

**CITY OF MADISON
OFFICE OF THE CITY ATTORNEY
Room 401, CCB
266-4511**

Date: 4 November 2015

MEMORANDUM

TO: Board of Estimates

FROM: Michael P. May, City Attorney

RE: 2016 Annual Performance Contract with Overture Center Foundation

This year, the Annual Performance Contract was reviewed by the Madison Arts Commission (MAC), who made recommendations for some changes in the Contract. Overture Center Foundation (OCF) agreed with the changes. This memo will highlight those, and provide further information given by OCF to the City.

The 2016 Contract:

1. Clarifies that information given to the City should be given to the Mayor's Office and the MAC. The MAC will continue to be the lead City committee in reviewing the Contract.
2. Clarifies exactly what sort of data is needed by the MAC. While OCF provided much of this in October, 2015, some of it is missing. The Contract provides that OCF will supplement the data in the first quarter of 2016, and in the future will provide the full data by September 30 of each year.
3. Provides that the City and OCF may discuss in 2016 whether any portion of the City grant should be designated for specific purposes. Both the City and MAC believe this will be unnecessary if the data on OCF expenditures on specified programs can be provided on a timely basis.

There were a series of other questions we asked OCF. The questions and their answers (copied from an email from Ted DeDee) are provided below. The items referenced as attachments have been added as attachments in Legistar. Several of these items were slated for completion in 2015; the new contract moves the completion date to 2016.

1. Did OCF develop a revised strategic plan by 6/30/15? If so, has the City received a copy? [OCF did not change its strategic plan from that developed during the 2013-2014 fiscal year, except to add a section to the strategic plan for OCF's new Racial Equity Initiative, a copy of which was provided to the Mayor and members of Common Council during the summer of 2014 and to the Madison Arts Commission October 2015. OCF is scheduled to revise and](#)

update its full strategic plan during its 2015-2016 fiscal year, which will be drafted and provided to the City on or before June 30, 2016.

2. Has OCF provided the annual report per Art. I, 2 (b)? Has the City received a copy? OCF did hold its annual public meeting on Tuesday, September 29, 2015 where a copy of the annual report was distributed to all those attending. A copy of that report is attached and is also posted on the Overture Center website. In addition, a copy of this same report was provided to the Madison Arts Commission at its monthly meeting on October 14, 2015.

3. Has the annual audit been provided to the City? At the same OCF annual meeting on September 29, a copy of the annual audited financial statement was distributed to all those attending. A copy of that report is attached and is also posted on the Overture Center website. In addition, a copy of this same report was provided to the Madison Arts Commission at its monthly meeting on October 14, 2015.

4. What is the status of the Capital Reserve as set out in Art. I, 2 (e)? In fiscal year 2012-2013, the OCF Board of Directors designated \$700,000 in net assets in a “Board Designated Reserve” as its initial installment that could be used to meet the intent of the Capital Reserve requirement. Since that time, no additional money has been identified to set aside, although Overture has cumulatively spent \$1,454,826 in capital expenditures since January 1, 2012. During Overture’s current fiscal year 2015-16, we are anticipating an amount equal to or greater than the current reserve balance of \$700,000 will be added at the conclusion of the fiscal year in June 2016 from net results. OCF has also begun efforts for a private fund raising effort to build the reserve to the amount of \$5 million to be accumulated by June 30, 2017.

5. Did OCF develop the updated plan for fundraising and has the City received a copy? There have been no major changes to the fundraising plan submitted for the previous year. We have achieved our fundraising goals for the last two fiscal years, and we are meeting expectations so far this year as well. Regardless, an updated plan for fundraising is expected to be incorporated in the strategic planning process referenced in Question #1.

6. Does OCF have an updated plan for institutional marketing, per Art. I, 2 (h)? OCF changed leadership in the marketing department in Spring 2015 and have hired a new marketing head as of November 2, 2015. As suggested in the draft 2016 Annual Contract, OCF will provide an updated plan for institutional marketing to the City on or before October 15, 2016.