compact to the existing corporate limits of the City; and

**WHEREAS**, Owner desires to enter into this Agreement in order to affirm their desire and intention to consent to and cooperate in the annexation of the Property into the City in accordance with the provisions of § 71.014, RSMo. (the “Statute”); and

**WHEREAS**, Owner, subject to the terms of this Agreement, being the owner of all fee interests of record in the Property, agrees to execute a verified petition requesting annexation of the Property in accordance with the terms of this Agreement, and;

**NOW THEREFORE**, in consideration of the mutual and reciprocal covenants and conditions contained herein and of other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, City and Owner agree, as follows:

1. **Execution of Petition.** Contemporaneously with the execution of this Agreement, the Owner shall submit to the City a verified petition for voluntary annexation in the form attached hereto as **Exhibit B**, and incorporated by reference herein (the “Petition”), in accordance with the Statute, providing for the annexation of the Property into the City.

2. **Obligations of the Board.** Upon receipt of the Petition, the City shall expeditiously proceed with all steps necessary and appropriate to carry out the terms of the Agreement and to provide for the annexation of the Property into the City, including, without limitation, the prompt introduction by the City of such resolutions and ordinances as may be necessary or convenient.

3. **Zoning and Development.** The City will favorably consider taking such action as is necessary to zone the Property as “R-1B” Single-Family Residential District pursuant to the

Municipal Code of the City of Dardenne Prairie, Missouri, said ordinance being incorporated as though fully set forth herein (the "City Code"), and the Owner hereby consents to such rezoning of the Property consistent with the City Code. Upon the City rezoning the property, the Uses shall be valid non-conforming uses subject to the provisions of Article VII of Chapter 405 of the City Code and section 4 of this Agreement (the "Non-conforming Use").

4. **Permits and Approvals.** The City will review, consider and issue all permits and approvals with respect to the land in as timely a manner as practicable, or will enumerate in writing the reasons, if any, why any such permit or approval may not be issued, so that the Owner may efficiently pursue the development of the Property. Notwithstanding the foregoing, after annexation of the Property to the City and upon submission of an application, the City shall issue any business licenses required pursuant to the City Code for the Uses, and shall waive any business license fees due and owing for such business license for calendar year 2023.

5. **Obligation of City Upon Annexation.** Upon approval of this Agreement, City, by its duly authorized officers, agrees to extend and provide to the Property such City services and/or City utilities as are presently provided to other owners of real property located within the City.

6. **City's Failure to Perform/Owners' Option to Deannex.** If the City for any reason fails to perform any of the City's obligations pursuant to this Agreement, the Owner may, to the extent permitted by law, terminate this Agreement and seek deannexation of the Property from the City, which deannexation the City agrees not to oppose.

7. **Notices.** Any notices permitted or required under this Agreement shall be deemed given upon the date of personal delivery or 48 hours after deposit in the United States mail, postage fully prepaid, return receipt requested, addressed to City at:

City Administrator  
City of Dardenne Prairie  
2032 Hanley Road  
Dardenne Prairie, Missouri 63366

with a copy to:

John A. Young  
Hamilton Weber LLC  
200 North Third Street  
Saint Charles, Missouri 63301

addressed to Owners:

Jason L. and Molly Howerton  
1436 Feise Road  
Dardenne Prairie, Missouri 63368

or at any other address as any party may, from time to time, designate by notice given in compliance with this section.

8. **Time.** Time is of the essence of this Agreement.

9. **Survival.** Any of the terms and covenants contained in this Agreement which require the performance of either party after consummation of the annexation shall survive consummation of the annexation.

10. **Waiver.** Failure of either party at any time to require performance of any provision of this Agreement shall not limit the party's right to enforce the provision, nor shall any waiver of any breach of any provision be a waiver of any succeeding breach of any provision or a waiver of the provision itself for any other provision.

11. **Law Governing.** This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri.

12. **Attorneys' Fees.** In the event suit or action is brought by any party under this Agreement to enforce any of its terms, or in any appeal therefrom, it is agreed that the prevailing party shall be entitled to reasonable attorneys' fees to be fixed by the trial court or appellate court.

13. **Presumption.** Neither this Agreement nor any section thereof shall be construed against any party due to the fact that said Agreement or any section thereof was drafted by said party.

14. **Computation of Time.** In computing any period of time pursuant to this Agreement, the day of the act, event or default from which the designated period of time begins to run shall be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period shall begin to run on the next day which is not a Saturday, Sunday or a legal holiday, in which event the period shall run until the end of the next day thereafter which is not a Saturday, Sunday or legal holiday.

15. **Titles and Captions.** All article, section and paragraph titles or captions contained in this Agreement are for convenience only and shall neither be deemed part of the context nor affect the interpretation of this Agreement.

16. **Pronouns and Plurals.** All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the identity of the person or persons may require.

17. **Entire Agreement.** This Agreement contains the entire understanding between and among the Parties and supersedes any prior understandings and agreements among them respecting the subject matter of this Agreement.

18. **Prior Agreements.** This document is the entire, final and complete agreement of the Parties pertaining to the agreement to annex the Property, and supersedes and replaces all prior or existing written and oral agreements between the Parties or their representatives relating to the Property.

19. **Agreement Binding.** This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties hereto. This Agreement shall run with the land and shall apply to all persons hereinafter acquiring interest in the Property.

20. **Further Action.** The Parties hereto shall execute and deliver all documents, provide all information and take or forbear from all such action as may be necessary or appropriate to achieve the purposes of this Agreement.

21. **Good Faith, Cooperation and Due Diligence.** The Parties hereto covenant, warrant and represent to each other good faith, complete cooperation, due diligence and honesty in fact in the performance of all obligations of the Parties pursuant to this Agreement. All promises and covenants are mutual and dependent.

22. **Counterparts.** This Agreement may be executed in several counterparts and all so executed shall constitute one Agreement, binding on all the Parties hereto even though all the Parties are not signatories to the original or the same counterpart.

23. **Parties in Interest.** Nothing herein shall be construed to be to the benefit of any third party, nor is it intended that any provision shall be for the benefit of any third party.

24. **Savings Clause.** If any provision of this Agreement, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

25. **Separate Counsel.** The Parties acknowledge that the City has been represented in this transaction by John A. Young and Hazelwood & Weber LLC, and that Owners expressly acknowledge that they had the opportunity to seek, obtain and consult with their own separate counsel in relation to this transaction.

26. **Recording.** This Agreement and the Ordinance of the City of Dardenne Prairie, Missouri, approving same, shall be recorded in the Office of the Recorder of Deeds of St. Charles County, Missouri.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK. SIGNATURE PAGE FOLLOWS.]

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT AS \_\_\_\_ DAY OF \_\_\_\_\_, 2023.

CITY

OWNER:

By \_\_\_\_\_  
James Knowles III, City Administrator

\_\_\_\_\_  
Jason L. Howerton

\_\_\_\_\_  
Molly A. Howerton

Attest:

\_\_\_\_\_  
Kimberlie Clark, City Clerk

STATE OF MISSOURI            )  
  ) SS  
COUNTY OF ST. CHARLES    )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me personally appeared Jason L. Howerton and Molly A. Howerton, husband and wife, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid the day and year first above written.

\_\_\_\_\_  
Notary Public

My Commission Expires



**EXHIBIT A**

All of the real property described in the deed on record in the Office of the Recorder of Deeds of St. Charles County, Missouri, at Book 2568, Page 1047, and with a Parcel ID of 4-0033-S001-00-25.011, and any public rights-of-way adjacent thereto.

**EXHIBIT B**

**CITY OF DARDENNE PRAIRIE, MISSOURI**

JASON L. HOWERTON & )  
MOLLY A. HOWERTON, )  
Husband and Wife )  
 )  
 )  
Petitioners, )

**PETITION FOR VOLUNTARY ANNEXATION**

Jason L. Howerton and Molly A. Howerton (“Petitioners”), hereby petition the City of Dardenne Prairie, Missouri for annexation of the real estate described on **Exhibit 1**, attached hereto, and incorporated by reference herein (the “Property”). In support of the Petition, Petitioners state:

1. Petitioners request that the Property described on **Exhibit 1** attached hereto be annexed by the City of Dardenne Prairie as permitted under § 71.014, RSMo.
2. Petitioners are the owners of all fee interests of record in Property.
3. No part of the Property is located in any incorporated municipality.
4. The length of the contiguous boundary common to the existing City limits of the City of Dardenne Prairie, Missouri and the Property is at least fifteen percent (15%) of the length of the total perimeter of the Property.
5. The Property is contiguous to and compact to the existing corporate limits of the City of Dardenne Prairie, Missouri.

WHEREFORE, Petitioner requests that the Property described on **Exhibit 1** be annexed into the corporate limits of the City of Dardenne Prairie, Missouri.

PETITIONERS:

\_\_\_\_\_  
Jason L. Howerton

\_\_\_\_\_  
Molly A. Howerton

STATE OF MISSOURI            )  
  ) SS  
COUNTY OF ST. CHARLES    )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me personally appeared Jason L. Howerton and Molly A. Howerton, husband and wife, to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid the day and year first above written.

\_\_\_\_\_  
Notary Public

My Commission Expires

**EXHIBIT 1**

All of the real property described in the deed on record in the Office of the Recorder of Deeds of St. Charles County, Missouri, at Book 2568, Page 1047, and with a Parcel ID of 4-0033-S001-00-25.011, and any public rights-of-way adjacent thereto.

**BILL NO. 23-18**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, PROVIDING FOR THE REZONING OF APPROXIMATELY 1.59 ACRES OF LAND COMMONLY KNOWN AS 1755 HANLEY ROAD FROM “R-1A” SINGLE FAMILY RESIDENTIAL DISTRICT TO “R-1B” SINGLE FAMILY RESIDENTIAL DISTRICT**

**WHEREAS**, a rezoning application, a copy of which is attached hereto as **Exhibit A** and incorporated reference herein (the “Application”), was submitted to the City of Dardenne Prairie by John Henke (the “Applicant”) for the rezoning of approximately 1.59 acres of land commonly known as 1755 Hanley Road, and more particularly described in **Exhibit B**, attached hereto and incorporated by reference herein (the “Property”), and owned by John and Julie Henke (the “Owners”); and

**WHEREAS**, the Application was referred to the Planning and Zoning Commission of the City; and

**WHEREAS**, the Planning and Zoning Commission considered the proposed rezoning of the Property from “R-1A” Single-Family Residential District to “R-1B” Single-Family Residential District, and recommended approval of such rezoning to the Board of Aldermen of the City; and

**WHEREAS**, the Board of Aldermen and the Planning and Zoning Commission each held Public Hearings on the proposed rezoning; and

**WHEREAS**, at such public Hearings all persons-in-interest and other citizens were given an opportunity to be heard on the proposed rezoning; and

**WHEREAS**, after careful consideration, the Board of Aldermen hereby finds and determines that amending the City’s Zoning Map consistent with the Application is in the interest of the public health, safety and welfare of the City.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, AS FOLLOWS:**

**SECTION 1.** That after proper notice in accordance with the ordinances of this City and applicable laws of the State of Missouri, a public hearing was held with regard to the rezoning of a certain tract of land generally located at 1755 Hanley Road in the City, and more particularly described in **Exhibit B**, attached hereto and incorporated by reference herein (the “Property”), first before the Planning and Zoning Commission and then the Board of Aldermen of the City of Dardenne Prairie, Missouri, and approval is hereby granted to rezone such Property from “R-1A” Single-Family Residential District to “R-1B” Single-Family Residential District.

**SECTION 2.** That, pursuant to the Municipal Code of the City of Dardenne Prairie, Missouri, the City Engineer is hereby directed to amend the official Zoning Map of the City consistent with Section 1 of this Ordinance.

**SECTION 3. Effective Date:** This Ordinance shall take effect and be in force from and after its passage and approval.

**SECTION 4. Savings Clause:** Nothing contained herein shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in any manner connected with the subject matter hereof, unless expressly set forth herein.

**SECTION 5. Severability Clause:** If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the Board of Aldermen that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

Read two (2) times, passed, and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
As Presiding Officer and as Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

**Exhibit A**

[Attach Application for Rezoning]



PAID  
MAR 01 2023  
100 CASH \$920

City Hall  
2032 Hanley Road  
Dardenne Prairie, MO 63368  
Phone 636.661.1718  
Fax 636.625.0077

Rec 23-2368

**REZONING REQUEST**  
CITY OF DARDENNE PRAIRIE, MISSOURI  
[www.DardennePrairie.org](http://www.DardennePrairie.org)

APPLICANT:

John Henke  
Company Name  
Printed Name, Title  
1755 Hanley Rd O'Fallon Mo. 63368  
Street Address  
1755 Hanley Rd O'Fallon Mo 63368  
City/State/Zip Code  
636-485-6525  
Telephone JA HENKE 13@GMAIL.COM Facsimile  
Email Address

STREET ADDRESS OF REZONING: 1755 Hanley Rd

OWNER (attach additional):  
Julie Henke  
Printed Name  
John Henke  
Printed Name  
1755 Hanley Rd  
Street Address  
O'Fallon Mo 63368  
City/State/Zip Code  
636-485-6525  
Telephone JA HENKE 13@GMAIL.COM Facsimile  
Email Address

Contract Purchaser/Developer:  
Company Name  
Printed Name, Title  
Street Address  
City/State/Zip Code  
Telephone Facsimile  
Email Address

LEGAL DESCRIPTION OF PROPERTY (other than address) 1.59 acre

EXISTING ZONING: R1A PROPOSED ZONING: R1B

PROPOSED USE: home lot

NO. UNITS: one

REZONING REQUEST APPLICATION FEE SUBMITTED: \$920



CHECKLIST TO COMPLETE THIS APPLICATION

- Provide two (2) folded copies of a scaled map of the property, correlated with the legal description and clearly showing the location of the property.  
*Additional copies for distribution to Planning and Zoning Commission and Board of Aldermen members will be requested upon review by the City Engineer..*
- Electronic and paper copy of legal description of the property are provided. Electronic files may be sent via email to the City Engineer ([engineer@dardenneprairie.org](mailto:engineer@dardenneprairie.org)).
- Provide a list of the names and mailing addresses of property owners with property within an area determined by lines drawn parallel to and three hundred (300) feet distant from the boundaries of the subject property. Electronic files may be sent via email to the City Engineer ([engineer@dardenneprairie.org](mailto:engineer@dardenneprairie.org)).
- A good faith effort shall be made by the petitioner to notify by mail all property owners known to the petitioner whose property is within an area determined by lines drawn parallel to and three hundred (300) feet distant from the subject property of the time and place of the public hearings. Such notices shall be postmarked at least fifteen (15) days prior to the date of the hearings.

Date of 1<sup>st</sup> Public Hearing: \_\_\_\_\_ Postmark Deadline: \_\_\_\_\_

- The applicant is required to appear before the Planning and Zoning Commission and Board of Aldermen.

***Please Note:***

Prior to approval of a Building Permit, a Construction Site Plan must be reviewed and approved by the City Engineer. In addition, the appropriate Fire Protection District will need to review and approve the development.

Any signage to be placed on the subject property requires a separate Sign Permit or Master Sign Plan. Any business occupying the site requires approval of a Business License.

\*\*\*Before signing this application, make sure all items above are completed\*\*\*

_____ Applicant's Signature	_____ Date
<u>  <i>J. Jordan Decker</i>  </u> Owner's Signature	<u>  3/1/23  </u> Date

**NOTE: By affixing signatures to this application form, the Applicant and Owner hereby verify that: they have reviewed the applicable zoning regulations; they are familiar with the specific requirements relative to this application; and they take full responsibility for this application. The above signatures further indicate that the information provided on this form and on any additional data attached hereto is true, complete, and accurate.**

**Exhibit B**

[Attach Legal Description of Property]

**SITE PROPERTY DESCRIPTION**

**A TRACT OF LAND BEING PART OF FRACTIONAL SECTION 35, TOWNSHIP 47 NORTH, RANGE 2 EAST OF THE FIFTH PRINCIPAL MERIDIAN, ST. CHARLES COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:**

**BEGINNING AT THE SOUTHEAST CORNER OF SAID FRACTIONAL SECTION 35; THENCE ALONG THE SOUTH LINE OF SAID FRACTIONAL SECTION 35, NORTH 89 DEGREES 46 MINUTES 11 SECONDS WEST 217.00 FEET TO A FOUND IRON PIPE AT THE SOUTHEAST CORNER OF LOT 15 OF "LAKE SAINT LOUIS COUNTRY CLUB GREENS PLAT ONE", A SUBDIVISION ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 24, PAGE 192 OF THE ST. CHARLES COUNTY RECORDS; THENCE ALONG THE EAST LINES OF LOTS 14 AND 15 OF SAID "LAKE SAINT LOUIS COUNTRY CLUB GREENS PLAT ONE", NORTH 00 DEGREES 51 MINUTES 38 SECONDS EAST 320.70 FEET TO A FOUND IRON PIPE ON THE SOUTH LINE OF PART OF THE COMMON GROUND OF SAID "LAKE SAINT LOUIS COUNTRY CLUB GREENS PLAT ONE"; THENCE ALONG SAID SOUTH LINE, SOUTH 89 DEGREES 47 MINUTES 30 SECONDS EAST 217.00 FEET TO A FOUND IRON PIPE ON THE EAST LINE OF THE AFORESAID FRACTIONAL SECTION 35; THENCE ALONG SAID EAST LINE, SOUTH 00 DEGREES 51 MINUTES 23 SECONDS WEST 320.78 FEET TO THE POINT OF BEGINNING AND CONTAINING 1.60 ACRES.**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH BRUNETTE ENTERPRISES, LLC, FOR THE MANAGEMENT AND OPERATION OF THE CITY'S CONCESSION STAND FACILITY AT CITY HALL PARK**

**WHEREAS**, Section 70.220, RSMo., provides that “[a]ny municipality or political subdivision of this state [...] may contract and cooperate with [...] any private person, firm, association or corporation [...] for a common service[;]” and

**WHEREAS**, on May 4, 2018, the City of Dardenne Prairie, Missouri, (the “City”), and Brunette Enterprises, LLC, entered into a Concession Management and Operations Contract (the “First Agreement”) for the right to manage and operate the City’s Concession Facility at City Hall Park for the 2020 and 2021 seasons, with an option for the City to extend the First Agreement for the 2022 season; and

**WHEREAS**, on March 3<sup>rd</sup>, 2021, the City and Brunette Enterprises, LLC, entered into a First Amendment to the Concession and Management Operation Contract; and

**WHEREAS**, the City exercised its option to continue the First Agreement, as amended, into the 2022 season, and now wishes to enter into a new agreement; and

**WHEREAS**, the City finds and determines that Brunette Enterprises, LLC, is qualified to provide concession services, and that it is in the best interest of the residents of the City to authorize a new agreement by and between the City and Brunette Enterprises, LLC, for the right to manage and operate the City’s Concession Facility at City Hall Park.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, AS FOLLOWS:**

**SECTION 1.** That the from, terms, and provisions of the Professional Services Agreement for Concession Stand Services at City Hall Park by and between the City of Dardenne Prairie, Missouri, and Brunette Enterprises, LLC, attached hereto, marked as **Exhibit A**, and incorporated by reference herein (the “Agreement”), be and hereby are approved and the City Administrator is hereby authorized, empowered and directed to further negotiate, execute, acknowledge, deliver and administer on behalf of the City such Agreement in substantially the form attached hereto. The City Clerk is hereby authorized and directed to attest to the Agreement and other documents, certificates, and instruments as may be necessary or desirable to carry out and comply with the intent of this Agreement and Ordinance.

**SECTION 2. Effective Date:** This Ordinance shall be in full force and take effect from and after its final passage and approval.

**SECTION 3. Savings Clause:** Nothing contained herein shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in any manner connected with the subject matter hereof, unless expressly set forth herein.

**SECTION 4. Severability Clause:** If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the Board of Aldermen that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

Read two times, passed, and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
As Presiding Officer and as Mayor

Attest:

\_\_\_\_\_  
City Clerk

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

**Professional Services Agreement for  
Concession Stand Services at City Hall Park**

This Professional Services Agreement for Concession Stand Services at City Hall Park ("Agreement"), by and between the City of Dardenne, Prairie, Missouri, a municipal corporation and city of the fourth class (hereinafter "City") and Brunette Enterprises, LLC, a Missouri Limited Liability Company (hereinafter "Concessionaire"), (Collectively referred to as "Parties), is dated effective this \_\_\_\_ day of \_\_\_\_\_, 2023.

**WHEREAS**, The City seeks the temporary professional services of a skilled independent contractor capable of working without direct supervision, to provide food and beverage services to the general public at the City's Concession Facility at City Hall Park; and

**WHEREAS**, the Concessionaire has the requisite skill and experience necessary to provide such services.

**NOW, THEREFORE**, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Concessionaire agree as follows:

**1. Services.**

1.1. **General.** The Concessionaire shall have the responsibility to equip and operate the City's Concession Facility located at City Hall Park ("Concession Stand") in a manner consistent with the accepted practice for other similar services, performed at the City's satisfaction, within the time period prescribed by the City and pursuant to the direction of the City Administrator or his designee(s).

1.2. **Hours of Operation.** The Concession Stand shall be open during the times and dates listed below, and at any mutually agreed upon times during which City Hall Park and the Concession Stand are open. Any such shutdowns because of weather or mechanical failure shall not affect the per annum Compensation due to the City provided for in this Agreement. At a minimum, Concessionaire shall provide for the operation and management of the Concession Stand from April 1st through November 30th (the "Season"), during the following hours of operation: (1) Saturdays and Sundays, 12:00 p.m. to 5:00 p.m.; (2) Monday through Friday, 4:00 p.m. through 10:00 p.m., or one (1) hour prior to the first scheduled game to be played on the field immediately adjacent to City Hall Park and thirty (30) minutes after the conclusion of the last game, whichever is greater. The Concessionaire shall be responsible for obtaining game times and schedules. The Concessionaire may have hours of operation in excess of those described above, but only upon prior written consent of the City Administrator, or such other person designated by the City. The Concessionaire shall have the hours of operation posted in a conspicuous place on the Concession Stand as approved by the City Administrator.

1.3. **Opening and Closing of Concession Stand.** The Concessionaire shall be responsible for opening and closing the Concession Stand at the beginning and end of the Season, as herein

specified, or as extended by mutual agreement between the Concessionaire and the City, and shall perform and furnish the following services:

#### Opening the Concession Stand

At the beginning of the Season, Concessionaire will prepare to open the Concession Stand by completing the following services:

1. Complete check of all plumbing and electrical components.
2. Test and inspect all equipment.
3. Have Concession Stand ready at least ten (10) days before opening date.
4. Report to the City any identified operational issues.
5. Establish all accounts with all vendors necessary for the operation of the Concession Stand. Concessionaire shall be responsible for the ordering of all supplies and food and the payment to all vendors providing supplies and food.
6. Establish and make arrangement for delivery times for all supplies, food, goods and materials for the Concession Stand. City will not accept deliveries on Concessionaire's behalf. Deliveries shall be scheduled so as not to disrupt the normal operations of the City Hall Park or City Hall. Vehicles are prohibited from driving on City sidewalks to make deliveries

#### Closing the Concession Stand

At the end of the Season, as herein specific or as extended by mutual agreement between the Parties, Concessionaire will clean all equipment and organize the Concession Stand. All refrigerators and other accessory equipment must be cleaned out of any products and turned off until the commencement of the following season.

An inspection shall be conducted immediately upon conclusion of the Season, and the Concessionaire shall submit a written report detailing the findings of such inspection to the City Administrator, and the City Administrator, in his sole discretion, may cause to be completed an independent inspection to verify the submitted report.

1.4. Concessionaire's Responsibility for Costs. The Concessionaire will assume all of the following cost of operation: (1) food; (2) printing; (3) labor; (4) employee benefits and insurance, if applicable; (5) office expenses and postage; (6) computer/cash register expenses; (7) paper goods and disposables; (8) uniforms; (9) miscellaneous supplies and services; (10) licenses, permits and taxes; (11) food service area custodial services; (12) signage; (13) janitorial supplies to clean the Concession Stand.

1.5. Responsibility for Charges to the City. The City will assume the following costs: (1) general maintenance and repair of the Concession Stand, except as otherwise provided in paragraphs 4.4 and 4.5 of this Agreement; (2) trash and garbage disposal; (3) pest control; and (4) utilities.

1.6. Food Specifications. All food, beverage or other products offered for sale by Concessionaire to the public shall be approved in writing by the City prior to distribution or sale of any such products. Concessionaire shall comply with any reasonable requests made by the City to either add or eliminate certain types of food, beverage or other products. Minimum raw food requirements will be USDA Grade Choice; USDA 1; USDA Grade A; #1 Quality; and/or Grade A Fancy, depending on the product. All other food shall be of a comparable quality.

1.7. Pricing. All pricing of any food, beverage or other products incorporated by this reference, must be competitive and must be approved in writing by the City. Concessionaire may not change any pricing without the City's prior written consent, which consent may not be unreasonably withheld.

1.8. Personnel/Staffing. Concessionaire will be responsible for staffing the Concession Stand for operations. All staff must adhere to the following:

(i) Concessionaire will furnish sufficient and competent personnel for the operation of a safe and sanitary Concession Stand at all times the Concession Stand is in use. All such personnel shall be neat, clean, and sanitary in appearance and courteous to the users of the Concession Stand. **All personnel must be uniformly identified at all times.** All personnel employed by Concessionaire in the performance of this Agreement shall be employees of the Concessionaire.

(ii) One staff person shall be designated as the concession manager whenever the Concession Stand is in operation. All employees must be at least 16 years of age, and Concessionaire must follow the child labor laws as established by and outlined in the Fair Labor Standards Act.

(iii) The Concessionaire shall replace any personnel deemed unsatisfactory by the City and shall replace such personnel within seven (7) days of receiving written notice from the City.

(iv) Said personnel will be furnished in a manner to operate the Concession Stand in the safest and most efficient manner possible and in the best interest of the City. The City reserves the right to approve or disapprove any proposed staffing schedule. All personnel employed by the Concessionaire in the performance of fulfilling a contract for the operation and management of the Concession Stand shall be considered employees of the Concessionaire and not of the City.

(v) The Concessionaire shall provide the City a final complete list of management level employees, ten (10) days prior to the beginning of the Season. This list shall include the names, addresses and phone numbers of each of the managers.

(vi) The Concessionaire agrees to provide a drug free workplace.



(vii) It is the responsibility of the Concessionaire to make certain that its officers, employees and agents have submitted to a criminal background check prior to beginning work at the Concession Stand. All costs therefore shall be borne by the Concessionaire. Copies of all criminal background checks shall be forwarded to the City.

(viii) Concessionaire and all of its employees, agents, or representatives shall provide the highest quality of customer service and shall treat all customers with courtesy and respect.

(ix) Concessionaire shall provide a training program for its employees, agents, or representatives for the development of the skills and techniques necessary to perform its obligations under this Agreement including but not limited to promoting customer service, produce and service presentation, cleanliness, positive attitude and promoting the City's philosophy and policy.

1.9 Health and Safety Standards. The Concessionaire shall meet all Health and Safety Standards regulations set forth by Ordinance of the City of Dardenne Prairie and St. Charles County, Missouri. The Concession Stand will be maintained in a clean and orderly fashion, and the operation shall be in accordance with all the rules and regulations of the Health Department of the State of Missouri and St. Charles County. The Concessionaire is required to place and have available during all operations a first aid kit.

1.10 Operational Supplies. Concessionaire shall furnish all chemicals, first-aid supplies, cleaning agents, tools, materials, equipment, trash bags, paper towels, napkins, hand soap, dish soap, janitorial supplies, light bulbs, etc. for the Concession Stand during the term of this Agreement. The City will provide the Concessionaire three (3) sets of keys for locks that access the Concession Stand. Concessionaire is expressly prohibited from duplicating keys. Additional keys may be provided at the sole discretion of the City. Concessionaire is responsible for keeping a master list of who has been issued keys. In the event keys have been duplicated or the Concessionaire is unable to return all keys issued, Concessionaire will be responsible for any and all costs incurred by the City to re-key the entire Concession Stand.

## **2. Term.**

This Agreement is effective for the 2023 and 2024 Seasons, as that term defined in paragraph 1.2 of this Agreement, and may be extended by the City, in its sole discretion, for the 2025 Season, under the same terms and conditions. This Agreement may be extended for additional periods of time beyond the Term upon the mutual written agreement of the City and the Concessionaire.

## **3. Termination.**

The City may terminate this Agreement immediately, with or without cause and with a thirty (30) day notice.

## **4. Concession Equipment.**

4.1 Delivery. Concessionaire agrees to deliver and/or install, within two (2) weeks from the execution of this Agreement, at its sole cost and expense, the concession facilities, machines and equipment used in the performance of this contract and incorporated by this reference (“Concession Equipment”).

4.2 Alterations. Concessionaire shall not make any alterations, additions or improvements to the Concession Stand or to the Concession Equipment without the City's prior written consent, which consent may not be unreasonably withheld. In the event the City consents to the making of any alterations, additions or improvements to the Concession Stand and/or Concession Equipment, the same shall be made at Concessionaire's sole cost and expense, and in the event such alterations, additions or improvements are made to a structure, building or other improvement attached to the real property, the same will become a part of the real property and be surrendered to the City upon the termination of this Agreement. The City has no obligation to alter, remodel, improve, repair, decorate or paint the Concession Stand.

4.3 Removal of Equipment. In the event the City notifies Concessionaire that it desires the removal of the Concession Equipment at any time, Concessionaire shall, at its sole cost and expense, remove the Concession Equipment and repair any damage to the real property caused by such removal within thirty (30) days.

4.4 Maintenance. Concessionaire shall, at its sole cost and expense, maintain the Concession Stand and Concession Equipment and the surrounding real property in good condition and repair, including, but not limited to, maintaining the Concession Stand in a neat, clean and sanitary condition and removing all garbage, trash or other debris on a regular basis and placing it in the dumpsters or containers as provided by the City. The City shall remove from the premises all such garbage, trash or other debris, provided it has been placed in the dumpsters or containers by the Concessionaire.

4.5 Damage to Concession Stand. If the Concession Stand or any part thereof is damaged by any cause other than the sole negligence of the City, its employees or agents, Concessionaire shall, at its sole cost and expense, restore the Concession Stand to a condition equivalent to or better than their condition immediately prior to such damage.

4.6 City Reimbursement. In the event Concessionaire fails to remove the Concession Equipment pursuant to paragraph 4.3, maintain the Concession Stand or Concession Equipment pursuant to paragraph 4.4, or repair the Concession Stand pursuant to paragraph 4.5, the City may, but in no event is the City obligated to, remove the Concession Equipment or perform the maintenance or repair and the Concessionaire shall, upon demand, immediately pay the City the costs and expenses of such removal, maintenance or repair. In the event Concessionaire fails to comply with the terms of this paragraph, the City may confiscate the Concession Equipment or any part thereof and sell the same, the proceeds of which sale will be credited against any costs or expenses incurred by the City. The sale of the Concession Equipment shall not constitute an election of remedies by the City but will be in addition to any remedies available to the City at law, in equity, by statute or under this Agreement.

4.7 Utilities, Taxes and Expenses. Concessionaire shall pay all costs and expenses associated with the operation of the Concession Stand other than utility expenses for water and power, which will be paid by the City. Concessionaire shall pay directly, before delinquency, any and all taxes levied or assessed upon its leasehold improvements, equipment, furniture, fixtures and personal property located on the City's property.

4.8 Operational Supplies. Concessionaire shall furnish all chemicals, first-aid supplies, cleaning agents, tools, materials, equipment, trash bags, paper towels, napkins, hand soap, dish soap, janitorial supplies, light bulbs, etc. for the Concession Stand during the term of this Agreement. The City will provide the Concessionaire three (3) sets of keys for locks that access the Concession Stand. Concessionaire is expressly prohibited from duplicating keys. Additional keys may be provided at the sole discretion of the City. Concessionaire is responsible for keeping a master list of who has been issued keys. In the event keys have been duplicated or the Concessionaire is unable to return all keys issued, Concessionaire will be responsible for any and all costs incurred by the City to re-key the entire Concession Stand.

## 5. Compensation.

5.1 Compensation to the City. The Concessionaire shall pay to the City for the right to provide Services at the Concession Stand at City Hall Park the sum of Two Thousand and 00/100 Dollars (\$2,000.00) per annum ("Compensation"), payable in U.S. Dollars, without notice or demand from the City, on or before the 1<sup>st</sup> (first) Day of May each year ("Due Date") during the Term of the Contract.

5.2 Late Fee. The Concessionaire acknowledges and agrees that late payment of the Compensation to the City will cause the City to incur costs not contemplated by this Agreement, the exact amount of which will be difficult to ascertain. The Concessionaire hereby covenants and agrees that if Compensation is not received by the City in full on or before its respective Due Date, Concessionaire shall pay to the City a late fee equal to fifty and 00/100 dollars (\$50.00) per day for each and every day such Compensation remains unpaid beyond the Due Date therefor, or the maximum amount permitted by law, until such Compensation is paid in full, without demand the same being hereby waived and without any set-off or deduction whatsoever.

5.3 Payment. All payments by the Concessionaire to the City pursuant to any provision of this Agreement shall be paid to:

Attn: City Treasurer  
City of Dardenne Prairie, Missouri  
2032 Hanley Road  
Dardenne Prairie, Missouri 63368

5.4 Concessionaire Responsible for Taxes. The Concessionaire shall be solely responsible for the payment of any taxes imposed by any lawful jurisdiction as a result of the performance of this Agreement.

## **6. Compliance with Laws.**

Concessionaire shall comply with and perform the Services in accordance with all applicable federal, state, and City laws including, without limitation, all City codes, ordinances, resolutions, standards and policies, as now existing or hereafter adopted or amended, including but not limited to the following:

- (i) Federal, state and local health, safety and licensing laws relating to the sale of concession goods; and
- (ii) Provisions of the Municipal Code of the City of Dardenne Prairie requiring any person or entity doing business in the City to obtain a business license.

## **7. Warranty.**

The Concessionaire warrants that it has the requisite training, skill and experience necessary to provide the Services and is appropriately accredited and licensed by all applicable agencies and governmental entities, including but not limited to being registered to do business in the City of Dardenne Prairie by obtaining a City of Dardenne Prairie business license.

## **8. Independent Contractor/Conflict of Interest.**

It is the intention and understanding of the Parties that the Concessionaire shall be an independent contractor and that the City shall be neither liable nor obligated to pay Concessionaire sick leave, vacation pay or any other benefit of employment, nor to pay any social security or other tax which may arise as an incident of employment. The Concessionaire shall pay all income and other taxes as due. Industrial or any other insurance, which is purchased for the benefit of the City, regardless of whether such may provide a secondary or incidental benefit to the Concessionaire, shall not be deemed to convert this Agreement to an employment contract. It is recognized that Concessionaire may be performing professional services during the Term for other parties; provided, however, that such performance of other services shall not conflict with or interfere with Concessionaire's ability to perform the Services. Concessionaire agrees to resolve any such conflicts of interest in favor of the City.

## **9. Indemnification.**

9.1 **Concessionaire Indemnification.** The Concessionaire agrees to indemnify, defend, and hold the City, its elected officials, officers, employees, agents, and volunteers harmless from any and all claims, demands, losses, actions and liabilities (including costs and all attorney fees) to or by any and all persons or entities, including, without limitation, their respective agents, licensees, or representatives, arising from, resulting from, or connected with this Agreement to the extent caused by the negligent acts, errors or omissions of the Concessionaire, its partners, shareholders, agents, employees, or by the Concessionaire's breach of this Agreement. Concessionaire's indemnification shall not be limited in any way by any limitation on the amount of damages, compensation or benefits payable to or by any third

party under workers' compensation acts, disability benefit acts or any other benefits acts or programs.

9.2 City Indemnification. The City agrees to indemnify defend, and hold the Concessionaire, its officers, directors, shareholders, partners, employees, and agents harmless from any and all claims, demands, losses, actions and liabilities (including costs and attorney fees) to or by any and all persons or entities, including without limitation, their respective agents, licensees, or representatives, arising from, resulting from or connected with this Agreement to the extent solely caused by the negligent acts, errors, or omissions of the City, its employees or agents.

9.3 Survival. The provisions of this Section shall survive the expiration or termination of this Agreement with respect to any event occurring prior to such expiration or termination.

#### **10. Equal Opportunity Employer.**

In all Concessionaire's activities, including the performance of the services and all hiring and employment made possible by or resulting from this Agreement, there shall be no discrimination by Concessionaire or by Concessionaire's employees, agents, subcontractors or representatives against any person because of sex, age (except minimum age and retirement provisions), race, color, creed, national origin, marital status or the presence of any disability, including sensory, mental or physical handicaps, unless based upon a bona fide occupational qualification in relationship to hiring and employment. This requirement shall apply, but not be limited to the following: employment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Concessionaire shall not violate any of the terms of Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973 or any other applicable federal, state or local law or regulation regarding non-discrimination. Any material violation of this provision shall be grounds for termination of this Agreement by the City and, in the case of the Concessionaire's breach, may result in ineligibility for further City agreements.

#### **11. Insurance.**

11.1 The Concessionaire agrees to carry as a minimum, the following insurance, in such forms and with such carriers who have a rating, which is satisfactory to the City:

- (i) Workers' compensation and employer's liability Insurance In amounts sufficient pursuant to the laws of the State of Missouri;
- (ii) A comprehensive commercial general liability insurance policy to include premises/operations, products, personal injury, completed operations, incidental malpractice, and contractual coverages with a minimum limits of three million dollars (\$3,000,000.00) combined for any single occurrence and one million dollars (\$1,000,000.00) for any single person per occurrence and for property damage. .

(iii) Automobile liability insurance with combined single limits of liability not less than \$500,000 for bodily injury, including personal injury or death and property damage.

11.2 An insurance company having an AM Best and Company Rating of at least A+ must write the above coverage. Said liability and insurance must cover the premises on which the Concession Stand is located and all of the activities pertaining to the Concessionaire.

11.3 The City shall be named as additional insured on all such insurance policies, with the exception of workers' compensation coverage. Concessionaire shall provide certificates of insurance, concurrent with the execution of this Agreement, evidencing such coverage and, at City's request, furnish the City with copies of all insurance policies and with evidence of payment of premiums or fees of such policies. All insurance policies shall contain a clause of endorsement providing that they may not be terminated or materially amended during the Term of this Agreement, except after thirty (30) days prior written notice to the City. If Concessionaire's insurance policies are "claims made" or "claims paid", Concessionaire shall be required to maintain tail coverage for a minimum period of three (3) years from the date this Agreement is actually terminated. Concessionaire's failure to maintain such insurance policies shall be grounds for the City's immediate termination of this Agreement.

11.4 The provisions of this section shall survive the expiration or termination of this Agreement with respect to any event occurring prior to such expiration or termination.

## 12. Exclusive Right.

This Agreement does grant Concessionaire an exclusive right to distribute its products at the Concession Stand.

## 13. Signs.

Concessionaire shall be limited to placing a sign on the Concession Stand only. Concessionaire shall not place any sign, notice or advertising matter on or about the City's real property, without the City's prior written consent, which consent may be withheld for any reason. If required by Municipal Code of the City of Dardenne Prairie, Concessionaire shall obtain all necessary permits in connection with any such signs.

## 14. General Provisions.

14.1 Entire Agreement. This Agreement contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Agreement **and no prior agreements shall be effective for any purpose.**

14.2 Modification. No provision of this Agreement, including this provision, may be amended or modified except by written agreement signed by the Parties.

14.3 Full Force and Effect. Any provision of this Agreement, which is declared invalid or illegal shall in no way, affect or invalidate any other provision hereof and such other provisions shall remain in full force and effect.

14.4 Assignment. Neither the Concessionaire nor the City shall have the right to transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the other Party.

14.5 Successors in Interest. Subject to the foregoing Subsection, the rights and obligations of the Parties shall inure to the benefit of and be binding upon their respective successors in interest, heirs and assigns.

14.6 Attorney Fees. In the event either of the Parties defaults on the performance of any terms of this Agreement or either Party places the enforcement of this Agreement in the hands of an attorney, or files a lawsuit, each Party shall pay all its own attorneys' fees, costs and expenses. The venue for any dispute related to this Agreement shall be St. Charles County, Missouri.

14.7 No Waiver. Failure or delay of the City to declare any breach or default immediately upon occurrence shall not waive such breach or default. Failure of the City to declare one breach or default does not act as a waiver of the City's right to declare another breach or default.

14.8 Governing Law. This Agreement shall be made in and shall be governed by and interpreted in accordance with the laws of the State of Missouri, not including the state's choice of law rules.

14.9 Authority. Each individual executing this Agreement on behalf of the City and Concessionaire represents and warrants that such individuals are duly authorized to execute and deliver this Agreement on behalf of the Concessionaire or the City.

14.10 Notices. Any notices required to be given by the Parties shall be delivered at the addresses set forth below. Any notices may be delivered personally to the addressee of the notice or may be deposited in the United States mail, postage prepaid, to the address set forth below. Any notice so posted in the United States mail shall be deemed received three (3) days after the date of mailing.

The City of Dardenne Prairie:

Attn: City Clerk  
2032 Hanley Road  
Dardenne Prairie, MO 63368

Brunette Enterprises, Inc.:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

14.11 Captions. The respective captions of the Sections of this Agreement are inserted for convenience of reference only and shall not be deemed to modify or otherwise affect any of the provisions of this Agreement.

14.12 Performance. Time is of the essence of this Agreement and each and all of its provisions in which performance is a factor. Adherence to completion dates set forth in the description of the Services is essential to the Concessionaire's performance of this Agreement.

14.13 Remedies Cumulative. Any remedies provided for under the terms of this Agreement are not intended to be exclusive, but shall be cumulative with all other remedies available to the City at law, in equity or by statute.

14.14 Counterparts. This Agreement may be executed in any number of counterparts, which counterparts shall collectively constitute the entire Agreement.

DATED the day and year set forth above.

Brunette Enterprises, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

City of Dardenne Prairie, Missouri

By: \_\_\_\_\_  
James Knowles, III  
City Administrator

ATTEST:

\_\_\_\_\_  
City Clerk



**EXHIBIT A**

**“Concessionaire Product Price List”**

**EXHIBIT B**

**“Concession Equipment”**