

Board of Trustees  
CINCINNATI SOUTHERN RAILWAY

Paul V. Muehling, *President*  
Paul Sylvester, *Treasurer*  
Charles Luken, *Vice President*  
Mark Mallory  
Amy Murray

c/o Office of the City Solicitor  
City of Cincinnati  
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Cincinnati, Ohio 45202  
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**DELIVERED VIA HAND DELIVERY**

City Council of the City of Cincinnati  
c/o Ms. Melissa Autry, Clerk of Council  
801 Plum Street, Suite 308  
Cincinnati, Ohio 45202

CLERK OF COUNCIL

Finance Director Karen Alder  
City of Cincinnati  
801 Plum Street, Suite 250  
Cincinnati, Ohio 45202

14 JUL '23 PM 12:23

July 14, 2023

Dear Ms. Autry and Ms. Alder,

In my capacity as Clerk of the Cincinnati Southern Railway Board of Trustees (the "Board"), I hereby certify that the enclosed resolution was duly passed by the Board at its July 13, 2023 meeting and is correctly copied from the books, papers, and journals of the Board.

In accordance with Ohio Revised Code Section 746.02, City Council must certify the enclosed resolution to the Hamilton County Board of Elections not less than ninety days prior to November 7, 2023. Accordingly, the Law Department is preparing an ordinance for City Council to approve at its August 2, 2023 meeting.

If you have any questions, you are welcome to reach out to me at x4544.

Thank you,



Kaitlyn Geiger, Clerk of the Cincinnati Southern Railway Board of Trustees

## RESOLUTION 2-2023

**RESOLVING TO** submit the sale of the Cincinnati Southern Railway to the electors of the City of Cincinnati at the general election of November 2023.

WHEREAS, on May 4, 1869, the Act commonly known as the Ferguson Act became law (as amended and supplemented, the “Act”), which Act allowed Ohio cities of a certain size to construct a railway and for such railway to be held by a board of trustees; and

WHEREAS, pursuant to the Act, the City of Cincinnati completed a 337-mile rail line between Cincinnati and Chattanooga, TN, commonly known as the Cincinnati Southern Railway (the “Cincinnati Southern Railway”); and

WHEREAS, as contemplated by the Act, the Board of Trustees of the Cincinnati Southern Railway (the “Board”) retains ownership of the Cincinnati Southern Railway for the benefit of the City of Cincinnati; and

WHEREAS, the Cincinnati Southern Railway has been continually leased by the Board to the Cincinnati, New Orleans & Texas Pacific Railway (“CNOTP”), which is a subsidiary of Norfolk Southern Railway Company (the “Buyer”) pursuant to a Lease dated October 11, 1881 (as amended and supplemented, the “Lease”); and

WHEREAS, the Cincinnati Southern Railway is solely used for commercial purposes and there is no passenger traffic on the line; and

WHEREAS, as part of CNOTP’s initial offer on July 12, 2021, for an extended term of the Lease, CNOTP proposed buying the Cincinnati Southern Railway; and

WHEREAS, the 135<sup>th</sup> General Assembly adopted House Bill 23 making certain changes to the Act in furtherance of the sale of the Cincinnati Southern Railway to the Buyer (the “State Law Changes”); and

WHEREAS, on June 28, 2023, pursuant to Resolution 1-2023, adopted by the Board following advice and guidance by the Board’s financial and legal advisors and Board deliberation at its duly noticed special meeting held in City Council Chambers on June 27, 2023, the Board entered into a *First Amended and Restated Asset Purchase and Sale Agreement* with Buyer and CNOTP, which contemplates a proposed sale of the Cincinnati Southern Railway for a base purchase price of \$1,600,000,000 (such amount as may be increased pursuant to the terms of such agreement, the “Purchase Price”); at least \$25,000,000 (such amount as may be increased pursuant to such agreement) in transaction fees, plus other valuable consideration reflected therein; and

WHEREAS, the Board wishes to submit the sale of the Cincinnati Southern Railway to the electorate of the City of Cincinnati at the general election to be held on November 7, 2023; and

WHEREAS, in furtherance of that election and in accordance with the State Law Changes, the Board also wishes to adopt the ballot language for such election; now, therefore,

BE IT RESOLVED by the Trustees of the Cincinnati Southern Railway:

Section 1. That Board of Trustees of the Cincinnati Southern Railway (the “Board”) hereby sets the date of the election in which the electorate of the City of Cincinnati votes upon the proposed sale of the Cincinnati Southern Railway to Norfolk Southern Railway Corporation as November 7, 2023.

Section 2. That the form of submission of the proposed sale to the electors shall be substantially as follows:

<b>SALE OF THE CINCINNATI SOUTHERN RAILWAY</b> <b>A majority vote is necessary for passage.</b>	
<b>YES</b>	Shall the Cincinnati Southern Railway Board of Trustees be authorized to sell the Cincinnati Southern Railway to an entity, the ultimate parent company of which is Norfolk Southern Corporation, for a purchase price of \$1,600,000,000, to be paid in a single installment during the year 2024, with the moneys received to be deposited into a trust fund operated by the Cincinnati Southern Railway Board of Trustees, with the City of Cincinnati as the sole beneficiary, the moneys to be annually disbursed to the municipal corporation in an amount no less than \$26,500,000 per year, for the purpose of the rehabilitation, modernization, or replacement of existing streets, bridges, municipal buildings, parks and green spaces, site improvements, recreation facilities, improvements for parking purposes, and any other public facilities owned by the City of Cincinnati, and to pay for the costs of administering the trust fund?
<b>NO</b>	

Section 3. That on behalf of the Board, the Clerk to the Board shall certify and transmit this resolution to the Council of the City of Cincinnati (the “City”) and the City’s Finance Director, as set forth in Revised Code (“R.C.”) Section 746.02(B).

Section 4. That the Clerk of City Council, in accordance with R.C. Section 746.02(B) shall certify and transmit to the Board of Elections of Hamilton County, Ohio (the “Board of Elections”), a copy of the ordinance to be passed by City Council not less than ninety days prior

to the date of the November 7, 2023 general election and direct the Board of Elections to submit the proposed Charter amendment to the electors of the City as provided by law.

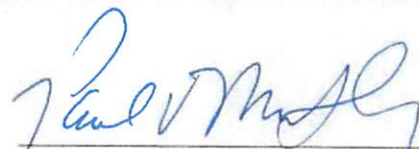
Section 5. That the Clerk of City Council shall cause a notice of the election contemplated in this resolution to be published in a newspaper of general circulation for the two consecutive weeks prior to November 7, 2023, or as provided in R.C. Section 7.16 in accordance with R.C. Section 746.02(C)(1).

Section 6. That the Board of Elections shall post notice to its website of the election contemplated herein no later than thirty days prior to November 7, 2023, in accordance with R.C. 746.02(C)(2).

Section 7. That the Board of Elections shall certify to the Board the result of the vote upon said sale, and if said sale is approved by a majority of the electors voting thereon, the related closing conditions pursuant to the Board's agreement sell the Cincinnati Southern Railway shall be deemed satisfied.

Section 8. That a copy of this Resolution be spread upon the minutes of the Board.

Passed: July 13, 2023

  
Paul V. Muething, President, Board  
of Trustees of the Cincinnati  
Southern Railway

ATTEST:   
Kaitlyn Geiger, Clerk to the Board