

**AN ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF ORANGE TOWNSHIP, ESSEX COUNTY, NEW JERSEY, AUTHORIZING THE GRANT OF AN AIR EASEMENT TO VA 100M URBAN RENEWAL LLC OVER PORTIONS OF THE CITY'S PUBLIC RIGHTS OF WAY ALONG SOUTH MAIN STREET AND PRINCE STREET, PURSUANT TO N.J.S.A. 40A:12-13.**

**WHEREAS**, the Municipal Council of the City of Orange City ("City") designated 148 parcels of real property located in the City along the north and south sides of Main Street, between Scotland Road and Ridge Street in the West and the border with the City of East Orange in the East ("Redevelopment Area") to be an area in need of redevelopment by resolution heretofore adopted by the Council; and,

**WHEREAS**, on March 3, 2020, through Ordinance No. 3-2020 the Municipal Council adopted the "Main Street Redevelopment and Rehabilitation Plan with Condemnation" ("Redevelopment Plan") to specifically regulate all land use within the Redevelopment Area; and,

**WHEREAS**, VA 100M Urban Renewal LLC ("VA100"), is a limited liability company organized under the laws of the State of New Jersey and authorized to do business as a duly formed New Jersey urban renewal entity which has been designated by the City, acting in its capacity as redevelopment entity pursuant to N.J.S.A. 40A:12A-4(c), to undertake a redevelopment project consisting of the construction of a multi-family residential building and other related improvements (collectively, "Project"), all in accordance with the Redevelopment Plan, to be located within the applicable portion of the Redevelopment Area known as Block 3002, Lots 6, 7, 8, 9, 10, 11, 12, 13 and 14, more commonly known as 92-106 Main Street and 13-27 Prince Street, Orange, New Jersey ("Project Site"); and,

**WHEREAS**, by Resolution dated January 26, 2022, the City's Planning Board granted Major Subdivision and Preliminary and Final Site Plan approvals, with variances, for the Project; and,

**WHEREAS**, by Resolution No. 408-2023 dated October 3, 2023, the Municipal Council designated VA100 as redeveloper for the Project Site and approved a Redeveloper Agreement with VA100 for development of the Project; and,

**WHEREAS**, the City is the owner in fee simple of a certain tracts of real property roadways situated in the City of Orange City, County of Essex, and State of New Jersey commonly known as South Main Street and Prince Street; and,

**WHEREAS**, the Project as proposed included building certain balconies and a cornice canopy that encroaches over and above a very small portion of the City's rights of way along the South side of South Main Street and the West side of Prince Street, which the Planning Board was without jurisdiction to approve; and,

**WHEREAS**, in connection with the Project and to enhance the aesthetics of same, VA100 has requested that the City convey an air easement upon, over and across 437.30 square feet along the South side of South Main Street, and 609.10 square feet along the West side of Prince Street, to allow for the overhang of the Project's balconies; and,

**WHEREAS**, the Council finds that it is in the best interests of the citizens of the City to convey the aforesaid air easement upon portions of South Main Street and Prince Street to VA100 to facilitate improvements to the Project, and find such air easement will not impede or otherwise obstruct the City's right of way; and,

**NOW, THEREFORE, BE IT ORDAINED** by the Municipal Council of City of Orange Township, Essex County, New Jersey, pursuant to *N.J.S.A. 40A:12-13(b)*, as follows:

**Section 1      Conveyance of Air Easement.**

The City of Orange Township (“City”) hereby agrees to sell the following described air easement, as more particularly described on *Schedule A*, annexed hereto and made part hereof (“Air Easement”), by way of a private sale to VA 100M Urban Renewal LLC (“VA100”) upon the following terms and conditions:

- A. The purchase price shall be in the amount of \$1.00 and other good and valuable consideration.
- B. The City and VA100 agree to make a date no later than 30 days from the date of the adoption and publication of the within ordinance as the date of closing. Both parties will fully cooperate so that closing can take place on or before the estimated date. The closing will be held at such location upon which the parties mutually agree.
- C. At closing, the City will transfer the Air Easement to VA100.
- D. The Air Easement is being sold “as is”, meaning the City does not make any claims or promises about the condition or value of the Air Easement. VA100 relies upon its own inspection of the Air Easement.
- E. The sale of the Air Easement shall be subject to and contingent upon the adoption of an ordinance, pursuant to *N.J.S.A. 40A:12-13(b)(5)*, to authorize the sale of the Air Easement by private sale to VA100, as the owners of property contiguous to the Air Easement.
- F. VA100 shall at its sole cost and expense maintain the Air Easement in good repair and in a safe and sound condition and in conformity with law and all applicable governmental regulations.
- G. VA100, and its successors and assigns, shall defend and indemnify the City, and its successors and assigns, from all claims, demands, actions, causes of action, injuries, orders, losses, liabilities, obligations, damages, fines, penalty cost and expenses, including without limitation, reasonable attorneys’ fees, incurred by or imposed or asserted against the City by reason of any accident, injury or damage to any person or personal property arising out of or resulting from any acts or omissions of VA100 or by any employee, licensee, invitee or agent of VA100 pursuant to the use of such Air Easement.

**SECTION 2      Severability of Ordinance Provisions.**

Each Section of this Ordinance is an independent Section and any part hereof found unconstitutional, void or ineffective for any cause shall not affect the validity or constitutionality of any other parts hereof.

**SECTION 3      Conflicts and Inconsistencies.**

All other Ordinances and parts of Ordinances that conflict or are inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency.

**SECTION 4      Effective Date.**

Following final passage, this Ordinance shall take effect upon the expiration of 20 days after publication, unless otherwise provided by the Municipal Council.

**PURPOSE:**                      To grant an air easement over public rights of way.

**FISCAL IMPACT:**              None.

Adopted: March 19, 2024

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Joyce L. Lanier  
City Clerk

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Tency A. Eason  
Council President

Approved:

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Dwayne D. Warren, Esq., Mayor