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REAL ESTATE DEPARTMENT

ALERT

New Jersey Economic Stimulus Act Provides Public Capital To Spur Redevelopment Projects

On July 27, 2009, Governor Jon Corzine signed the New Jersey Economic Stimulus Act of 2009 (A-4048). In addition to other initiatives, the Stimulus Act establishes a financing mechanism for redevelopment projects known as an Economic Redevelopment Growth Grant (ERGG). This program expands both the locations and types of projects that can qualify for public financing and presents a significant opportunity for real estate developers. Below is a brief overview of the program.

What Is an ERGG?

An ERGG is an incentive grant available to developers to reimburse them for up to 20 percent of the total cost of a redevelopment project. ERGGs are issued either by the New Jersey Economic Development Authority (EDA) and State Treasurer on the state level or the local finance board on the municipal level and are funded by various designated state and local tax revenue sources.

What Is Required for a Redevelopment Project To Qualify for an ERGG?

ERGGs are available for redevelopment projects located in Planning Area 1 (metropolitan), Planning Area 2 (suburban), a transit village, a designated center under the State Development and Redevelopment Plan adopted pursuant to the "State Planning Act" and federally owned land approved for closure under a federal Base Realignment Closing Commission action. The Stimulus Act defines a redevelopment project as "a specific work or improvement, including lands, buildings, improvements, real and personal property or any interest therein, including lands under water, riparian rights, space rights and air rights, acquired, owned, developed or redeveloped, constructed, reconstructed, rehabilitated or improved, undertaken by a developer within a project area."

ERGGs are intended to provide financing for "project financing gaps," which the Stimulus Act defines as "the part of the total redevelopment project cost, including return on investment, that remains to be financed after all other sources of capital have been accounted for, including, but not limited to, developer contributed capital, which shall not be less than 20 percent of the total project cost, and investor or financial entity capital or loans for which the developer, after making all good faith efforts to raise additional capital, certifies that additional capital cannot be raised from other sources."

What Is Involved in the ERGG Application Procedure?

An applicant will be required to certify to: (1) control of the redevelopment project site; (2) the status of required state and federal government permits and local planning and zoning board approvals; and (3) estimates of the revenue increment base and projected eligible revenues and the assumptions upon which those estimates are made. The reviewing authority will examine the redevelopment project costs, evaluate and validate the project financing gap estimated by the developer and conduct a fiscal impact analysis to ensure that the overall public assistance provided to the project will result in net benefits to the state. The reviewing authorities will use the following criteria to evaluate ERGG applications:

- The economic feasibility of the redevelopment project;

- The extent of economic and related social distress in the municipality and the area to be affected by the redevelopment project;
- The degree to which the project will advance state, regional and local development and planning strategies;
- The likelihood that the project will generate new tax revenue in an amount in excess of what is necessary to reimburse the developer for project costs incurred as provided in the redevelopment incentive grant agreement;
- The relationship of the redevelopment project to a comprehensive local development strategy, including other major projects undertaken within the municipality;
- The need for the redevelopment incentive grant agreement to the viability of the project; and
- The degree to which the redevelopment project enhances and promotes job creation and economic development.

WHAT HAPPENS ONCE AN ERGG IS AWARDED?

The EDA and the State Treasurer on the state level or the municipal governing body and local finance board on the local level shall determine whether to enter into a Redevelopment Incentive Grant Agreement (RIGA) with the developer. The Stimulus Act defines a RIGA as an agreement between the state or local authority and developer under which, in exchange for the proceeds of an incentive grant, the developer agrees to perform any work or undertaking necessary for a redevelopment project, including the clearance, development, redevelopment, construction or rehabilitation of any structure or improvement of commercial, industrial or public structures or improvements within a qualifying economic redevelopment and growth grant incentive area or a transit village. In determining whether to enter into a RIGA, the reviewing agencies must determine that the revenues to be realized from the redevelopment project will be in excess of the amount necessary to reimburse the developer for its project financing gap. RIGAs shall specify:

- The amount of the incentive grant to be awarded to the developer;
- The frequency of payments; and
- The length of time for payments (not to exceed 20 years).

The developer may pledge and assign as security for any loan any or all of its right, title and interest in and to a redevelopment incentive grant agreement upon notice and consent of the state or local authority.

Fox Rothschild has a state-wide practice with offices in Princeton, Atlantic City and Roseland.

For more information about Economic Redevelopment Growth Grants or any aspect of the New Jersey Economic Stimulus Act of 2009, please contact:

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