

ATTACHMENT B

SECTION 3706.051 AGREEMENT

THIS SECTION 3706.051 AGREEMENT (this “**Agreement**”) is made and entered into as of October __, 2024, between the OHIO AIR QUALITY DEVELOPMENT AUTHORITY, a body corporate and politic (the “**Authority**”) duly created, organized and existing under the laws of the State of Ohio (the “**State**”), and THE CITY OF CINCINNATI, OHIO, a municipal corporation duly organized and validly existing under the constitution and laws of the State and its Charter (the “**City**”).

RECITALS:

- A. Pursuant to Section 3706.051 of the Ohio Revised Code, the Authority is authorized to enter into an agreement with the legislative authority of the City.
- B. 118 W 9TH ST, an Ohio limited liability company (the “**Owner**”) signed and delivered to the City Council of the City a Petition to request the levy of a Special Assessment (the “**Petition**”).
- C. The Petition requests the levy of special assessments by the City for the purpose of developing and implementing an air quality facility as defined in Ohio Revised Code Section 3706.01(G)(12) specifically benefiting the real property located at 118 W. 9th Street, Cincinnati, Hamilton County, Ohio (the “**Project**”).
- D. The Authority and the City desire to secure the payment of the principal of, and any premium and unpaid interest on revenue bonds or notes issued by the Authority pursuant to Ohio Revised Code Section 3706.05 (the “**Bonds**”) used to finance the Project, which Bonds shall be secured by the City’s levy, collection, and pledge of special assessments.

In consideration of the foregoing and the mutual covenants contained in this Agreement, the Authority and the City agree that:

1. The Owner has requested the assistance of the City and the Authority in the development and implementation of the Project. For the reasons set forth in the Recitals hereto, which Recitals are incorporated herein by reference as a statement of the public purposes of this Agreement, the City has agreed to assist and cooperate with the Authority in the development and implementation of the Project. This Agreement is intended as and shall be an agreement between the City and the Authority to cooperate in the financing, acquisition, construction, equipping, improvement, and installation of the Project, and the agreements contained herein are intended to and shall be construed as agreements to further effect cooperative action.

2. The Authority may issue Bonds for the purpose of paying any part of the cost of the Project.

3. The City may levy a special assessment under Ohio Revised Code Section 727.01 of the Revised Code upon property specially benefited by the Project.

4. The City shall pledge the special assessments levied under Section 3 for the payment of the Bonds.

5. The obligations of the Authority under this Agreement, with the sole exception of the obligation to work cooperatively with the City, shall be subject to the following conditions precedent:

- a. the levying of special assessments by the City as provided in Section 3;
- b. the pledge of the special assessments by the City as provided in Section 4;
- c. the Owner's obligation to secure a lender or investor to purchase the Bonds, which lender or investor shall be subject to the reasonable discretion of the Authority;
- d. the Owner's certification to the Authority that the Project constitutes an air quality facility as defined in Ohio Revised Code Section 3706.01(G)(12); and
- e. the execution of a special assessment agreement further memorializing the obligations of the City and the Authority, as well as the obligations of additional parties, including the county treasurer, the Owner, and the lender or investor, and any other related documents.

6. Miscellaneous Provisions.

a. No amendment or modification to or of this Agreement shall be binding upon any party hereto until such amendment or modification is reduced to writing and executed by each party hereto. No waiver of any term of this Agreement shall be binding upon any party until such waiver is reduced to writing, executed by the party to be charged with such waiver, and delivered to the other parties hereto.

b. This Agreement shall be governed in all respects, whether as to validity, construction, performance and otherwise, by the laws of the State.

c. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument.

d. This Agreement shall be binding upon the parties hereto and upon their respective successors and assigns. In no event shall the provisions of this Agreement be deemed to inure to the benefit of or be enforceable by any third party, except for permitted assigns.

[Signature Pages Follow]

IN WITNESS WHEREOF, each party to this Agreement has caused this Agreement to be executed in its respective name and capacity by its respective duly authorized officers, all as of the day and the year first written above.

AUTHORITY

OHIO AIR QUALITY DEVELOPMENT
AUTHORITY

By: _____
Name: _____
Title: _____

CITY

Approved as to form:

THE CITY OF CINCINNATI, OHIO

By: _____
Assistant City Solicitor

By: _____
Sheryl M.M. Long, City Manager

Certified Date: _____

Fund/Code: _____

Amount: _____

By: _____
Karen Alder, City Finance Director