ORDINANCE #15-12

FOR THE CREATION OF AN ESCROW FUND PERTAINING TO NEGOTIATION AND PREPARATION OF DOCUMENTS FOR IMPLEMENTATION OF A REDEVELOPMENT PLAN FOR AN AREA DESIGNATED AS AN AREA IN NEED OF REDEVELOPMENT OR REHABILITATION

WHEREAS, the governing body of the Borough of Keyport is the redevelopment entity designated to proceed with the redevelopment of an area designated as an area in need of redevelopment or rehabilitation in accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. ("Redevelopment Law");

WHEREAS, as the redevelopment entity, the governing body has, upon the adoption of a redevelopment plan, certain powers and authority under the Redevelopment Law, including, but not limited to the power to prepare or arrange by contract for the provision of professional services and the preparation of plans by registered architects, licensed professional engineers or planners, or other consultants for carrying out redevelopment projects;

WHEREAS, under the Redevelopment Law, the governing body, upon the adoption of a redevelopment plan, is further empowered to do all things necessary or convenient to carry out its powers including without limitation the negotiation and preparation of a redevelopment agreement and contract of sale with a prospective or redeveloper (collectively "the Services");

WHEREAS, there may be instances where the governing body requires financial assistance to engage and have performed the professional services incidental to contracting for the Services; and

WHEREAS, the governing body desires to establish a procedure by which a prospective or designated redeveloper ("Depositor") can provide sufficient funds to be placed in escrow to cover the costs associated with the Services, the funds for which are otherwise unavailable to the governing body.

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:

1. Whenever it shall be necessary or convenient to carry out its powers under the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. ("the Redevelopment Law"), the governing body shall be empowered to establish an escrow account to fund the Services in accordance with the terms and conditions herein.

2. Such an escrow account is to be funded by a party seeking the performance of the Services.

3. The amount deposited into the escrow account shall be as agreed upon by the governing body and the Depositor and may be replenished as needed or as otherwise specified by the parties.

4. Whenever an amount of money in excess of Five Thousand Dollars ($5,000) shall be deposited into an escrow account by a Depositor, the money, until released or applied to the purposes for which it is deposited, including the Depositor's portion of the interest earned thereon, except as otherwise provided in this section, shall continue to be the property of the Depositor and shall be held in trust by the governing body.

5. The governing body shall place the deposit in a banking institution or savings and loan association in this State insured by an agency of the federal government, or in any other fund or depository approved for such deposits by the State, in an account bearing interest at the minimum rate currently paid by the institution or depository on time or savings deposits. The governing body shall notify the Depositor in writing of the name and address of the institution or depository in which the deposit is made and the amount of the deposit.

6. The governing body shall not be required to refund an amount of interest paid on a deposit which does not exceed One Hundred Dollars ($100) for the year. If the amount of interest exceeds One Hundred Dollars ($100), that entire amount shall belong to the Depositor and shall be refunded to the Depositor by the governing body annually or at the time the deposit is repaid or applied to the purposes for which it was deposited, as the case may be; except that the governing body may retain for administrative expenses a sum equivalent to no more than ten percent (10%) of that entire amount, which shall be in lieu of all other administrative and custodial expenses.

7. Prior to the acceptance of any deposit monies, the governing body shall enter into a written agreement with the Depositor that, without limitation, identifies the designated redevelopment area, and contains representations that (1) the money is to be held and expended in accordance with this Ordinance, (2) the acceptance of any deposit money does not ensure or suggest that the governing body will ultimately authorize the documents or activity resulting from the performance of the Services, and (3) except in instances where the Depositor has already been designated as the redeveloper for the designated redevelopment or rehabilitation area in accordance with the Redevelopment Law, the acceptance of any deposit money does not ensure or suggest that the Depositor or any party of Depositor's choosing shall be designated as the redeveloper of the designated redevelopment or rehabilitation area. In no event shall the governing body enter into such an agreement or accept such monies prior to the designation of the subject area as an area in need of redevelopment or rehabilitation and the adoption of a redevelopment plan, both in accordance with the Redevelopment Law.

8. If any provision of this Ordinance shall be held invalid by any court of competent jurisdiction, the same shall not affect the other provisions of this Ordinance, except so far as the provision so declared invalid shall be inseparable from the remainder of any portion thereof.

9. This Ordinance shall take effect immediately upon adoption and publication according to law.

Introduction: August 7, 2012

Public Hearing and Adoption: August 21, 2012

Attest:

Valerie T. Heilweil

Valerie T. Heilweil, RMC
Municipal Clerk

Robert E. McLeod

Robert E. McLeod, Mayor