

**TOWNSHIP OF BORDENTOWN
TOWNSHIP COMMITTEE REGULAR MEETING AGENDA**

DATE: October 13, 2020 TIME: 7:00 P.M. VIRTUAL

<https://us02web.zoom.us/j/84597264319?pwd=V0F6cGUrY29SWnI4ZzBwbnpYjYzZz09>
or Dial In +1 646 876 9923 (Meeting ID: 845 9726 4319)

1. Call to Order and Roll Call

PRESENT	ABSENT	
_____	_____	Mayor Benowitz
_____	_____	Deputy Mayor Holliday
_____	_____	Committeeman Fuzy
_____	_____	Committeeman Kostoplis
_____	_____	Committeeman Mason
_____	_____	Administrator Theokas
_____	_____	Clerk Carrington
_____	_____	Attorney Fahey
_____	_____	Chief Financial Officer Elsasser

2. Resolution #2020-10-13 to meet in closed session

BE IT RESOLVED by the Township Committee of the Township of Bordentown that it does hereby exclude the public to meet in Closed Executive Session for the purpose of discussing:

- Attorney-Client Privilege: Employment Contractual Relations

No formal action will be taken while in closed session. The minutes of the closed session may be disclosed to the public when it is determined that the above matter(s) no longer require confidentiality.

3. Salute to the Flag and Moment of Silence

4. Open Public Meeting Announcement

This meeting is called pursuant to the provisions of the Open Public Meeting Act. A notice of the 2020 meeting schedule was sent to the *Burlington County Times* and *The Times* on January 8, 2020 and was subsequently published by the *Burlington County Times* on January 10, 2020. The notice is posted on the bulletin boards in the Municipal Building and has remained continuously posted as required under the statute. In addition, a copy of the notice is available to the public and is on file in the office of the Township Clerk.

Proper notice having been given, the Township Clerk is directed to include this statement in the minutes of the meeting. The proceedings of this meeting, which are open to the public, are being electronically recorded and will act as the minutes of the meeting in conjunction with the abbreviated written form of the minutes. Minutes are kept for all meetings, whether open or closed to the public.

5. Mayoral Proclamation proclaiming the month of October as Fire Prevention Month.

6. Correspondence: None

7. Administrative Review of Agenda

8. CONSIDERATION OF CONSENT AGENDA ITEMS:
 - a. Township Committee review and discussion of Consent Agenda Items.
 - b. Public comment on Consent Agenda items.
9. CONSENT AGENDA: Motion, Second and Roll Call to adopt Resolutions #2020-239 to #2020-251
 - a. Resolution #2020-239 entitled APPROVING ROUTINE BUSINESS: MINUTES OF MEETINGS
 - b. Resolution #2020-240 entitled RESOLUTION TO AWARD A CONTRACT FOR JOSEPH LAWRENCE PARK RECREATION EXPANSION PROJECT
 - c. Resolution #2020-241 entitled RESOLUTION ACCEPTING THE PROPOSAL FROM TUREK CONSULTING, LCC FOR INSPECTION AND CONTRACT ADMINISTRATION SERVICES THE JOSEPH LAWRENCE PARK RECREATION EXPANSION PROJECT
 - d. Resolution #2020-242 entitled GOVERNOR’S COUNCIL ON ALCOHOLISM AND DRUG ABUSE FY2021 (FISCAL GRANT CYCLE JULY 2020-JUNE 2025) AMENDING STRATEGIC PLAN OCTOBER 1, 2020 THRU JUNE 30, 2021
 - e. Resolution #2020-243 entitled AUTHORIZING REFUND OF OVERPAYMENT OF TAXES
 - f. Resolution #2020-244 entitled AUTHORIZING REFUND OF OVERPAYMENT OF PERMIT FEES
 - g. Resolution #2020-245 entitled RESOLUTION AUTHORIZING THE PURCHASE OF PLAYGROUND AND PARK SITE AMENITIES FOR TERRY FIELD
 - h. Resolution #2020-246 entitled A RESOLUTION TO CANCEL TAXES
 - i. Resolution #2020-247 entitled RELEASE OF TEMPORARY CERTIFICATE OF OCCUPACY BOND FOR TEAM CAMPUS PHASE II
 - j. Resolution #2020-248 entitled REDUCTION OF PERFORMANCE GUARANTEE FOR TEAM CAMPUS PHASE II
 - k. Resolution #2020-249 entitled RELEASE OF PERFORMANCE GUARANTEE FOR BORDENTOWN WATERFRONT COMMUNITY
 - l. Resolution #2020-250 entitled RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BORDENTOWN, COUNTY OF BURLINGTON, STATE OF NEW JERSEY APPROVING AN AMENDED AFFORDABLE HOUSING SPENDING PLAN
 - m. Resolution #2020-251 entitled APPROVING ROUTINE BUSINESS: PAYMENT OF BILLS
10. Introduction of Ordinance #2020-21 entitled AN ORDINANCE GRANTING A FIVE YEAR TAX EXEMPTION AND ABATEMENT OF LOCAL REAL ESTATE TAXES PURSUANT TO N.J.S.A. 40A:21-1 ET SEQ. TO LBA RVI-COMPANY XXXI-B, LLC, FOR THE REAL PROPERTY LOCATED AT BLOCK 137.02, LOT 6 C003 AND AUTHORIZING THE EXECUTION OF A FINANCIAL AGREEMENT WITH LBA RVI-COMPANY XXXI-B, LLC, FOR BLOCK 137.02, LOT 6.03, QUALIFIER C.003

11. New Business: None
12. Clerk's Election Update Report
13. Administrator's Report
14. Township Committee Liaison Reports
15. Public Participation: Questions, comments or statements from members of the public
16. Final Comments from Township Committee
17. Motion to Adjourn – Next Regular Meeting is scheduled for Monday, October 26, 2020

**ALL LEGISLATION LISTED ABOVE IS SUBJECT TO CHANGE
UNTIL IT IS OFFICIALLY ADOPTED BY THE GOVERNING BODY.**

RESOLUTION 2020-10-13

RESOLUTION TO MEET IN CLOSED EXECUTIVE SESSION

WHEREAS, the Open Public Meetings Act, P.L. 1975, Chapter 231 permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, the Township Committee of the Township of Bordentown wishes to discuss:

- Attorney-Client Privilege: Employment Contractual Relations

WHEREAS, minutes of the closed session will be kept and not be made public until the above matters no longer require confidentiality.

BE IT RESOLVED by the Township Committee of the Township of Bordentown that it does hereby exclude the public to meet in Closed Executive Session for the purpose of discussing the above matters. No formal action will be taken while in closed session. The minutes of the closed session may be disclosed to the public when it is determined that the above matter(s) no longer require confidentiality.

*Office of the Mayor
Township of Bordentown
Proclamation*

WHEREAS, October is Fire Prevention Month; and

WHEREAS, the goal of Fire Prevention Month is to raise fire safety awareness and help ensure homes and families have a plan and are ready for the unexpected; and

WHEREAS, the National Fire Protection Association, (NFPA), named the second week of October as Fire Prevention Week which schools recognize and celebrate by having educational assemblies that often invite local fire department representatives to explain fire safety to children of all ages; and

WHEREAS, the National Fire Prevention Month's theme for 2020 is "Serve up Fire Safety in the Kitchen"; and

WHEREAS, this month is a time that fire personnel reach out to families encouraging them to install smoke alarms and carbon monoxide alarms in their homes and often are able to supply these lifesaving tools; and

WHEREAS, our fire departments continue to highlight and recognize this year's theme; "Serve up Fire Safety in the Kitchen" knowing that cooking fires are the most common types of home fires.

I, THEREFORE, Mayor, of the Township of Bordentown, County of Burlington and State of New Jersey, do hereby proclaim that the month of **October as Fire Prevention Month** and recognize the outstanding dedication that both fire departments, (Mission Volunteer Fire Department and Derby Fire Department), in our Township display in making us all safe. They are proactive in educating the community on fire safety throughout the year and acknowledge their remarkable heroism in fighting fires in our community saving lives and property.



Steve Benowitz

STEVE BENOWITZ
MAYOR

RESOLUTION #2020-239

APPROVING ROUTINE BUSINESS: MINUTES OF MEETINGS

BE IT RESOLVED by the Township Committee of the Township of Bordentown that the Regular and Closed Session Meeting Minutes of September 28, 2020; as submitted by the Clerk, are hereby approved as (_____ submitted) (_____ corrected) and authorized to be posted to the Municipal Bulletin Board and website.

RESOLUTION #2020-240

RESOLUTION TO AWARD A CONTRACT FOR JOSEPH LAWRENCE PARK RECREATION EXPANSION PROJECT

WHEREAS, five (5) bids were received on August 6, 2020 for the Joseph Lawrence Park Recreation Expansion Project; and

WHEREAS, the Township Committee has reviewed the recommendation made by the Township Engineer to award said contract to the apparent low bidder, American Athletic Courts, Inc.; and

WHEREAS, N.J.S.A. 40A:11-24(a) requires a municipality to award within 60 days of the bid opening; and

WHEREAS, American Athletic Courts, Inc. agreed in writing to extend the pricing for an additional 30 days; and

WHEREAS, this is to certify to the Township Committee of the Township of Bordentown that funds for this resolution are available as follows:

BUDGET ACCOUNT	YEAR	COST	DETAIL
C-04-99-300-000	CAPITAL	\$1,099,645	JLP Expansion

JEFFREY C. ELSASSER
CMFO/CTC/PURCHASING AGENT

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Bordentown that it does hereby award a contract for the JLP Recreation Expansion Project to American Athletic Courts, Inc., 2050 Route 206, Vincentown, NJ 08088 in the amount of \$1,099,645 for the Base Bid; and

BE IT FURTHER RESOLVED that the Mayor and the Township Clerk are hereby authorized and directed to execute a contract for same.

RESOLUTION #2020-241

RESOLUTION ACCEPTING THE PROPOSAL FROM TUREK CONSULTING, LCC FOR INSPECTION AND CONTRACT ADMINISTRATION SERVICES THE JOSEPH LAWRENCE PARK RECREATION EXPANSION PROJECT

WHEREAS, there is a need for inspection and contract administration services for the Joseph Lawrence Park Recreation Expansion Project; and

WHEREAS, Turek Consulting, LLC submitted a proposal for such services including and conducting pre-construction meeting(s), performing site inspections, resident coordination as needed, review of field adjustments and submittals, processing payment applications, review and process of any required change orders, evaluating existing field conditions during construction and performing contract administration; and

WHEREAS, the Township Committee of the Township of Bordentown has determined that Turek Consulting LLC will best fulfill the needs of the Township at a price not to exceed \$33,000.00; and

WHEREAS, this is to certify to the Township Committee of the Township of Bordentown that funds for this resolution are available as follows:

BUDGET ACCOUNT	YEAR	COST	DETAIL
C-04-55-970-100	CAPITAL	\$33,000	JLP Expansion Project


JEFFREY C. ELSASSER
CMFO/CTC/PURCHASING AGENT

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Bordentown as follows:

The Township Administrator is hereby authorized enter into a contract with Turek Consulting LLC of 712 E. Main Street, Suite 1A, Moorestown NJ 08057 for JLP Recreation Expansion professional services in an amount not to exceed \$33,000.00.

RESOLUTION 2020-242

GOVERNOR’S COUNCIL ON ALCOHOLISM AND DRUG ABUSE FY2021 (FISCAL GRANT
CYCLE JULY 2020-JUNE 2025) AMENDING STRATEGIC PLAN OCTOBER 1, 2020 THRU JUNE
30, 2021

WHEREAS, the Governor’s Council on Alcoholism and Drug Abuse established the Municipal Alliances for the Prevention of Alcoholism and Drug Abuse in 1989 to educate and engage residents, local government and law enforcement officials, schools, nonprofit organizations, the faith community, parents, youth and other allies in efforts to prevent alcoholism and drug abuse in communities throughout New Jersey; and

WHEREAS, the Township Committee of the Township of Bordentown in the County of Burlington, State of New Jersey recognizes that the abuse of alcohol and drugs is a serious problem in our society amongst persons of all ages; and, therefore, has an established Municipal Alliance Committee; and

WHEREAS, the Township Committee further recognizes that it is incumbent upon not only public officials but upon the entire community to take action to prevent such abuses in our community; and,

WHEREAS, the Township Committee has applied for funding to the Governor’s Council on Alcoholism and Drug Abuse through the County of Burlington.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Bordentown, County of Burlington and State of New Jersey that it hereby recognizes the following:

1. The Township Committee does hereby authorize submission of an amended strategic plan for the Bordentown Alliance known as (BRAD) grant for fiscal year 2021 in the amount of:

DEDR	\$ 3,791.00
Cash Match	\$ 947.75
In-Kind	\$ 2,843.25

2. The Township Committee acknowledges the terms and conditions for administering the Municipal Alliance grant, including the administrative compliance and audit requirements.

RESOLUTION #2020-243

AUTHORIZING REFUND OF OVERPAYMENT OF TAXES

BE IT RESOLVED, by the Township Committee of the Township of Bordentown that, as requested by the Tax Collector, it hereby authorizes a refund of overpayment of 2020 taxes in the amount of \$1,522.00 to CIPRIANO, MICHAEL for Block 39 Lot 7.01 commonly known as 15 GROVEVILLE ROAD.

10/13/20

JCE

RESOLUTION #2020-244

AUTHORIZING REFUND OF OVERPAYMENT OF PERMIT FEES

BE IT RESOLVED, by the Township Committee of the Township of Bordentown that, as requested by the Chief Financial Officer, it hereby authorizes a refund of overpayment of permit fees in the amount of \$369.00 to GARY KUBIAK & SON ELECTRIC CO.

10/13/20

JCE

RESOLUTION #2020-245

RESOLUTION AUTHORIZING THE PURCHASE OF PLAYGROUND AND PARK SITE AMENITIES FOR TERRY FIELD

WHEREAS, the Township Committee desires to continue to make improvements to Terry Field by installing a tot lot and park equipment such as tables, benches and grills ; and

WHEREAS, MRC Inc. has been awarded New Jersey State Contract #16-FLEET-00121; and

WHEREAS, the Township Committee of the Township of Bordentown has determined that MRC Inc. will best fulfill the needs of the Township at a price of \$82,907.03; and

WHEREAS, this is to certify to the Township Committee of the Township of Bordentown that funds for this resolution are available as follows:

BUDGET ACCOUNT	YEAR	COST	DETAIL
C-04-99-300-000	CAPITAL	\$60,765.32	Playground Equipment
C-04-99-300-000	CAPITAL	\$22,141.71	Park Site Amenities

JEFFREY C. ELSASSER
CMFO/CTC/PURCHASING AGENT

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Bordentown as follows:

The Township Administrator is hereby authorized to approve and forward a purchase order to MRC Inc. of PO Box 106, Spring Lake, NJ 07762, for the purpose of playground equipment and park site amenities for Terry Field in the amount of \$82,907.03

RESOLUTION #2020-246

A RESOLUTION TO CANCEL TAXES

WHEREAS, the properties identified below, were purchased by the Township of Bordentown; and

WHEREAS, as a political subdivision of the State of New Jersey, the Township is exempt from local property taxes.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Bordentown that the following taxes are hereby cancelled for the reason set forth above

Block 66 Lot 12.02	2020	\$1,964.43
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BE IT RESOLVED FURTHER, that a copy of this Resolution be forwarded to the Bordentown Regional School Board to advise them of the action taken by the Township Committee.

RESOLUTION #2020-247

**RELEASE OF TEMPORARY CERTIFICATE OF OCCUPACY BOND FOR
TEAM CAMPUS PHASE II
K.Johnson Enterprises
115 Route 130 South
BLOCK: 58 LOT: 36.02**

WHEREAS, K.Johnson Enterprises was the developer of a certain property within the Township of Bordentown which has been granted a temporary certificate of occupancy and is no longer the owner of record for the above captioned address and block and lot, known as Team Campus Phase II; and

WHEREAS, K.Johnson Enterprises provided a Temporary Certificate of Occupancy guarantee in the form cash bond the amount of \$47,016.00 on February 12, 2020; and

WHEREAS, K.Johnson Enterprises has notified the Township in writing and in accordance with the procedures set forth in the Municipal Land Use Law (MLUL), N.J.S.A. 40:55D-53.d, that the required improvements have been completed which are the subject matter of the aforementioned guarantee, that they are no longer the owner of record and has requested a release of said cash bond; and

WHEREAS, the Township Engineer has inspected all the improvements, filed his written report with the Township, and has recommended that the Township Committee approve the release of the bond; and

WHEREAS, the Township Committee has reviewed said request and desires to act favorably with respect to the recommendations in accordance with N.J.S.A. 40:55D-53.d.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Bordentown, in the County of Burlington and State of New Jersey, that:

1. The release of the cash bond in the amount of \$47,016.00 for Team Campus Phase II is approved.
2. The Township Clerk shall forward a certified copy of this resolution to: K.Johnson Enterprises c/o David P. Silber, 9500 K. Johnson Boulevard, Bordentown, NJ 08505.

RESOLUTION #2020-248

**REDUCTION OF PERFORMANCE GUARANTEE FOR
TEAM CAMPUS PHASE II
K.Johnson Enterprises
115 Route 130 South
BLOCK: 58 LOT: 36.02**

WHEREAS, K. Johnson Enterprises is the developer of a project within the Township of Bordentown and has been granted preliminary approval and final approval of development plans for the Block 58 Lot 36.02 on the Bordentown Township Tax Map, subject to certain terms and conditions, including, but not limited to, the filing of Third Party Performance Guarantees which guarantee the satisfactory installation of certain site improvements; and

WHEREAS, K. Johnson Enterprises originally provided performance guarantees, in the form of a 90% Bond in the amount of \$225,644.40 and a 10% cash guarantee in the amount of \$25,071.60; and

WHEREAS, K. Johnson Enterprises has notified the Township in writing and in accordance with the procedures set forth in N.J.S.A. 40:55D-53 that the required improvements have been partially completed which are the subject matter of the aforementioned guarantee, and has requested a reduction of said performance guarantee; and

WHEREAS, the Township's Engineer Consultant, Frederick J. Turek, P.E., has inspected all the improvements of which notice has been given and has filed a report dated October 6, 2020 with the Acting Director of Community Development and has recommended that the Township Committee approve the reduction of the performance guarantee to \$88,264.50 (total), in the form of a 90% Bond or LOC in the amount of \$79,438.05, and 10% Cash in the amount of \$8,826.45, and

WHEREAS, the Township Committee has reviewed said request and report and desires to act favorably with respect to the Engineer's recommendations in accordance with N.J.S.A. 40:55D-53.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Bordentown, in the County of Burlington and State of New Jersey, as follows:

1. That the Township Committee, for the aforementioned reasons, hereby approves reduction in the performance guarantee for K. Johnson Enterprises; and
2. The Township shall release the current bond guarantee upon receipt of a revised 90% Bond or LOC in the amount of \$79,438.05, subject to acceptance of the Township Attorney.
3. The Township CFO shall refund the difference between the original 10% cash guarantee and the reduced 10% cash guarantee amount, being the amount of \$16,245.15 from account no. 985401.
4. The Township Clerk shall forward a certified copy of this resolution to: K. Johnson Enterprises, c/o David P. Silber, 9500 K. Johnson Boulevard, Bordentown, NJ 08505.

RESOLUTION #2020-249

**RELEASE OF PERFORMANCE GUARANTEE FOR
BORDENTOWN WATERFRONT COMMUNITY
Rivergate Boulevard Municipal Right of Way
BLOCK: 140 LOTS: 5-8**

WHEREAS, Bordentown Waterfront Community was the developer of a project within the Township of Bordentown and is no longer the property owner; and

WHEREAS, Bordentown Waterfront Community originally provided performance guarantees, in the form of a 90% Bond in the amount of \$215,367.12 and a 10% cash guarantee in the amount of \$23,929 and

WHEREAS, Bordentown Waterfront Community previously notified the Township in writing and in accordance with the procedures set forth in N.J.S.A. 40:55D-53 that the required improvements have been partially completed which are the subject matter of the aforementioned guarantee requesting a reduction of said performance guarantee; and

WHEREAS, the requested reduction was granted by the Township Committee of the Township of Bordentown via Resolution #2018-43-10; and

WHEREAS, the Township's Engineer, Turek Consulting LLC, has inspected all the improvements and recommends that the Township Committee fully release the performance guarantee, and

WHEREAS, the Township Committee desires to act favorably with respect to the Engineer's recommendations in accordance with N.J.S.A. 40:55D-53.

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Bordentown, in the County of Burlington and State of New Jersey, as follows:

1. That the Township Committee, for the aforementioned reasons, hereby approves the full release of the performance guarantee for Bordentown Waterfront Community; and
2. The Township Clerk shall forward a certified copy of this resolution to: Bordentown Waterfront Community, c/o Jeffrey Albert, 19 Longview Drive, Princeton, NJ 08540.

RESOLUTION #2020-250

RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF BORDENTOWN,
COUNTY OF BURLINGTON, STATE OF NEW JERSEY APPROVING AN AMENDED
AFFORDABLE HOUSING SPENDING PLAN

WHEREAS, on June 26, 2017 and June 11, 2019 the Township of Bordentown (“Township”) signed a settlement agreement and an amended settlement agreement (respectively) with Fair Share Housing Center (“FSHC”), which established the Township’s fair share obligation and preliminarily approved the Township’s compliance mechanisms in accordance with the March 10, 2015 decision of the Supreme Court, which transferred responsibility to review and approve housing elements and fair share plans from the Council on Affordable Housing (“COAH”) to designated Mount Laurel trial judges within the Superior Court; and

WHEREAS, pursuant to the settlement agreement and amended settlement agreement with FSHC, the Township must implement a Spending Plan in accordance with N.J.A.C. 5:93-5.1, et. seq.; and

WHEREAS, the Township prepared a Spending Plan consistent with P.L.2008, c.46 COAH regulations and the settlement agreements entered into between the Township and FSHC; and

WHEREAS, on August 12, 2019 the Township adopted Resolution 2019-222 approving the Affordable Housing Spending Plan, dated August 2, 2019; and

WHEREAS, on December 10, 2019, the Township received a Conditional Judgment of Compliance and Repose from the Court subject to conditions, one of which being an amendment to the Township’s Affordable Housing Spending Plan; and

WHEREAS, on August 10, 2020 the Township adopted Resolution 2020-194 approving an Affordable Housing Spending Plan, dated August 4, 2020 (“August 2020 Spending Plan”); and

WHEREAS, the Township has determined to amend the August 2020 Spending Plan to provide for reimbursement of the Township’s bonds for its prior affordable housing activity associated with temporary infrastructure for the VOA-1 affordable development, pursuant to N.J.S.A. 5:97-8.7(a)(12) and based on a consent order entered by the Honorable Jeanne T. Covert A.J.S.C., dated June 20, 2020; and

WHEREAS, the Township desires to submit this Amended Spending Plan to the Court in connection with the Compliance Action for its review and approval.

NOW THEREFORE BE IT RESOLVED, the by the Governing Body of Bordentown Township, County of Burlington, State of New Jersey:

1. That it hereby approves the Amended Spending Plan that is attached hereto as Exhibit A; and
2. That it authorizes its professionals to seek Court approval of the 2020 Amended Spending Plan, if necessary.

RESOLUTION #2020-251

APPROVING ROUTINE BUSINESS: PAYMENT OF BILLS

BE IT RESOLVED by the Township Committee of the Township of Bordentown that all of the bills listed to be paid on the list dated October 13, 2020, as submitted by the Office of Treasurer are hereby approved for payment and the Office of the Treasurer is directed to pay the same.

TOWN OF BORDENTOWN

ORDINANCE NO. 2020-21

AN ORDINANCE GRANTING A FIVE YEAR TAX EXEMPTION AND ABATEMENT OF LOCAL REAL ESTATE TAXES PURSUANT TO N.J.S.A. 40A:21-1 ET SEQ. TO LBA RVI-COMPANY XXXI-B, LLC, FOR THE REAL PROPERTY LOCATED AT BLOCK 137.02, LOT 6 C003 AND AUTHORIZING THE EXECUTION OF A FINANCIAL AGREEMENT WITH LBA RVI-COMPANY XXXI-B, LLC, FOR BLOCK 137.02, LOT 6.03, QUALIFIER C.003

WHEREAS, the Five Year Exemption and Abatement Law, N.J.S.A. 40A:21-1 et seq. (the “Act”) enables municipalities to temporarily abate local property taxes imposed upon eligible dwellings, commercial and industrial structures; and

WHEREAS, pursuant to the Act, the Township adopted Ordinance 2020-20 which authorized, in part, a program to attract private investment and ratable growth within industrial areas via a program of tax abatement and exemption; and

WHEREAS, by Resolution 2018-295-15, adopted October 22, 2018, the Township designated certain real properties to be areas in need of rehabilitation pursuant to the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.; and

WHEREAS, conditions within the Township remain a concern with a persistent need to stimulate ratable growth within the Township’s industrial and commercial areas, in competition with other municipalities, both within and outside the State of New Jersey; and

WHEREAS, LBA RVI-Company XXXI-B, LLC (“Property Owner”) having an address at 3347 Michelson Drive, Suite 200, Irvine CA 92612 is the owner of certain real property within the Township located within the area designated as an area in need of rehabilitation commonly known as Block 137.02, Lot 6.03, Qualifier C.003, on the Township of Bordentown Tax Map (the “Property”); and

WHEREAS, the Property Owner is proposing to construct on the Property an approximately 170,007 square warehouse distribution facility along with all related improvements (the “Project”); and

WHEREAS, the Property Owner timely filed an application with the Township requesting a five (5) year tax exemption and abatement of local real property taxes in connection with the Project; and

WHEREAS, the Property Owner submitted the required application materials and application fee pursuant to N.J.S.A. 40A:21-9 and Township Ordinance 2020-20; and

WHEREAS, having reviewed the Property Owner’s application and submission materials, the Township is satisfied that the Project to be constructed by the Property Owner satisfies the requirements to qualify for a five (5) year tax exemption and abatement pursuant to N.J.S.A. 40A:20-21 et seq. and Township Ordinance 2020-20;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by the Township Committee of the Township of Bordentown that:

1. Pursuant to the Laws of the State of New Jersey, N.J.S.A. 40A:21-1 et seq. and Township Ordinance 2020-20, the Township Committee of the Township of Bordentown hereby approves the Application of LBA RVI-Company XXXI-B, LLC for a five (5) year tax

exemption and abatement for its Project to be constructed on Block 137.02, Lot 6.03, Qualifier C.003, provided, however that absent additional future action, the tax exemption and abatement will lapse if the Township does not issue a temporary or permanent certificate of occupancy for the Project on or before the fifth anniversary of the effective date of the associated Agreement for Payment in Lieu of Taxes (“Financial Agreement”).

2. The Committee hereby authorizes a Financial Agreement in a form approved by the Township Attorney and Township Administrator to be entered into between LBA RVI-Company XXXI-B, LLC and the Township authorizing the tax exemption and abatement and setting forth the obligations of the respective parties and payment schedule for the Property Owner’s payment in lieu of taxes.
3. The Mayor, on behalf of the Township, is hereby authorized to execute, and the Township Clerk to attest and affix the seal of the Township to the Financial Agreement.
4. The Township Clerk shall maintain a copy of the Application and executed Financial Agreement on file in the Township Clerk’s Office, and shall forward a copy of the executed Financial Agreement to the Director of the Division of Local Government Services in the Department of Community Affairs within thirty (30) days of full execution of the Financial Agreement.
5. The tax exemption and abatement shall commence on the date of issuance of a temporary certificate of occupancy or permanent certificate of occupancy, whichever is issued first, for the improvements and expire five (5) years thereafter.
6. The Property shall be subject to the total tax levy as more fully set forth in the Financial Agreement.
7. The Township Tax Assessor and Township Tax Collector are hereby authorized to take any and all necessary actions granted under law to implement the provisions of this Ordinance.
8. The Property Owner shall provide to the Township all required information concerning construction costs and any other relevant information requested by the Township Tax Assessor or Tax Collector.
9. The Property Owner, or any subsequent owner of the Property, shall notify the Township in writing pursuant to the notice provisions of the Financial Agreement, of any alternation and/or improvements made to the Property that were not specifically approved by the Financial Agreement as qualifying for a five (5) year tax exemption and abatement. Such notice shall include a description of the alterations and/or improvements, a copy of any permits issued for the alterations and/or improvements, and the total cost of said alterations and improvements.
10. In the event that alterations and/or improvements are made to the Property pursuant to Paragraph 9 immediately above, the additional costs shall be added to the initial cost of the development as set forth in the Application and included in the payment in lieu of taxes calculated in accordance with the terms of the Financial Agreement.
11. Fraud or misrepresentation of material facts surrounding the Application and related documents thereto shall be grounds to rescind the Financial Agreement *ab initio*.

BE IT FURTHER ORDAINED that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the

section, paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

BE IT FURTHER ORDAINED, any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

BE IT FURTHER ORDAINED, this Ordinance shall take effect upon passage.

**THE TOWNSHIP OF BORDENTOWN IN THE
COUNTY OF BURLINGTON, NEW JERSEY**

INTRODUCED: October 13, 2020

ADOPTED: