

11/4/2010
LEASE AND OPERATING AGREEMENT (“Agreement”)
TERM SHEET

Parties: 201 State Foundation, Inc. or its successor or assign (“201”)
City of Madison (“City”)

1. **Term of Agreement:** Initial term of five (5) years, with three (3) automatic renewals of 5 years unless either party gives one year notice of termination prior to the end of any term, up to a total of 20 years, effective July 1, 2012. Except as set forth herein, all obligations start on July 1, 2012.

2. **Operation & Lease:** 201 shall have the sole and exclusive right and responsibility to operate the Overture Center for the Arts (“Overture”) subject to Performance Standards and other requirements of the agreement. Premises subject to the Agreement shall be condominium unit 2 located at 201 State Street, Madison, Wisconsin, consisting of all of the Overture Facility except the condominium unit 1 which shall be the Madison Museum of Contemporary Art (“MMoCA”).

3. **Rent.** 201 shall make an annual rent payment to the City of Four Hundred Ninety Eight Thousand Four Hundred Dollars (\$498,400) commencing on July 1, 2012. Such rent shall be payable in two (2) semi-annual installments payable within seven days of receipt of the semi-annual contributions from the City. It is the intent of the parties that this rent payment is a replacement for the PILOT payment previously made by the Madison Cultural Arts District (MCAD). There shall be no PILOT payment. Rent will be adjusted annually using the Consumer Price Index methodology as described in the State’s Expenditure Restraint Program (“ERP”) applicable to the City, and may be deducted from the City’s subsidy to 201. The rent herein is contingent upon the City providing the contributions as provided in Paragraph 16 in every fiscal year of 201 commencing on July 2012. The rent may be reduced on a dollar for dollar basis if the City fails to make such contribution, unless such reduction is made for failure of 201 to meet the 201 Contributions requirement as set forth in Paragraph 16 hereof.

4. **Mission:** Consistent with sound business practices, Overture shall be operated by 201 consistent with the mission of providing a high quality, professional facility with resident companies and other events.

5. **Relation to MMoCA:** The Overture real property shall be divided into two (2) “condominium units” with one unit being conveyed to MMoCA. Terms and provisions for this division and conveyance shall be negotiated and agreed between and among MMoCA, the City and Overture Development Corporation (“ODC”). Any necessary agreement for the division or allocation of joint operating expenses, security and related operational aspects of the units within the Overture building shall be as set forth in the condominium documents. The conveyance to MMoCA shall be subject to the consent of the City on terms agreed between the City and MMoCA as set forth on a separate Term Sheet regarding assessments, special charges, and any other terms.

6. **Naming Rights:** Overture is subject to the terms and conditions of recorded Deed Restrictions placing restrictions on the naming of the Overture Center for the Arts or identifying areas within Overture.

7. **Staffing and Related Contracts:** Except as provided in this Term Sheet and in the final Lease and Operating Agreement, 201 shall recruit, train and employ its own staff. The existing City Collective Bargaining Agreements (“CBA”) for any employees hired by 201 shall not be assumed or transferred to 201. 201 will negotiate the terms and provisions for any CBA directly with the related union or unions.

- a. There shall be a eighteen month transition period, from 1/1/11 to 6/30/2012 unless completed earlier by mutual agreement, during which the current operations by MCAD with City employees continues unchanged, as does City’s subsidy, etc. Leave current agreements in effect. Since City will take ownership as of January 1, 2011, an eighteen month lease with MCAD will be needed automatically terminable at the termination of the Transition Phase. The transition period may be modified by mutual agreement of the parties.
- b. Effective 7/1/12, 201 is the new manager. The City and MCAD will terminate the existing Operation and Cooperation Agreement as of that date. As of that date, no City employees will work for 201 or at Overture, except as set forth in Paragraph 7.e. hereof.
- c. 201 will make an offer of employment, to be effective 07/01/12, to all permanent (full and part-time) employees (represented and non-represented) of the City working at the Overture Center as of 09/01/11. This is subject to them maintaining their employment status with the City until the date of transition. Every effort will be made to act similarly with respect to employees who are not permanent (hourly) employees, subject to staffing needs.
- d. Although 201 will retain the right to establish initial terms and conditions of employment, wage rates for current employees transferring from the City shall be at a level not less than the level in effect on 01/01/11.
- e. The parties have discussed their mutual interest in the maintenance of the Overture Center’s facility and the fact that it will continue to be owned by the City following the transition to 201 as the operator. For this reason, the City shall retain as City employees the Maintenance and Custodial staff, including supervision. 201 will contract with the City to maintain the facility to the standards established in a separate agreement (including headcount) and will make an annual payment of \$818,801, adjusted by ERP, for such service. The payment for such service shall be payable in two (2) semi-annual installments payable within 7 days of receipt of the semi-annual contributions from the City. 201 is responsible for the costs of cleaning and maintenance supplies. The City is responsible for the costs of the cleaning and maintenance equipment. The City

may withhold some or all of its subsidy to cover the costs of custodial and maintenance services. The agreement to provide custodial and maintenance services shall have an initial term of 5 years and, at the end of the initial 5-year term of this Agreement, the parties may renew or renegotiate the terms of the custodial and maintenance agreement.

- f. During the transition period, 201 will prepare job descriptions, number of persons to be hired at various positions, and establish initial terms and conditions of employment (including health and retirement benefits) (“Employment Terms”), for positions with 201 at Overture. 201 shall complete these Employment Terms and communicate them to City employees working at Overture no later than September 1, 2011. No later than January 1, 2012, 201 shall make job offers to permanent City employees at Overture for employment with 201. Those City employees who are offered jobs with 201 will move to those jobs effective 07/1/2012, subject to the terms and conditions of such offer.
- g. Any represented City employee offered a position with 201 may 1) accept the position, or 2) subject to any bumping or contractual rights as established by the City, determine to remain as a City employee by bumping into a City position not at Overture. Represented employees shall have until March 31, 2012 to make this election.
- h. The City will work with non-represented City employees who wish to remain City employees to determine if suitable positions are available at the City for application by the employee(s). Non-represented employees offered a position with 201 shall have until March 31, 2012, to accept such position.
- i. 201 agrees to recognize IATSE Local 251 as the bargaining unit for all stagehands and may engage in bargaining at any time after January 1, 2011. 201 will seek to complete bargaining by August 1, 2011.
- j. 201 agrees to recognize AFSCME as the bargaining unit for all positions currently represented by Local 60 and may engage in bargaining at any time after January 1, 2011. 201 will seek to complete bargaining by August 1, 2011.
- k. During the Transition Phase, the City and 201 will work together to resolve issues involving the transition of City employees including sick leave, compensatory time, and other issues as they may present themselves. A number of these matters are liabilities of MCAD and, pursuant to Paragraph 12.b. of this Agreement, will become liabilities of 201. The City and 201 agree to treat these liabilities as follows:
 - i. **Unfunded Prior Pension Liability:** The City has borrowed funds to fund an unfunded liability to the Wisconsin Retirement System for all City employees. MCAD’s share of this liability is approximately \$385,000. 201 agrees to be responsible for fifty percent (50%) of this liability

(\$192,500). 201 may pay this liability over a ten (10) year period in equal installments with the first installment due no later than December 30, 2013.

- ii. **Accrued Sick Leave:** City employees who are 55 and eligible for retirement are entitled to a payout or transfer to a post-employment health plan of the value of their accrued sick leave. As a further accommodation to existing City employees working at the Overture Center, any employee age 52 or older and working at Overture as a City employee as of June 30, 2012, will be eligible for this payout, subject to any limitations in the applicable post-employment health plans. Any City employees exercising their right to retire prior to July 1, 2012, shall be entitled to the payout or transfer and neither MCAD nor 201 shall be responsible for the costs thereof. 201 agrees that any City employee who accepts employment at 201 and is not entitled to the payout described herein will be given a bank of sick leave time of ten (10) days. 201 may determine how such sick leave is to be taken by its employees.
- iii. **Accrued Vacation and Comp Time:** These liabilities are approximately \$150,000. City employees are entitled to a payout of these amounts on leaving City employment. All such accrued comp time will be paid out in the normal manner, and said payout will be the responsibility of the City. In the case of vacation payouts, 201 will be responsible for fifty percent (50%) of the payout, up to a maximum of \$57,500, payable over the same ten (10) year period as the unfunded pension liability payment referenced above, subject to the credit to 201 for vacation carried over to 201 as described herein. As a further accommodation, 201 agrees to grant those former City employees, accepting a position with 201, credit for their service time with the City for future vacation accrual purposes under 201's terms of employment. These new employees may also elect to forego some or all of the above vacation payout from the City and carry up to four (4) weeks of accrued vacation to 201. (Said vacation carryover to be taken within four (4) years from the date of hire.) 201 will be given credit for fifty percent (50%) of the value of this carryover vacation in determining the amount owed to the City herein.
- iv. **Stagehand WRS Dispute:** The City and Stagehands have a dispute over past contributions to the WRS. Any liability for this dispute rests with the City, and neither MCAD nor 201 have any liability for such costs.
- v. **Current and Accrued MCAD Deficit:** Any other accrued deficit of MCAD existing on June 30, 2012, shall be responsibility of MCAD or 201.

vi. The City and 201 may adjust these allocations during the transition period by mutual agreement.

1. Nothing in this Agreement is intended to or does change any employee rights under existing agreements with the City or under City ordinances.

8. **Personal Property:** All personal property necessary for or associated with the operation of Overture will be transferred to 201. This includes existing operating systems, IT, temporary fixtures, furniture and equipment. 201 may place or install in or on Overture such additional personal property as 201 shall deem desirable for its operation and may remove such additional personal property so long as any damage occasioned by such removal is repaired and provided that any property removed that is necessary to the operation of Overture shall be replaced, and 201 shall inform the City of all dispositions of personal property.

9. **Existing Contracts:** 201 shall review all existing contracts, vendor agreements, service agreements and other contracts and may assume, continue, terminate or negotiate for the modification of such agreements in the exercise of its best business judgment. Contracts related to long-term capital maintenance may be assumed by the City, at its option. 201 shall provide the City with all such contracts related to long-term capital maintenance.

10. **Resident Companies:** 201 will review all existing leases and agreements with resident companies and will negotiate the terms of any assumption, extension or modification directly with such resident companies. Additionally, 201 will address the housing of the Klais organ with the owner of the organ.

11. **Financial Reporting:** 201 will submit an annual operating budget to the City for informational purposes. 201 will also make an annual report to the City regarding operating revenues and expenses. Interim reports, on a quarterly basis, in the form of traditional financial statements (income statement and balance sheet) will be provided to the appropriate City official. An annual audit, performed by an independent CPA selected by 201 and conducted in accordance with GAAP, will be provided to the City as such final audit report is approved by the 201 Board, but no later than 90 days after the end of 201's fiscal year. 201 agrees to make available for inspection by the City, upon request, all records and work papers supporting the audit. The City may, at its own expense and with reasonable notice to 201, conduct its own independent financial audit of the 201 operation, and 201 shall make available for inspection such records as the City requires for such audit. In addition to these reports, 201 will prepare an informational and estimated forecast on a calendar year basis, prepared in accordance with the schedule necessary for preparation of the City's annual operating budget, and to be submitted to the City on the schedule necessary for the City's adoption of its annual budget.

12. **Miscellaneous Financial Provisions:**

- a. 201 will continue payment for services that may be contracted from the City during or after the eighteen month Transition Phase. 201 will undertake annual fundraising in support of programs, operations, an endowment or any other purposes relating to Overture. Funds raised through such fundraising efforts, from ticket sales or other revenue generating activities will be the property of 201.
- b. The parties agree that, upon 201 undertaking operation of Overture pursuant to this Agreement, a final accounting and settlement of liabilities between the City and MCAD shall be made. 201 will be responsible to the City for such liabilities, upon terms to be agreed upon.

13. **Governance:** 201 will operate under a Board of Directors and an Executive Committee. There will be 21 Directors. The Executive Committee shall consist of 5 members of the Board of Directors. The City of Madison shall have the right to appoint 3 members of the Board, which appointments shall be made by the Mayor and confirmed by the Common Council. The Mayor shall consult with 201 prior to making the appointments. 201 shall consult with the Mayor prior to naming the other members of the Board. One of the City appointments shall serve on the Executive Committee. 201 shall create or maintain advisory committees of the Board for resident companies and for community engagement including a Community Advisory Board. Representatives of such committees shall be invited to attend Board meetings and to regularly report to the Board on their recommendations. Meetings of the 201 Board of Directors will be open to attendance by the public unless otherwise determined by 201. The Board may establish in its bylaws the method and circumstances for holding meetings that are not open to the public. Nothing herein is intended to subject 201 to any open meetings law.

14. **Maintenance:**

- a. The City shall be responsible for long-term capital maintenance and improvement of Unit 2 of the Overture facility, and 201 shall be responsible for theatrical, technical and performance related systems and other annual capital maintenance items, along with routine building maintenance. Attached is Exhibit __ to this Agreement, which assigns the systems at Overture to either the City as long-term capital maintenance or 201 for annual capital maintenance purposes and establishes a long-term capital maintenance plan. The parties agree to maintain the systems and/or materials to the standards set by the manufacturer or otherwise established in the industry. Should either party, at the time a system or any part thereof and/or any materials requires replacement, determine to replace the system with a different but reasonably comparable system or materials (e.g., replacement of travertine tile floors with granite floors), the other party shall be notified. The other party may provide for replacement with a system or materials of greater expense that also is a reasonably comparable system and shall be responsible for the incremental cost thereof.

- b. Annually, the City and 201 shall meet to determine what, if any, maintenance projects shall be undertaken at Overture. Any projects that would qualify for public bidding under sec. 62.15, Wis. Stats., shall be bid by the City pursuant to its public bidding process. Any projects undertaken by 201 shall include a bond, letter of credit, or other security to assure completion of the project and payment of all contractors.

15. **Dispute Resolution Process Related To Maintenance, Repairs and Facilities:** In the event there is a dispute regarding maintenance, repairs or capital improvements, the dispute shall be resolved through a dispute resolution process. Each party shall select one engineer or architect and, in turn, those professionals shall select a third architect or engineer, and the panel of those three (3) persons shall hear, consider and decide the resolution of such dispute.

16. **City Contributions:** Subject to approval in its annual budget, City will make an annual operating subsidy to Overture, through 201, subject to adjustments calculated using the Consumer Price Index methodology as described in the State's Expenditure Restraint Program ("ERP"). The initial subsidy shall be One Million Four Hundred Ten Thousand Dollars (\$1,410,000) plus an amount equal to the rent provided in Paragraph 3, above, for calendar year 2012. The subsidy and rent payment will be prorated for the first year to recognize the difference in the City's fiscal year (calendar) and that of MCAD and 201 (July 1- June 30). The City Contribution will be adjusted annually using ERP beginning July 1, 2012. The City's subsidy herein is contingent upon 201 generating funds by other than ticket sales ("201 Contributions") in an amount equal to or greater than the City's subsidy (net of rent payments) in every fiscal year of 201 commencing on July 2012. The 201 Contributions shall be measured on a rolling 3-year average. The City's subsidy may be reduced on a dollar for dollar basis if 201 fails to generate sufficient 201 Contributions.

17. **Default and Remedies:** In the event either party defaults in its obligations under this Agreement, the other party may give a notice of default. The defaulting party shall have the right to remedy the default. The remedy and cure period shall be defined to be a specific period that is related to the nature of the default. By way of illustration and not limitation, failure to provide insurance coverage must be cured within 10 days; failure to provide a copy of an audit shall be cured within 45 days. If not remedied within that time, the other party may pursue any and all legal remedies, including termination of this Agreement. If no other time is established for remedy of a default, the default must be remedied within 60 days. Failure to remedy a default provides the non-defaulting party with the right to pursue all legal remedies, including termination of this Agreement.

18. **City Ordinance Requirements:** 201 shall be subject to the Living Wage, Prevailing Wage, Non-discrimination and Affirmative Action requirements of City's ordinances, according to their terms.

19. **Insurance:** Effective January 1, 2011, the City shall maintain property insurance on Unit 2 of the Overture facility in an amount equal to its replacement value. The City

shall maintain a liability insurance policy containing coverages substantially the same as it now maintains; the City's current coverages are reflected in Exhibit __ hereto. 201 shall maintain a liability insurance policy effective as of July 1, 2012 and property insurance on its property in an amount equal to the replacement value of the property, together with workers compensation and employment practices liability coverage, all as set forth in the insurance requirements attached hereto as Exhibit _____. The insurance costs incurred by the City for property insurance will be deducted from the annual subsidy payment made by the City to 201. MCAD's agreement with the City will be amended to reflect this insurance requirement for the eighteen month transition period.

20. **Indemnification:** Each party agrees to indemnify, defend, and hold harmless the other party and its respective affiliates, officers, directors, employees and agents from and against all claims, damages or losses incurred or suffered by an Indemnified Party arising from or related to: any inaccuracy or breach of any representation or warranty made by the indemnifying party in this Agreement, any Schedule to this Agreement or any document contemplated by this Agreement; and any breach by an indemnifying party of any of its covenants, obligations, and agreements contained in this Agreement, and any wrongful or negligent acts of its own officers, directors, employees or agents.

21. **Public Accountability and Performance Standards.**

- a. It is mutually agreed that a successful Overture Center for the Arts, consistent with industry practice, is financially sound; hosts a high-quality and diverse array of local, regional, national, and international programming; supports the activity of its resident companies; attracts significant community support through paid attendance and contributed income; and ensures broad-based community access through inclusive planning and affordable program options.
- b. Operate in a financially sound manner:
 - i. 201 will generate both earned and contributed revenue which together with the agreed City subsidy will result in sound financial operations, as detailed below.
 - ii. The annual audited financial statements, prepared in accordance with GAAP, shall contain an unqualified opinion as to going concern status. The annual audited financial statements shall contain positive unrestricted net assets when adjusted for the amount invested in capital assets (also called expendable net assets, i.e., excluding the assets and liabilities associated with capital assets). If either condition is not satisfied in any material amount, 201 will present a plan to the City to remedy the condition within two fiscal years. Failure to make substantial progress on that plan in the first year will constitute a default by 201. Failure to satisfy the plan after the second year will constitute a default by 201, and 201 will be given 90 days to remedy the default.

- iii. 201 is to operate in a financially sound manner to assure that the City Subsidy will not increase beyond that contained in the Agreement unless otherwise mutually agreed between the City and 201.
- c. Host a high-quality and diverse array of local, regional, national, and international programming:
 - i. 201 will present or co-present a minimum of 35 performances per year (including Broadway at Overture), on a three-year rolling average, to increase based on market conditions and opportunities. 201 will make reasonable efforts to attract promoter and co-promotion activity in all venues.
 - ii. 201 shall not require any local promoter to enter into an exclusive agreement that restricts their use of other Madison venues in order to program activity at the Overture Center.
- d. Support the activity of resident companies:
 - i. 201 will continue to provide primary performance venues to arts organizations designated as “resident companies”. 201 will continue its cooperation and partnering with resident companies to deliver education and outreach to the community.
- e. Attract significant community support through paid attendance and contributed income:
 - i. 201 will operate its own presentations in a financially sound manner.
 - ii. 201 will meet the revenue generation requirements identified in the City Contributions section of this agreement.
- f. Ensure broad-based community access through inclusive planning and affordable program options:
 - i. The Community Based Advisory Committee will be made up of an equal number of appointees from 201 and the City. The City appointments will be made by the Mayor, with confirmation by the Common Council. The City may seek input from the Madison Arts Commission on its appointees.
 - ii. The Community Based Advisory Committee shall meet on a regular basis with staff on programming diversity, audience development, and community engagement activities.
 - iii. This committee shall make regular committee reports to the 201 Board.
 - iv. 201 shall continue to cooperate with the Madison Community Foundation (MCF) with regard to the Civic Center Foundation Fund administered by MCF for support of such programs.
 - v. 201 shall continue to provide community rental subsidy programs.
 - vi. 201 will continue or implement free or reduced cost programs.

- vii. 201 will continue to provide free access to public galleries.
- viii. 201 will annually identify anticipated funds from MCF, subsidies or other sources to be used to meet the obligations for community based activities and will review recommendations from the Community Based Advisory Committee on how such funds should be allocated.
- g. To ensure public accountability to the standards above:
 - i. 201 will maintain books and records of its operations and expenses in accordance with generally accepted accounting principles.
 - ii. Such records will be available for City review as described elsewhere in this agreement.
 - iii. 201 will seek comment and input from its advisory committees and the public prior to adopting its annual budget.
 - iv. 201 will prepare an annual “Report to the Community” within 90 days of the close of the fiscal year, documenting items b through f above, and will invite the public to a meeting on the report, encouraging community input. An example of this report, including measurable objectives is attached hereto as Exhibit ___.
 - v. 201 will prepare and submit to the City no later than December 1, 2011, a strategic plan, which will be updated and submitted at least every three (3) years.
 - vi. 201 will submit to the City an annual plan with objectives with respect to fund-raising, paid attendance, non-paid or reduced price attendance, seats sold, and the other performance standards set out in subparagraphs b-f of this Paragraph 21. In 201’s annual report to the Community, 201 will compare actual results to determine if they materially differ from the plan. 201 will share with the City the causes of failure to meet the objectives, and provide strategies to meet objectives in the future. The City may declare a default in the event of the repeated failure to meet the objectives, subject to the right of 201 to cure such default within one year.
- h. The terms above may be modified by mutual agreement, and are contingent on continuity of the city’s contribution as described in this Agreement.

22. **Construction and Maintenance Documents.** At the time the City becomes the owner of the Overture Facility, the transaction with ODC will include all documents related to the construction of the facility, and all records of any repairs or capital maintenance since the construction of the facility shall be turned over to and become the property of the City.

23. **City Access to Records.** Upon reasonable notice, the City may inspect any records of 201 related to the operation of Overture, and may, at the City’s expense, conduct an operational or performance audit of 201.

24. **Assignment and Subletting.** This Lease and Operating Agreement may not be assigned by either party without the written consent of the other party. Neither party may sublet the premises without the prior written consent of the other party provided, however, that 201 may enter into agreements related to the housing of the Klais organ and may, without the prior written consent of City, enter into temporary rental and use agreements for space with persons desiring the use of space for events, banquets, weddings and other special events. Further, 201 may enter into agreements with resident companies regarding use and occupancy of space without the prior written consent of the City.

25. **Destruction of Facility.** If any part of Unit 2 of the Overture Center becomes damaged or is destroyed by any cause, the damaged portion shall be repaired or reconstructed in accordance with the Block 65 Condominium Declaration.

26. **No Waiver; Approvals;** The failure by one party to require performance of any provision of this Agreement will not affect that party's right to require performance of any provision of this Agreement at any time thereafter, nor shall a waiver of any breach or default of this Agreement constitute a waiver of any subsequent breach or default or a waiver of the provision itself.

27. **Governing Law.** This Agreement is being delivered and accepted within the State of Wisconsin, and shall be deemed to be a contract governed by the laws of the State of Wisconsin and shall be interpreted, construed, and enforced in accordance with the laws of the State of Wisconsin without regard to the principles of conflicts of laws.

28. **Jurisdiction.** The parties hereby consent to the exclusive jurisdiction of any state or federal court situated in Dane County, Wisconsin, and waive any objection based on *forum non conveniens*, with regard to any actions, claims, disputes or proceedings relating to this agreement, the collateral, any other document, or any transactions arising therefrom, or enforcement and/or interpretation of any of the foregoing.

29. **Waiver of Jury Trial.** The parties hereby jointly and severally waive any and all right to trial by jury in any action or proceeding relating to the agreement and related documents, the obligations thereunder or any transaction arising therefrom or connected thereto. The parties each represents to the other that this waiver is knowingly, willingly and voluntarily given.

30. **Severability.** Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

31. **Entire Agreement; Amendments.** This Agreement, the Exhibits attached hereto, and the Related Documents contain the entire understanding of the parties with respect to

the subject matter hereof, and supersede all other understandings, oral or written, with respect to the subject matter hereof. No amendment, modification, alteration, or waiver of the terms of this Agreement or consent required under the terms of this Agreement shall be effective unless made in a writing, which makes specific reference to this Agreement and which has been signed by the party against which enforcement thereof is sought. Any such amendment, modification, alteration, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

32. **Counterparts; Headings.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same agreement. The descriptive headings in this Agreement are inserted for convenience of reference only and shall not affect the construction of this Agreement. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the identity of the person or persons may require.

33. **Notices.** All communications or notices required under this Agreement shall be deemed to have been given on the date when deposited in the United States mail, postage prepaid, and addressed as follow (unless and until any of such parties advises the other in writing of a change in such address): (a) if to the 201, with the full name and address as shown in this Agreement below; and (b) if to the City, with the full name and address of the City as shown in this Agreement below, to the attention of the officer of the City executing the form of acceptance of this Agreement.

201 State Foundation, Inc.:

BY: _____

City of Madison:

BY: _____