BILL NO.: 4974 **ORDINANCE NO.: 4805**

Introduced by: Mayor Babatunde Deinbo

AN ORDINANCE ESTABLISHING THE 8640 EVANS COMMUNITY IMPROVEMENT DISTRICT; AND AUTHORIZING CERTAIN ACTIONS AND DOCUMENTS IN CONNECTION THEREWITH.

WHEREAS, the Community Improvement District Act, Sections 67.1401 to 67.1571 of the Revised Statutes of Missouri, as amended (the "CID Act"), authorizes the governing body of any municipality, upon receipt of a proper petition and a public hearing, to adopt an ordinance establishing a community improvement district; and

WHEREAS, on September 6, 2023, the sole property owner within the below-defined District filed a Petition for the Creation of a Community Improvement District (the "Petition") with the City Clerk of the City of Berkeley, Missouri (the "City") pursuant to the CID Act, which Petition is attached as Exhibit A hereto and incorporated herein by reference; and

WHEREAS, the Petition proposes the formation of the 8640 Evans Community Improvement District (the "District") to pay the costs associated with certain public improvements and services within the proposed District boundaries (the "CID Project"); and

WHEREAS, after proper notice was given, the City Council held a public hearing regarding the creation of the District and all persons interested in the formation of the District were allowed an opportunity to speak and the City Council heard all protests and received all endorsements; and

WHEREAS, following closure of the public hearing and upon due consideration of the comments received at the hearing, the City Council has determined that it is in the interest of the public health, safety, and general welfare of the people of the City to create the District and authorize certain actions and documents in connection therewith.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BERKELEY, MISSOURI, AS FOLLOWS:

Section 1. Pursuant to Section 67.1411.3 of the CID Act, the 8640 Evans Community Improvement District is hereby formed as a political subdivision of the State of Missouri having the powers and purposes set forth in the Petition, subject to the provisions of this Ordinance and the CID Act.

Section 2. The length of time for the existence of the District shall be twenty-seven (27) years from the effective date of this Ordinance.

Section 3. Pursuant to Section 67.1451.5 of the CID Act, the District's initial Board of Directors are as follows:

Name	Initial Term
1. Justin Lienemann	4 years
2. Kathleen Lane	4 years
3. Vincent Bommarito	2 years
4. Daniel Lester	2 years
5. [City Representative]	2 years

Section 4. The City is hereby authorized to enter into the District Project Agreement (the "District Project Agreement") by and among the City, the Developer, and the District, in substantially the form attached as Exhibit B hereto and incorporated herein by reference, with such changes therein as shall be approved by the officials of the City executing the document, such officials' signatures thereon being conclusive evidence of their approval thereof. The City Manager is hereby authorized to execute the District Project Agreement and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk is hereby authorized to attest to and affix the seal of the City to the District Project Agreement and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 5. Pursuant to Section 67.1421.6 of the CID Act, the City Clerk shall notify the Missouri Department of Economic Development and the State Auditor in writing of the District's creation. In addition to the foregoing notice, the City Clerk shall submit the information related to the District required by Section 67.1421.7(1) of the CID Act to the State Auditor and the Missouri Department of Revenue.

Section 6. All actions taken by the City staff and consultants associated with the provision of notices related to such Petition are hereby ratified. The City shall, and the officials, agents and employees of the City are hereby authorized to, take such further action, and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the District Project Agreement. The City Manager is hereby authorized, through the term of the District Project Agreement, to execute all documents on behalf of the City as may be required to carry out and comply with the intent of this Ordinance and the District Project Agreement. The City Manager is further authorized, on behalf of the City, to grant such consents, estoppels and waivers relating to the District Project Agreement as may be requested during the term thereof; provided, such consents, estoppels and/or waivers shall not increase the term of the District, waive an event of default or materially change the nature of the transaction unless approved by the City Council. The City Clerk is authorized to attest to and affix the seal of the City to any document authorized by this Section.

Section 7. Except as expressly set forth herein, nothing contained in this Ordinance shall in any manner be deemed or construed to alter, modify, supersede, supplant, or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in any manner connected with the subject matter hereof.

Section 8. 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 City Council that it would have enacted this Ordinance without the invalid or unenforceable provision. If, due to a subsequent change in applicable law, 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 9. **Effective Date.** This Ordinance shall become effective immediately from and after its passage and adoption into law.

1st Reading this 18th day of September 2023

2nd Reading this 18th day of September 2023

3rd Reading, PASSED and APPROVED, this **25th day of September 2023**

Babatunde Deinbo, Mayor

ATTEST:

Deanna L. Jones, City Clerk

Approved as to Form:
Donnell Smith, City Attorney

Final Roll Call:

Councilwoman Verges	Aye X	Nay ___	Absent __	Abstain __
Councilwoman Williams	Aye X	Nay ___	Absent __	Abstain __
Councilman Hoskins	Aye X	Nay ___	Absent __	Abstain __
Councilwoman Anthony	Aye X	Nay ___	Absent __	Abstain __
Councilman Hindeleh	Aye X	Nay ___	Absent __	Abstain __
Councilwoman-at-Large Crawford-Graham	Aye ___	Nay ___	Absent X	Abstain __
Mayor Deinbo	Aye X	Nay ___	Absent __	Abstain __

EXHIBIT A

PETITION FOR CREATION OF A COMMUNITY IMPROVEMENT DISTRICT

(On file in the office of the City Clerk)

EXHIBIT B

DISTRICT PROJECT AGREEMENT

(On file in the office of the City Clerk)