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The New and Improved NJ Aspire Program

By Ted Zangari and Cecilia Lassiter

Since its launch in 2021, the NJ Aspire tax credit program ("Aspire") has not been the deal-closing fund redevelopers have so desperately needed. Until legislation revising the program was signed into law last July, Aspire was inadequate for closing or even meaningfully narrowing projected financing gaps on most potential redevelopment projects. This isn't a new challenge; redevelopers have always struggled to make the numbers work due to the unique added expenses of redevelopment not typically encountered on "greenfield" new construction projects—namely, land assemblage, environmental remediation, and structured parking costs. Adding to the challenge, local incentives, specifically, long-term tax exemptions (PILOTs), even when coupled with redevelopment area bond sale proceeds, are not usually generous enough to make the numbers work. And now, with the rising cost of labor and materials and the rapid increase in interest rates, even proposed redevelopment projects in tested, primary New Jersey cities, such as Hoboken and Jersey City, are not penciling-out.

Enter the newly revised Aspire program.

What's New

Most importantly, the award amounts have been increased to offset the costly requirements of Aspire.

The new maximum tax credit award amounts are:

1. $400,000,000 per project (irrespective of phases) for transformative projects;
2. $120,000,000 per project or phase if located in "government-restricted municipalities" ("GRM") (i.e. Paterson, Trenton, and Atlantic City);
3. $90,000,000 per project or phase if located in an enhanced area, qualified incentive tract, municipality with a Municipal Revitalization Index ("MRI") distress score of at least 50; or if a residential project utilizing Low Income Housing Tax Credits ("LIHTC"); and
4. $60,000,000 for any other project or phase.

The tax credit award is based on a percentage of eligible total project costs, not to exceed the documented project financing gap or the caps referenced above, whichever is less:

1. Up to 80% for a project located in a GRM;
2. Up to 60% for a project located in an enhanced area, qualified incentive tract, municipality with MRI distress score of at least 50; or for a residential project utilizing LIHTC; and
3. Up to 50% for any other project.

Tax credits are paid out over several years, not to exceed 10 years for predominantly residential projects.

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What is Aspire

Aspire is a financial incentive program administered by the New Jersey Economic Development Authority (“NJEDA”) that awards transferable, pledgeable state tax credits to eligible redevelopment projects. The tax credits can be used against state corporate business or insurance premium taxes.

What Projects Are Eligible?

Any redevelopment project that:

1. Is not economically feasible without the incentive award;
2. Either has a demonstrated financing gap or NJEDA determines that the project will generate a below market rate of return;
3. Is located in a qualifying incentive area; and
4. Is not yet under construction (excluding demolition and site remediation), except for a faltering or “stuck” project if NJEDA determines that it would not be completed otherwise.

What are the Key Program Requirements?

1. All Aspire applications must be submitted prior to March 1, 2029 and will be considered based on the order in which they are deemed complete (there is a limited allocation per year).
2. The developer must contribute equity equal to at least 20% of the total project cost (10% if located in a GRM).
3. The project must have a total project cost of at least:
    a. $17,500,000 if located in Newark or Jersey City;
    b. $10,000,000 if located in a municipality with a population of less than 200,000;
    c. $5,000,000 if located in a qualified incentive tract or GRM; and
    d. Transformative projects – see point nine below.
4. If the project consists of newly-constructed residential units, developer must reserve at least 20% of the units for low- and moderate-income households with affordability controls as required under the Fair Housing Act.
5. Developer must comply with minimum environmental and sustainability standards as well as affirmative action and prevailing wage requirements regarding construction work and building services. Certain projects may also be subject to a labor harmony agreement.
6. Developers of a project having total project costs at or above $10,000,000 must enter into a community benefits agreement (except for a 100% affordable housing project located in a GRM).
7. The project must be completed within four years after signing a commitment agreement with the NJEDA (eight years for a phased project).
8. Profit sharing with the state:
    a. Seven years after the first installment of tax credits has been paid out, NJEDA will evaluate developer’s rate of return on investment. If the actual rate of return exceeds the reasonable and appropriate rate of return at the time of award approval by more than 15%, developer must pay in escrow 20% of the amount in excess of reasonable and appropriate rate of return.

   b. After all tax credits have been paid out, if the actual rate of return exceeds the reasonable and appropriate rate of return at award approval by more than 15%, developer must pay 20% of excess to the state (otherwise, the escrow will be released to developer).

9. Additional program requirements for transformative projects only:
   a. Total project costs of at least $150,000,000;
   b. Minimum square footages of 200,000 square feet if in a GRM; 300,000 square feet if in an enhanced area; or 500,000 square feet if in any other location.
   c. Minimum, number of new units:
      i. 200 new units if in a GRM
      ii. 300 new units if in an enhanced area
      iii. 400 new units if a mixed-use project
      iv. 700 new units for all other residential projects (or, for a residential project containing less than 700 units, the construction of 50,000 square feet or more of commercial space.

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