



Ann Arbor-Ypsilanti Smart Zone Local Development Finance Authority
MINUTES for June 17, 2014 – REGULAR BOARD MEETING

Ann Arbor City Hall Council Chambers
301 E. Huron Street, Ann Arbor, MI 48104

Members Present: Caryn Charter, Eric Jacobson, Carrie Leahy, Stephen Rapundalo, Sally Petersen, Tom Crawford – Ex-officio, Skip Simms-Accelerator Ex-officio, Paula Sorrell-MEDC Ex-officio

Members Excused: Richard Beedon, Vince Chmielewski, Bilal Saeed, Ned Staebler

Others Present: Ken Bogan - City of Ann Arbor, Lisa Bies - SPARK, Luke Bonner – SPARK, Lori Emerson - SPARK, Ben Harrington – SPARK, Bill Mayer – SPARK, Liz Perpich - SPARK, Alissa Steiner - SPARK, Dave Askins - Ann Arbor Chronicle, Jerry Lax - Pear Sperling Eggan & Daniels PC,

I. CALL TO ORDER:

Chair Leahy called the meeting to order at 8:21 am. A quorum was present.

II. PUBLIC COMMENT:

None.

III. APPROVAL OF THE AGENDA:

Other Business, item d. LDFA extension duration/satellite update, may be moved up for expediency when Jerry Lax arrives. Also, the infrastructure and audit item, indicated as part of the Chair's report, should be added to Other Business as item e. Motion approved unanimously.

IV. MOTIONS & RESOLUTIONS:

Minutes of the April 15, 2014 Regular Board Meeting:

Rapundalo moved, seconded by Charter, to approve the minutes of the meeting in the form presented at this meeting. Motion approved unanimously.

V. LDFA CHAIR'S REPORT:

Chair Leahy delivered the Chair's report, which included a briefing on the Board members' appearances before the City Councils. It was noted that the Ann Arbor City Council would like to see an independent audit of the job creation numbers and some LDFA investment in infrastructure.

VI. LDFA TREASURER'S REPORT:

Treasurer Jacobson presented the Treasurer's report, and noted positive overall spending variances, with two exceptions (the internship program and the incubator). Those variances are within the flexibility of the contract.

VII. REPORTS FROM SERVICE PROVIDERS:

Simms presented the Service Provider report, noting the variances indicated in the Treasurer's report, and provided an update on the expanded incubator facility.

VIII. OTHER BUSINESS:

- a. **Approval of the FY2015 meeting schedule** - Petersen moved, seconded by Charter, to approve the meeting schedule for FY2015 in the form presented at this meeting. Motion approved unanimously.
- b. **Approval of the FY2015 Ann Arbor SPARK contract** - Rapundalo moved, seconded by Jacobson, to approve the FY2015 Ann Arbor SPARK contract in the form presented at this meeting, with one minor revision (remove the brackets from page 2). Motion approved unanimously.
- c. **Approval of the FY2015 Ann Arbor Administrative Services Agreement** - Jacobson moved, seconded by Charter, to approve the FY2015 Ann Arbor Administrative Services Agreement in the form presented at this meeting, with one minor revision (change the word "secretariat" to "secretarial"). Motion approved unanimously.
- d. **LDFA extension duration/satellite update –**
 - Simms updated the board on the status of the potential satellites. Flint is no longer interested, but both Adrian and Brighton are both moving forward a possible satellite. Simms indicated the Board will know in September if it is possible to move forward with the fifteen year extension. Luke Bonner informed the Board of the steps for new satellites.
 - The Board discussed on the steps necessary to move forward with the revised TIF plan. The deadlines for adopting a revised TIF plan are March 2015 for the five year extension and June 2015 for the fifteen year extension.
 - The Contract committee will review and revise the TIF plan.
- e. **Audit of job creation numbers and LDFA Infrastructure investment –**
 - Jerry Lax will look at the enabling legislation for constraints on infrastructure spending.
 - The audit committee will check with the auditors, Abraham Gaffney, to see if they can audit the job numbers when they audit the SPARK contract in FY2015.

IX. ADJOURNMENT:

Meeting was adjourned at 10:11 am.

Respectfully Submitted,
Ken Bogan, for Recording Secretary Tom Crawford



LDFa Board Meeting

June 17, 2014

8:15 am to 10:15 am

City of Ann Arbor

301 E. Huron Street, Ann Arbor, MI 48104

Agenda

- I. Call to Order**
- II. Public Comment**

Public comment shall be allowed at all meetings. An individual may speak for up to three (3) minutes on any item listed on the Agenda. The Chair may extend an individual's speaking time in his/her discretion. Public comment on non-agenda items may be limited in the Chair's discretion.
- III. Approval of the Agenda**
- IV. Approval of the Minutes of the April 15, 2014 Regular Board Meeting**
- V. LDFa Chair's Report**
 - a. Updates from presentations to City Council (infrastructure and audits)**
- VI. LDFa Treasurer's Report**
- VII. Reports from Service Providers**
- VIII. Other Business**
 - a. Approval of the FY2015 meeting schedule**
 - b. Approval of the FY2015 Ann Arbor SPARK contract**
 - c. Approval of the FY2015 Ann Arbor Administrative Services Agreement**
 - d. LDFa extension duration/satellite update**
- IX. Motion to Adjourn**



Ann Arbor-Ypsilanti Smart Zone Local Development Finance Authority
MINUTES for April 15, 2014 – REGULAR BOARD MEETING

Ann Arbor City Hall Council Chambers
301 E. Huron Street, Ann Arbor, MI 48104

Members Present: Richard Beedon, Caryn Charter, Eric Jacobson, Carrie Leahy, Stephen Rapundalo, Ned Staebler, Sally Petersen, Tom Crawford – Ex-officio, Skip Simms-Accelerator Ex-officio, Paula Sorrell-MEDC Ex-officio

Members Excused: Bilal Saeed, Vince Chmielewski

Others Present: Ken Bogan - City of Ann Arbor, Mary Fales - City of Ann Arbor, Jerry Lax - Pear Sperling Eggan & Daniels PC, Lisa Biles - SPARK, Alissa Carpenter - SPARK, Lori Emerson - SPARK, Bill Mayer - SPARK

I. CALL TO ORDER:

Chair Leahy called the meeting to order at 8:22 am. A quorum was present.

II. PUBLIC COMMENT:

None.

III. APPROVAL OF THE AGENDA:

Rapundalo moved, seconded by Beedon, to approve the agenda for this meeting in the form presented at this meeting. Motion approved unanimously.

IV. MOTIONS & RESOLUTIONS:

Minutes of the March 18, 2014 Regular Board Meeting:

Rapundalo moved, seconded by Beedon, to approve the minutes of the meeting in the form presented at this meeting, with one correction to the Public Comment item. Motion approved unanimously.

V. LDFA CHAIR'S REPORT:

Chair Leahy delivered the chair's report. This included briefings on: the contract committee process and the SmartZone TIF extension. Chair Leahy stated she had received clarification from the MEDC about the SPARK internship program. The intern cost reimbursements would not be allowed as they were previously structured, so SPARK will need to revisit how to restructure that program.

VI. LDFA TREASURER'S REPORT:

Treasurer Jacobson presented the FY2014 3rd quarter financial report.

VII. REPORTS FROM SERVICE PROVIDERS:

- a. Simms presented the SPARK FY2014 3rd quarter report, including a new metrics dashboard.
- b. Simms presented the follow-up information on the SPARK proposed FY2015 marketing plan. Simms stated the contract will specify the metrics to be reported on the new marketing plan.

VIII. OTHER BUSINESS:

- a. **L DFA extension duration/satellite update** – Simms updated the board on the status of the five and fifteen year extension efforts. SPARK will be meeting again with Flint. Rapundalo will represent the board at that meeting. Jerry Lax, the board’s legal counsel, and Mary Fales, from the City of Ann Arbor Attorney’s office, spoke to the board about details of the extension approval process. These steps include the board passing a resolution to pursue the extension, both City Councils passing resolutions in support of extending the SmartZone and TIF agreement, and both Councils passing resolutions passing an amended TIF plan.
- b. **Resolution to pursue extension** – Rapundalo moved, seconded by Staebler to approve a resolution authorizing application for extension of the SmartZone agreement. Motion approved unanimously. A copy of the resolution is attached to these minutes.

IX. ADJOURNMENT:

Meeting was adjourned at 10:05 am.

Respectfully Submitted,
Ken Bogan, for Recording Secretary Tom Crawford



PUBLIC MEETING NOTICE

Ann Arbor-Ypsilanti SmartZone **Local Development Finance Authority**

Location:

City of Ann Arbor Council Chambers (2nd floor)
301 E. Huron Street, Ann Arbor, MI 48104

Contact person: Ken Bogan (734) 794-6500 x45102

FY 2015 Meeting Schedule

July 15, 2014	8:15am – 10:15am
September 16, 2014	8:15am – 10:15am
October 14, 2014	8:15am – 10:15am
January 13, 2015	8:15am – 10:15am
March 17, 2015	8:15am – 10:15am
April 14, 2015	8:15am – 10:15am
June 16, 2015	8:15am – 10:15am
July 14, 2015	8:15am – 10:15am

Persons with disabilities are encouraged to participate. Accommodations, including sign language interpreters, may be arranged by contacting the City Clerk's Office by telephone at (734) 794-6140 or by written request addressed to the City Clerk's Office, 301 E. Huron Street, Ann Arbor, MI 48104, at least 2 business days in advance.

AGREEMENT

This Agreement (the "Agreement") is effective as of the 1st day of July, 2014, between the Ann Arbor-Ypsilanti SmartZone Local Development Finance Authority (hereinafter referred to as the "LDFA"), whose address is Municipal Center, City Hall, 301 E. Huron Street, Ann Arbor, MI 48104, and Ann Arbor SPARK (hereinafter referred to as the "Contractor"), whose address is 201 South Division, Ann Arbor, MI 48104. As used herein, the LDFA and the Contractor are sometimes collectively referred to as the "Parties."

Article I - Purpose

1.1 The purpose of this Agreement is to engage the Contractor to perform work in support of the Ann Arbor-Ypsilanti SmartZone, as described in the Scope of Work attached hereto as Attachment A and incorporated herein by this reference (hereinafter referred to as the "Scope of Work"). The Scope of Work may be amended and/or supplemented by mutual agreement of the Parties, with such amendments or supplements to be included as separate Attachments.

Article II - Term and Funding

- 2.1 This Agreement covers the period July 1, 2014 -June 30, 2015 (hereinafter referred to as the "Project Service Term") plus an additional 60 days for provision of the report required by Section 3.3 (collectively hereinafter referred to as the "Contract Term").
- 2.2 The fees to be paid Contractor and the terms of payment are detailed more specifically in Attachment A and subsequent Attachments if any. Payment of any amount scheduled to be made other than at the outset of a work assignment shall be conditioned upon Contractor's prior submission of any report, and successful performance by Contractor of any work, required to be completed prior to the time said payment is scheduled to be made.
- 2.3 Contractor may reallocate fees set forth in Attachment A between categories within the Scope of Work, which allocations cumulatively shall not exceed ten percent (10%) per a line item detailed in the Scope of Work for the Project Service Term, except fees that are set forth in Attachment A for Phase IV and microloans shall in no event be increased without the prior approval of LDFA. Budget amounts may be decreased without limitations, subject to review by LDFA of the consistency of such decreases with the achievement of contract objectives.
- 2.4 The Contractor shall be responsible for any cost overruns. No funds will be payable by the LDFA in respect of any costs additional to the costs detailed in the Scope of Work (other than in respect of costs reallocated pursuant to the provisions of Section 2.3), unless the written approval of the LDFA has been secured in advance.
- 2.5 This Agreement does not obligate or commit the LDFA to approve requests for additional funds during or beyond the Project Service Term.

Initial _____ Initial _____
LDFA Contractor

2.6 The Parties acknowledge that this Agreement is subject to applicable local, state and federal laws, rules, and policies.

Article III - Scope of Work and Compliance Activities

3.1 The Contractor shall complete its work in accordance with the Scope of Work.

3.2 The Contractor shall provide to the LDFA written quarterly summaries of progress at the first LDFA board meeting following the end of each calendar quarter, which outline the work accomplished during the applicable quarterly reporting period; problems, real or anticipated, which should be brought to the attention of the LDFA; notification of any significant deviation from the Scope of Work; and other information that may be requested by the LDFA. These summaries shall contain financial information sufficient to assure that LDFA funds are used only in connection with the Scope of Work. **[The reports shall include, as applicable, and only at such times as required, information required to be reported in connection with an extension of the LDFA's term.]** These reports shall include but not be limited to the following: 1) the number of companies/entrepreneurs screened in Phase I; 2) the number and identity of companies by unique number or entrepreneurs in Phase II; 3) the companies that receive Phase III engagements and the number of full time equivalent employees in each company; and 4) the companies that receive Phase IV assistance, description of assistance, number of full time equivalent employees and projected new employees. Phase I, Phase II, Phase III and Phase IV engagements are detailed in Attachment A. The report should also include microloan information that identifies in the aggregate the number of applicants, total amount invested, number of approved applicants, the amount requested, amount approved, amount of loans repaid and written off, jobs retained and created during the term of the loan. For the applicable reporting quarter Contractor will include approved applicant(s), use of loan proceeds, loan maturity date, and current FTE. In addition, quarterly reports should include information on the talent programs.

3.3 The Contractor shall provide a written Final Program Progress Report to the LDFA no later than sixty (60) days after the end of the Project Service Term. The Final Program Progress Report shall disclose: 1) a census of the annual and cumulative number of jobs created within the Service Area (as defined in Attachment A) as of June 30, 2015 (with 'jobs created' defined as the incremental increase in the number of Full Time Equivalent employees (FTEs) beginning with the date a Business Accelerator proposal is signed, or a loan is provided, or when a SPARK Central Incubator agreement is first executed, or when participation in a Boot Camp session occurs); 2) a census of the annual and cumulative number of jobs related to Business Accelerator, SPARK Central Incubator, and Boot Camp attendees that have left the Service Area because of relocation, merger, acquisition, or business failure as of June 30, 2015; 3) a census of the number and identity of current and past clients the Contractor deems no longer eligible for LDFA funded services as of June 30, 2015; and 4) a census of the number and identity of clients for which information regarding job creation is no longer being collected as of June 30, 2015. The Contractor shall track companies for a period of five years through an annual survey and make efforts to achieve as high a participation rate as possible.

Initial _____ Initial _____
LDFA Contractor

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The survey will not only include questions that update standard economic development data but also ask companies who leave the area why.

3.4 The LDFA may require the Contractor to produce receipts for cost(s) incurred and/or itemized accounts of expenditure. If the Contractor is required to produce receipts for cost(s) incurred, then this should take the form of receipted invoices. If the Contractor is required to produce an itemized account of expenditure, this should take the form of a printed list of each item of expenditure and the costs incurred, certified as an accurate record by a duly authorized representative of Contractor. The LDFA may, on a sample basis, seek further verification of individual transactions, in the form of a receipted invoice or equivalent evidence for that transaction. The LDFA may have the records of Contractor, which pertain to the Scope of Work, reviewed or audited by an independent party. The cost of such review or audit shall be borne by the LDFA.

3.5 Contractor shall: maintain insurance adequate and reasonable to support its services under this Agreement, and as may otherwise be required by applicable federal, national, state and local laws and regulations; name LDFA as an additional insured on such policies; and provide LDFA a certificate of insurance, evidencing the foregoing upon execution of this Agreement and from time to time as LDFA may request.

3.6 New Inventions

3.6.a "New Inventions" means all ideas, inventions, discoveries and other intellectual property (including, but not limited to, those that are or may be patentable or subject to copyright, trademark or patent protection), and all improvements thereto and compilations and derivative works thereof, that Contractor creates, authors, makes, originates, conceives or reduces to practice (alone or with others) in connection with the Scope of Work or under the MEDC SmartZone Business Accelerator Grant #0264 (including, without limitation, website/web portal design, development and content), but does not include any rights in ideas, inventions, discoveries and improvements or other intellectual property licensed by Contractor from third parties or work product produced by Contractor or its subcontractors specifically for clients of the Business Accelerator.

3.6.b All New Inventions shall be the sole and exclusive property of the LDFA, and Contractor hereby assigns to the LDFA all rights therein, except as may otherwise be expressly agreed to by LDFA in writing. During the Project Service Term only, LDFA grants Contractor an irrevocable, non-exclusive, royalty-free (except as otherwise provided in this Agreement and any Attachment), worldwide license to make, use, import, copy, distribute, modify, perform and display the New Inventions for purposes consistent with the Tax Increment Financing and Development Plan for the Ann Arbor/Ypsilanti SmartZone (the "TIF Plan"). The foregoing license shall not include the right to sublicense except as otherwise provided in this Agreement and any Attachment. The foregoing license shall be co-terminus with the Project Service Term.

Initial _____ Initial _____
LDFA Contractor

- 3.6.c In order that the LDFA may protect its rights in the New Inventions, Contractor agrees to promptly disclose to the LDFA all New Inventions. Contractor will make adequate written records of all New Inventions, which records shall be LDFA's property; and, both during and after termination of Contractor's engagement with LDFA, Contractor will, without charge to LDFA but at LDFA's request and expense, sign all papers, including forms of assignment, and render any other proper assistance necessary or desirable to transfer or record the transfer to LDFA of Contractor's entire right, title and interest in and to the New Inventions, and for LDFA to obtain, maintain, defend and enforce patents, copyrights, trademarks, trade secrets and other protections thereon or with respect thereto (as the case may be) throughout the world.
- 3.6.d Contractor grants LDFA an irrevocable, perpetual, non-exclusive, paid-up, royalty-free, worldwide, transferable license to make, use, sell, offer for sale, import, copy, distribute, modify, perform and display any ideas, inventions, discoveries or other intellectual property, and all improvements thereto and compilations and derivative works thereof, owned by Contractor to the extent required by the LDFA to exploit the deliverables or other work product provided as part of the Scope of Work or to fulfill the requirements of the Scope of Work or otherwise for purposes consistent with the TIF Plan.
- 3.6.e Contractor hereby represents and warrants to LDFA that any employees performing services under the Scope of Work are obligated under the terms of their employment to transfer all right, title and interest in New Inventions to Contractor and that such employees will have no title, right or interest whether legal or beneficial in any New Inventions. Additionally, if Contractor hires subcontractors to provide services within the Scope of Work and such subcontractors receive a monetary fee for such services (other than non-material stipends), Contractor will ensure that under the terms of engagement of such subcontractors, all intellectual property rights in "Educational Materials" (as hereafter defined) arising out of or relating to the work done by such subcontractors will vest or will be caused to vest in the Contractor, and in turn in LDFA, as a New Invention, and that such subcontractors will have no right, title or interest, whether legal or beneficial, in any such intellectual property. "Educational Materials" means training, presentation, educational and/or informational materials, programs, methodologies, formulas, techniques, forms, templates and similar information developed or used for general or broad-based training, education or consulting under the Scope of Work.

Article IV - Investments

- 4.1 Neither Contractor nor its subcontractors shall invest LDFA funds, directly or indirectly, in client firms during the Contract Term or otherwise, including but not limited to equity interest, options, warrants or recourse or non-recourse debt; provided however that the foregoing shall not limit Contractors' ability to make micro loans per Attachment A Section 1.2 and provided further that the Parties acknowledge that Business Accelerator clients may have repayment obligations per Attachment A Section 1.1.3(iv).

Initial _____ Initial _____
 LDFA Contractor

4.2 Contractor may not condition the services it provides to clients under this Agreement on the opportunity for Contractor to make direct or indirect investments in said clients.

Article V - Administration

5.1 Notices. The Contractor shall communicate with all of the following designees at the address of record for the LDFA in connection with this Agreement:

Chairman

Treasurer

Secretary

The LDFA shall communicate with all of the following authorized agents at the address of record for the Contractor in connection with this Agreement:

President and CEO

Senior Vice President, Entrepreneurial Services

VP, Entrepreneurial Services

Director, Administration and Finance

Article VI - Breach and Termination

6.1 If the Contractor fails to comply with any provision of this Agreement it shall be considered in default and given 30 days from notice by the LDFA to cure the default so that it would be in compliance; provided that if the default is not cured within 15 days of such notice, the LDFA may suspend or restrict payments under this Agreement for the provisions of this Agreement that are the subject of the default and shall notify Contractor of the same. If the default is not cured within 30 days of such notice, the LDFA can suspend or restrict any or all payments under this Agreement and shall notify Contractor of the same. Once notice has been sent to Contractor, Contractor agrees that it will not incur any further costs within the Scope of Work until notified in writing by the LDFA that the suspension or restriction has been terminated; provided however, that LDFA will allow funding under this Agreement for all necessary and proper costs within the Scope of Work which could not reasonably be avoided during the period of any suspension or restriction.

6.2 The LDFA may terminate this Agreement in whole or in part, at any time, if LDFA determines that Contractor has failed to comply with any provision of this Agreement or has engaged in fraudulent or reckless behavior, or willful misconduct. In such an event, the LDFA shall notify the Contractor of the termination. Should the LDFA terminate this Agreement because of the Contractor's fraud, recklessness, or willful misconduct, the Contractor shall return to the LDFA all funds received under this Agreement.

Initial _____ Initial _____
LDFA Contractor

- 6.3 The LDFA and the Contractor may terminate this Agreement in whole or in part, by mutual agreement. In such event, the Parties shall agree upon the conditions of termination. In no event shall the Contractor incur further costs under the Scope of Work after the effective date of such termination. The LDFA shall not be obligated to pay any further fees or costs under the Scope of Work for the terminated portion of this Agreement that are incurred by the Contractor after the effective date of such termination. The Contractor shall use commercially reasonable efforts to cancel as many outstanding obligations as possible in the event of termination.
- 6.4 LDFA may terminate this Agreement at any time effective upon 90 days prior written notice to Contractor.

Article VII - Effective Date and Miscellaneous Provisions

- 7.1 This Agreement shall be effective as of July 1, 2014.
- 7.2 Should any portion of this Agreement or the attached exhibits be declared void or unenforceable, the remaining portions shall remain in full force and effect.
- 7.3 The relationship between the LDFA and the Contractor is that of independent contractors. Neither of the Parties nor their respective agents or employees shall under any circumstances be deemed to be agents, representatives, or partners of the other party and neither of the Parties shall enter into any contract or commitment in the nature or on behalf of the other party.
- 7.4 This Agreement shall be governed and construed in accordance with the laws of the State of Michigan, and the Contractor consents to the exclusive jurisdiction of the state courts and federal courts located in Washtenaw County, Michigan for any controversy or cause arising out of or relating to this Agreement or the breach thereof, whether involving remedies at law or in equity.
- 7.5 The LDFA and the Contractor agree to perform any further acts to execute and deliver any further documents, which may be reasonably necessary to carry out the provisions of this Agreement.
- 7.6 The Contractor shall not assign, transfer, convey or otherwise dispose of any duties or rights under this Agreement without the prior specific written consent of the LDFA; provided, however, that this sentence shall not be construed to prevent Contractor from engaging subcontractors to perform its obligations under this Contract as contemplated hereby. Any future successors of the Contractor will be bound by the provisions of this Agreement unless the LDFA otherwise agrees in writing. The LDFA reserves the right to require the Contractor to replace subcontractors who are found to be unacceptable.
- 7.7 This Agreement, including its Attachments, sets forth the entire agreement between the Parties and supersedes any and all prior agreements or understandings between them in any way related to the subject matter hereof. It is further understood and agreed that the terms and conditions herein are contractual and are not a mere recital and that there are no other agreements, understandings,

Initial _____ Initial _____
 LDFA Contractor

contracts, or representations between the Parties in any way related to the subject matter hereof, except as expressly stated herein.

7.8 The rights and remedies of the LDFA specified in this Agreement shall be in addition to all other rights and remedies available to the LDFA. Nothing contained in this Agreement shall be construed as a waiver of the LDFA's rights unless specifically and expressly agreed to in writing by the LDFA.

7.9 The Contractor shall maintain reasonable records in connection with the work performed pursuant to this Agreement, and shall allow access to those records by the LDFA or its authorized representatives.

7.10 This Agreement may be amended only upon written agreement by LDFA and Contractor.

7.11 This Agreement may be signed in counterpart. The counterparts taken together shall constitute a single agreement.

[Signatures on following page]

Initial _____ Initial _____
LDFA Contractor

Each party hereto represents that it is duly authorized to enter into this Agreement and that its signatory below is duly authorized to sign this Agreement on its behalf,

Agreed to and accepted this ____ day of _____, 2014.

Authorized Agent for the LDFA:

By: _____

Carrie Leahy, Ann Arbor-Ypsilanti SmartZone Local Development Finance Authority
Chairman

Authorized Agent(s) for Contractor:

By: _____

Paul Krutko, President & CEO
Ann Arbor SPARK

Initial _____ Initial _____
LDFA Contractor

ATTACHMENT A

To Agreement between the Ann Arbor-Ypsilanti SmartZone Local Development Finance Authority and Ann Arbor SPARK effective as of the 1st day of July, 2014 (the "Agreement"). Capitalized terms used but not defined in this Attachment A have the meaning given such terms in the Agreement.

Scope of Work

Contractor acknowledges the dual purpose and objective of the Business Accelerator and all related services, programs, and events is to promote local job creation among technology-based entrepreneurial and newly formed companies, and to expand the tax base within the geographic boundaries served by the LDFA. The "Service Area" is defined as the city limits of Ann Arbor, Michigan and Ypsilanti, Michigan, however direct expenditure of funds by the LDFA shall be limited to the geographic boundaries of the Ann Arbor portion of the LDFA, except where permitted per particular use identified in some activities in this Scope of Work. Client firms having their principal place of business outside the Service Area are not eligible recipients of LDFA funded services or loans. For very early stage companies where the principal place of business has not been established or is undeterminable, the requirement to locate the principal place of business within the Service Area can temporarily be satisfied by the client becoming a member of the SPARK Central Business Incubator.

For the period July 1, 2014 through June 30, 2015, Contractor shall provide the following services on the following terms:

1 Direct Services

1.1 Business Accelerator Services.

1.1.1 Business Accelerator Direct Staffing. Contractor shall provide staffing or retained consultants sufficient to conduct directly the Scope of Work outlined herein. It is anticipated that 100% of the activities of Phase I (see 1.1.2 below), approximately 25% of the activities of Phase II (see 1.1.3 below), and 100% executive talent recruiting activities will be conducted by Contractor staff resources. The annual fee shall be \$420,000, paid in 12 equal monthly payments.

1.1.2 Phase I. Phase I is defined as Contractor's initial contact and screening phase to understand and assess the business and technology proposition and determine in Contractor's sole discretion if advancement to a Phase II engagement is warranted. This includes but is not limited to: (a) review/screen for general programmatic fit, (b) solicit reviews from advisors/consultants for high level reaction, (c) referral to Phase II or other programs or outside resources. Phase I activities shall be conducted by Contractor staff as indicated in Section 1.1.1.

1.1.3 Phase II. Phase II is defined as more in-depth evaluation of prospective client firms to determine if the business is capable and/or ready for substantial Contractor consulting assistance in Phase III. This includes but is not limited to: (a) Contractor review for qualification of opportunity

Initial _____ Initial _____
LDFA Contractor

attractiveness, (b) opportunity and issue assessment, (c) scope of engagement for Phase III, (d) feedback to client from assessment, and (e) identification of criteria required for reconsideration. This Phase II is expected to take less than 10 hours of consulting time per client, and it is expected that Contractor will outsource approximately 75% of all Phase II activities to qualified subcontractors. The maximum fee for subcontractor activity shall be \$25,000. These monies shall not be utilized for any other purpose within or outside of the Contract. Contractor and client for whom Phase II services are performed shall sign a statement of understanding acknowledging:

- (i) That the engagement is non-exclusive, and Contractor is free to provide similar services to other clients, and client is free to obtain similar services from another provider at client's own expense;
- (ii) LDFA may audit the services provided to client, any agreement regarding confidentiality notwithstanding;
- (iii) Client has been informed of Contractor's conflict of interest policies; and
- (iv) If client moves out of the Service Area within one year of receiving Phase III services and support, client shall repay immediately the cost of those services.

1.1.4 Phase III. Phase III is defined as substantial Contractor involvement for business development to advance client firms beyond the startup phase to the seed and growth stages. This includes but is not limited to: (a) development or refinement of a plan, schedule, and budget for achievement of high value milestone(s), (b) addressing a strategic issue, (c) implementation of a milestone plan, (d) advancing the client on 1-3 strategic fronts, (e) development of an extended plan at the end of the engagement. Contractor will outsource 100% of all Phase III activities to qualified subcontractors and vendors. Phase III services eligible for reimbursement by the LDFA may include:

- Business plan, operational consulting, and business development assistance;
- Patent, licensing, and intellectual property rights consulting and legal review;
- Talent and recruitment assistance;
- Identification and development of bank, angel, venture capital, seed, pre-seed, customer, governmental, or private grant funding sources.

1.1.5 Approval of engagements with accumulated expenditures exceeding ten thousand dollars (\$10,000) will be made by a committee established by Contractor and acceptable to the LDFA and comprised of experienced entrepreneurs, technology business leaders, and investors, at least one of which will be a current LDFA Board member.

- 1.1.6 The maximum fee for Phase III subcontractor activity shall be \$550,000.
- 1.1.7 Phase IV. Phase IV is defined as accelerating opportunities for second stage companies in the seed and growth stages. These companies are further defined as having revenue but not yet bankable, having fewer than 25 employees and hiring more within the next six months, and increasing sales. Purpose of this opportunistic support is to provide accelerator assistance for technology companies who are established but need support for growth that is not yet fundable. Contributor will outsource 100% of all Phase IV activities to qualified subcontractors and vendors. Services eligible for reimbursement by the LDFA may include but not limited to:
- Marketing and business development assistance;
 - Product development and scaling manufacturing;
 - Talent relocation and recruitment assistance
- 1.1.8 Approval of assistance will be made by a committee established by Contractor and acceptable to the LDFA and comprised of experienced entrepreneurs, technology business leaders, and economic development professionals, at least one of which will be a current LDFA Board member. Assistance amounts will range between \$5,000 and \$25,000. Contractor will provide the LDFA on a quarterly basis at the first LDFA board meeting following the end of each calendar quarter a report that identifies all approved applicants, amount approved, jobs retained and created during the term of the grant or loan, and use of fund proceeds.
- 1.1.9 The maximum fee for Phase IV opportunities shall be \$75,000.
- 1.1.10 Business Accelerator Services. Contractor shall maintain accurate, complete, and contemporaneous records of services performed, identification of the service recipient or business purpose, location of the service recipient's principal place of business, date and duration of services, and the individual performing services on behalf of the Contractor. This detail need not be included on monthly invoices, provided each invoice bears a legend certifying the invoice conforms to the terms of the Agreement and all Attachments, is subject to audit and verification, and is signed and dated by Contractor's President and CEO, Senior Vice President Entrepreneurial, or VP, Entrepreneurial Services. Invoices for work performed shall be submitted no sooner than five (5) and no more than fifteen (15) business days following the end of the monthly billing cycle. Upon receipt of an invoice, LDFA shall determine within three (3) business days if the submission is sufficient to authorize payment, or if the submission needs further detail consistent with this Agreement.
- 1.2 Micro Loan Fund - Contractor will administer a micro loan fund approved by the LDFA from time to time. This fund will be used solely to make interest-bearing, non-recourse, subordinated loans to start-up and early stage growth companies to use for operations and other activities not provided under a Business Accelerator Phase III engagement. Loan approval will be made by a committee

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established by Contractor and acceptable to the LDFA and comprised of experienced entrepreneurs, technology business leaders, and investors, one of whom is a current LDFA Board member. Loans will not be provided to companies capable of receiving commercial bank loans. Loan amounts will range between \$5,000 and \$50,000. Contractor will provide the LDFA on a quarterly basis at the first LDFA board meeting following the end of each calendar quarter a report that identifies for the quarter all approved applicants, the amount requested, amount approved, jobs retained and created during the term of the loan, use of loan proceeds, loan maturity date, and aggregate amount of loans repaid and written off.

- 1.2.1 All amounts received by Contractor in repayment of micro loans shall be deposited into the micro loan fund bank account to be used to make additional micro loans on substantially the same terms and conditions set forth in Section 1.2 above. Such loan repayments will be additive to the fund size. No additional micro loan funds shall be provided by LDFA during this Project Service Term. All micro loan funds shall be maintained in a segregated bank account and shall not be commingled with other funds.
- 1.2.2 Termination or Cancellation – In furtherance and not in limitation of the provisions of Section 6.2 of the Agreement, LDFA may terminate Contractor’s administration of the micro loan fund program at any time upon written notice to Contractor. In the event of any such termination by LDFA, Contractor shall promptly return to LDFA any funds on deposit in the micro loan fund bank account and subsequently deposited into such account upon repayment of a micro loan, and upon LDFA’s request shall cooperate with LDFA to transition the micro loan fund program to LDFA or its designee.

1.3 Entrepreneurs Boot Camp

- 1.3.1 Contractor shall develop curriculum and organize a professional panel of qualified experts sufficient to conduct two intensive multi-day workshops for early stage entrepreneurs (“Boot Camp sessions”). Attendance at each of these Boot Camp sessions shall be limited to representatives of no more than 15 firms and no fewer than 10 firms. Contractor shall be reimbursed for up to two (2) Boot Camp sessions in the Project Service Term, with \$12,500 per Boot Camp session to be paid not more than 30 days prior to the date of the scheduled Boot Camp session.
- 1.3.2 Contractor shall maintain, and provide to LDFA upon request, records identifying attendees, the location of their principal offices, and the nature of their businesses. For two Boot Camp sessions in the Project Service Term, LDFA shall provide to Contractor an additional \$1,000 for each Boot Camp session attendee having their principal place of business within the Service Area, provided that the amount paid pursuant to this Section 1.3.2 shall not exceed \$12,500 per Boot Camp session. Contractor agrees that Boot Camp session attendees having their principal place of business within the Service Area shall be provided with a tuition discount of not less

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than 10% of the tuition rate charged to those attendees having a principal place of business outside of the Service Area.

1.3.3 The gross amount paid during the Project Service Term for Boot Camp sessions under this Section 1.3 shall not exceed \$50,000.

1.4 Business Networking Events.

1.4.1 Hosted Events. Contractor shall conduct educational and networking events for current and potential Business Accelerator clients along with vendors, service providers, consultants, investors and advisors to be held within the Service Area throughout the Project Service Term.

1.4.2 Sponsorships/Partnered Events. Contractor shall support educational and networking events in partnership or as a sponsor with other entrepreneurial support organizations (e.g., BioArbor, New Enterprise Forum, Women in Computing, student organizations and programs) that serve current and potential Business Accelerator clients.

1.4.3 Contractor will be reimbursed for actual expenses on a monthly basis for Hosted Events and Partnerships/Sponsored Events as described in Sections 1.4.1 and 1.4.2, upon delivery by Contractor to LDFA of a certified invoice with supporting detail that provides the date and place of the event, the purpose of the event, and the approximate number of attendees. The total amount of reimbursement per year shall not exceed \$40,000.

1.4.4 On a "best efforts" basis, Contractor shall maintain records for Hosted Events identifying attendees, the location of their principal offices, company name, and whether or not each is an entrepreneur.

1.5 Entrepreneur Education

1.5.1 Contractor shall conduct classes in support of entrepreneurial executives on a regular basis. These include classroom style classes covering a variety of topics such as sales training, transitioning industries, human resource development and team building, and strategic planning, plus 'office hour' sessions allowing for one-on-one mentoring on individual topics of entrepreneurial interest. Contractor shall submit for reimbursement on a monthly basis an invoice for development and delivery of entrepreneurial classes. For development of classes, Contractor shall maintain records of expenses incurred and supporting documentation, including completed course materials. For delivery of classes, Contractor shall maintain records of attendees, including location of principal office, and the nature of the firm's business. Contractor shall submit invoices to the LDFA on a monthly basis with the annual expense not to exceed a gross amount of \$62,500.

1.6 Talent

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- 1.6.1 Contractor shall create new programs that are designed to attract local talent, including and especially university graduates, and encourage them to stay and build a career in Ann Arbor. These program(s) will include an internship program utilizing Spark part-time employees and entrepreneur-in-residence type program that exposes people to the benefits, resources and quality of place that exist for entrepreneurs in Ann Arbor. Contractor shall be reimbursed for actual expenses including administrative activity on a monthly basis with the annual expense not to exceed a gross amount of \$200,000. The Contractor shall provide in the written quarterly summary a description of the program(s), companies participating, number of employees engaged in the program, and type of work or experience the talent received.
- 1.6.2 Contractor shall create a new program to develop and retain C-level talent. The program or programs should engage experienced talent from other geographic locations looking to relocate in Ann Arbor, and contract with C-Level individuals transitioning out of a company willing to work with SPARK client companies in Ann Arbor until they find a new company to be involved with full time.

1.7 SPARK Central Business Incubator

Qualifications for SPARK Central Business Incubator clients, including objective criteria for admission, the scope of services to be provided, and termination or exit criteria has been established in a written plan of operations that has been formally adopted and approved by the Contractor's board or governing body. The maximum annual fee shall be \$230,000. The monthly invoices should include a line item accounting for each of the elements described in Sections 1.7.1 through 1.7.7. In no event shall the amount invoiced to the LDFA for any single line item exceed the amount actually expended. The Contractor shall provide information related to SPARK Central Incubator clients in the same manner as that required for Phase III Business Accelerator clients as described in Article 3.2 of the Agreement.

- 1.7.1 Lease Subsidy. Contractor shall keep current with lease or sub-lease payments obligations on terms consistent with the original base lease agreement with First Martin Corp. for the purpose of providing a facility and staff parking to house the SPARK Central Business Incubator at 330 East Liberty Street, Ann Arbor, MI 48104. Contractor shall be entitled to charge incubator clients reduced rents, access or membership privileges, on substantially identical terms for similar levels of service or membership. Fees for the lease subsidy charged by Contractor to the LDFA will be reduced to reflect revenues collected from Incubator clients.
- 1.7.2 Administrative Support. Contractor shall provide or cause to be provided, administrative services that include personnel and all related expenses, management of all leases and sub-leases, membership or access privileges, accounts payable, accounts receivable, legal, building security, negotiation of facility lease extensions (including leasehold improvements), and all business functions necessary to maintain day to day operations of the SPARK Central Business Incubator. Contractor may also provide or cause to be provided, scheduling of facility resources along with routine telephone answering and reception services for incubator clients, and to

include these services as part of the standard agreement with SPARK Central Business Incubator clients without additional charge.

- 1.7.3 Utilities and Taxes. Contractor shall provide or cause to be provided, electrical, water and sewer, and telephone utilities to the SPARK Central Business Incubator facility and its tenants. Contractor shall assume all liability for personal property taxes on equipment and leasehold improvements, special assessments, cause same to be paid to the appropriate taxing authorities on the date first due, and to include these services as part of the standard agreement with SPARK Central Business Incubator clients without additional charge.
- 1.7.4 Operating Expenses. Contractor shall provide or cause to be provided, routine janitorial and maintenance of the facility comprising the SPARK Central Business Incubator and to include these services as part of the standard agreement with SPARK Central Business Incubator clients without additional charge. Additional items may include maintenance, office supplies, meeting refreshments, educational materials, copying and printing, postage and express mail, dues and subscriptions, and other incubator operating expenses.
- 1.7.5 Information Technology. Contractor shall provide or cause to be provided, high-speed internet connections and shared wireless internet access throughout the facility for all SPARK Central Business Incubator tenants and to include these services as part of the standard agreement with SPARK Central Business Incubator clients without additional charge. Additional items billed to this category may include telephone, fax or other information technology related items.
- 1.7.6 Insurance. Contractor shall provide or cause to be provided, sufficient property, casualty, and liability insurance coverage necessary for operation of the SPARK Central Business Incubator and to include these coverages as part of the standard agreement with SPARK Central Business Incubator clients without additional charge.
- 1.7.7 Shared Equipment Purchase. Contractor shall purchase or provide, the shared or non-shared standard business equipment needed to operate a SPARK Central Business Incubator including but not limited to telephone equipment and systems, scanners, fax machines, copiers, furniture and fixtures, cubicles, task and area lighting, teleconference equipment and to include exclusive and/or shared access to these resources as part of the standard agreement with SPARK Central Business Incubator clients without additional charge.

2 Indirect Services

- 2.1 Accounting Services. Contractor shall provide accounting and contract management services to support this Agreement, in an amount not to exceed \$68,500, to be paid in equal monthly payments.
- 2.2 Marketing Services. Contractor shall execute its integrated Marketing Services Plan, approved by LDFA from time to time, which addresses Public Relations, Collateral Materials, and Internet

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initiatives that support, compliment or advance LDFA funded programs or objectives. Contractor shall submit invoices to the LDFA on a monthly basis with the annual expense not to exceed a gross amount of \$150,000.

2.3 Licensed Software. Contractor may obtain licensed software products or services that allow for improved data collection or metric reporting, and/or offer clients improved productivity tools. Contractor shall submit invoices for actual cost to the LDFA on a monthly basis with the annual expense not to exceed a gross amount of \$20,000. Contractor shall report the program or service acquired in the next following quarterly report including the type and purpose. A summary of usage shall be included in the Final Program Progress Report consistent with Article 3.3 of the Agreement.

Agreed to and accepted this ____ day of _____, 2014.

Authorized Agent for the LDFA:

By: _____

Carrie Leahy, Ann Arbor-Ypsilanti SmartZone Local Development Finance Authority
Chairman

Authorized Agent(s) for Contractor:

By: _____

Paul Krutko, President & CEO
Ann Arbor SPARK

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ADMINISTRATIVE SERVICES AGREEMENT

AGREEMENT is made this _____ day of _____, 2014, by the Ann Arbor/Ypsilanti SmartZone Local Development Finance Authority (“LDFA”) and the City of Ann Arbor, a municipal corporation, located at 301 E. Huron Street, Ann Arbor, Michigan 48104 (“Ann Arbor”).

Whereas, the City of Ann Arbor is willing to provide financial management, audit and required administrative/secretariat services for the Ann Arbor/Ypsilanti SmartZone Local Development Finance Authority;

Whereas, under PA 281 of 1986, as amended, tax increment revenue eligible expenses include payment for contractual services for planning, administration or general services fulfilling the objectives of the LDFA Development Plan to public entities;

Now, therefore, in consideration of the promises below, the parties mutually agree as follows:

Article I – Scope of Services

Ann Arbor shall perform the following duties (“Services”) in connection with this Agreement:

- Secretariat Services, including preparation of and distribution of meeting agenda, notices and approved minutes; scheduling meeting locations, posting meeting notices in conformance with the Michigan Open Meetings Act, arranging for any accommodations necessary for public attendance at meetings, and the minute taking at meetings.
- Administrative Services, including acting as local office/registered agent for public contact, records depository for the public records of the LDFA and Freedom of Information Coordinator for public record inspection and distribution, planning and administration to assure the execution of LDFA adopted development plans and approved projects, (as requested) provision of administrative oversight/contract administration of contract professionals (attorneys, auditors, consultants and similar service providers)
- Financial Services, including the preparation of or coordination of the preparation of the Fiscal budget, annual report, audit and other financial reports required in connection with tax increment financing, grants or other funding sources.

Article II – Term and Compensation

This Agreement shall be effective as of July 1, 2014 and continue in full force and effect for a period of one (1) year. The Agreement will renew automatically in one-year periods unless otherwise terminated as provided in Article III.

Ann Arbor shall be compensated for its Services under the Agreement. Ann Arbor shall invoice the LDFA prospectively on a monthly, quarterly or annual basis beginning July 1 each year the Agreement remains in effect for Services to be provided during the fiscal year period (July 1 to June 30). The fee for Services for the period July 1, 2014 to June 30, 2015 shall be \$42,600. The breakdown of costs computed for the fee for Services is provided in Attachment A.

Article III – Breach and Termination

The LDFA may terminate this Agreement at any time if it determines that Ann Arbor has failed to comply with any material provision of this Agreement and Ann Arbor has not cured said breach within thirty (30) days notice thereof. The LDFA shall be required to notify Ann Arbor in writing of the termination.

Either party may terminate the Agreement by giving thirty (30) days written notice to the other party. The final billing for fee for services will be computed on a prorata basis.

Article IV - Public Records Depository and FOIA Coordinator

It is understood the LDFA is a public body as defined by the Michigan Freedom of Information Act. All documents developed as a result of this agreement will be freely available to the public. During the performance of the services, the City will be responsible for retention of the public records of LDFA and act as the LDFA's Freedom of Information Coordinator for purposes of inspection and distribution of public records to requesting parties as required by the Michigan Freedom of Information Act

Article V – Miscellaneous Provisions

The relationship between the LDFA and Ann Arbor is that of independent contractor. Neither of the Parties nor their respective officers, employees or agents shall under any circumstances be deemed to be employees, representatives, or agents of the other party and neither of the Parties shall enter into any contract or commitment in the nature or on behalf of the other party.

This Agreement will be governed and controlled in all respects by the laws of the State of Michigan, including interpretation, enforceability, validity and construction. The parties submit to the jurisdiction and venue of the Circuit Court for Washtenaw County, State of Michigan, or, if original jurisdiction can be established, the United States District Court for the Eastern District of Michigan, Southern Division, with respect to any action arising, directly or indirectly, out of this Agreement or the performance or breach of this Agreement. The parties stipulate that the venues referenced in this Agreement are convenient and waive any claim of non-convenience.

The LDFA and Ann Arbor agree to perform any further acts to execute and deliver any further documents, which may be reasonably necessary to carry out the provisions of this Agreement.

Ann Arbor shall perform its Services in compliance with all statutory, regulatory and contractual requirements now or hereafter in effect as may be applicable to the rights and obligations set forth in the Agreement.

All notices and submissions required under this Agreement shall be by personal delivery or by first-class mail, postage prepaid, to the address stated in this Agreement or such other address as either party may designate by prior written notice to the other. Notice shall be considered delivered under this Agreement to the City when personally delivered to the CFO for Ann Arbor or placed in the U.S. mail, postage prepaid to the Finance Services Area, care of the CFO. Notice shall be considered delivered under this Agreement to the LDFA when personally delivered to the Chair or placed in the U.S. mail, postage prepaid to 301 E. Huron Street, Ann Arbor, Michigan 48104, care of the Chair, Local Development Finance Authority.

Ann Arbor shall not assign, transfer, convey or otherwise dispose of any duties or rights under this Agreement without the prior specific written consent of the LDFA. The LDFA reserves the right to require Ann Arbor to replace subcontractors who are found to be unacceptable.

Whenever possible, each provision of this Agreement will be interpreted in a manner as to be effective and valid under applicable law. However, if any provision of this Agreement or the application of any provision to any party or circumstance will be prohibited by or invalid under applicable law, that provision will be ineffective to the extent of the prohibition or invalidity without invalidating the remainder of the provisions of this Agreement or the application of the provision to other parties and circumstances.

This Agreement constitutes the entire understanding between the City and the Consultant with respect to the subject matter of the Agreement and it supersedes, unless otherwise incorporated by reference herein, all prior representations, negotiations, agreements or understandings whether written or oral. Neither party has relied on any prior representations, of any kind or nature, in entering into this Agreement. This Agreement may be altered, amended or modified only by written amendment signed by the LDFA and Ann Arbor.

The individual or officer signing this Agreement certifies by his/her signature that he/she is authorized to sign this Agreement on behalf of the responsible political entity.

LDFA

Ann Arbor/Ypsilanti Smartzone Local Development Finance Authority

By: _____ Dated: _____, 2014
Carrie Leahy
LDFA Chair

CITY OF ANN ARBOR
a Michigan municipal corporation

By: _____ Dated: _____, 2014
Tom Crawford,
Financial Services Area Administrator

**FY2014 & FY2015
Administrative Services Agreement
Attachment A**

	<u>FY2014 Cost Est</u>	<u>FY2015 Cost Est</u>	<u>Allocation</u>	<u>FY2014 LDFA Cost</u>	<u>FY2015 LDFA Cost</u>
DIRECT COSTS					
Administrative Support Services:					
Ken Bogan:					
Wages	\$ 91,830	\$ 94,585	10%	\$ 9,183	\$ 9,459
Benefits	58,363	62,341	10%	5,836	6,234
Information Technology Charge	7,226	7,226	10%	723	723
Subtotal - Direct Costs				<u>15,742</u>	<u>16,416</u>
INDIRECT COSTS					
* City of Ann Arbor Central Services					
Cost Allocation Plan - MSC	25,509	26,147	100%	<u>25,509</u>	<u>26,147</u>
TOTAL				<u>\$ 41,251</u>	<u>\$ 42,563</u>
TOTAL ROUNDED				<u>\$ 41,300</u>	<u>\$ 42,600</u>

* City of Ann Arbor Central Services includes Mayor/Council, City Administrator, City Clerk, Finance Administration, Accounting, Assessor & Treasury