

**EMERGENCY**

**Legislative Resolution**

**RESOLUTION NO. \_\_\_\_\_ - 2024**

**DECLARING** by legislative resolution the necessity of the special assessment project at 118 W. 9th Street in the City of Cincinnati, Ohio; **APPROVING** a petition for special assessments relating to the special assessment project at 118 W. 9th Street; and **AUTHORIZING** the City Manager to execute an agreement with the Ohio Air Quality Development Authority relating to the special assessment project at 118 W. 9th Street, pursuant to Ohio Revised Code Section 3706.051.

WHEREAS, 118 W 9TH ST, LLC (together with all future owners of the Project Site, as defined below, the “Owner” or “Petitioner”), as the fee title owner of certain real property located at 118 W. 9th Street in Cincinnati (the “Project Site”), which is to be assessed for the improvements described in this resolution pursuant to Ohio Revised Code (“R.C.”) Chapter 727 (collectively, the “Act”), has executed and delivered to Council a Petition to Request the Levy of a Special Assessment, a copy of which is attached hereto as Attachment A (the “Petition”); and

WHEREAS, pursuant to the Petition, the Owner has proposed the necessity of special assessments to pay the costs of developing and implementing an air quality facility (as defined in R.C. Section 3706.01) comprised of the Authorized Improvements (as defined in the Petition), specifically benefitting the Project Site (the “Project”); and

WHEREAS, in the Petition the Owner requests that the Project be paid for by special assessments assessed upon the Project Site in an amount sufficient to pay the costs of the Project, which is estimated to be an amount not to exceed \$810,000, plus interest thereon (the “Special Assessments”); and

WHEREAS, pursuant to the Act and R.C. Section 3706.051, the City may to enter into an agreement with the Ohio Air Quality Development Authority (the “Authority”) and levy special assessments upon property specially benefited by an air quality facility; and

WHEREAS, Council has determined (i) the Special Assessments are conducive to the public health, convenience, and welfare of this City and the inhabitants of Cincinnati; (ii) the Project Site is specially benefited by the Special Assessments; (iii) the Special Assessments have been petitioned for by the owner of 100 percent of the Project Site; and accordingly, has determined it necessary to approve the Petition; and

WHEREAS, Council has determined to authorize the City Manager to enter into an agreement with the Authority pursuant to the Act and R.C. Section 3706.051 in substantially the form of agreement attached hereto as Attachment B (the “Agreement”), which Agreement provides for the issuance of bonds by the Authority; now, therefore,

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

Section 1. That the recitals hereof are hereby incorporated by reference, and each capitalized term not otherwise defined herein or by reference to another document shall have the

meaning assigned to it in the Petition, which Petition, together with the Agreement, are hereby approved and accepted, and copies of which are attached to this resolution as Attachment A and Attachment B, respectively.

Section 2. That Council (a) declares the necessity of the Project, the costs of which shall be secured by the Special Assessments, as provided in the Petition, and (b) finds it necessary to specially assess the Project Site to support an air quality facility in accordance with the submitted plans, specifications, and estimates of cost. The Petition includes a listing of the parcel(s) of real property owned by the Owner to be assessed and is incorporated herein by reference.

Section 3. That the City Manager or her designee is authorized to execute the Agreement substantially in the form now on file with the Clerk of Council, together with any modifications as may be necessary, subject to any and all terms and conditions that the City Manager or her designee finds appropriate, to effectuate the purpose of the Petition and R.C. Section 3706.051; provided, that any such modification shall not, in the judgment of the City Manager, be adverse to the City.

Section 4. That the costs of the Project, as set forth in the Petition, shall be assessed in proportion to the benefits upon the Project Site, and the Special Assessments for the Project shall be assessed and paid as specified in the Petition. The portion of the costs of the Project allocable to the City will be zero percent. The City does not intend to issue securities in anticipation of the levy of the Special Assessments.

Section 5. That the City's Finance Director and/or her designee is authorized to cause to be prepared and filed in the office of the Clerk of Council the estimated Special Assessments and the cost of the Project in accordance with the method of assessment set forth in the Petition and this resolution.

Section 6. That the Special Assessments shall be levied and paid in fifty semi-annual installments pursuant to the list of estimated Special Assessments set forth in the Petition. The

Owner has waived the right to pay the Special Assessments in cash within thirty days after the first publication of the notice of the assessing ordinance.

Section 7. That the Owner has waived notice of the adoption of this resolution and the filing of the estimated Special Assessments upon the filing of the estimated Special Assessments with the Clerk of Council under R.C. Section 727.13.

Section 8. That Council hereby accepts and approves the waivers contained in the Petition of all further notices, hearings, claims for damages, rights to appeal and other rights of property owners under the law, including, without limitation, those specified in the Ohio Constitution, R.C. Chapter 727, R.C. Chapter 1710, and the Charter of the City of Cincinnati, Ohio, and consents to the immediate imposition of the Special Assessments upon the Project Site.

Section 9. That it is hereby found and determined that all formal actions of Council concerning and relating to the passage of this resolution were adopted in an open meeting of Council, and that all deliberations of Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including R.C. Section 121.22.

Section 10. That this resolution 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 ensure that the Ohio Air Quality Development Authority can consider the issuance of the bonds to be secured by the Special Assessments and allow the work on the Project to proceed at the earliest possible time.

Passed: \_\_\_\_\_, 2024

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

\_\_\_\_\_  
Aftab Pureval, Mayor