

GUIDELINES FOR MEGASITES (PHASE 2)

BACKGROUND

North Carolina has enjoyed considerable success in recent years in recruiting large economic development projects. With this success, the State has also depleted some of its best sites for projects requiring substantial land and readiness, while the competition continues to grow. Major manufacturing projects in the aerospace, automotive, clean energy, food processing, life sciences, and semiconductor industries, among others, are especially competitive and require ample site options.

To that end, the North Carolina General Assembly established a Megasites Readiness Program as part of the state's FY 2022-23 budget legislation.ⁱ The Program was amended, and substantial funding added as part of the 2023-24 budget legislation.ⁱⁱ The purposes of the program include:

1. Identification and evaluation of up to seven sites for preferred development and marketing
2. Assist local governments or a partnership of local governmentsⁱⁱⁱ in the acquisition of a megasite
3. Support local governments/partnerships in efforts to analyze, plan, install, and/or upgrade public infrastructure that would make the site more attractive and accessible to potential employers
4. Support local governments/partnerships in certain site preparation costs, such as clearing and grading
5. Assist local governments/partnerships with the costs of due diligence activities
6. Facilitate coordination of economic development agencies, the Department of Environmental Quality, and the Department of Transportation

ACTIVITIES AND PROGRESS TO DATE

In 2022-23, the General Assembly provided \$1 million for the first purpose listed above, the identification and evaluation of sites for preferred development and marketing. The law requires that the Economic Development Partnership of North Carolina (EDPNC) engage a national site selection firm through a competitive process to produce a report evaluating sites and determining the five megasites best positioned for advanced manufacturing site selection searches conducted by major employers.^{iv}

The EDPNC designed a request for proposals and broadly made the request available to qualified firms with experience representing major manufacturing projects and advising economic development agencies on site readiness across the nation. The EDPNC received over ten proposals and interviewed several bidders. EDPNC staff, statewide partners, (board members) participated in the interviews.

A team including Jones Lang LaSalle (JLL), Nexsen Pruet (now Maynard Nexsen), and Timmons Group were selected to conduct the identification and analysis. This effort resulted in a May 2023 report found [here](#). The team identified seven sites – two of which are currently marketed as megasites – as the best positioned for advanced manufacturing site selection searches. These sites are found in Edgecombe, Brunswick, Wilson, Nash, Pitt, Cumberland and Rowan counties.

The [report](#) contains detail on the scope, methodology, competitors, analysis of recent megasite announcements, and description of the sites – including some order of magnitude cost estimates.

EFFECTS OF S.L. 2023-134 (THE 2023-25 BUDGET BILL) ON THE PROGRAM

The effects of the amendments to the Megasites Readiness Program include:

- The appropriation of \$10 million for use in the 2023-24 fiscal year and \$97.8 million for use in the 2024-25 fiscal year for certain purposes of the Megasites Readiness Program
- The broadening of the number of preferred sites from five to seven
- The broadening of the uses of appropriations from assistance with land acquisition only to a broader set of uses consistent with the purposes outlined in the law
- A requirement that the Economic Investment Committee approve agreements entered into by the EDPNC (grantor) and the local government/partnership (grantee)
- A clarification that certain records pertaining to sites may be withheld from public disclosure if such disclosure would jeopardize the purpose for which the records were created, such as driving up land costs.

PROPOSED GUIDELINES FOR THE 2023-24 FISCAL YEAR

Scope of Guidelines

These guidelines apply to the funds appropriated by the General Assembly to the Megasites Readiness Fund for use by the Economic Development Partnership of North Carolina (EDPNC) for the 2023-24 state fiscal year. They are designed to provide internal direction and guidance to EDPNC officials responsible for the administration of the Fund.

Comment Period on Guidelines

These guidelines will be published on the EDPNC website and noticed to persons who have requested notice of guidelines at least 20 days before the effective date of these guidelines and any nontechnical amendments to the guidelines. EDPNC will receive oral and written comments on the proposed guidelines and may consider such comments before finalizing the guidelines during the 15 business days beginning on the day that EDPNC has completed the required notifications.^v

Eligible Applicants

There are several conditions for grants to be awarded during the 2023-24 fiscal year. These include:

- Applicant must be a local government or partnership of local governments. A partnership under this section is defined as either (1) a North Carolina nonprofit entity that is tax exempt under section 501c3 of the Internal Revenue Code in partnership with one or more local governments or (2) a group of local governments

- Applicant must be seeking a grant related to one of the megasites described in the May 2023 [report](#) that was mandated by the General Assembly as a precondition of funding the Megasites Readiness Program
- Applicant must demonstrate sufficient ownership or control over the property. Generally, this means Applicant must either a) own the property or b) have a contract or option to purchase the property. A contract to purchase may be conditioned upon receipt of a grant and site suitability. Contracts and options must be valid for sufficient length of time (generally 5 years) consistent with the purposes of the grant.

Eligible Purposes

The statute specifies that \$10 million in the 2023-24 fiscal year is to be used to support local governments or a partnership of local governments with the costs of due diligence activities (the 5th purpose listed above). These activities are defined in statute as:

“conducting due diligence, including, but not limited to, the following: site characteristics, preliminary engineering reports for water and wastewater provision to the site, assessments related to road and highway infrastructure to serve the site, and other assessments as needed.”^{vi}

Eligible due diligence expenses shall include:

- Preliminary engineering reports for water and wastewater treatment to the site
- Assessments related to road and highway infrastructure to serve the site
- Phase I environmental assessment
- Phase II environmental assessment
- Preliminary wetland and stream determination (detailed determination if appropriate)
- Threatened and endangered species report
- Historical, archeological, and cultural resource review
- Boundary survey
- Geotechnical report
- Buildable area map
- Title opinion
- Other due diligence expenses necessary to achieve certified site status under the North Carolina Certified Sites Program

Expenses that are not eligible for the 2023-24 funding cycles include, but are not limited to:

- Site acquisition
- Costs related to options to purchase/acquire land
- On-site preparation
- Installation or upgrade of public infrastructure

Grant Application and Award Process

The EDPNC anticipates the availability of an application within a reasonable amount of time following the effective date of program guidelines. The application shall be completed and submitted online.

Given the eligibility requirements, the EDPNC may choose to have more than one filing deadline for applications to allow time for potential applicants to take the steps necessary to meet the criteria. Nothing herein binds the EDPNC to more than one application deadline.

Upon receipt and verification of a complete (all required documents and attachments received) application, the EDPNC will:

- Conduct virtual and/or in-person site visits to verify and conduct further due diligence
- Evaluate the grant requests
- Recommend grant approval, partial approval, or denial to the EDPNC subcommittee on megasites
- If approved, present to the full Board of the EDPNC with an agreement that includes appropriate performance criteria, remedies, and other safeguards to ready the megasite for a major employer and recapture a proportionate amount of assistance for failure to perform
- If approved, present to the Economic Investment Committee
- If approved, provide a copy of the proposed agreement to the applicant

Evaluation Criteria

The May 2023 report provided helpful information to each eligible site on its strengths and weaknesses. For consideration for 2023-24 assistance from the Megasite Readiness Fund, the EDPNC will consider the following factors among other appropriate factors:

- Steps taken to ensure control or ownership of the property (basic eligibility requirement)
- Steps taken to build on strengths or address weaknesses identified in the report
- Economic developments occurring subsequent to the report completion (local economic development announcements, interest in the site)
- Grant developments, such as awards for public infrastructure to serve the site or workforce training facilities
- Local participation in the project/leverage

North Carolina Certified Sites Program

Applicants for sites that are not, as of October 14, 2023, currently marketed as megasites by the EDPNC shall indicate their intent to pursue the North Carolina Certified Sites designation. Completion of the [Intent to Certify Form](#) may be required if a grant is provided to the applicant for the site.

Performance Assurance

The grantee must allow the EDPNC or its agents to all records necessary to protect the state's interest in the funds and, as appropriate, to require return of funds in cases of failure to comply with the performance agreements negotiated between the parties.

Consistency

The general procedure outlined in these guidelines is intended to be applied consistently to all applicants. Significant deviations in procedure should only occur when, in the interest of discretion and consideration of particular and unusual circumstances, it is concluded in the exercise of sound discretion that the best interests of the State and the Fund will be advanced. Such deviations should be noted when they occur.

Disbursement of Funds

Funds shall be provided by the EDPNC to grantees on a reimbursement basis. Grantees should submit, on a prescribed form, an application for payment that includes an invoice/invoices and evidence of payment by the grantee. In its sole discretion, the EDPNC may make a payment to a grantee with a) an invoice due and b) evidence of financial hardship instead of a reimbursement. Payments may be made once a quarter, except in extreme circumstances.

Maximum Grant

It is expected that a maximum grant for the 2023-24 fiscal year will be \$2 million for a single grantee.

Other Considerations

To the extent the General Assembly's allocation of moneys to the Fund directs a use or process different than those set out in these guidelines, the General Assembly's direction controls and supersedes these guidelines.

All grants are subject to the availability of funds. Nothing in these guidelines shall be construed to create any right to funds by any entity. Nor shall these guidelines be deemed to be a contract between any applicant or third party and EDPNC.

ⁱ <https://www.ncleg.gov/Sessions/2021/Bills/House/PDF/H103v5.pdf>, Section 11.11, pp. 120-122.

ⁱⁱ <https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf>, Section 11.11, pp. 344-346.

ⁱⁱⁱ A partnership under this section is defined as "either (1) a North Carolina nonprofit entity that is tax exempt under section 501c3 of the Internal Revenue Code in partnership with one or more local governments or (2) a group of local governments (S.L. 2002-74, Section 11.11(c)(4))

^{iv} See S.L. 2022-74, Section 11.11(d)(1)

^v S.L. 2022-74, Section 11.11(h)

^{vi} S.L. 2023-134, Section 11.11(a)(4a)