STATE OF TEXAS §
§
COUNTY OF LUBBOCK §

PERFORMANCE AGREEMENT

This Performance Agreement (the "Agreement") is made effective on July 22nd, 2026 by and between LUBBOCK ECONOMIC DEVELOPMENT ALLIANCE, INC., a Texas nonprofit corporation (hereinafter referred to as "LEDA") and TERRACON CONSULTING, a foreign for-profit corporation, (hereinafter referred to as "Recipient"), by and through their duly authorized officers and affiliate organizations under the terms and conditions that follow. LEDA and Recipient may collectively be referred to as the "Parties."

1. **Applicable Law**: It is understood by and between the parties that the term "Act," as used herein, is intended to mean the Development Corporation Act of 1979, as amended. (Sec. 501.001 *et seq*, Local Government Code, formerly Sec 5190.6, VACS). The parties hereto covenant and agree to comply with the terms of the Act as set forth in this Agreement.

2. **Parties**:

   A. LEDA, a Texas non-profit corporation as well as a tax exempt 501(c)(4) entity, was created by the City of Lubbock, Texas, as an Industrial Development Corporation under the Act for the purpose of creating and retaining positions and encouraging new businesses to be established in Lubbock, Texas, to stimulate business and commercial activities, as well as all other purposes allowed by the Act.

   B. Recipient is preparing a new Project which shall include the expansion of its engineering consulting operations and services across West Texas which will require the construction or substantial renovation of a facility in the City of Lubbock to serve as its new regional headquarters, (NAICS 541330, Engineering Services). This Project is anticipated to result in approximately seventy-five (75) new Primary Full-Time Jobs for the City of Lubbock with a Target Annual Compensation of $4,875,000, in the aggregate, or a total of $24,375,000 over five (5) years. The total planned capital investment, which excludes Target Annual Compensation, is $6,000,000.

   C. Recipient is a foreign for-profit corporation authorized to do business in Texas.

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3. **Purpose**: The purpose for this agreement is to formalize the agreements between LEDA and Recipient for the payment of certain costs associated with Recipient's Project and specifically state the covenants, representations of the parties, and the incentives associated with Recipient's commitment to abide by the provisions of the Act and to abide by the terms of this Agreement which has been approved by the Board of Directors of LEDA as complying with the specific requirements of the Act. It is expressly agreed that this Agreement constitutes a single transaction, even though payments thereunder are divided into multiple installments as earned per the terms of this Agreement. A failure to perform any obligation by Recipient may constitute a breach of the Agreement with the consequences of such breach being governed by Section 9 herein.

4. **Definitions**:

A. The "Act" shall refer to the Development Corporation Act of 1979, as amended, as Sec. 501.001 *et seq*, Local Government Code, formerly Sec 5190.6, VACS.

B. "Baseline Employment Level" is defined to mean the employee Census on the Baseline Measurement Date.

C. "Baseline Measurement Date" shall mean December 31, 2025.

D. "Census" is defined as a compiled listing of each employee's name, address, hire date, termination date, position, base pay, and designation as a full-time or part-time employee status as of the applicable Measurement Date (preferably provided in Excel format), which shall be made available to LEDA's third-party accountants performing the Project review.

E. "Effective Date" is defined as the date of execution of this Agreement.

F. "Layoff" is defined as an event, due to adverse or changing business conditions, that results in the loss of employment and shall exclude loss of employment due to casualty at the Project if the Recipient chooses to rebuild the Project. Employees meeting this definition shall have lost their jobs through no fault of their own.

G. "LEDA" shall refer to Lubbock Economic Development Alliance, Inc., a Texas non-profit corporation, created by the City of Lubbock as an "Industrial Development Corporation", pursuant to the Act.

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H. "Measurement Dates" shall mean the dates upon which the determination is made as to whether Recipient is in compliance with the applicable requirements of this Agreement.

The Job Creation Incentive Measurement Dates shall be:

1. December 31, 2026
2. December 31, 2027
3. December 31, 2028
4. December 31, 2029
5. December 31, 2030
6. December 31, 2031
7. December 31, 2032

The Capital Investment Incentive Measurement Dates shall be:

1. The date that is three (3) years after the Effective Date
2. The date that is four (4) years after the Effective Date

I. "Payback Provisions" shall mean Recipient's payment obligations as described in Section 9 herein.

J. "Primary Full-Time Jobs" shall include individuals employed full-time by Recipient in the City of Lubbock in Primary Jobs as defined by the Act.

K. "Project" shall refer to the project identified in Section 2B.

L. "Recipient" shall refer to Terracon Consulting, a foreign for-profit corporation authorized to do business in Texas, and the Recipient party to this Agreement.

M. "Recipient Request" may include the identification of a cost of the Project by Recipient to the facility or other purpose within Sec. 501.152, Local Government Code.

N. "Target Job Positions" shall refer to an increase in 75 Primary Full-Time Jobs in excess of the Baseline Employment Level.

O. "Term" as used herein shall begin with the start date of the execution of this Agreement and terminate on February 28, 2033, unless earlier breached by Recipient's failure to perform.

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5. **Representations of Recipient**:

A. Recipient represents that it will utilize the incentives provided towards costs involved and associated with the Project contemplated herein.

B. Recipient represents that it is authorized to do business in Texas and has authorization to enter into this Agreement on its behalf.

C. Recipient represents that it has sought from LEDA economic assistance in connection with Recipient's Project.

D. Recipient represents that it has conferred with attorneys of its own choosing and is fully knowledgeable of the terms of the Act and understands the reporting requirements of the Act, as well as all conditions precedent and subsequent as required to be eligible for the incentives offered by LEDA, including the Payback Provisions as outlined in Section 9 herein.

E. Recipient represents that it acknowledges that its failure to perform any reporting requirements within a reasonable period of time after the request is made could result in payment adjustments up to and including incentive forfeiture.

F. Recipient certifies that all jobs for which incentives are being requested will be new Primary Full-Time Jobs at the Project.

G. Recipient agrees to consider participating in any LEDA-sponsored confidential wage and benefit surveys, and with Recipient's prior written approval after reviewing marketing materials, Recipient agrees to reasonably participate in marketing materials that focus on economic development in the City of Lubbock and Lubbock County

H. Recipient understands and agrees that any variations as to any term of this Agreement or any terms or conditions of the incentives as stated must be mutually agreed to in written supplements or addenda. No oral agreements, amendments, or representations will be binding on either party.

6. **Representations by LEDA**:

A. LEDA represents that it is established as an Industrial Development Corporation under the Act and further represents that Recipient's Project and the costs applied

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toward Recipient's Project as stated in this Agreement have been found by the Board of Directors of LEDA, sitting as fact finders, to be in compliance with the requirements and purposes of the Act, the provisions of LEDA's charter, as well as for the benefit of the City of Lubbock, Lubbock County, Texas, and the trade area.

B. LEDA represents that it has authority to enter into this Agreement. LEDA understands and agrees that any variation in terms of this Agreement, the incentive(s) offered to Recipient, or the commitment made by Recipient will only be binding if mutually agreed to in writing.

C. LEDA represents that the incentives offered are lawful and enforceable under all applicable laws.

D. LEDA and its representatives agree to maintain confidentiality of all of Recipient's records to the extent allowable by applicable laws.

7. **Incentives**:

A. **Job Creation Incentive to be Awarded and Terms of Award**:

1. LEDA agrees to pay Recipient $5,000 for each new net Primary Full-Time Job created in 2026, 2027, and 2028 and maintained through the Term, to be paid at the rate of $1,000 per year over a five-year period as each job is created and maintained. The aggregate amount of such payments shall not exceed $375,000.

2. Job Creation Incentive payments shall be issued annually following the end of each Measurement Date upon verification by LEDA or LEDA's third-party accountants of the number of Primary Full-Time Jobs created and maintained, and within 30 days following issuance of the accountant's report.

3. The payments are conditioned upon Recipient creating and maintaining Primary Full-Time Jobs and providing timely substantiation of such employment under the following rules, terms and conditions:

   i. Recipient shall provide a Census, i.e., the name, address, hire date, termination date (if applicable), role/position, base pay, and an indication of full-time or part-time status associated with each

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Primary Job to LEDA or LEDA's third-party accountants on an annual basis and within two (2) months after the end of each applicable Measurement Date. Requested reports may also include state labor reports and other reasonable documentation to substantiate the reported number of jobs created and maintained. LEDA and its representatives agree to maintain confidentiality of all Recipient's records and to return all such records unless other mutually agreeable arrangements are made regarding record retention by Recipient or inspection access to LEDA.

ii. Recipient agrees to establish a Baseline Employment Level and Census and shall timely provide such information to LEDA or LEDA's third-party accountants within the two (2) months following the Effective Date of this Agreement.

B. <u>**Capital Investment Incentive to be Awarded and Terms of Award**</u>:

1. LEDA agrees to pay Recipient, as set forth herein, up to $125,000 as a Capital Investment Incentive for the expansion of its operations and creation of a regional headquarters office.

2. The Capital Investment Incentive is to be paid in two (2) installments of $62,500 each, following each applicable Measurement Date.

   i. First installment: paid within thirty (30) days of LEDA or LEDA's third-party accountants verifying that the minimum required capital investment, the requirement to obtain a Certificate of Occupancy, and any other rules, terms, and conditions of this Agreement have been met.

   ii. Second installment: paid within thirty (30) days of LEDA's receipt of a letter from Recipient confirming that Recipient continues to be in compliance with all the rules, terms and conditions of this Agreement.

3. Recipient agrees to timely provide adequate evidence to LEDA or LEDA's third-party accountants regarding the final capital investment for the Project no later than two (2) months following the first applicable Measurement Date. LEDA and its representatives agree to maintain confidentiality of all Recipient's records and to return all such records

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unless other mutually agreeable arrangements are made regarding record retention by Recipient or inspection access to LEDA.

4. The payment of this Capital Investment Incentive is conditioned upon:

   i. First Installment: Recipient incurring a minimum capital investment of $4,800,000 for the Project, representing 80% of the planned capital investment, during the period beginning on the Effective Date and ending the date of the first applicable Measurement Date. Capital investment will be measured either by documentation of construction or personal property invoices provided to LEDA or LEDA's accountants by the stated deadline of two (2) months following the first applicable Measurement Date; and

   ii. Recipient obtaining a Certificate of Occupancy from the City of Lubbock for its new facility by the first applicable Measurement Date.

   iii. Second Installment: Recipient providing LEDA with a letter attesting it continues to comply with all the rules, terms, and conditions of this Agreement within two (2) months after the second applicable Measurement Date.

8. **Conditions for Payment of Incentives**: It is specifically agreed and understood by and between the parties that LEDA has agreed to make the incentives available to Recipient strictly upon the following terms and conditions:

A. Any use of LEDA's name for publicity in connection with Recipient's business or activities must be approved in advance by LEDA. It is understood that LEDA may make known its contributions to Recipient in whatever public manner LEDA deems appropriate.

B. Recipient shall have delivered to LEDA evidence of its authority for the execution and performance of this Agreement, as well as timely delivery of all other information expressly called for in this Agreement.

C. Recipient must maintain a business location in the City of Lubbock for ten (10) years following the execution of this Agreement and its legal status under federal and state law such that it remains qualified to do business in the State of Texas.

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D. For the duration of this Agreement, the operations or activities of Recipient and its employees shall be performed and conducted in a professional, businesslike manner and shall be in keeping with federal and state laws and regulations, and any ordinances of the City of Lubbock, Lubbock County and/or governmental entities which may have jurisdiction over Recipient's operations and activities.

E. Recipient certifies that the Recipient 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, Recipient is convicted of a violation under 8 U.S.C. § 1324a(f), Recipient shall repay the amount of the public subsidy provided under this Agreement, with interest at the legal pre-judgment interest rate, with reasonable attorney's fees, not later than the 120th day after the date LEDA notifies Recipient of the violation.

F. Any information obtained by LEDA or its agents or assigns during negotiations leading up to the execution of the Agreement or otherwise about the business will be returned upon the execution of this Agreement, subject to a right to a continuing examination by LEDA in order to comply with LEDA's reporting obligations, if any.

G. Recipient agrees to cooperate in good faith with LEDA or LEDA's accountants in the confidential review and examination of records, limited to those evidencing the employment and capital investment requirements and any other records reasonably necessary to verify compliance with the conditions of the incentive payments. Failure to timely provide all information and documentation reasonably requested for such review may result in forfeiture of the incentive.

H. Recipient agrees to comply with all Texas' sales and use tax laws regarding the purchase, use and storage of personal property and other applicable expenditures associated with this Project and its location.

I. Recipient agrees to remain current on and in compliance with all applicable tax obligations lawfully due. Failure to remain in good standing with respect to such obligations may result in the withholding or forfeiture of the incentive under this Agreement, as determined by LEDA.

J. Recipient will notify LEDA in writing within three (3) business days of any Layoff or reduction in force greater than 20% of the existing workforce. The notification must include the number of employees being laid off, their job titles, the reasoning for the Layoff, and what the Recipient is doing to assist the laid-off employees.

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Likewise, if an announcement is made that the Recipient is closing its doors and ceasing business operations during the review of job creation incentives, LEDA, in its sole discretion, may elect to suspend payment to Recipient.

9. **Payback Provisions and Events of Default**:

A. Recipient acknowledges that LEDA and Recipient are required to remain in conformance with the statutory provisions of the Act. The parties hereto agree that in the event Recipient fails to comply with the provisions of this Agreement, including but not limited to Sections 7 and 8, and after written notice and failure to cure the violation continues for thirty (30) days after written notice to Recipient, then LEDA, in its sole discretion, may terminate this Agreement and permanently suspend all future payments to Recipient.

B. Recipient has provided to LEDA an expected capital investment of $6,000,000 for the Project, anticipated to be expended within the three (3) years following the Effective Date, in the form of real property and personal property improvements. LEDA based its decision to grant the Capital Investment Incentive to Recipient based upon such capital investment. If the actual capital investment amount is significantly lower (20% or greater) than the expected capital investment, the incentive may be forfeited.

C. Recipient shall provide LEDA with a copy of the Certificate of Occupancy issued for the Project's facility no later than the first applicable Measurement Date, to be eligible for the Capital Investment Incentive. Failure to provide this documentation by the stated deadline may result in incentive forfeiture.

10. **Assignment, Merger, and Termination Due to Merger, Etc.**: This Agreement shall not be assignable, either in whole or in part. Termination as the result of assignment or merger or change in business form shall not disqualify the remaining or new entity from applying to LEDA for new incentive consideration.

11. **No Privity of Endeavor Nor Joint Venture**: It is specifically agreed that there shall be no privity of endeavor nor joint venture whatsoever between LEDA and Recipient and the sole connection between the parties is the contribution of the economic assistance by LEDA under the restricted conditions as set forth herein and that such contributions as stated herein are for the sole purposes as set forth herein and it shall in no way be construed as a continuing basis of financial support by LEDA to Recipient. The parties hereto have entered into this Agreement in an arms-length transaction. NO agency relationship or

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fiduciary relationship is intended to be created by this Agreement and no such relationship shall be determined to exist.

12. **Good Faith – Normal Business Operations**: The parties agree that this Agreement has been entered into in good faith and that each party shall act in good faith in complying with its provisions. The parties further agree to transact all their business under and that which relates to this Agreement in accordance with their normal business operations.

13. **Miscellaneous Provisions**:

A. Notices: for the purposes of any notices to be given, pursuant to the terms of this Agreement, the parties shall use the following addresses, or any other address as may be changed by the parties, upon written notice to the other party, as follows:

1. LEDA
   John Osborne
   CEO and President
   Lubbock Economic Development Alliance, Inc.
   1500 Broadway, Suite 600
   Lubbock, Texas 79401

2. With a copy to:
   Ann Manning
   Attorney at Law
   Underwood Law Firm
   P.O. Box 16197
   Lubbock, Texas 79490

3. RECIPIENT
   Erin Loyd
   Senior Principal / Vice President
   5847 50th Street, Lubbock, TX 79424
   With a copy to:

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Notices shall be deemed to be given upon the placing in the United States Mail, Certified Mail, Return Receipt Requested, to the above-described addresses or as may be changed, pursuant to the terms and conditions hereof.

B. No Waiver of Immunity: Notwithstanding any other provisions of this Agreement, including, without limitation, the provisions of Section 7, 8 and 9 of this Agreement, nothing in this Agreement shall or may be deemed to be or shall or may be construed to be, a waiver or relinquishment of any immunity, defense, or limitation to which LEDA, the City of Lubbock, its elected officials, its officers, employees, representatives, or agents are or may be entitled, including without limitation, any waiver of immunity suit.

C. Venue; Governing Law: All payments made pursuant to this Agreement and other obligations performed under this Agreement shall be made or performed in the City of Lubbock, Lubbock County, Texas. Exclusive venue for any action, cause of action, lawsuit, or other proceeding under or in connection with this Agreement shall be and lie in Lubbock County, Texas and the parties hereby submit themselves to the jurisdiction thereof; and this Agreement shall be governed by and construed in accordance with the laws of the State of Texas without respect to the conflict of laws rules thereof. Recipient hereby waives and agrees not to assert by way of motion, as a defense, or otherwise, in any suit, action, or proceeding, any claim that (i) it is not subject to such venue or the jurisdiction of the courts of Lubbock County, Texas, (ii) the suit, action, or proceeding is brought in an inconvenient forum, or (iii) the venue of the suit, action, or proceeding is improper.

D. Entire Agreement: This instrument constitutes the entire Agreement between the parties hereto and neither this Agreement nor any of the Exhibits attached hereto, if any, can be altered, changed, or amended in any respect except by an instrument in writing duly executed by both parties.

E. Partial Invalidity: In the event that any portion of this Agreement should be found or declared to be invalid for any reason, the remaining provisions of this Agreement shall remain in full force and effect and shall be binding upon the parties. The parties agree that it is their intent for this Agreement to be determined as being an indivisible obligation of the parties.

F. Binding Effect: This Agreement shall be binding upon the undersigned, their successors, and assigns, subject to the express terms of this Agreement concerning assignment.

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G. Force Majeure: If any default or performance of any other covenant or term of this Agreement is delayed by reason of strike, riots, shortages of labor, materials, supplies, or transportation, war, civil commotion, act of God, governmental restrictions, regulations, or interference, fire, or other casualty, or any other circumstances beyond a signatory party's control, then the duty to do or perform the Term or covenant, regardless of whether the circumstance is similar to any of those enumerated above or not, is excused during the delay period.

H. Nonwaiver. The failure of either party to insist upon the strict performance of any term or condition of this Agreement shall not be deemed a waiver of any right or remedy that the party may have, and shall not be deemed a waiver of any subsequent breach of any such term or condition.

[Signature page follows]

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EXECUTED in multiple counterparts, each of which is an original, on this 22nd day of July, 2026.

LUBBOCK ECONOMIC DEVELOPMENT ALLIANCE, INC.

____
John Osborne, CEO and President

ATTEST:

____

RECIPIENT:

Erin Loyd (Jul 14, 2026 11:54:05 CDT)
____

ATTEST:

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LEDA - Terracon Performance Agreement - 07072026

Final Audit Report 2026-07-14

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