

EMERGENCY

-2024

LEVYING special assessments for the purpose of acquiring, constructing, and improving an air quality facility at 118 W. 9th Street in Cincinnati; and **AUTHORIZING** the City Manager to execute a Cooperative Agreement providing for the financing of an air quality facility project at 118 W. 9th Street in Cincinnati.

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”), has executed and delivered to Council a Petition to Request the Levy of a Special Assessment, a copy of which is attached as Attachment A to the Resolution of Necessity, as defined below (the “Petition”); and

WHEREAS, prior to the passage of this ordinance, Council duly adopted a resolution declaring the necessity of developing and implementing an air quality facility as defined in Ohio Revised Code (“R.C.”) Section 3706.01 (the “Project”, as more fully described in the Petition) located on the Project Site (the “Resolution of Necessity”), which provides for the levying and collection of special assessments to be assessed on the Project Site sufficient to pay the costs of the Project; and

WHEREAS, prior to the passage of this ordinance, Council duly passed an ordinance determining to proceed with the Project and adopted the estimated Special Assessments (as defined in the Resolution of Necessity) filed with the Clerk of Council; and

WHEREAS, the City, pursuant to R.C. Section 3706.051, may and intends to enter into a Special Assessment Cooperative Agreement (the “Cooperative Agreement”) with the Ohio Air Quality Development Authority (the “Authority”), the Owner, and IR Capital Funding, LLC, a subsidiary of Imperial Ridge Real Estate Capital, LLC (the “Investor”), to provide for, among other things, (i) making the Project Advance (as defined in the Cooperative Agreement) available to the Owner to pay costs of the Project; and (ii) transferring the Special Assessments levied by this ordinance and received by the City to the Investor to repay the Project Advance; now therefore,

BE IT ORDAINED by the 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 Resolution of Necessity, an unsigned copy of which is attached to this ordinance as Attachment B.

Section 2. That the Special Assessments to be levied and assessed on the Project Site in an amount sufficient to pay the costs of the Project, which amount is estimated to be \$810,000, plus interest thereon, as set forth in the List of Estimated Special Assessments and Schedule of Special Assessments attached as Attachment A hereto, which costs include, without limitation, the payment of all principal of and interest the on bonds issued by the Authority through the term of the bonds based on the useful life of the Project, to pay the costs of the Project and other interest, financing, and issuance expenses and the Authority's administrative fees and expenses, or otherwise to pay costs of the Authorized Improvements (as defined in the Petition) in anticipation of the receipt of the Special Assessments, which costs were set forth in the Petition and previously reported to Council and are now on file in the offices of the Clerk of Council and the City's Finance Director, are adopted and confirmed, and the Special Assessments are levied and assessed on the Project Site. The interest portion of the Special Assessments, together with amounts used to pay administrative expenses, are determined to be substantially equivalent to the fair market rate or rates of interest that would have been borne by securities issued in anticipation of the collection of the Special Assessments if such securities had been issued by the City. The Special Assessments shall be assessed against the Project Site in tax years 2026 through 2050 for collection in calendar years 2027 through 2051. All Special Assessments shall be certified by the City's Finance Director to the County Auditor of Hamilton County, Ohio (the "County Auditor"), pursuant to the Petition and R.C. Chapter 727.33 to be placed on the tax list and duplicate and collected with and in the same manner as real property taxes are collected and as set forth in the Petition. The Special Assessments shall be collected in each calendar year equal to the semi-annual amounts and allocated among the parcels constituting the Project Site as set forth in the Petition and Attachment A, which is incorporated here by reference.

Section 3. That Council finds and determines that the Special Assessments are in proportion to the special benefits received by the Project Site as set forth in the Petition and are not in excess of any applicable statutory limitation.

Section 4. That the Owner has waived its right to pay the Special Assessments in cash, and all Special Assessments and installments of the Special Assessments shall be certified by the City's Finance Director to the County Auditor as provided by the Petition and R.C. Section 727.33 to be placed by the County Auditor on the tax list and duplicate and collected with and in the same manner as real property taxes are collected and as set forth in the Petition.

Section 5. That the Special Assessments will be used by the Petitioner to provide the Authorized Improvements in cooperation with the Authority, in any manner, including by the City assigning the Special Assessments actually received by the City to the Authority or to its assignee, and the Special Assessments are appropriated for such purposes.

Section 6. That the City's Finance Director is authorized to keep the Petition on file in the office of the City's Finance Director.

Section 7. That Council hereby approves the Cooperative Agreement and authorizes and authorizes the City Manager or her designee to execute the Cooperative Agreement in substantially the form now on file with the Clerk of Council, a copy of which is attached hereto as Attachment C, 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 facilitate the Project.

Section 8. That Council finds and determines that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of Council, and that all deliberations of this 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 9. That in compliance with R.C. Section 319.61, the Clerk of Council is hereby directed to deliver a certified copy of this ordinance to the County Auditor within twenty days after its passage.

Section 10. 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 ensure that the 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

Aftab Pureval, Mayor

Attest: _____
Clerk