



**NOTICE OF SPECIAL WORK SESSION AND SPECIAL MEETING  
AGENDA  
LANCASTER ECONOMIC DEVELOPMENT CORPORATION, TYPE A  
MUNICIPAL CENTER CITY COUNCIL CHAMBERS  
211 N. HENRY STREET, LANCASTER, TEXAS**



**Thursday, September 9, 2021 - 5:30 p.m.**

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**Please click the link below to join the webinar:**

[https://us02web.zoom.us/join/register/WN\\_Apvdw8dbS9ieb3MjU6UQAA](https://us02web.zoom.us/join/register/WN_Apvdw8dbS9ieb3MjU6UQAA)

**The meeting will be broadcast live via video at the following address:**

<http://www.lancaster-tx.com/324/Watch-Meetings>

**5:30 P.M. SPECIAL WORK SESSION**

1. Discuss a repayment to the Texas Comptroller in the amount of twenty-three thousand, three hundred eighty-eight dollars (\$23,388) for a taxpayer claim of over accrual of use taxes.

**5:35 PM SPECIAL MEETING**

**CALL TO ORDER**

**PUBLIC TESTIMONY:**

At this time citizens who have pre-registered before the call to order will be allowed to speak on consent or action items on the agenda, with the exception of public hearings, for a length of time not to exceed three minutes. Anyone desiring to speak on an item scheduled for a public hearing is requested to hold their comments until the public hearing on that item.

**CONSENT AGENDA:**

Items listed under the consent agenda are considered routine and are generally enacted in one motion. The exception to this rule is that a Board Member may request one or more items to be removed from the consent agenda for separate discussion and action.

1. Consider approval of minutes from the Lancaster Economic Development Corporation (LEDC) Special Meeting held on March 3, 2021, and the Special Meeting held on April 29, 2021.

**ACTION:**

2. Discuss and consider a resolution for a Performance Agreement by and between the Lancaster Economic Development Corporation and Project Rex (ThredUp, Inc.).

**ADJOURNMENT**

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ACCESSIBILITY STATEMENT: Meetings of the Boards and Commissions are held in municipal facilities that are wheelchair-accessible. For sign interpretive services, call the City Secretary's office, 972-218-1311, or TDD 1-800-735-2989, at least 72 hours prior to the meeting. Reasonable accommodation will be made to assist your needs.

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PURSUANT TO SECTION 30.06 PENAL CODE (TRESPASS BY HOLDER WITH A CONCEALED HANDGUN), A PERSON LICENSED UNDER SUBCHAPTER H, CHAPTER 411, GOVERNMENT CODE (HANDGUN LICENSING LAW), MAY NOT ENTER THIS PROPERTY WITH A CONCEALED HANDGUN.

CONFORME A LA SECCION 30.06 DEL CODIGO PENAL (TRASPASAR PORTANDO ARMAS DE FUEGO CON LICENCIA) PERSONAS CON LICENCIA BAJO DEL SUB-CAPITULO 411, CODIGO DEL GOBIERNO (LEY DE PORTAR ARMAS), NO DEBEN ENTRAR A ESTA PROPIEDAD PORTANDO UN ARMA DE FUEGO OCULTADA.

PURSUANT TO SECTION 30.07 PENAL CODE (TRESPASS BY HOLDER WITH AN OPENLY CARRIED HANDGUN), A PERSON LICENSED UNDER SUBCHAPTER H, CHAPTER 411, GOVERNMENT CODE (HANDGUN LICENSING LAW), MAY NOT ENTER THIS PROPERTY WITH A HANDGUN THAT IS CARRIED OPENLY.

CONFORME A LA SECCION 30.07 DEL CODIGO PENAL (TRASPASAR PORTANDO ARMAS DE FUEGO AL AIRE LIBRE CON LICENCIA) PERSONAS CON LICENCIA BAJO DEL SUB-CAPITULO H, CAPITULO 411, CODIGO DE GOBIERNO (LEY DE PORTAR ARMAS), NO DEBEN ENTRAR A ESTA PROPIEDAD PORTANDO UN ARMA DE FUEGO AL AIRE LIBRE.

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#### **Certificate**

**I hereby certify the above Notice of Meeting was posted at Lancaster City Hall on September 2, 2021 @ 9:00 p.m. and copies thereof were provided to the Lancaster Economic Development Corporation board members.**



Carey D. Neal, Jr.

Assistant City Manager

## CITY OF LANCASTER BOARDS AND COMMISSIONS

### LEDC Special Work Session and Special Meeting

1.

**Meeting Date:** 09/09/2021

**Policy Statement:** This request supports the City Council 2021-2022 Policy Agenda

**Goal(s):** Financially Sound Government

**Submitted by:** Shane Shepard, Director of Economic Development

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#### **Agenda Caption:**

Discuss a repayment to the Texas Comptroller in the amount of twenty-three thousand, three hundred eighty-eight dollars (\$23,388) for a taxpayer claim of over accrual of use taxes.

#### **Background:**

The purpose of this item is to inform the Lancaster Economic Development Corporation Board (LEDC) about a sales tax refund of twenty-three thousand, three hundred eighty-eight dollars (\$23,388) from LEDC funds that was authorized by the City Council in June 2021. The refund was authorized in response to a notice received from Texas Comptroller Glenn Hegar's office concerning an overpayment by a taxpayer. The overpayment resulted from a taxpayer refund claim for the over accrual of use taxes. This claim was verified by the State Comptroller's office as a valid refund based on exemptions allowed under local sales tax statutes and documentation provided by the taxpayer to the State.

The City verified the claim presented in the Comptroller's request. Texas Tax Code Sec. 111.006 (f) prohibits the governing body from disclosing confidential taxpayer information. Therefore, it is not possible to disclose taxpayer identity. HdL Companies works as a consultant for the City of Lancaster to conduct audits on behalf of the City to ensure that the City is receiving sales and use taxes as required by state law. HdL Companies advised City staff of the potential request prior to it being received.

The sales and use tax rate is 8.25%. Of this total, 6.25% goes to the State of Texas; 1.0% is allocated to the General Fund; 0.25% is allocated to Property Tax Reduction (General Fund); 0.5% is allocated to the Lancaster Recreational Development Corporation; and 0.25% is allocated to the Lancaster Economic Development Fund.

#### **Operational Considerations:**

This payment was authorized by City Council on June 14, 2021, and paid to the State of Texas.

#### **Fiscal Impact:**

This item informs the board of a refund payment authorized by City Council in response to a notice by the Texas Comptroller to refund a tax overpayment in the amount of twenty-three thousand, three hundred eighty-eight dollars (\$23,388).

#### **Recommendation:**

This is an informational item. The Lancaster Economic Development Corporation Fund was required to refund \$23,388 in sales tax collections due to overpayment by one taxpayer.

#### **Attachments**





## GLENN HE GAR TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

P.O.Box 13528 • Austin, TX 78711-3528

May 18, 2021

Ms. Sorangel O. Arenas  
City Secretary  
City of Lancaster  
PO Box 940  
Lancaster, TX 75146-0941

Dear Ms. Arenas:

This letter is to notify you that the City of Lancaster was overpaid \$190,919.10 in local sales and use taxes. The overpayment was the result of a taxpayer that filed a refund claim for the over accrual of use taxes. This claim has been verified as a valid refund based on exemptions allowed under local sales tax statutes and documentation provided by the taxpayer. Since this amount has been refunded to the taxpayer, it must now be repaid to the State.

The options to repay the erroneous amount are as follows:

- D 1) Full reimbursement by onetime check\*,
- D 2) Apply all monthly collections to the overpaid amount until the amount has been repaid, or
- D 3) Enter into a 23 - month payback agreement where a monthly deduction of \$8,301.00 will be deducted for 22 months with a final deduction of \$8,297.10. This deduction would start the month after we receive your response or two months after the date of our letter if we do not receive a response. Additionally, future significant audit or onetime payments may be applied toward the repayment amount to reduce the length of the payback and notifications of those applications will be sent.

No fees of any type will be assessed on the payback amount.

If you choose option I, "full reimbursement by onetime check," the payback amount should be adjusted by the 2% service fee. Multiply the payback amount by 2% (.02); subtract the 2% amount from the payback amount, then pay the adjusted amount.

Please mark an X in the applicable box above for the option you wish to choose, have a city official sign at the bottom, and return this letter using the enclosed self- addressed envelope.

If you have any questions or need additional information, you may call me toll free at (800) 531-5441, ext. 50550. My mailing address is PO Box 13528, Austin, TX, 78711, the FAX number is (512) 475-1523 or my email is shirley.kaatz@pa.texas.gov.

Sincerely,

Shirley Kaatz  
Revenue Accounting Division  
Tax Allocation Section

Date \_\_\_\_\_  
City Official Name Opal Mauldin-Jones  
Title City Manager  
Signature \_\_\_\_\_

## CITY OF LANCASTER BOARDS AND COMMISSIONS

### LEDC Special Work Session and Special Meeting

1.

**Meeting Date:** 09/09/2021

**Policy Statement:** This request supports the City Council 2021-2022 Policy Agenda

**Goal(s):**

- Financially Sound Government
- Healthy, Safe & Engaged Community
- Sound Infrastructure
- Quality Development
- Professional and Committed City Workforce

**Submitted by:** Shane Shepard, Economic Development Director

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#### **Agenda Caption:**

Consider approval of minutes from the Lancaster Economic Development Corporation (LEDC) Special Meeting held on March 3, 2021, and the Special Meeting held on April 29, 2021.

#### **Background:**

Attached for your review and consideration are minutes from the LEDC Special Meeting held on March 3, 2021, and the Special Meeting held on April 29, 2021.

#### **Recommendation:**

Staff recommends approval as submitted.

#### **Attachments**

Draft Minutes 03.03.2021

Draft Minutes 04.29.2021

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## **MINUTES**

### **LANCASTER ECONOMIC DEVELOPMENT CORPORATION BOARD SPECIAL MEETING OF MARCH 3, 2021**

The Lancaster Economic Development Corporation Board of the City of Lancaster, Texas, met in a called Special Session virtually and in the Council Chambers of City Hall on March 3, 2021 at 7:00 p.m. with a quorum present to-wit:

#### **Board Members Present (Zoom):**

Ted Burk, President  
Ellen Clark, Vice President  
Sandi Collier, Board member  
Adrienne Davis, Board member  
Octavia Giadolor, Board member

#### **Board Members Absent:**

None

#### **City Staff Present:**

Shane Shepard, Director of Economic Development/Assistant Board Secretary  
Carey D. Neal, Jr., Assistant City Manager  
Sorangel Arenas, City Secretary  
Karl Stundins, Research and Business Development Manager

#### **Call to Order:**

President Burk called the meeting to order at 7:02 p.m. on March 3, 2021.

#### **Public Testimony:**

At this time, citizens who have pre-registered before the call to order will be allowed to speak on consent or action items on the agenda, with the exception of public hearings, for a length of time not to exceed three minutes. Anyone desiring to speak on an item scheduled for a public hearing is requested to hold their comments until the public hearing on that item.

There were no speakers.

#### **Consent Agenda:**

- 1. Consider approval of minutes from the Lancaster Economic Development Corporation (LEDC) Special Meetings held on December 8, 2020 and January 19, 2021.**

**MOTION:** Vice President Clark made a motion to approve this item, seconded by Board Member Collier. The vote was cast 5 for, 0 against.

#### **Action:**

- 2. Discuss and consider a resolution of the Lancaster Economic Development Corporation, ("LEDC") approving an agreement with HMWK, LLC in an amount not to exceed seventy-five thousand dollars (\$75,000) from funds collected from the ¼ of 1 percent additional sales and use tax for services to the City relating to the creation of a municipal special-purpose district.**

Director of Economic Development Shepard read the item and provided the staff report. The Board discussed this item.

**MOTION:** Vice President Clark made a motion to approve this item, seconded by Board Member Giadolor. The vote was cast 5 for, 0 against.

**3. Discuss and consider a resolution authorizing a grant agreement with DW Distribution, Inc. (DWD), in an amount not to exceed one hundred eighty thousand dollars (\$180,000) from funds collected from the one-fourth (1/4th) of one (1) percent additional sales and use tax for the promotion and development of new and expanded business enterprises, as authorized by state law.**

Director of Economic Development Shepard read the item and provided the staff report. The Board discussed this item.

**MOTION:** Board Member Collier made a motion to approve this item, seconded by Board Member Giadolor. A friendly amendment was offered by Vice President Clark for the company to make 'best efforts' to hire Lancaster residents for future jobs. This amendment was accepted by Board Member Collier and Board Member Giadolor. The amended motion was then considered. The vote was cast 4 for, 1 against (Vice President Clark).

**MOTION:** Vice President Clark made a motion to adjourn, seconded by Board Member Davis. The vote was cast 5 for, 0 against.

The meeting was adjourned at 7:42 p.m.

**ATTEST:**

**APPROVED:**

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Shane Shepard, Assistant Board Secretary

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Ted Burk, President



## **MINUTES**

### **LANCASTER CITY COUNCIL AND ALL LANCASTER BOARDS & COMMISSIONS JOINT SPECIAL MEETING OF APRIL 29, 2021**

**The Lancaster Economic Development Corporation Board of the City of Lancaster, Texas, met in a called Special Session in the Lancaster Recreation Center, 1700 Veterans Memorial Parkway on April 29, 2021 at 6:30 p.m. with a quorum present to-wit:**

#### **Board Members Present:**

Ted Burk, President  
Ellen Clark, Vice President  
Sandi Collier, Board Member  
Adrienne Davis, Board Member  
Octavia Giadolor, Board Member

#### **Board Members Absent:**

None

#### **City Staff Present:**

Opal Mauldin-Jones, City Manager  
Fabrice Kabona, Deputy City Manager  
Carey Neal, Assistant City Manager  
Keturah Barnett, Assistant to the City Manager  
Andrew Waits, Director of Public Works  
Dori Lee, Director of Human Resources  
Jermaine Sapp, Equipment and Facilities Services Director  
Kenneth Johnson, Fire Chief  
Kim Hall, Director of Finance  
Lisa Wube, Director of Parks and Recreation  
Sam Urbanski, Police Chief  
Shane Shepard, Director of Economic Development  
Vicki Coleman, Director of Development Services  
John Melton, Library Manager  
Michelle Evan, Assistant Director of Human Resources  
Kellen, Benbrook, Airport Manager  
Ed Dryden, Building Official  
David T. Ritter, City Attorney  
Cynthia Smith, Deputy City Secretary  
Sorangel O. Arenas, City Secretary

#### **Call to Order:**

President Burk called the meeting to order at 6:30 p.m. on April 29, 2021.

#### **1. Welcome.**

Mayor Hairston welcomed all boards and commissions to the training.

#### **2. Oath of Office**

City Secretary Arenas conducted the Oath of Office.

**3. State-mandated Texas Open Meetings Act Training conducted by Brown & Hofmeister, L.L.P.**

City Attorney Ritter led the training.

**4. Receive an update on City projects from City Manager.**

City Manager Mauldin-Jones provided an update.

**MOTION:** Vice President Clark made a motion to adjourn, seconded by Board Member Davis. The vote was cast 5 for, 0 against.

The meeting was adjourned at 8:20 p.m.

**ATTEST:**

**APPROVED:**

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Shane Shepard, Assistant Board Secretary

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Ted Burk, President

## CITY OF LANCASTER CITY COUNCIL

### LEDC Special Work Session and Special Meeting

2.

**Meeting Date:** 09/09/2021

**Policy Statement:** This request supports the City Council 2021-2022 Policy Agenda

**Goal(s):** Financially Sound Government  
Quality Development

**Submitted by:** Shane Shepard, Director of Economic Development

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#### **Agenda Caption:**

Discuss and consider a resolution for a Performance Agreement by and between the Lancaster Economic Development Corporation and Project Rex (ThredUp, Inc.).

#### **Background:**

Project Rex is a company that sells products online and plans to fulfill these orders at the Lancaster location.

The company is contracted to lease a 600,000 square foot building located at the southeast corner of I-35E and I-20. The building is currently under construction. Construction of the building is expected to be completed by the third quarter of 2022. There will be no financial incentives for the real property (building) owner.

The company plans to invest fifty million dollars (\$50,000,000) in Business and Personal Property in the building. The Project Rex facility will allow the addition of a minimum of one thousand five hundred (1,500) new jobs within three (3) years after completion. Wages will be based on market demand however, jobs paying over fifty thousand dollars (\$50,000) will be incentivized under this agreement.

The maximum grant amount for the project is one hundred seventy thousand dollars (\$170,000) as described below:

- **Lancaster Employment Incentive.** For each resident of Lancaster, Texas that is employed in a Full-Time Equivalent Employment Position at the Facility, ("resident of Lancaster, Texas" being defined as a person who has resided in the City for at least two years prior to the date claimed as a qualifying employee by Developer), LEDC will pay to Developer \$1,000 per employee, up to a total of 150 qualifying employees (\$150,000.00). Supporting documentation must accompany each claim, and all submissions for the payments must be submitted to the City no later than January 1, 2026; and
- **Inland Port Transportation Management Association Grant.** LEDC covenants and agrees to provide an Inland Port Transportation Management Association Grant of funds of up to twenty thousand and no/100 Dollars (\$20,000.00). The total grant amount will reimburse the company for expenses related to being a member of the Inland Port Transportation Management Association for two years. Documentation must be supplied showing evidence of expenditure and membership in the Inland Port Transportation Management Association. LEDC will provide the reimbursement to Developer within thirty (30) days of receipt of records demonstrating: (1) the amount of Developer's membership dues for the IPTMA, and (2) Developer's membership for not less than a period of two (2) years in IPTMA.

**Operational Considerations:**

The company will submit to the Lancaster Economic Development Corporation (LEDC) copies of all information required under this agreement in order to exercise the grant. Within 60 days of verification of compliance with all terms of the Agreement, the Lancaster Economic Development Corporation (LEDC) will remit payment. The agreement requires completion of both facilities, and a certificate of occupancy to exercise the grant.

**Legal Considerations:**

The City Attorney has reviewed and approved the resolution and agreement as to form.

**Public Information Considerations:**

This item is being considered at a Special Meeting of the Lancaster Economic Development Corporation noticed and held in accordance with the Texas Open Meetings Act.

**Fiscal Impact:**

The total incentive cost for Project Rex will not exceed one hundred seventy thousand dollars (\$170,000). Adequate funding is available in the Lancaster Economic Development Corporation (LEDC) incentive fund.

**Options/Alternatives:**

1. The Lancaster Economic Development Corporation may approve the resolution, as presented.
2. The Lancaster Economic Development Corporation may deny the resolution.

**Recommendation:**

Staff recommends approval of the resolution as presented.

**Attachments**

Resolution

Exhibit A - Performance Agreement

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## **RESOLUTION NO.**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE LANCASTER ECONOMIC DEVELOPMENT CORPORATION OF LANCASTER TEXAS, (LEDC), APPROVING A GRANT AGREEMENT IN AN AMOUNT NOT TO EXCEED ONE HUNDRED SEVENTY THOUSAND DOLLARS (\$170,000), WITH PROJECT REX (THREDUP, INC.) FROM FUNDS COLLECTED FROM 1/4 OF 1 PERCENT ADDITIONAL SALES AND USE TAX FOR THE PROMOTION AND DEVELOPMENT OF NEW AND EXPANDED BUSINESS ENTERPRISES, AS AUTHORIZED BY STATE LAW; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Lancaster Economic Development Corporation (LEDC) recognizes the importance of business and community development to the vitality and growth of Lancaster; and

**WHEREAS**, Project Rex (ThredUp, Inc.) seeks to lease a building being constructed at the southeast corner of I-35E and I-20 (3800 North I-35E) on a site of approximately 34.9 acres of land and finish out the building for use as an industrial/warehouse facility where a minimum of one thousand five hundred (1,500) people will be employed by January 1, 2026; and

**WHEREAS**, Project Rex (ThredUp, Inc.) requested a grant for an amount not to exceed one hundred seventy thousand dollars (\$170,000) total to encourage hiring Lancaster residents for jobs that pay a minimum of fifty thousand dollars (\$50,000) annually and support the Inland Port Transportation Authority; and

**WHEREAS**, the total Lancaster Economic Development grant will not exceed one hundred seventy thousand dollars (\$170,000) for this project; and

**WHEREAS**, Project Rex agrees to occupy the Facility and show evidence of expenditure of a minimum of fifty million dollars (\$50,000,000) for equipment, machinery and other Business Personal Property located at and used for the Facility; and

**WHEREAS**, the Board of Directors of the LEDC is responsible for the review and evaluation of Type-A incentive and grant applications; and

**WHEREAS**, the Board of Directors of the LEDC is also responsible for recommending Type-A Grants to the Lancaster City Council for consideration; and

**WHEREAS**, the Board of Directors of the LEDC finds it is in the best interest of the City to approve the proposed expenditure of grant funds as detailed in the Agreement with the company.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LANCASTER, TEXAS:**

**SECTION 1.** That the Board of Directors of the Lancaster Economic Development Corporation approves the resolution and Grant Agreement with Project Rex (ThredUp, Inc.), as set forth in and incorporated by reference as Exhibit A.

**SECTION 2.** That this resolution shall take effect immediately from and after its passage and it is so duly resolved.

**DULY PASSED** and approved by the Economic Development Corporation Board of the City of Lancaster, Texas, on this the 9th day of September, 2021.

**ATTEST:**

**APPROVED:**

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Shane Shepard, Director of Economic Development

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Ted Burk, President

**APPROVED AS TO FORM:**

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David T. Ritter, City Attorney

## EXHIBIT A

### PERFORMANCE AGREEMENT

This **PERFORMANCE AGREEMENT** by and between **THREDUP, INC.** a Delaware corporation (hereinafter referred to as “Developer”), and the **LANCASTER ECONOMIC DEVELOPMENT CORPORATION**, a Texas non-profit corporation (hereinafter referred to as the “LEDC”), is made and executed on the following recitals, terms and conditions.

**WHEREAS**, LEDC is a Type A economic development corporation operating pursuant to Chapter 504 of the Texas Local Government Code, as amended (also referred to as the “Act”), and the Texas Non-Profit Corporation Act, as codified in the Texas Business Organizations Code, as amended; and

**WHEREAS**, Section 501.101 of the Texas Local Government Code, in pertinent part, defines the term “project” to mean “land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements that are: (1) for the creation or retention of primary jobs; and (2) found by the board of directors to be required or suitable for the development, retention, or expansion of: (A) manufacturing and industrial facilities; (B) research and development facilities; (C) military facilities, including closed or realigned military bases; . . . (F) recycling facilities; . . . (I) distribution centers; (J) small warehouse facilities capable of serving as decentralized storage and distribution centers; (K) primary job training facilities for use by institutions of higher education; or (L) regional or national corporate headquarters facilities”; and

**WHEREAS**, Section 501.103 of the Texas Local Government Code, in pertinent part, defines the term “project” to mean “expenditures that are found by the board of directors to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises, limited to: (1) streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements; (2) telecommunications and Internet improvements . . .”; and

**WHEREAS**, Section 501.158 of the Texas Local Government Code prohibits the provision of a direct incentive unless LEDC enters into an Agreement with Developer providing at a minimum a schedule of additional payroll or jobs to be created or retained by LEDC’s investment; a schedule of capital investments to be made as consideration for any direct incentives provided by LEDC to Developer; and a provision specifying the terms and conditions upon which repayment must be made should Developer fail to meet the agreed to performance requirements specified in this Agreement; and

**WHEREAS**, Developer has applied to LEDC for financial assistance for facility to be located within the city limits of the City of Lancaster, Texas; (“the Facility”) on real property owned or leased by the Developer (“the Property”) and

**WHEREAS**, the LEDC’s Board of Directors have determined the financial assistance provided to Developer for Facility operations located on the Property is consistent with and meets the definition of “project” as that term is defined in Sections 501.101 and 501.103 of the Texas Local Government Code; and the definition of “cost” as that term is defined by Section

501.152 of the Texas Local Government Code; and

**WHEREAS**, Developer agrees and understands that Section 501.073(a) of the Texas Local Government Code requires the City Council of the City of Lancaster, Texas, to approve all programs and expenditures of LEDC, and accordingly this Agreement is not effective until City Council has approved this Agreement at a City Council meeting called and held for that purpose.

**NOW, THEREFORE**, for and in consideration of the agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, LEDC and Developer agree as follows:

#### **SECTION 1. FINDINGS INCORPORATED.**

The foregoing recitals are hereby incorporated into the body of this Agreement and shall be considered part of the mutual covenants, consideration and promises that bind the parties.

#### **SECTION 2. TERM.**

This Agreement shall be effective as of the Effective Date, as defined herein, and shall continue thereafter until **January 1, 2028**, unless terminated sooner under the provisions hereof.

#### **SECTION 3. DEFINITIONS.**

The following words shall have the following meanings when used in this Agreement.

- (a) **Act.** The word “Act” means Chapters 501 to 505 of the Texas Local Government Code, as amended.
- (b) **Agreement.** The word “Agreement” means this Performance Agreement, together with all exhibits and schedules attached to this Performance Agreement from time to time, if any.
- (c) **Certificate of Occupancy.** The words “Certificate of Occupancy” mean a certificate of occupancy (or its local equivalent) for the shell improvements at the Facility.
- (d) **City.** The word “City” means the City of Lancaster, Texas, a Texas home-rule municipality, whose address for the purposes of this Agreement is 211 N. Henry Street, Lancaster, Texas 75146.
- (e) **Developer.** The word “Developer” means **Thredup, Inc.** a Delaware Corporation, its successors and assigns, whose address for the purposes of this Agreement is 969 Broadway, Suite 200, Oakland, CA 94607.



- (f) **Effective Date.** The words “Effective Date” mean the date that the City Council authorizes this Agreement.
- (g) **Event of Default.** The words “Event of Default” mean and include any of the Events of Default set forth below in the section entitled “Events of Default.”
- (h) **Facility.** The word Facility means Developer’s leased operations facility located on the Property and as described and/or depicted in ***Exhibit B*** of this Agreement, which is attached hereto and incorporated herein for all purposes. In order to qualify as the “Facility” under this Agreement, the facility must meet all of the following criteria: (1) be located within the City; and (2) maintain a Certificate of Occupancy during the duration of this Agreement; and (3) remain in operation in the City of Lancaster for at least three (3) years following the disbursement of funds under this Agreement.
- (i) **Full-Time Equivalent Employment Positions.** The words “Full-Time Equivalent Employment Position(s)” mean a job requiring a minimum of One Thousand Nine Hundred Twenty (1,920) hours of work averaged over a twelve-month period with such hours also to include any vacation and sick leave, and with annual wages not less than fifty-thousand and no/100 dollars (\$50,000).
- (j) **LEDC.** The word “LEDC” means the Lancaster Economic Development Corporation, a Texas non-profit corporation, its successors and assigns, whose corporate address for the purposes of this Agreement is P.O. Box 940, Lancaster, Texas 75146.
- (k) **Property.** The word “Property” means the approximately 34.3-acre tract or tracts of land located at 3800 North I-35E, as generally described and/or depicted in ***Exhibit A*** of this Agreement, which is attached hereto and incorporated herein for all purposes, together with any other adjacent land owned, leased or hereafter acquired by Developer
- (l) **Term.** The word “Term” means the term of this Agreement as specified in Section 2 of this Agreement.

#### **SECTION 4. AFFIRMATIVE COVENANTS OF DEVELOPER.**

Developer covenants and agrees with LEDC that, while this Agreement is in effect, it shall comply with the following terms and conditions:

- (a) **Occupation of Facility.** Developer covenants and agrees to maintain and actively operate the Facility located on the Property by **January 1, 2023** and for a period of no less than three (3) years following the disbursement of funds under this Agreement.

- (b) **Certificate of Occupancy.** Developer covenants and agrees to obtain or cause to be obtained a Certificate of Occupancy from the City for the Facility located on the Property by **January 1, 2023**.
- (c) **Performance.** Developer agrees to perform and comply with all terms, conditions, and provisions set forth in this Agreement and in all other instruments and agreements by and between Developer and LEDC and between Developer and City.
- (d) **Payment of City Fees.** Developer covenants and agrees to pay to the City all City-related development fees for the development of the Property, construction of the Facility and for Facility Operations. Those fees include (but may not be limited to) the following: special use permit fees, building permit fees, sign permit fees, plan review fees, plumbing, heating and electrical permit fees, grading permit fees, architectural review fees, variance application fees, and zoning change fees.
- (e) **Provision of Records.** Developer covenants and agrees to provide to City all receipts, purchase orders, funds transfers, checks, charges, and all other supporting documentation that City may request to demonstrate the costs incurred and paid by Developer related to the investment in equipment, machinery and other Business Personal Property, verification of employment and salary, payment of taxes and valuation information related to this Agreement. Developer shall supply to City all information related to employment requirements upon initial hiring and annually thereafter. Developer will provide all receipts and supporting documentation to City within ninety (30) days of payment of taxes, and within thirty (30) days of a written request by the City for information regarding valuation.
- (f) **Investment Threshold.** Developer covenants and agrees to show evidence of expenditure of a minimum of fifty million dollars (\$50,000,000) for equipment, machinery and other Business Personal Property located at and used for the Facility.
- (g) **Place of Business for Tax Purposes.** Developer covenants and agrees that its Facility will be designated as a “place of business” so that sales tax on goods and/or services will be sourced to the City of Lancaster, Texas for the purposes of Texas sales tax law. If a legislative change to Texas law occurs after the commencement of the Term of this Agreement that renders this affirmative obligation impossible for Developer to meet, the Parties agree that Developer is not required to comply with this subsection for the duration of the legislatively-created conditions, but the Program Payment set forth in Section 5(a)(3) will not be available to Developer.
- (h) **Employment Positions and Full-Time Equivalent Employment Positions.** Developer covenants and agrees to: (1) establish not fewer than one thousand five hundred (1,500)

new Full Time employment positions at the Facility by January 1, 2026 such positions to be maintained throughout the remaining Term of this Agreement.

- (i) **Community Investment.** Developer covenants and agrees to invest an amount equivalent to one half of one percent (1/2 of 1%) of total annual City property taxes paid to sponsor community events and activities as evidenced by receipts of expenditure during the term of this Agreement. The amount calculated will be calculated using the gross tax amount paid prior to any rebates or refunds of tax under this or any other economic development agreement. The selection of a specific event or events is at the sole discretion of the Developer but requires a determination of eligibility by the Economic Development Director.
- (j) **Future Store Location.** If Developer chooses to establish a future retail or outlet store in the Dallas-Fort-Worth area, Developer covenants and agrees to make best efforts to locate the store within one of the City's targeted redevelopment areas: West Pleasant Run Road corridor; I-35E corridor; Town Square area; or Campus District.
- (k) **Site Visit.** Developer covenants and agrees to grant a tour of the Facility at least once every four years of the term of the Agreement to a delegation from the City.

## **SECTION 5. AFFIRMATIVE COVENANTS OF LEDC.**

LEDC covenants and agrees with the Developer that, while this Agreement is in effect, it shall comply with the following terms and conditions:

- (a) **Lancaster Employment Incentive.** For each resident of Lancaster, Texas that is employed in a Full-Time Equivalent Employment Position at the Facility, ("resident of Lancaster, Texas" being defined as a person who has resided in the City for at least two years prior to the date claimed as a qualifying employee by Developer), LEDC will pay to Developer \$1,000, up to a total of 150 qualifying employees (\$150,000.00). Supporting documentation must accompany each claim, and all submissions for the payments must be submitted to the City no later than January 1, 2026.
- (b) **Inland Port Transportation Management Association Grant.** LEDC covenants and agrees to provide an Inland Port Transportation Management Association Grant of funds of up to **twenty thousand and no/100 Dollars (\$20,000.00)**. The total grant amount will reimburse the company for expenses related to being a member of the Inland Port Transportation Management Association for two years. Documentation must be supplied showing evidence of expenditure and membership in the Inland Port Transportation Management Association. LEDC will provide the reimbursement to Developer within thirty (30) days of receipt of records demonstrating: (1) the amount of Developer's

membership dues for the IPTMA, and (2) Developer's membership for not less than a period of two (2) years in IPTMA.

- (c) **Maximum LEDC Payment under this Agreement.** The Parties agree that, notwithstanding anything to the contrary in this Agreement or any other agreement between Developer and LEDC or City involving the Facility and/or Property, LEDC's maximum payment to Developer under the terms provided for hereunder (provided all conditions precedent to payment set forth herein are met) shall be **one hundred seventy thousand and no/100 Dollars (\$170,000.00)**.

## **SECTION 6. CESSATION OF ADVANCES.**

If LEDC has made any commitment to make any advance of financial assistance to Developer, whether under this Agreement or under any other agreement, LEDC shall have no obligation to advance or disburse any financial assistance if: (i) Developer becomes insolvent, files a petition in bankruptcy or similar proceedings, or is adjudged bankrupt; or (ii) an Event of Default occurs and is not cured within the time period provided in Section 8.

## **SECTION 7. EVENTS OF DEFAULT.**

Each of the following shall constitute an Event of Default under this Agreement:

- (a) **Insufficient Capital Expenditures or Jobs.** Failure of Developer to comply with or to perform those acts or requirements set forth in Section 4 is an Event of Default.
- (b) **Failure to Make Payments.** Failure of the LEDC to comply with or to perform those acts or requirements set forth in Section 5 is an Event of Default.
- (c) **General Event of Default.** Failure of Developer or LEDC to comply with or to perform any other term, obligation, covenant or condition contained in this Agreement, or failure of Developer or LEDC to comply with or to perform any other term, obligation, covenant or condition contained in any other agreement by and between Developer and LEDC, or between Developer and City is an Event of Default.
- (d) **False Statements.** Any warranty, representation, or statement made or furnished to the LEDC by or on behalf of Developer under this Agreement that is false or misleading in any material respect, as of the time made or furnished is an Event of Default.
- (e) **Insolvency.** Developer's insolvency, appointment of receiver for any part of Developer's property, any assignment for the benefit of creditors of Developer, any type of creditor workout for Developer, or the commencement of any proceeding under any bankruptcy or

insolvency laws by or against Developer is an Event of Default.

- (f) **Ad Valorem Taxes.** Developer allows its ad valorem taxes owed to the City to become delinquent and fails to timely and properly follow the legal procedures for protest and/or contest of such taxes and to cure such failure within thirty (30) days after written notice thereof from LEDC and/or Dallas County Central Appraisal District is an Event of Default.
- (g) **Operations.** Developer will maintain its Facility within the City of Lancaster in full operations for not less than three (3) years after the disbursement of funds under this Agreement. Failure to do so will cause a non-remediable Event of Default and all funds disbursed under this Agreement will be returned to LEDC within thirty (30) days.

## **SECTION 8. EFFECT OF AN EVENT OF DEFAULT.**

In the event of default under Section 7 of this Agreement, the non-defaulting party shall give written notice to the other party of any default, and the defaulting party shall have thirty (30) days to cure a monetary default and ninety (90) days to cure a non-monetary default. Should said default remain uncured as of the last day of the applicable cure period, and the non-defaulting party is not otherwise in default, the non-defaulting party shall have the right to immediately terminate this Agreement, enforce specific performance as appropriate, or maintain a cause of action for damages caused by the event(s) of default. In the event Developer defaults and is unable or unwilling to cure said default within the prescribed time period, the amounts provided by LEDC to Developer pursuant to Section 5 of this Agreement shall become immediately due and payable by Developer to the LEDC.

## **SECTION 9. INDEMNIFICATION.**

**TO THE EXTENT ALLOWED BY LAW, THE PARTIES AGREE TO RELEASE, DEFEND, INDEMNIFY, AND HOLD HARMLESS THE OTHER (AND THEIR RESPECTIVE OFFICERS, AGENTS, AND EMPLOYEES) FROM AND AGAINST ALL CLAIMS OR CAUSES OF ACTION FOR INJURIES (INCLUDING DEATH), PROPERTY DAMAGES (INCLUDING LOSS OF USE), AND ANY OTHER LOSSES, DEMAND, SUITS, JUDGMENTS AND COSTS, INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES, IN ANY WAY ARISING OUT OF, RELATED TO OR RESULTING FROM ITS PERFORMANCE UNDER THIS AGREEMENT, OR CAUSED BY ITS NEGLIGENT ACTS OR OMISSIONS (OR THOSE OF ITS RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, OR ANY OTHER THIRD PARTIES FOR WHOM IT IS LEGALLY RESPONSIBLE) IN CONNECTION WITH PERFORMING THIS AGREEMENT. NOTHING HEREIN SHALL BE INTERPRETED AS A WAIVER OF CITY'S GOVERNMENTAL IMMUNITY FROM SUIT OR**

## DAMAGES.

### SECTION 10. MISCELLANEOUS PROVISIONS.

The following miscellaneous provisions are a part of this Agreement:

- (a) **Amendments.** This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.
- (b) **Applicable Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Dallas County, Texas. Venue for any action arising under this Agreement shall lie in the state district courts or federal courts for Dallas County, Texas.
- (c) **Assignment.** This Agreement may not be assigned without the express written consent of the other party (which consent shall not be unreasonably withheld, conditioned, or delayed). Any restrictions herein on the transfer or assignment of Developer's interest in this Agreement shall not apply to and shall not prevent the assignment of this Agreement to a subsidiary or affiliate of Developer, an acquirer of substantially all of Developer's assets, or any corporation or other entity with which Developer may merge or consolidate or that may succeed to a controlling interest in the business of Developer or in which Developer owns more than a twenty percent (20%) equity interest..
- (d) **Binding Obligation.** This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. Developer warrants and represents that the individual or individuals executing this Agreement on behalf of Developer has full authority to execute this Agreement and bind Developer to the same. LEDC warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind it to the same.
- (e) **Caption Headings.** Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of the Agreement.
- (f) **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.
- (g) **Force Majeure.** It is expressly understood and agreed by the parties to this Agreement

that if the performance of any obligations hereunder is delayed by reason of war, civil commotion, acts of God, inclement weather, pandemic or wide-spread disease, fire or other casualty, or court injunction, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such obligation or requirement shall be extended for a period of time equal to the period such party was delayed.

- (h) **Notices.** Any notice or other communication required or permitted by this Agreement (hereinafter referred to as the “Notice”) is effective when in writing and (i) personally delivered either by facsimile (with electronic information and a mailed copy to follow) or by hand or (ii) three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified with return receipt requested. The parties agree to keep the other party or parties informed of their address at all times during the Term of this Agreement. The Notices shall be addressed as follows:

if to Developer:	Thredup, Inc. 969 Broadway, Suite 200 Oakland, CA 94607 Attn: _____ Telephone: _____
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With a copy by the same means to:	Thredup, Inc. 969 Broadway, Suite 200 Oakland, CA 94607 Attn: <u>Legal Department</u> Telephone: _____
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if to LEDC:	Lancaster Economic Development Corporation P.O. Box 940 Lancaster, Texas 75146 Attn: Economic Development Director Telephone: 972/218-1314
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- (i) **Severability.** If a court of competent jurisdiction finds any provision of this Agreement to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Agreement in all other respects shall remain valid and enforceable.

- (j) **Time is of the Essence.** Time is of the essence in the performance of this Agreement.
- (k) **Undocumented Workers.** Developer certifies that the Developer does not and will not knowingly employ an undocumented worker in accordance with Chapter 2264 of the Texas Government Code, as amended. If during the Term of this Agreement, Developer is convicted of a violation under 8 U.S.C. § 1324a(f), Developer shall repay the amount of the public subsidy provided under this Agreement plus interest, at the rate of six percent (6%), not later than the 120<sup>th</sup> day after the date LEDC notifies Developer of the violation.
- (l) In accordance with Section 2270.002 of the Texas Government Code (as added by Tex. H.B. 89, 85<sup>th</sup> Leg., R.S. (2017)), the Developer verifies that it does not boycott Israel and will not boycott Israel during the Term of this Agreement.
- (m) In accordance with Section 2252.152 of the Texas Government Code (as added by Tex. S.B. 252, 85<sup>th</sup> Leg., R.S. (2017)), the Parties covenant and agree that Developer is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 806.051, 807.051, or 2252.153 of the Texas Government Code.
- (n) **Estoppel Certificate.** Upon written request by Developer to LEDC, LEDC will provide Developer with a certificate stating, as of the date of the certificate, (i) whether this Agreement is in full force and effect and, if Developer is in breach of this Agreement, the nature of the breach, and (ii) a statement as to whether this Agreement has been amended and, if so, the identity and substance of each amendment.

**[The Remainder of this Page Intentionally Left Blank]**



**DEVELOPER ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS PERFORMANCE AGREEMENT, AND DEVELOPER AGREES TO ITS TERMS. THIS PERFORMANCE AGREEMENT IS EFFECTIVE AS OF THE EFFECTIVE DATE AS DEFINED HEREIN.**

**DEVELOPER:**

***THREDUP, INC.,  
a Delaware corporation***

By: \_\_\_\_\_

Name:

[Position]:

Date Signed: \_\_\_\_\_

**STATE OF TEXAS**

§

§

**COUNTY OF \_\_\_\_\_**

§

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2021 by \_\_\_\_\_, \_\_\_\_\_ of Thredup, Inc. a Delaware corporation, on behalf of said Delaware corporation.

\_\_\_\_\_  
Notary Public, State of Texas

**LEDC:**

***LANCASTER ECONOMIC  
DEVELOPMENT CORPORATION,***  
a Texas non-profit corporation

By: \_\_\_\_\_

Name: Ted Burk

President

Date Signed: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Shane Shepard, Assistant Secretary

**STATE OF TEXAS**

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§

**COUNTY OF DALLAS**

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This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_ 2021, by \_\_\_\_\_, President of the Lancaster Economic Development Corporation, a Texas non-profit corporation, on behalf of said Texas corporation.

\_\_\_\_\_  
Notary Public, State of Texas

***Exhibit A***

[Legal Description and/or Depiction of Property]

***Exhibit B***

[Facility – Site Plan]