

Resolution of the New Jersey Economic Development
Authority Regarding Approval of the Construction
Inflation Fund Program

WHEREAS, the Members of the New Jersey Economic Development Authority have been presented with and considered a Memorandum and attachment, in the forms attached hereto; and

WHEREAS, the Memorandum and attachment requested the Members to adopt a resolution authorizing certain actions by the New Jersey Economic Development Authority, as outlined and explained in said Memorandum.

NOW, THEREFORE, BE IT RESOLVED by the Members of the New Jersey Economic Development Authority as follows:

1. The actions set forth in the Memorandum and attachment, attached hereto, are hereby approved, subject to any conditions set forth as such in said Memorandum.
2. The Memorandum and attachment, attached hereto, is hereby incorporated and made a part of this resolution as though set forth at length herein.
3. This resolution shall take effect immediately, but no action authorized herein shall have force and effect until 10 days, Saturdays, Sundays, and public holidays excepted, after a copy of the minutes of the Authority meeting at which this resolution was adopted has been delivered to the Governor for his approval, unless during such 10-day period the Governor shall approve the same, in which case such action shall become effective upon such approval, as provided by the Act.

DATED: December 21, 2022

EXHIBIT 5



MEMORANDUM

TO: Members of the Authority

FROM: Timothy Sullivan
Chief Executive Officer

DATE: December 21, 2022

SUBJECT: Construction Inflation Fund Pilot Program

Request:

The Members are asked to approve:

1. Authorizing the Chief Executive Officer (CEO) to enter into a Memorandum of Understanding (MOU) with the New Jersey Department of Community Affairs (DCA) whereby the Authority will accept \$10,500,000 in funds from the American Rescue Plan (ARP) Coronavirus State and Local Fiscal Recovery Funds (SLFRF) for the Construction Inflation Fund and associated administration costs, and will agree to comply with federal requirements for the use of those funds; and
2. Creation of the Construction Inflation Fund - a pilot program which will provide grant funding to eligible small businesses for real estate development projects that have experienced increased construction costs and project funding gaps resulting from the COVID-19 pandemic.

Background and Program Funding Source:

The American Rescue Plan, which was signed into law by President Joe Biden on March 11, 2021, is a \$1.9 trillion economic stimulus bill designed to rebuild and restart the American economy in the wake of the Coronavirus (COVID-19) public health emergency by investing in families, communities, and small businesses. Through the Coronavirus State and Local Fiscal Recovery Funds, the ARP delivered \$350 billion to state, local, and tribal governments to support their response to, and recovery from COVID-19.

In June 2022 the Murphy Administration and the New Jersey Legislature made \$10 million of Coronavirus State Fiscal Recovery Funds (CSFRF) available to the Authority through the State Fiscal Year 2023 appropriation act for “Gap Financing - Real Estate Projects Financing.” Accordingly, staff proposes the Construction Inflation Fund as the pilot program corresponding to these funds. The Construction Inflation Fund will assist real estate development projects that have increased construction costs and project funding gaps resulting from the COVID-19 pandemic.

As the New Jersey economy continues to rebound in the wake of COVID-19, catalytic investment is essential for supporting local economies and promoting strong, resilient, and equitable economic recoveries. To mitigate the economic impact of the COVID-19 pandemic and to catalyze projects that experienced economic harm, the Construction Inflation Fund will provide funding to allow small businesses that have impacted real estate development projects to now proceed forward with development.

If approved, the Authority will enter into a Memorandum of Understanding with the New Jersey Department of Community Affairs through which DCA will transfer and the Authority will accept \$10,00,000 of funds appropriated to the Authority for disbursement to grantees, and an additional \$500,000 to support the Authority's administrative costs associated with operating the program.

Program Overview and Eligible Projects:

The Construction Inflation Fund program (the "Fund") will be a competitive grant program that proactively deploys \$10 million in ARP SLFRF funding to address the impacts of COVID-19.

The Fund will provide funding to eligible applicants, as described below, for real estate development projects that have experienced increased construction and/or project development costs and project funding gaps resulting from the COVID-19 pandemic. The Fund is established to mitigate the negative economic impacts of the COVID-19 pandemic by providing grants for the substantial rehabilitation of real estate, new construction, and development costs.

Under federal guidelines, all program funding must be obligated by December 31, 2024, and must be expended by December 31, 2026, therefore project readiness is a key funding consideration and evidence of all other funding sources must be provided with the project application.

Eligible projects must have a COVID-19 induced funding gap evidenced by related documentation (i.e. project budget, construction contract, other contracts, etc.).

The following types of real estate projects (substantial rehabilitation and/or new construction) are eligible and will be considered for Construction Inflation Fund grants:

- Commercial (including office)
- Manufacturing
- Mixed-use developments; any residential portion must comply with the 20% reservation for low- and moderate-income households required by N.J.S.A. 52:27D-329.9(b)

Projects consisting solely of warehouse and/or retail spaces are ineligible for funding. Additionally, any warehouse use included must be ancillary and in direct support of the site's eligible primary use.

Eligible real estate development projects must be sized to have at least \$5 million of total project costs.

All projects shall be subject to prevailing wage law and compliance with other labor standards requirements.

Projects that have started construction prior to application may include expenses as eligible covered costs only if either New Jersey state prevailing wage or federal Davis-Bacon wage requirements were incorporated into the construction contract prior to construction start, and the project has been paying either prevailing wage or Davis-Bacon wage rates as applicable.

Eligible Applicants:

Eligible applicants are small businesses which are undertaking an eligible real estate project in New Jersey (as outlined above) that experienced a COVID-related funding gap.

As defined in the Coronavirus State and Local Fiscal Relief Funds final rules (31 CFR 35.3), a small business is:

a business concern or other organization that:

- 1. Has no more than 500 employees or, if applicable, the size standard in number of employees established by the Administrator of the Small Business Administration for the industry in which the business concern or organization operates, and*
- 2. Is a small business concern as defined in section 3 of the Small Business Act (15 U.S.C. 632)*

Applicants must evidence a COVID impact funding gap and need as outlined below in the application process and must agree to 50% developer fee deferral.

Additional applicant requirements:

- Must be in substantial good standing with the New Jersey Department of Labor and Workforce Development and the NJ Department of Environmental Protection at the time of application to be eligible. A current tax clearance certificate must be provided prior to approval to demonstrate the applicant is in substantial good standing with the NJ Division of Taxation, unless the applicant is not required to register with the Division of Taxation.
- Applicants will be reviewed against the Federal System for Award Management to ensure entity is not debarred.

Eligible Uses of Funding:

Funding can only be used for the approved real estate development project costs based on application, Authority review, and funding grant agreement. Grants will be used for prospective real estate development project hard and soft costs, where no more than 20% of a grant can be used to support project development soft costs.

Funding cannot be used for payment of developer fees.

Application Process:

The Construction Inflation Fund will be a competitive grant program with applications due by a set deadline. Applications must demonstrate that the project was negatively impacted by the COVID-19 pandemic. Online applications will be accepted during a defined minimum 60-day application period, and all applications will be reviewed following the closure of the application period.

As part of a program application, the Authority will request information about the project, including, but not limited to:

- 1) Project overview and description;
- 2) Narrative describing COVID-19 impact, pandemic related cost increases and comparison of the proposed project against two alternative projects/capital expenditures in conformance with SLFRF capital expenditure requirements;
- 3) Project budget, pro forma/cashflow projections, and evidence of financing;
- 4) Construction contract and related documents such as project cost breakdown comparisons, and evidence of efforts to reduce costs, such as value engineering efforts;
- 5) Narrative and documentation of local review and approvals/permits;
- 6) Project development timeline;
- 7) Applicant’s organizational documentation confirming eligibility as small business;
- 8) Experience and capacity of the applicant and development team that demonstrates implementation of projects of a similar size and scope;
- 9) Evidence or commitment of 50% developer fee deferral.

The Authority will perform a review of applications after the closing of the application period. Applications will first be reviewed for application completeness. Applicants will be given a certain number of business days to cure any deficiencies. If at the end of the cure period, the applications are still incomplete, they will be notified the application will not be advancing to be scored and will be deemed withdrawn.

At the sole discretion of the Authority, staff may ask for clarification of the information included on the application, including but not limited to responses, documentation, and attachments.

Scoring:

Applications will be reviewed and scored by staff of the Authority formed as an evaluation scoring committee. Applications will be scored on a scale of 0-104 points, with award recommendations limited to applications that meet or exceed the minimum score requirement of 65 points.

Scoring factors and points will include:

- Project proposal (community and economic growth impact and benefits of the proposed project) *(up to 25 pts)*
- Project Financial Feasibility and Cost Effectiveness *(up to 15 pts)*
- Readiness to proceed *(up to 35 pts)*
- Experience & capacity of applicant/development team *(up to 20 pts)*
- Efforts to reduce costs *(up to 5 pts)*
- Bonus points for ** *(up to 4 pts)*

*** location within low- or moderate-income community or qualified census tract (per SLFRF rules); participation by NJ certified Women, Minority, Veteran Business Enterprises (MWVBE)*

Grants Project Funding:

Minimum grant funding of \$500,000 and maximum grant funding of \$5,000,000 provided to any one project. A maximum of one grant will be awarded per real estate developer regardless of having different special purpose entities; staff will review for common management or construction responsibilities between applicants.

Grant funding may not exceed 20% of total project costs.

Grant funding to be provided based on demonstrated pandemic related cost increase and funding gap including review of construction contract wage requirements. Grant funding amounts will be determined following cost reasonableness and Duplication of Benefits review.

Board Approval:

The Construction Inflation Fund will be a competitive grant program with an application process as outlined above.

Following both the initial application completeness and eligibility review, eligible applications will be evaluated and scored on a competitive basis. Applications that meet the minimum score requirement of 65 out of a possible 104 points will be eligible for funding.

Applications will be recommended to the Board for award approval starting with the highest scored application until all program funding is awarded. If all program funds are not awarded during the initial application period, then applications will be reopened on a rolling basis and grants awarded on a first come, first served basis to eligible applicants that meet the minimum score.

All eligible applications will proceed to the Board for approvals, and all applications which have not been declined due to non-discretionary reasons will also proceed to the Board.

Funding Disbursements:

The Authority will disburse grants only to the applicant. The applicant shall be responsible for assuring the compliance of the project with all terms and conditions of the application, the Construction Inflation Fund program, and federal ARP SLFRF funding requirements.

Once a project is approved for funding, the Authority will enter into a grant agreement with the applicant detailing the project to be funded, eligible project costs, the amount of grant funding, and all financial programmatic requirements. The grant agreement will also include reporting, compliance, and other requirements per US Treasury's Compliance and Reporting Guidance for ARP SLFRF funding awards.

The grant funds will be disbursed either incrementally as eligible project expenses are incurred and prorated with other funding sources with the Authority's standard construction retainage withheld until project completion or grant funds may be disbursed in coordination with the other lender's disbursement process.

Funding disbursement requests must be evidenced by documentation supporting that the expenses were incurred, work has been performed in accordance with prevailing wage and labor standards compliance requirements, and work was done consistent with project approval and eligible uses of program funding.

Final payment to be made upon the Authority's inspection of completed project and receipt of either temporary certificate of occupancy or certificate of occupancy as determined by the Authority.

Fees:

The standard \$1,000 application fee established in the Authority's fee rules will be charged for the Construction Inflation Fund program.

Note that the Authority will receive a 5% administrative program fee of \$500,000 under guidelines established by the American Rescue Plan SLFRF Final Rules.

Recommendation:

The Members are requested to approve: (1) authorizing the Chief Executive Officer to enter into a Memorandum of Understanding with the New Jersey Department of Community Affairs whereby the Authority will accept \$10,500,000 in funds from the American Rescue Plan (ARP) Coronavirus State and Local Fiscal Recovery Funds (SLFRF) for the Construction Inflation Fund program and associated administration costs, and will agree to comply with federal requirements for the use of those funds; and (2) the creation of the Construction Inflation Fund as a pilot program which will provide grant funding to eligible small businesses for real estate development projects that have experienced increased construction costs and project funding gaps resulting from the COVID-19 pandemic.



Tim Sullivan, CEO

Prepared by: Liza Nolan

Attachments:

– Construction Inflation Fund Program Specifications

CONSTRUCTION INFLATION FUND:
Grant Pilot Program Specifications
(December 21, 2022)

Funding Source	\$10 million (federal American Rescue Plan, Coronavirus State and Local Fiscal Recovery Fund)
Program Purpose	<p>The Construction Inflation Fund is a pilot program established to provide grants for real estate development projects that have experienced increased construction costs and project funding gaps resulting from the COVID-19 pandemic.</p> <p>The Construction Inflation Fund is funded through the American Rescue Plan Act of 2021 (Public Law 117-2) Coronavirus State and Local Fiscal Recovery Funds (SLFRF) and in June 2022 the Murphy Administration and the New Jersey Legislature made \$10 million available to the Authority through the State Fiscal Year 2023 appropriation.</p> <p>The Construction Inflation Fund Program is established to mitigate the negative economic impacts of the COVID-19 pandemic by providing support to real estate development in the form of grants for real estate new construction or substantial rehabilitation projects, and development costs associated to each project.</p> <p>Grant funding will be made available for eligible real estate development projects that have experienced funding gaps due to pandemic related impacts or delays in their project schedules.</p> <p>Under federal guidelines, all program funding must be obligated by December 31, 2024, and must be expended by December 31, 2026, therefore project readiness is a key funding consideration and evidence of all other funding sources must be provided with the project application.</p>
Eligible Project Types	<p>The following types of real estate projects (substantial rehabilitation and/or new construction) are eligible and will be considered for Construction Inflation Fund grants:</p> <ul style="list-style-type: none"> ▪ Commercial (including office) ▪ Manufacturing ▪ Mixed-use developments; any residential portion must comply with the 20% reservation for low- and moderate-income households required by N.J.S.A. 52:27D-329.9(b) <p>Projects consisting solely of warehouse and/or retail spaces are ineligible for funding. Additionally, any warehouse use included must be ancillary and in direct support of the site’s eligible primary use.</p>

CONSTRUCTION INFLATION FUND:
Grant Pilot Program Specifications
(December 21, 2022)

	<p>Eligible real estate development projects must be sized to have at least \$5 million of total project costs.</p> <p>Eligible projects must have a COVID-19 induced funding gap evidenced by related documentation (i.e. project budget, construction contract, other agreements or contracts, etc.)</p> <p>All projects shall be subject to prevailing wage law and compliance with other labor standards requirements.</p> <p>Projects that have started construction prior to application may include expenses as eligible covered costs only if either New Jersey state prevailing wage or federal Davis-Bacon wage requirements were incorporated into the construction contract prior to construction start, and the project has been paying either prevailing wage or Davis-Bacon wage rates as applicable.</p>
<p>Eligible Applicants</p>	<p>Eligible applicants are small businesses which are undertaking an eligible real estate project in New Jersey (as outlined above) that experienced a COVID-related funding gap.</p> <p>As defined in the Coronavirus State and Local Fiscal Relief Funds final rules (31 CFR 35.3), a small business is:</p> <p style="padding-left: 40px;"><i>a business concern or other organization that:</i></p> <ol style="list-style-type: none"> 1. <i>Has no more than 500 employees or, if applicable, the size standard in number of employees established by the Administrator of the Small Business Administration for the industry in which the business concern or organization operates, and</i> 2. <i>Is a small business concern as defined in section 3 of the Small Business Act (15 U.S.C. 632)</i> <p>Applicants must evidence a COVID impact funding gap and need as outlined below in the application process and must agree to 50% developer fee deferral.</p> <p>Additional applicant requirements:</p> <ul style="list-style-type: none"> ▪ Must be in substantial good standing with the New Jersey Department of Labor and Workforce Development and the NJ Department of Environmental Protection at the time of application to be eligible. A current tax clearance certificate must be provided prior to approval to demonstrate the applicant is in substantial good standing with the NJ Division of Taxation, unless the applicant is not required to register with the Division of Taxation.

CONSTRUCTION INFLATION FUND:
Grant Pilot Program Specifications
(December 21, 2022)

	<ul style="list-style-type: none"> ▪ Applicants will be reviewed against the Federal System for Award Management to ensure entity is not debarred.
Eligible Uses	<p>Funding can only be used for the approved real estate development project costs based on application, Authority review, and funding grant agreement. Grants will be used for prospective real estate development project hard and soft costs, where no more than 20% of a grant can be used to support project development soft costs.</p> <p>Funding cannot be used for payment of developer fees.</p>
Application Process and Board Approval/ Delegated Authority	<p>The Construction Inflation Fund will be a competitive grant program with applications due by a set deadline. Online applications will be accepted during a defined minimum 60-day application period, and all applications will be reviewed following the closure of the application period.</p> <p>The Authority will perform a review of applications after the closing of the application period. Applications will first be reviewed for application completeness. Applicants will be given a certain number of business days to cure any deficiencies. If at the end of the cure period, the applications are still incomplete, they will be notified the application will not be advancing to be scored and will be deemed withdrawn.</p> <p>At the sole discretion of the Authority, staff may ask for clarification of the information included in the application including but not limited to responses, documentation, and attachments.</p> <p>Eligible applications will be evaluated and scored on a competitive basis. Applications that meet the minimum score requirement of 65 out of a possible 104 points will be eligible for funding.</p> <p>Applications will be recommended to the Board for award approval starting with the highest scored application until all program funding is awarded.</p> <p>If all program funds are not awarded during the initial application period, then applications will be reopened on a rolling basis.</p> <p>All eligible applications will proceed to the Board for approvals, and all applications which have not been declined due to non-discretionary reasons will also proceed to the Board.</p>

CONSTRUCTION INFLATION FUND:
Grant Pilot Program Specifications
(December 21, 2022)

<p>Application Requirements</p>	<p>Applications must demonstrate that the project was negatively impacted by the COVID-19 pandemic. Application submission requirements may include but are not limited to:</p> <ol style="list-style-type: none"> 1. Project overview and description; 2. Narrative describing COVID-19 impact, pandemic related cost increases and comparison of the proposed project against two alternative projects/capital expenditures in conformance with SLFRF capital expenditure requirements; 3. Project budget, proforma/cashflow projections, and evidence of financing; 4. Construction contract and related documents such as project cost breakdown comparisons and evidence of efforts to reduce costs such as value engineering efforts; 5. Narrative and documentation of local review and approvals/permits; 6. Project development timeline; 7. Applicant’s organizational documentation confirming eligibility as small business; 8. Experience and capacity of the applicant and development team that demonstrates implementation of projects of a similar size and scope; 9. Evidence or commitment of 50% developer fee deferral.
<p>Scoring</p>	<p>Applications will be reviewed and scored by staff of the Authority formed as an evaluation scoring committee. Applications will be scored on a scale of 0-104 points, with award recommendations limited to applications that meet or exceed the minimum score requirement of 65 points.</p> <p>Scoring factors and points will include:</p> <ul style="list-style-type: none"> ▪ Project proposal (community and economic growth impact and benefits of the proposed project) <i>(up to 25 pts)</i> ▪ Project financial feasibility and cost effectiveness <i>(up to 15 pts)</i> ▪ Readiness to proceed <i>(up to 35 pts)</i> ▪ Experience & capacity of applicant/development team <i>(up to 20 pts)</i> ▪ Efforts to reduce costs <i>(up to 5 pts)</i> ▪ Bonus points for ** <i>(up to 4 pts)</i> <p><i>** location within low- or moderate-income community or qualified census tract (per SLFRF rules); participation by NJ certified Women, Minority, Veteran Business Enterprises (MWVBE)</i></p>
<p>Grant Amounts</p>	<p>Minimum grant funding of \$500,000 and maximum grant funding of \$5,000,000 provided to any one project.</p>

CONSTRUCTION INFLATION FUND:
Grant Pilot Program Specifications
(December 21, 2022)

	<p>Grant funding may not exceed 20% of Total Project Costs.</p> <p>Grant funding to be provided based on demonstrated pandemic related cost increase and funding gap including review of construction contract wage requirements. Grant funding amounts will be determined following cost reasonableness and Duplication of Benefits review.</p> <p>A maximum of one grant will be awarded per real estate developer regardless of having different special purpose entities; staff will review for common management or construction responsibilities between applicants.</p>
<p>Funding Disbursement</p>	<p>Once a project is approved for funding, the Authority will enter into a grant agreement with the applicant detailing the project to be funded, eligible project costs, the amount of grant funding, and all financial programmatic requirements.</p> <p>The grant funds will be disbursed either incrementally as eligible project expenses are incurred and prorated with other funding sources with the Authority’s standard construction retainage withheld until project completion or grant funds may be disbursed in coordination with the other lender’s disbursement process.</p> <p>Funding disbursement requests must be evidenced by documentation supporting that the expenses were incurred, work has been performed in accordance with prevailing wage and labor standards compliance requirements, and work was done consistent with project approval and eligible uses of program funding.</p> <p>Final payment to be made upon the Authority’s inspection of completed project and receipt of either temporary certificate of occupancy or certificate of occupancy as determined by the Authority.</p>
<p>Fees</p>	<p>Application Fee: \$1,000</p>
<p>Compliance with Federal SLFRF funding requirements</p>	<p>The Grant Agreement for each project funded will include reporting, compliance, and other requirements per US Treasury’s Compliance and Reporting Guidance for ARP SLFRF funding awards.</p>