



Economic Redevelopment and Growth (ERG) Program 2021 Residential Extension Clarification Document

Purpose of this document

The New Jersey Economic Recovery Act of 2020 (“ERA”) was signed by Governor Phil Murphy on January 7, 2021 to address the ongoing economic impacts of the COVID-19 pandemic and build a stronger, fairer New Jersey economy. Included in the ERA was the availability of \$50 million new Residential Economic Redevelopment and Growth (ERG) tax credits for applications received prior to December 31st, 2021.

This document will serve to provide guidance on the application process to make use of these newly available Residential ERG tax credits and additional obligations to the program added through the ERA.

This document is not a comprehensive explanation of the requirements in the statute, regulations, or the application. All interested applicants must review the statute, regulations, and the application.

A courtesy copy of the existing regulations can be found [here](#), the current ERG statute as modified by the ERA can be found [here](#), and further information can be found [here](#) on the NJEDA website.

Background on the New Jersey Economic Recovery Act of 2020

Governor Phil Murphy signed the New Jersey Economic Recovery Act of 2020 into law on January 7, 2021. A courtesy copy of this act can be found by clicking [here](#). The ERA creates a package of tax incentive, financing, and grant programs that will address the ongoing economic impacts of the COVID-19 pandemic and build a stronger, fairer New Jersey economy.

Programs created in the law include:

- Tax credits to incentivize job creation and capital investment;
- Investment tools to support and strengthen New Jersey’s innovation economy;
- Tax credits to strengthen New Jersey’s communities including revitalization of brownfields and preservation of historic properties;
- Financial resources for small businesses, including those impacted by the COVID-19 pandemic;
- Support for new supermarkets and healthy food retailers in food desert communities;
- Additional tax credits for film and digital media.

The New Jersey Economic Development Authority’s (“NJEDA”) Economic Recovery Act website (www.njeda.com/economicrecoveryact) allows members of the public to learn more about the programs included in the ERA and provide input on how the NJEDA will operationalize various aspects of its new incentive programs. The site also allows members of the public to share their thoughts on how the NJEDA can make the programs more transparent.

Residential ERG Program Description

The Residential Economic Redevelopment and Growth Program is an incentive for developers and businesses to address revenue gaps in development projects. It can also apply to projects that have a below market development margin or rate of return. This subsidy is not meant to be a substitute for conventional debt and equity financing, and applicants should generally have the balance of their funding identified or in place before applying. Typically, private financing should be in place and soft funds such as other State grants that are planned for but not yet secured can be identified.

Among other requirements, residential projects must:

- Be located in a qualifying incentive area and have projects costs totaling \$5 million, \$10 million or \$17.5 million, depending on location
- Not have commenced any construction at the site of a proposed redevelopment project prior to submitting an application, except if the NJEDA determines that the project would not be completed otherwise, or in the event the project is to be undertaken in phases.
- Demonstrate that a project financing gap exists.
- Reserve at least 20 percent of units constructed for occupancy by low or moderate income households with affordability controls as required under the rules of the Council on Affordable Housing, unless the municipality in which the property is located has received substantive certification from the council and such a reservation is not required under the approved affordable housing plan, or the municipality has been given a judgment of repose or a judgment of compliance by the court, and such a reservation is not required under the approved affordable housing plan.

Residential ERG projects can receive tax credits of up to 30 percent of total eligible project costs, with projects in five cities -- Atlantic City, Camden, Paterson, Passaic, and Trenton – able to receive tax credits up to 40 percent of eligible project costs.

The ERG program previously stopped accepting new applications in June 2019 upon the program's sunset.

The 2020 ERG Program Extension

The new phase of the ERG program is subject to the existing ERG regulations and statutes, as amended by the ERA. This document does not impose any additional requirements.

Under the ERA, in addition to the requirements in the existing regulations, to receive an award under this extension a developer must demonstrate to the Authority at that time of application that:

- i. the project shall comply with minimum environmental and sustainability standards;
- ii. the project shall comply with the authority's affirmative action requirements, adopted pursuant to section 4 of P.L.1979, c.303 (C.34:1B-5.4);
- iii. each worker employed by the developer or subcontractor of a developer working at the project shall be paid not less than \$15 per hour or 120 percent of the minimum wage fixed under subsection a. of section 5 of P.L.1966, c.113 (C.34:11-56a4), whichever is higher; and
- iv. during the eligibility period, each worker employed to perform construction work or building services work at the project shall be paid not less than the prevailing wage rate for the worker's craft or trade, as determined by the Commissioner of Labor and Workforce Development pursuant to P.L.1963, c.150 (C.34:11-56.25 et seq.) and P.L.2005, c.379 (C.34:11-56.58 et seq.)

Prior to the NJEDA board considering an application the Department of Labor and Workforce Development, the Department of Environmental Protection, and the Department of the Treasury shall each

report to the NJEDA's Chief Executive Officer if the developer, including any party with an ownership interest of greater than ten percent in the applicant, is in substantial good standing with the respective department, or has entered into an agreement with the respective department that includes a practical corrective action plan for the developer.

The developer shall certify to the NJEDA that all factual assertions made in the developer's application are true under the penalty of perjury. If at any time the authority determines that the developer made a material misrepresentation on the developer's application, the developer shall forfeit the award of credits and the authority shall recapture any tax credits awarded to the developer.

Following approval under this extension a developer shall submit a temporary certificate of occupancy for the project no later than December 31, 2024.

Application Process

The NJEDA will begin accepting applications for this newly available funding on June 1, 2021 at 12:00pm with applications accepted prior to Dec 31, 2021 or until available funds are exhausted. All applicants will be required to submit an application via NJEDA's online application located [here](#).

Attached to this document as Exhibit A is the ERG Documentation Checklist that should be relied upon by the applicant to provide a complete application.

Clarifying questions prior to the June 1st opening of the new application window should be submitted via email to the NJEDA at ERGextension@njeda.com by May 21st and will be responded to in the form of an FAQ's section on the Authority website.

Following June 1, 2021 applications will be reviewed on a first-come-first serve basis, where only complete applications will be advanced to the underwriting process of application review.

In the event the NJEDA receives applications for Residential ERG tax credits in excess of the \$50 million allotment contained in the ERA, the first applications submitted that collectively meet or exceed the \$50 million cap will be reviewed for completeness, with each developer notified within seven to ten business-days of receipt if the application has been deemed complete. Applicants whose applications have been deemed incomplete will be given an additional ten business-days to cure any deficiencies. If at the end of the ten-day cure period, the applications are still incomplete, they will be notified the application will not be advancing and a new application would need to be submitted for further consideration.

Any other applications received will be reviewed in the order in which they were received only if any of the applications from the initial batch which did not meet or exceed the limit remain incomplete after the time to cure or subsequently if an application is found to not be eligible for an award based upon the underwriting review. As these additional applications are reviewed, they will receive the same notification of completeness within seven to ten business-days and given ten business-days to cure any deficiencies.

About the New Jersey Economic Development Authority

The New Jersey Economic Development Authority serves as the State's principal agency for driving economic growth. The NJEDA is committed to making New Jersey a national model for inclusive and sustainable economic development by focusing on key strategies to help build strong and dynamic communities, create good jobs for New Jersey residents, and provide pathways to a stronger and fairer economy. Through partnerships with a diverse range of stakeholders, the NJEDA creates and implements initiatives to enhance the economic vitality and quality of life in the State and strengthen New Jersey's long-term economic competitiveness.

To learn more about NJEDA resources for businesses call NJEDA Customer Care at 609-858-6767 or visit <https://www.njeda.com> and follow @NewJerseyEDA on [Facebook](#), [Twitter](#), [Instagram](#), and [LinkedIn](#).



ECONOMIC REDEVELOPMENT AND GROWTH PROGRAM (ERG)
Documentation Checklist

Please ensure that all required documents are included, as applicable, and a copy of the checklist is included with your submission.

| <u>Item</u> | <u>“X”</u> | <u>Comments</u> |
|--|------------|-----------------|
| 1. NJEDA Online Application | | |
| 2. Application Fee- \$5,000 (Check payable to NJEDA or credit card) | | |
| 3. Tax Clearance Certificate https://www16.state.nj.us/NJ_PREMIER_EBIZ/jsp/home.jsp | | |
| 4. Completed Development Subsidy Job Goals Accountability Act form | | |
| 5. CEO Certification | | |
| 6. Pro Forma (in Excel format), including proposed sources and uses, IRR with and without the ERG, income and expense and cash flow projections for 10 years along with assumptions utilized to produce this model. This model should be dated within 30 days of the application and include page numbers & version. | | |
| 7. Market and/or Feasibility Study for proposed use of the project site by independent 3 rd party (dated within 90 days of the application) <u>Study Must Include the following:</u> Firm’s advice and counsel regarding the marketability and underwriting of the revenue and expense components of the proposed project. The assessment should contain the following: <ol style="list-style-type: none"> 1. Findings from the inspection of the site and surrounding neighborhood 2. Research of comparable retail properties 3. Analysis of the retail trade area demand 4. Consideration of general market factors and national trends in similar neighborhoods. This report also should include: <ol style="list-style-type: none"> 1. A comprehensive overview of the potential for the retail development in the market at the site through a demand and supply analysis of the markets 2. A Determination of the demand and achievable rents for retail space in the market 3. The recommended absorption/lease-up schedule for the retail | | |

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| <p>component based on the potential market demand as well as with recognition of current and proposed competitive supply.</p> <p>The positive features of the site as well as the challenging site influences should be addressed. New retail developments in the area should be listed as well as other demand drivers such as housing/population trends, cultural and entertainment projects in the vicinity. The impact of the project to other residential and/or similar projects in the area.</p> | | |
| <p>8. Breakdown of proposed new jobs as a result of the project (job category and average salary)</p> | | |
| <p>9. Historical Financial Statements for 2 most recent fiscal year ends. Interim statements for the current year if the fiscal statement date is more than 120 days old <u>or</u> signed complete business tax returns for 3 most recent years for Applicant</p> | | |
| <p>10. For any 10% or more owner of the Applicant, a copy of the most recent tax return and personal financial statement not more than 90 days old from the date of the application</p> | | |
| <p>11. Summary of type of organization and its ownership structure. An Organizational Chart identifying owners and percentages of ownership if multiple partners. Subscription Agreements for all partners or members for investment funds contributing equity to the Project.</p> | | |
| <p>12. Company overview, background and experiences.</p> | | |
| <p>13. Schedule of Portfolio Assets</p> | | |
| <p>14. Term Sheets or Commitments from any lenders or other sources of funding to the project</p> | | |
| <p>15. Letters of Intent</p> | | |
| <p>16. Construction Schedule & Timeline</p> | | |
| <p>17. Detailed Construction Budget with breakdown of all hard and soft costs.</p> | | |
| <p>18. Construction contract and GC agreement, if available</p> | | |
| <p>19. List of other state or local grants (Copies of City Ordinance for PILOT's, Abatements and/or RAB agreements)</p> | | |
| <p>20. Support Letter from the governing body of the Municipality supporting the ERG project and its application to the EDA</p> | | |
| <p>21. Breakdown, statement and copy of Resolution for Affordability Obligation for Residential ERGs.</p> | | |
| <p>22. Copy of the purchase contract for the proposed site as well as any financing agreements associated with the purchase. Appraisal dated within 90 days of the application is required if purchase contract is</p> | | |



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| beyond 1 year from date of application. Note all non-arm's length transactions will require a full appraisal. | | |
| 23. Details of any costs incurred at the project site or pertaining to the project including date commenced, cost per category and how these costs have been funded. | | |
| 24. Identification of the amount and source of the applicant's equity in the project. Supporting bank documents for source of equity. Any Capital call letters for investment funds contributing equity to the Project. | | |
| 25. Copy of building permits, site plan approval and zoning (if issued – if not, this is a condition of closing) | | |
| 26. Detailed description of how the project will meet the required Green Building Standards https://www.njeda.com/green-building-guidance_v8-final/ | | |
| 27. Map from Mapping Tool, identify project location http://njgin.state.nj.us/OIT_BusinessMap2/ | | |

For information purposes:

ERG applications for residential projects must be submitted prior to December 31, 2021.

Project must be completed with certificate of occupancy issued by December 31, 2024.

FEES:**

- Application fee: \$5,000, which includes costs for application review and fiscal impact and financing gap review conducted by NJEDA staff.
- Full amount of direct costs of any analysis by a third party retained by the EDA
- Approval fee: 0.5% due before EDA Board Approval, for commercial projects not to exceed \$500,000, for residential projects not to exceed \$300,000. The fee shall be refunded if the Authority does not approve the incentive grant or tax credit.
- Issuance fee: 0.5%, for residential projects receiving tax credits not to exceed \$300,000 and due at the receipt of tax credit certificate and; for all others (including commercial projects) not to exceed \$500,000 and due at the execution of the incentive agreement
- Servicing Fee: only for residential projects receiving tax credits, \$2,500, due with the annual report
- Tax Credit Transfer or ERG assignment fee: \$2,500
- Modification fee: \$5,000 (minor); \$25,000 (major)
- Extension Fee: \$1,000 (delegated, first 6 months); \$2,500 (Board action, second 6 months)

**** All fees are non-refundable unless otherwise noted**