September 16, 2021

NJEDA Releases Draft Rules for NJ Aspire Program

The New Jersey Economic Development Authority (NJEDA) has released draft rules for the New Jersey Aspire Program, which is one of the many tax incentive programs overhauled by the New Jersey Economic Recovery Act of 2020, signed into law in January 2021. The Aspire Program offers tax credits to eligible redevelopment projects that have a project financing gap.

Overview of the Aspire Program

To be eligible for the Aspire Program, a development project must (i) demonstrate the need for the award in order to make the project economically feasible; (ii) demonstrate the project has a financing gap that would prevent a reasonable rate of return; (iii) be located within a designated "incentive area"; (iv) in most instances, include a developer that has an equity participation of at least 20 percent of the total cost; (v) result in a net positive economic benefit to the state (except in the case of food delivery source projects, certain healthcare projects and residential projects); and (vi) meet specific cost thresholds, depending on where the project is located. For residential projects, at least 20 percent of the residential units must be reserved for affordable housing.

There is an eligibility period of 10 years for all projects, and individual projects are capped at $42 million, with certain projects in targeted areas or using Low-Income Housing Tax Credits (LIHTC) capped at $60 million. In addition, most projects are capped at 45 percent of development costs, with certain commercial projects in targeted areas capped at 50 percent of development costs and new construction projects utilizing LIHTC capped at 60 percent of development costs. New Jersey's affirmative action and prevailing wage requirements apply to projects receiving a tax credit award, including the use of prevailing wage for building services at the site for the eligibility period.

Additionally, applicants to the Aspire Program will need to submit a letter of support from the governing body of the municipality in which the project will be located, and they will need to enter into a community benefits agreement or a redevelopment agreement with the municipality.

Transfer of Tax Credits

Those developers and businesses that are awarded Aspire Program tax credits are permitted to sell those incentives for cash. However, the tax credits cannot be sold for less than 85 percent of their value (or for less than 65 percent for certain residential projects). Certain data, such as the name of the entity buying and selling the tax credits and the amount the credits are sold for, would be published on the NJEDA website.

Transformative Projects

A transformative project includes the renovation or construction of more than 500,000 square feet of office or industrial space, more than 250,000 square feet of film production space, or (in the case of a residential project) at least 1,000 residential units. With respect to a mixed-use residential development, a transformative project must include the construction of 100,000 square feet or more of retail or commercial space, with between 250 and 600 housing units, depending on the area income levels. Such mixed-use projects can use up to 50 percent of the space for retail activities.

Transformative projects can receive tax credits for reimbursement of certain project financing gap costs up to 40 percent of the total project cost, with a cap of $350 million. Eligibility would be limited to projects that have a minimum investment of $100 million.

Public Feedback

The NJEDA is actively seeking public feedback on the proposed rules for the Aspire Program and has scheduled two public listening sessions, for Friday, September 17, at 3:00 p.m. and Monday, September 20, at 3:00 p.m. Written feedback can be provided through September 24, 2021, by submitting a form through the NJEDA website. The NJEDA expects to bring the draft rules to its board for consideration on October 13, 2021, and if approved, the rules will be published in the New Jersey Register for a 60-day public comment period.

Should you have any questions concerning the New Jersey Aspire Program or real estate matters in general, please contact the authors of this alert or any of the Day Pitney Real Estate team.

Authors



Craig M. Gianetti
Partner

Parsippany, NJ | (973) 966-8053

cgianetti@daypitney.com



Jennifer L. Solberg
Partner

Parsippany, NJ | (973) 966-8056

jsolberg@daypitney.com



Katharine A. Coffey
Partner

Parsippany, NJ | (973) 966-8323

kcoffey@daypitney.com



Luke S. Pontier
Partner

Parsippany, NJ | (973) 966-8714

lpontier@daypitney.com



Peter J. Wolfson
Partner

Parsippany, NJ | (973) 966-8298

pwolfson@daypitney.com



Thomas J. Malman
Partner

Parsippany, NJ | (973) 966-8179

tmalman@daypitney.com