

EMERGENCY

City of Cincinnati

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An Ordinance No. \_\_\_\_\_ - 2023

**CERTIFYING** a resolution setting the date of the election for the proposed sale of the Cincinnati Southern Railway along with the applicable ballot language to the Board of Elections of Hamilton County; and **DIRECTING** the Board of Elections of Hamilton County to submit the ballot question to the electors.

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, Tennessee, 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 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 (the "State Law Changes"); and

WHEREAS, on June 28, 2023, pursuant to Resolution 1-2023, adopted by the Board on June 27, 2023, the Board entered into a First Amended and Restated Asset Purchase and Sale Agreement with Norfolk Southern Railway Company ("Buyer") and Cincinnati, New Orleans & Texas Pacific Railway, which contemplates a proposed sale of the Cincinnati Southern Railway to Buyer for a base purchase price of \$1,600,000,000, and 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, pursuant to Resolution 2-2023, adopted by the Board on July 13, 2023 (the "Resolution"), the Board established the date to submit the sale of the Cincinnati Southern Railway to the electorate of the City of Cincinnati as the general election to be held on November 7, 2023 and adopted the applicable ballot language; and

WHEREAS, the Clerk for the Board certified the Resolution to Council and the City's Director of Finance on July 14, 2023; and

WHEREAS, in accordance with the State Law Changes, Council hereby certifies the Resolution to the Board of Elections of Hamilton County; now, therefore,

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

Section 1. That Council certifies to the Board of Elections of Hamilton County (the "Board of Elections") the resolution attached hereto as Attachment A (the "Resolution"), which sets November 7, 2023 as the date of the election at which the City of Cincinnati electorate votes upon the proposed sale of the Cincinnati Southern Railway to Norfolk Southern Railway Corporation.

Section 2. That, in accordance with the Resolution, Council hereby directs the Board of Elections to submit the proposed sale to the electors, the form of which 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 the Clerk of Council is instructed to file a certified copy of this ordinance and the proposed form of the ballot question with the Board of Elections not later than August 8, 2023, such date being more than ninety days prior to the November 7, 2023 general election in accordance with R.C. Section 746.02(B)(1).

Section 4. That the Clerk of 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 5. 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 6. That the Board of Elections shall certify to the Cincinnati Southern Railway Board of Trustees the result of the vote upon said sale.

Section 7. 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 the need to submit this Ordinance to the Board of Elections within the statutorily required time frame.

Passed: \_\_\_\_\_, 2023

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

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