

## **PROPOSED GUIDELINES FOR MEGASITE READINESS PROGRAM PHASE III**

### ***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 (“Program”) as part of the state’s FY 2022-23 budget legislation.<sup>i</sup> The Program was amended, and substantial funding added as part of the 2023-24 budget legislation.<sup>ii</sup> 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 governments<sup>iii</sup> 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.<sup>iv</sup>

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 (“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 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 PROGRAM FOR GRANTS AWARDED ON OR AFTER JULY 1, 2024***

The language above was to provide background and general information. The language in this section and following are the actual Guidelines (“Guidelines”) themselves.

#### *Scope of Guidelines*

These Guidelines apply to the funds appropriated by the General Assembly to the Megasites Readiness Fund (“Fund”) for use by the Economic Development Partnership of North Carolina (EDPNC) for the 2024-25 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 the 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 shall, in its discretion, consider such comments before finalizing the Guidelines during the 15 business days beginning on the day that EDPNC has completed the required notifications.<sup>v</sup> While the funds will not be available until after July 1, 2024, these Guidelines will be in effect when noticed on the EDPNC webpage as final after the comment period so that potential Applicants can be prepared to apply and act in a timely manner.

The EDPNC further notes that the General Assembly may enact changes to the Program which may necessitate revisions to these Guidelines. If changes are enacted, the EDPNC would amend the Guidelines subject to the required period for public comment.

### *Eligible Applicants*

There are several conditions for grants to be awarded from funds appropriated to the Program.<sup>vi</sup> These include:

- An application provided by the EDPNC for the Program must be completed by an Applicant (“Applicant”)
- Applicant must be a local government or government partnership. A government partnership under these Guidelines 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 a Megasite (“Megasite”) as defined by S.L. 2022-71, 11.11(c)(5) as amended by S.L. 2023-134.
- Applicant must either a) own the property or b) have a sales contract or option agreement to purchase the property. An option on the property must be valid for at least five years after a grant award is made, unless there is a verifiable competitive economic development project that seeks to make a decision to expand or locate to the Applicant’s site immediately.
- Applicant must demonstrate that the property is zoned or rezoned as suitable for economic development.

### *Eligible Purposes*

Applicants must demonstrate and certify that Funds will be used for one or more of the following purposes:

1. The acquisition of a Megasite
2. The analysis, planning, installation, or upgrading of public infrastructure, including publicly owned water, gas, and sewer systems, transportation infrastructure, and the electrical utility lines necessary to meet the needs of prospective employers
3. On-site preparation, including clearing, grading, or other related expenses for Megasites
4. Due diligence costs

**Applicants may request funding for each of the eligible purposes in a single grant application.**

### ***Purpose 1: Site Acquisition***

#### *Eligibility for Site Acquisition Funds*

The Program may provide funds for acquisition of a site by the Applicant.

In order to receive any funding from this program for site acquisition, the Applicant must:

- Have a binding option or offer to purchase
- Have completed all basic due diligence, including, but not limited to, boundary surveys, title searches, State Historic Preservation Office reviews, and wetlands delineation<sup>vii</sup>
- Demonstrate the funds available and willingness to pay for the balance of the acquisition cost of the Megasite<sup>viii</sup>

The maximum amount that will be awarded for this purpose is the lesser of 85 percent of:

1. The purchase price of the property, or
2. The tax value of the property

***Purpose 2: Public Infrastructure***

The Program may also provide grant monies for publicly owned infrastructure to meet the needs of prospective employers for Megasites. Onsite infrastructure may only be considered if the Applicant owns the Megasite.

Eligible public infrastructure expenses include, but are not limited to:

- Upgrade of water, wastewater, stormwater, roads, highways, bridges, gas infrastructure, electric infrastructure owned by a governmental entity or a 501c3 nonprofit organization
- Installation and/or construction of water, wastewater, stormwater, roads, highways, bridges, gas infrastructure, electric infrastructure owned by a governmental entity or a 501c3 nonprofit organization

For information purposes, the expenses below are included as part of Purpose 4 below:

- Preliminary engineering reports for water and wastewater treatment to the site
- Assessments related to road and highway infrastructure to serve the site
- Assessments related to publicly owned gas and electric infrastructure to serve the site

***Purpose 3: Onsite Preparation***

In order to be eligible for a grant for onsite preparation, an eligible Applicant must own the land on which the activities funded by the grant are performed.

Onsite preparation costs eligible for reimbursement/funding under the Program include, but are not limited to:

- clearing of the site
- grading of the site
- other related expenses, as deemed eligible by the EDPNC

#### ***Purpose 4: Due Diligence***

Due diligence expenses are already covered by previous Guidelines found [here](#). Applicants may contact the EDPNC with questions about these expenses.

#### ***Grant Application and Award Process***

The application shall be completed and submitted online in the form required by the EDPNC.

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. Eligible entities will be notified in advance of application periods. Nothing herein binds the EDPNC to more than one application deadline.

Expenses that meet all other criteria for eligibility and are incurred and documented after the execution of a grant agreement, may be supported by this program at the discretion of the EDPNC.

In determining the actual amount of the grant, the EDPNC will also consider:

- the total development needs for the Megasite,
- prior investment in the Megasite by the Applicant,
- the ability of the Applicant to invest in the Megasite, and
- the ability and level of participation promised by the Applicant in exchange for a grant from the Fund.

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

- Conduct virtual and/or in-person site visits to verify and carry out further evaluation.
- Evaluate the grant applications, using the criteria enumerated in these Guidelines.
- Recommend grant approval, partial approval, or denial to a subcommittee of the Board of Directors (“Board”) appointed for this purpose by the Chair of the Board.
- If approved by the subcommittee, present to the Board with a proposed 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<sup>ix</sup>
- If approved by the Board, present to the Economic Investment Committee established pursuant to G.S. 143B-437.54
- If approved by the Economic Investment Committee, provide a copy of the required grant agreement (“Agreement”) to the Applicant

### *Evaluation Criteria*

The report commissioned by the EDPNC to review and recommend Megasites provided helpful information to each eligible site on its strengths and weaknesses. For consideration for 2024-25 assistance from the Megasite Readiness Fund and in addition to conditions listed above, the EDPNC will consider:

- Steps taken by local governments or a government partnership to ensure control or ownership of the property (basic eligibility requirement)
- Completion of all basic due diligence tasks on the site
- 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, 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. Exceptions may be made if there is a verifiable economic development project with a company considering locating on the Applicant's site.

### *Performance Assurance*

The grantee must allow the EDPNC, or its agents access 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.

In the case that a grant involves a current competitive economic development project, the EDPNC shall require evidence of a binding agreement between the company and the Applicant as to conditions to be met for release of funds. For grants intended to benefit a prospective company, the EDPNC and EIC may, in their sole discretion, require that the Applicant enter into an agreement with the company ensuring the appropriate safeguards of funds in the form acceptable to the EDPNC and EIC. These safeguards will include the requirement that the company repay a proportionate amount of funds in the event the job creation or investment targets upon which the project was based are not met.

### *Consistency*

The general procedure outlined in these Guidelines is intended to be applied consistently to all Applicants.

### *Disbursement of Funds*

Funds shall be provided by the EDPNC to grantees as described in an Agreement.

### *Maximum Grant*

It is expected that a maximum grant for the 2024-25 fiscal year will be \$20 million for a single grantee, with exceptions allowed for applications that demonstrate an immediate need to meet requirements of a major employer.

### *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.

The grantee must submit reports in a form provided by the EDPNC at least annually to the EDPNC, or at more regular intervals as included in the Agreement. Failure to comply with reporting requirements may be cause for withholding of grant distributions.

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.

---

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

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

<sup>iii</sup> 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))

<sup>iv</sup> See S.L. 2022-74, Section 11.11(d)(1)

<sup>v</sup> S.L. 2022-74, Section 11.11(h)

<sup>vi</sup> The Guidelines made effective for the 2023-24 fiscal year (the due diligence phase) still govern the \$10 million appropriated in that year, even if awards are made after July 1, 2024.

<sup>vii</sup> S.L. 2022-74, Section 11.11(d)(2)

<sup>viii</sup> S.L. 2022-74, Section 11.11(e)

<sup>ix</sup> S.L. 2022-74, Section 11.11(f).