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..Fiscal Note

The proposed resolution authorizes the 2020 contract between the City of Madison and the Overture Center. The 2020 Budget to be adopted by the Common Council in November 2019, includes $2,095,000 as the City's subsidy to support Overture operations, a $95,000 increase from the $2.0 million subsidy provided in 2019. The City's contribution is authorized by the Room Tax Commission and fully funded through the Room Tax Fund.

Title

Authorizing the Mayor and City Clerk to execute an Annual Performance Contract with Overture Center Foundation, Inc. for the 2020 operations of the Overture Center, and providing for a grant from the City.

Body

On December 14, 2010, the Common Council adopted Resolution No. RES-10-00996, File No. 20248, (the "2010 Resolution") acknowledging private ownership and operation of the Overture Center, establishing a City commitment to future grants to Overture subject to annual appropriation, and setting forth the terms and conditions for such grants. The 2010 Resolution also authorized the City to enter into a long-term Structural Agreement with Overture Center Foundation, Inc. ("OCF"), formerly known as 201 State Foundation, Inc.

The Structural Agreement anticipated that the City would provide an annual grant to OCF, subject to appropriation and subject to the parties entering into an annual performance contract that would establish measurable performance standards for OCF. The City and OCF entered into the first annual performance contract for calendar year 2012. The OCF grant is being funded through room tax revenues as designated by the Room Tax Commission. The amount of the grant for 2020 is $2,095,000. Representatives of OCF appeared at a meeting of the Madison Arts Commission to provide information on the operation of OCF in the last year, and have provided other information to the MAC.

NOW THEREFORE, BE IT RESOLVED, that the Common Council authorizes the Mayor and City Clerk to execute an Annual Performance Contract with Overture Center Foundation, Inc., in a final form to be approved by the City Attorney, containing the following terms and conditions:

1. Term. The Annual Performance Contract will be in effect during calendar year 2020. Either party may terminate the Contract upon an event of default by the other party. The Contract shall automatically terminate if the City does not provide the Grant.

2. Grant. The City, through room tax revenues as approved by the Room Tax Commission, shall provide a Grant to OCF in the amount of Two Million Ninety Five Thousand Dollars ($2,095,000). The Grant will be disbursed to OCF in two payments, one of One Million Fifty Thousand Dollars ($1,050,000) on January 3, 2020 and One Million Forty Five Thousand Dollars ($1,045,000) on September 4, 2020. The Grant shall be used by OCF solely to support the operations and capital expenditures of the Overture Center.

3. Plan Preparation. OCF shall prepare and submit to the City the following updated plans on the following dates: a strategic plan on or before June 30, 2020; a fundraising plan on or before October 15, 2020; and an institutional marketing plan on or before October 15, 2020.

4. Performance Terms. OCF shall prepare an Annual Community report and an Annual Commitment to Arts, Educational and Community Budget report (budget report) within 90 days of its fiscal year

(July 1, 2019 to June 30, 2020), and invite the public to a meeting on the report, encouraging community input. The Annual Commitment to Arts, Educational and Community Budget report shall include data identifying OCF's commitment to educational and community planning, including: the number of programs delivered and the people served; the number of free or reduced cost programs, the number of people served by these programs and the associated dollar value; the number of City of Madison residents served by ticketed events; and the total dollar value of rent subsidies provided to local arts organizations. This data identified in this budget report shall be provided to the Madison Arts Commission (MAC) on or before September 30, 2020, and a representative of OCF will appear and consult with the MAC on meeting its goals and objectives, and any changes needed for the 2021 contract. OCF shall prepare performance projections for 2020-21 based on the most recent OCF budget report. OCF will include in its report information on its efforts to engage with Madison's communities of color. To the extent some of this information is not available by September 30, 2020, OCF will provide the information in the first quarter of 2021. OCF commits to attending meetings of and reporting to the MAC at least two (2) times in calendar 2020. OCF will also provide time for MAC representatives to make a presentation at one of its regular meetings at least once during calendar 2020. In addition, to the extent data provided to MAC by OCF during 2019 is incomplete, OCF shall provide all available date requested by Spring, 2020. All reports provided to the MAC will also be provided to the Mayor, the Common Council and the Room Tax Commission.

5. Financial Performance. OCF will abide by certain financial performance standards to ensure it is operating the Overture Center in a financially sound manner. OCF shall generate sufficient earned and contributed revenue, and will provide to the City for review audited financial statements showing positive unrestricted net assets, as adjusted, and a carry-forward operating deficit less than 5% of expendable net assets.

6. Capital Reserve. OCF will continue efforts to create a capital reserve fund of $5 million on or before June 30, 2020. From 2012 through June 30, 2019, OCF designated the aggregate amount of $2,170,000 in a Board Designated Reserve that could be used for this purpose. In addition, since January 1, 2012, OCF has expended $5,148,889 for capital improvements for the Overture Center. Unrestricted net assets that could be used as a capital reserve total $4,089,154. Although OCF has made capital expenditures and has funds that might constitute a capital reserve fund, prior Annual Performance Contracts called for a capital reserve fund of $5 million by June 30, 2019. OCF intends to embark on a capital campaign to meet its needs for a capital reserve account.

7. City Ordinances. OCF shall abide by all applicable provisions of the City's ordinances concerning living wage, affirmative action, workforce utilization, equal benefits, nondiscrimination and accessibility.

8. City Study. If the City performs a study regarding performing arts venues in the greater Madison area and their needs, OCF shall provide its cooperation to the City and any agents or contractors it may have engaged.

9. Use of City Grant. The Grant is required to be used solely to support the operations and capital expenditures of the Overture Center. The parties shall work cooperatively to establish language for future Annual Performance Contracts under which OCF would identify and report on the use of and establish goals and objectives for a portion of the Grant for local Madison arts, educational and community programming purposes, and to report on measuring performance standards. During 2020, OCF shall maintain segregated accounting to keep track of any amounts received from the City, shall keep a record of where those amounts are spent, and shall provide information to the City demonstrating that the City grant was used for operations and capital expenses as required by the Structural Agreement.

BE IT FURTHER RESOLVED that the Common Council authorizes a Grant in the amount of $2,095,000 to be disbursed to Overture Center Foundation, Inc. pursuant to the terms of this Resolution and the 2020 Annual

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