



North Carolina Department of Commerce

Roy Cooper, Governor

Machelle Baker Sanders, Secretary

MEMORANDUM

To: Chairs, Joint Legislative Economic Development and Global Engagement Oversight Committee
N.C. General Assembly – Fiscal Research Division

From: Mark N. Poole, Director, Commerce Finance Center
Mary Elizabeth Wilson, General Counsel
N.C. Department of Commerce

Date: August 29, 2024

Re: Annual Report – Increase in Qualifying Project Funding in Randolph County

Statutory Requirement:

Pursuant to Session Law 2022-74, Section 11.13 as amended by Section 20(a) of S.L. 2022-75 and Section 11.17 of S.L. 2023-134, provided (i) the condition regarding election in Section 11.19(c) of S.L. 2021-180 imposed on the manufacturer is met and (ii) the manufacturer agrees to, no later than December 31, 2034, both create at least 4,500 eligible and expansion positions in, and invest at least four billion seven hundred million dollars (\$4,700,000,000) in private funds in, this State, there is appropriated from the Economic Development Project Reserve established in Section 2.2 of S.L. 2021-180 to the Department of Commerce (Department) for the 2022-2023 fiscal year the sum of two hundred twenty-five million dollars (\$225,000,000). This amount includes one hundred seventy-five million dollars (\$175,000,000) to reimburse the business for site preparation costs incurred at the project site and fifty million dollars (\$50,000,000) to be paid to the business in per position payments for eligible positions created in excess of 3,875 up to 5,000. S.L. 2021-180 previously appropriated one hundred million dollars (\$100,000,00) (to be increased to two hundred eighty-five million (\$285,000,000) if the company increases their job and investment commitment to 3,875 eligible positions and three billion dollars (\$3,000,000,000)) to reimburse the business for site preparation costs incurred at the project site and thirty-five million (\$35,000,000) to the Department of Transportation for roadwork and associated wetlands mitigation. Section 11.19(f) appropriated eighteen million dollars (\$18,000,000) to the Department to be used for a grant to the electric public utility providing retail electric service to the project site to offset the cost of undertaking the relocation of the transmission line infrastructure within the site.

On September 1 of each year funds appropriated in that section or in Section 11.19 of S.L. 2021-180 remain unexpended until all funds have been expended, the Department of Commerce shall report on the use of such funds to the House of Representatives and the Senate committee or subcommittee responsible for natural and economic resources, to the Joint Legislative Economic Development and Global

Engagement Oversight Committee, and to the Fiscal Research Division. The report shall include, at a minimum, an executive summary of the performance criteria, remedies, and safeguards required by the Department for the funds, a description of the current status of the project, the amount that was paid in the prior fiscal year, for what purpose the amount was paid, and the total amount that has been paid under the agreement.

Executive Summary:

The Economic Investment Committee awarded a Job Development Investment Grant to Toyota Battery Manufacturing, Inc. for a project in Randolph County on December 6, 2021, the terms of which are governed by the Community Economic Development Agreement (CEDA). The first year of job creation under the CEDA is 2025.

The Department has entered into an agreement with the manufacturer, Toyota Battery Manufacturing, Inc. (Toyota), for the funds appropriated in S.L. 2021-180 under which the Department of Transportation received one hundred million dollars (\$100,000,000) for site work and associated wetlands mitigation at the project site to be performed on the manufacturer's behalf for Phase I of the Project, and the manufacturer is eligible to be reimbursed for an additional one-hundred eighty-five million dollars (\$185,000,000) of site work expenses if the manufacturer elects to proceed with Phase II of the project. Phase I requires the manufacturer to create 1,750 new jobs and invest one billion dollars (\$1,000,000,000) in private funds. Phase II requires the manufacturer to increase those commitments to 3,875 new jobs and three billion dollars (\$3,000,000,000).

The Department has entered into a second agreement with Toyota for the funds appropriated in S.L. 2022-74 under which the company is eligible to be reimbursed one hundred and seventy-five million dollars (\$175,000,000) for sitework and associated wetlands mitigation at the project site for committing to Phase IIa of the project. Phase IIa requires the manufacturer to create 4,500 new jobs and invest at least four billion seven hundred million dollars (\$4,700,000,000) in private funds. Under this agreement Toyota is also eligible to receive an additional fifty million dollars (\$50,000,000) in per job payments for jobs created over 4,500 up to 5,000.

On October 31, 2023, Toyota provided written notice to the Department of their intent to increase their commitment to at least 4,500 new jobs and four billion seven hundred million in investment. The Department, upon verification of eligible costs, reimbursed the company for three-hundred and sixty-million dollars (\$360,000,000) in eligible expenses at the site.

The Department entered into an agreement with Duke Energy Carolinas, LLC (Duke) for the reimbursement of transmission line relocation costs which required repayment of the funds in the event revenue credits attributable to the site exceeded the costs of relocation. On October 24, 2023, the agreement was terminated without payment and Duke released all claims to the funds.

Remedies and Safeguards:

For the Phase I funds (\$100,000,000), if the manufacturer fails to create at least 1,488 eligible positions by December 31, 2029, the agreement requires that all Phase I funds must be repaid. If the manufacturer

creates less than 1,750 jobs but more than 1,488, then a proportionate amount of the funds must be repaid for every job not created.

For the Phase II funds (\$185,000,000), if the manufacturer fails to create 3,875 eligible positions by December 31, 2034, then the agreement requires that the manufacturer repay a proportionate amount for every job short of 3,875.

For Phase IIa funds (\$175,000,000), if the manufacturer fails to create at least 4,050 eligible positions by December 31, 2034, then the agreement requires that the manufacturer repay a proportionate amount for every job short of 3,875.

For the additional fifty million in per job payments, the agreement allows per job payments of forty-four thousand four hundred forty-four dollars and forty-four cents (\$44,444.44) to the manufacturer for every eligible position over 4,500 up to 5,000. If the company fails to maintain a position for which it has received payment through the requirement term, it is disqualified from retaining the full amount received for the position in the year in which the failure occurs, may not again be paid for the position for any remaining year of the requirement term, and must pay to the Department a forfeiture amount. The forfeiture amount is equal to the product of forty-four thousand four hundred forty-four dollars and forty-four cents (\$44,444.44) multiplied by a fraction, the numerator of which is the number of years remaining in the requirement term, including the year of the failure, and the denominator of which is 20. The requirement term ends 20 years from the date that all 5,000 positions are filled or December 31, 2054, whichever is earlier.

Current Status:

In total, of the five hundred and forty-five million dollars (\$545,000,000) appropriated thirty- five million dollars (\$35,000,000) have been paid to DOT for roadwork supporting the project, four hundred and sixty million dollars (\$460,000,000) have been paid for sitework and wetlands mitigation at the project site, and fifty million dollars (\$50,000,000) remain in reserve until the company creates jobs in excess of 4,500

Amount Paid

Fiscal Year	Purpose	Amount
FY '21-22	Site work and associated wetlands mitigation at the project site	\$100,000,000
	Funds provided to DOT for roadwork and associated wetlands mitigation within Randolph County in support of the project	\$35,000,000*
FY '22-23		\$0.00
FY '23-24	Site work and associated wetlands mitigation at the project site	\$360,000,000

Total Amount Paid: \$495,000,000

*Not that this amount only reflects the amount of appropriated funds the Department has transferred to DOT, not the total costs incurred by DOT for the project.