

STATE OF NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 26CV019274-910

NORTH CAROLINA DEPARTMENT)
OF COMMERCE,)

Plaintiff,)

v.)

VINFASST MANUFACTURING US,)
LLC and VINGROUP JOINT STOCK)
COMPANY,)

Defendants.)
)
)
)
)
)

**PLAINTIFF’S BRIEF IN
OPPOSITION TO MOTION TO
PROVISIONALLY SEAL
ANSWER TO AMENDED
COMPLAINT AND
COUNTERCLAIMS**

Plaintiff North Carolina Department of Commerce respectfully submits this brief in opposition to Defendants VinFast Manufacturing US, LLC’s and Vingroup Joint Stock Company’s (“VinFast”) Motion to Provisionally Seal the Answer to Amended Complaint and Counterclaims (“Answer”). The majority of the redactions VinFast has proposed do not concern trade secrets.¹ Absent trade secret protections, most of this information has or will become public records because it has been or will be submitted to the State. A significant

¹ VinFast’s proposed redactions in its Answer largely mirror the redactions in the State’s Amended Complaint, which has been provisionally sealed at VinFast’s request. The latter redactions are the subject of a motion to seal, scheduled to be heard by this Court on September 29, 2026.

portion of this content is also available via public search. Accordingly, this information must remain open and accessible to the public.

Standard of Review

Court records “shall be open to the inspection of the public” unless otherwise “prohibited by law.” N.C. Gen. Stat. § 7A-109(a); *see also* N.C. Const. art. I, § 18 (“All courts shall be open . . .”). Additionally, “[t]he public records and public information compiled by the agencies of North Carolina government or its subdivisions are the property of the people.” N.C. Gen. Stat. § 132-1(b); *see also* § 143B-437.54(e) (“All documents of the [Economic Investment] Committee, including applications for grants, are public records . . .”). A party moving to seal documents bears the burden of overcoming these presumptions of openness. *See France v. France*, 209 N.C. App. 406, 414, 705 S.E.2d 399, 406 (2011).

ARGUMENT

The majority of the redactions VinFast has proposed relate to information that does not constitute trade secrets under N.C. Gen. Stat. § 66-152(3).² This information largely consists of details that the Department of

² Although VinFast argues that N.C. Gen. Stat. § 66-156 is relevant to this motion, which is incorrect since this lawsuit is not an action under the Trade Secrets Protection Act, the result is the same even if it does apply because the majority of the proposed redactions do not constitute trade secrets.

Commerce's Economic Investment Committee ("EIC") includes in its public findings about the projects it invests in, such as job creation and investment targets. Because the information does not constitute trade secrets, it is not exempt from disclosure under N.C. Gen. Stat. § 132-1.2(1) and should be made available to the public pursuant to N.C. Gen. Stat. § 7A-109(a). VinFast also seeks to redact information that can be readily found through public search. This publicly available information should similarly not be redacted pursuant to N.C. Gen. Stat. § 7A-109(a).

I. The Majority of the Information VinFast Seeks to Redact Does Not Constitute Trade Secrets.

Trade secrets are defined as "business or technical information" that gets its "commercial value from not being generally known or readily ascertainable through independent development or reverse engineering" by those "who can obtain economic value from its disclosure or use" and is additionally "the subject of efforts that are reasonable under the circumstances to maintain its secrecy." N.C. Gen. Stat. § 66-152(3). "In determining whether information constitutes a trade secret," courts consider several factors, including the "extent to which information is known outside the business," "the extent of measures taken to guard secrecy of the information," and "the value of information to the business and its

competitors.” *Rel. Ins., Inc. v. Pilot Risk Mgmt. Consulting, LLC*, 389 N.C. 415, 427, 929 S.E.2d 893, 903-04 (2026).

Most of the information VinFast is seeking to redact does not constitute trade secrets. A large portion concerns the Company’s ability to hit its targets under the Job Development Investment Grant (“JDIG”) and the Option. The EIC includes this type of information in its public findings about a given project’s scope and a company’s progress and compliance under its agreements with the State. Employment numbers, investment commitments, and project timing all regularly feature in these findings, as do any changes to grant terms.

Such is the case with the content at issue here. In some instances, VinFast provided this information to the State as part of an explicit request to change the JDIG and Option agreements, as is the case with the job and investment figures VinFast submitted to the State on June 18, 2024. Am. Compl., pp. 22-23, ¶ 42; Answer, p. 12. In other instances, VinFast provided this information as a projection of its ability to comply with the existing JDIG agreement, as is the case with the figures VinFast submitted to the State on March 7, 2026. Am. Compl., pp. 41-42, ¶¶ 92, 94; Answer, pp. 23-24. In either

case, this information would be publicly provided and would not constitute trade secrets. *See Rel. Ins.*, 389 N.C. at 427, 929 S.E.2d at 903-04.³

Other information, like the contract terms VinFast claims are confidential, is boilerplate language that reveals nothing substantive about the project and is of no value to VinFast or its competitors. *See, e.g., Am. Compl.*, pp. 43-44, ¶ 97; *Answer*, pp. 24-25; *see also Rel. Ins.*, 389 N.C. at 427, 929 S.E.2d at 904. This information likewise does not constitute trade secrets.

II. Absent Trade Secret Protections, the Majority of the Information VinFast Seeks to Redact Would Constitute Public Records or Is Otherwise Publicly Available.

The majority of VinFast's proposed redactions consist of information that the Company has already submitted or will have to submit to the State. As detailed above, employment numbers, investment commitments, and project timing details are all aspects of the Company's agreements with the State. Absent trade secret protections, they are subject to disclosure as public records under N.C. Gen. Stat. § 132-1.2(1).

Other pieces of information are readily available through public search. For instance, the names of the contractors and subcontractors VinFast claims

³ Nor should this information be considered the property of VinFast, as is required to preclude disclosure as a public record pursuant to N.C. Gen. Stat. § 132-1.2(1)(b).

to have engaged are already listed in the Company’s building permit applications, as well as the Company’s invoices and requisition forms that it submitted to the Department of Commerce in 2023, 2024, and 2025 (all of which also constitute public records). In a similar vein, the lease information for VinFast’s proposed North Carolina headquarters is publicly available online and was included in VinFast’s most recent filing with the North Carolina Secretary of State. Publicly available information should not be subject to redaction. *See* N.C. Gen. Stat. § 7A-109(a).

III. The State Does Not Oppose a Limited Set of Redactions.

Notwithstanding the above, the State does not oppose VinFast’s proposed redactions of the following information in the Answer.⁴

Description of Term	Citations	
Name of venture capital firm.	Am. Compl., p. 43, ¶ 96 (first sentence).	Answer, pp. 58-61, 74, 76-77, ¶¶ 16, 20, 23, 27, 93, 105-09, 111.
Description of “Non-Binding Summary of Key Terms” with venture capital firm.	Am. Compl., p. 43, ¶ 96 (second sentence).	Answer, p. 24, p. 53, ¶ 85, pp. 58-61, 74, 76-77, ¶¶ 16, 20, 23, 27, 93, 105-09, 111.

⁴ Though not included in the Answer, the State also does not contest the following redactions in Exhibit A to the Amended Complaint: five-year output estimates in dollars (p. 25); production and revenue table containing vehicle/battery production volumes and revenues by year (p. 26); private investment breakdown (p. 32); columns A and H of the projection tables (p. 33); and ownership percentages and names of ultimate beneficial owners within organizational charts (p. 66).

Name of venture capital firm and details concerning agreements.	Am. Compl., p. 43, ¶ 96 (third sentence).	Answer, p. 24, p. 53, ¶ 85, p. 74, ¶ 93.
Content in vendor proposal.	Am. Compl., p. 44, ¶ 97 (last sentence, second redaction).	Answer, p. 25.
Content in vendor proposal.	Am. Compl., p. 44, ¶ 98 (last sentence).	Answer, p. 25.
Content in vendor proposal.	Am. Compl., p. 45, ¶ 99 (fourth sentence, first redaction).	Answer, p. 25.
Content in vendor proposal.	Am. Compl., p. 45, ¶ 99 (fourth sentence, second redaction).	Answer, p. 25.
Description of “roadblocks that would need to be cleared” in order to receive permits.	Am. Compl., p. 45, ¶ 99 (first bullet point).	Answer, p. 25.
Description of “roadblocks that would need to be cleared” in order to receive permits.	Am. Compl., p. 45, ¶ 99 (second bullet point).	Answer, p. 25.
Description of “roadblocks that would need to be cleared” in order to receive permits.	Am. Compl., p. 45, ¶ 99 (third bullet point).	Answer, pp. 25-26.
Description of VinFast’s purported investments.	Am. Compl., p. 46, ¶ 100 (second sentence, second redaction).	Answer, p. 26.

Description of permitting timeline.	Am. Compl., p. 52, ¶ 111 (last sentence, third redaction)	Answer, p. 29.
Description of term sheet with venture capital firm.		Answer, p. 76, ¶ 106 (second sentence).

CONCLUSION

For the reasons stated above, the State respectfully requests that the Court instruct VinFast to file a revised sealed Answer with the more limited set of redactions described above.

This the 22nd day of September, 2026.

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CERTIFICATE OF SERVICE

I certify that today, I filed a copy of the foregoing with the clerk of court using the Court's electronic filing system, which will send notification of such filing to counsel of record.

This the 22nd day of September, 2026.

/s/ Marc D. Brunton

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