

**Agenda No. O-9**

**AN ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF BAYONNE, COUNTY OF HUDSON, NEW JERSEY APPROVING AN AMENDED EASEMENT TO QOZ PROSPECT PROPERTY URBAN RENEWAL LLC REGARDING THE LOCATION OF THE FORCE MAIN LOCATED UNDERGROUND AT 33 PROSPECT AVENUE, WHICH IS IDENTIFIED AS BLOCK 455, LOT 1.01 (FORMERLY LOTS 1, 2 AND 3) AS SHOWN ON THE OFFICIAL TAX MAP OF THE CITY**

**WHEREAS**, the City of Bayonne, in the County of Hudson, New Jersey (the “City” or “Grantor”), is a public body corporate and politic of the State of New Jersey (the “State”); and

**WHEREAS**, QOZ PROSPECT PROPERTY URBAN RENEWAL, LLC is a limited liability company licensed to do business in the State of New Jersey, having an address of 1051 Bloomfield Avenue, Suite 6, Bayonne, NJ 07002 (“Redeveloper” or “Grantee”); and

**WHEREAS**, Redeveloper is the owner of the property designated as Block 455, Lot 1.01 (formerly Lots 1, 2, and 3) on the official tax map of the City of Bayonne and more commonly known as 33 Prospect Avenue (the “Property”); and

**WHEREAS**, the City formerly entered into an easement by deed with the prior owners of the Property on December 30, 1988 and recorded January 20, 1989 with the Hudson County Register’s office at Deed Book 4084, Page 298 (the “Prior Easement”) for the purposes of constructing a 30-inch Force-Main (the “Force-Main”) on the southwestern side of the Property (the “Prior Easement Area”); and

**WHEREAS**, in 2021, the City of Bayonne Planning Board (the “Board”) granted preliminary and final site major site plan to allow construction of a multi-family residential building containing eighty-five (85) residential dwelling units and eighty-nine (89) parking spaces as well as related improvements and amenities as well as the relocation of the Force-Main located on the Property (the “2021 Approval”); and

**WHEREAS**, Redeveloper, after extensive discussions with the City and in conjunction with the City, negotiated and agreed to change the building design contemplated by the 2021 Approval to avoid construction in or around the Force-Main easement area in the interest of public safety and resubmitted revised plans to the Board; and

**WHEREAS**, on April 11, 2023, the Board granted amended Preliminary and Final Major Site Plan Approval, as well as bulk variance relief to Redeveloper for the construction of a 6-story residential building consisting of 85 residential dwelling units and 85 parking spaces by way of Resolution dated April 11, 2023 (the “2023 Approval”); and

**WHEREAS**, the 2023 Approval proposed development of the Project outside of the Force-Main area thereby obviating the need for relocation of the Force-Main as contemplated by the 2021 Approval; and

**WHEREAS**, in or around December 2024, after surveys were performed at the request of the City water department, the Parties discovered that the City had constructed the Force-Main outside the Prior Easement Area; and

**WHEREAS**, as a result of the Final Site Plans in connection with the Final Project, an amended easement is needed for the Force-Main (the “Amended Easement”); and

**WHEREAS**, Redeveloper and the City wish to memorialize the revised location of the easement area as it relates to the Force-Main on the Property and execute the Amended Easement;

**WHEREAS**, the proposed encroachments within the Property are subject to Municipal Council of the City of Bayonne approval; and

**WHEREAS**, the City believes that the entry of the Amended Easement over and on the Redeveloper’s Property will allow for a building design that offers improved planning and zoning perspective that will benefit the City and its residents; and

**WHEREAS**, the Municipal Council of the City of Bayonne agrees that conveyance of the Amended Easement to the Redeveloper is necessary, and as such execution and recording of said easement is appropriate.

**NOW THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF BAYONNE, NEW JERSEY AS FOLLOWS:**

**Section 1.** The aforementioned recitals are incorporated herein as though fully set forth at length.

**Section 2.** An Amended Easement between the City of Bayonne and QOZ Prospect Property Urban Renewal, LLC for the benefit of QOZ Prospect Property Urban Renewal, LLC for the purposes set forth herein is hereby authorized.

**Section 3.** The Mayor or his designee is hereby authorized to execute the Amended Easement Agreement on behalf of the City of Bayonne in such a form deemed advisable by the City Attorney or Special Redevelopment Counsel to the City, subject to any and all conditions contained herein, and such revisions as deemed advisable by the City Attorney or Special Redevelopment Counsel.

**Section 4.** If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Ordinance.

**Section 5.** A copy of this Ordinance and the Amended Easement Agreement by the City of Bayonne for the benefit of QOZ Prospect Property Urban Renewal, LLC, shall be available for public inspection at the office of the City Clerk during regular business hours.

**Section 6.** This Ordinance shall take effect in accordance with all applicable laws.