

# Board of Directors Regular Meeting Agenda

December 21<sup>st</sup>, 2020 3:00 p.m. | Zoom Meeting

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. ADOPTION OF AGENDA**
- IV. MINUTES – November 16<sup>th</sup> Regular Meeting**
- V. FINANCIAL REPORT – November 2020**
- VI. ACTION ITEMS**
  - A. Resolution 2020-06 for interim operations
  - B. DEGA/Kalamazoo Downtown Partnership Service Agreement
- VII. DISCUSSION ITEMS**
  - A. Downtown Dollars Promotion Update
  - B. Social District/Outdoor Space Update
  - C. Board Seat Openings
- VIII. PACKET ATTACHMENTS**
  - A. Coalition Roast 2021
- IX. BOARD COMMENTS**
- X. PUBLIC COMMENTS**
- XI. ADJOURNMENT**



# DEGA Board Member Attendance 2019-2020

	DIRECTOR	POSITION	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEP	OCT	NOV	DEC	Attended	Absent
2019	Jeff Breneman		P	P	A	P	P	P	P	x	P	P	P	A	9	2
2019	Susan Linemann		P	P	P	P	P	P	A	x	P	P	P	P	10	1
2019	Grant Fletcher		P	P	P	P	P	P	P	x	P	A	P	A	9	2
2019	Patti Owens		A	A	A	P	P	P	P	x	A	P	P	A	6	5
2019	Stephanie Hinman		P	A	P	P	P	P	P	x	P	A	P	P	9	2
2019	Ryan Wieber		P	P	A	P	P	A	P	x	P	P	P	P	9	2
2019	Carl Brown		A	P	P	A	P	A	P	x	A	A	A	A	4	7
2019	Bob Miller		P	P	P	P	P	P	P	x	P	P	P	P	11	0
2019	Bobby Hopewell		P	P	A	P	A	A	P	x	P	P			6	3
2019	David Anderson									x			P	P	2	0
2019	Greg Taylor		P	P	P					x					3	0
2019	Bjorn Green		P	P	A					x					2	1

	DIRECTOR	POSITION	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEP	OCT	NOV	DEC	Attended	Absent
2020	Jeff Breneman		P	x	x	P	x	x	P	x	P	P	A		5	1
2020	Susan Linemann	Vice President	P	x	x	P	x	x	P	x	P	U	P		5	1
2020	Grant Fletcher	President	P	x	x	P	x	x	P	x	P	P	P		6	0
2020	Patti Owens	Treasurer	A	x	x	A	x	x	A	x	A	P	P		2	4
2020	Stephanie Hinman		P	x	x	P	x	x	P	x	P	A	A		4	2
2020	Ryan Wieber		A	x	x	P	x	x	P	x	P	P	P		5	1
2020	Carl Brown		A	x	x	A	x	x	A	x	A	U	U		0	6
2020	Bob Miller	Secretary	P	x	x	-	x	x	P	x	P	P	P		5	0
2020	David Anderson		P	x	x	A	x	x	A	x	A	P	P		3	3

P - Present    U - Unexcused    (-) - Missing Information  
 A - Absent                            x - Meeting Cancellation

## Board of Directors Regular Meeting Minutes

November 16<sup>th</sup>, 2020 3:00 p.m. | Zoom Meeting

**PRESENT:** Patti Owens, Mayor David Anderson, Grant Fletcher, Jeff Breneman, Bob Miller, Ryan Wieber, Susan Lindemann

**ABSENT:** Stephanie Hinman, Carl Brown

**STAFF:** Andrew Haan, Jennifer Jelenek, Deb Houseman, Meghan Behymer, Sue Huggett

**OTHER:** Jessica Wood

**I. CALL TO ORDER**

**DIRECTOR FLETCHER CALLED THE MEETING TO ORDER AT 3:03 P.M.**

**II. ROLL CALL**

**PRESENT:** Patti Owens, Mayor David Anderson, Grant Fletcher, Jeff Breneman, Bob Miller, Ryan Wieber, Susan Lindemann

**ABSENT:** Stephanie Hinman, Carl Brown

**EXCUSED:** Stephanie Hinman

**III. ADOPTION OF AGENDA**

**DIRECTOR OWENS MOVED TO ADOPT THE NOVEMBER 16, 2020 AGENDA. DIRECTOR MAYOR ANDERSON SECONDED. NO OBJECTIONS. MOTION CARRIED.**

**IV. APPROVAL OF MINUTES – October 19<sup>th</sup>, 2020 Regular Meeting**

**DIRECTOR OWENS MOVED TO APPROVE THE OCTOBER 19<sup>th</sup>, 2020 REGULAR MEETING MINUTES. DIRECTOR MAYOR ANDERSON SECONDED. NO OBJECTIONS. MOTION CARRIED.**

**V. FINANCIAL REPORT – October 2020**

**DIRECTOR WIEBER MOVED TO APPROVE THE OCTOBER 2020 FINANCIAL REPORT. DIRECTOR OWENS SECONDED. NO OBJECTIONS. MOTION CARRIED.**

## Board of Directors Regular Meeting Minutes

November 16<sup>th</sup>, 2020 3:00 p.m. | Zoom Meeting

### **VI. DISCUSSION ITEMS**

- A. 2020 Event Updates
- B. 2021 Coalition Membership
- C. Downtown Updates

Andrew Haan and Jennifer Jelenek presented on discussion items including innovative solutions for outdoor spaces and the winterization of downtown, marketing and supporting efforts of downtown, and addressing foot traffic and events downtown through the end of 2020, throughout 2021 and how it relates to the Partnership's proposed budget.

### **VII. ACTION ITEMS**

- A. Resolution 2020-05 approving budget

**DIRECTOR OWENS MOTIONED TO APPROVE THE 2020-05 RESOLUTION. DIRECTOR LINDEMANN SECONDED. NO OBJECTIONS. MOTION CARRIED.**

### **VIII. ROLL CALL**

**AYE: Patti Owens, Mayor David Anderson, Grant Fletcher, Jeff Breneman, Bob Miller, Ryan Wieber, Susan Lindemann**

**ABSENT: Stephanie Hinman, Carl Brown**

### **IX. BOARD COMMENTS**

### **X. PUBLIC COMMENTS**

Jeff Messer, city resident, gave brief city updates regarding Bronson Park.

### **XI. ADJOURNMENT**

**DIRECTOR WIEBER MOVED TO ADJOURN THE MEETING. DIRECTOR OWENS SECONDED. NO OBJECTIONS. MOTION CARRIED.**

**DIRECTOR FLETCHER ADJOURNED THE MEETING AT 3:50 P.M.**

**DOWNTOWN ECONOMIC GROWTH AUTHORITY PROFIT/LOSS  
NOVEMBER 30, 2020**

	MONTH TO DATE ACTUAL	MONTHLY BUDGET	MONTHLY VARIANCE	YEAR TO DATE ACTUAL	YEAR TO DATE BUDGET	YEAR TO DATE VARIANCE	ANNUAL BUDGET
<b>REVENUES</b>							
DOWNTOWN ECONOMIC GROWTH AUTHORITY TIF	\$0.00	\$ 3,853.58	\$3,853.58	\$46,262.95	\$42,389.42	-\$3,873.53	\$ 46,243.00
KALAMAZOO MALL MAINTENANCE (CITY OF KALAMAZOO)	\$ -	\$ 4,934.17	\$4,934.17	\$59,210.00	\$54,275.83	-\$4,934.17	\$ 59,210.00
STATE CONTRIBUTION FUNDS	\$0.00	\$ 173.92	\$173.92	\$2,087.36	\$1,913.08	-\$174.28	\$ 2,087.00
FUND BALANCE CONTRIBUTION	\$0.00	\$ 8,333.33	\$8,333.33	\$100,000.00	\$91,666.67	-\$8,333.33	\$ 100,000.00
SPONSORSHIPS	\$1,500.00	\$12,958.33	\$11,458.33	\$8,300.00	\$142,541.67	\$134,241.67	\$155,500.00
ARCADIA CREEK FESTIVAL PLACE 2020 CARRYOVER	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
INTEREST INCOME	\$ 14.77	\$83.33	\$68.56	\$422.96	\$916.67	\$493.71	\$1,000.00
OTHER FUNDING SOURCES - CITY OF KALAMAZOO ADVANCE	\$ 58,333.00	\$58,333.00	\$0.00	\$641,663.00	\$641,666.67	\$3.67	\$700,000.00
<b>TOTAL REVENUES</b>	<b>\$ 59,847.77</b>	<b>\$ 88,669.67</b>	<b>\$28,821.90</b>	<b>\$857,946.27</b>	<b>\$975,370.00</b>	<b>\$117,423.73</b>	<b>\$ 1,064,040.00</b>
<b>EXPENDITURES</b>							
<b>PEOPLE</b>	\$4,884.77	\$20,521.83	\$15,637.06	\$46,179.90	\$225,740.17	\$179,560.27	\$246,262.00
DOWNTOWN AMBASSADOR PROGRAM/MAINTENANCE							
ENGAGEMENT, SURVEYS & FEEDBACK							
<b>PLACE</b>	\$ 2,960.39	\$17,462.67	\$14,502.28	\$ 81,364.35	\$192,089.33	\$110,724.98	\$209,552.00
PLANNING							
PUBLIC SPACE INVESTMENT & MAINTENANCE							
STREET INTERVENTIONS							
<b>EXPERIENCE</b>	\$13,559.73	\$24,177.92	\$10,618.19	\$309,009.41	\$265,957.08	-\$43,052.33	\$290,135.00
MARKETING/COMMUNICATIONS							
EVENTS							
<b>GROWTH</b>	\$ 6,509.03	\$11,362.67	\$4,853.64	\$ 72,263.44	\$124,989.33	\$52,725.89	\$136,352.00
BUSINESS RETENTION & RECRUITMENT INITIATIVES							
<b>DEBT OBLIGATIONS</b>	\$0.00	\$4,075.00	\$4,075.00	\$7,825.55	\$44,825.00	\$36,999.45	\$48,900.00

**DOWNTOWN ECONOMIC GROWTH AUTHORITY PROFIT/LOSS  
NOVEMBER 30, 2020**

	MONTH TO DATE ACTUAL	MONTHLY BUDGET	MONTHLY VARIANCE	YEAR TO DATE ACTUAL	YEAR TO DATE BUDGET	YEAR TO DATE VARIANCE	ANNUAL BUDGET
<b>ADMINISTRATION</b>	-\$1,629.80	\$11,069.92	\$12,699.72	\$28,362.00	\$121,769.08	\$93,407.08	\$132,839.00
OPERATIONS							
AUDIT							
<b>TOTAL EXPENSES</b>	<b>\$ 26,284.12</b>	<b>\$ 88,670.00</b>	<b>\$62,385.88</b>	<b>\$ 545,004.65</b>	<b>\$975,370.00</b>	<b>\$430,365.35</b>	<b>\$ 1,064,040.00</b>
<b>TOTAL REVENUES OVER/UNDER BUDGET</b>	<b>\$ 33,563.65</b>	<b>(\$0.33)</b>	<b>\$33,563.98</b>	<b>\$ 312,941.62</b>	<b>\$0.00</b>	<b>\$312,941.62</b>	<b>\$0.00</b>

**KALAMAZOO DOWNTOWN ECONOMIC GROWTH AUTHORITY  
CITY OF KALAMAZOO, MICHIGAN  
RESOLUTION 2020-06**

***INTERIM APPROPRIATION RESOLUTION***

**WHEREAS**, the 2021 budget appropriation resolution is not ready for adoption; and

**WHEREAS**, the Kalamazoo Downtown Economic Growth Authority should be authorized to continue normal operations, including contracted services and operating expense disbursements.

**NOW, THEREFORE, BE IT RESOLVED** that the Downtown Economic Growth Authority is hereby authorized and directed to continue processing and issuing checks for normal services, expenses or commitments which have been approved by the Board of Directors for the operations of the Downtown Economic Growth Authority and in accordance with the practices prevailing at the end of 2020.

**BE IT FURTHER RESOLVED** that such sums as may be needed for the above purposes are hereby appropriated.

The above resolution was offered by Director \_\_\_\_\_ and supported by Director \_\_\_\_\_.

**AYES**, Directors:

**NAYS**, Directors:

**ABSTENTIONS**, Directors:

***RESOLUTION DECLARED ADOPTED, \_\_\_\_\_.***

**CERTIFICATE**

I hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the Downtown Economic Growth Authority of the City of Kalamazoo at a regular meeting held on December 21, 2020, and that said meeting was conducted and a public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act No.267 of the Public Acts of 1976, and the minutes of said meeting were kept and will be and have been made available as required by said Act.

\_\_\_\_\_  
Bob Miller, Secretary

## SERVICE AGREEMENT

This Service Agreement (the “Agreement”) is made effective as of January 1, 2021, by and between the **Kalamazoo Downtown Economic Growth Authority**, a Michigan statutory authority, located at 162 East Michigan Avenue, Kalamazoo, Michigan 49007 (the “DEGA”), and **Downtown Kalamazoo Incorporated d/b/a the “Kalamazoo Downtown Partnership,”** a Michigan nonprofit corporation with federal tax-exempt status as a 501(c)(3) exempt organization located at 162 East Michigan Avenue, Kalamazoo, Michigan 49007 (the “Partnership”). Throughout this Agreement, the DEGA and the Partnership are also referred to individually as a “Party” and collectively as the “Parties.”

### Recitals

A. Pursuant to the Recodified Tax Increment Financing Act, being Act 57 of the Public Acts of Michigan of 2018, and action of the governing body of the City of Kalamazoo (the “City”), the DEGA was created for the purpose of halting property value deterioration, increasing property tax valuation, and promoting economic growth in the City’s downtown area.

B. Pursuant to the Nonprofit Corporation Act, being Act 162 of the Public Acts of Michigan of 1982, as amended, and in accordance with its federal tax-exempt status as a 501(c)(3) exempt organization, the Partnership was created for the purpose of preserving and enhancing the economic health of the City’s downtown area, specifically working with various affiliate organizations to manage a full range of activities that include capital improvement projects, business development and recruitment programs, image marketing, and event planning.

C. The DEGA does not have any employed staff or the internal capacity to carry out its specific purposes, and accordingly, the DEGA desires to contract with the Partnership to receive the specialized services that the Partnership provides.

D. The Partnership specializes in providing program and project management services to municipal organizations and governmental entities, and accordingly, the Partnership now desires to contract with the DEGA to provide its specialized services in exchange for compensation paid by the DEGA.

E. The DEGA and Partnership now enter into this Agreement pursuant to the terms and conditions set forth below.

### Agreement

1. Engagement of the Partnership. Subject to the terms and conditions of this Agreement, the DEGA engages the Partnership to provide the specific services set forth below in Section 2 (the “Services”) during the term set forth below in Section 3 (the “Term”), and the Partnership accepts such engagement.

2. Specific Services. The Partnership will provide the Services detailed below directly to (and, as applicable, on behalf of) the DEGA:

a. Negotiate and recommend contracts, leases, options, and easements relating to land.



b. Negotiate and recommend contracts for constructing, reconstructing, rehabilitating, restoring, preserving, equipping, improving, maintaining, repairing, and operating any building or public facility.

c. Develop long-range plans designed to halt the deterioration of property values in the City's downtown area and to promote the economic growth of the City's downtown area.

d. Develop plans for the construction, renovation, repair, remodeling, rehabilitation, restoration, preservation, or reconstruction of any building or public facility that may be necessary or appropriate for the DEGA's purposes.

e. Operate and manage any building or public facility under the DEGA's control.

f. Conduct studies and analyses of the impact of metropolitan growth and economic changes under the City's downtown area.

g. Provide all other services as the DEGA and the Partnership may agree to in writing that are necessary or incidental to the exercise of the DEGA's powers, are in fulfillment of the DEGA's purposes, and are in accordance with applicable law.

h. Provide day-to-day administrative services in support of the Services provided pursuant to this Agreement.

3. Term. Subject to the provisions of this Agreement, the term of this Agreement will commence on the Effective Date and continue for one year until December 31, 2020 (the "Term"), unless terminated earlier as provided below in Section 4. For purposes of clarification, although it is the intent of the Parties for their relationship as set forth in this Agreement to be long-term, this Agreement will not renew or extend automatically, and the Parties must execute a separate written agreement to renew or extend this Agreement. Notwithstanding the foregoing, if either Party does not intend to negotiate a renewal or extension of this Agreement during the Term, that Party must notify the other Party in writing of such intent no later than 180 days before the expiration of the Term.

4. Termination. The Parties may terminate this Agreement prior to the expiration of the Term as follows:

a. Either Party may terminate this Agreement during the Term upon default by the other Party under this Agreement. A Party will be in default under this Agreement if such Party fails in any material respect to perform or comply with any of the terms or conditions of this Agreement and such failure continues for more than 30 days after written notice of default from the other Party.

b. Either Party may terminate this Agreement during the Term if the other Party becomes insolvent or unable or unwilling to pay its debts, or the filing of a voluntary or involuntary petition in bankruptcy or of reorganization related to the other Party.

c. The Partnership will have the exclusive right to terminate this Agreement during the Term if the DEGA fails to pay the Partnership for the Services as provided below in Section 6 and such failure continues for more than 15 days after such payment's due date.

For purposes of clarification, no notice from the Partnership to the DEGA of the DEGA's failure to make a payment required under this Agreement will be required for the Partnership to exercise this exclusive right to terminate this Agreement.

d. The DEGA will have the exclusive right to terminate this Agreement during the Term if the Partnership (i) provides the Services in a grossly negligent manner or engages in intentional misconduct in connection with the provision of the Services, and (ii) continues to perform in such manner for more than 15 days after receiving written notice from the DEGA of its intent to terminate this Agreement.

5. Obligations After Expiration or Termination. Upon the expiration of this Agreement at the end of the Term pursuant to Section 3 above or the termination of this Agreement during the Term pursuant to Section 4 above, all obligations of the Parties under this Agreement will terminate.

6. Payments and Fee Schedule for the Services. The Partnership agrees to render the Services to the DEGA based upon the following payment and fee schedule:

a. For the operation and management of the downtown ambassador program and the management of all engagement surveys (and related feedback), the DEGA will pay the Partnership the sum \$25,777.00, with the balance of \$65,000 paid directly to vendors used in the programing. Total costs for the stated programs are \$90,777.00.

b. For the management of all applicable planning activities, the operation and management of all public space investment and maintenance activities, and for all street intervention activities, the DEGA will pay the Partnership the sum of \$25,777.00, with the balance of \$159,210 paid directly to vendors used in the programing. Total cost for the stated programs are \$184,987.00.

c. For all marketing and communication activities and for all event management activities, the DEGA will pay the Partnership the sum of \$147,127, with the balance of \$90,000 paid directly to vendors used in the programming. Total costs for the stated programs are \$237,127.

d. For the operation and management of all business retention and recruitment initiatives, and for the management of all specific business development events the DEGA will pay the Partnership the sum of \$25,777, with the balance of \$210,000 paid directly to vendors used in the programming. Total costs for the stated programs are \$235,777.00.

e. For all other items defined under above in Section 2 as the "Services", unless otherwise agreed to in a separate writing between the Parties, the DEGA will pay the Partnership the sum of \$42,542.00

The total due to the Partnership for the Services rendered during the Term is \$267,000. All payments from the DEGA to the Partnership will be paid in equal monthly installments due on the first day of each month of the Term.

7. Tangible Assets Provided. If the DEGA acquires tangible assets (the "DEGA Assets") which are used by the Partnership in connection with the Services and/or services provided pursuant to agreements with others, the annual depreciated amount of such assets, until fully depreciated, shall

be allocated based on usage for the purpose of crediting and assigning costs of such assets. The Partnership agrees to keep a current inventory of such assets and any additions including the annual depreciated amount, which it shall provide to the DEGA from time to time upon request. The Partnership shall not dispose of any such assets without the approval of the DEGA.

8. Accounting Records. The Partnership shall keep or cause to be kept full and accurate accounting records related to its activities in providing the Services in accordance with generally accepted accounting principles (GAAP). The Partnership shall maintain or caused to be maintained a system of bookkeeping to track and apportion its expenses related to providing the Services so that they are separate from the other activities of the Partnership that are not Services provided pursuant to this Agreement. The Partnership shall, upon request, give an authorized representative(s) of the DEGA, designated by the DEGA's governing board, or an authorized representative(s), designated by the Chief Financial Officer of the City, access to inspect and audit such books and records as is deemed necessary and desirable by the DEGA or the City. The Partnership shall keep and safely store or caused to be kept and stored such books and records for a minimum of three (3) years.

9. Ownership of Assets. The ownership of all equipment, furniture, displays, vehicles, and similar tangible property acquired with funds provided by the DEGA shall immediately upon purchase or acquisition vest in the DEGA. The Partnership shall keep a written current inventory of such assets identifying the owner which shall be available to the DEGA for review and inspection upon written request. The ownership of all consumable assets, such as office supplies and cleaning materials, purchased with funds received from the DEGA, shall remain with the DEGA, but such assets may be utilized and consumed by the Partnership in the provision of the Services pursuant to this Agreement. The assets described in this Agreement shall not be pledged, liened, encumbered, or otherwise alienated or assigned.

10. Independent Contractor Status. The Parties agree that the Partnership is an independent contractor of the DEGA, and that neither the Partnership or the Partnership's employees or contract personnel are, or will be deemed to be, employees of the DEGA. Accordingly, in providing the Services, unless otherwise described in this Agreement, the Partnership will be responsible for providing necessary staffing, equipment, supplies and office and meeting space. Additionally, as a result of the Partnership's status as an independent contractor, the Parties acknowledge and agree as follows: (i) the Partnership has the right and does fully intend to perform services for third parties during the Term, and neither the Partnership nor the Partnership's employees or contract personnel will be required by the DEGA to devote full time to the performance of the Services to be rendered pursuant to this Agreement; (ii) the Partnership has the sole right to control and direct the means, manner, and method by which the Services will be performed; (iii) the Partnership has the right to perform the Services at such places and at such times as the Partnership may determine; (iv) the Partnership has the right to hire and use its own employees and contract personnel to provide the Services, and the DEGA will not hire, supervise, or pay anyone to help the Partnership to provide the Service; and (v) the Partnership will be solely responsible for the supervision, direction, and control of its employees and contract personnel, including all compensation, income tax and other applicable withholding, employee benefits, employment insurance and workers' compensation insurance, and all other related expenses.

11. Insurance. The Partnership will keep in force at all times during the Term a general commercial liability insurance policy, including public liability and property damage, subject to normal policy exclusions, covering the Services provided pursuant to this Agreement in a combined single limit of \$1,000,000.00 for each occurrence and \$3,000,000.00 in the annual aggregate. The

Partnership will also maintain, if necessary, comprehensive automotive bodily injury and property damage insurance for business use covering all vehicles owned by the Partnership and operated by the Partnership employees in connection with the Services. The policies must be written by a company licensed to do business in the State of Michigan. The coverage amounts under the foregoing policies will be re-evaluated every three years during the term of this Agreement. Both the DEGA and the City will be named as an additional or co-insured as their interest may appear. Copies of the policies or certificates evidencing the policies will be provided to the DEGA and the City upon request. Each policy or certificate will contain a provision or endorsement stating that the policy will not be canceled or materially changed or altered without requiring 30 days' advanced written notice to the DEGA and the City. The terms of all insurance policies will preclude subrogation claims against the DEGA and the City.

12. Nondiscrimination. In connection with performance of the Services, the Partnership will not discriminate against any employee or applicant for employment to be employed in performance of the Services with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment because of race, color, religion, natural origin, age, sex, height, weight, marital status, military status, sexual orientation, or physical or mental disability. Breach of this provision may be regarded as a material breach of this Agreement as provided in the Handicapper's Civil Rights Act and the Elliot-Larson Civil Rights Act, being respectively Act 220 and Act 243 of the Public Acts of Michigan of 1976, as amended.

13. Freedom of Information. The Parties acknowledge and agree that that DEGA is a "public body" as that term is defined by the Freedom of Information Act, being Act 442 of the Public Acts of Michigan of 1976, as amended. Accordingly, the DEGA's records and documents are available to the public pursuant to the guidelines and criteria established by the Freedom of Information Act, and the Partnership will, in any activity performed pursuant to this Agreement on behalf of the DEGA, make its records and documents concerning such applicable activity available and provide them to the public upon a request made under and pursuant to the provisions of the Freedom of Information Act.

14. Compliance with Applicable Law. In addition to the Partnership's responsibilities pursuant to Section 12 and Section 13 above, the Partnership's performance of the Services will at all times be in conformance with any and all other applicable laws, ordinances, rules, and regulations, including, but not limited to, the Michigan Recodified Tax Increment Financing Act and the Michigan Nonprofit Corporation Act.

15. Notices. All notices and other communications to be given pursuant to this Agreement will be given in writing and delivered personally, by first-class, or by e-mail, to the appropriate party at the address or e-mail address set forth below

- a. If to the DEGA: ***Kalamazoo Downtown Economic Growth Authority***  
Attention: \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_  
\_\_\_\_\_  
Kalamazoo, Michigan 49007
  
- b. If to the Partnership: ***Downtown Kalamazoo Incorporated d/b/a "Kalamazoo Downtown Partnership"***

Attention: \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_  
\_\_\_\_\_  
Kalamazoo, Michigan 49007

Either Party may change its designated address/e-mail address by delivery of written notice of the change to the other Party. Notices will be deemed effective upon actual receipt. Actual receipt of electronic e-mail transmissions will be presumed based upon the transmitting Party's record that it was sent and received by the receiving Party.

16. Miscellaneous Provisions.

a. *Assignment.* This Agreement is not assignable by either Party, and each Party acknowledges and agrees that such Party will not assign or transfer its rights under the Agreement without the prior written consent from the other Party.

b. *Successors and Assigns.* All of the terms and conditions contained in this Agreement will be binding upon and inure to the benefit of the Parties' successors, assigns, and legal representatives.

c. *No Third Parties.* Nothing in this Agreement, expressed or implied, is intended to confer upon any person, other than the Parties and their respective successors or permitted assigns, any rights or remedies whatsoever.

d. *Construction.* The Parties acknowledge and agree that each of them participated equally in the drafting of this Agreement. Any rule to the effect that the Agreement is to be construed more strictly against either Party is not applicable.

e. *Governing Law.* This Agreement will be construed in all respects in accordance with the laws of the State of Michigan.

f. *Captions and Headings.* The captions or headings of this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provision of this Agreement.

g. *Entire Agreement.* This Agreement constitutes the entire agreement between the Parties and there are no other representations, warranties, promises, guarantees, or agreements, oral or written, expressed or implied, between the Parties with respect to this Agreement.

h. *Amendments.* This Agreement may not be amended, changed, modified, or altered without the express written consent of each Party.

i. *Severability.* In the event any provisions of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement.

j. *Waiver.* No waiver of any of the provisions of this Agreement will be deemed or constitute a waiver of any other provision, whether or not similar, nor will any waiver be a

continuing waiver. No waiver will be binding unless executed in writing by the Party giving the waiver.

k. *Counterparts.* This Agreement may be simultaneously executed in counterparts, each of which will be an original and all of which will constitute one and the same instrument.

[Signatures on following page]

**Signature Page**

**Service Agreement dated \_\_\_\_\_ between  
the Kalamazoo Downtown Economic Growth Authority and  
Downtown Kalamazoo Incorporated d/b/a “Kalamazoo Downtown Partnership”**

Each of the Parties have authorized the signing of this Agreement by their respective duly authorized officers all effective as of the Effective Date.

**THE DEGA**

**Kalamazoo Downtown Economic Growth Authority**

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

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

**THE PARTNERSHIP**

**Downtown Kalamazoo Incorporated  
d/b/a “Kalamazoo Downtown Partnership”**

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

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