

City of Madison

Legislative File Number 20248 (version 2)

Title

ALTERNATE Acknowledging private ownership and operation of the Overture Center, Establishing a City commitment to future grants to Overture subject to annual appropriation, and setting terms and conditions for such grants.

Body

WHEREAS, a group of generous community members have come forward and reached an agreement with the Overture Center's lenders to resolve the Center's remaining debt, and,

WHEREAS, under that agreement, the 201 State Foundation or the Overture Development Corporation, or their successors, will become the owner and operator of the Overture Center facility upon payment to the Overture lenders before December 30, 2010, and,

WHEREAS, the City has been informed that the debt will be paid, which payment also will release the City from any potential liability on its limited pledge guaranty related to the Overture debt, and,

WHEREAS, an interest in the long-term success of the Overture Center is shared by everyone in our community.

NOW, THEREFORE, BE IT RESOLVED, that the city of Madison thanks the donors for their extraordinary generosity in supporting Overture as a vital community asset, and,

BE IT FURTHER RESOLVED, that the city acknowledges the ownership change of the facility, and, contingent upon the debt on the Overture Facility being fully paid, waives and releases its option to purchase the facility for one dollar, and,

BE IT FURTHER RESOLVED, that the city pledges its financial support for Overture in the form of a grant to 201 State Foundation, Inc., or its successors or assigns ("201"), subject to annual appropriation, starting at \$2.5 Million (Two Million Five Hundred Thousand Dollars) per year in 2012 and adjusted by the change in Consumer Price Index methodology in the State's Expenditure Restraint Program each year thereafter, the purpose of the grant being to support the Overture Arts Facility in an amount approximate equal to the former City subsidy and an amount for capital costs, and,

BE IT FURTHER RESOLVED, that as conditions of the grant, 201 shall provide the following to the city:

1. An annual payment in lieu of taxes (PILOT), starting at \$500,000 per year in 2012 and adjusted annually by the same method as the grant described above. In the event that the City grant falls short of the full amount as described above, 201 may reduce the amount of the PILOT by an amount equivalent to the shortfall.
2. An annual audit, performed by an independent CPA selected by 201 and conducted in accordance with GAAP.
3. An annual plan with objectives with respect to fund-raising, paid attendance, non-paid or reduced price attendance, seats sold, community programs and program diversity.
4. An annual report to the community comparing actual results of the objectives described in the annual plan, the causes of any failures to meet those objectives, and strategies to meet objectives in the future.

INSERT AMENDMENT:

BE IT FURTHER RESOLVED, that to protect the interests of employees, benefit

packages (health insurance options and retirement plan options) offered to employees shall be equally available for all fulltime employees, regardless of position or salary, excepting stipulations in any union contracts.

BE IT FURTHER RESOLVED, that to increase community engagement in Overture and its programs, 201 State Foundation or the Overture Development Corporation, or their successors shall establish and maintain a Community Advisory Board comprised initially of Madison residents broadly representing the community in terms of culture, ethnicity, geography, age and socio-economic level. The board will meet at least quarterly to advise on free programming and educational outreach efforts. Upon review, the membership may expand to residents of other communities, and shall expand if/when other municipalities make financial contribution to Overture.

BE IT FURTHER RESOLVED, that to increase community engagement, the Board shall accept 2 members recommended by the Mayor and 1 member representing the resident companies.

BE IT FURTHER RESOLVED, that the city and the 201 State Foundation or the Overture Development Corporation, or their successors shall execute an annual contract requiring these conditions:

- A contribution to a building trust fund of \$250,000 until a \$2 million level is reached. Contributions may be discontinued at the \$2 million level, but must be reinstated if the value falls below the \$2 million. Contributions may be made to exceed the \$2 million based on management discretion.
- X number of educational/outreach events. (Average of last 3 years' programs.)
- Presentation of free xx community programs for free or reduced prices. (Average of last 3 years' programs.)
- Successful fundraising equal to or greater than one half of the city's annual contribution.
- Development of a 5-year strategic plan.
- Written notification when stated annual fundraising projections will fall short by more than 25% of goal.

BE IT FURTHER RESOLVED, that the city intends to end its operation and cooperation agreement with the Madison Cultural Arts District as of December 31, 2011, with current employees staying under that agreement until that date, after which 201 State Foundation or Overture Development Corporation or their successors shall be the employer of any personnel working at Overture, and,

BE FINALLY RESOLVED, that the Mayor and city clerk are authorized to execute any and all documents with 201 State Foundation, Overture Development Corporation and the Madison Cultural Arts District, all in a form approved by the city attorney, as shall be necessary to accomplish the purposes of this resolution.

Fiscal Note

Based on the terms of this Alternate resolution (originally presented to the Common Council Organizational Committee on November 18, 2010) the City would relinquish its existing reversionary right to purchase the Overture Center property for a nominal amount, contingent upon the satisfaction of all past debt obligations associated with the facility's construction and refinancing. The City would also pledge to provide annual funding to Overture at a net level of \$2,000,000 per year beginning in 2012 to support both operating and capital costs. This annual support level represents an increase of approximately \$700,000 per year when compared to the \$1,297,473 budgeted in 2011 for Overture. In future years, the amount of financial support would be adjusted for inflation. Additional costs associated with the accrued employee benefits of current City employees working at Overture Center may be incurred by the City in 2011, 2012 or future years, depending on the specific timing of any changes in employment status resulting from this agreement. Additional information about any such changes is needed before the employee benefit costs can be estimated.