

DARDENNE



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

**BOARD OF ALDERMEN
WORK SESSION AGENDA
DECEMBER 21, 2022
6:00 p.m.**

CALL MEETING TO ORDER

PLEDGE OF ALLEGIANCE

NEW BUSINESS

1. Economic Development Incentive Policy

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

ECONOMIC DEVELOPMENT TOOLS COMPARISON CHART

RBA FORM (OFFICE USE)

MEETING DATE: **December 21, 2022**

Regular () Work Session (X)

ATTACHMENT: YES () NO (X)

Contract () Ordinance () Other (X)

Ward All

Request for Board Action
By: City Administrator

Description: Economic Development Incentives Policy

Recommendation: Staff – Approve (X) Disapprove ()

Summary/Explanation:

The Board of Aldermen have seen an increase in requests for economic development incentives to support development activity in the City. To provide guiding principles for prospective businesses and developers and assist City administration in evaluating requests for assistance through economic development incentives, it is suggested that the Board of Aldermen adopt an Economic Development Incentives Policy pertaining to the use of the following incentives:

Neighborhood Improvement Districts
Community Improvement Districts
Transportation Development Districts
Tax Increment Financing
Chapter 353 Urban Redevelopment Corporation
Chapter 100 Property Tax Exemption

Enclosed for the Board's review and consideration is a draft policy with policy considerations that are consistent with neighboring cities.

It is recommended that any policy be adopted by Resolution at a future meeting of the Board of Aldermen.

RBA requested by: James W. Knowles III

CITY OF DARDENNE PRAIRIE, MISSOURI

ECONOMIC DEVELOPMENT INCENTIVES POLICY

This policy provides a general summary of the guidelines for consideration of the use of the following economic development tools available in the City of Dardenne Prairie:

Neighborhood Improvement Districts
Community Improvement Districts
Transportation Development Districts
Tax Increment Financing
Chapter 353 Urban Redevelopment Corporation
Chapter 100 Property Tax Exemption

The various economic development tools described herein may be used alone or in combination with others. The City, through a Development or Cooperation Agreement, may agree to participate in the financing of public improvements by offering a sales tax rebate. The City may also limit or otherwise structure the use of various financing methods through such agreements.

The incentives listed are not all that are available, however they are the more commonly used tools by a majority of the cities in the area.

INTRODUCTION

The City of Dardenne Prairie, Missouri, is dedicated to achieving the highest quality of development, infrastructure, and quality of life for its residents. These goals are met, in part, through the enhancement and expansion of the local economy. The City recognizes that incentives are sometimes necessary to allow a community to reach its full economic potential. In general, the City of Dardenne Prairie has utilized incentives when it could be shown that such action would promote and grow the local economy through job creation, wage and compensation growth, or tax base expansion.

The purpose of this document is to further define the City's approach to the use of incentives to proactively support selected economic development initiatives. This policy establishes standards and guidelines that will govern the granting of financial incentives to facilitate economic growth. These guidelines are predicated on the belief that the City has an interest in taking positive action to maximize its long-term financial capacity while responding to the service demands of both new and existing development without placing a disproportionate tax burden on homeowners.

The decision to grant incentives will be based on a "case by case" review of each incentive application and offered only upon a clear demonstration of substantial and significant public benefit. Incentives will be subject to a "but for" test. There must be a finding by the Board of Aldermen that the project would not occur, or would only occur at a significantly smaller scale, or will not be financially feasible or stable, or that public benefit will not occur if the incentive is not provided. Discretionary incentives will only be granted to those projects that would not otherwise occur if incentives were not provided, unless the Board of Aldermen finds there to be an overriding public benefit or a reduction in costs that would otherwise be paid by the City. Accordingly, the Dardenne Prairie Board of Aldermen is under no obligation to approve any requested incentive and reserves the right to deviate from the policies and criteria contained herein under its sole discretion when deemed to be in the best interest of the City.

The return and other benefits must be clearly identified. While there is no single best method for conducting analysis and it is impossible to predict all impacts a project will have on a community, providing a thorough and rigorous analysis of each project is critical for the purposes of government accountability and long-term revenue impacts. Responsible use of public funding requires that projects funded provide a suitable return for the City of Dardenne Prairie, are consistent with overall community goals and priorities, and require that investments are made in a transparent manner with full understanding of all short- and long-term costs and benefits.

Any application for incentives may require the applicant to enter into a funding agreement with the City to cover the City's expenses associated with the City's consideration and approval process.

The incentives listed herein are not exclusive and the Dardenne Prairie Board of Aldermen may consider additional types of requests on an individual basis. The Board of Aldermen may alter this policy at any time.

NEIGHBORHOOD IMPROVEMENT DISTRICT (“NID”)

§§ 67.453-67.475, RSMo., Neighborhood Improvement District Act (the “NID Act”)

I. Purpose. A neighborhood improvement district (“NID”) is a geographically bounded area within which certain public improvements are financed by the local government through the issuance of notes or general obligation bonds, which are in turn retired by assessing the property owners in the district on some equitable basis.

II. Eligible Improvements. Under the NID Act, notes or bonds may be issued to pay for “any one or more public facilities or improvements which confer a benefit on property within” the district, including streets, lighting, parks and recreational facilities, sidewalks, utility service connections, sewer and storm water systems, flood control works, off-street parking structures, bridges, overpasses, tunnels, and “any other public facilities or improvements deemed necessary by the governing body of the city or county.” The NID Act also allows certain incidental costs to be financed, such as land acquisition and engineering, legal, and financing fees and costs.

III. Financing Methods. Once the NID is established, the local government may issue temporary notes to finance the proposed improvements, which may then be refunded by issuing general obligation bonds. The principal and interest payments on the notes or bonds are passed on to property owners within the district through special assessments, which are made concurrently with property tax assessments. Because the cost of financing is paid through special assessments, no vote by the general public is required for the issuance of the notes or bonds.

IV. Formation. There are two alternative procedures for initiating the establishment of a neighborhood improvement district:

By submission to qualified voters within the proposed district. The governing body of the city or county may by resolution submit the question of creating a district to all qualified voters residing within the proposed district at a general election or a special election called for that purpose. Section 67.457.2 of the NID Act details the specific procedures to be followed and the information to be contained in the ballot.

By petition of the property owners within the proposed district. At least two-thirds of the owners of record of all of the real property located within the proposed district may petition the city or county to create the district. The petition must be filed with the city or county clerk. Section 67.457.3 provides a detailed list of the information the petition must contain.

Municipal Approval. After receiving requisite voter approval or upon the filing of a proper petition, the governing body must consider the advisability of the improvements and may order, by resolution or ordinance, that the district be established and that preliminary plans and specifications for the improvements be made. Under Section 67.457.4, the resolution or ordinance must cover the same essential information as required in the petition.

V. Governance. The improvements and financing of the district activities are to be governed and controlled by the City and its Board of Aldermen. The NID Act provides that the Board of Aldermen of the City must take the following actions:

Proposed Assessment Role. After enacting the ordinance or resolution establishing the NID and once the plans and specifications have been prepared, the governing body must by ordinance or resolution order that assessments be made against each property deemed to be benefited by the improvements based upon the revised estimated cost of the improvements or, if available, the final cost, and must order the preparation of a proposed assessment role.

Public Inspection of Plans and Specifications and Proposed Assessment Role. The plans and specifications and the proposed assessment role must be filed with the city or county clerk and be open for public inspection.

Public Hearing. A public hearing must be held, at which the governing body must hear and pass upon all objections, if any, to the proposed improvements and proposed assessments. Notice of the hearing must be published and mailed to the affected property owners. At the hearing, the governing body may amend the proposed improvements, the plans and specifications, or the proposed assessments.

Ordinance Authorizing Construction and Financing. If the governing body approves the project at the hearing, it then passes an ordinance authorizing the construction and financing of the improvements.

Assessing the Property Owners. Upon completion of the project, the governing body adopts an ordinance assessing each parcel with its proportionate share of the costs. The city or county clerk then mails a notice to each property owner to inform them of the assessment, with a statement that they may pay the assessment in full or in the installments according to the bond financing.

VI. Policy Guidelines.

The City is prepared to approve petitions for Neighborhood Improvement Districts (NID) to facilitate business activity and economic development within the City. Because the municipality issues general obligation bonds backed by the full faith and credit of the City, decisions to approve the establishment of a NID will be determined on a case-by-case basis and approved only where there is a clear demonstration of substantial and significant public benefit. At a minimum, all statutory requirements must be met.

VII. City Review/Approval Process.

The applicant is required to first meet with the City Administrator in a pre-qualification conference to determine project eligibility. Once deemed eligible, the property owner(s) may file a petition or submit a written request for an election to be held pursuant to Sections 67.453 - 67.475 RSMo. The petition or request for an election should be submitted to the

City Clerk. Petitions that comply with the statutory requirements will be forwarded to the Board of Aldermen for consideration.

COMMUNITY IMPROVEMENT DISTRICTS (“CID”)

§§ 67.1401-67.1571, RSMo., Community Improvement District Act (the “CID Act”)

I. Purpose. A community improvement district (“CID”) is a geographically bounded area within which residents, property owners or business owners may form either a not-for-profit corporation or a political subdivision with the ability to raise funds through special assessments and taxes for the provision of public infrastructure and services. Therefore, unlike a neighborhood improvement district, a community improvement district is a separate legal entity distinct and apart from the municipality that creates the district.

II. Eligible Improvements. Under the CID Act, the District has the authority to “provide assistance to or to construct, reconstruct, install, repair, maintain, and equip various public improvements, including, but not limited to:

1. Pedestrian or shopping malls and plazas.
2. Parks, lawns, trees and any other landscape.
3. Convention centers, arenas, aquariums, aviaries and meeting facilities.
4. Sidewalks, streets, alleys, bridges, ramps, tunnels, overpasses and underpasses, traffic signs and signals, utilities, drainage, water, storm and sewer systems and other site improvements.
5. Parking lots, garages or other facilities.
6. Lakes, dams and waterways.
7. Streetscape, lighting, benches or other seating furniture, trash receptacles, marquees, awnings, canopies, walls and barriers.
8. Telephone and information booths, bus stop and other shelters, rest rooms and kiosks.
9. Paintings, murals, display cases, sculptures and fountains.
10. Music, news and child-care facilities.
11. Any other useful, necessary or desired improvement.

Furthermore, a CID may provide a variety of public services, including, but not limited to:

1. With the municipality’s consent, prohibiting or restricting vehicular and pedestrian traffic and vendors on streets.
2. Operating or contracting for the provision of music, news, child-care or parking facilities, and buses, mini-buses or other modes of transportation.
3. Leasing space for sidewalk café tables and chairs.
4. Providing or contracting for the provision of security personnel, equipment or facilities for the protection of property and persons.
5. Providing or contracting for cleaning, maintenance and other services to public and private property.
6. Promoting tourism, recreational or cultural activities or special events.
7. Promoting business activity, development and retention.
8. Providing refuse collection and disposal services.

9. Contracting for or conducting economic, planning, marketing or other studies.

If the area is designated as blighted, the CID may:

1. Contract with any private property owner to demolish, renovate or rehabilitate any building or structure owned by such property owner.
2. Spend its revenues for such purpose, if the governing body of the municipality has determined that such action is anticipated to remediate the blighting conditions, and will serve a public purpose.

All improvements made by a CID must be located within the boundaries of the District.

III. Financing Methods. A CID may, at any time, issue obligations for the purpose of carrying out any of its powers, duties or purposes. Such obligations shall be payable out of all, part or any combination of the revenues of the district. Such obligations shall be authorized by resolution of the district, and if issued by the district, shall bear such date or dates, and shall mature at such time or times, but not more than twenty years from the date of issuance.

The sources of revenues for a CID may include (1) Special Assessments and (2) Sales and Real Property Taxes:

1. **Special Assessments.** To secure funding through a special assessment, owners of real property who collectively own more than 50 percent of the real property within the district, along with 50 percent per capita of the owners of property within the district, must sign and submit a petition.
2. **Taxes.** Sales and real property taxes may be levied by a CID subject to the approval of a majority of votes cast by qualifying voters within the CID. Sales taxes may be levied at 1/8, 1/4, 3/8, 1/2 or 1%. Such taxes may only be levied by those CIDs established as political subdivisions.

IV. Formation. A CID is created by ordinance of the governing body upon petition signed by property owners collectively owning at least 50 percent of the assessed value of the real property within the proposed district; and more than 50 percent per capita of all owners of real property within the proposed district. The petition must include a wide variety of information, including, but not limited to organizational and governance information; the manner in which the board of directors will be elected or appointed; and the maximum rates of taxes and special assessments that may be imposed.

Prior to the formation of a CID by a city, the governing body of the City must conduct a public hearing. Notice of the hearing must be published once a week for two consecutive weeks prior to the public hearing, and mailed to the owners of property within the CID at least 15 days prior to the public hearing.

V. Governance. A CID is a legal entity in and of itself, separate from the City. The manner in which a District is governed depends upon whether the CID is formed as a not-for-profit corporation or as a political subdivision. If the CID is established as a not-for-profit corporation, then it shall be governed by a board of directors selected in the same manner as other nonprofit corporations under Chapter 355, RSMo.

If the CID is established as a political subdivision, then it will be governed by a board of directors consisting of at least 5 but not more than 30 directors, each director being a registered voter residing in the district or an owner of property or a business within the district. The petition will specify whether the directors of the CID will be elected by the “qualified voters” within the district or appointed by the Mayor with the consent of the Board.

VI. Policy Guidelines.

The City is prepared to approve petitions for Community Improvement Districts (CID) to facilitate business activity and economic development within the City provided the petition meets the statutory requirements referenced above. Once legally established, the City and the CID board shall enter into an agreement for the purpose of forming the terms of the relationship between the City and the board.

VII. City Review/Approval Process.

The applicant is required to first meet with the City Administrator in a pre-qualification conference to determine project eligibility. Once deemed eligible, the property owner(s) may file a petition pursuant to Sections 67.1401 - 67.1571 RSMo. to the office of the City Clerk. Upon receipt of the petition, the City Clerk shall determine whether the petition substantially complies with statutory requirements. Following confirmation that the petition complies with these requirements, a public hearing will be held by the Board of Aldermen. The Board of Aldermen would then consider whether to approve an ordinance to establish the CID. Once established, the applicant will seek to impose within the district either a sales tax and/or a property tax or assign a special assessment in accordance with the procedures and provisions set forth in the CID Act. An annual report will be submitted to the City by March 1 of each year which provides a detailed accounting of the project for the time period of January 1 through December 31 of the previous year.

TRANSPORTATION DEVELOPMENT DISTRICT ("TDD")

§§ 238.200 to 238.275, RSMo., Transportation Development District Act (the "TDD Act")

I. Purpose. A Transportation Development District ("TDD") is a geographically bounded district that may be created to fund, promote, plan, design, construct, improve, maintain and operate one or more transportation projects. Once formed, a TDD is a separate political subdivision of the State.

II. Eligible Improvements. A "project" authorized under the TDD Act is defined to include: "any bridge, street, road, highway, access road, interchange, intersection, signing, signalization, parking lot, bus stop, station, garage, terminal, hangar, shelter, rest area, dock, wharf, lake or river port, airport, railroad, light rail, or other mass transit and any similar or related improvement or infrastructure." Prior to the construction or funding of any project, the TDD must submit the proposed project to the Missouri Highways and Transportation Commission and the local transportation authority (i.e., the county or city), if applicable, for their prior approval. Unlike public improvements funded by a CID, TDD projects may be located outside of the boundaries of the TDD.

III. Financing Methods.

The TDD may issue bonds, notes and other obligations for not more than 40 years.

The sources of revenues for a TDD may include the following:

1. Sales Tax (1/8% to 1%) on all retail sales made within the boundaries of the TDD. The sales tax must be approved by a majority of the qualified voters within the district.
2. Special Assessments may be levied against specially benefited properties within the TDD. Special assessments require majority voter approval.
3. Property Tax may be levied against properties within the TDD upon a vote of at least four-sevenths of the voters within the TDD. The Property Tax may not exceed the annual rate of ten cents on the hundred dollars assessed valuation.
4. Tolls may be charged for the use of a project if approved by a majority of the qualified voters voting on the question in the district.

IV. Formation. A TDD may be created by: (1) a petition of at least fifty registered voters within the proposed district filed with the Circuit Court; (2) if there are no registered voters within the district, the owners of all of the real property located within the proposed district may submit a petition to the Circuit Court; (3) the governing body of any local transportation authority within any county in which a proposed project may be located may file a petition in the circuit court of that county, requesting the creation of a TDD; or (4) two or more local transportation authorities (i.e., cities, counties, etc.) may adopt resolutions calling of the joint establishment of a district and then file a petition with the circuit court requesting the creation of a TDD.

Creation of a TDD is a function of the Courts and requires a court order. Furthermore, creation of a TDD pursuant to options 1, 3 and 4 require approval of the qualified voters located within the boundaries of the TDD. Qualified voters are defined within the TDD Act as either registered voters residing within the TDD, or, if there are no registered voters, the property owners within the TDD. Furthermore, a court may order a public hearing for any TDD proposed to be created under options 1, 3 and 4. The court must call a hearing on any TDD proposed to be created pursuant to a petition by the property owners located therein.

V. Governance. A TDD is a separate political subdivision that has its own board of directors. The procedure for election of the members of the Board of Directors depends upon the manner in which the TDD was formed.

1. If registered voters reside within the District, after the TDD has been organized the court shall order the county clerk to cause an election to be held in all areas of the district to elect the Board of Directors which shall be not less than five nor more than fifteen. Each director must be a resident of the TDD, and registered voters at least twenty-one years of age.

2. If no person eligible to be registered voters reside within the district, after the TDD has been organized, the circuit clerk to call a meeting of the property owners within the TDD for the purpose of electing a board of not less than five and not more than fifteen directors, to be composed of owners or representatives of owners of real property in the TDD who are at least twenty-one years of age.

3. If the petition for the formation of the TDD was filed by two or more local transportation authorities, the board of directors shall consist of the presiding officers of the local transportation authorities. If there are only two or three local transportation authorities, another director shall be designated by the governing body of each local transportation authority who is a resident of the local transportation authority and at least twenty-one years of age.

VI. Policy Guidelines. The City may pass a resolution endorsing (or opposing) a project prior to the time of the circuit court review of the petition filed to establish the TDD. Once legally established, the City and the TDD board shall enter into an agreement for the purpose of forming the terms of the relationship between the City and the board. The City may request the developer pay a one-time payment for future maintenance costs upon the acceptance of a completed project. Although the City may also provide support through guarantees of debt or design/contracting assistance, the City will only assume this responsibility in circumstances where a project creates a substantial public benefit by advancing the City's goals.

VII. City Review/Approval Process. The applicant is required to first meet with the City Administrator in a pre-qualification conference to determine project eligibility. Once deemed eligible, the property owner(s) may file a petition to the circuit court and the office of the City Clerk. Upon receipt of the petition, the City shall determine whether the request

substantially complies with statutory requirements and City policy and will then forward the matter to the Board of Aldermen. The Board of Aldermen will then consider a resolution of support in favor of the TDD. An annual report will be submitted to the City by March 1 of each year which provides a detailed accounting of the project for the time period of January 1 through December 31 of the previous year.

TAX INCREMENT FINANCING (TIF)
 *§§ 99.800 to 99.865, RSMo., the Real Property Tax Increment
Allocation Redevelopment Act (the "TIF Act")*

I. Purpose. Tax Increment Financing ("TIF") permits the use of a portion of local property and sales taxes to assist funding the redevelopment of certain designated areas within the City. Areas eligible for TIF must contain property classified as a "Blighted," "Conservation" or an "Economic Development" area, or any combination thereof, as defined by the TIF Act. The entire redevelopment area need not meet the criteria of one of these three categories, but must include only "those parcels of real property and improvements thereon directly and substantially benefited by the proposed redevelopment project improvements."

II. Eligible Improvements. Before proceeding with a redevelopment project, the city must approve a redevelopment plan that designates the redevelopment area, describes the redevelopment project and sets forth a comprehensive program for redevelopment of the blighted property.

III. Financing Methods. The TIF Commission or the City may issue bonds or other obligations under the TIF Act which are payable from moneys in the special allocation fund. Voter approval is not required, and bonds or other obligations must mature within 23 years. Bonds and other obligations do not count toward the city's constitutional debt limit.

TIF revenues to be placed in the special allocation fund are generated in through two primary means. First, after the City passes an ordinance approving the redevelopment plan and establishing the redevelopment area, the county assessor must determine the total equalized assessed value of all taxable real property within the redevelopment project area. Thereafter, the total equalized assessed valuation of taxable real property in the redevelopment project area in excess of the initial equalized assessed valuation is computed by the county assessor for each year that tax increment financing is in effect. The payments in lieu of taxes (PILOTs) are made by property owners in the redevelopment area on the increase in current equalized assessed valuation of each taxable parcel of real property over and above the initial equalized assessed valuation of each such parcel, and such payments are deposited into the special allocation fund.

Second, 50% of the increase in total revenues of incremental sales and utility taxes ("economic activity taxes" or "EATs") are captured and deposited into the special allocation fund. This does not include tourism taxes, licenses, fees, special assessments and personal property taxes.

IV. Formation. The steps for implementing tax increment financing are as follows:

1. Creation of a TIF Commission. Municipalities in St. Charles County must obtain the permission of a county-wide TIF commission prior to the approval of a redevelopment project. The TIF commission consists of 12 members appointed as follows:

3 members appointed by cities that have TIF districts in the county; 2 members appointed by the school districts; 6 members appointed by the County; and 1 member appointed by the other taxing districts.

2. Preparation of Redevelopment Plan. The Redevelopment Plan must include a description of the redevelopment area and the redevelopment projects therein. The redevelopment area must contain property that may be classified as a “blighted area,” a “conservation area” or an “economic development area,” as those terms are defined in the TIF Act. Furthermore, the TIF Act requires specific information to be included in the Redevelopment Plan, including, but not limited to: estimated redevelopment project costs, the anticipated sources of funds to pay for the costs, evidence of commitments to finance the project costs, etc.

3. Public Hearing Before the TIF Commission. Before adopting tax increment financing, the TIF commission must hold a public hearing on the redevelopment plan and redevelopment project and the proposed redevelopment area. Notice of the hearing must be published and must be mailed to affected taxing districts and property owners. The TIF commission is required to vote on any proposed redevelopment plan, redevelopment project, or designation of a redevelopment area within 30 days after the public hearing and to make recommendations.

4. Adoption of the Approving Ordinance. After conclusion of the public hearing, and receipt of a recommendation from the TIF Commission, the City must adopt an ordinance approving the redevelopment plan, the redevelopment projects and the designation of the redevelopment area. If a TIF Commission makes a recommendation in opposition to a proposed redevelopment plan, project or area, the city may only approve such plan, project or designation upon a two-thirds majority vote. Once the ordinance is adopted, tax increment financing may be implemented for one or more redevelopment projects within a redevelopment area.

V. Governance. The City is responsible for various reporting and hearing requirements. The City must submit an annual report to the Missouri Department of Economic Development concerning the status of each redevelopment plan or project. If the City fails to provide an annual report, the City will be prohibited from implementing new TIF projects for at least five years.

The City must also annually publish a statement showing the payments in lieu of taxes received and expended in that year, the status of the redevelopment plan and project, the amount of outstanding bonded indebtedness and any additional information the City deems necessary.

Every five years, the City must hold a public hearing to determine if the redevelopment project is making satisfactory progress under the proposed time schedule contained in the redevelopment plan.

VI. Policy Guidelines. In addition to meeting the statutory requirements referenced above, the City has established the following criteria that will be applied in the review and evaluation of applications for TIF financing.

In general, applications that meet each of the evaluation criteria will be viewed most favorably. However, TIF applications that do not meet some of these criteria may be approved if the application clearly demonstrates that the project, as a whole, is of vital economic interest to the City.

1. The application demonstrates a substantial and significant public benefit by constructing public improvements that strengthen the economic and employment base of the City, and serves as a catalyst for further high quality development or redevelopment.
2. TIF assistance will be provided for improvements that create significant public benefit(s).
3. Expenses eligible for reimbursement under TIF include but are not limited to the following:
 - a. Studies, surveys, plans and specifications.
 - b. Professional services such as architectural, engineering, legal, marketing, financial, and planning.
 - c. Site preparation, including demolition of structures, clearing and grading of land.
 - d. Constructing public infrastructure such as streets, sewers, utilities, parking, and lighting.
 - e. Financing costs including bond issuance.
 - f. Relocation costs if persons or businesses within the redevelopment area are displaced.
4. Applications which include TIF assistance for land acquisition and residential development will be discouraged unless creatively integrated into a large scale mixed-use project.
5. TIF applications requesting the issuance of bonds or notes shall be required to demonstrate that the payments-in-lieu of taxes and/or economic activity taxes expected to be generated will be sufficient to provide debt service coverage of at least 1.25 times the projected debt service on any tax increment financing bonds or notes.

6. TIF assistance to the project should generally not exceed 35 percent of total project costs. However, project assistance above 35% may be considered in circumstances where the developer: 1) has a proven track record in completing successful projects comparable in scope and scale; 2) documents the developer's financial capacity to complete the proposed project; and 3) demonstrates that tenant commitments are already in place for a significant portion of the proposed project.
7. Applications that include the utilization of a Community Improvement District (CID), Transportation Development District (TDD) or other private or public financing mechanisms that result in reducing the term of the TIF project will be viewed more favorably.
8. Evidence that the applicant has thoroughly explored alternative financing methods and has a track record which demonstrates the financial and technical ability to complete the project.
9. Generally, TIF applications which encompass a project area of less than 10 acres will be discouraged.

VII. City Review/Approval Process. The applicant should first meet with staff in a pre-qualification conference to determine project eligibility. The applicant may be required to enter into a funding agreement with the City to cover the City's expenses associated with the TIF consideration and approval process. Following a public hearing before the City's TIF Commission and approval of the TIF Plan by the Board of Aldermen, the City and the applicant shall enter into a redevelopment agreement for the purpose of governing the implementation of the TIF Plan. The agreement shall require that an annual report be submitted to the City by March 1 of each year which provides a detailed accounting of the project for the time period of January 1 through December 31 of the previous year.

URBAN REDEVELOPMENT CORPORATION

Chapter 353, RSMo.

I. Purpose. Under Chapter 353, RSMo., real property tax abatement is available within “blighted areas.” An Urban Redevelopment Corporation is created under the general corporations laws of Missouri and, once created, it has the power to operate one or more redevelopment projects pursuant to a city-approved redevelopment plan.

II. Eligible Improvements. The authorized improvements will be those set forth in a Redevelopment Plan (typically prepared by a developer) that identifies the proposed redevelopment area, the redevelopment projects to be undertaken, the program to be carried out to remove the blighting influences within the area, and the estimated project costs. To be eligible for tax abatement, the Urban Redevelopment Corporation must take title to the property to be redeveloped.

III. Financing Methods. Under Chapter 353, the City may approve a development plan that provides for tax abatement for up to 25 years, thus encouraging the redevelopment of a blighted area. During the first 10 years of tax abatement, (1) 100% of the incremental increase in real property taxes on the land are abated, (2) 100% of the real property taxes on all improvements are abated, and (3) the property owner continues to pay real property taxes on the land in the amount of such taxes in the year before the redevelopment corporation takes title.

During the next 15 years, between 50% and 100% of the incremental real property taxes on all land and all improvements are abated. Payments in lieu of taxes (“PILOTs”) may be imposed on the Urban Redevelopment Corporation by contract with the City to achieve an effective tax abatement that is less than the abatement established by statute.

IV. Formation. A summary of the basic steps for the approval of a development plan is as follows:

1. Preparation of a Tax Impact Statement. The City must hold a public hearing regarding any proposed development plan. Before the public hearing, the governing body must furnish to the political subdivisions whose boundaries include any portion of the property to be affected by tax abatement (1) notice of the scheduled hearing and (2) a written statement of the impact on ad valorem taxes such tax abatement will have on the political subdivisions.

2. Preparation of Development Plan. A developer usually will assume responsibility for preparation of the development plan. The plan must include or incorporate by reference the characteristics that qualify the area as “blighted” under Missouri law.

3. Public Hearing. Before approving a development plan, the City must hold a public hearing. The City must adopt an ordinance establishing the procedures for giving

notice of the public hearing. Notice of the hearing must be given to each affected taxing district affected by the development plan.

4. Preparation of the Redevelopment Agreement. The Redevelopment Agreement describes the Urban Redevelopment Corporation's obligations to carry out the development plan.

5. Adoptions of Ordinance. Following the public hearing, the City can approve a development plan and Redevelopment Agreement by adoption of an ordinance. The ordinance must make findings that the area described in the development plan is "blighted" under Missouri law, that a relocation plan has been developed for displaced persons, and that the Redevelopment Agreement establishes the time within which property in the area must be acquired.

V. Governance. The Board of Directors of the Urban Redevelopment Corporation shall be established consistent with the terms of the Redevelopment Agreement and will be responsible for carrying out the development plan.

VI. Policy Guidelines. In accordance with Missouri law, the City will consider the granting of Chapter 353 where the property has been found to be a "blighted area". In addition to this statutory requirement, each of the following criteria should be satisfied:

1. Demonstrate a clear public purpose and economic benefit through the advancement of the City's economic development goals which include expanding the tax base, creating quality jobs, and spurring development in targeted City locations.
2. The incentive should make a difference in determining the decision of the business to locate, expand or remain in the City and may not otherwise occur without the availability of the abatement.
3. Include evidence provided by the business that demonstrates the company's financial stability and capacity to complete the project.
4. Not result in the City, County, School District or any other taxing jurisdiction affected by the incentive receiving less total real and personal property tax revenue from the property than was received prior to the granting of tax abatement.
5. Include a capital investment valued at \$6 million or more for a new business or \$3 million or more for expansion of an existing business.
6. Comply with the statutory requirements set forth in Sections 353.020 - 353.190 RSMo. Chapter 353 applications which do not meet some of these criteria may be approved if the application clearly demonstrates that the project, as a whole, is of vital economic interest to the City.

VII. City Review/Approval Process.

Whenever possible, the applicant should first meet with the City Administrator in a pre-qualification conference to determine project eligibility. If the project meets the policy guidelines outlined above, the URC will be invited to submit a redevelopment plan covering the area proposed for redevelopment. The redevelopment plan, which shall include a blight study, will then be considered for formal approval by the Board of Aldermen after a required public hearing. Following approval of the redevelopment plan, the City and the URC shall enter into a performance agreement which will govern the terms of the abatement. The agreement shall require that an annual report be submitted to the City by March 1 of each year which provides a detailed accounting of the project for the time period of January 1 through December 31 of the previous year. The agreement may include a claw-back provision requiring specified performance on issues such as new jobs created as a condition for granting and maintaining the abatement.

PROPERTY TAX EXEMPTION UNDER CHAPTER 100, RSMo.

I. Purpose. Cities are authorized pursuant to Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 to 100.200, RSMo., (the “Act”) to issue industrial development bonds (“IDBs”) to finance projects for private corporations, partnerships and individuals. The two primary reasons to issue IDBs under the Act are: (1) if the bonds are tax-exempt, it may be possible to issue the bonds at lower interest rates than those obtained through conventional financing; and (2) if the bonds are not tax-exempt, ad valorem taxes on bond-financed property may be abated so long as the bonds are outstanding. Such tax abatement may result in a significant financial benefit to a company. The following focuses on the issuance of taxable industrial development bonds issued for the purposes of the abatement of ad valorem taxes.

II. Eligible Improvements. The Act permits any city to issue industrial development bonds (“IDBs”) to finance the costs of warehouses, distribution facilities, research and development facilities, office industries, agricultural processing industries, services facilities which provide interstate commerce, industrial plants certain other types of commercial facilities. In connection with such projects, the bond proceeds may be used to finance land, buildings, fixtures and machinery.

III. Financing Methods. Revenue bonds issued pursuant to the Act do not require voter approval and are payable solely from revenues received from the project. The City applies the proceeds from the sale of the bonds to purchase, construct, improve or equip a warehouse, distribution, commercial or industrial facility. In exchange, the company promises to make payments that are sufficient to pay the principal and interest on the bonds as they become due. Thus the City merely acts as a conduit for the financing.

The typical structure for financing under Chapter 100, is that concurrent with the closing of the bonds, the company will convey to the City title to the site on which the industrial development project will be located. (The City must be the legal owner of the property to be eligible for the tax exemption). At the same time, the City will lease the project site, together with all improvements thereon, back to the company.

The lease agreement will require the company to use the bond proceeds to purchase and construct the project, make payments in sufficient amount to pay principal and interest on the bonds, and make payments in lieu of taxes (if required by the City).

IV. Formation. The initial formal step under a Chapter 100 financing arrangement is that the City normally adopts a resolution stating the City’s willingness and intent to issue IDBs of the project. Thereafter, the City must provide notice to each taxing district of the City’s intent to approve a plan for industrial development for the project. The plan must identify the primary terms of the proposed transaction, and must include a cost-benefit analysis that shows the impact of the proposed tax exemption on each taxing district. Thereafter, counsel for the City will prepare for approval by the City and other parties to the transaction (i.e., the company, the trustee bank, the investment banker, etc.) the legal documents that

provide the structure of the transaction as well as all “closing documents” necessary for the closing of the bonds.

V. Governance. The terms of the Lease Agreement and the trust indenture will dictate the implementation of the plan for industrial development.

VI. Policy Guidelines. In addition to complying with the statutory requirements referenced above, the City has established several criteria that will be used to review and evaluate applications for Chapter 100 financing and tax abatement. To qualify for Chapter 100 tax abatement, each of the following should be satisfied:

1. Demonstrate a clear public purpose and economic benefit through the advancement of the City’s economic development goals, which include expanding the tax base, creating quality jobs, and spurring development in targeted City locations.
2. The incentive should make a difference in determining the decision of the business to locate, expand or remain in the City and may not otherwise occur without the availability of the abatement.
3. Include evidence provided by the business that demonstrates the company’s financial stability and capacity to complete the project.
4. Not result in the City, County, School District or any other taxing jurisdiction affected by the incentive receiving less total real and personal property tax revenue from the property than was received prior to the granting of tax abatement.
5. Include a capital investment valued at \$6 million or more for a new business or \$3 million or more for expansion of an existing business to qualify for up to 50% abatement for a period of time not to exceed ten years.
6. Comply with the City’s Comprehensive Plan.
7. Be environmentally compatible with the specific location and the surrounding area.
8. Comply with the statutory requirements set forth in Sections 100.010 to 100.200 RSMo.

Chapter 100 applications that do not meet all of these criteria may be approved if the application clearly demonstrates that the project, as a whole, is of vital economic interest to the City.

VII. City Review/Approval Process

Whenever possible, the applicant should first meet with the City Administrator in a pre-qualification conference to determine project eligibility. If the project meets the policy guidelines outlined above, the company will be invited to submit a “plan for industrial development” as outlined under Section 100.050 RSMo. The “plan for industrial development” will then be considered for formal approval by the Board of Aldermen.

Following approval of the “plan for industrial development”, the City and the applicant shall enter into a Chapter 100 lease-purchase agreement which will govern the terms of the abatement. The agreement shall require that an annual report be submitted to the City by March 1 of each year which provides a detailed accounting of the project for the time period of January 1 through December 31 of the previous year. The agreement may include a claw-back provision requiring specified performance on issues such as new jobs created as a condition for granting and maintaining the abatement.

DARDENNE



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

**BOARD OF ALDERMEN
MEETING AGENDA
DECEMBER 21, 2022
7:00 p.m.**

CALL MEETING TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

ROLL CALL

Mayor Gotway
Alderman Costlow
Alderman Johnson
Alderman Reilly
Alderman Sansone
Alderman Ungerboeck
Alderman Wandling

CONSENT AGENDA

1. Expenditures for Approval 12-21-22
2. 2023 Submittal and Meeting Calendar
3. Declaration of Condominium Ownership – CONDOSTL, LLC

ITEMS REMOVED FROM CONSENT AGENDA

OPEN FORUM

PUBLIC HEARINGS

1. P.U.D. & Rezoning Request – Area Plan for the proposed “Prairie Encore” Mixed-use Development on the approximately 14.07 acres of the land commonly known as 15765 Bryan Road and more particularly described in the P.U.D. & Rezoning Request – Area Plan application received by the City on October 3rd, 2022, on file with the City Clerk from Applicant Engenuity.
2. Conditional Use Permit Request – Massage Establishment (Health and Wellness Provider) on the approximately 6.54 acres of the land commonly known as 1676 Bryan Rd Ste #100-

101 and more particularly described in the Conditional Use application received by the City on October 31st, 2022, on file with the City Clerk from Applicant Cloud 9 Massage.

NEW BUSINESS

1. **Bill #22-73**

AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, PROVIDING FOR THE APPROVAL OF A CONDITIONAL USE PERMIT FOR PROPERTY ZONED C-2, GENERAL COMMERCIAL DISTRICT AND LOCATED ON LAND COMMONLY KNOWN AS 1676 BRYAN ROAD, SUITE 100-101

2. **Bill #22-74**

AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, PROVIDING FOR REZONING OF APPROXIMATELY 14.07 ACRES OF LAND FROM C-2, GENERAL COMMERCIAL DISTRICT, TO C-3, RETAIL COMMERCIAL, PLANNED UNIT DEVELOPMENT (P.U.D.) AND R-M, MULTIFAMILY RESIDENTIAL, PLANNED UNIT DEVELOPMENT (PUD); AND APPROVING AN AREA PLAN FOR THE SAME

3. **Bill #22-75**

AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE AN AGREEMENT BY AND BETWEEN SAINT CHARLES COUNTY, MISSOURI, AND THE CITY OF DARDENNE PRAIRIE FOR USE OF SAINT CHARLES COUNTY TRANSPORTATION SALES TAX FUNDS FOR CONCRETE SLAB REPLACEMENT AND ASPHALT STREET RECONSTRUCTION

4. **Bill #22-76**

AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE AN AGREEMENT BY AND BETWEEN SAINT CHARLES COUNTY, MISSOURI AND THE CITY OF DARDENNE PRAIRIE FOR USE OF SAINT CHARLES COUNTY TRANSPORTATION SALES TAX FUNDS FOR PROPOSED IMPROVEMENTS TO SOUTH HANLEY ROAD

5. **Bill #22-77**

AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE AN AGREEMENT BY AND BETWEEN SAINT CHARLES COUNTY, MISSOURI, AND THE CITY OF DARDENNE PRAIRIE FOR USE OF SAINT CHARLES COUNTY TRANSPORTATION SALES TAX FUNDS FOR PROPOSED IMPROVEMENTS TO TOWN SQUARE AVENUE

6. **Bill #22-78**

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

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
12/21/2022

1 AFLAC	December, 2022	255.48
2 Alphabet Soup	Apparell: Boards & Commissions	780.00
3 Ameren	City Hall	1,237.82
4 Ameren	Concession Stand	286.28
5 Ameren	City Park	295.73
6 Ameren	Traffic Light 2	50.57
7 Ameren	Traffic Light	11.51
8 Ameren	Athletic Complex	352.40
9 Ameren	Street Lights	38.45
10 Ameren	Street Lights	177.22
11 American Solutions for Business	Citations	718.00
12 American Technology Solutions	IT - December, 2022	2,056.42
13 CDS Office Technologies	Copies	151.02
14 Charter Communications	Service through 1-7-23	577.48
15 First Bank	Credit Card Charges	2,622.94
16 GFI Digital	Copies	82.32
17 Insurance - The Hartford	December, 2022	320.70
18 Insurance: KC Life	Vision & Dental: December, 2022	803.65
19 Jeffrey J. Sandcork	Prosecuting Attorney: December, 2022	1,100.00
20 Jennifer Bohn	Bingo Supply Reimbursement	167.85
21 John Gotway	Material Reimbursement	152.75
22 Kone Chicago	Elevator Quarterly Maintenance	484.56
23 LAGERS	November, 2022	4,799.06
24 M & H Concrete Contractors, Inc.	Change Order 1 - Phase 2 - Invoice #3	761,969.19
25 Martin Trophy	Name Plate & Badge: Musler	32.00
26 Mat Dewinters	November Consulting	1,800.00
27 Mat Dewinters	December Consulting	1,980.00
28 Mike Costlow	MML Reimbursement	641.74
29 MOPERM	Annual Insurance: Auto & General	15,775.00
30 NFM Buyer LLC	Pothole Repair Material	48.12
31 O.R. Colan Associates	Stump Road ROW	29,740.00
32 Parks: Contemporary Productions	Platinum Rock Legends - Prairie Day Deposit	3,750.00
33 PASS Security	Alarm Service	207.00
34 Payroll	12/09/22 Payroll	23,822.32
35 Payroll	12/23/22 Payroll	26,822.32
36 PWSD No. 2	City Hall Fountain	63.29
37 PWSD No. 2	City Hall	46.06
38 R & R Contracting Services, Inc.	Porta Pottys	354.21
39 Reinhold Electric	Traffic Signal Repair	610.00
40 Spire	Service to 12-31-22	169.41
41 St. Charles County	Court: Domestic Violence Fund	1,888.50
42 St. Charles County Finance	2023 Police Services (23 Budget)	389,703.62
43 St. Charles Regional Chamber	Membership: Knowles	340.00
44 Staples	Office Supplies	69.40
45 The Law Office of Dennis Chassaniol	Municipal Judge: December, 2022	500.00
46 Thoele	Gas to 11-30-22	490.00
47 UMB Bank, NA	December, 2022 TDD Sales Tax Payment	32,298.82
48 Weis Design Group	Engineering: October & November	83,521.36
		1,394,164.57

Approved by Board of Aldermen 12-21-22

Mayor John Gotway



City of Dardenne Prairie, Missouri Submittal and Meeting Calendar 2023

Planning and Zoning Commission – 2nd Wednesday of the month

Planning and Zoning Commission Meetings begin at 7:00 p.m.

Board of Aldermen – 1st and 3rd Wednesdays of the month

*Board of Aldermen Meetings begin at 7:00 p.m.
(Board of Aldermen Work Sessions are held at 6:00 pm)*

All meetings are held at City Hall located at 2032 Hanley Road, Dardenne Prairie, Missouri 63368

PLANNING & ZONING COMMISSION				
REZONING, CONDITIONAL USE & NEW COMMUNITY PLANS**	PLATS, LOT SPLITS, SITE PLANS & PUD FINAL PLANS			
APPLICATION DEADLINE	SUBMISSION DEADLINE	COMMENTS TO APPLICANT	RESUBMISSION DEADLINE	MEETING DATE
12/05/2022	12/07/2022	12/16/2022	12/22/2022*	01/11/2023
01/03/2023*	01/04/2023	01/13/2023	01/20/2023	02/08/2023
01/30/2023	02/01/2023	02/10/2023	02/17/2023	03/08/2023
03/06/2023	03/08/2023	03/17/2023	03/24/2023	04/12/2023
04/03/2023	04/05/2023	04/14/2023	04/21/2023	05/10/2023
05/01/2023	05/03/2023	05/12/2023	05/19/2023	06/14/2023
06/05/2023	06/07/2023	06/16/2023	06/23/2023	07/12/2023
07/03/2023	07/05/2023	07/14/2023	07/21/2023	08/09/2023
08/07/2023	08/09/2023	08/18/2023	08/25/2023	09/13/2023
09/05/2023*	09/06/2023	09/15/2023	09/22/2023	10/11/2023
10/02/2023	10/04/2023	10/13/2023	10/20/2023	11/08/2023
11/06/2023	11/08/2023	11/17/2023	11/22/2023	12/13/2023

BOARD OF ALDERMEN		
MASTER SIGN PLAN, TEMPORARY USE & OTHER AGENDA ITEMS**		
APPLICATION DEADLINE	FIRST MEETING DATE	SECOND MEETING DATE
12/28/2022	01/04/2023	01/18/2023
01/25/2023	02/01/2023	02/15/2023
02/22/2023	03/01/2023	03/15/2023
03/29/2023	04/05/2023	04/19/2023
04/26/2023	05/03/2023	05/17/2023
05/31/2023	06/07/2023	06/21/2023
06/28/2023	07/05/2023	07/19/2023
07/26/2023	08/02/2023	08/16/2023
08/30/2023	09/06/2023	09/20/2023
09/27/2023	10/04/2023	10/18/2023
10/25/2023	11/01/2023	11/15/2023
11/29/2023	12/03/2023	12/20/2023

Note: Variances must be heard by the Board of Adjustment, which meets on an "as-needed" basis.

** Items that require publication must be submitted at least 37 days prior to meeting date

* Denotes Holiday Schedule

DECLARATION OF CONDOMINIUM OWNERSHIP
FOR
7755 TOWN CENTER CONDOMINIUM

THIS DECLARATION (the "Declaration") is made this day of , 2022, by CONDOSTL, LLC, a Missouri Limited Liability Company, c/o Balaji Seethapathi, member, (hereinafter referred to as "Declarant");

W I T N E S S E T H:

WHEREAS, Declarant is the owner in fee simple of a parcel of real property located in the County of St. Charles, Missouri, legally described in Exhibit A hereto; and

WHEREAS, Declarant intends by this Declaration to submit said real property to the provisions of the Uniform Condominium Act of the State of Missouri (Sections 448.1-101 to 448.4-120 RSMo.) in effect as of the date of the recording of this Declaration (the "Act").

NOW, THEREFORE, Declarant, as the owner of said real property described above, for the purposes above set forth, does hereby declare said real property and all improvements thereon and those to be erected thereon to be a Condominium, hereafter known as 7755 Town Center Condominium under the Act, and further declares and provides as follows:

1. DEFINITIONS.

1.1 The following terms, as used herein or elsewhere in any condominium documents relating to 7755 Town Center Condominium, unless otherwise specifically provided, shall have the meaning set forth below:

a. Act - The Uniform Condominium Act of the State of Missouri (Sections 448.1-101 to 448.4-120 RSMo.) in effect as of the date of the recording of this Declaration.

b. Articles of Incorporation - The Articles of Incorporation of the Association, as they exist from time to time.

c. Association - 7755 Town Center Condominium Association, Inc. (hereinafter referred to as the "Association"), said Association being a Missouri not-for-profit corporation formed pursuant to Chapter 355, RSMo.

d. Building - Any structure located on the Property which contains a total of forty-eight (48) Units.

e. By-Laws - The By-Laws of the Association as they exist from time to time.

f. **Common Elements** - All of the Property other than the Units, including, but not limited to, the Limited Common Elements, surface parking spaces (if any), common driveways and common utility systems.

g. **Common Expenses** - All expenditures made by, or financial liabilities of, the Association, together with any allocations to reserves including, but not limited to, the expenses for the maintenance, repair, replacement, administration and operation of the Common Elements, Limited Common Elements and the fences (if any), walls, exterior glass, lighting, and landscaping.

h. **Condominium** - The condominium created by this Declaration, known as 7755 Town Center Condominium.

i. **Deck** - Each space adjacent to and part of a Unit intended to be used exclusively by a Unit Owner as a deck or patio.

j. **Declarant** - 24Condostl LLC, or any person, firm, corporation, limited liability company or other legal entity to whom the 24Condostl LLC transfers its rights hereunder prior to the time when all Units in the Condominium have been sold.

k. **Declaration** - This instrument (including all attachments hereto) and any amendments hereto which may be recorded from time to time.

l. **Eligible Mortgagee** - Each holder, insurer or guarantor of a duly recorded first mortgage or deed of trust on any Unit which has made written request to the Board of Directors of the Association for notice of all matters of which such holders, insurers or guarantors are entitled pursuant to the provisions of this Declaration, the Act or the By-Laws.

m. **Eligible Mortgage Holder** - Each Eligible Mortgagee which is a holder of a mortgage or deed of trust.

n. **Limited Common Elements** - Each portion of the Common Elements which is reserved for the exclusive use of one of the Unit Owners including, but not limited to: (i) each Deck and any entryway or porch connected to and adjacent to a Unit, and all such items designated as Limited Common Elements on the Plat, which shall be used in connection with such Unit to the exclusion of the use thereof by the other Unit Owners, except by invitation; and, (ii) the portions of the Common Elements described in subdivision (2) and (4) of Section 448.2-102 of the Act.

o. **Material Amendment** - Any material amendment to any provision of the Declaration or By-Laws, or the addition of any material provision thereto including, but not limited to, any material amendment or addition of any material provision which establishes, provides for, governs or regulates any of the following:

(i) voting;

(ii) assessments, assessment liens or subordination of such liens;

- (iii) reserves for maintenance, repair and replacement of common Elements;
- (iv) insurance or fidelity bonds;
- (v) rights to use of Common Elements;
- (vi) responsibility for maintenance and repair of the Property;
- (vii) expansion or contraction of the condominium regime or the addition, annexation or withdrawal of property to or from said condominium regime;
- (viii) boundaries of any Unit;
- (ix) interests in Common Elements or Limited Common Elements;
- (x) convertibility of Units into Common Elements or of Common Elements into Units;
- (xi) leasing of Units;
- (xii) imposition of any right of first refusal or similar restriction on the right of a Unit Owner to sell, transfer, or otherwise convey such Unit Owner's Unit; or
- (xiii) provisions which are for the express benefit of Eligible Mortgagees.

p. Person- A natural person, partnership, corporation, limited liability company or other legal entity capable of holding title to real property.

q. Plat- The drawing attached hereto as Exhibit B which was prepared by a registered land surveyor and which contains the information required by the Act, as such drawing may be amended from time to time by amendments thereto.

r. Property- The land described in Exhibit A which is attached hereto, together with all improvements and structures from time to time hereafter located thereon, including all appurtenances thereto and all easements and rights intended for the mutual use, benefit or enjoyment of the Unit Owners.

s. Unit or Condominium Unit- Each physical portion of the Property designated for separate ownership or occupancy, the boundaries of which are delineated in Exhibit B hereto, including the areas described as part of the Unit in Section 448.2-102 of the Act.

t. Unit Owner- The person or persons, individually or collectively, having fee simple ownership of a Unit.

1.2 Unless the context otherwise requires, any other terms used in this Declaration shall be assumed to have the meanings attributed to said terms in the Act.

2. UNITS.

2.1 The Condominium consists of forty eight (48) Units unless Units are combined or subdivided as herein provided.

2.2 The legal description of each Unit shall consist of the identifying number or symbol of such Unit as shown on the Plat. Every deed, lease, mortgage or other instrument may legally describe a Unit by such legal description, and every such description shall be deemed good and sufficient for all purposes, as provided in the Act.

2.3 Each Unit and the improvements thereon shall be used solely for residential purposes, subject to the exceptions set forth in this Declaration and the zoning requirements of the County of St. Charles.

2.4 Each Unit Owner shall have exclusive rights to the Limited Common Elements designated for their use as of the closing on the purchase of their Unit.

3. OWNERSHIP OF THE COMMON ELEMENTS AND COVENANT AGAINST PARTITION.

3.1 Each Unit Owner shall own an undivided interest in the Common Elements as a tenant in common equal to the percentage of ownership (hereinafter referred to as the "Percentage of Ownership") allocated to the respective Unit owned by such Unit Owner, as set forth in the schedule attached hereto as Exhibit C, as such schedule is amended from time to time by amendment hereto. The Percentage of Ownership of each Unit has been computed and determined in accordance with the provisions of the Act. The Percentages of Ownership shall remain constant unless changed in accordance with the provisions of this Declaration and the Act.

3.2 The ownership of each Unit and of the Unit Owner's corresponding Percentage of Ownership in the Common Elements shall not be separated. As long as the Property is subject to the provisions of the Act, the Common Elements shall remain undivided, and no Unit Owner shall bring any action for partition or division of the Common Elements. Any covenant or agreement to the contrary shall be null and void. Nothing contained herein, however, shall prevent partition of a Unit as between Co-Unit Owners thereof, if such right of partition shall otherwise be available. Notwithstanding the above, no Unit may be partitioned or subdivided without the prior approval of at least the holder of any first mortgage or deed of trust lien on such Unit.

3.3 Should Declarant or any Unit Owner(s) exercise any right provided in this Declaration or otherwise to relocate the boundaries of any Unit, convert any Unit previously created into Common Elements, subdivide any Unit or increase the size of any Unit, the Percentage of Ownership of each Unit shall be equitably computed and reallocated in accordance with the Act.

4. USE OF COMMON ELEMENTS.

4.1 Except as provided in this Declaration, each Unit Owner shall have the right to the use of the Common Elements and any equipment contained therein in common with all other Unit Owners as may be required for the purposes of access or ingress and egress to and use and occupancy and enjoyment of the respective Unit owned by such Unit Owner and for such other purposes as specific Common Elements are intended.

4.2 The foregoing rights to use the Common Elements shall extend to each Unit Owner, the members of the immediate family of each Unit Owner, and the guests and other authorized occupants and visitors of each Unit Owner, and such rights shall be subject to and governed by the provisions of the Act, this Declaration, the By-Laws and the rules and regulations of the Association hereinafter referred to. Each Unit Owner shall be deemed to have an easement in common with the other Unit Owners in, upon, across, over, though, and with respect to the Common Elements to the extent of such right to use the Common Elements. The Association shall have the authority to lease or rent or to grant licenses or concessions with respect to any parts of the Common Elements subject to the provisions of the Declaration and By-Laws.

5. COMMON EXPENSES.

5.1 Each Unit Owner shall pay said Unit Owner's proportionate share of the Common Expenses. Each Unit Owner's proportionate share of such Common Expenses shall be that fraction of the total Common Expenses which is equal to Unit Owner's Percentage of Ownership.

5.2 Payment of the Common Expenses shall be in such amounts and at such times as determined in the manner provided in the By-Laws. If any Unit Owner shall fail or refuse to make any such payment of the Common Expenses when due, the amount thereof (together with other amounts due from the Unit Owner in accordance with the Act) shall constitute a lien on the Unit of that Unit Owner as provided in the Act; provided, however, that such lien shall be subordinate to other liens as provided in the Act.

5.3 Declarant, as provided in the Act, shall be responsible as a Unit Owner pursuant to this Declaration during such time as Declarant owns any Unit.

6. ASSOCIATION OF UNIT OWNERS.

6.1 The Association (which either has been formed prior to the recording hereof or will be formed prior to the date on which the first Unit is conveyed by the Declarant) shall be the governing body for all of the Unit Owners for the maintenance, repair, replacement, administration, and operation of the Property as provided in the Act, this Declaration and the By-Laws.

6.2 The Board of Directors of the Association shall be deemed to be the "Executive Board" for the Unit Owners referred to herein and in the Act.

6.3 The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the Unit Owners in accordance with the provisions of this Declaration, the By-Laws, and the Act.

6.4 Each Unit Owner shall be a member of the Association so long as that Unit Owner shall own a Unit, and such membership shall automatically terminate when that Unit Owner ceases to own a Unit. Upon the transfer of the Unit Owner's ownership interest in a Unit, the new Unit Owner succeeding to such ownership interest shall likewise succeed to such membership in the Association. The Association may issue certificates evidencing membership therein.

6.5 The aggregate number of votes for all members of the Association shall be One Hundred (100), which shall be divided among the respective Unit Owners in accordance with their respective Percentages of Ownership.

6.6 Subject to the provisions of Section 6.7 of this Declaration, the Declarant, or a person designated by it, may appoint and remove all of the officers and members of the Executive Board of the Association until the earlier of: (a) the date all Units have been sold to third parties; (b) two (2) years after the Declarant has ceased to offer Units for sale in the ordinary course of business; or, (c) the date which is the tenth (10th) anniversary of the date of the recording of this Declaration.

6.7 As provided in the Act, promptly after conveyance of fifty percent (50%) of the Units to a Unit Owner other than the Declarant, one (1) member of the Executive Board shall be appointed by Unit Owners other than the Declarant. Upon conveyance of seventy-five percent (75%) of the Units to Unit Owners other than the Declarant, all of the members of the Executive Board shall be appointed by Unit Owners other than the Declarant.

7. SEPARATE MORTGAGES.

7.1 Each Unit Owner shall have the right to make a separate mortgage or encumbrance of the Unit Owner's respective Unit together with the Unit Owner's respective ownership interest in the Common Elements. No Unit Owner shall have the right or authority to make or create or cause to be made or created any mortgage or encumbrance or other lien on or affecting the Property or any part thereof, except only to the extent of the Unit Owner's own Unit and the Unit Owner's respective ownership interest in the Common Elements.

7.2 In the event any Unit Owner shall default in the payment of any monies required to be paid under the provisions of any mortgage or deed of trust against the Unit Owner's Unit, the Association shall have the right to cure such default (in accordance with the provisions of, and during the time period provided in, such mortgage or deed of trust) by paying the amount so owing to the party entitled thereto and shall thereupon have a lien therefor against such Unit, which lien may be perfected and foreclosed in the manner provided in the Act with respect to liens for failure to pay a share of the Common Expenses. In the event the Association does not elect to cure such default, then the lien holder may proceed to foreclose such lien and sell the property in accordance with the mortgage or deed of trust. Nothing herein contained shall

be construed to require the holder of a mortgage or deed of trust to furnish notice of default under said mortgage or deed of trust to the Association.

7.3 Each holder of a first mortgage or deed of trust on a Unit who comes into possession of the Unit by virtue of foreclosure of such mortgage or deed of trust, or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, will take the Unit free of any claims for unpaid assessments and charges against the Unit which accrue prior to the time such holder or purchaser comes into possession of the Unit if such holder's mortgage or deed of trust, or the mortgage or deed of trust so foreclosed, was properly recorded prior to the date of the recording of the notice of delinquency with respect to such assessments.

8. SEPARATE REAL ESTATE TAXES.

8.1 The real estate taxes on each Unit are to be separately paid by each Unit Owner as provided in the Act.

8.2 If, for any reason, the real estate tax bills are not separately issued by the applicable authorities, then each Unit Owner shall pay the Unit Owner's individual share of the taxes or assessments, as applicable, as determined by the Association in accordance with each Unit Owner's Percentage of Ownership.

9. UTILITIES.

9.1. Each Unit Owner shall pay for the Unit Owner's own telephone, electricity, gas, cable television, and other utilities which are separately metered or billed to each user by the respective utility company. Utilities which are not separately metered or billed shall be treated as part of the Common Expenses.

10. INSURANCE.

10.1 Commencing not later than the time of conveyance of the first Unit to a Person other than the Declarant, the Association shall maintain, to the extent reasonably available, the insurance required by Section 448.3-113 of the Act and the insurance hereinbelow described. The premiums for such insurance shall be a Common Expense.

10.2 The Association shall obtain insurance for the Property against loss or damage by fire and such other hazards as the Association may deem advisable for the full insurable replacement cost of the Common Elements and the Units and the improvements thereon; provided, however, that such insurance shall provide protection against loss or damage by fire and other perils normally covered by the standard extended coverage endorsement and against all other perils which are customarily covered with respect to projects similar in construction, location and use as the Property, including all perils normally covered by the standard "all risk" endorsement. If available at reasonable cost, the policies obtained by the Association shall also have "agreed-amount" and "inflation guard" endorsements. Such insurance coverage shall be written in the name of, and the proceeds thereof shall be payable to, the Association or the Executive Board, as the trustee for each of the Unit Owners, and also as trustee for each such Unit Owner's mortgagee(s), if any, in their respective Percentages of Ownership. Any insurance proceeds so paid to the Executive Board or the Association which are

disbursed for reconstruction of damaged premises shall be disbursed by a title insurance company or other escrow agent selected by the Association (or the Executive Board) pursuant to an agreement between the Association (or the Executive Board) and such agent, providing appropriate mechanic's lien protection. Application of the insurance proceeds to reconstruction, and disposition of the Property where the insurance proceeds are insufficient for reconstruction, shall be as provided in the Act. In the event of damage or destruction of any Unit or Units, the insurance proceeds shall be used in accordance with the provisions of the Act.

10.3 The Association shall also obtain comprehensive public liability insurance in such limits as it shall deem desirable, insuring each Unit Owner and the Association from liability in connection with the Common Elements; and, the premiums for such insurance shall be Common Expenses.

10.4 If any of the insurance described herein is not reasonably available, the Association shall promptly cause notice of that fact to be hand-delivered or sent prepaid by United States Mail to all Unit Owners.

10.5 Insurance policies carried pursuant to this Declaration shall provide that:

a. Each Unit Owner is an insured person under the policy with respect to liability arising out of the Unit Owner's interest in the Common Elements or membership in the Association.

b. The insurer waives its rights to subrogation under the policy against any Unit Owner or members of the Unit Owner's household;

c. No act or omission by any Unit Owner, unless acting within the scope of a Unit Owner's authority on behalf of the Association, will void the policy or be a condition to recover under the policy; and

d. If, at the time of a loss under a policy of insurance provided by the Association, there is other insurance in the name of a Unit Owner covering the same risk covered by the Association's policy, the Association's policy shall be the primary insurance.

10.6 Each Unit Owner shall be responsible for the Unit Owner's own insurance on: (i) the contents of the Unit Owner's own Unit; (ii) the Unit Owner's additions and improvements thereto; (iii) the decorating, furnishings and personal property in said Unit; (iv) the Unit Owner's personal property stored elsewhere on the Property; and, (v) the Unit Owner's personal liability to the extent not covered by the liability insurance for all of the Unit Owners obtained as part of the Common Expenses as above provided.

10.7 In the event of substantial damage to or destruction of any of the Unit improvements, the Unit Owner of such Unit shall give prompt written notice of any such damage or destruction to all Eligible Mortgagees with respect to such Unit; and, in the event of substantial damage to or destruction of any part of the Common Elements, the Association shall give prompt written notice of any such damage or destruction to all Eligible Mortgagees with respect to any Unit.

11. MAINTENANCE, REPAIRS AND REPLACEMENTS.

11.1 Each Unit Owner shall furnish and be responsible for, at the Unit Owner's own expense, all of the interior and exterior (except as provided in Section 11.5 below) maintenance, repairs and replacements of improvements to such Unit Owner's Unit including, without limitation, the interior of the ceilings, floors, and perimeter walls and both sides of all interior walls.

11.2 Maintenance, repairs and replacements of the lateral sewer lines from the buildings to the main trunk sewer shall be furnished by the Association as part of the Common Expenses. Maintenance, repairs and replacement of the interior waste plumbing system of each Unit shall be at the expense of each respective Unit Owner.

11.3 Maintenance, repairs and replacement of the furnaces, air conditioners, hot water heaters, bathroom and kitchen plumbing fixtures, refrigerators, microwave ovens, ranges, clothes washers and dryers, and other appliance and lighting fixtures and other electrical appliances of any Unit shall be at the expense of each respective Unit Owner.

11.4 Maintenance, repairs and replacements of the Common Elements and Limited Common Elements (except as otherwise provided in this Declaration) shall be furnished by the Association as part of the Common Expenses.

11.5 The Association shall be responsible for: (i) lawn cutting and landscaping maintenance (excluding maintenance of landscaping not provided by Declarant or the Association but installed by a Unit Owner, which shall be the responsibility of such individual Unit Owner); (ii) maintenance of the building's roofs and gutters; (iii) maintenance of the driveways and walkways to the building; and (iv) snow removal from the Common Elements. Accommodating for normal wear and tear, all maintenance will be done on a periodic basis. Each Unit Owner shall keep their Deck in adequate repair and clean and free of debris.

11.6 Maintenance, repairs and replacement of the fences, retaining walls (if any) and landscaping installed by Declarant or the Association shall be a Common Expense.

11.7 The authorized representatives of the Association, the Executive Board, or of the manager or managing agent for the Property, shall be entitled to reasonable access to the individual Units as may be required in connection with maintenance, repairs or replacements of or to the Common Elements or the Units, or other equipment, facilities or fixtures affecting or serving the Units or the Common Elements.

11.8 The Association may provide, by its rules and regulations, for ordinary maintenance and minor repairs and replacements to be furnished to Units by Association personnel as Common Expenses, except that the Association will not be responsible for repairing or maintaining glass in the windows or doors of the Units.

11.9 If, due to a household pet or the negligent act or omission of a Unit Owner, a member of a Unit Owner's family, or a guest or other authorized occupant or visitor of such Unit Owner, damages shall be caused to the Common Elements or to a Unit or improvements owned by others, or maintenance, repairs or replacements shall be required which

charged to and assessed against such defaulting Unit Owner and shall be added to and deemed part of the Unit Owner's respective share of the Common Expenses, and the Association shall have a lien for all of the same, as well as for non-payment of the Unit Owner's respective share of the Common Expenses, upon the Unit and ownership interest in the Common Elements of such defaulting Unit Owner and upon all of the Unit Owner's additions and improvements thereto and upon all of the Unit Owner's personal property in the Unit or located elsewhere on the Property.

14.3 In the event of any such default by any Unit Owner, the Association shall have the authority to correct such default and to do whatever may be necessary for such purpose and all expenses in connection therewith shall be charged to and assessed against such defaulting Unit Owner. Any and all of such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Association.

14.4 Nothing herein contained shall diminish any right in law any Unit Owner may have to enforce compliance with the provisions of the Act, Declaration, By-Laws, Articles of Incorporation, or the rules and regulations of the Association.

15. AMENDMENT OF DECLARATION.

15.1 This Declaration may be amended from time to time upon the approval of such amendment or amendments by the Association pursuant to a resolution or written consent (given in accordance with the By-Laws) adopted or given by all of the Unit Owners.

15.2 All amendments to this Declaration shall be prepared, executed, and certified on behalf of the Association by any officer or officers of the Association designated for that purpose in the amendment, or in the absence of designation, by the President of the Association. All such amendments shall be recorded in accordance with and as required by the Act.

15.3 Notwithstanding the foregoing provisions of this Section 15, the Declaration may be amended without the vote and approval specified and required in Section 15.1. hereof as follows:

a. To relocate the boundaries between adjoining Units in accordance with Section 448.2-112 of the Act; and

b. To subdivide a Unit into two (2) or more Units in accordance with Section 448.2-113 of the Act.

16. A LIST OF ALL IMPROVEMENTS CONTEMPLATED IN THE CONDOMINIUM.

The Declarant is not obligated to construct any additional Units other than those shown on the Plat.

17. NOTICES.

17.1 Any notice, demand, request, consent, approval, or other communication provided for in the Act, Declaration, or By-Laws, or desired to be given, shall be in writing and shall be addressed, as the case may be, to:

The Association: 7755 Town Center Condominium
Association, Inc.
c/o Balaji Seethapathi
2508 Viola Gill Lane
Wildwood, MO 63040

The Declarant: 24Condostl LLC
c/o Balaji Seethapathi
2508 Viola Gill Lane
Wildwood, MO 63040

Any Unit Owner: At the address of the Unit, or at such other
address as is hereinafter provided.

17.2 Each of the Association and Declarant may designate a different address or addresses for notices to it by giving written notice of such change of address to the other of the two of them and to all Unit Owners at such time. Any Unit Owner may also designate a different address or addresses for notices to that Unit Owner by giving written notice of his change of address to the Association and the Declarant.

17.3 Notices addressed as above shall be deemed delivered when mailed, postage prepaid, by United States registered or certified mail or when delivered in person with written acknowledgment of the receipt thereof.

18. SEVERABILITY.

If any provision of this Declaration or any section, sentence, clause, phrase or word, or the application thereof in any circumstances is held invalid, the validity of the remainder of this Declaration and of the application of any such provision, section, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

19. RIGHTS AND OBLIGATIONS.

19.1 The rights and obligations of the respective Unit Owners under this Declaration shall be deemed to be covenants running with the land so long as the Property remains subject to the provisions of the Act and shall inure to the benefit of and be binding upon each and all of the respective Unit Owners, their respective heirs, executors, administrators, legal representatives, successors, assigns, purchasers, lessees, grantees, mortgagees, and others having or claiming an interest in the Property, subject to the provisions of the Act and this Declaration.

19.2 Each Unit Owner, by acceptance of a deed to any Unit from the Declarant or any other Unit Owner, shall be deemed to have accepted and agreed to be bound by and subject to each and all of the provisions of the Act, this Declaration, and the By-Laws.

20. UTILIZATION OF UNITS AND COMMON ELEMENTS.

20.1 The Declarant may maintain a model or display unit in any Unit until all of its Units are sold.

20.2 The Declarant may maintain signs on the Common Elements advertising the Condominium until all of its Units are sold.

21. EASEMENTS.

21.1 The Common Elements shall be, and the same are hereby declared to be, subject to a perpetual, non-exclusive easement, which easement is hereby created for the use of the Unit Owners and for the use of their immediate families, guests, invitees or licensees, for all proper and normal purposes and for the furnishing of services and facilities for which the same are reasonably intended. The Association shall have the right to establish rules and regulations governing the use and enjoyment of such easements.

21.2 All of the Property shall be subject to duly recorded easements in existence and easements for encroachments which now exist or hereafter exist, caused by settlement or movement of the improvements, or caused by minor inaccuracies in building or rebuilding such improvements, which encroachments shall be permitted to remain undisturbed, and such easements shall continue until such encroachments no longer exist.

22. TERMINATION.

The Condominium may be terminated in the manner provided in the Act.

23. EMINENT DOMAIN.

23.1 If all or any part of the Property is taken or threatened to be taken by condemnation, eminent domain, or by any other similar power, the Association and each Unit Owner shall be entitled to participate in proceedings incident thereto at their respective expense. The Association shall give notice of the existence of such proceeding to all Unit Owners and to each Eligible Mortgagee. The expense of participation in such proceeding by the Association shall be a Common Expense. The Association is specifically authorized to obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses, and any other persons as the Association, in its discretion, deems necessary or advisable to aid or advise in its matters relating to such proceedings. All damages or awards for any such taking shall be deposited with the Association, acting as trustee, and such damages or awards shall be applied or paid as provided in this Section 23.

23.2 In the event that an action in eminent domain is brought to condemn a portion of the Common Elements, the Association shall have the sole authority to determine whether to defend any such proceeding, to make any settlement with respect thereto, or to convey such property to the condemning authority in lieu of such condemnation proceeding. With respect to any such taking of Common Elements, all damages and awards shall be determined for such taking as a whole and not for each Unit Owner's interest therein. After the damages or awards for such taking are determined, such damages or awards shall be paid to each

Unit Owner in proportion to said Unit Owner's Percentage of Ownership in the Common Elements. The Association may, if it deems advisable, call a meeting of the Association, at which meeting the Unit Owners, by a majority vote, shall decide whether to replace or restore as far as possible the Common Elements so taken or damaged.

23.3 If any one or more Units are taken, (i) all damages and awards shall be paid by the Association to the accounts of the Unit Owners thereof and, if more than one Unit is so taken, such payment shall be in proportion to the Unit Owner's Percentage of Ownership in the Common Elements, and (ii) the Unit Owners thereof shall automatically cease to be members of the Association, and their ownership interests in the Common Elements shall terminate and vest in the Owners of the remaining Units. In the event of a partial taking resulting in the taking of a portion of a Unit, the Unit Owners thereof shall remain members of the Association and their Percentage of Ownership shall be reduced in proportion to the reduction in the size of the Unit. After any partial taking, subject to the provisions of the Act, the Association shall reallocate the ownership, voting rights, and Percentages of Ownership determined in accordance with this Declaration and the Act, according to the same principles employed in this Declaration at its inception and as required under the Act. The Board of Directors shall amend this Declaration accordingly.

23.4 Any damages or awards provided in this Section 23 to be paid to or for the account of any Unit Owner by the Association, acting as trustee, subject to the provisions of any mortgage or deed of trust affecting such Unit Owner's Unit, shall be applied first to the payment of any taxes or assessments by governmental authorities past due and unpaid with respect to that Unit; secondly, to amounts due under any mortgages or deeds of trust affecting such Unit; thirdly, the payment of any unpaid Common Expense assessments charged to or made against the Unit; and last, to the Unit Owner of such Unit.

24. ATTACHMENTS.

The following are attached hereto and incorporated herein by this reference:

Exhibit A: Description of the Property

Exhibit B: Condominium Plat

Exhibit C: Percentages of Ownership

(THE BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the Declarant has executed this Declaration on the day and year first above written.

24Condostl LLC

Balaji Seethapathi, Member

STATE OF MISSOURI)
) SS.
____ OF)

On this day of , 2022, before me appeared Balaji Seethapathi, a duly authorized member of 24Condostl LLC, to me personally known, who, being by me duly sworn, did say that the foregoing instrument was duly and properly executed by him on behalf of said LLC as the free act and deed of said LLC.

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 Term Expires: _____

EXHIBIT A
To Declaration of Condominium Ownership

Adjusted Lot A of Town Center Condos Boundary Adjustment Plat, a subdivision in St. Charles County, Missouri, according to the plat thereof recorded in Plat Document Number 2022R-055715 of the St. Charles County Records,

Also known as:

A TRACT OF LAND IN THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 46 NORTH, RANGE 2 EAST, AND FURTHER DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF BLOCK NO. 1 OF KIMBERLY ACRES, PLAT BOOK 10, PAGE 10 OF THE ST. CHARLES COUNTY RECORDS; THENCE ALONG THE SOUTH LINE OF THE PARCEL DESCRIBED IN DEED BOOK 2324, PAGE 243. NORTH 89 DEGREES 07 MINUTES 26 SECONDS WEST, 284.28 FEET TO THE POINT OF BEGINNING; THENCE LEAVING SAID SOUTH LINE, SOUTH 00 DEGREES 31 MINUTES 34 SECONDS WEST, 175.74 FEET TO A POINT; THENCE NORTH 89 DEGREES 08 MINUTES 26 SECONDS WEST, 571.34 FEET TO A POINT; THENCE NORTH 00 DEGREES 31 MINUTES 32 SECONDS EAST, 175.58 FEET TO A POINT; THENCE SOUTH 89 DEGREES 07 MINUTES 26 SECONDS EAST, 571.34 FEET TO THE POINT OF BEGINNING AND CONTAINING 2.30 ACRES (100,359 SQUARE FEET) MORE OR LESS.

And

A tract of land in the Southeast Quarter of Section 2, Township 46 North, Range 2 East, lying North of the centerline of Boonslick Road, a public road, described as follows:

Beginning in the South line of Section 2, Township 46 North, Range 2 East, in the center line of Boonslick Road, at a point distant Westwardly (North 89 degrees 46 West) 1090.6 feet from the Southeast corner of said Section 2; thence North 0 degrees 17' East 361 feet with the West line of a tract of 134 acres more or less, conveyed by John L. Dickherbar to Louis R. Dickharber and Olga Mae Dickherber, husband and wife, by deed dated June 6, 1954, recorded in Book 270 page 502, St. Charles County Recorder's Office, to an iron pipe in South line (fenced) of the 5.23 acre tract of George L. Dickherber and Salome C. Dickharber, husband and wife, to them conveyed to Agatha Steinmann by deed dated October 12, 1926, recorded in Book 153 page 363, said Recorder's Office: thence Westwardly (North 89 degrees 21' West) with the South line (fenced) of George and Salome Dickherber 5.23 acre tract 631.32 feet to the Southwest corner of said 5.23 acre tract; thence Southwardly with the East line of land of Merz 381 feet, more or less, to the South line of said Section 2, a point in the center of said Boonslick Road; thence with said South line of said Section 2 and the centerline of said Boonslick Road Eastwardly 631.32 feet to the place of beginning. EXCEPTING THEREFROM that part conveyed to St. Charles

County, Missouri by Instrument recorded In Book 2622 page 98 of the St. Charles County Records.

Known and numbered as: +/- 2.3 acres of 7756 Town Square Avenue and all of 7773 Highway N, O'Fallon, MO 63388

Tax IDs: 40033-8002-00-0027.0000000 and 4-0033-S002-00-0028,0000000

EXIDBIT B
TO DECLARATION OF CONDOMINIUM OWNERSHIP

CONDOMINIUM PLAT

{The Condominium Plat has been separately recorded in the Plat Books of the Office of the Recorder of Deeds of the County of St. Charles, Missouri, in Plat Book_____Page
.)

EXHBIT C
TO DECLARATION OF CONDOMINIUM OWNERSHIP
Percentage Ownership of Units

Unit Number	Percentage of Ownership
-------------	-------------------------

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI,
PROVIDING FOR THE APPROVAL OF A CONDITIONAL USE PERMIT
FOR PROPERTY ZONED C-2, GENERAL COMMERCIAL DISTRICT
AND LOCATED ON LAND COMMONLY KNOWN AS 1676 BRYAN
ROAD, SUITE 100-101**

WHEREAS, a Conditional Use Permit Application was submitted to the Board of Aldermen, a copy of which is attached hereto as **Exhibit A** and incorporated by reference herein (the "Application"), by Corporate Group, Inc. (the "Applicant"), to allow certain uses described herein on certain real property within the City of Dardenne Prairie commonly known as 1676 Bryan Road, Suite 100-101 (the "Property"), and owned by GSR Ventures, LLC, (the "Owner"); and

WHEREAS, the property is zoned C-2, General Commercial District; and

WHEREAS, a Massage Establishment (health and wellness provider) is permitted conditional uses within the C-2, General Commercial District under the Municipal Code of the City of Dardenne Prairie, Missouri, § 405.190; and

WHEREAS, the Board of Aldermen of the City of Dardenne Prairie, Missouri, referred the Application to the City's Planning and Zoning Commission; and

WHEREAS, said Planning and Zoning Commission of the City considered the Application and referred it to the Board of Aldermen recommending approval; and

WHEREAS, the Board of Aldermen and the Planning and Zoning Commission held hearings on the proposed conditional uses at which interested persons and residents of the City were given an opportunity to be heard on the proposed conditional uses; and

WHEREAS, the Planning and Zoning Commission and the Board of Aldermen considered the following:

1. The character of the surrounding area;
2. The traffic conditions of the surrounding area;
3. The public utility facilities;
4. The Comprehensive Plan, a copy of which is available in the office of the City Clerk and incorporated by reference herein;
5. The Application;
6. The Municipal Code of the City of Dardenne Prairie, Missouri, a copy of which is available in the office of the City Clerk and incorporated by reference herein;
7. The recommendation of the Planning and Zoning Commission;
8. Testimony presented at the hearing before the Planning and Zoning Commission on

December 15, 2022, recorded audio of which is on file in the office of the City Clerk and incorporated by reference herein; and

9. Testimony presented at the hearing before the Board of Aldermen on December 21, 2022, recorded audio of which is on file in the office of the City Clerk and incorporated by reference herein;

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

SECTION 1. Findings. Based upon the evidence presented to it, and subject to the conditions stated herein, the Board of Aldermen of the City of Dardenne Prairie, Missouri, does hereby find and determine that the use of the Property for the purposes described in Section 2 of this Ordinance:

- a. Complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitations;
- b. Will contribute to and promote the welfare or convenience of the public;
- c. Will not cause substantial injury to the value of other property in the neighborhood in which it is to be located;
- d. Will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations;
- e. Complies with the requirements for off-street parking and loading areas;
- f. Provides for adequate utility, drainage and other such necessary facilities;
- g. Provides for access roads or entrance and exit drives designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys;
- h. Will not adversely affect the character or the traffic conditions of the surrounding area;
- i. Will not adversely affect public utility facilities;
- j. Complies with the Comprehensive Plan of the City and with other matters pertaining to the general welfare of its residents; and
- k. Meets all of the criteria set forth in § 405.475.B of the City Code.

SECTION 2. Conditional Use. The Board of Aldermen of the City of Dardenne Prairie, Missouri, does hereby authorize and permit the requested use of the Property to allow the construction, operation and maintenance of a Massage Establishment (health and wellness provider) on the Property subject to Applicant and Owner's (or their successors in interest) compliance with all conditions set forth in Section 3 of this Ordinance.

SECTION 3. Conditions of Issuance:

1. Applicant and Owner, having to the best of their knowledge provided the City with all information required by the appropriate sections of the Zoning Ordinance pertaining to the C-2, General Commercial District agree that any information inadvertently omitted will be provided upon request, as soon as it may reasonably be obtained.

2. Applicant and Owner (or their successors in interest) agree that all improvements shall be constructed to meet all applicable federal, state and local codes and shall comply with all of the City's applicable ordinances and construction standards.
3. Applicant and Owner (or their successors in interest) agree that the Property shall be used in compliance with all requirements of the Municipal Code of the City of Dardenne Prairie, Missouri.
4. Applicant and Owner (or their successors in interest) agree that prior to beginning operation of the Massage Establishment (health and wellness provider), the appropriate licenses required under the Ordinances of the City of Dardenne Prairie, Missouri, will be obtained.
5. Any violation of a requirement, term, condition or safeguard contained herein shall be considered a violation of Chapter 405 of the Municipal Code, subject to the applicable penalties contained therein and grounds for the Board of Aldermen to take all such actions as may be necessary to terminate and cancel the conditional use permit approved pursuant to this ordinance.

SECTION 4. Effective Date: This Ordinance shall take effect and be in force from and after its passage by the Board of Aldermen and its approval by the Mayor of the City of Dardenne Prairie, Missouri.

SECTION 5. 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 6. 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.

[Remainder of page intentionally left blank.]

Read two (2) times, passed, and approved this _____ day of _____, 2022.

As Presiding Officer and as Mayor

Attest:

City Clerk

Approved this _____ day of _____, 2022.

Mayor

Attest:

City Clerk



Exhibit A

City Hall
2032 Hanley Road
Dardenne Prairie, MO 63368
Phone 636.561.1718
Fax 636.625.0077

CONDITIONAL USE PERMIT APPLICATION

CITY OF DARDENNE PRAIRIE, MISSOURI

www.DardennePrairie.org

APPLICANT:

Corporate Group, Inc.
Company Name
Paula Thornhill, Project Coordinator
Printed Name, Title
2500 Old S. Hwy 94
Street Address
St. Charles, MO 63303
City/State/Zip Code
636-946-0761
Telephone
Paula@Corporategrp.com Facsimile
Email Address

STREET ADDRESS OF CONDITIONAL USE: 1674 Bryan Rd. Suite 100-101

OWNER (attach additional):

GSR Ventures LLC
Printed Name
Terry Scheidegger
Printed Name
Street Address
2500 Olds Hwy 94
City/State/Zip Code
St. Charles, MO 63303
Telephone
636-946-0761 Facsimile
Email Address

Contract Purch. --- Developer:

Stephanie Hofmeister
Company Name
Cloud 9 Massage
Printed Name, Title
Stephanie Hofmeister, Owner
Street Address
10044 Westminster Place
City/State/Zip Code
St. Louis, MO 63112
Telephone
314-270-9055 Facsimile
Email Address

LEGAL DESCRIPTION OF PROPERTY (other than address) see attached

EXISTING ZONING: C2 PROPOSED ZONING: ?
PROPOSED USE: Health / Wellness / Massage Therapy

NO. UNITS: CUP APPLICATION FEE SUBMITTED:

SITE PLAN REVIEW FEE SUBMITTED:

CONDITIONAL USE PERMIT APPLICATION

The decision to recommend approval or denial of the proposed conditional use shall be based on the following criteria:

- A. The use complies with all applicable provisions of the zoning ordinance.
- B. The use at the specified location will contribute to and promote the welfare and convenience of the public.
- C. The use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
- D. The use shall not dominate the immediate neighborhood. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:
 - 1. The location, nature and height of buildings, structures, walls and fences on the site; and
 - 2. The nature and extent of proposed landscaping and screening on the site.
- E. Off-street parking and loading areas shall be provided in accordance with the standards set forth in the zoning ordinance.
- F. Adequate utility, drainage and other such necessary facilities must be provided.
- G. Adequate access roads or entrance and exit drives must be provided. (Minimum 25' for 2-way and 14' for 1-way traffic.)
- H. In consideration of requests for any conditional use permits, the Planning and Zoning Commission/Board of Aldermen shall require such conditions of use as it deems necessary to protect the best interests of the City and the surrounding property and to achieve the objectives of the zoning ordinance.
- I. A time limitation may be required.

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.
- All plans, architectural drawings, renderings or other materials or visual aids either submitted to the Commission and/or Board of Aldermen or presented at their meeting shall become the property of the City and part of the permanent record of any approval.

[V] **CHECKLIST TO COMPLETE THIS APPLICATION**

- [] Two (2) folded copies of a plot survey/sketch/site plan are provided. This plan shall be drawn to scale and prepared on sheet(s) not to exceed twenty-four (24) inches by thirty-six (36) inches and shall show the lot or lots included in the application; show all structures; give appropriate dimensions, utility easements and other information listed on this application.
Additional copies for distribution to Planning and Zoning Commission (P&Z) 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).
- [] 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).
- [] 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 1st Public Hearing: _____ Postmark Deadline: _____

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

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

Paul H. Hornbuckle

10-21-22

Applicant's Signature

Date

Owner's Signature
(additional below)

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 "A"

A tract of land being part of the Southwest Quarter of Section 6, Township 46 North, Range 3 East, St. Charles County, Missouri and being more particularly described as follows:

Beginning at the intersection of the North line of Whispering Pines, Plat One, a subdivision according to the plat thereof recorded in Plat Book 32 Page 262 of the St. Charles County records with the East right-of-way line of Bryan Road; thence along said right-of-way line the following courses and distances; along a curve to the right whose chord bears North 11 degrees 39 minutes 31 seconds East 377.17 feet and whose radius point bears North 67 degrees 59 minutes 40 seconds West 1050.00 feet from the last mentioned point, an arc distance of 379.24 feet, thence North 01 degrees 18 minutes 42 seconds East 222.49 feet to a curve to the right whose chord bears North 46 degrees 05 minutes 22 seconds East 49.30 feet and whose radius point bears South 88 degrees 41 minutes 18 seconds East 35.00 feet from the last mentioned point, an arc distance of 54.71 feet; thence South 89 degrees 07 minutes 59 seconds East 219.76 feet; thence North 01 degrees 08 minutes 43 seconds East 20.14 feet to the South right-of-way line of Fiese Road; thence along said right-of-way line the following courses and distances; South 89 degrees 07 minutes 59 seconds East 31.00 feet; thence along a curve to the right whose chord bears South 88 degrees 44 minutes 19 seconds East 89.95 feet and whose radius point bears South 00 degrees 52 minutes 01 seconds West 6531.81 feet from the last mentioned point, an arc distance of 89.95 feet; thence South 82 degrees 05 minutes 15 seconds East 79.23 feet to the West line of property conveyed to St. Charles County Ambulance District by deed recorded in Book 2311 page 1759 of said records; thence along said West line, South 01 degrees 08 minutes 36 seconds West 228.12 feet; thence along the South line of said St. Charles County Ambulance District property, South 88 degrees 51 minutes 24 seconds East 200.28 feet to the West right-of-way line of Stump Road; thence along said West right-of-way line, South 01 degrees 08 minutes 36 seconds West 410.50 feet to the North line of the aforesaid Whispering Pines Plat One; thence along said North line, North 88 degrees 58 minutes 14 seconds West 723.98 feet to the POINT OF BEGINNING as per calculations by Bax Engineering Company, Inc. during December 2003.

page 3

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, PROVIDING FOR REZONING OF APPROXIMATELY 14.07 ACRES OF LAND FROM C-2, GENERAL COMMERCIAL DISTRICT, TO C-3, RETAIL COMMERCIAL, PLANNED UNIT DEVELOPMENT (P.U.D.) AND R-M, MULTIFAMILY RESIDENTIAL, PLANNED UNIT DEVELOPMENT (PUD); AND APPROVING AN AREA PLAN FOR THE SAME

WHEREAS, an application was submitted by The Engenuity, LLC (“Applicant”), to the City of Dardenne Prairie, Missouri (the “City”), for the rezoning of approximately 14.07 acres of real property more particularly described in Exhibit A, attached hereto and incorporated by reference herein (the “Property”), and owned by the Bopp Family Limited Partnership (the “Owner”), from C-2, General Commercial District, to C-3 Retail Commercial, Planned Unit Development (P.U.D.) and R-M Multifamily Residential, Planned Unit Development (P.U.D.), pursuant to the Municipal Code of the City of Dardenne Prairie, Missouri; and

WHEREAS, the Applicant also submitted a P.U.D. Request – Area Plan for the approval of an Area Plan for the Property; and

WHEREAS, the Planning and Zoning Commission of the City (the “Planning and Zoning Commission”), considered the proposed rezoning and Area Plan and recommended denial of said rezoning and Area Plan; and

WHEREAS, the Board of Aldermen of the City and the Planning and Zoning Commission held Public Hearings on the proposed rezoning request and Area Plan; and

WHEREAS, at such Public Hearings all persons-in-interest and other citizens were given an opportunity to be heard on the proposed rezoning request and Area Plan.

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

SECTION 1. Zoning Amendment. 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 14.07 acres area of real property described more particularly on Exhibit A, attached hereto and incorporated by reference herein, 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 14.07 acre area of real property from C-2, General Commercial District, to C-3 Retail Commercial, Planned Unit Development (P.U.D.) and R-M Multifamily Residential, Planned Unit Development (P.U.D.), pursuant to the Municipal Code of the City of Dardenne Prairie, Missouri, subject to the Applicant and Owner’s (or their respective

successors in interest) compliance with all conditions herein as well as those reflected on the Area Plan approved in Section 2 of this Ordinance.

SECTION 2. Area Plan. That upon review, first before the Planning and Zoning Commission and then the Board of Aldermen of the City of Dardenne Prairie, Missouri, the Board of Aldermen does hereby approve the Area Plan for the Property submitted by Applicant and prepared by The Engenuity, LLC, stamped and sealed by a professional engineer on December 5, 2022, and referencing Project # 22-0113, which plan is on file in the Office of the City Clerk and incorporated by reference herein (the “Area Plan”), subject to the Applicant’s and the Owner’s (and their respective successors in interest) compliance with all of the conditions herein as well as those reflected on the approved Area Plan.

SECTION 3. Area Plan Conditions of Issuance. The approval of the Area Plan pursuant to Section 2 of this Ordinance is expressly conditioned upon the following:

1. The Applicant and the Owner, having to the best of its knowledge, provided City with all information required by the appropriate sections of the Zoning Ordinance pertaining to a C-3 Commercial, Planned Unit Development (P.U.D.) and R-M Multifamily Residential, Planned Unit Development (P.U.D.), and agrees that any information inadvertently omitted will be provided upon request, as soon as it may reasonably be obtained; and

2. The Applicant and the Owner (and their respective successors in interest) agree that all improvements shall be constructed to meet all applicable state and local codes and shall comply with all of the City’s applicable Ordinances and street construction standards; and

SECTION 4. Amend Zoning Map. 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 this Ordinance.

SECTION 5. 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 manner connected with the subject matter hereof.

SECTION 6. 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 valid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

SECTION 7. Effective Date: This Ordinance shall be in full force and take effect from and after the date of its final passage and approval.

Read the first (1st) time this _____ day of _____, 2022.

Attest: _____
City Clerk

As Presiding Officer and as Mayor

Read the second (2nd) time and passed this _____ day of _____, 2022.

Attest: _____
City Clerk

As Presiding Officer and as Mayor

Approved this _____ day of _____, 2022.

Mayor

Attest: _____
City Clerk



Exhibit A

City Hall
2032 Hanley Road
Dardenne Prairie, MO 63368
Phone 636.961.1718
Fax 636.825.0077

REZONING REQUEST
CITY OF DARDENNE PRAIRIE, MISSOURI
www.DardennePrairie.org

APPLICANT:

ENGENUITY

Company Name

TOM BUERK III, P.E. PROJECT MANAGER

Printed Name, Title

17057 N. OUTER 40 ROAD, SUITE 147

Street Address

CHESTERFIELD, MO 63005

City/State/Zip Code

636-793-5622

Telephone

Facsimile

TOMB@THEENGENUITY.COM

Email Address

STREET ADDRESS OF REZONING: 1575 BRYAN ROAD, DARDENNE PRARIE, MO 63366

OWNER (attach additional):

BOPP CORA FAMILY LMTD PARTNERSHIP

Printed Name

Printed Name

12715 IRENE MARIE WAY

Street Address

ST. LOUIS, MO 63141

City/State/Zip Code

Telephone

Facsimile

Email Address

Contract Purchaser/Developer:

MIA ROSE HOLDINGS, LLC

Company Name

TOM KAIMAN

Printed Name, Title

7 BAXTER LANE

Street Address

CHESTERFIELD, MO 63017

City/State/Zip Code

(314)280-5872

Telephone

Facsimile

TOMKAI MAN@GMAIL.COM

Email Address

LEGAL DESCRIPTION OF PROPERTY (other than address) A TRACT OF LAND BEING PART OF SECTION 1, TOWNSHIP 46 NORTH, RANGE 2 EAST, ST. CHARLES COUNTY, MISSOURI

EXISTING ZONING: C-2 GEN COMMERCIAL PROPOSED ZONING: C-2 PUD

PROPOSED USE: MIXED-USE PUD - COMMERCIAL/RESIDENTIAL

NO. UNITS: 190 MULTI-FAMILY RESIDENTIAL

REZONING REQUEST APPLICATION FEE SUBMITTED: \$ 920.00

REZONING REQUEST

In reviewing any application for rezoning, the Planning and Zoning Commission shall identify and evaluate all factors relevant to the application and shall report its findings in full, along with its recommendation, to the Board of Aldermen. The facts to be considered by the Commission include:

- A. Whether or not the requested zoning is justified by a change in conditions since the original ordinance was adopted or, by an error in the original ordinance.
- B. The precedents, the possible effects of such precedents, which might likely result from approval or denial of the application.
- C. The ability of the City or other government agencies to provide any services, facilities and/or programs that might likely result from approval or denial of the petition.
- D. Effect of approval of the application on the condition and/or value of property in the City or in adjacent civil divisions.
- E. Effect of approval of the petition on adopted development policies of the City and other government units.
- F. The zoning and land use recommended by the Comprehensive Plan.

[v] 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).
- ☒ 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).
- ☒ 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 1st Public Hearing: 11/9/2022 Postmark Deadline: 10/25/2022

- ☒ 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

10/3/2022

Date



Owner's Signature

10/3/2022

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.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI
AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE AN
AGREEMENT BY AND BETWEEN SAINT CHARLES COUNTY,
MISSOURI, AND THE CITY OF DARDENNE PRAIRIE FOR USE OF
SAINT CHARLES COUNTY TRANSPORTATION SALES TAX FUNDS
FOR CONCRETE SLAB REPLACEMENT AND ASPHALT STREET
RECONSTRUCTION**

WHEREAS, the City desires to take advantage of the Saint Charles County Transportation Sales Tax funds in financing concrete slab replacement and asphalt street reconstruction; and

WHEREAS, in order to utilize the Saint Charles County funding, the City must enter into an Agreement with the Saint Charles County; and

WHEREAS, the provisions of Sections 70.210 to 70.320 of Revised Statutes of the State of Missouri empower municipalities and political subdivisions of the State to contract with each other for common services and the purposes herein set out; and

WHEREAS, the Board of Aldermen has determined that it is in the best interest of the residents of the City of Dardenne Prairie to enter into an Agreement with Saint Charles County for use of Saint Charles County Transportation Sales Tax Funds for concrete slab replacement and asphalt street reconstruction;

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

SECTION 1. That the form, terms, and provisions of the Agreement For Use of St. Charles County Transportation Sales Tax Funds for Concrete Slab Replacement and Asphalt Street Reconstruction attached hereto, marked as Exhibit A, and incorporated by reference herein (the "Agreement"), by and between the City of Dardenne Prairie, Missouri and St. Charles County, Missouri be and they hereby are approved and the City Administrator shall be and 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 the Agreement and this 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 December, 2022

As Presiding Officer and as Mayor

Attest:

City Clerk

Approved this _____ day of December, 2022

Mayor

Attest:

City Clerk

**AGREEMENT BY AND BETWEEN
ST. CHARLES COUNTY, MISSOURI AND _____
FOR
USE OF ST. CHARLES COUNTY TRANSPORTATION SALES TAX FUNDS FOR
CONCRETE SLAB REPLACEMENT AND ASPHALT STREET RECONSTRUCTION**

This agreement is entered into by St. Charles County, Missouri, hereinafter referred to as "County" and _____, State of Missouri, hereinafter referred to as "Municipality."

In consideration of the mutual covenants herein contained, and other good and valuable consideration including the mutual recognition of the vital importance of Concrete Slab Replacement and Asphalt Street Reconstruction (the "Project") for acceptable road condition ratings, the parties hereto agree as follows:

**SECTION ONE
PREAMBLE**

The County Executive has been authorized by Ordinance 22-040, attached hereto as Attachment B and made part of this Agreement, to execute this Agreement with the Municipality for the use of St. Charles County Transportation Sales Tax funds, in fiscal years 2022 and 2023 subject to appropriation as described in Section Seven of this Agreement, for the Project in an amount not to exceed \$ _____ ("County Contribution Amount").

**SECTION TWO
SERVICES AND COUNTY FINANCIAL CONTRIBUTION**

- A. The Municipality shall be responsible for the construction of the Project to include road improvements meeting the following criteria:
1. Concrete slab replacement and base repair on a road with a PCI of 75 or less (can be partial slabs, not patching with asphalt or corner repairs) or
 2. Asphalt street reconstruction including patching, base repair, overlay, curb and gutters, and other incidental items on a road with a PCI of 40 or less.

The Municipality has programmed _____ dollars (\$ _____) in its 2022 Budget for the Project (hereinafter "2022 Program Amount"). The County hereby agrees to match the Municipality's 2022 Program Amount and reimburse the Municipality for 100% of actual costs the Municipality incurs and expends on the Project in addition to the 2022 Program Amount, up to an amount equal to the 2022 Program Amount, and for 50% of the actual costs above the County's 100% match, up to a maximum equal to the County Contribution Amount. County's reimbursement pursuant to this Agreement shall be made for work performed in County Fiscal years 2022 and 2023 only. The Municipality will be responsible for the remainder of actual costs not reimbursed by others including those that exceed the estimate recited above unless the parties amend this intergovernmental agreement for additional work. In no event shall the County's reimbursement to the Municipality pursuant to this Agreement exceed the maximum amount equal to the County Contribution Amount. Should the Municipality's reimbursable additional work performed pursuant to this Agreement be less than the County Contribution Amount, any remaining funds shall be withdrawn by the County from availability under this Agreement and shall be deposited back into the St. Charles County Transportation Sales Tax

funds to be administered by the County's Road Board.

SECTION THREE **STAFF TIME**

Staff time incurred by the Municipality for administrative and clerical tasks related to the Project is not reimbursable from the County and shall not be considered as part of any required Municipality match. In the event questions arise related to eligibility for reimbursement of costs incurred, the County's Road and Traffic Manager shall be the authority making the determination and her decision shall be binding.

SECTION FOUR **TRANSPORTATION SALES TAX SIGN**

The Municipality agrees that a sign of the size, lettering, and colors as depicted in **Attachment A** to this Agreement shall be furnished and erected at each end of the project construction limits in a visible location. This sign shall be erected at the beginning of construction and can be removed after final construction contract completion.

SECTION FIVE **TERM**

This agreement shall become effective upon execution by all parties hereto and shall continue through the end of the County's 2023 fiscal year. This agreement is subject to appropriation by the County of funds sufficient to fulfill the terms of this agreement.

SECTION SIX **TERMINATION**

A. Termination for Breach:

1. **Events of Breach:** In addition to the breach of the obligations specifically set forth in the Agreement, the following shall constitute breach of this Agreement and reasons for the Agreement to terminate:
 - a. Municipality's Failure to comply with all the obligations set forth under this Agreement.
 - b. Municipality's Failure to fund or administer construction of the Project: In the event the Municipality fails to provide the administration and/or matching funds agreed to by the Municipality pursuant to this Agreement, Municipality agrees to pay all costs incurred by the County in having taken all the steps pursuant to this Agreement up to the time of the Municipality's failure to fund or administer.
2. **Remedies for Breach:** In the event of a breach of this Agreement by either party hereto that is not remedied within thirty (30) days after delivery of written notice of such breach, the aggrieved party may terminate this Agreement by written notice to the other, which shall be effective on the 5th day following delivery. In the event of the County's breach of any terms and conditions of this Agreement, except for reasons outlined in this

Agreement, the County agrees to pay all documented reasonable costs undisputed by the County and incurred by the Municipality as a direct result of the Municipality being denied County funds for the Project. In the event of the Municipality's breach of any terms and conditions of this Agreement, the County shall be entitled to, and the Municipality shall refund all funds paid to the Municipality, and the County shall have no further obligation to the Municipality to pay any funds pursuant to this Agreement

- B. Termination for County's Failure to Appropriate: Should the County fail to appropriate any funds in its annual budget ordinance for any of the fiscal years to which this Agreement applies, this Agreement will terminate upon notice to the Municipality by the County that the appropriation was not voted in the annual budget ordinance, which notice shall be sent, first-class mail, to the Municipality at the address stated in Section Ten of this Agreement. Upon such notice to the Municipality, the County's obligation to pay any further funds pursuant to this Agreement shall terminate immediately and no further funds shall be due and payable by the County to the Municipality for the Project.
- C. Return of Records upon Agreement Termination: Upon expiration or termination of this Agreement, for any cause, each party shall without additional cost to the other party, provide all reasonable assistance and devote its best efforts to returning to each party, or its designee, in an orderly and expeditious manner, all data, records, equipment and documents belonging to that party.

SECTION SEVEN

PROJECT SCHEDULE

Timely completion is an essential element of this contract. The Project must be completed by December 31, 2023.

SECTION EIGHT

COST OVERRUNS

The Municipality shall not request reimbursement from the County for any work performed beyond the scope of services specified herein without a contract amendment approved and executed by both parties.

SECTION NINE

REMUNERATION

Requests for reimbursement by the County pursuant to Section Two shall be submitted to the County's Manager of Roads and Traffic for review and approval. Each reimbursement request shall include a cover letter, reimbursement summary, and proof of payment. The municipality must demonstrate that it has completed all work on the Project in an amount equal to the 2022 Program Amount and paid for said work with its own funds in fiscal years 2022 and 2023, and that the work performed for which the reimbursement is requested was additional work in excess of the 2022 Program Amount. Payments shall not exceed actual expenses incurred by Municipality or that approved by the county's Manager of Roads and Traffic.

The Municipality shall submit to the County an invoice not less frequently than on quarterly basis listing pay items corresponding to all contractor invoices and all supporting timesheets and other

documentations for the services rendered and deliverables performed and for reimbursable expenses incurred within the quarter time period prior to the date of the invoice submitted by the Municipality to the County. Additionally, an invoice listing pay items corresponding to all contractor invoices and all supporting timesheets and other documentations for the services rendered and deliverables performed and for reimbursable expenses incurred prior to December 31 of each calendar year must be submitted by Municipality to the County no later than **February 15th of the following year**. The County is under no obligation to pay for any invoice items documenting services rendered and deliverables performed and reimbursable expenses incurred and paid over 3 months prior to the date of the invoice submitted by the Municipality to the County, or any invoice submitted after deadlines stated herein. The County may in its sole discretion choose to pay any invoice submitted later than the timeframe provided herein without in any way waiving its right to refuse payment of any subsequent invoice submitted later than the timeframe provided for herein.

SECTION TEN **NOTICE**

Any notice required or permitted to be given hereunder shall be deemed properly given if mailed by first-class mail to the address set out for each party at the end of this agreement. Notice to the County shall be sent to the St. Charles County Roads and Traffic Manager. Notice to the Municipality shall be sent to its _____, at the address of _____.

SECTION ELEVEN **SUPERVISION AND THE RELATIONSHIP OF THE PARTIES**

In the performance of the work herein contemplated, the Municipality is an independent contractor with the authority to control and direct the performance of the work. The Municipality agrees to comply with all federal, state and local laws, rules and regulations pertaining to the Development and Road Project that are now or may in the future become applicable to the Municipality.

The parties hereto agree that the Municipality is not an employee of the County and is not entitled to the benefits provided by the County for its employees, including, but not limited to, group insurance and pension plan. The Municipality is an independent entity. The Municipality and the County agree that the County may, in its sole discretion, contract with others to provide the services called for in this Agreement in the event that the Municipality breaches its obligations contained in this Agreement.

SECTION TWELVE **INDEMNIFICATION**

To the extent permissible by law, the Municipality shall indemnify and hold the County harmless from any and all liability, loss or damage the County may suffer as a result of claims, demands, costs or judgments against it arising out of the Municipality's performance of this Agreement.

To the extent permissible by law, the County shall indemnify and hold the Municipality harmless from any and all liability, loss or damage the Municipality may suffer as a result of claims, demands, costs or judgments against it arising out of the County's performance of this Agreement.

It is understood and agreed that the obligation of the County to perform under the terms of this Agreement is expressly conditioned upon the existence of the Transportation Sales Tax also known as

the Road and Bridge Capital Improvements Sales Tax passed by the electorate on November 5, 1985, and reaffirmed by the voters on April 5, 1994, August 3, 2004, August 7, 2012, and April 5, 2022.

SECTION THIRTEEN **AUDIT**

The Municipality's records that shall include, but not be limited to, accounting records (hard copy, as well as computer readable data), written policies and procedures, subcontractor files, indirect cost records, correspondence, instructions, drawings, receipts, vouchers, memoranda, and any other data relating to this agreement shall be open to inspection and subject to audit and/or reproduction by the County Auditor, or a duly authorized representative from the County, at the County's expense. The Municipality shall preserve all such records for a period of three years, unless permission to destroy them is granted by the County, or for such longer period as may be required by law, after the final payment. The Municipality shall require all subcontractors under this agreement to comply with the provisions of this article by including the requirements listed above in written contracts with the subcontractors.

SECTION FOURTEEN **ATTACHMENTS**

The following are Attachments to this Agreement are incorporated herein by this reference.

1. Attachment "A": Transportation Sales Sign of the size, lettering, and colors as depicted thereon
2. Attachment "B": County's Ordinance No. 22-040.

[Remainder of page left blank intentionally. Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the date last written below.

Executed by the County this _____ day of _____, 20____

Executed by the Municipality this _____ day of _____, 20____

MUNICIPALITY: _____

ST. CHARLES COUNTY, MISSOURI

By _____

By _____

Title _____

Title _____

ATTEST:

ATTEST:

By _____

By _____

Title _____

County Registrar

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that there is a balance otherwise unencumbered to the credit of the appropriation to which this contract 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 this obligation.

SIGNED: _____
Tracy Bayne, Acting Director of Finance

DATED: _____

This Road Project Paid In Part
Through Your
St. Charles County
½ Cent Transportation Sales Tax
and American Rescue Plan Act



*For more information, please visit
www.sccmo.org*

Sign Size: Width = 48" Length = 36" Lettering: Upper = 4" Lower = 2.5" White Lettering on Blue Background

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI,
AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE AN
AGREEMENT BY AND BETWEEN SAINT CHARLES COUNTY,
MISSOURI AND THE CITY OF DARDENNE PRAIRIE FOR USE OF
SAINT CHARLES COUNTY TRANSPORTATION SALES TAX FUNDS
FOR PROPOSED IMPROVEMENTS TO SOUTH HANLEY ROAD**

WHEREAS, the City desires to take advantage of the Saint Charles County Transportation Sales Tax funds in financing the proposed improvements to South Hanley Road; and

WHEREAS, in order to utilize the Saint Charles County funding, the City must enter into an Agreement with the Saint Charles County; and

WHEREAS, the provisions of Sections 70.210 to 70.320 of Revised Statutes of the State of Missouri empower municipalities and political subdivisions of the State to contract with each other for common services and the purposes herein set out; and

WHEREAS, the Board of Aldermen has determined that it is in the best interest of the residents of the City of Dardenne Prairie to enter into an Agreement with Saint Charles County for use of Saint Charles County Transportation Sales Tax funds for the proposed improvements to South Hanley Road;

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

SECTION 1. That the form, terms, and provisions of the Agreement For Use of St. Charles County Transportation Sales Tax Funds for Proposed Improvements to South Hanley Road attached hereto, marked as Exhibit A, and incorporated by reference herein (the "Agreement"), by and between the City of Dardenne Prairie, Missouri and St. Charles County, Missouri be and they hereby are approved and the City Administrator shall be and 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 the Agreement and this 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 December, 2022

As Presiding Officer and as Mayor

Attest:

City Clerk

Approved this _____ day of December, 2022

Mayor

Attest:

City Clerk

Exhibit A

AGREEMENT BY AND BETWEEN ST. CHARLES COUNTY, MISSOURI AND THE CITY OF DARDENNE PRAIRIE FOR USE OF ST. CHARLES COUNTY TRANSPORTATION SALES TAX FUNDS FOR PROPOSED IMPROVEMENTS TO SOUTH HANLEY ROAD

This agreement is entered into by St. Charles County, Missouri, hereinafter referred to as "County" and City of Dardenne Prairie, State of Missouri, hereinafter referred to as "Municipality."

In consideration of the mutual covenants herein contained, and other good and valuable consideration including the mutual recognition of the vital importance of **South Hanley Road** (the "Project") for efficient traffic flow and for orderly development, the parties hereto agree as follows:

SECTION ONE PREAMBLE

The County Executive has been authorized by Ordinance ____ - ____ to execute this agreement with the Municipality, and the Municipality has authorized the execution of this Agreement by Ordinance _____ for the use beginning in fiscal year 2023 of St. Charles County Transportation Sales Tax funds for improvements to the Project in an amount not to exceed **\$40,000.00** ("County Contribution Amount").

SECTION TWO SERVICES AND COUNTY FINANCIAL CONTRIBUTION

- A. The Municipality shall be responsible for the construction of the Project to include road improvements substantially similar to those described in the Municipality's Road Board Application 22-000001 originally dated April 5, 2022, revised August 24, 2022 and attached hereto as **Exhibit A** (hereinafter, "Application").
- B. The Project shall include: **(1) preparation of design plans.**
- C. The total cost of the Project is estimated as **\$50,000.00.**
- D. The Municipality will be reimbursed by the County for **80%** of actual costs, up to a maximum of the County Contribution Amount. The Municipality will be responsible for the remainder of actual costs not reimbursed by others including those that exceed the estimate recited above and any decorative enhancements.

SECTION THREE PLANS AND TRAFFIC STUDY SUBMISSION AND REVIEW

- A. Conceptual Plans.
 - 1. Conceptual Plans Submittal. Prior to proceeding with any drafting of preliminary construction plans, the Municipality shall submit to the County Roads and Traffic Division Conceptual Plans for approval.

- i. Conceptual Plans shall include, at minimum, a location sketch of proposed roadway, pedestrian, and bicycle improvements.
2. Review by the County. The County Roads and Traffic Department will provide comments for the Municipality to address. Upon receipt of comments, the Municipality must provide the following:
 - i. Confirm that revisions will be made with the next plan submittal and/or specific clarification as to why revisions will not be made.
3. Approval of Conceptual Plans. Once the County Roads and Traffic Department reviewer has accepted that all comments have been sufficiently addressed and/or reasons why any comment will not be addressed, the County Roads and Traffic Manager shall provide a letter of approval of the Conceptual Plans for the Municipality to proceed with preliminary design.

B. Preliminary Plans

1. Preliminary Plan Submittal. Prior to proceeding with right-of-way acquisition and/or final design, the Municipality shall submit to the County Roads and Traffic Division Preliminary Plans for approval.
 - i. Preliminary Plan Submittal shall include all available preliminary plans, including Current Engineer's Estimate.
2. Review by the County. The County Roads and Traffic Department will review to ensure all comments were addressed from the Conceptual Phase and may also provide additional comments for the Municipality to address. Upon receipt of any additional comments, the Municipality must provide the following:
 - i. Confirm that revisions will be made with the next plan submittal and/or specific clarification as to why revisions will not be made.
3. Approval of Preliminary Plans. Once the County Roads and Traffic Department reviewer has accepted that all comments have been sufficiently addressed and/or reasons why any comment will not be addressed, the County Roads and Traffic Manager shall provide a letter of approval of the Preliminary Plans for the Municipality to proceed with final design.

C. Right-of-Way Plans. If Right-of-Way is required for the project, the Municipality shall submit to the County Roads and Traffic Division Right-of-Way Plans to keep staff informed of project progress and for our department records only.

D. Draft Final Plans.

1. Draft Final Plan Submittal. Prior to proceeding with bidding for construction, the Municipality shall submit to the County Roads and Traffic Division Draft Final Plans for approval.

- i. Final Plans shall include the entire final draft set of plans, including Current Final Engineer's Estimate.
 2. Review by the County. The County Roads and Traffic Department will review to ensure all comments were addressed from the Preliminary Phase and may also provide additional comments for the Municipality to address. Upon receipt of any additional comments, the Municipality must provide the following:
 - i. Confirm that revisions will be made with final PS&E submittal and/or specific clarification as to why revisions will not be made.
 3. Approval of Draft Final Plans. Once the County Roads and Traffic Department reviewer has accepted that all comments have been sufficiently addressed and/or reasons why any comment will not be addressed, the County Roads and Traffic Manager shall provide a letter of approval of the Draft Final Plans for the Municipality to proceed with bidding.
- E. Final Signed PS&E Plans. Once all final reviews have been completed and the Municipality proceeds to bid the project to construction, the Municipality shall submit all final signed/sealed plans and bid documents to the County Roads and Traffic Division for our department records. Upon award of project to the Contractor, the Municipality shall submit bid tabs and final bid award amount.
- F. Plan Submission Format. All Plan Submissions described above shall be submitted as an electronic copy (pdf format). Electronic submission can be provided via email (20MB limit). Anything over that limit shall utilize the County's file transfer system or any other sufficient document transfer method of the Municipality's preference.
- G. Refusal to Address Plan Comments. If the Municipality refuses to address plan comments during any phase of design, or if responses to comments do not satisfy the County, then the County shall have the right to terminate this Agreement and shall have no obligations to pay under this Agreement, by issuing a written notice of termination pursuant to this Section Three to the Municipality.

SECTION FOUR **MEETING ATTENDANCE**

The Municipality shall have a representative attend the Road Board meetings. This representative should be knowledgeable of the project status, utility conflicts, and funding. The Municipality shall complete the project update forms as required for these meetings.

SECTION FIVE **TRAFFIC COUNTS**

In an effort to better understand traffic patterns and how these patterns change with road improvements and development, the County has developed a Travel Demand Model. This model can be used to evaluate the effectiveness of an improvement towards reducing congestion and enhancing regional mobility. To ensure the model accurately represents changes within municipal limits, the Municipality shall provide traffic count and land use information as requested. A minimum of five (5) count locations will be requested on an annual basis. The County reserves the right to terminate this

agreement if the Municipality does not provide traffic count data as required in this Section Five.

SECTION SIX **STAFF TIME**

Staff time incurred by the Municipality is not reimbursable from the County and shall not be considered as part of any required Municipality match.

SECTION SEVEN **TERM**

This agreement shall become effective upon execution by all parties hereto and shall continue through the end of the County's fiscal year in which the agreement is executed. This agreement is subject to appropriation by the County of funds sufficient to fulfill the terms of this agreement.

This agreement shall renew automatically for an indefinite number of one-year terms, each beginning on the first and ending on the last day of the County's fiscal year, until the scope of services has been completed unless the agreement is terminated as provided in this Agreement.

SECTION EIGHT **TERMINATION**

A. Termination for Breach:

1. **Events of Breach:** In addition to the breach of the obligations specifically set forth in the Agreement, the following shall constitute breach of this Agreement and reasons for the Agreement to terminate:
 - a. Municipality's Failure to comply with all the obligations set forth under this Agreement.
 - b. Municipality's Failure to Disclose: The Municipality's failure to disclose any other public funding sources than those listed in the Application already approved by the County Pursuant to this Agreement.
 - c. Municipality's Failure to fund or administer construction of the Project: In the event the Municipality fails to provide the administration and/or matching funds agreed to by the Municipality pursuant to this Agreement, Municipality agrees to pay all costs incurred by the County in having taken all the steps pursuant to this Agreement up to the time of the Municipality's failure to fund or administer.
 - d. In the event the Municipality fails to start and complete the Project outlined herein, Municipality shall pay damages to the County for failing to deliver the public services or improvements contemplated by this agreement while encumbering public funds and preempting their application to other projects. In the case when the County has made any reimbursement to the Municipality for any costs towards the Project, the Municipality shall reimburse the County back the entire amount the Municipality has received from the County, plus 10% of said amount. In the case the County has not made any disbursement to the

Municipality, the Municipality shall forfeit the entire amount it would have otherwise received towards the cost of the project under this Agreement.

2. Remedies for Breach: In the event of a breach of this Agreement by either party hereto that is not remedied within thirty (30) days after delivery of written notice of such breach, the aggrieved party may terminate this Agreement by written notice to the other, which shall be effective on the 5th day following delivery. In the event of the County's breach of any terms and conditions of this Agreement, except for reasons outlined in this Agreement, the County agrees to pay all documented reasonable costs undisputed by the County and incurred by the Municipality as a direct result of the Municipality being denied County funds for the Project. In the event of the Municipality's breach of any terms and conditions of this Agreement, the County shall be entitled to, and the Municipality shall refund all funds paid to the Municipality, and the County shall have no further obligation to the Municipality to pay any funds pursuant to this Agreement.

- B. Termination for County's Failure to appropriate: Should the County fail to appropriate any funds in its annual budget ordinance for any of the fiscal years to which this Agreement applies, this Agreement will terminate upon notice to the Municipality by the County that the appropriation was not voted in the annual budget ordinance, which notice shall be sent, first-class mail, to the Municipality at the address stated in Section Twelve of this Agreement. Upon such notice to the Municipality, the County's obligation to pay any further funds pursuant to this Agreement shall terminate immediately and no further funds shall be due and payable by the County to the Municipality for the Project.
- C. Return of Records upon Agreement Termination: Upon expiration or termination of this Agreement, for any cause, each party shall without additional cost to the other party, provide all reasonable assistance and devote its best efforts to returning to each party, or its designee, in an orderly and expeditious manner, all data, records, equipment and documents belonging to that party.

SECTION NINE PROJECT SCHEDULE

Timely completion is an essential element of this contract, and every effort shall be made to meet the project schedule provided in this agreement. The County and Municipality will review the project schedule on a regular basis to ensure the work outlined herein will be completed by December 31, 2024.

SECTION TEN COST OVERRUNS

The Municipality shall not request reimbursement from the County for any work performed beyond the scope of services specified herein without a contract amendment approved and executed by both parties.

SECTION ELEVEN REMUNERATION

Requests for reimbursement by the County pursuant to Section Two shall be submitted to the County's Manager of Roads and Traffic for review and approval. Each reimbursement request shall

include a cover letter, reimbursement summary, and proof of payment. Payments shall not exceed actual expenses incurred by Municipality or that approved by the county's Manager of Roads and Traffic.

The Municipality shall submit to the County an invoice not less frequently than on quarterly basis listing pay items corresponding to all contractor invoices and all supporting timesheets and other documentations for the services rendered and deliverables performed and for reimbursable expenses incurred within the quarter time period prior to the date of the invoice submitted by the Municipality to the County. Additionally, an invoice listing pay items corresponding to all contractor invoices and all supporting timesheets and other documentations for the services rendered and deliverables performed and for reimbursable expenses incurred prior to December 31 of each calendar year must be submitted by Municipality to the County no later than **February 15th of the following year**. The County is under no obligation to pay for any invoice items documenting services rendered and deliverables performed, and reimbursable expenses incurred and paid over 3 months prior to the date of the invoice submitted by the Municipality to the County, or any invoice submitted after deadlines stated herein. The County may in its sole discretion choose to pay any invoice submitted later than the timeframe provided herein without in any way waiving its right to refuse payment of any subsequent invoice submitted later than the timeframe provided for herein.

SECTION TWELVE **NOTICE**

Any notice required or permitted to be given hereunder shall be deemed properly given if mailed by first-class mail to the address set out for each party at the end of this agreement. Notice to the County shall be sent to the St. Charles County Roads and Traffic Manager at 201 North Second Street, Suite 560, St. Charles, MO 63301. Notice to the Municipality shall be sent to its City Administrator at 2032 Hanley Road, Dardenne Prairie, Missouri 63368.

SECTION THIRTEEN **SUPERVISION AND THE RELATIONSHIP OF THE PARTIES**

In the performance of the work herein contemplated, the Municipality is an independent contractor with the authority to control and direct the performance of the work. The Municipality agrees to comply with all federal, state and local laws, rules and regulations pertaining to the Development and Road Project that are now or may in the future become applicable to the Municipality.

The parties hereto agree that the Municipality is not an employee of the County and is not entitled to the benefits provided by the County for its employees, including, but not limited to, group insurance and pension plan. The Municipality is an independent entity. The Municipality and the County agree that the County may, in its sole discretion, contract with others to provide the services called for in this Agreement in the event that the Municipality breaches its obligations contained in this Agreement.

SECTION FOURTEEN **INDEMNIFICATION**

To the extent permissible by law, the Municipality shall indemnify and hold the County harmless from any and all liability, loss or damage the County may suffer as a result of claims, demands, costs or judgments against it arising out of the Municipality's performance of this Agreement.

To the extent permissible by law, the County shall indemnify and hold the Municipality harmless

from any and all liability, loss or damage the Municipality may suffer as a result of claims, demands, costs or judgments against it arising out of the County's performance of this Agreement.

It is understood and agreed that the obligation of the County to perform under the terms of this Agreement is expressly conditioned upon the existence of the Transportation Sales Tax also known as the Road and Bridge Capital Improvements Sales Tax passed by the electorate on November 5, 1985, and reaffirmed by the voters on April 5, 1994, August 3, 2004, August 7, 2012, and April 5, 2022.

SECTION FIFTEEN **AUDIT**

The Municipality's records that shall include, but not be limited to, accounting records (hard copy, as well as computer readable data), written policies and procedures, subcontractor files, indirect cost records, correspondence, instructions, drawings, receipts, vouchers, memoranda, and any other data relating to this agreement shall be open to inspection and subject to audit and/or reproduction by the County Auditor, or a duly authorized representative from the County, at the County's expense. The Municipality shall preserve all such records for a period of three years, unless permission to destroy them is granted by the County, or for such longer period as may be required by law, after the final payment. The Municipality shall require all subcontractors under this agreement to comply with the provisions of this article by including the requirements listed above in written contracts with the subcontractors.

SECTION SIXTEEN **EXHIBITS**

The following are Exhibits to this Agreement are incorporated herein by this reference.

1. Exhibit "A": The Municipality's Road Board Application 22-000001 dated April 5, 2022, revised August 24, 2022.

[Remainder of page left blank intentionally. Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the date last written below.

Executed by the County this _____ day of _____, 20____

Executed by the Municipality this _____ day of _____, 20____

CITY OF DARDENNE PRAIRIE, MISSOURI

ST. CHARLES COUNTY, MISSOURI

By _____

By _____

Title _____

Title _____

ATTEST:

ATTEST:

By _____

By _____

Title _____

County Registrar

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that there is a balance otherwise unencumbered to the credit of the appropriation to which this contract 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 this obligation.

SIGNED: _____
Tracy Bayne, Acting Director of Finance

DATED: _____

BILL NO. 22-77

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE AN AGREEMENT BY AND BETWEEN SAINT CHARLES COUNTY, MISSOURI, AND THE CITY OF DARDENNE PRAIRIE FOR USE OF SAINT CHARLES COUNTY TRANSPORTATION SALES TAX FUNDS FOR PROPOSED IMPROVEMENTS TO TOWN SQUARE AVENUE

WHEREAS, the City desires to take advantage of the Saint Charles County Transportation Sales Tax funds in financing the proposed improvements to Town Square Avenue; and

WHEREAS, in order to utilize the Saint Charles County funding, the City must enter into an Agreement with the Saint Charles County; and

WHEREAS, the provisions of Sections 70.210 to 70.320 of Revised Statutes of the State of Missouri empower municipalities and political subdivisions of the State to contract with each other for common services and the purposes herein set out; and

WHEREAS, the Board of Aldermen has determined that it is in the best interest of the residents of the City of Dardenne Prairie to enter into an Agreement with Saint Charles County for use of Saint Charles County Transportation Sales Tax funds for the proposed improvements to Town Square Avenue;

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

SECTION 1. That the form, terms, and provisions of the Agreement For Use of St. Charles County Transportation Sales Tax Funds for Proposed Improvements to Town Square Avenue attached hereto, marked as Exhibit A, and incorporated by reference herein (the "Agreement"), by and between the City of Dardenne Prairie, Missouri and St. Charles County, Missouri be and they hereby are approved and the City Administrator shall be and 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 the Agreement and this 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 December, 2022

As Presiding Officer and as Mayor

Attest:

City Clerk

Approved this _____ day of December, 2022

Mayor

Attest:

City Clerk

Exhibit A

AGREEMENT BY AND BETWEEN ST. CHARLES COUNTY, MISSOURI AND THE CITY OF DARDENNE PRAIRIE FOR USE OF ST. CHARLES COUNTY TRANSPORTATION SALES TAX FUNDS FOR PROPOSED IMPROVEMENTS TO TOWN SQUARE AVENUE

This agreement is entered into by St. Charles County, Missouri, hereinafter referred to as "County" and City of Dardenne Prairie, State of Missouri, hereinafter referred to as "Municipality."

In consideration of the mutual covenants herein contained, and other good and valuable consideration including the mutual recognition of the vital importance of **Town Square Avenue Improvements** (the "Project") for efficient traffic flow and for orderly development, the parties hereto agree as follows:

SECTION ONE PREAMBLE

The County Executive has been authorized by Ordinance ____ - ____ to execute this agreement with the Municipality, and the Municipality has authorized the execution of this Agreement by Ordinance _____ for the use beginning in fiscal year 2023 of St. Charles County Transportation Sales Tax funds for improvements to the Project in an amount not to exceed **\$144,723.20** ("County Contribution Amount").

SECTION TWO SERVICES AND COUNTY FINANCIAL CONTRIBUTION

- A. The Municipality shall be responsible for the construction of the Project consisting of the road improvements substantially similar to those described in the Municipality's Road Board Application 22-000009 originally dated April 5, 2022 and attached hereto as **Exhibit A** (hereinafter, "Application").
- B. The Project shall include: **(1) preparation of design plans, (2) purchase of right-of-way, and (3) construction services**
- C. The total cost of the Project is estimated as **\$904,518.00**.
- D. The Municipality will be reimbursed \$723,614.00 in federal funds. The remaining \$180,904.00 will be shared by the Municipality and County based on the cost share outlined in the Municipality's application, with the County reimbursing the Municipality for 80% of the local match for the Project costs, up to a maximum of the County Contribution Amount. The Municipality will be responsible for the remainder of actual costs including those that exceed the estimate recited above and any decorative enhancements.

SECTION THREE
PLANS AND TRAFFIC STUDY SUBMISSION AND REVIEW

A. Conceptual Plans.

1. Conceptual Plans Submittal. Prior to proceeding with any drafting of preliminary construction plans, the Municipality shall submit to the County Roads and Traffic Division Conceptual Plans for approval.
 - i. Conceptual Plans shall include, at minimum, a location sketch of proposed roadway, pedestrian, and bicycle improvements.
2. Review by the County. The County Roads and Traffic Department will provide comments for the Municipality to address. Upon receipt of comments, the Municipality must provide the following:
 - i. Confirm that revisions will be made with the next plan submittal and/or specific clarification as to why revisions will not be made.
3. Approval of Conceptual Plans. Once the County Roads and Traffic Department reviewer has accepted that all comments have been sufficiently addressed and/or reasons why any comment will not be addressed, the County Roads and Traffic Manager shall provide a letter of approval of the Conceptual Plans for the Municipality to proceed with preliminary design.

B. Preliminary Plans

1. Preliminary Plan Submittal. Prior to proceeding with right-of-way acquisition and/or final design, the Municipality shall submit to the County Roads and Traffic Division Preliminary Plans for approval.
 - i. Preliminary Plan Submittal shall include all available preliminary plans, including Current Engineer's Estimate.
2. Review by the County. The County Roads and Traffic Department will review to ensure all comments were addressed from the Conceptual Phase and may also provide additional comments for the Municipality to address. Upon receipt of any additional comments, the Municipality must provide the following:
 - i. Confirm that revisions will be made with the next plan submittal and/or specific clarification as to why revisions will not be made.
3. Approval of Preliminary Plans. Once the County Roads and Traffic Department reviewer has accepted that all comments have been sufficiently addressed and/or reasons why any comment will not be addressed, the County Roads and Traffic Manager shall provide a letter of approval of the Preliminary Plans for the Municipality to proceed with final design.

- C. Right-of-Way Plans. If Right-of-Way is required for the project, the Municipality shall submit to the County Roads and Traffic Division Right-of-Way Plans to keep staff informed of project progress and for our department records only.
- D. Draft Final Plans.
1. Draft Final Plan Submittal. Prior to proceeding with bidding for construction, the Municipality shall submit to the County Roads and Traffic Division Draft Final Plans for approval.
 - i. Final Plans shall include the entire final draft set of plans, including Current Final Engineer's Estimate.
 2. Review by the County. The County Roads and Traffic Department will review to ensure all comments were addressed from the Preliminary Phase and may also provide additional comments for the Municipality to address. Upon receipt of any additional comments, the Municipality must provide the following:
 - i. Confirm that revisions will be made with final PS&E submittal and/or specific clarification as to why revisions will not be made.
 3. Approval of Draft Final Plans. Once the County Roads and Traffic Department reviewer has accepted that all comments have been sufficiently addressed and/or reasons why any comment will not be addressed, the County Roads and Traffic Manager shall provide a letter of approval of the Draft Final Plans for the Municipality to proceed with bidding.
- E. Final Signed PS&E Plans. Once all final reviews have been completed and the Municipality proceeds to bid the project to construction, the Municipality shall submit all final signed/sealed plans and bid documents to the County Roads and Traffic Division for our department records. Upon award of project to the Contractor, the Municipality shall submit bid tabs and final bid award amount.
- F. Plan Submission Format. All Plan Submissions described above shall be submitted as an electronic copy (pdf format). Electronic submission can be provided via email (20MB limit). Anything over that limit shall utilize the County's file transfer system or any other sufficient document transfer method of the Municipalities preference.
- G. Refusal to Address Plan Comments. If the Municipality refuses to address plan comments during any phase of design, or if responses to comments do not satisfy the County, then the County shall have the right to terminate this Agreement and shall have no obligations to pay under this Agreement, by issuing a written notice of termination pursuant to this Section Three to the Municipality.

SECTION FOUR MEETING ATTENDANCE

The Municipality shall have a representative attend the Road Board meetings. This representative should be knowledgeable of the project status, utility conflicts, and funding. The Municipality shall complete the project update forms as required for these meetings.

SECTION FIVE

TRAFFIC COUNTS

In an effort to better understand traffic patterns and how these patterns change with road improvements and development, the County has developed a Travel Demand Model. This model can be used to evaluate the effectiveness of an improvement towards reducing congestion and enhancing regional mobility. To ensure the model accurately represents changes within municipal limits, the Municipality shall provide traffic count and land use information as requested. A minimum of five (5) count locations will be requested on an annual basis. The County and Municipality reserve the right to terminate this agreement if the Municipality does not provide traffic count data as required in this Section of the Agreement.

SECTION SIX

RIGHT-OF-WAY

The Municipality shall acquire right-of-way and other property interests needed for this Project in accordance with applicable law and the current Missouri Department of Transportation's Local Public Agency Land Acquisition Manual. For any such property interests located in the unincorporated area of the County, Municipality shall only acquire such interests in the County's name. All such property interests acquired within the unincorporated area shall be vested in the County.

SECTION SEVEN

STAFF TIME

Staff time incurred by the Municipality is not reimbursable from the County and shall not be considered as part of any required Municipality match.

SECTION EIGHT

TRANSPORTATION SALES TAX SIGN

The Municipality shall include in the construction contract specifications the requirement for the construction contractor to furnish and erect a sign of the size, lettering, and colors as depicted in **Exhibit B** to this agreement at each end of the project construction limits in a visible location. This sign shall be erected at the beginning of construction and can be removed 30 calendar days after final construction contract completion.

SECTION NINE

TERM

This agreement shall become effective upon execution by all parties hereto and shall continue through the end of the County's fiscal year in which the agreement is executed. This agreement is subject to appropriation by the County of funds sufficient to fulfill the terms of this agreement.

This agreement shall renew automatically for an indefinite number of one-year terms, each beginning on the first and ending on the last day of the County's fiscal year, until the scope of services has been completed unless the agreement is terminated as provided in this Agreement.

SECTION TEN
OTHER FUNDING

Municipality acknowledges that it has been approved to receive federal and state funds for this project.

SECTION ELEVEN
TERMINATION

A. Termination for Breach:

1. Events of Breach: In addition to the breach of the obligations specifically set forth in the Agreement, the following shall constitute breach of this Agreement and reasons for the Agreement to terminate:
 - a. Municipality's Failure to comply with all the obligations set forth under this Agreement, as also stated elsewhere in this Agreement.
 - b. Municipality's Failure to Disclose: The Municipality's failure to disclose any other public funding sources than those listed in the Application already approved by the County Pursuant to this Agreement.
 - c. Municipality's Failure to fund or administer construction of the Project: In the event the Municipality fails to provide the administration and/or matching funds agreed to by the Municipality pursuant to this Agreement, Municipality agrees to pay all costs incurred by the County in having taken all the steps pursuant to this Agreement up to the time of the Municipality's failure to fund or administer.
 - d. In the event the Municipality fails to start and complete the Project outlined herein, Municipality shall pay damages to the County for failing to deliver the public services or improvements contemplated by this agreement while encumbering public funds and preempting their application to other projects. In the case when the County has made any reimbursement to the Municipality for any costs towards the Project, the Municipality shall reimburse the County back the entire amount the Municipality has received from the County, plus 10% of said amount. In the case the County has not made any disbursement to the Municipality, the Municipality shall forfeit the entire amount it would have otherwise received towards the cost of the project under this Agreement.
2. Remedies for Breach: In the event of a breach of this Agreement by either party hereto that is not remedied within thirty (30) days after delivery of written notice of such breach, the aggrieved party may terminate this Agreement by written notice to the other, which shall be effective on the 5th day following delivery. In the event of the County's breach of any terms and conditions of this Agreement, except for reasons outlined in this Agreement, the County agrees to pay all documented reasonable costs undisputed by the County and incurred by the Municipality as a direct result of the Municipality being denied County funds for the Project. In the event of the Municipality's breach of any terms and conditions of this Agreement, the County shall be entitled to, and the Municipality shall refund all funds paid to the Municipality, and the County shall have

no further obligation to the Municipality to pay any funds pursuant to this Agreement.

- B. Termination for County's Failure to appropriate: Should the County fail to appropriate any funds in its annual budget ordinance for any of the fiscal years to which this Agreement applies, this Agreement will terminate upon notice to the Municipality by the County that the appropriation was not voted in the annual budget ordinance, which notice shall be sent, first-class mail, to the Municipality at the address stated in Section Fifteen of this Agreement. Upon such notice to the Municipality, the County's obligation to pay any further funds pursuant to this Agreement shall terminate immediately and no further funds shall be due and payable by the County to the Municipality for the Project.
- C. Return of Records upon Agreement Termination: Upon expiration or termination of this Agreement, for any cause, each party shall without additional cost to the other party, provide all reasonable assistance and devote its best efforts to returning to each party, or its designee, in an orderly and expeditious manner, all data, records, equipment and documents belonging to that party.

SECTION TWELVE

PROJECT SCHEDULE

Timely completion is an essential element of this contract. The Municipality agrees to adhere to time schedules set by East-West Gateway Council of Governments and to comply with all other applicable federal guidelines.

SECTION THIRTEEN

COST OVERRUNS

The Municipality shall not request reimbursement from the County for any work performed beyond the scope of services specified herein without a contract amendment approved and executed by both parties.

SECTION FOURTEEN

REMUNERATION

Requests for reimbursement by the County pursuant to Section Two shall be submitted to the County's Manager of Roads and Traffic for review and approval. Each reimbursement request shall include a cover letter, reimbursement summary, and proof of payment. Payments shall not exceed actual expenses incurred by Municipality or that approved by the county's Manager of Roads and Traffic.

The Municipality shall submit to the County an invoice not less frequently than on quarterly basis listing pay items corresponding to all contractor invoices and all supporting timesheets and other documentations for the services rendered and deliverables performed and for reimbursable expenses incurred within the quarter time period prior to the date of the invoice submitted by the Municipality to the County. Additionally, an invoice listing pay items corresponding to all contractor invoices and all supporting timesheets and other documentations for the services rendered and deliverables performed and for reimbursable expenses incurred prior to December 31 of each calendar year must be submitted by Municipality to the County no later than **February 15th of the following year**. The County is under no obligation to pay for any invoice items documenting services rendered and deliverables performed, and reimbursable expenses incurred and paid over 3 months prior to the date of the invoice submitted by

the Municipality to the County, or any invoice submitted after deadlines stated herein. The County may in its sole discretion choose to pay any invoice submitted later than the timeframe provided herein without in any way waiving its right to refuse payment of any subsequent invoice submitted later than the timeframe provided for herein.

SECTION FIFTEEN **NOTICE**

Any notice required or permitted to be given hereunder shall be deemed properly given if mailed by first-class mail to the address set out for each party at the end of this agreement. Notice to the County shall be sent to the St. Charles County Roads and Traffic Manager at 201 North Second Street, Suite 560, St. Charles, MO 63301. Notice to the Municipality shall be sent to its City Administrator at 2032 Hanley Road, Dardenne Prairie, Missouri 63368.

SECTION SIXTEEN **SUPERVISION AND THE RELATIONSHIP OF THE PARTIES**

In the performance of the work herein contemplated, the Municipality is an independent contractor with the authority to control and direct the performance of the work. The Municipality agrees to comply with all federal, state and local laws, rules and regulations pertaining to the Project that are now or may in the future become applicable to the Municipality.

The parties hereto agree that the Municipality is not an employee of the County and is not entitled to the benefits provided by the County for its employees, including, but not limited to, group insurance and pension plan. The Municipality is an independent entity. The Municipality and the County agree that the County may, in its sole discretion, contract with others to provide the services called for in this Agreement in the event that the Municipality breaches its obligations contained in this Agreement.

SECTION SEVENTEEN **INDEMNIFICATION**

To the extent permissible by law, the Municipality shall indemnify and hold the County harmless from any and all liability, loss or damage the County may suffer as a result of claims, demands, costs or judgments against it arising out of the Municipality's performance of this Agreement.

To the extent permissible by law, the County shall indemnify and hold the Municipality harmless from any and all liability, loss or damage the Municipality may suffer as a result of claims, demands, costs or judgments against it arising out of the County's performance of this Agreement.

It is understood and agreed that the obligation of the County to perform under the terms of this Agreement is expressly conditioned upon the existence of the Transportation Sales Tax also known as the Road and Bridge Capital Improvements Sales Tax passed by the electorate on November 5, 1985, and reaffirmed by the voters on April 5, 1994, August 3, 2004, August 7, 2012, and April 5, 2022.

SECTION EIGHTEEN
AUDIT

The Municipality's records that shall include, but not be limited to, accounting records (hard copy, as well as computer readable data), written policies and procedures, subcontractor files, indirect cost records, correspondence, instructions, drawings, receipts, vouchers, memoranda, and any other data relating to this agreement shall be open to inspection and subject to audit and/or reproduction by the County Auditor, or a duly authorized representative from the County, at the County's expense. The Municipality shall preserve all such records for a period of three years, unless permission to destroy them is granted by the County, or for such longer period as may be required by law, after the final payment. The Municipality shall require all subcontractors under this agreement to comply with the provisions of this article by including the requirements listed above in written contracts with the subcontractors.

SECTION NINETEEN
EXHIBITS

The following are Exhibits to this Agreement are incorporated herein by this reference.

1. Exhibit "A": The Municipality's Road Board Application 22-000009 dated April 5, 2022
2. Exhibit "B": Transportation Sales Sign of the size, lettering, and colors as depicted thereon

[Remainder of page left blank intentionally. Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the date last written below.

Executed by the County this _____ day of _____, 20____

Executed by the Municipality this _____ day of _____, 20____

CITY OF DARDENNE PRAIRIE, MISSOURI

ST. CHARLES COUNTY, MISSOURI

By _____

By _____

Title _____

Title _____

ATTEST:

ATTEST:

By _____

By _____

Title _____

County Registrar

CERTIFICATE OF DIRECTOR OF FINANCE

I certify that there is a balance otherwise unencumbered to the credit of the appropriation to which this contract 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 this obligation.

SIGNED: _____
Tracy Bayne, Acting Director of Finance

DATED: _____

ORDINANCE NO. _____

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

WHEREAS, the Mayor, City Administrator and the City Staff have participated in the preparation of the budget and have agreed to the amounts for the operation of the various departments and functions of the City, and;

WHEREAS, the Board of Aldermen in workshop sessions have reviewed various drafts of the proposed budget; and

WHEREAS, the Budget Officer has prepared a budget for the City for fiscal year 2023 in accord with the requirements applicable to the various funds of the City, and;

WHEREAS, the anticipated expenditures from each fund identified in the budget do not exceed the anticipated revenues plus any unencumbered fund balance for the fiscal 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 City prepared and presented for Fiscal Year 2023, in the form attached hereto as **Exhibit A**, including anticipated revenues and unencumbered fund balances as reflected therein, be and is hereby adopted as the budget for the City of Dardenne Prairie, Missouri for Fiscal Year 2023.

SECTION 2. The Mayor and City Administrator are hereby authorized to expend or authorize the expenditures of funds set forth in the budget as approved in Section 1 of this Ordinance in accord with the provisions of this Ordinance or as the Ordinance may, from time to time, be amended. .

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. Effective Date: This Ordinance shall be in full force and effect as of the date of its final passage and approval.

Read two (2) times, passed and approved this _____ day of _____
2022.

As Mayor and as Presiding Officer

Attest: _____
City Clerk

Approved this _____ day of _____, 2022.

Mayor

Attest: _____
City Clerk

EXHIBIT A
[Attach Budget]