



## Legislation Text

**File #:** 0134X-2023, **Version:** 2

**BACKGROUND:** The City owns Franklin County Tax ID Parcel Nos. 010-054645 (the “NMDA Parcel”) and 010-307276 (the “Project Site”). North Market Development Authority, Inc. (“NMDA”) leases and operates a public market in a former warehouse (the “North Market”) on the NMDA Parcel. The City selected NM Developer LLC (the “Developer”) from a request for proposals to redevelop the Project Site with a now 32-story mixed use tower as well as public parking spaces, an expansion of the North Market, and a public atrium, patio, and plaza. Pursuant to Ordinance No. 1993-2019 passed July 22, 2019, the City entered into the Economic Development Agreement dated September 11, 2019 with the NMDA and the Developer (as to be amended by the First Amended and Restated Economic Development Agreement being submitted for City Council consideration of even date herewith), which contemplated the creation of a new community authority for the Project Site under Ohio Revised Code (“R.C.”) Chapter 349.

With the Consent of the Developer and City Council, the City, as the property owner and statutory “developer” as defined by R.C. Section 349.01(E), submitted to the Clerk of City Council a Petition for Organization of a New Community Authority (the “Petition”) on October 28, 2022. City Council, as the organizational board of commissioners under R.C. Section 349.01(F), adopted Resolution No. 0220X-2022 on November 16, 2022 to determine the sufficiency of the Petition and set a public hearing date on the Petition, which was held November 30, 2022. **R.C. Section 349.03(A) permits City Council, as the organizational board of commissioners, at any time to amend the Petition in form and substance to conform to the facts by correcting any errors in the description of the proposed new community district or in any other particular.** This resolution will (among other things) (i) **amend the Petition and repeal and replace the map and legal description of the new community district, attached as Exhibit A-1 and Exhibit A-2 to the Petition, with Exhibit A attached hereto to conform the new community district with the Project Site as it exists today,** (ii) establish both the NM Mixed-Use New Community Authority (the “Authority”) and the Authority’s new community district to be the Project Site **as depicted on Exhibit A attached hereto,** as well as (iii) make the initial appointments to the Authority’s nine-member board of trustees.

**FISCAL IMPACT:** No funding is required for this legislation.

**To amend the Petition for Organization of a New Community Authority to update the map and legal description of the new community district; to declare that the establishment of the NM Mixed-Use Project New Community Authority (the “Authority”) will be conducive to the public safety, convenience, and welfare, and is intended to result in the development of a new community; to define the boundaries of the Authority’s new community district consistent with the amendment to the petition; to declare that the Authority be organized as a body politic and corporate within the new community district along with its associated board of trustees; to make the initial nine appointments to the Authority’s board of trustees and to fix surety for their bonds; to certify compliance of the requirements of the public hearing; and to post notice of the Authority’s creation in the City Bulletin.**

**WHEREAS,** the City owns Franklin County Tax ID Parcel No. 010-054645 (the “NMDA Parcel”), which it leases to the North Market Development Authority, Inc. (“NMDA”) to operate a public market in a former warehouse (the “North Market”); and

**WHEREAS,** the City also owns the adjacent Franklin County Tax ID Parcel No. 010-307276 (the “Project Site”), as depicted on Exhibit A attached hereto, which the City selected NM Developer LLC (the “Developer”) from a request for

proposals to redevelop the Project Site with a now 32-story mixed use tower as well as public parking spaces, an expansion of the North Market, and a public atrium, patio, and plaza; and

**WHEREAS**, pursuant to Ordinance No. 1993-2019 passed on July 22, 2019, the Director of the Department of Development (the “Director”) entered into the Economic Development Agreement dated September 11, 2019 with NMDA and the Developer (as to be amended by the First Amended and Restated Economic Development Agreement being submitted for City Council consideration of even date herewith, the “EDA”); and

**WHEREAS**, the EDA contemplated the creation of a new community authority and new community district for the Project Site under Ohio Revised Code (“R.C.”) Chapter 349, which is to be known as the NM Mixed-Use Project New Community Authority (the “Authority”) and the NM Mixed-Use Project Community District (the “District”); and

**WHEREAS**, on October 28, 2022, the Director, for and in the name of the City as the property owner and statutory “developer” as defined by R.C. Section 349.01(E) and with the written consent of the Developer and the consent of City Council, submitted to the Clerk of Council pursuant to R.C. Sections 349.01(E) and 349.03, a Petition for Organization of a New Community Authority under R.C. Chapter 349 (the “Petition”); and

**WHEREAS**, City Council, as the “organizational board of commissioners” as that term is defined in R.C. Section 349.01 (F), adopted Resolution No. 0220X-2022 on November 16, 2022, and determined that the Petition complied as to form and substance with the requirements of R.C. Section 349.03(A) and fixed the time and place for a hearing on the Petition; and

**WHEREAS**, on November 30, 2022, a public hearing was held on the Petition after public notice was duly published in accordance with R.C. Section 349.03(A); and

**WHEREAS, R.C. Section 349.03(A) permits City Council, as the organizational board of commissioners, at any time to amend the Petition in form and substance to conform to the facts by correcting any errors in the description of the proposed new community district or in any other particular; and**

**WHEREAS, the map and legal description of the District within the Petition included a portion of the former Project Site that has since been split and made into the City’s right-of-way for Wall Street outside of the current Project Site, shown as the highlighted area on Exhibit A attached hereto; and**

**WHEREAS, the Petition will be amended as provided in Exhibit C attached hereto (the “Amended Petition”), and Exhibit A-1 and Exhibit A-2 of the Petition will be repealed and replaced with Exhibit A attached hereto to only include the Project Site as it exists as of the date hereof; and**

**WHEREAS**, City Council has determined that: the Authority and the District, **as the District is amended herein**, will be conducive to the public health, safety, convenience and welfare and are intended to result in the development of a New Community, as described in R.C. Section 349.01(A); and the Authority will be organized as a body corporate and politic in the State of Ohio; and

**WHEREAS**, the Department of Development certifies to City Council that the public hearing was held as advertised as attested on the Certificate of Compliance with the Public Hearing Requirements (the “Certification”) as attached hereto as Exhibit B; and

**WHEREAS**, it is necessary to approve the **Amended** Petition, establish the Authority and its District, **as the District is amended herein**, and appoint its board of trustees in order for the board to take actions in support of the public health, peace, property, safety, and welfare pursuant to the EDA and other subsequent agreements to be authorized by City Council; none of the steps taken herein to create the Authority shall impact or otherwise limit City Council’s decisions and discretion regarding any other piece of legislation concerning those subsequent agreements; **NOW, THEREFORE**,

**BE IT RESOLVED by the Council of the City of Columbus:**

**SECTION 1. Statutory Developer.** City Council hereby acknowledges and determines that, pursuant to R.C. Section 349.01(E), the City of Columbus, Ohio, as a municipal corporation that owns the land within the District, **as amended herein**, is the statutory “developer” of the Authority for all purposes of R.C. Chapter 349.

**SECTION 2. Organizational Board of Commissioners.** City Council finds and determines that it is the “organizational board of commissioners” for the Authority, and the City of Columbus, Ohio is the only “proximate city” with respect to the Authority and its District, **as amended herein**, for purposes of R.C. Chapter 349.

**SECTION 3. Approval of Amended Petition.** The **Amended** Petition is hereby accepted and shall be recorded, along with this resolution, in the journal of City Council, and this Council hereby determines that the Authority will be conducive to the public health, safety, convenience, and welfare, and is intended to result in the development of a New Community as defined in R.C. Section 349.01(A).

**SECTION 4. Establishment of Authority and District.** Pursuant to the **Amended** Petition, the Authority is hereby organized as a body politic and corporate with the corporate name designated in the **Amended** Petition (such name being the “NM Mixed-Use Project New Community Authority”), and the boundaries of the District, **as amended herein**, are consistent with the boundaries described in the **Amended** Petition, which align with the boundaries of the Project Site **as depicted in Exhibit A attached hereto**. If the subsequent agreements contemplated by the EDA are not executed and the appropriate development conditions are not secured by the Developer within the times specified in the EDA, the City may rescind the authorization creating the Authority and dissolve the Authority.

**SECTION 5. Board of Trustees.** The Board of Trustees of the Authority shall be comprised of nine (9) members selected and appointed as provided in the Petition. Pursuant to R.C. Section 349.04, there shall be posted for each member of the Board of Trustees a bond in the amount of \$10,000 for the faithful performance of his or her duties. The bond shall be with a company authorized to conduct business within the State of Ohio as a surety and shall be deposited with and preserved by the Clerk of Council. The initial appointees of the City to the Board of Trustees shall be as follows:

- (i) Kenneth N. Wilson is hereby appointed, as a statutory developer member, to a one-year term, such term beginning on the effective date of this resolution and expiring on July 31, 2024; and
- (ii) George Kauffman is hereby appointed, as a statutory developer member, to a one-year term, such term beginning on the effective date of this resolution and expiring on July 31, 2024; and
- (iii) Rick Harrison Wolfe is hereby appointed, as a statutory developer member, to a two-year term, such term beginning on the effective date of this resolution and expiring on July 31, 2025; and
- (iv) Joe Lombardi is hereby appointed, as a statutory developer member, to a two-year term, such term beginning on the effective date of this resolution and expiring on July 31, 2025; and
- (v) Gregory A. Gorospe is hereby appointed, as a citizen member, to a one-year term, such term beginning on the effective date of this resolution and expiring on July 31, 2024; and
- (vi) Michael Gould is hereby appointed, as a citizen member, to a one-year term, such term beginning on the effective date of this resolution and expiring on July 31, 2024; and
- (vii) Justin Argentine is hereby appointed, as a citizen member, to a two-year term, such term beginning on the effective date of this resolution and expiring on July 31, 2025; and
- (viii) Ben Pierson is hereby appointed, as a citizen member, to a two-year term, such term beginning on the effective date of this resolution and expiring on July 31, 2025; and
- (ix) Kathy A. Owens is hereby appointed, as a member to serve as a representative of local government, to a two-year term, such term beginning on the effective date of this resolution and expiring on July 31, 2025.

Each of the above-named persons shall serve until a successor is appointed or until death, resignation, or removal for cause as determined by City Council and each member appointed herein shall serve without compensation.

**SECTION 4. Hearing Certification.** City Council finds and determines that the public hearing was held as advertised as

attested by the Department of Development on the Certification.

**SECTION 5.** Effective Date. This resolution shall take effect and be in force from and after the earliest date permitted by law.