

RESOLUTION NO. R-2023-0010

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BASTROP ECONOMIC DEVELOPMENT CORPORATION APPROVING A SECOND EXTENSION TO THE PERFORMANCE AGREEMENT WITH MOCA VENTURES NEBRASKA, LLC; AUTHORIZING ALL NECESSARY ACTIONS, INCLUDING EXECUTION OF NECESSARY DOCUMENTATION; REPEALING ALL RESOLUTIONS IN CONFLICT; AND, PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Development Corporation Act of 1979, as amended (Section 501.001 et seq., Texas Local Government Code, formerly the Development Corporation Act of 1979) (the “Act”) authorizes a development corporation to fund certain projects as defined by the Act and requires development corporations to enter into performance agreements to establish and provide for the direct incentive or make an expenditure on behalf of a business enterprise under a project; and

WHEREAS, Section 501.158 of the Act requires a performance agreement to provide at a minimum for a schedule of additional payroll or jobs to be created or retained, capital investment, and workforce training and development are all factors to consider for any direct incentives provided or expenditures made by the Bastrop Economic Development Corporation (the “BEDC”) under an agreement and to specify the terms under which repayment must be made if the business enterprise does not meet the performance requirements specified in the agreement; and

WHEREAS, Moca Ventures Nebraska, LLC (“Developer”) desired to purchase approximately 27.954 acres of land (the “Property”) from BEDC for Nine Hundred Thousand Dollars (\$900,000.00) and develop an office complex and campus for software engineering, call center, and other business development, location, and/or expansion, as well as substantial capital improvements within the Bastrop Business and Industrial Park, a target area for development for the BEDC (“Project”); and

WHEREAS, the Developer entered into a performance agreement with the BEDC for the Project in the First Amended and Restated Economic Development Performance Agreement (“Agreement”) executed on February 7, 2022; and

WHEREAS, per Article VIII, Section 3(c) of the Agreement, the Developer agreed to commence construction within one year of the effective date; and

WHEREAS, the Developer was granted a six-month extension by the BEDC Board of Directors on January 23, 2013; and

WHEREAS, the Developer has indicated that they will not be able to meet that timeline and are therefore requesting a second extension to Article VIII, Section 3(c) of the Performance Agreement of six (6) months; for a total extension of twelve (12) months; and

WHEREAS, Article VIII, Section 3(c) states that the Parties can agree to an extension of the Commencement of Construction date in lieu of any default or recapture process by the BEDC; and

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WHEREAS, the Board has reviewed the terms and conditions of the proposed extension to the Agreement by and between the BEDC and Developer, and determined that it fully complies with the statutory requirements that govern the BEDC and is in the best interest of the BEDC to enter into such agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BASTROP ECONOMIC DEVELOPMENT CORPORATION THAT:

SECTION 1. The findings set out above are hereby found to be true and correct and are incorporated herein for all purposes.

SECTION 2. All resolutions in conflict are hereby repealed.

SECTION 3. The BEDC hereby approves the terms of the extension to the Agreement, attached hereto as Exhibit "A", between BEDC and the Developer.

SECTION 4. The Board authorizes the Interim Executive Director to take all necessary actions, including the execution of all necessary and related documentation to finalize the extension to the Agreement.

SECTION 5. This Resolution is effective upon passage.

DULY RESOLVED AND ADOPTED by the Board of Directors of the Bastrop Economic Development Corporation, this ____ day of _____ 2023.

BASTROP ECONOMIC
DEVELOPMENT CORPORATION

Ron Spencer, Board Chair

ATTEST:

Charles Washington, Board Secretary

APPROVED AS TO FORM:

Denton, Navarro, Rocha, Bernal & Zech, P.C.

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EXHIBIT "A"

Second Extension to First Amended and Restated Economic Development Performance Agreement by and between the BEDC and Moca Ventures Nebraska, LLC

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