



Legislation Details (With Text)

File #: 3372-2023 **Version:** 1

Type: Ordinance **Status:** Passed

File created: 11/20/2023 **In control:** Economic Development Committee

On agenda: 12/11/2023 **Final action:** 12/14/2023

Title: To authorize the Director of the Department of Development to execute an Assignment and Assumption of Rights, Duties, and Responsibilities of Developer to allow the City to assign and NM Developer LLC to assume the role of “Developer” of the NM Mixed-Use Project NCA under its petition dated October 28, 2022, Resolutions 0220X-2022 and 0134X-2022, and Ohio Revised Code Chapter 349; to reappoint the NCA’s board of trustees as to who is a citizen member and who is a statutory developer member.

Sponsors:

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
12/14/2023	1	ACTING CITY CLERK	Attest	
12/13/2023	1	MAYOR	Signed	
12/11/2023	1	COUNCIL PRESIDENT	Signed	
12/11/2023	1	Columbus City Council	Approved	Pass
12/4/2023	1	Columbus City Council	Read for the First Time	

BACKGROUND: Pursuant to Ordinance No. 2135-2023 passed July 24, 2023, the City entered into the First Amended and Restated Economic Development Agreement dated as of August 29, 2023 (the “Restated EDA”) with The North Market Development Authority, Inc. and NM Developer LLC (the “NM Developer”), which contemplated the creation of a new community authority for Parcel No. 010-307276 (the “Project Site”) under Ohio Revised Code (“R.C.”) Chapter 349. The City, as the former owner of the Project Site and therefore the statutory “Developer” as defined by R.C. Section 349.01(E), submitted a Petition for Organization of a New Community Authority (the “Petition”) on October 28, 2022 to the Clerk of City Council. As the organizational board of commissioners under R.C. Section 349.01(F), City Council adopted Resolution No. 0220X-2022 on November 16, 2022 to determine the sufficiency of the Petition and to hold a public hearing date for the Petition on November 30, 2022.

Pursuant to R.C. Section 349.03(A), City Council adopted Resolution No. 0134X-2023 on July 24, 2023 to (i) amend and approve the Petition, (ii) establish the NM Mixed-Use New Community Authority (the “Authority”), (iii) amend and establish the Authority’s new community district (the “District”), and (iv) make the initial appointments to the Authority’s nine-member board of trustees. In accordance with the Restated EDA, City Council by Ordinance No. 2154-2023, passed July 24, 2023, approved the City’s transfer on August 31, 2023 of the Project Site encompassing the District to NM Developer. In furtherance of the Restated EDA and the Petition, this ordinance will authorize the Director of the Department of Development to execute the Assignment and Assumption of Rights, Duties, and Responsibilities of Developer to allow the City to assign and NM Developer to assume the role of statutory Developer under the Petition, Resolutions 0220X-2022 and 0134X-2023, and R.C. Chapter 349. This ordinance will also reappoint the Authority’s trustees as to who is a citizen or statutory developer member.

FISCAL IMPACT: No funding is required for this legislation.

To authorize the Director of the Department of Development to execute an Assignment and Assumption of Rights, Duties, and Responsibilities of Developer to allow the City to assign and NM Developer LLC to assume the role of “Developer” of the NM Mixed-Use Project NCA under its petition dated October 28, 2022, Resolutions 0220X-2022 and 0134X-2022, and Ohio Revised Code Chapter 349; to reappoint the NCA’s board of trustees as to who is a citizen member and who is a statutory developer member.

WHEREAS, pursuant to Ordinance No. 2135-2023 passed July 24, 2023, the City entered into the First Amended and Restated Economic Development Agreement dated as of August 29, 2023 (the “Restated EDA”) with The North Market Development Authority, Inc. and NM Developer LLC (the “NM Developer”); and

WHEREAS, the Restated EDA contemplated the creation of the NM Mixed-Use Project New Community Authority (the “Authority”) under Ohio Revised Code Chapter 349 (“Chapter 349”) for Parcel No. 010-307276 (the “Project Site”); and

WHEREAS, on October 28, 2022, the City, as the former owner of the Project Site and therefore the statutory “Developer” as defined by Chapter 349, submitted to the Clerk of City Council a Petition for Organization of a New Community Authority (the “Petition”) under Chapter 349; and

WHEREAS, pursuant to Chapter 349, this Council adopted Resolution No. 0220X-2022 that determined that the Petition is sufficient and complied with the requirements of Chapter 349 in form and substance, and authorized notices and a public hearing for the Petition on November 30, 2022; and

WHEREAS, pursuant to Resolution No. 0134X-2023, this Council amended and approved the Petition; established the Authority; amended and established its new community district (the “District”); declared the Authority as a body politic and corporate within said District; and made the City’s initial appointments to the Authority’s board; and fixed surety for their bonds; and

WHEREAS, in accordance with the Restated EDA, City Council pursuant to Ordinance No. 2154-2023, passed July 24, 2023, approved the City’s transfer on August 31, 2023 of the Project Site encompassing the District to NM Developer; and

WHEREAS, in furtherance of the Restated EDA and the Petition, the City now desires to assign and for NM Developer to assume the rights, duties, and responsibilities of the statutory Developer pursuant to the Petition, Resolution Nos. 0220X-2022 and 0134X-2023, and Chapter 349; and

WHEREAS, the City also desires to reappoint individual members of the Authority’s board of trustees as either citizen members or developer members, all for the preservation of the public health, peace, property, safety, and welfare; **NOW, THEREFORE,**

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. Approval of Developer. That NM Developer LLC is qualified to serve as the statutory Developer for the Authority, and the same is hereby authorized by Council.

SECTION 2. Assignment and Assumption. That the Director of the Department of Development is hereby authorized to execute the Assignment and Assumption of Rights, Duties, and Responsibility of Developer (the “Assignment”) by and between the City and NM Developer to replace the City as the statutory Developer of the Authority; the City will assign that role to NM Developer who will agree to assume the rights, duties, and responsibilities of the City as the statutory Developer pursuant to the Petition, Resolution Nos. 0220X-2022 and 0134X-2023, and

Chapter 349 as of the effective date of the Assignment.

SECTION 3. Board Members Reappointments. That the current appointees of the Board of Trustees shall be reappointed as follows:

- (i) Gregory A. Gorospe, Michael Gould, Justin Argentine, and Ben Pierson, who were appointed as citizen members by Resolution No. 0134X-2023, shall be statutory Developer members henceforth during their terms, and NM Developer, as the new statutory Developer under Chapter 349, shall be responsible for appointing statutory Developer members upon execution of the Assignment.
- (ii) Kenneth N. Wilson, George Kauffman, Rick Harrison Wolfe, and Joe Lombardi, who were appointed as statutory Developer members by Resolution No. 0134X-2023 while the City served in that role, shall be citizen members henceforth during their terms, and the City shall remain responsible for appointing citizen members upon execution of the Assignment.
- (iii) Kathy A. Owens shall remain the representative of local government during her term, and the City shall remain responsible for appointing the representative of local government.

SECTION 4. Effective Date. That this Ordinance shall take effect and be in force from and after the earliest date permitted by law.