

**CLIENT ALERT FOR DEVELOPERS AND REDEVELOPERS  
OCTOBER 26, 2012**

**THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY  
HAS BEGUN ITS  
COMPETITIVE SOLICITATION PROCESS  
FOR THE  
RESIDENTIAL URBAN TRANSIT HUB TAX CREDIT PROGRAM**

Following suspension of the residential and mixed-use components of the NJEDA's Urban Transit Hub Tax Credit (UTHTC) program last February, the NJEDA yesterday issued a solicitation for applications for the remaining \$100 million currently allocated to the residential program.

This Client Alert focuses on the features of that solicitation rather than on the general provisions of the UTHTC program. For full information on the UTHTC Program and the solicitation, please contact Anthony R. Coscia or Charles B. Liebling at Windels Marx Lane & Mittendorf, LLP (see Contact Information at the end of this Client Alert).

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**WHEN:** NOW through Thursday, December 20<sup>th</sup> at 3 pm EST

**WHAT:** The New Jersey Economic Development Authority (EDA) will be accepting competitive submissions for the award of up to \$100 million of Urban Transit Hub Tax Credits ("UTHTCs") to support residential projects and residential projects with mixed use components in Camden, East Orange, Elizabeth, Hoboken, Jersey City, Newark, New Brunswick, Paterson and Trenton.

**LIMITS:** UTHTCs will be available for up to 35% of the total qualified capital investment per project with a maximum of \$33 million, whichever is less.

The EDA will award no more than 2 projects in each of the above cities.

**MILESTONE**

**DATES:**

**November 16<sup>th</sup> 2pm** Mandatory Pre-Submission Conference which must be attended by a representative of any developer who intends to make a submission.

December 13 <sup>th</sup> 5pm	Q&A Period Ends
December 20 <sup>th</sup> 3pm	All submissions must be delivered to the EDA prior to 3pm.
April 9 <sup>th</sup> , 2013	Anticipated date of awards by EDA Board
April 25 <sup>th</sup> , 2013	Expiration of the Gubernatorial Veto Period

**PROGRAM  
ELIGIBILITY:**

In order to be eligible for UTHTC under this solicitation, all of the following requirements must be met:

**Qualified Residential Projects:**

Projects must meet the eligibility requirements for a “qualified residential project” and “qualified residential project that is part of a mixed use project”. “Qualified residential project” means any building, complex of buildings or structural components, consisting predominantly of residential units, located in an urban transit hub within an eligible municipality. If only a portion of parking is devoted to project residents, then only the pro rata cost of parking construction associated with parking for residents must be attributed to the residential project cost.

**Capital Investment:**

There must be a minimum of \$50 million “capital investment” into the project and, for mixed use projects, at least \$17.5 million “capital investment” in the residential component of the project.

Projects previously approved under the UTHTC Program as a “qualified business facility” that are part of a mixed use project may utilize capital investment costs of the prior approval to satisfy the \$50 million requirement provided they satisfy the \$17.5 million requirement for the residential component.

The capital investment must be made or acquired in the project by July 28, 2017.

**Financing Gap:**

There must be a financing gap in the project as calculated by the EDA's policies and practices of comparing the project's IRR to market conditions.

**Affordable Housing Standards:**

The project must meet the UTHTC Program's requirements, i.e., include the percentage of affordable units as established by the municipality in which the project is located.

**Green Building:**

The project must meet the current Green Building Practice Requirements as provided on the EDA's website, with an architect's certification to be included in the submission.

**Site Control:**

The applicant must document control of the development site as part of the submission.

**Financing Commitments:**

All funding must be committed at the time of application submission and evidenced by copies of fully-executed, current financial commitments for all sources including equity. The commitments must state the amount, term, interest rate and any other terms and conditions. Financial commitments must be kept current during the review period. If the proceeds of the sale of UTHTCs are part of the funding, then a funding commitment must be provided by the UTHTC transfer buyer.

**Developer Equity:**

The entity providing equity to the project must have liquid funding, access to capital, and/or contributing property to the project in an amount equal to or greater than the amount of equity committed to the project.

**Market Feasibility:**

The developer must submit a market feasibility study and submit a Project Operating Proforma in a form established by the EDA.

**City Approval:**

At the time of submission, the project must have preliminary site plan approval and a letter of support signed by the mayor of the eligible city, indicating that the project is a priority for the city.

**Developer Capacity:**

The developer must have (1) at least 3 years of experience in real estate development, (2) completed or in the process of completing at least 2 projects in the last 10 years of similar scope and size as the one proposed, (3) a portfolio of assets with leverage of no more than 70%, (4) a portfolio of assets with a debt service coverage ratio of 1.15 or greater; (5) key members of the development team must have at least 3 years of experience, and (6) the project manager must have at least 5 years experience in real estate development, completed 2 projects in the last 10 years of similar scope and size.

**Other Public Funding:**

If the developer is interested in applying for ERG, RAB, or other EDA assistance for the project, the EDA strongly encourages the developer to apply for that assistance at the same time as responding to the solicitation. The developer CANNOT obtain a BRRAG, a BEIP or Economic Recovery Board incentives for the same project.

The award of UTHTCs will be reduced such that no more than 50% of the project cost is funded by a combination of public funding from NJ (including UTHTC's) and the Federal Government.

**SCORING CRITERIA:**

In a departure from past practice, the NJEDA will not review applications on a rolling basis, but will review all submissions received and score them as described below:

Projects that meet the eligibility requirements will be scored based upon the criteria established by the EDA and summarized below:

- Timeliness of Project: 20%

Projects that can start within 12 months of December 20, 2012 will receive higher scoring. Project start is the date that installation of the foundation begins.

- Mixed Use Incorporation: 20%

Greater percentages of commercial use incorporation subject to the limitations of the definition of a qualified residential project that is part of a mixed use project will receive higher scoring.

- Location: 15%

Projects located in or abutting a 2012 Low or Moderate Income Census Tract will receive higher scoring

- Renovation: 15%  
Projects involving renovation and/or adaptive reuse of an existing structure will receive higher scoring
- Part of Redevelopment Plan: 10%  
Projects located in an area in need of redevelopment or rehabilitation will receive higher scoring
- Developer Capacity: 10%  
Developers of projects meeting greater numbers of the Developer Capacity standards will receive higher scoring
- Amount of Equity: 5%  
Projects with greater percentages of equity contribution will receive higher scoring
- Leverage of Private Funding to Government Funding: 5%  
Projects with higher ratios of private funding to public funding will receive higher scoring

#### **SELECTION PROCESS:**

**Technical Review:** A team of technical reviewers composed of EDA staff will review the submission for completeness. EDA will contact the developer for missing or incomplete information. If the information is not provided within the time period allotted, the submission will be deemed non-responsive and not evaluated.

**Eligibility Review:** The same staff team will review whether the projects meet the eligibility requirements. Staff will perform a site visit and may request clarification from the developer. No new information or revised information can be submitted.

**Scoring Review:** The same staff team will review the scoring criteria

**Evaluation Committee:**  
The results of the above reviews will be submitted to the Committee which will make the eligibility determination, and then score and rank the projects from highest to lowest. If there are more than two projects for a city, the Committee will select the two highest ranking projects for each city.

Of the remaining projects, the Committee shall allocate an amount of UTHTC to each project starting with the highest ranking project. If there are non-allocated UTHTCs remaining in a lesser amount than the eligible amount for the next highest ranked

project, the EDA has discretion to contact the developer to determine interest in receiving a lesser amount.

The allocation recommendations will be presented to the Incentives Committee and then to the full Board.

**APPEALS:** A developer may appeal the decision not to award or the amount of the award.

**FOR MORE PROGRAM INFORMATION, PLEASE CONTACT  
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