

EMERGENCY

City of Cincinnati

SSB

An Ordinance No. \_\_\_\_\_

- 2020

AWB

**DECLARING**, pursuant to Ohio Revised Code Section 5709.40(B), improvements to certain parcels of real property at the former Cast-Fab site, located west of Disney Street in the Oakley neighborhood of Cincinnati to be a public purpose and exempt from real property taxation for a period of 30 years.

WHEREAS, Local Oakley, LLC ("Developer") is redeveloping real property in Cincinnati located at the former Cast-Fab site west of Disney Street, as more particularly depicted and described in Attachment A, attached hereto (the "Property"), all or most of which Developer currently owns and/or controls, which redevelopment Developer currently anticipates will include multiple phases of mixed-use commercial development (the "Project"); and

WHEREAS, the Project necessitates the construction of various public infrastructure improvements, including, without limitation, public parking, utility, and right-of-way improvements; and

WHEREAS, Section 5709.40, *et seq.* of the Ohio Revised Code ("ORC") provide that City Council may (i) declare any Improvement (as defined in Section 5709.40 of the Ohio Revised Code) to one or more parcels of real property located in the City to be a public purpose, thereby exempting that Improvement from real property taxation for a period of time, (ii) designate public infrastructure improvements that directly benefit the parcels for which such Improvement is declared to be a public purpose, (iii) require the payment of service payments in lieu of taxes by the owner or owners of such parcel or parcels, and (iv) provide for the distribution of the applicable portion of those service payments to the overlapping city, local, or exempted village school district; and

WHEREAS, City Council wishes to use the authority granted pursuant to such ORC Sections in connection with certain improvements in the City, in order to encourage development of the Property; and

WHEREAS, ORC Section 5709.40(A)(4) and (8) define certain terms as follows:

"Improvement" means the increase in the assessed value of any real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of an ordinance adopted under this section were it not for the exemption granted by that ordinance;

"Public infrastructure improvement" includes, but is not limited to, public roads and highways; water and sewer lines; the continued maintenance of those public roads and highways and water and sewer lines; environmental remediation; land acquisition,

including acquisition in aid of industry, commerce, distribution, or research; demolition, including demolition on private property when determined to be necessary for economic development purposes; stormwater and flood remediation projects, including such projects on private property when determined to be necessary for public health, safety, and welfare; the provision of: gas, electric, and communications service facilities, including the provision of gas or electric service facilities owned by nongovernmental entities when such improvements are determined to be necessary for economic development purposes; and the enhancement of public waterways through improvements that allow for greater public access; and

WHEREAS, the Board of Education of the Cincinnati City School District of the City of Cincinnati (the “Board of Education”), pursuant to that certain *Tax Incentive Agreement* effective as of April 28, 2020 (as may be amended, the “Board of Education Agreement”), has approved tax exemptions of up to 100% for periods not to exceed 30 years and has waived the statutory notification requirements for such exemptions; and

WHEREAS, the City has determined that it is necessary and appropriate, and in the best interest of the City, to provide for (i) exemption of Improvement to the Property from real property taxation under ORC Section 5709.40, *et seq.*, and (ii) the payment of semiannual service payments in lieu of taxes with respect to the Property; and

WHEREAS, ORC Section 5709.43 requires that the city council of a city that receives service payments in lieu of taxes under ORC Section 5709.40, *et seq.*, establish a municipal public improvement tax increment equivalent fund into which shall be deposited such service payments in lieu of taxes; now, therefore,

BE IT ORDAINED by the Council of City of Cincinnati, State of Ohio:

Section 1. That pursuant to Section 5709.40(B) of the Ohio Revised Code (“ORC”), this Council hereby creates the “Local Oakley TIF,” the boundaries of which shall be coextensive with the boundaries of the parcels and shall include the parcels as specifically identified and/or described in Attachment A to this ordinance (the “Property”), which Property is located in the incorporated area of the City.

Section 2. That this Council hereby finds and determines that (i) additional public infrastructure including construction and maintenance of street improvements, water improvements, sewer improvements, parking facilities, and/or related improvements, is necessary as a result of and for the further development of the Property for creating jobs, increasing property values, providing adequate public services, and to preserve the health, safety,

and welfare of the current citizens of Cincinnati; (ii) the project(s) being, or to be, undertaken that place additional demand on the public infrastructure improvements designated in this ordinance include the mixed-use commercial development being undertaken by Local Oakley, LLC (including any affiliates thereof, “Developer”); and (iii) the proposed use of the Property includes commercial uses.

Section 3. That pursuant to and in accordance with the provisions of ORC Section 5709.40(B), this Council hereby declares any Improvement (as defined in ORC Section 5709.40) to the Property to be a public purpose and exempt from taxation for the time and in the amount set forth in Section 4 hereof and declares that the Improvement made to the Property will place direct additional demand on the public infrastructure improvements described in Section 2 hereof when such public infrastructure improvements are completed; therefore, such public infrastructure improvements will directly benefit the Property.

Section 4. That this Council finds and determines that 100% of the Improvement subsequent to the effective date of this ordinance is hereby declared to be a public purpose, and shall be exempt from real property taxes commencing on the first day of the tax year in which an Improvement first appears on the tax duplicate of real and public utility property and ending on the earlier to occur of (a) 30 years after such date or (b) the date on which the City can no longer require service payments to be paid with respect to the Improvements in accordance with ORC Section 5709.40, *et seq.*

Section 5. That this Council hereby designates the public infrastructure improvements identified in Attachment B to this ordinance as the “public infrastructure improvements” made (or to be made) that directly benefit the Property pursuant to ORC Section 5709.40(B).

Section 6. That this Council hereby expresses its intention to enter into such agreements as may be necessary or appropriate to construct such public infrastructure improvements (including, without limitation, (i) Service Agreement(s) between the City and Developer or its successor(s)-in-interest as to the Property (“Owner”), and (ii) a cooperative agreement among the City, Owner, and the Port of Greater Cincinnati Development Authority (the “Port”)), and further hereby requires the owners of the Property to make semiannual service payments in lieu of taxes to the County Treasurer on or before the final dates for payment of real property taxes. Such requirements, along with such other provisions as are deemed appropriate by this Council and as are agreed to by the owners of the Property, may be included in Service Agreements which may (but are not required to) be entered into between the City and the respective owners of the Property. To the extent necessary to secure such obligations, this Council hereby pledges such service payments to secure any obligations of the City or the Port issued to finance the public infrastructure improvements described in Sections 2 and 5 hereof. The payments in lieu of taxes provided for in ORC Section 5709.42 shall be paid to the County Treasurer, for payment by the County Treasurer to the City.

Section 7. That there has previously been established the City, Municipal Public Improvement Tax Increment Equivalent Fund (the “Fund”), into which Fund all service payments in lieu of taxes made by the owners of the affected parcels of land pursuant to this ordinance shall be deposited.

Section 8. That moneys deposited in the Fund shall be used only for the purposes set forth in ORC Section 5709.43, with respect to the public infrastructure improvements described in Attachment B to this ordinance, and for making compensation payments to the affected school districts as provided in ORC Section 5709.40, *et seq.*, and in the *Tax Incentive Agreement*

between the City and the Board of Education of the Cincinnati City School District of the City of Cincinnati effective as of April 28, 2020.

Section 9. That the proper City officials are hereby authorized to do all things necessary and proper to carry out the actions contemplated herein, including, without limitation, filing any required applications for tax exemption with the Hamilton County Auditor and State Tax Commissioner.

Section 10. That, pursuant to ORC Section 5709.40(I), the Clerk is hereby directed to deliver a copy of this ordinance to the Director of the Department of Development Services of the State of Ohio within 15 days after its adoption, and, on or before March 31 of each year that the exemption set forth herein remains in effect, the Clerk or other authorized officer of this City shall prepare and submit to the Director of the Department of the Ohio Development Services Agency of the State of Ohio the status report required under ORC Section 5709.40(I).

Section 11. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were taken in meetings open to the public, in compliance with all legal requirements, including ORC Section 121.22.

Section 12. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to enable construction of the improvements described herein to commence at the

earliest possible time in order to advance development of the Property in a timely and financially efficient manner, for the economic welfare of the people of the City.

Passed: \_\_\_\_\_, 2020

\_\_\_\_\_  
John Cranley, Mayor

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

ATTACHMENT A

**EXHIBIT OF 28.1986 ACRES  
SECTION 28, TOWN 4, FR 2, COLUMBIA  
TOWNSHIP, MIAMI PURCHASE,  
CINCINNATI, HAMILTON COUNTY, OHIO**

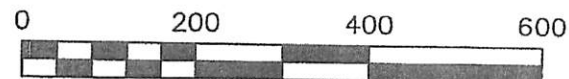


**VIOX & VIOX**  
Civil Engineers, Surveyors, and Landscape Architects

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215B Main Street • Milford, Ohio 45150  
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**WEST SIDE OF DISNEY STREET  
WESTERLY TERMINUS OF VANDERCAR WAY**

**APRIL 30, 2020 SCALE: 1"=200'**



Milacron, LLC  
ORB 11233, PG. 1847  
PID: 052-0002-0017

S83°37'07"E  
61.15'

S05°38'31"W  
22.27'

S84°19'07"E  
302.37'

S87°05'09"E  
67.60'

Local Oakley, LLC  
ORB 14032, PG. 2815

This exhibit was prepared from deed and plat records and is  
not a Boundary Survey pursuant to Chapter 4733-37 of the  
Ohio Administrative Code.

*Ryan M. Hartig* 4/30/2020  
Ryan M. Hartig P.S. 8765 Date

S84°08'04"E 422.87'

American Towers, LLC  
ORB 14109, PG. 522

Local Oakley, LLC  
ORB 13820, PG. 1995

**28.1986 ACRES**

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	530.00'	308.87'	304.52'	S22°27'37"W	33°23'26"
C2	403.00'	105.56'	105.26'	S01°44'21"E	15°00'30"
C3	45.00'	39.36'	38.12'	S30°33'06"W	50°06'50"
C4	85.00'	28.23'	28.10'	S20°02'05"W	19°01'44"
C5	330.43'	30.53'	30.52'	S28°47'59"E	51°17'38"
C6	45.00'	1.67'	1.67'	S54°32'39"W	2°07'44"

N68°18'07"W  
62.35'

N21°41'53"E  
36.00'

N68°18'07"W 1580.68'

Baltimore & Ohio Railroad  
PID: 049-0002-0013

BSS Oakley, LLC  
ORB 13995, PG. 1198

S21°41'53"W  
52.79'

USS Realty, LLC  
ORB 12973, PG. 543  
PID: 051-0001-0071

S68°17'48"E  
90.06'

Existing Railroad  
Right-of-Way

Ohio SPCS-South Zone  
NAD83 (2011)

VANDERCAR WAY

Existing C1  
Right-of-Way

Existing C2  
Right-of-Way

DISNEY STREET

C6

C5

C4

C3

C2

C1

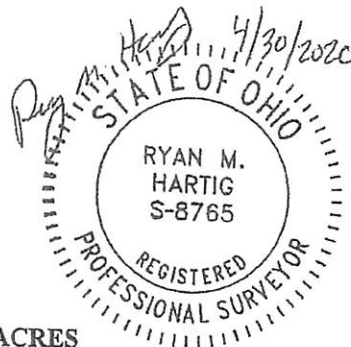




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### DESCRIPTION OF 28.1986 ACRES

Situated in Section 28, Town 4, Fractional Range 2, Miami Purchase, City of Cincinnati, Hamilton County, Ohio and being the property conveyed to Local Oakley LLC by deed recorded in Official Record Book 14032, page 2815 and Parcel I, Parcel II Tract I and Parcel II Tract II conveyed to Local Oakley LLC by deed recorded in Official Record Book 13820, page 1995 and the property conveyed to BSS Oakley, LLC by deed recorded in Official Record Book 13995, page 1198 in the office of the Hamilton County Recorder's Office in Cincinnati, Ohio and is more particularly described as follows:

Unless otherwise stated, any monument referred to herein as a set iron pin is a 5/8 inch diameter rebar, thirty inches in length with a plastic cap stamped "HARTIG PS 8765". All bearings referred to herein are based upon the Ohio State Plane Coordinate System, South Zone, NAD83 (2011).

BEGINNING, at an existing 5/8" iron pin (PS 8656) at the most easterly common corner of Local Oakley LLC (Official Record 13820, page 1995) and Milacron, LLC (Official Record 11233, page 1847), being in the westerly right-of-way line of Disney Street, 28.50 feet as measured perpendicular to the centerline;

THENCE, with said right-of-way line and with a curve to the left having a radius of 530.00 feet, an arc length of 308.87 feet and a chord bearing and distance of S22°27'37"W 304.52 feet to an existing 5/8" iron pin (PS 8656);

THENCE, S05°45'54"W 296.99 feet to an existing 5/8" iron pin (PS 8656);

THENCE, with a curve to the left having a radius of 403.00 feet, an arc length of 105.56 feet and a chord bearing and distance of S01°44'21"E 105.26 feet to an existing 5/8" iron pin (PS 8656);

THENCE, S09°13'26"E 108.60 feet to an existing cut notch at the common corner of Local Oakley LLC and USS Realty, LLC (Official Record 12973, page 543);

THENCE, with the common line of Local Oakley LLC, USS Realty, LLC and BSS Oakley, LLC (Official Record 13995, page 1198) and with a curve to the left having a radius of 45.00 feet, an arc length of 39.36 feet and a chord bearing and distance of S30°33'06"W 38.12 feet to an existing 5/8" iron pin (PS 8656);

THENCE, with the common line of USS Realty, LLC and BSS Oakley, LLC and with a curve to the right having a radius of 85.00 feet, an arc length of 28.23 feet and a chord bearing and distance of S20°02'05"W 28.10 feet to an existing 5/8" iron pin (PS 8656);



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THENCE, with a curve to the left having a radius of 330.43 feet, an arc length of 30.53 feet and a chord bearing and distance of S28°47'59"E 30.52 feet to an existing 5/8" iron pin;

THENCE, S21°41'53"W 52.79 feet to an existing 5/8" iron pin;

THENCE, S68°17'48"E 90.06 feet to an existing 5/8" iron pin (PS 5804);

THENCE, S05°15'53"W 113.64 feet to an existing 3/4" iron bar in the northerly right-of-way line of the Baltimore & Ohio Railroad;

THENCE, with said right-of-way line N68°18'07"W 1580.68 feet to a point, an existing concrete monument bears S30°34'35"E 0.89 feet;

THENCE, N21°41'53"E 36.00 feet to an existing 5/8" iron pin (PS 6452 & PS 4911);

THENCE, N68°18'07"W 62.35 feet to an existing chiseled notch in the easterly right-of-way line of Interstate 71;

THENCE, with said right-of-way line of Interstate 71 and the westerly line of Local Oakley, LLC and American Towers, LLC (Official Record Book 14109, page 522) N27°24'13"E 524.21 feet to an existing chiseled notch at the common corner of American Towers, LLC and Milacron, LLC;

THENCE, with the common line of American Towers, LLC, Milacron, LLC and Local Oakley, LLC S84°08'04"E 422.87 feet to an existing 5/8" iron pin (PS 8656);

THENCE, N06°22'53"E 207.07 feet to an existing 5/8" iron pin (PS 8656);

THENCE, N57°50'53"E 62.64 feet to an existing disturbed 5/8" iron pin;

THENCE, S83°37'07"E, passing an existing 5/8" iron pin stamped REFERENCE PS-8656 at 56.15 feet, a total distance of 61.15 feet to a point;

THENCE, S05°38'31"W 22.27 feet to an iron pin (set);

THENCE, S87°05'09"E 67.60 feet to an existing 5/8" iron pin (PS 8656)

THENCE, S84°19'07"E 302.37 feet to an existing chainlink fence post;

THENCE, S05°40'53"W 36.00 feet to an existing 5/8" iron pin (PS 8656);

THENCE, S84°19'07"E 288.92 feet to a point, an existing iron pin bears N37°18'32"W 0.58 feet;

THENCE, S55°11'32"E 183.31 feet to the POINT OF BEGINNING CONTAINING 28.1986 ACRES and being subject to all right-of-ways and easements of record.

This description was prepared from new surveys made by Ryan M. Hartig, PS 8765, for Viox & Viox, Inc., May 16, 2019 and July 16, 2019.

**ATTACHMENT B**  
to Ordinance

The public infrastructure improvements that directly benefit the Property include public street improvements and parking facilities, and may also include but are not limited to water and sewer lines; environmental remediation; land acquisition, including acquisition in aid of industry, commerce, distribution, or research; demolition, including demolition on private property when determined to be necessary for economic development purposes; stormwater and flood remediation projects, including such projects on private property when determined to be necessary for public health, safety, and welfare; and the provision of and/or relocation of gas, electric, and communications service facilities.