

CAPITAL CITY DEVELOPMENT CORPORATION
Board of Commissioners Meeting
Conference Room, Fifth Floor, 121 N. 9th Street
January 22, 2015 11:30 a.m.

A G E N D A

- I. **CALL TO ORDER**.....Chairman Hale
- II. **AGENDA CHANGES/ADDITIONS**.....Chairman Hale
- III. **ACTION ITEM**
 - A. **CONSIDER:** Election of Officers, Approval of Executive Committee charge, designation of Executive Committee members, designation of Secretary Pro TemporeChairman Hale
 - B. **CONSIDER:** Resolution #1377 amending the Memorandum of Understanding with the City of Boise to promote the formation and success of local businesses, entrepreneurs and companies.....John Brunelle
 - C. **CONSIDER:** Resolution #1372 Entrepreneurship Consulting Agreement with Actuate Boise, Inc.....
.....John Brunelle
- IV. **ADJOURN**

This meeting is being conducted in a location accessible to those with physical disabilities. Participants may request reasonable accommodations, including but not limited to a language interpreter, from CCDC to facilitate their participation in the meeting. For assistance with accommodation, contact CCDC at 121 N. 9th St, Suite 501 or (208) 384-4264 (TTY Relay 1-800-377-3529)



AGENDA BILL

Agenda Subject:	Date:
Board Organization	1-22-2015

Staff Contact:	Attachments:
John Brunelle	CCDC By Laws Executive Committee Charge

<p>Actions Requested:</p> <ul style="list-style-type: none"> 1) Consider Election of Officers <ul style="list-style-type: none"> a. Chair b. Vice Chair c. Secretary/Treasurer 2) Approval of Executive Committee Charge and appointment of At-Large Member 3) Designation of Secretary Pro Tem

Fiscal Notes: No Change

<p>Background:</p> <p>ART III/Section 2 prescribes an annual election of officers in January of each year.</p> <p>ART IV/Section 2 allows for the Board to confirm the Executive Committee charge and appoint the At-Large member</p> <p>ART III/Section 5 allows for the Board to appoint a person to serve as Secretary Pro Tem as backup to the officers</p>

Staff Recommendation:

Recommendation is to elect new officers for named positions, reapprove the Executive Committee Charge and appoint one At-Large member to serve, and to appoint one staff position to serve as Secretary Pro Tem.

Suggested Motion:

I move appointment of the slate of officers as nominated, for approval of the Executive Committee charge as presented and for appointment of the At-Large member as nominated, and to appoint Deah LaFollette to serve as Secretary Pro Tem.

RESOLUTION NO. 1243

**BY THE BOARD OF COMMISSIONERS OF THE URBAN RENEWAL AGENCY OF
BOISE CITY, IDAHO:**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF
THE URBAN RENEWAL AGENCY OF BOISE CITY, IDAHO,
REPEALING THE EXISTING BYLAWS OF THE CAPITAL
CITY DEVELOPMENT CORPORATION; ADOPTING THE
AMENDED AND RESTATED BYLAWS 2010 OF THE
CAPITAL CITY DEVELOPMENT CORPORATION WHICH,
AMONG OTHER THINGS, INDICATES HOW CORPORATE
DOCUMENTS ARE TO BE EXECUTED ON BEHALF OF THE
CORPORATION; AUTHORIZING THE CHAIRMAN,
EXECUTIVE DIRECTOR AND SECRETARY TO TAKE ALL
NECESSARY ACTION REQUIRED TO IMPLEMENT THIS
ACTION; AND PROVIDING AN EFFECTIVE DATE.**

THIS RESOLUTION, Made on the date hereinafter set forth by the Urban Renewal Agency of Boise City, Idaho, an independent public body, corporate and politic, authorized under the authority of the Idaho Urban Renewal Law of 1965, as amended, Chapter 20, Title 50, Idaho Code (the "Law"), a duly created and functioning urban renewal agency for Boise City, Idaho, hereinafter referred to as the "Agency."

WHEREAS, the Agency Board by the adoption of Resolution No. 829 in June 2000, approved and adopted new Bylaws of the Agency Board;

WHEREAS, the Agency Board by the adoption of Resolution No. 1063 in June 2006, approved and adopted Amended and Restated Bylaws of the Agency Board;

WHEREAS, since 2006 three additional amendments were approved by Resolution No. 1151 in July 2008, Resolution No. 1176 in March 2009 and Resolution No. 1183 in June 2009;

WHEREAS, Article V of such Bylaws allows for repeal of existing Bylaws and adoption of new Bylaws by a majority vote of all members of the Board of Commissioners at any regular or special meeting;

WHEREAS, the Board finds it in the best interest of the Agency to adopt the Amended and Restated Bylaws 2010 which incorporates all changes since 2006 and provisions for technical revisions;

**NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE BOARD OF
COMMISSIONERS OF THE URBAN RENEWAL AGENCY OF BOISE CITY, IDAHO, AS
FOLLOWS:**

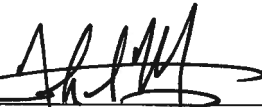
Section 1: That all previous Bylaws of the Capital City Development Corporation and amendments to such Bylaws are hereby repealed, superseded and replaced by the Amended and Restated Bylaws 2010, dated December 13, 2010, attached to this Resolution as Exhibit A and incorporated herein are hereby adopted.

Section 2: That the Chairman, Executive Director and Secretary of the Agency are hereby authorized to take all required action to implement this resolution and the Bylaws.

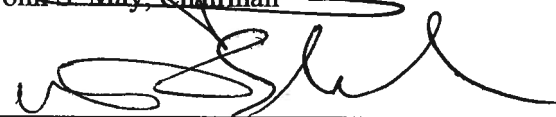
Section 3: That this Resolution shall be in full force and effect immediately upon its adoption and approval.

PASSED By the Urban Renewal Agency of Boise City, Idaho, on December 13, 2010.
Signed by the Chairman of the Board of Commissioners, and attested by the Secretary to the Board of Commissioners, on December 13, 2010.

APPROVED:



John S. May, Chairman



David Eberle, Vice Chairperson



Cheryl Larabee, Secretary / Treasurer

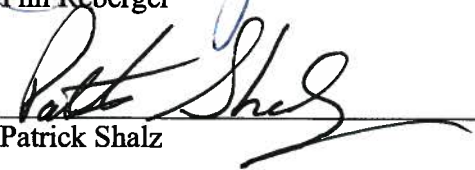


John Hale

Chuck Hedemark



Phil Reberger



Patrick Shalz


Alan Shealy

ATTEST:

By 
Cheryl Larabee, Secretary

AMENDED AND RESTATED
BYLAWS
OF
CAPITAL CITY DEVELOPMENT CORPORATION
December 2010

ARTICLE I

Name

The Urban Renewal Agency for the City of Boise as created pursuant to the provisions of the Idaho Urban Renewal Law of 1965 (Chapter 20, Title 50, Idaho Code) shall be known as the "Capital City Development Corporation" (hereinafter "Corporation") but shall also be authorized to use the name "Urban Renewal Agency of Boise City" if and as required.

ARTICLE II

Board of Directors

Section 1. The property, business, powers, and affairs of the Corporation shall be managed and controlled by the Board of Commissioners thereof. The Board of Commissioners is vested with all powers as provided by the Idaho Urban Renewal Law of 1965 (Chapter 20, Title 50, Idaho Code), as the same now exists, or as may be amended hereafter.

Section 2. The Board of Commissioners shall consist of a number of members determined in accordance with the provisions of Section 50-2006, Idaho Code, as the same now exists, or as may be amended hereafter, and as appointed by the Mayor of the City of Boise City with the advice and consent of the Boise City Council.

Section 3. Commissioners shall receive no compensation for their services but shall be entitled to the necessary expenses, including travel expense, incurred in the discharge of their duties.

Section 4. Each Commissioner shall hold office until his or her successor has been appointed and qualified. A certificate of the appointment or reappointment of a Commissioner shall be filed with the City Clerk of the City of Boise, Idaho, and such certificate shall be conclusive evidence of the due and proper appointment of such Commissioner.

Section 5. The qualifications and eligibility of persons to serve on the Board of Commissioners shall be as defined and described in Section 50-2006, Idaho Code, as the same now exists, or may be amended hereafter.

Section 6. The Board of Directors shall hold regular meetings at the Agency offices, 121 North 9th Street, Suite 501, Boise, Idaho, the second Monday of each month at the hour of 12 o'clock (noon). Regular and special meetings shall be held at the above noted location unless legally noticed for a different location provided in accordance with Idaho State Statutes.

Section 7. The Chairman or a majority of the Board of Commissioners has the power to call special meetings of the Board, the object of which shall be submitted to the Board as is appropriate to the circumstances or as otherwise provided by law; the call and object, as well as the disposition thereof, shall be entered upon the minutes of the Secretary. Notice for a special

meeting to deal with an emergency involving injury or damage to persons or property, or the likelihood of such injury or damage or other recognized emergency items, shall be as required by state law.

Section 8. A majority of the members of the Board of Commissioners shall constitute a quorum for the purpose of conducting business and exercising the powers of the Corporation and for all other purposes. Official action may be taken by the Board of Commissioners upon a vote of a majority of the members thereof present at a duly convened regular or special meeting at which a quorum is present. Actions of the Board to elect officers, to adopt or amend the annual budget, to adopt or amend an urban renewal plan, or to hire or remove the Executive Director, require a majority vote of the entire Board.

Section 9. The Board of Commissioners by majority vote may employ an Executive Director, who shall serve as the Chief Executive Officer of the Corporation. The Board of Commissioners or as delegated to the Executive Director serves at the pleasure of the Board and may be removed by a majority vote of the Board. The Executive Director is empowered to employ technical experts, legal counsel, and such other agents and employees, permanent and temporary, as the Corporation may require. The compensation for all said persons so employed shall be determined by the Executive Director in accordance with the adopted Compensation Plan of the Corporation or as approved by the Executive Director as may be delegated by the Board.

Section 10. The Board of Commissioners shall file with the City Clerk, City of Boise, Idaho, on or before March 31 of each year (or such date as may be set by state law), a report of its activities for the preceding calendar year which report shall include a complete financial statement setting forth the Corporation's assets, liabilities, income, and operating expenses as of the end of such calendar year. At the time of filing said report the Board shall cause to be published in The Idaho Statesman, Boise, Idaho, a notice to the effect that such report is available for inspection during the regular business hours in the office of the City Clerk and in the office of the Corporation

Section 11. For inefficiency or neglect of duty or misconduct in office, a Commissionerr may be removed only after a hearing and only after he or she shall be given a copy of the charges at least ten (10) days prior to such hearing and shall have had an opportunity to be heard in person or by counsel.

ARTICLE III

Officers

Section 1. The officers of the Corporation shall be a Chairman, Vice Chairman, Secretary, Treasurer (or the combined office of Secretary/Treasurer) and such other officers, as the Board of Commissioners may deem necessary. Only the Chairman and Vice Chairman need be members of the Board of Commissioners.

Section 2. The Board of Commissioners shall elect the Chairman, Vice Chairman, Secretary, Treasurer, Secretary/Treasurer and such other officers as are deemed necessary for a term of one (1) year and until his or her successor is duly elected and qualified. Such elections shall occur at the first regular meeting held in January. Officers elected at that meeting shall hold office until the first regular meeting the following year.

Section 3. The Chairman shall be the chief presiding officer of the Corporation. The Chairman shall execute all deeds, bonds, contracts, and other legal documents authorized by the Board

provided, however, that the Board may delegate certain of said duties to the Executive Director of the Corporation. The Chairman shall have the power to vote on any matter presented to the Board of Commissioners for their consideration. The Chairman shall also have such other powers and duties as may be assigned to him or her by the Board of Commissioners.

Section 4. The Vice Chairman shall be possessed of all the powers and shall perform all the duties of the Chairman in the absence or disability of the Chairman. The Vice Chairman shall have the power to vote on any matter presented to the Board of Commissioners for their consideration. The Vice Chairman shall also have such other powers and duties as may be assigned to him or her by the Board of Commissioners.

Section 5. The Secretary shall cause to be kept the minutes of all proceedings of the Board; shall cause the giving and serving of all notices of meetings of the Board as required; shall provide for the execution, along with the Chairman or other corporate officer, in the name of the Corporation all deeds, bonds, corporate instruments, any other documents required by state and/or federal law to be attested, and any document as requested by a third party as authorized by the Board and shall be the custodian of the Corporation seal, books, bylaws, and such other books, records, and papers of the Corporation as the Board shall direct. In addition, he or she shall perform other duties and have such responsibilities as may be designated by the Board. In case of the absence or disability of the Secretary or his or her refusal or neglect to perform such duties, all duties required of the Secretary may be performed by the Chairman or Vice Chairman or such other person as may be designated by the Board. The Board may also appoint a temporary Secretary who may be an employee of the Agency to carry out these duties when the Secretary is absent.

Section 6. The Treasurer shall have the general custody of all the funds and securities of the Corporation and shall have general supervision of the collection and disbursement of funds of the Corporation. He or she shall provide for endorsement on behalf of the Corporation, for collection, checks, notes, and other obligations and shall deposit the same to the credit of the Corporation in such bank or banks or depositories as the Board may designate. He or she may sign, with the Chairman or such other person or persons as may be designated for said purpose by the Board of Commissioners, all negotiable instruments. He or she shall enter, or cause to be entered, regularly in the books of the Corporation, full and accurate account of all monies received and paid by him or her on account of the Corporation; shall at all reasonable times exhibit the Corporation books and accounts to any Commissioner of the Corporation at the office of the Corporation during regular business hours; and, whenever required by the Board or the Chairman, shall render a statement of his or her accounts. He or she shall perform such other duties as may be prescribed from time to time by the Board or by the Bylaws. The Treasurer shall give bond for the faithful performance of his or her duties in such sum and with such surety as shall be approved by the Board.

Section 7. If any of the foregoing offices shall, for any reason, become vacant, the Board of Commissioners shall elect a successor who shall hold office for the unexpired term and until a successor is elected and qualified.

Section 8. The Board of Directors may appoint an Executive Director for the Corporation. The Executive Director shall be the chief executive officer of the Corporation, shall serve at the pleasure of the Board, and shall have such powers and duties as may be assigned to him or her by the Board of Commissioners.

ARTICLE IV

Miscellaneous

Section 1. The seal of the Capital City Development Corporation shall be circular in form and shall have the name of the Corporation on the circumference and shall have the words "Corporate Seal Idaho" in the center.

Section 2. The Board of Commissioners may appoint one or more committees to investigate and study matters of Corporation business and thereafter to report on and make recommendations concerning said matters assigned to the Board of Commissioners. When possible each of said committees should be chaired by a member of the Board, but said committees may be comprised of persons other than members of the Board of Commissioners. Unless specifically delegated by a majority vote of the Commission, and as allowed by law, regulation or applicable urban renewal plan provision, no such committee shall have the power to make final Corporation decisions with power being vested solely in the Commissioners. The terms of office, the persons serving, the matters to be studied, and all procedural decisions shall be made and decided by the Board of Commissioners.

The Board of Commissioners finds it in the best interests of the Corporation to establish an Executive Committee, consisting of the Board Chairman, Vice Chairman, Secretary/Treasurer, and a non-officer Board member, to investigate and study certain matters of the Corporation without the necessity of convening a meeting of the full Board of Commissioners. The Executive Committee shall report its activities to the full Board at one of the monthly Board meetings. Specific matters to be studied and any procedural protocol of the Executive Committee shall be defined by the Board of Commissioners and may be revised from time to time as appropriate by the full Commission.

Section 3. In addition to such bank accounts as may be authorized in the usual manner by resolution of the Board of Commissioners, the Treasurer of the Corporation, with the approval of the Chairman, may authorize such bank accounts to be opened or maintained in the name and on behalf of the Corporation as he or she may deem necessary or appropriate. Payments from such bank accounts are to be made upon the check of the Corporation, each of which checks shall be signed by two of such Commissioners, officers, or bonded employees of the Corporation as shall be authorized by the Board of Commissioners.

Section 4. The rules contained in the current edition of Robert's Rules of Order Newly Revised shall govern regular and special meetings of the Board of Commissioners in all cases to which they are applicable and in which they are not inconsistent with these Bylaws or state law and any special rules of order the Board of Commissioners may adopt.

ARTICLE V

Amendments

These Bylaws may be repealed, amended, or new Bylaws adopted at any regular or special meeting for such purpose of the Board of Commissioners by a majority vote of all members of said Board.


We, the undersigned, being all of the members of the Board of Commissioners of the Capital City Development Corporation, do hereby certify that the foregoing Bylaws-were duly and regularly adopted as the Bylaws of said Corporation on the 13th day of December, 2010, and those prior Bylaws of the Corporation adopted by the Board of Commissioners on June 8, 2009, or as amended since June 8, 2009, are hereby repealed, superseded and released by these Bylaws.



~~John S. May, Chairman~~



Phil Reberger, Vice Chairperson



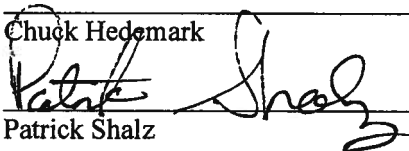
Cheryl Larabee, Secretary / Treasurer



David Eberle



John Hale



Patrick Shalz



Alan Shealy

The undersigned, secretary of Capital City Development Corporation, hereby certifies that the foregoing Bylaws were duly adopted as the Bylaws of said Corporation on the 13th day of December, 2010.



Cheryl Larabee, Secretary



**EXECUTIVE COMMITTEE (EC)
2015**

*Study Areas & Protocols pursuant to:
ARTICLE IV, Section 2, of the
Adopted Bylaws of CCDC (December 13, 2010)*

Per ART IV/SECTION 2:

Members: Board Chair, Vice Chair, Secretary/Treasurer, Non-Officer Member appointed by Board

Purpose: To investigate and study certain matters of the Corporation without the necessity of convening a meeting

Reporting: The EC shall report its activities to the full Board of Directors as appropriate

Powers: No final decisions are made by the EC unless delegated by majority vote of the Board

Appointments: Terms and persons, study areas, and procedural decisions are reserved to the full Board

AS CURRENTLY ASSIGNED: To facilitate efficient work accomplishment by staff, it is desirable to supplement the volunteer Board efforts with the efforts of the EC to maintain close communications, coordinate efforts, receive feedback and advice, and to tend to general ministerial functions of the Agency.

- Personnel: Pursuant to the Agency's adopted personnel manual, pay plan, and budget, the EC will review annual salary adjustments with the ED as requested/appropriate. The EC advises the ED regarding any organizational, performance, reclassifications of position responsibilities, or pay issues which can be managed within the approved budget.
- Finance: The EC serves as budget advisor in preparing a draft budget for review and adoption by the full Board. Pursuant to the Agency's adopted budget, the EC provides oversight and direction in the execution of the budget and acts as a financial advisor on related issues.
- Audit: The EC will serve as the Agency's audit committee. The Board will formally receive the annual financial report/audit.
- Issues: The EC is empowered by the Board to serve as a "sounding board" for issues and to advise, plan, steer, coordinate, and calendar Board activities necessary to manage Agency issues and affairs for the benefit of the Board. Agency issues may be numerous and likely cover a broad range of topics given the Agency's charge. Regular reports to the Board provide communication and coordination.
- Procedure: The Board approves all Agency *policies*. The EC may review Agency operational procedures or practices as needed pursuant to adopted policies or other ministerial matters.

BY THE BOARD OF COMMISSIONERS OF THE URBAN RENEWAL AGENCY OF BOISE CITY, IDAHO:

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE URBAN RENEWAL AGENCY OF BOISE CITY, IDAHO, APPROVING THE FIRST AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF BOISE AND CAPITAL CITY DEVELOPMENT CORPORATION; AND AUTHORIZING THE CHAIR, VICE-CHAIR, OR EXECUTIVE DIRECTOR AND SECRETARY, RESPECTIVELY, TO EXECUTE AND ATTEST SAID AMENDMENT SUBJECT TO CERTAIN CONDITIONS; AUTHORIZING THE CHAIR, VICE-CHAIR, OR EXECUTIVE DIRECTOR AND SECRETARY TO EXECUTE ALL NECESSARY DOCUMENTS REQUIRED TO IMPLEMENT THE AMENDMENT AND TO MAKE ANY NECESSARY TECHNICAL CHANGES TO THE AMENDMENT SUBJECT TO CERTAIN CONDITIONS, INCLUDING SUBSTANTIVE CHANGES; AND PROVIDING AN AFFECTIVE DATE.

THIS RESOLUTION, made on the date hereinafter set forth by the Urban Renewal Agency of Boise City, an independent public body corporate and politic, authorized under the authority of the Idaho Urban Renewal Law of 1965, as amended, Chapter 20, Title 50, Idaho Code, a duly created and functioning urban renewal agency for Boise City, Idaho, hereinafter referred to as the "Agency."

WHEREAS, the Agency, a public body, corporate and politic, is an urban renewal agency created by and existing under the authority of and pursuant to the Idaho Urban Renewal Law of 1965, being Idaho Code, Title 50, Chapter 20, and the Local Economic Development Act, being Idaho Code, Title 50, Chapter 29, as amended and supplemented, for the purpose of financing the undertaking of any urban renewal project (collectively the "Act");

WHEREAS, the City, after notice duly published, conducted a public hearing on the River Street-Myrtle Street Urban Renewal Plan (the "River Street Plan");

WHEREAS, following said public hearing, the City adopted its Ordinance No. 5596 on December 6, 1994, approving the River Street Plan and making certain findings;

WHEREAS, the City, after notice duly published, conducted a public hearing on the First Amended and Restated Urban Renewal Plan, River Street-Myrtle Street Urban Renewal Project (annexation of the Old Boise Eastside Study Area and Several Minor Parcels) and Renamed River Myrtle-Old Boise Urban Renewal Project (the "River Myrtle-Old Boise Plan");

WHEREAS, following said public hearing, the City adopted its Ordinance No. 6362 on November 30, 2004, approving the River Myrtle-Old Boise Plan and making certain findings;

WHEREAS, Agency and City (collectively the “Parties”) have been working together to provide a benefit to the citizens of Boise, Idaho by encouraging private investment within urban areas by facilitating business education, connecting entrepreneurs to resources, and working to increase the interaction between entrepreneurs and local businesses located in downtown Boise, Idaho.

WHEREAS, to accomplish the above, the Parties have determined that leasing space for a consultant (“Consultant”) in a building (“Building”) located within one of the Agency’s urban renewal plan areas furthers the above and other public purposes.

WHEREAS, the Parties cooperate to locate a suitable leasable space for use by Consultant to provide services to promote the formation and success of local businesses, entrepreneurs, and companies (“Business Assistance Services”);

WHEREAS, upon location of a suitable space by mutual consent of the Parties (such consent to be exercised in the sole discretion of each Party), Agency agrees to enter into a lease for the Building, subject to the terms of the Memorandum of Understanding;

WHEREAS, representatives of the Parties have executed a Memorandum of Understanding (“MOU”), whereby, among other things, the City agreed to pay to Agency one-half of the rent, security deposit, and any other costs or fees incurred by Agency under the terms of the a lease for the Building;

WHEREAS, the Parties have agreed to amend the MOU to clarify that the City shall not be obligated to pay any portion of the operating costs and utilities incurred by Agency under the terms of the Lease;

WHEREAS, the Parties have drafted a First Amendment to the Memorandum of Understanding (“Amendment”), which is attached hereto as Exhibit A and incorporated herein as if set forth in full;

WHEREAS, the ability for the Parties to cooperate and jointly benefit each other is expressly allowed pursuant to Idaho Code Section 50-2015;

WHEREAS, Agency staff has reviewed the Amendment and recommends approval of the Amendment subject to certain conditions;

WHEREAS, the Board of Commissioners finds it in the best public interest to approve the Amendment and to authorize the Chair, Vice-Chair, or Executive Director to execute and attest the Amendment, subject to certain conditions, and to execute all necessary documents to implement the transaction, subject to the conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE BOARD OF COMMISSIONERS OF THE URBAN RENEWAL AGENCY, OF BOISE CITY, IDAHO, AS

FOLLOWS:

Section 1: That the above statements are true and correct.

Section 2: That the Amendment, attached hereto as Exhibit A, are hereby incorporated herein and made a part hereof by reference and are hereby approved and accepted recognizing technical changes or corrections which may be required prior to execution of the Amendment.

Section 3. That the Chair, Vice-Chair, or Executive Director of the Agency are hereby authorized to sign and enter into the Amendment and, further, are hereby authorized to execute all necessary documents required to implement the actions contemplated by the Amendment subject to representations by the Agency staff and Agency legal counsel that all conditions precedent to and any necessary technical changes to the Amendment or other documents are acceptable upon advice from the Agency's legal counsel that said changes are consistent with the provisions of the Amendment and the comments and discussions received at the January 22, 2015, Agency Board meeting, including any substantive changes discussed and approved at that meeting.

Section 5. This Resolution shall be in full force and effect immediately upon its adoption and approval.

PASSED AND ADOPTED by the Urban Renewal Agency of the city of Boise, Idaho, on January 22, 2015. Signed by the Chair of the Board of Commissioners, and attested by the Secretary to the Board of Commissioners, on January 22, 2015.

APPROVED:

By _____
Chair of the Board

ATTEST:

By _____
Secretary

4833-3898-4993, v. 1

FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING

This FIRST AMENDMENT TO MEMORANDUM OF UNDERSTANDING (“Agreement”) is by and between the City of Boise, an Idaho municipal corporation (“City”), and Capital City Development Corporation, an Idaho urban renewal agency (“CCDC”). City and CCDC may be referred to herein as the “Parties” or a “Party” as the case may be. The “Effective Date” of this Agreement shall be the date last signed by both Parties.

RECITALS

- A. CCDC and the City of Boise have entered into that certain Memorandum of Understanding dated December 15, 2014 (“Agreement”) to provide a benefit to the citizens of Boise, Idaho, by encouraging private investment within urban areas by facilitating business education, connecting entrepreneurs to resources, and working to increase the interaction between entrepreneurs and local businesses located in downtown Boise, Idaho, by facilitating a lease for a consultant providing Business Assistance Services in downtown Boise (“Lease”).
- B. The Parties desire to amend the Agreement to document CCDC’s payment of additional costs and expenses related to the Lease, for which the City is not responsible to pay one-half of such costs and expenses, and to add that the City will also be signing the consultant agreement, based on the terms and conditions contained herein.

AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, which constitute good and valuable consideration, the Parties do mutually undertake, promise, and agree as follows:

I. AMENDMENTS

1.1 Section I of the Agreement is amended by deleting the first paragraph in its entirety and replacing it with the following new first paragraph:

CCDC agrees that after the Parties have mutually agreed to the selection of the Building and the financial and substantive terms of a lease agreement (“Lease”), it shall enter into the Lease for the Building. City agrees that it will pay to CCDC one-half (½) of the rent, security deposit, and any other costs or fees incurred by CCDC under the terms of the Lease, provided the City shall not pay CCDC for any rent, costs, and/or fees incurred by CCDC to the extent of the following: (i) for any operating costs or expenses and/or utilities, including but not limited to, insurance, maintenance, and repair and/or replacement costs; (ii) such rent, costs, or fees are reimbursed by Consultant or another third party; (iii) such costs or fees that are non-routine and were not

approved by the City prior to CCDC incurring such cost or fee, and/or (iv) any costs or fees associated with a default of the Lease under the control of CCDC.

1.2 Section 2.7 of the Agreement is amended by deleting the third sentence in its entirety and replacing it with the following new third sentence:

Upon selection of a Consultant, CCDC and the City shall execute a consulting agreement with Consultant in a form agreed upon by CCDC, City and Consultant.

II. MISCELLANEOUS

Any capitalized term not defined herein shall have the same meaning as in the Agreement. Except as otherwise modified herein, the Agreement remains in full force and effect. In the event of any conflict between this Amendment and the Agreement, the terms and conditions of this Amendment shall control.

[End of Text]

EXECUTED EFFECTIVE as of the Effective Date.

CITY OF BOISE

By: David H. Bieter, Mayor

Date: _____

Attest: _____

Lynda Lowry
EX-OFFICIO CITY CLERK

Date: _____

CAPITAL CITY DEVELOPMENT CORPORATION

By: John Brunelle, Executive Director

Date: _____

4834-7326-8257, v. 1

BY THE BOARD OF COMMISSIONERS OF THE URBAN RENEWAL AGENCY OF BOISE CITY, IDAHO:

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE URBAN RENEWAL AGENCY OF BOISE CITY, IDAHO, APPROVING THE ENTREPRENEURSHIP MANAGER CONSULTING AGREEMENT BETWEEN CAPITAL CITY DEVELOPMENT CORPORATION, THE CITY OF BOISE, AND ACTUATE BOISE, INC.; AND AUTHORIZING THE CHAIR, VICE-CHAIR, OR EXECUTIVE DIRECTOR AND SECRETARY, RESPECTIVELY, TO EXECUTE AND ATTEST SAID AGREEMENT SUBJECT TO CERTAIN CONDITIONS; AUTHORIZING THE CHAIR, VICE-CHAIR, OR EXECUTIVE DIRECTOR AND SECRETARY TO EXECUTE ALL NECESSARY DOCUMENTS REQUIRED TO IMPLEMENT THE AGREEMENT AND TO MAKE ANY NECESSARY TECHNICAL CHANGES TO THE AGREEMENT SUBJECT TO CERTAIN CONDITIONS, INCLUDING SUBSTANTIVE CHANGES; AND PROVIDING AN AFFECTIVE DATE.

THIS RESOLUTION, made on the date hereinafter set forth by the Urban Renewal Agency of Boise City, an independent public body corporate and politic, authorized under the authority of the Idaho Urban Renewal Law of 1965, as amended, Chapter 20, Title 50, Idaho Code, a duly created and functioning urban renewal agency for Boise City, Idaho, hereinafter referred to as the "Agency."

WHEREAS, Agency, a public body, corporate and politic, is an urban renewal agency created by and existing under the authority of and pursuant to the Idaho Urban Renewal Law of 1965, being Idaho Code, Title 50, Chapter 20, and the Local Economic Development Act, being Idaho Code, Title 50, Chapter 29, as amended and supplemented, for the purpose of financing the undertaking of any urban renewal project (collectively the "Act");

WHEREAS, City, after notice duly published, conducted a public hearing on the River Street-Myrtle Street Urban Renewal Plan (the "River Street Plan");

WHEREAS, following said public hearing, City adopted its Ordinance No. 5596 on December 6, 1994, approving the River Street Plan and making certain findings;

WHEREAS, City, after notice duly published, conducted a public hearing on the First Amended and Restated Urban Renewal Plan, River Street-Myrtle Street Urban Renewal Project (annexation of the Old Boise Eastside Study Area and Several Minor Parcels) and Renamed River Myrtle-Old Boise Urban Renewal Project (the "River Myrtle-Old Boise Plan");

WHEREAS, following said public hearing, City adopted its Ordinance No. 6362 on November 30, 2004, approving the River Myrtle-Old Boise Plan and making certain findings;

WHEREAS, Agency and City have been working together to provide a benefit to the citizens of Boise, Idaho, by encouraging private investment within urban areas by facilitating business education, connecting entrepreneurs to resources, and working to increase the interaction between entrepreneurs and local businesses located in downtown Boise, Idaho.

WHEREAS, to accomplish the above, Agency and City have determined that obtaining space to provide entrepreneurship consulting services within the River-Myrtle Project Area (hereinafter referred to as the “Premises”), furthers the above and other public purposes;

WHEREAS, Agency and City desire to hire a consultant (“Consultant”) to be responsible for the daily operation and management of the Premises, perform routine maintenance, provide staff, which will screen prospective users and provide continuous counseling and support for the users, provide users with access to appropriate funding resources under its management, and include users in other entrepreneurial activities it sponsors;

WHEREAS, Agency, City, and Actuate Boise, Inc. (collectively the “Parties”), share a commitment to helping grow new technology-based businesses in Boise, Idaho;

WHEREAS, the Parties desire to describe basic parameters for Entrepreneurship Programming, as described in the Entrepreneurship Manager Consulting Agreement, including Exhibit A (“Programming Guidelines”);

WHEREAS, to assist and in consideration of Entrepreneurship Programming, Agency has agreed to enter into that certain Office Lease for a 14,800 square foot building located at 500 S. 8th Street, Boise, Idaho (“Lease”), with such obligations as more particularly described in the Lease, and pay the minimum rent for the Premises as an office for Entrepreneurship Programming, based on the terms and conditions contained herein;

WHEREAS, the Parties have negotiated the terms of an Entrepreneurship Manager Consulting Agreement, a copy of which is attached hereto as Exhibit A and incorporated by reference;

WHEREAS, Agency staff has reviewed the Entrepreneurship Manager Consulting Agreement and recommends approval of the Entrepreneurship Manager Consulting Agreement subject to certain conditions;

WHEREAS, the Board of Commissioners finds it in the best public interest to approve the Entrepreneurship Manager Consulting Agreement and to authorize the Chair, Vice-Chair, or Executive Director to execute and attest the Entrepreneurship Manager Consulting Agreement, subject to certain conditions, and to execute all necessary documents to implement the transaction, subject to the conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE BOARD OF COMMISSIONERS OF THE URBAN RENEWAL AGENCY, OF BOISE CITY, IDAHO, AS FOLLOWS:

Section 1: That the above statements are true and correct.

Section 2: That the Entrepreneurship Manager Consulting Agreement, attached hereto as Exhibit A, is hereby incorporated herein and made a part hereof by reference and is hereby approved and accepted recognizing technical changes or corrections which may be required prior to execution of the Entrepreneurship Manager Consulting Agreement.

Section 3. That the Chair, Vice-Chair, or Executive Director of Agency are hereby authorized to sign and enter into the Entrepreneurship Manager Consulting Agreement and, further, are hereby authorized to execute all necessary documents required to implement the actions contemplated by the Entrepreneurship Manager Consulting Agreement subject to representations by Agency staff and Agency legal counsel that all conditions precedent to and any necessary technical changes to the Entrepreneurship Manager Consulting Agreement or other documents are acceptable upon advice from Agency's legal counsel that said changes are consistent with the provisions of the Entrepreneurship Manager Consulting Agreement and the comments and discussions received at the January 22, 2015, Agency Board meeting, including any substantive changes discussed and approved at that meeting.

Section 5. This Resolution shall be in full force and effect immediately upon its adoption and approval.

PASSED AND ADOPTED by the Urban Renewal Agency of the city of Boise, Idaho, on January 22, 2015. Signed by the Chair of the Board of Commissioners, and attested by the Secretary to the Board of Commissioners, on January 22, 2015.

APPROVED:

By _____
Chair of the Board

ATTEST:

By _____
Secretary

4826-1213-3664, v. 1

ENTREPRENEURSHIP CONSULTING AGREEMENT

This Entrepreneurship Consulting Agreement (“Agreement”) is entered into by and among the Urban Renewal Agency for the City of Boise, a public body corporate and politic existing under the laws of the state of Idaho (“Agency”), the City of Boise, an Idaho municipal corporation (“City”), and Actuate Boise, Inc., an Idaho non-profit corporation (“Manager”), collectively referred to as the “Parties.” This “Effective Date” of this Agreement shall be the date last signed by all Parties.

WITNESSETH:

WHEREAS, Agency, City and Manager share a commitment to helping grow new businesses in Boise, Idaho;

WHEREAS, Manager has assembled staff expertise and financial resources to help companies grow and has experience in providing assistance and guidance to entrepreneurs, new companies, and start-up businesses selected to participate in a business mentoring program developed by Manager, including business education programming and providing other entrepreneurship resources (collectively “Entrepreneurship Programming”). The persons and/or businesses registered for the Entrepreneurship Programming are referred to herein as “Members”; and

WHEREAS, the Parties desire to describe basic parameters for the Entrepreneurship Programming, as described in this Agreement including Exhibit A (“Program Guidelines”); and

WHEREAS, to assist and in consideration of the Entrepreneurship Programming, the Agency has agreed to enter into that certain Office Lease for a 14,800 square foot building located at 500 S. 8th Street, Boise, Idaho (“Premises”), attached hereto as Exhibit B (“Lease”), with such obligations as more particularly described in the Lease, and pay the rent and operating expenses except as otherwise stated herein for the Premises as an office for the Entrepreneurship Programming, based on the terms and conditions contained herein.

AGREEMENT:

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the receipt and sufficiency of which is hereby acknowledged, Agency, City and Manager hereby agree as follows:

1. **PURPOSE.** The purpose of this Agreement shall be for Manager to operate the Entrepreneurship Programming and use and operate the Premises for such purpose.

2. ENTREPRENEURSHIP PROGRAMMING.

A. Operation. Manager shall be responsible for the daily operation and management of the Entrepreneurship Programming and meeting the Program Guidelines. Manager will screen prospective Members, select Members, and provide counseling and support for Members. Manager will also assist Members with gaining access to appropriate funding resources and include Members in other entrepreneurial activities it sponsors.

B. Members. Manager shall have written contracts with each Member participating in the Entrepreneurship Program. Such contract shall contain a provision that the Member will abide by the terms of this Agreement and the Lease, and that use of the Premises will not extend beyond this Agreement and the Lease's terms. Within thirty (30) days of the Effective Date, Manager shall submit to Agency and City a copy of the agreement Manager intends to use with the Members for Agency and City's approval, which approval shall not be unreasonably withheld or delayed and shall be subject to the following provision. Agency's and City's respective approval shall be based on Agency's and City's respective determination the Member agreements do not violate state or federal law governing and limiting the powers of either Agency or City. Manager shall not make any material changes to the contracts without Agency and City's approval, such approval being subject to the previous sentence. Manager shall provide copies of current Member Agreements within five (5) business days after request by the Agency and/or City.

C. Management Contact. Within ten (10) days of the Effective Date, Manager shall designate to Agency and City in writing Manager's prime contact person with respect to this Agreement.

D. Quarterly Meetings. Manager will meet with the Agency and City quarterly and provide appropriate reports for such meetings, as reasonably determined by the Agency and City. At a minimum, the reports should discuss aggregated information about: the current Members, Member fees paid to Manager, Member missions, goals and progress in new job creation and/or investments, and the services currently being provided by Manager to the Members, including the services provided by Manager and the new jobs and investment created as a whole by the Members.

E. Financial Reporting. An annual financial audit or alternate financial report acceptable by Agency covering a fiscal year of October 1 – September 30 shall be made on the funds received by Manager for managing the Entrepreneurship Programming, including all revenues from use fees and program fees, in accordance with generally accepted governmental auditing standards by a certified public accountant, or public accountant, and be presented to Agency as soon as practicable after September 30 of each year.

F. Records and Audits. Manager shall maintain complete and accurate records with respect to costs incurred and manpower expended under this Agreement. All such records shall be maintained according to generally accepted accounting principles, shall be clearly identified, and shall be readily accessible. Such records shall be available for review by Agency representatives for three (3) years after final payment. Copies shall be made available to Agency upon request.

G. Standard of Care. Manager represents that it possesses the requisite skill, knowledge, and experience necessary, as well as all licenses required to perform the services under this Agreement. Manager shall perform its services consistent with the professional skill and care ordinarily provided by managers of the same field practicing in the same or similar locality under the same or similar circumstances. Manager shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of any task or work performed under this Agreement.

H. Staffing. Manager has the responsibility for paying, hiring, disciplining, and discharging all of its employees to fulfill this Agreement. All employees so employed shall be employees of Manager and not of Agency or City. Manager shall not discriminate in hiring based on age, race, creed, color, sex, familial status, gender, handicap, or national origin, or as otherwise prohibited by all applicable laws. Manager shall maintain files for each of its employees.

I. Independent Contractor Relationship. Manager is an independent contractor and is not an employee, servant, agent, partner, or joint venturer of Agency and/or City. Manager is not eligible for, and shall not participate in, any employee pension, health, or other fringe benefit plans of Agency and/or City. Manager shall determine the means by which it accomplishes the work specified in this Agreement. Agency and City agree that, except as provided in this Agreement, it will have no right to control or direct the details, manner, or means by which Manager accomplishes the results of the services performed hereunder. Manager has no obligation to work any particular hours or days or any particular number of hours or days. Manager agrees, however, that its other contracts and services shall not interfere with its performance under this Agreement. Manager shall supply, at Manager's sole expense, all equipment, tools, materials and/or supplies to accomplish the services to be provided herein at Manager's cost and expense.

3. PREMISES.

A. Operation in Premises. Manager shall have access to the Premises on February 1, 2015, and shall commence operations in the Premises on or around March 1, 2015. Manager shall continuously operate the Entrepreneurship Programming in the Premises during the term of this Agreement. Manager agrees

that it will abide by all terms and conditions of the Lease and will cause its Members to do the same at its cost and expense.

B. Payment of Rent and Operating Costs. Subject to the terms of this Agreement, Agency covenants to abide by all terms of the Lease and to pay any and all amounts when due thereunder. Manager has no obligation to pay rent or operating expenses for use of the Premises except as specified below in Section (C).

C. Utilities. Commencing on February 1, 2015, Manager shall place all utilities in its name and pay all other cost and expenses directly to providers of utilities and other services. Provided, Agency shall reimburse Manager for the costs of electric, water, sewer, and natural gas utilities (“Reimbursable Utilities”) as follows:

1. Year 1 of the Lease – 100%
2. Year 2 of the Lease – 90%
3. Year 3 of the Lease – 80%
4. Year 4 of the Lease – 70%
5. Year 5 of the Lease – 60%

During Year 1 of the Lease, Manager shall forward bills for Reimbursable Utilities directly to Agency for payment to be made by Agency. In Years 2-5 of the Lease, Manager shall pay the bills for Reimbursable Utilities and send a reimbursement request to Agency showing such bills have been paid. Upon receipt of proper documentation showing the bills have been paid, Agency shall reimburse Manager according to the percentages indicated above.

C. Improvements/Alterations. Manager shall not install fixtures and/or make any alterations to the Premises without obtaining the Agency and City’s prior written consent, which shall not be unreasonably withheld. In all cases the Manager shall keep the property lien free. Upon notice, Manager and shall immediately remove any liens caused by Manager’s and/or a Member’s use of the Premises as required by Agency and/or City. All improvements and/or alterations to the Premises shall be at Manager’s sole cost and expense and shall not violate the terms of the Lease.

D. Personal Property. Manager shall have use of the personal property located, or to be located, in the Premises as listed in Exhibit C (“Personal Property”) during the term of this Agreement. Agency at all times shall own the Personal Property and it shall not be removed from the Premises. At the termination of this Agreement a representative of Agency and Manager will jointly perform a physical inventory count and observation of all fixtures, furnishings, furniture, and equipment. In the event any of the aforementioned items are lost, stolen, or

damaged through the culpable negligence of Manager, they shall be replaced or repaired at the cost and expense of Manager.

E. Damage or Loss to Manager's Property. Manager assumes all risk of damage or loss to its property for any cause whatsoever, which shall include, but not be restricted to, any damage or loss that may occur to such merchandise, goods, or equipment if damaged or destroyed by fire, theft, rain, water or leaking of any pipes or waste water in or about said Premises or from hurricanes or any act of God, or any act of negligence of any user of the Premises, or occupants of the Premises or any person whomsoever.

F. Right to Inspect. Manager shall make available for inspection by Agency and/or City all areas of the Premises under Manager's management, at any time, for any purpose Agency and/or City deems necessary or incidental to or connected with the performance of Manager's duties and obligations hereunder.

G. Condition at End of Term. Manager shall leave the Premises in the condition required by the Lease, taking into account normal wear & tear. If Manager fails to do so, Manager shall pay for any costs or expenses required to bring the condition of the Premises to the state required in the Lease.

4. TERM. This Agreement shall commence as of the Effective Date and shall continue through the term of the Lease ("Term"), unless otherwise terminated as provided herein.

5. TERMINATION OF AGREEMENT.

(a) FOR CAUSE. If the City or the Agency shall breach any of the material covenants, agreements or stipulations of this Agreement, the Manager shall have the right to terminate this Agreement by ninety (90) days' written notice to the City and Agency, giving written notice.

If the Manager shall breach any of the material covenants, agreements, or stipulations of this Agreement, Agency and City shall thereupon have the right to terminate this Agreement by giving written notice ("Termination Notice") to the Manager specifically setting forth Agency's and City's contentions concerning Manager's alleged breach of the material terms and provisions of this Agreement. The Termination Notice must be delivered to Manager at least ninety (90) days before the proposed effective date of such termination ("Termination Date"). During the time between the date Manager receives the Termination Notice and the Termination Date the following process shall be followed:

1. Within 30 days of Manager's receipt of the Termination Notice, Manager will meet with representatives of Agency and City to discuss compliance issues

and determine a remediation plan satisfactory to Agency and City and a reasonable timeframe for correction of the alleged breach prior to the Termination Date (such time period being referred to herein as the "Cure Period"),.

2. If Manager does not correct performance issues within Cure Period, Agency and City may terminate agreement with Manager, such termination being effective no earlier than the Termination Date.

(b) **TERMINATION FOR CONVENIENCE.** Agency, City and Manager may mutually terminate this Agreement for any reason with sixty (60) days prior written notice. City and Agency may terminate this Agreement at any time, for any reason, by giving at least twelve (12) months' notice in writing to the Manager. Manager may terminate this Agreement at any time, for any reason, by giving at least twelve (12) months' notice in writing to the City and Agency.

Notwithstanding the above, Manager shall not be relieved of liability to Agency and/or City by virtue of any termination of this Agreement due to default or otherwise.

7. **INSURANCE.** Manager shall maintain in full force and effect worker's compensation insurance for Manager and any agents, employees, and staff that Manager may employ, and provide proof to Agency of such coverage or that such worker's compensation insurance is not required under the circumstances. Manager shall carry the insurance with respect to the Premises and Personal Property required by Section 11.1 of the Lease. Manager shall provide proof of insurance coverage as set forth above to Agency before commencing its performance as herein provided, and shall require insurer to notify Agency ten (10) days prior to cancellation of said policies.

Agency, City, and Manager hereby waive all rights to recover against each other and against each other's officers, directors, shareholders, partners, joint venturers, employees, agents, customers, invitees or business visitors or of any other tenant or occupant of the Premises, for any loss or damage arising from any cause covered by any insurance carried by the waiving party, to the extent that such loss or damage is actually covered.

8. MISCELLANEOUS.

A. .

Entire Agreement. This Agreement, along with any and all Exhibits attached hereto and incorporated herein by reference, contains the entire Agreement of the Parties and supersedes any and all other agreements or

understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.

.....**B. Amendments.** This Agreement may only be amended in writing in a document signed by Agency, City and Manager.

C. Assignment. It is expressly agreed and understood by the Parties hereto that Manager shall not have the right to assign, transfer, hypothecate, or sell any of its rights under this Agreement except upon the prior express written consent of Agency.

D. Notices. Any and all notices required to be given by either of the Parties hereto, unless otherwise stated in this Agreement, shall be in writing and be deemed communicated when mailed in the United States mail, certified, return receipt requested, addressed as follows:

To Agency:

Capital City Development Corporation
121 N. 9th Street, Suite 501
Boise, ID 83702
Ph. (208) 384-4264
Attn. Executive Director

To City:

City of Boise
Attorney's Office
150 N. Capitol Blvd.
P.O. Box 500
Boise, Idaho 83701-0500
Ph. (208) 377-3529
Attn. Economic Development Manager

To Manager:

Actuate Boise, Inc.
Attn: Raino Zoller
500 S. 8th St.
Boise, Idaho 83702

Or

1175 W. State Street, Suite 176
Boise, Idaho 83702
Attn. Registered Agent

E. Discrimination Prohibited. In performing the services required herein, Manager shall not discriminate against any person on the basis of race, color, religion, sex, national origin or ancestry, age, or handicap. Violation of this section shall constitute a material breach of this Agreement and deemed grounds for cancellation, termination, or suspension of the Agreement by Agency, in whole or in part, and may result in ineligibility for further work for Agency.

F. Indemnification. To the extent permitted by law Manager agrees to indemnify, defend, and hold harmless Agency, City, and their respective officers, agents and employees, from and against all claims, losses, actions, or judgments for damages or injury to persons or property to the extent caused by Manager's negligence or intentionally wrongful acts during the performance of this Agreement by Manager or Manager's agents, employees, or representatives and/or any Members. Manager's obligation to indemnify, defend, and hold harmless Agency and City to the extent caused by Manager's negligence shall be limited to the extent covered by insurance policies Manager is required to have under the terms of this Agreement.

In case any action or proceeding is brought against Agency and/or the City, or its officers, agents, or employees by reason of or arising out of connection with Manager's negligence or intentionally wrongful acts during the performance of this Agreement, Manager, upon written notice from Agency, shall, at Manager's expense, resist or defend such action or proceeding.

To the extent permitted by law, Agency and City, respectively, agree to indemnify, defend, and hold harmless Manager, and its respective officers, agents and employees, from and against all claims, losses, actions, or judgments for damages or injury to persons or property to the extent caused by Agency and/or City's negligence or intentionally wrongful acts during the performance of this

Agreement by Agency or City respectively and its agents, employees, or representatives. In case any action or proceeding is brought against Manager, or its officers, agents, or employees by reason of or arising out of connection with Agency or City's negligence or intentionally wrongful acts during the performance of this Agreement, Agency or City upon written notice from Manager, shall, at Agency or City's expense, resist or defend such action or proceeding.

G. Waiver. Failure of either party to exercise any of the rights under this Agreement, or breach thereof, shall not be deemed to be a waiver of such right or a waiver of any subsequent breach.

H. Applicable Law. Any dispute under this Agreement, or related to this Agreement, shall be decided in accordance with the laws of the state of Idaho.

I. Severability. If any part of this Agreement is held unenforceable, the remaining portions of the Agreement will nevertheless remain in full force and effect.

J. Attorney Fees. Should any litigation or arbitration be commenced between the Parties hereto concerning this Agreement, the prevailing party shall be entitled, in addition to any other relief as may be granted, to costs and reasonable attorneys' fees as determined by a court or arbitrator of competent jurisdiction. This provision shall be deemed to be a separate contract between the Parties and shall survive any default, termination, or forfeiture of this Agreement.

K. Successors in Interest. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the Parties hereby, and their respective successors and assigns.

L. Compliance with Laws. Manager agrees to comply with all applicable laws, ordinances, and codes of Federal, State and local governments in the performance of the services hereunder.

M. Disputes. In the event that a dispute arises between Agency or City and the Manager regarding application or interpretation of any provision of this Agreement the Parties may first endeavor to settle the dispute in an amicable manner by mediation. If the Parties elect to mediate their dispute, the Parties will select a mediator by mutual agreement and agree to each pay a proportionate share of the mediator's costs and fees (i.e., one half each if there are two parties, or one third each if there are three parties). The mediation will take place in Boise, Idaho unless otherwise agreed by the Parties in writing. Should the Parties be unable to resolve the dispute to their mutual satisfaction within thirty (30) days after such completion of mediation, each Party shall have the right to pursue any rights or remedies it may have at law or in equity. If the Parties do not mutually agree to

mediate the dispute, either Party may pursue any rights or remedies it may have at law.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

Capital City Development Corporation

**Actuate Boise, Inc., an
Idaho non-profit corporation**

By: _____
Printed Name: [INSERT]
Title: [INSERT]

By: _____
Printed Name:
Title:

DATE: _____

DATE: _____

City of Boise

By:

Date: _____

EXHIBIT A

PROGRAM GUIDELINES

Manager shall provide the following services:

1. Develop Entrepreneurship Programs
 - a. The following are examples of services:
 - i. Mentor Members on financial and legal issues that confront new and emerging businesses
 - ii. Assist Members in locating financing for new companies or businesses
 - iii. Assist Members in developing and implementing a business plan
 - iv. Provide work space, administrative services, and meeting space
2. Develop benchmarks for Members to gauge successful participation in the Business Assistance Programs
3. Report to Agency on Members' success or failure to attain benchmarks. Such reports should provide aggregated data on an agreed upon set of benchmarks, which may include the following list, or any other benchmarks mutually agreed to:
 - a. Number and type of Members
 - b. Members that have launched new companies
 - c. Funding provided to Members
 - d. Total start-up capital raised
 - e. Total startup revenue
 - f. Jobs created
 - g. Local and national business and industry collaborations
 - h. Collaborations with educational institutions
 - i. Collaborations with public entities
 - j. Collaborations with non-profit organizations
 - k. Number of persons taking part in programming events organized by Manager
 - l. Programs directed to youths and students
 - m. Number and type of programs offered
 - n. Number of visitors to the Property and/or tours

***THIS LIST IS NOT MEANT TO BE INCLUSIVE. NOR IS THIS LIST MEANT TO SERVE AS A SET OF REQUIRED TOPICS FOR ANNUAL REPORTS. AGENCY SEEKS SIGNIFICANT INPUT AND PROGRAM DESIGN FROM MANAGER AS TO WHAT KINDS OF PROGRAMS AND BENCHMARKS WILL INCREASE THE LIKELIHOOD OF MEMBER'S SUCCESS TOWARDS ACHIEVING THE END GOAL OF INCREASING THE NUMBER OF SUCCESSFUL LOCAL**

BUSINESSES IN BOISE'S URBAN RENEWAL PLAN AREAS AND ECONOMIC DEVELOPMENT

Within thirty (30) days of the Effective Date, Manager shall provide Agency and City an Operating Plan for the Entrepreneurship Programming. This Operating Plan will provide sufficient detail on the programming and management of the programming to enable Agency to provide comment on the operating plan. At the beginning of each Term, or more often as determined by Manager and/or Agency, Manager shall provide Agency and City with an updated Operating Plan.

EXHIBIT B

LEASE

EXHIBIT C

PERSONAL PROPERTY LIST

4827-7629-2897, v. 2-9849-0400, v. 6