



Horton Plaza Theatres **FOUNDATION**

Nurturing Arts and Culture

AGENDA

HORTON PLAZA THEATRES FOUNDATION
Board of Directors Meeting

Tuesday, May 26, 2026, 3:00 p.m.

1200 Third Avenue, 14th Floor
San Diego, CA 92101

Public MS Teams Link:

[Click Here](#)

OR

To join by Telephone:

Dial 619-737-2322 / Phone Conference ID: 983 875 98#

1. Call to Order
2. Roll Call
3. Non-Agenda Public Comment
Pursuant to the Brown Act, no discussion or action, other than a referral, shall be taken by the Board on any issue brought forth under the "Non-Agenda Public Comment."
4. Report from the Executive Director/Civic Communities

CONSENT AGENDA

5. Approval of Horton Plaza Theatres Foundation's March 24, 2026 Board of Directors Meeting Minutes
6. Horton Plaza Theatres Foundation's Unaudited Financial Statement for the Period Ending March 28, 2026 ~ Elias Ramirez
7. Horton Plaza Theatres Foundation's Unaudited Financial Statement for the Period Ending April 30, 2026 ~ Elias Ramirez

REGULAR AGENDA

8. Horton Plaza Theatres Foundation's Fiscal Year 2027 (July 1, 2026 – June 30, 2027)
Proposed Operating Budget ~ Diane Ferris
9. Horton Plaza Theatres Foundation's Fiscal Year 2027 (July 1, 2026 – June 30, 2027)
Scope of Services ~ Jeff Zinner

10. First Amendment to Consulting Agreement between Civic Community Ventures, Inc. dba Civic Communities and Horton Plaza Theatres Foundation to Support Operations at the Lyceum Theatres ~ Jeff Zinner

INFORMATIONAL ITEM

11. Presentation by VenueTech/Discussion of Future Lyceum Theatre Operations

ORAL UPDATES

12. Civic San Diego Report
13. City of San Diego Cultural Affairs Report
14. Cushman & Wakefield Report
15. President's Report
16. Board Member Comment

URGENT NON-AGENDA ITEMS

ADJOURNMENT

REQUESTS FOR ACCESSIBILITY MODIFICATIONS OR ACCOMMODATIONS

This information will be made available in alternative formats upon request, as required by the Americans with Disabilities Act (ADA), by contacting Betty Migliaccio, 619-533-7101. Requests for disability-related modifications or accommodations required to facilitate meeting participation, including requests for alternatives to observing meetings and offering public comment as noted above, may be made by contacting Betty Migliaccio, 619-533-7101. Requests for disability-related modifications or accommodations required to facilitate meeting participation, including requests for auxiliary aids, services or interpreters, require different lead times, ranging from five business days to two weeks. Please keep this in mind and provide as much advance notice as possible in order to ensure availability. The City is committed to resolving accessibility requests swiftly in order to maximize accessibility.



Horton Plaza Theatres **FOUNDATION**

Nurturing Arts and Culture

ITEM #4

DATE ISSUED: May 21, 2026

ATTENTION: Horton Plaza Theatres Foundation
Board of Directors Meeting of May 26, 2026

SUBJECT: Executive Director/Civic Communities Report

CONTACT: Betty Migliaccio, Assistant Property & Project Manager

REQUESTED ACTION: No action required (informational only).

The following are noteworthy activities completed since the last Executive Director's Report issued on March 19, 2026:

- Civic staff met with VenueTech to discuss its services and theater operations. VenueTech is scheduled to attend the May 26th Board Meeting to review its proposal and discuss the process of opening and sustaining a venue.
- Civic staff participated in weekly construction meetings with JB Construction and Cushman & Wakefield. The current construction focus is on the storm drain surrounding the Lyceum, with the anticipation of the entrance, elevator, and remaining surface level improvements to follow pending permit approvals.
- Civic staff, JB Pacific and Cushman & Wakefield conducted a pre-construction site walk to document existing conditions for the storm drain project at Lyceum.
- The existing Agreement with Cordia for the provision of Chilled Water services was extended for an additional five-year term through 2031.
- At Civic's direction, ACCO Engineered Systems conducted a site survey of the HVAC equipment for future preventative, maintenance and repair suggestions and performed repairs on the variable frequency drive and boiler pump.
- At Civic's direction, ACE Electric evaluated multiple electrical panels to identify sources of high electrical load and recommended necessary replacement of all incandescent lights with LED as a cost saving measure.

- At Civic's direction, Everon conducted the annual fire sprinkler inspection and identified items requiring repair.
 - Everon also repaired a sprinkler leak in the Black Box area.
 - Additional required repairs will be completed upon receipt of parts.
- Civic staff continue to conduct regular inspections of the facility.
- Civic staff provided a facility tour to students from the New School of Architecture and Design.

Respectfully submitted,

Betty Migliaccio

Betty Migliaccio, Assistant Property & Project Manager
Civic Communities



Horton Plaza Theatres **FOUNDATION**

Nurturing Arts and Culture

ITEM #5

MINUTES HORTON PLAZA THEATRES FOUNDATION BOARD OF DIRECTORS' MEETING OF TUESDAY, MARCH 24, 2026

Item #1 **Call to Order**

President Suzanne Varco called the regular Board of Directors (“Board”) Meeting of the Horton Plaza Theatres Foundation (HPTF) to order at 3:02 p.m.

Item #2 **Roll Call**

PRESENT: President Suzanne Varco, Vice President Jennifer Gattey, Treasurer Patrick Stewart and Directors Rachelle Martini and George Montoya

EXCUSED: Secretary D. Candis Paule, and Directors Jay Henslee and Megan Faircloth

Item #3 **Non-Agenda Public Comment**

None.

Item #4 **Report from the Executive Director/Civic Communities**

Civic Communities Assistant Property & Project Manager Betty Migliaccio thanked Cushman & Wakefield for effectively managing the black box leak and reported significant progress on building systems and utility costs analysis.

CONSENT AGENDA

Item #5 **Approval of Horton Plaza Theatre Foundation’s December 2, 2025 Board of Directors Meeting Minutes**

BOARD ACTION: Motion by Vice President Jennifer Gattey and seconded by Director Rachelle Martini that the HPTF Board approves the meeting minutes of December 2, 2025.

Passed by the following vote (3-0)

Aye: President Suzanne Varco, Vice President Jennifer Gattey, and
Director Rachelle Martini
Naye: None
Abstain: Treasurer Patrick Stewart and Director George Montoya
Recusal: None

BOARD ACTION: Motion by Treasurer Patrick Stewart and seconded by
Director George Montoya that the HPTF Board approves:

Item #6 **Horton Plaza Theatres Foundation’s Unaudited Financial Statement for the
Period Ending October 31, 2025**

Item #7 **Horton Plaza Theatres Foundation’s Unaudited Financial Statement for the
Period Ending November 30, 2025**

Item #8 **Horton Plaza Theatres Foundation’s Unaudited Financial Statement for the
Period Ending December 31, 2025**

Item #9 **Horton Plaza Theatres Foundation’s Unaudited Financial Statement for the
Period Ending January 31, 2026**

Item #10 **Horton Plaza Theatres Foundation’s Unaudited Financial Statement for the
Period Ending February 28, 2026**

Passed by the following vote (5-0)

Aye: President Suzanne Varco, Vice President Jennifer Gattey,
Treasurer Patrick Stewart and Directors Rachelle Martini and
George Montoya
Naye: None
Abstain: None
Recusal: None

INFORMATIONAL

Item #11 **City of San Diego Fiscal Year 2027 Funding Update**

Civic Communities Vice President, Community Development Jeff Zinner reported that the contract is in final stages of execution. Civic Communities President Andrew Phillips added that City Council approval is not required.

Item #12 **Update on Efficiencies and Solutions to Lyceum Building Systems**

Civic Communities Executive Vice President, Engineering & Construction Daniel Kay, reported that staff retained MA Engineering to conduct an evaluation of the building’s HVAC system and provide recommendations. He stated that, upon completion of all recommended improvements, staff will prepare an efficiency analysis comparing pre-construction performance to

current operating conditions.

Mr. Kay advised that the evaluation identified additional issues and also discussed the current HVAC contractor, and ongoing efforts to solicit local vendors to provide an upgraded building automation system.

ORAL UPDATES

Item #13 **Civic San Diego Report**

Civic Communities Executive Vice President, Engineering & Construction Daniel Kay discussed project and product warranties and indicated that the Compensation Agreement will remain open pending further clarity regarding surrounding construction completion.

Item #14 **City of San Diego Cultural Affairs Report**

City of San Diego Cultural Affairs Department Assistant Deputy Director Rachel Laing reported that there were no updates at this time.

Item #15 **Cushman & Wakefield Report**

Director Rachelle Martini provided a construction update.

Civic Communities President Andrew Phillips emphasized the importance to hire a facilities manager one year prior to the Theatre's reopening.

The Board expressed urgency of initiating discussions with VenueTech and an establishment of Ad Hoc Committee once negotiations begin.

Daniel Kay discussed the VenueTech contract and invited Judith Barkett to the next Board Meeting.

VenueTech President Judith Barkett indicated a willingness to begin discussions prior to execution of the contract.

Director Rachelle Martini discussed parking options.

Item #16 **President's Report**

President Suzanne Varco reported that she and Treasurer Patrick Stewart have an upcoming meeting with the Prebys Foundation regarding fundraising.

She also discussed notable interest from external parties in the Lyceum Theatre, including interest from potential users and inquiries regarding tours and use of the conference room.

Daniel Kay discussed the approach to providing tours, noting that they are currently offered on a limited, case-by-case basis at staff discretion. Mr. Kay added that Betty Migliaccio can coordinate tours. Mr. Kay emphasized the importance of managing expectations and avoiding public confusion regarding the status of the project.

Judith Barkett emphasized the importance of having key conversations before showing spaces to prospective users and maintaining a list of interested contacts.

Item #17 **Board Member Comment**

None.

URGENT NON-AGENDA ITEMS ~ None.

ADJOURNMENT ~ The meeting adjourned at 3:43 p.m.



Horton Plaza Theatres **FOUNDATION**

Nurturing Arts and Culture

ITEM #6

DATE ISSUED: May 21, 2026

ATTENTION: Horton Plaza Theatres Foundation
Board of Directors Meeting of May 26, 2026

SUBJECT: Horton Plaza Theatres Foundation's Unaudited Financial Statement for the
Period Ending March 31, 2026

CONTACT: Elias Ramirez, Accountant, Civic Communities

REQUESTED ACTION: That the Horton Plaza Theatres Foundation (HPTF) Board of Directors ("Board") accepts the HPTF Unaudited Financial Statement for the period ending March 31, 2026.

DISCUSSION: The following HPTF Unaudited Financial Statement is attached:

- A. Statement of Financial Position as of March 31, 2026, Statement of Activities and Budget to Actual – Variance Analysis March 1, 2026 – March 31, 2026

FISCAL CONSIDERATIONS: None

OTHER RECOMMENDATIONS: On April 21, 2026, the HPTF Finance Committee voted 2 to 0 in favor of the Unaudited Financial Statement for period ending March 31, 2026.

RECOMMENDATION: That the HPTF Board accepts the Unaudited Financial Statement for the period ending March 31, 2026.

Respectfully submitted,

Elias Ramirez, Accountant
Civic Communities

Attachment:
A – Financials for period ending March 31, 2026

ATTACHMENT A

Horton Plaza Theatres Foundation Statement of Financial Position

As of March 31, 2026

(UNAUDITED)

Assets

Operating Assets

Cash and Cash Equivalents	\$	204,881
Account Receivable (ROPS)		16,136
Account Receivable (CITY)		187,500
Prepaid Expenses		13,664
Total Assets	\$	422,181

Liabilities and Net Assets

Liabilities

Account Payable	\$	28,566
Credit Card		0
Total Liabilities		28,566

Net Assets

Net Assets without Restrictions		376,417
Net Asset with Restrictions		88,154
Net Income (Loss)		(70,956)
Total Liabilities and Net Assets	\$	422,181

Horton Plaza Theatres Foundation
Statement of Revenues and Expenses

As of March 31, 2026

(UNAUDITED)

Revenue

City of San Diego	\$ 187,500
SD Foundation Grant	10,000
Equipment Sales	4,800
Interest Income	4,273
Refund of Prior Year Expenses	10,572
Total Revenue	<u>217,145</u>

Expenses

Administration	79,856
Audit/Tax/Paychex	956
CAM Charges - Property Taxes	1,758
Facility Maintenance	14,947
Insurance	52,299
Marketing	2,000
Office Expense	3,635
Utilities	132,650
Total Expenses	<u>288,101</u>

Change in Net Assets \$ (70,956)

Horton Plaza Theatres Foundation
Statement of Revenues and Expenses
As of March 31, 2026
(UNAUDITED)

	Current Month Actual	Monthly Budget	Current Month Variance \$	Current Month Variance %	YTD Actual	YTD Budget	YTD Variance \$	YTD Variance %	FY26 Amended Budget
Revenue									
City of San Diego	\$ 20,833	\$ 20,833	\$ (0)	0%	\$ 187,500	\$ 187,500	\$ -	0%	\$ 250,000
SD Foundation Grant	0	0	0		10,000	0	10,000		
Equipment Sales	0	0	0		4,800	0	4,800		
Interest Income	280	417	(137)	-33%	4,273	3,750	523	14%	5,000
Refund of Prior Year Expenses	0	0	0		10,572	0	10,572		
Total Revenue	21,113	21,250	(137)	-1%	217,145	191,250	25,895	14%	\$ 255,000
Expenses									
Administration	5,518	8,167	2,649	32%	79,856	73,500	(6,356)	-9%	98,000
Audit/Tax/Paychex	0	583	583	100%	956	5,250	4,294	82%	7,000
CAM Charges - Property Taxes	0	1,833	1,833	100%	1,758	16,500	14,742	89%	22,000
Facility Maintenance	1,832	4,167	2,335	56%	14,947	37,500	22,553	60%	50,000
Insurance	5,728	5,583	(145)	-3%	52,299	50,250	(2,049)	-4%	67,000
Marketing	0	0	0	0%	2,000	0	(2,000)		
Office Expense	167	333	166	50%	3,635	3,000	(635)	-21%	4,000
Utilities A.	15,328	11,667	(3,661)	-31%	132,650	105,000	(27,650)	-26%	140,000
Total Expenses	28,573	32,333	3,760	12%	288,101	291,000	2,899	1%	388,000
Net Income/Deficit	\$ (7,460)	\$ (11,083)	\$ 3,623		\$ (70,956)	\$ (99,750)	\$ 28,794		\$ (133,000)

A. Utilities Detail	July 2025	Aug 2025	Sept 2025	Oct 2025	Nov 2025	Dec 2025	Jan 2026	Feb 2026	Mar 2026	YTD Total
Gas & Electric	9,225	8,894	0	19,583	9,245	0	7,967	7,767	7,661	70,342
Chilled Water/HVAC	0	8,982	22,433	6,728	3,041	1,666	3,147	5,181	7,667	58,845
Water & Sewer	651	0	651	664	0	732	0	765	0	3,463
Total	9,876	17,876	23,084	26,975	12,286	2,398	11,114	13,713	15,328	132,650

Horton Plaza Theatres Foundation
Statement of ROPS 19 FY26 Funding
As of March 31, 2026
(UNAUDITED)

7/1/2025	Beginning Balance		\$ 250,000.00
7/2/2025	Ashley McFall	Inventory List	\$ 50.00
7/2/2025	DCJ Theatrical	Lighting Replacements	23,402.17
7/2/2025	Siemens	Design HVAC software	4,107.50
	Reimbursement #1-2026 - Received 8/01/2025		27,559.67
12/16/2025	San Diego Refrigeration	Plumbing Leak Repairs	\$ 335.00
12/16/2025	San Diego Refrigeration	Power Issues	205.00
3/24/2026	MA Engineers	HVAC System Review	15,500.00
3/26/2026	HPS Mechanical	Plumbing Leak Repairs	96.00
	Reimbursement #2-2026		\$ 16,136.00
			206,304.33
	Remaining ROPS		<u>\$ 206,304.33</u>



Horton Plaza Theatres FOUNDATION

Nurturing Arts and Culture

ITEM #7

DATE ISSUED: May 21, 2026

ATTENTION: Horton Plaza Theatres Foundation
Board of Directors Meeting of May 26, 2026

SUBJECT: Horton Plaza Theatres Foundation's Unaudited Financial Statement for the
Period Ending April 30, 2026

CONTACT: Elias Ramirez, Accountant, Civic Communities

REQUESTED ACTION: That the Horton Plaza Theatres Foundation (HPTF) Board of Directors ("Board") accepts the HPTF Unaudited Financial Statement for the period ending April 30, 2026.

DISCUSSION: The following HPTF Unaudited Financial Statement is attached:

- A. Statement of Financial Position as of April 30, 2026, Statement of Activities and Budget to Actual – Variance Analysis April 1, 2026 – April 30, 2026

FISCAL CONSIDERATIONS: None

OTHER RECOMMENDATIONS: On May 19, 2026, the HPTF Finance Committee voted 2 to 0 in favor of the Unaudited Financial Statement for period ending April 30, 2026.

RECOMMENDATION: That the HPTF Board accepts the Unaudited Financial Statement for the period ending April 30, 2026.

Respectfully submitted,

Elias Ramirez, Accountant
Civic Communities

Attachment:
A – Financials for period ending April 30, 2026

ATTACHMENT A

Horton Plaza Theatres Foundation
Statement of Financial Position
As of April 30, 2026
(UNAUDITED)

Assets

Operating Assets

Cash and Cash Equivalents	\$	154,817
Account Receivable (ROPS)		19,938
Account Receivable (CITY)		208,333
Prepaid Expenses		12,752
Total Assets	\$	395,840

Liabilities and Net Assets

Liabilities

Account Payable	\$	20,675
Credit Card		0
Total Liabilities		20,675

Net Assets

Net Assets without Restrictions		376,417
Net Asset with Restrictions		88,154
Net Income (Loss)		(89,406)
Total Liabilities and Net Assets	\$	395,840

Horton Plaza Theatres Foundation
Statement of Revenues and Expenses
As of April 30, 2026
(UNAUDITED)

	Current Month Actual	Monthly Budget	Current Month Variance \$	Current Month Variance %	YTD Actual	YTD Budget	YTD Variance \$	YTD Variance %	FY26 Amended Budget
Revenue									
City of San Diego	\$ 20,833	\$ 20,833	\$ (0)	0%	\$ 208,333	\$ 187,500	\$ 20,833	11%	\$ 250,000
SD Foundation Grant	0	0	0		10,000	0	10,000		
Equipment Sales	0	0	0		4,800	0	4,800		
Interest Income	210	417	(207)	-50%	4,483	3,750	733	20%	5,000
Refund of Prior Year Expenses	0	0	0		10,572	0	10,572		
Total Revenue	21,043	21,250	(207)	-1%	238,188	191,250	46,938	25%	\$ 255,000
Expenses									
Administration	5,470	8,167	2,697	33%	85,326	73,500	(11,826)	-16%	98,000
Audit/Tax/Paychex	0	583	583	100%	956	5,250	4,294	82%	7,000
CAM Charges - Property Taxes	0	1,833	1,833	100%	1,758	16,500	14,742	89%	22,000
Facility Maintenance	15,203	4,167	(11,036)	-265%	30,150	37,500	7,350	20%	50,000
Insurance	5,729	5,583	(146)	-3%	58,028	50,250	(7,778)	-15%	67,000
Marketing	0	0	0	0%	2,000	0	(2,000)		
Office Expense	143	333	190	57%	3,778	3,000	(778)	-26%	4,000
Utilities A.	12,948	11,667	(1,281)	-11%	145,598	105,000	(40,598)	-39%	140,000
Total Expenses	39,493	32,333	(7,160)	-22%	327,594	291,000	(36,594)	-13%	388,000
Net Income/Deficit	\$ (18,450)	\$ (11,083)	\$ (7,367)		\$ (89,406)	\$ (99,750)	\$ 10,344		\$ (133,000)

A. Utilities Detail	July 2025	Aug 2025	Sept 2025	Oct 2025	Nov 2025	Dec 2025	Jan 2026	Feb 2026	Mar 2026	Apr 2026	YTD Total
Gas & Electric	9,225	8,894	0	19,583	9,245	0	7,967	7,767	7,661	7,047	77,389
Chilled Water/HVAC	0	8,982	22,433	6,728	3,041	1,666	3,147	5,181	7,667	5,901	64,746
Water & Sewer	651	0	651	664	0	732	0	765	0	0	3,463
Total	9,876	17,876	23,084	26,975	12,286	2,398	11,114	13,713	15,328	12,948	145,599

Horton Plaza Theatres Foundation
Statement of ROPS 19 FY26 Funding
As of April 30, 2026
(UNAUDITED)

7/1/2025	Beginning Balance			\$ 250,000.00
7/2/2025	Ashley McFall	Inventory List	\$ 50.00	
7/2/2025	DCJ Theatrical	Lighting Replacements	23,402.17	
7/2/2025	Siemens	Design HVAC software	4,107.50	
			27,559.67	
	Reimbursement #1-2026	- Received 8/01/2025		
12/16/2025	San Diego Refrigeration	Plumbing Leak Repairs	\$ 335.00	
12/16/2025	San Diego Refrigeration	Power Issues	205.00	
3/24/2026	MA Engineers	HVAC System Review	15,500.00	
3/26/2026	HPS Mechanical	Plumbing Leak Repairs	96.00	
4/23/2026	Siemens	HVAC Assessment	1,000.00	
4/24/2026	Kone	Elevator Test & Inspections	2,802.00	
			\$ 19,938.00	202,502.33
	Reimbursement #2-2026			
	Remaining ROPS			\$ 202,502.33



Horton Plaza Theatres **FOUNDATION**

Nurturing Arts and Culture

ITEM #8

DATE ISSUED: May 20, 2026

ATTENTION: Horton Plaza Theatres Foundation
Board of Directors Meeting of May 26, 2026

SUBJECT: Horton Plaza Theatre Foundation’s Fiscal Year 2027 (July 1, 2026 – June 30, 2027) Proposed Operating Budget

CONTACT: Diane Ferris, Accounting Manager, Civic Communities

REQUESTED ACTION: That the Horton Plaza Theatres Foundation (“HPTF”) Board of Directors (“Board”) accepts the HPTF Fiscal Year 2027 (“FY27”) Proposed Operating Budget.

BACKGROUND: HPTF is a non-profit corporation established by the City of San Diego (“City”) in 1983 to oversee the operations of the publicly leased Lyceum Theatres (“Lyceum”) and act as stewards for the Lyceum. Annually HPTF receives funding from the City’s Commission for Arts and Culture.

DISCUSSION: The FY27 Proposed Operating Budget (Attachment A) is \$350,000 and is categorized into seven areas: insurance, CAM charges, facility maintenance, utilities, office expenses, audit and tax, and administration costs. The City has authorized \$325,000 for FY27. The additional funding for the shortfall will come from the HPTF reserve funds.

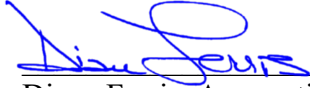
- Insurance – \$68,000
- CAM Charges – \$22,000
- Facility Maintenance – \$39,000
- Utilities – \$150,000
- Office Expense – \$4,000
- Audit/Tax – \$7,000
- Administration – \$60,000

FISCAL CONSIDERATIONS: An approved FY27 Operating Budget is required for the City’s Funding Agreement. The FY27 Operating Budget is \$350,000. The budget is funded by \$325,000 of budget from the City, \$3,000 of estimated interest income, and \$22,000 HPTF reserves.

OTHER RECOMMENDATIONS: On May 19, 2026, the HPTF Finance Committee reviewed and approved (2 to 0) the FY27 Proposed Operating Budget.

RECOMMENDATION: That the HPTF Board accepts the FY27 Proposed Operating Budget.

Respectfully submitted,



Diane Ferris, Accounting Manager
Civic Communities

Attachments:

A – HPTF Fiscal Year 2027 Proposed Operating Budget

ATTACHMENT A

Horton Plaza Theatres Foundation Proposed Fiscal Year 2027 Operating Budget

	FY2027 Budget
<u>INCOME</u>	
Funding from City of San Diego	\$ 325,000
Interest Income	3,000
Total Income	<u>\$ 328,000</u>
<u>EXPENSES</u>	
Insurance	\$ 68,000
CAM Charges - Property Taxes	22,000
Facility Maintenance	39,000
Utilities	150,000
Office Expense	4,000
Audit/Tax	7,000
Administration	60,000
Total Expenses	<u>\$ 350,000</u>
Net Change in Fund Balance	<u><u>\$ (22,000)</u></u>



Horton Plaza Theatres FOUNDATION

Nurturing Arts and Culture

ITEM #9

DATE ISSUED: May 21, 2026

ATTENTION: Horton Plaza Theatres Foundation
Board of Directors Meeting of May 26, 2026

SUBJECT: Horton Plaza Theatre Foundation's Fiscal Year 2027 (July 1, 2026 – June 30, 2027) Scope of Services

CONTACT: Jeff Zinner, Vice President, Community Development, Civic Communities

REQUESTED ACTION: That the Horton Plaza Theatres Foundation (HPTF) Board of Directors (“Board”) supports the Scope of Services for Fiscal Year 2027 (FY27) and adopts Resolution #2026-1.

BACKGROUND: HPTF is a non-profit corporation established by the City of San Diego (“City”) in 1983 to oversee the operations of the publicly leased Lyceum Theatres (“Lyceum”) and act as stewards for the Lyceum. HPTF receives annual funding from the City Commission for Arts and Culture.

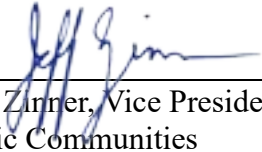
DISCUSSION: The City funding submittal requires certification of the following:

- HPTF understands Council Policy 100-3 and will comply with guidelines, standards and procedures.
- HPTF is required to certify by resolution authorizing and empowering Civic Communities to act on behalf of HPTF as agent to conduct all negotiations, execute and submit all documents including but not limited to, applications, contracts, amendments, billing statements, and so on which may be necessary to operate the aforementioned organization.
- HPTF certifies the support of the goals and objectives.

FISCAL CONSIDERATIONS: An approved Scope of Services for FY27 is required for City funding. It is anticipated that the City will fund HPTF \$325,000 for FY27.

RECOMMENDATION: That the HPTF Board supports the Scope of Services for FY26 and adopts Resolution #2026-1.

Respectfully submitted,



Jeff Zinner, Vice President, Community Development
Civic Communities

Attachments: A – Scope of Services
B – Resolution 2026-1

ATTACHMENT A

SCOPE OF SERVICES

A. OVERVIEW

1. Administer and provide general stewardship of Lyceum Theatres Infrastructure

- (a) Collaborate with owner's representatives, Cushman & Wakefield, and/or Successor(s) on the installation of the passenger elevator, reconstruction of the facility entrance, and other necessary repairs that are obligations of Owners.
- (b) Fully utilize Recognized Obligation Payment Schedule (ROPS) funding for ordinary wear and tear and obsolescence of furniture, fixtures, and equipment; and code, life, and safety requirements by June 30, 2027.
- (c) Ensure maintenance and functionality of systems and equipment in preparation for re-establishment of full theatre operations.

2. Fully operate the Lyceum Theatres by attracting residents and visitors to Lyceum and surrounding businesses

- (a) Engage an outside entity ("new operator") to provide daily operational and facility management activities to ensure a path to a fully utilized facility upon re-opening - pending completion of access and elevator restoration.
- (b) Seek opportunities to promote the Lyceum Theatres to maintain public awareness and continue advancing HPTF's mission during reconstruction/restoration of access to Theatre.
- (c) Ensure a revised facility program is developed with a new operator that responds to the facility mission to provide a community cultural space that reflects the cultural and ethnic diversities of San Diego.
- (d) Ensure that the facility program includes nonprofit rates that are affordable to small and mid-sized performing arts organizations, film festivals, etc., based in the City of San Diego.
- (e) Review the production assistance fund (PAF) to ensure it is best utilized to support City of San Diego arts and culture organizations.
- (f) Ensure that HPTF and its contracted operator utilizes all available efforts to engage as many possible organizational users of the facility to ensure equitable access to the facility.
- (g) Ensure that any selected resident companies comply with industry best practices in utilization of the space and that the operator uses efficient booking methods to ensure greater use of the space than the previous operator.
- (h) Engage with local non-performance companies to operate the café, concessions, and bar; and to provide services necessary to operate the facilities (staffing, ticketing, art gallery).

- (i) Ensure that an art gallery program is developed/conducted at the highest level of professionalism reflective of a city-owned space and in adherence with industry best practices. It is recommended that a gallery program be created in partnership with an outside partner with curatorial expertise in local visual arts.
- (j) To make all efforts to promote the newly renovated facility as a community cultural asset.

3. Participate as necessary and appropriate in the development and implementation of the proposed Downtown Arts District, and in support of the City’s Arts and Culture activities.

B. SUMMARY OF EXPENSES

• Facility expenses – insurance, utilities, facility maintenance	\$254,000
• Office expenses	\$ 4,000
• Other expenses – audit, accounting	\$ 7,000
• Administration	<u>\$ 60,000</u>
	\$325,000

ATTACHMENT B

RESOLUTION NO. 2026-1

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF HORTON PLAZA THEATRES FOUNDATION
APPROVING FUNDING FROM THE CITY OF SAN
DIEGO COMMISSION FOR ARTS AND CULTURE
FOR FISCAL YEAR 2027 IN THE AMOUNT OF \$325,000**

WHEREAS, Chapter III, Article 5, of the San Diego Municipal Code provides for the imposition of a tax on transient occupants of hotel rooms in the City of San Diego, the proceeds of which are to be used for the promoting of the City of San Diego, including cultural purposes, and for certain other purposes as the Council may direct; and

WHEREAS Council Policy 100-03 sets forth guidelines, standards and procedures for the allocation and expenditure of City funds; and

WHEREAS, Horton Plaza Theatres Foundation is a legally constituted nonprofit corporation completely directing and in control of its own affairs through its own officers or members;

NOW, THEREFORE BE IT RESOLVED, that the Board of Directors of Horton Plaza Theatres Foundation, hereby:

1. Certifies that said organization understands Council Policy 100-3 and will comply with the guidelines, standards and procedures thereof; and
2. Appoints Civic Communities, as its agent to conduct all negotiations; execute and submit all documents including but not limited to applications, contracts, amendments, billing statements, and so on which may be necessary to operate the aforementioned organization; and
3. Certifies support of the organizational goals and objectives as outlined in the agreement.

PASSED, APPROVED, AND ADOPTED this 26th day of May 2026.

AYES: _____
NOES: _____
ABSTAIN: _____
ABSENT: _____

Suzanne Varco, Board President

ATTEST:

B. Candis Paule, Board Secretary



Horton Plaza Theatres FOUNDATION

Nurturing Arts and Culture

ITEM #10

DATE ISSUED: May 21, 2026

ATTENTION: Horton Plaza Theatres Foundation
Board of Directors Meeting of May 26, 2026

SUBJECT: First Amendment to Consulting Agreement between Civic Community Ventures, Inc. dba Civic Communities and Horton Plaza Theatres Foundation to support operations at the Lyceum Theatres

CONTACT: Jeff Zinner, Vice President, Community Development, Civic Communities

REQUESTED ACTION: That the Horton Plaza Theatres Foundation (HPTF) Board of Directors (“Board”) approves a First Amendment to Consulting Agreement (“Amendment”) between HPTF and Civic Community Ventures, dba Civic Communities (“Civic”) for administrative, finance/accounting, and facility management services to support HPTF’s operations at the Lyceum Theatres (“Amendment”) extending the Agreement through June 30, 2027.

BACKGROUND: On June 23, 2025, HPTF and Civic entered into an agreement to provide administrative, finance, accounting and facility management services for HPTF to support its operations at the Lyceum Theatres (“Lyceum”) located at 79 Horton Plaza. The agreement was effective from July 1, 2025, through June 30, 2026.

DISCUSSION: Civic is requesting that the Board approves the Amendment which will extend the agreement for one year through June 30, 2027. All other terms and conditions of the Agreement shall remain in full force and effect.

A draft of the proposed Amendment is attached (Attachment A). The original Agreement is attached for reference (Attachment B).

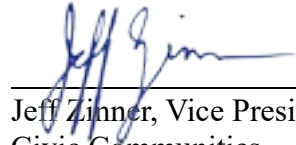
The Amendment will allow Civic to continue to provide administrative services for the Lyceum such as working directly with the HPTF Board, managing and coordinating the day-to-day function of HPTF, facilitating preparation of the budget, accounting, monthly reporting, payment of invoices, processing of accounts receivable and all other financial information throughout the year, and manage and coordinate all Lyceum issues.

FISCAL CONSIDERATIONS: None.

OTHER RECOMMENDATIONS: None.

RECOMMENDATION: That the HPTF Board approves the proposed Amendment.

Respectfully submitted,



Jeff Zinner, Vice President, Community Development
Civic Communities

Attachments:

- Attachment A – First Amendment to Consulting Agreement
- Attachment B – Consulting Agreement, dated June 23, 2025

ATTACHMENT A

FIRST AMENDMENT TO CONSULTING AGREEMENT



May 21, 2026

Horton Plaza Theatres Foundation
Suzanne Varco
79 Horton Plaza
San Diego, California 92101

Re: First Amendment to Agreement Between Civic Community Ventures, Inc. and Horton Plaza Theatres Foundation dated June 23, 2025 (“First Amendment”)

Background

Civic Community Ventures, Inc., dba Civic Communities, a California corporation with its principal place of business at 8989 Rio San Diego Drive Suite 100, San Diego, CA 92108 (“Civic”) and Horton Plaza Theatres Foundation with its principal place of business at 79 Horton Plaza, San Diego, California 92101 (“Company”) entered into an original Agreement dated June 23, 2025 related to Administrative, Finance/Accounting and Facility Management Services for HPTF to support its operations at the Lyceum Theatres (the “Agreement”).

Civic now desires to amend the Agreement to extend the term.

Term

Extension of Term

The term of the Agreement is hereby extended through June 30, 2027.

General Terms

- With exception to the amended items above, all other provisions of the Agreement remain in full force and effect.
- The individual authorizing this Amendment on behalf of Company represents and warrants they have the legal power, right, and actual authority to bind Company to the terms and conditions of this Amendment.
- The Parties stipulate and agree they have each received adequate and independent consideration for the performance of obligations undertaken pursuant to this Amendment.

- This Amendment may be executed in counterparts, each of which is deemed to be an original, but when taken together shall constitute one and the same instrument.
- This Amendment shall take effect upon execution by both Parties.

Acknowledgement of the Parties

If the terms of this Amendment are acceptable to Company, please so indicate by signing in the space provided on the following page.

Sincerely,

Civic Community Ventures, Inc.

[signatures on following page]

The Parties have caused this Amendment to be executed and delivered by their respective representatives, thereunto duly authorized, as of the dates indicated below.

Civic Community Ventures, Inc.

By: _____
Andrew T. Phillips, President & CEO

Date: _____

Acknowledged, Agreed and Accepted:

Horton Plaza Theatres Foundation

By: _____

Name: _____

Its: _____

Date: _____

ATTACHMENT B



June 23, 2025

Horton Plaza Theatres Foundation
P.O. Box 124734
San Diego, CA 92112-4734

Re: Administrative, Finance/Accounting and Facility Management Services for HPTF to Support Its Operations at the Lyceum Theater

Civic Community Ventures, Inc. dba Civic Communities (“Civic”) is pleased to provide Horton Plaza Theatres Foundation (the “Company”) the following proposal for administrative, finance/accounting and facility management services as further detailed in this letter. Upon your acceptance of this proposal, as indicated by your signature below, this letter will constitute an agreement setting forth the terms under which the administrative, finance/accounting and facility management services will be performed.

Scope of Services and Key Staff

Civic will provide administrative, finance/accounting and facility management services to the Horton Plaza Theatres Foundation (HPTF) to support its operations.

The scope of services to be provided pursuant to this proposal is more fully explained in Exhibit A.

Compensation/Fee Schedule

Upon acceptance of this proposal and in consideration for the performance of services as described in Exhibit A, the Company agrees to pay Civic in accordance with the Fee Schedule as set forth in Exhibit B.

Term of Agreement

This Agreement shall become effective on July 1, 2025 and shall continue until such time as: (1) June 30, 2026; or (2) in accordance with the termination provisions contained in Exhibit C.

Horton Plaza Theatres Foundation
Administrative, Finance/Accounting and Facility Management
June 23, 2025

Incorporation of Terms and Conditions

Upon acceptance of this proposal, you acknowledge and agree that the terms and conditions attached hereto as Exhibit C are incorporated by reference into this letter, and are applicable as if fully set forth in this letter.

Acknowledgement of the Parties

If the terms of this proposal are acceptable, please so indicate agreement by signing in the space provided below. Upon acceptance, this proposal letter will become a binding agreement between the Company and Civic. If this proposal is not accepted within thirty (30) days, this proposal will expire without any further action on the part of Civic, and Civic will have no obligations or liabilities under this proposal.

We look forward to the opportunity to work with you. Please do not hesitate to contact me with any questions or comments.

Sincerely,

Civic Community Ventures, Inc.

By:  _____
Andrew T. Phillips, President

Acknowledged, Agreed and Accepted:

Horton Plaza Theatres Foundation

By:  _____
Name: Suzanne Varco

Its: President

Date: 7/2/2025

Horton Plaza Theatres Foundation
Administrative, Finance/Accounting and Facility Management
June 23, 2025

EXHIBIT A

Scope of Services

Project Understanding

Civic will provide administrative, finance/accounting and facility management services to the Horton Plaza Theatres Foundation (HPTF) to support its operations.

Proposed Services

- 1. Administrative Management:** Working directly with the HPTF Board, managing and coordinating the day-to-day function of the Foundation, including such services as:
 - Organize and administer the Board of Directors (Board) meetings.
 - Prepare, distribute, and maintain Board meeting agendas for all meetings of the Board.
 - Prepare, and after approval by the Board President, provide hard and electronic copies of agendas, minutes (after submittal by the Board Secretary), financial reports (in cooperation with the Board Treasurer) and other documents for Board meetings.
 - Attend monthly Board meetings.
 - Maintain all records of Board activities. These should be primarily electronic files and will be available to the President or any Board officer upon request.
 - Assist in legal matters as appropriate.
 - Manage day-to-day operations of HPTF.
 - Serve as a liaison to the City of San Diego for administrative or operational matters.

- 2. Accounting and Record Keeping;** Facilitate the preparation of the budget, accounting, monthly reporting, payment of invoices, processing of accounts receivable, and all other financial information throughout the year including such services as:
 - Process accounts payable invoices and payments.
 - Process accounts receivable invoices and deposits.
 - Reconcile bank accounts.
 - Process monthly journal entries.
 - Prepare monthly financial statements.
 - Perform grant review/reconciliation/monitoring for compliance.
 - Work with the HTPF Board or designee to prepare the annual operating budget and ROPS budget.
 - Work with the HTPF Board or designee to prepare the annual City of San Diego Funding application.

Horton Plaza Theatres Foundation
Administrative, Finance/Accounting and Facility Management
June 23, 2025

- Work with the HPTF's CPA firm to assist in the preparation of the annual audit and state and federal taxes
 - Collect all W-9s from vendors and prepare the 1099s (1099s due to vendors January 31 annually).
 - Provide, whenever requested, financial information, accounting or other information at the request of the Board.
- 3. Facility Management:** Manage and coordinate all facility issues with the appropriate service vendors including such things as:
- Handle day-to-day operating issues of the Lyceum Theater, not otherwise covered by a theater venue operator hired by the HTPF Board.
 - Serve as a liaison to the theater venue and the City of San Diego for operational matters.
 - Issue Requests for Proposals or Qualifications or obtain Bids for needed services.
 - Facilitate and manage selected contractor/supplier/vendor contracts for services needed.

Civic Team

Betty Migliaccio – Assistant Project Manager
Jeff Zinner– Vice President Project Management
Elias Ramirez– Accountant
Diane Ferris – Accounting Manager
Pamela Rojas – Vice President, Finance & Accounting

Executive oversight for the contract will be:
Daniel Kay, Executive Vice President, Engineering and Construction; and
Lisa Greenson. Executive Vice President, Administration

In addition to the proposed key staff identified above, Civic may utilize other in-house resources as deemed necessary to complete Scope of Services.

Horton Plaza Theatres Foundation
Administrative, Finance/Accounting and Facility Management
June 23, 2025

EXHIBIT B

Fee Schedule

Proposed Fee

We propose the following fee schedule for the scope of work as outlined in Exhibit A.

Position Title	Hourly Rate
Assistant Project Manager	\$115.00
Vice President Project Management	\$200.00
Accountant	\$115.00
Accounting Manager	\$150.00
Vice President of Finance & Accounting	\$195.00

All invoices and payments shall be made in accordance with the Terms and Conditions as set forth in Exhibit C.

Horton Plaza Theatres Foundation
Administrative, Finance/Accounting and Facility Management
June 23, 2025

EXHIBIT C

Terms and Conditions

The proposal to which this Exhibit A – Terms and Conditions is attached (and upon acceptance thereof such proposal is referred to herein as the “Agreement” and is between the addressee thereof (the “Company”) and Civic) is subject to the following provisions.

1. Independent Contractor. Civic is and shall at all times be an independent contractor with respect to Civic’s responsibilities under this Agreement. Nothing in this Agreement is intended nor shall be construed to create a partnership, employer-employee or joint venture relationship between Company and Civic. Neither party has the right or power to bind the other, or to assume or create any obligation or responsibility, express or implied, on behalf of the other party.
2. Termination. Either party may terminate this Agreement upon thirty (30) days prior written notice to the other party if such other party is in material breach of its obligations under the terms of this Agreement and fails to cure such breach within said notice period. In addition, either party may immediately terminate this agreement by delivering written notice to the other party if: (i) any proceeding under the bankruptcy laws is brought by or against the other party; (ii) a receiver is appointed or applied for or on behalf of the other party; or (iii) an assignment for the benefit of creditors is made by the other party.
3. Cooperation. Company shall cooperate with Civic in the performance of all services to be provided pursuant to this Agreement, and shall provide such information relevant to the performance of such services as may be reasonably requested by Civic.
4. Assignment. Neither party may assign its rights or obligations under this Agreement without the other party’s prior written consent.
5. Amendments and Modifications. Alterations, modifications or amendments of any provisions of this Agreement shall not be binding unless in writing and signed by an authorized representative of both parties.
6. Severability. If any provision of this Agreement is rendered invalid or unenforceable, the remaining provisions shall, to the maximum extent possible, remain in full force and effect.
7. Counterparts. This Agreement may be executed in multiple counterparts, including through the electronic exchange of signatures, each of which shall be an original but which, when executed together, shall constitute one and the same instrument.
8. Waiver. The waiver of any breach of this Agreement shall not constitute waiver of any other breach and any failure to enforce a provision of this Agreement shall likewise not constitute a waiver or create an estoppel with regard to the enforcement of any other provision.
9. No Third-Party Beneficiaries. Nothing herein, expressed or implied, is intended or shall be construed to confer upon or give to any person, other than the parties hereto and their respective permitted successors and assigns, any rights or remedies under or by reason of this Agreement.
10. Entire Agreement. This Agreement contains the entire understanding of the parties and supersedes any prior, oral or written understanding or agreement among any of the parties relating in any way to the services to be provided pursuant to this Agreement.
11. Limitation of Liability. Notwithstanding anything to the contrary in this Agreement, the Company agrees that Civic’s total liability under this Agreement shall be limited to the lesser of (i) the total compensation received by Civic under this Agreement, or (ii) the total compensation paid by Company to Civic during the immediately

Horton Plaza Theatres Foundation
Administrative, Finance/Accounting and Facility Management
June 23, 2025

preceding twelve month period. In no event shall Civic be liable for any special, indirect, incidental, consequential or punitive damages.

12. No Warranties. COMPANY ACKNOWLEDGES THAT, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE SERVICES PROVIDED HEREUNDER ARE PROVIDED WITHOUT ANY WARRANTY, ON AN "AS IS" BASIS, AND THAT COMPANY IS NOT PROVIDING ANY OTHER WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, WITH RESPECT THERETO, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE.

13. Confidentiality of Agreement. Neither party shall disclose any of the terms of this Agreement to any person or entity, other than its attorneys and accountants, without the prior written consent of the other party, unless and only to the extent such disclosure is required by law.

14. Force Majeure. Neither party is liable for nonperformance or defective or late performance of any of its obligations under this Agreement to the extent and for such periods of time as such nonperformance, defective performance or late performance is due to reasons outside such party's control, including, but not limited to, acts of God, war (declared or undeclared), action of any governmental authority, riots, revolutions, acts of terrorism, fire, floods, explosions, sabotage, nuclear incidents, electrical blackouts or brownouts, lightning, weather, earthquakes, storms, sinkholes, epidemics, pandemics, strikes or similar nonperformance or defective performance or late performance of employees, suppliers or subcontractors.

15. Ownership of Work Product. Company acknowledges that during the course of, and as a result of, the performance of this Agreement, Civic may prepare and deliver to Company certain written materials, or other tangible results of the performance under this Agreement (the "Deliverables"). Except for the Deliverables, all other documents, drafts, concepts, products, processes, formulas, software, marketing schemes, inventions, trade secrets, know-how, technology, technical data, customer lists, copyrights and all registrations produced, developed, or acquired by Civic, whether or not embedded or otherwise used by Civic to prepare the Deliverables, shall belong exclusively to Civic.

16. Notice. All notices and any other communications permitted or required under this Agreement must be in writing and will be effective (i) immediately upon delivery in person, provided delivery is made during regular business hours or receipt is acknowledged by a person reasonably believed by the delivering party to be employed by the recipient; (ii) upon the earlier of actual delivery confirmed by executed receipt of the recipient or twenty-four (24) hours after deposit (in time for next day delivery) with a commercial courier or delivery service for overnight delivery, provided delivery is made during regular business hours or receipt is acknowledged by a person reasonably believed by the delivering party to be employed by the recipient; or (iii) three (3) days after deposit (before the last pick up time) with the United States Postal Service, certified mail, return receipt requested, postage prepaid and with the return receipt returned to the sender marked as delivered, undeliverable or rejected. The inability to deliver because of a changed address of which no notice was given, or rejection or other refusal to accept any notice, shall be deemed to be the receipt of the notice as of the date of such inability to deliver or rejection or refusal to accept. All notices must be properly addressed and delivered to the parties at the addresses set forth below, or at such other addresses as either party may subsequently designate by written notice given in the manner provided in this Section: If to Civic: 8989 Rio San Diego, Suite 100, San Diego, CA 92108, Attn: Chief Executive Officer; If to Company: To the address set forth on page 1 of the proposal letter to which this exhibit is attached.

17. Invoices and Payment. At least once a month Civic shall invoice the Company for its fees, expenses and cost incurred during the billing period, including any reimbursable expenses. Invoices are due upon receipt and the Company agrees to pay each invoice within thirty (30) days of the receipt of the invoice.

If the Company objects to all or any portion of any invoice, the company shall so notify Civic within fifteen (15) days from the receipt, give reasons for the objection, and pay that portion of the invoice not in dispute within thirty (30) days of the receipt of the invoice in question.

Unless otherwise directed all payment of invoices shall be submitted to the following address:

Horton Plaza Theatres Foundation
Administrative, Finance/Accounting and Facility Management
June 23, 2025

Civic Communities
Attn: Accounting/Accounts Receivable
8989 Rio San Diego, Suite 100
San Diego, CA 92108

Delinquent payments shall earn interest at the rate of one and one-half percent (1-1/2%) per month from the date due until paid.

18. Governing Law. This Agreement shall be governed by the laws of the State of California, without regard to any conflict of law principles and, in the event of litigation, each party expressly consents to the jurisdiction of the California State Court, County of San Diego and the Federal District Court, Southern District of California.

19. Attorney Fees. If either party becomes involved in arbitration or litigation arising from this agreement or the performance or interpretation of it, the arbitrator, court or tribunal in such arbitration or litigation or in a separate suit shall award reasonable costs and expenses of arbitration and litigation, including expert witness fees and attorney fees, to the prevailing party or parties.

20. Arbitration. In the event of a controversy or dispute arising from the performance or interpretation of this agreement, such controversy or dispute shall be submitted to binding arbitration conducted in accordance with Title 9 of the California Code of Civil Procedure, Sections 1280, et seq. No demand for arbitration shall be made after the date when the institution of legal or equitable proceedings based on such controversy or dispute would be barred by the applicable statute of limitations. The arbitration shall be conducted by a panelist from and under the auspices of JAMS. The parties hereby agree that the provisions of California Code of Civil Procedure Section 1283.05 shall be incorporated into, made a part of, and made applicable to this agreement. The party electing to commence such arbitration shall do so by notifying JAMS and each of the other parties in writing. If the parties cannot agree upon a member of the JAMS panel to serve as arbitrator within thirty (30) days of the date that arbitration is initially demanded, then the panelist shall be chosen by JAMS. If chosen by JAMS, the arbitrator must be a retired or former judge. The arbitration shall be completed within one-hundred and twenty (120) calendar days of a party's demand for arbitration in accordance with the rules and regulations of JAMS and the applicable provisions of the Code of Civil Procedure. The arbitrator shall apply the substantive law of the State of California in rendering an award, and shall grant only such relief that would be available in a court of law based upon the terms of this Agreement including, but not limited to, equitable and injunctive relief, as well as damages and other legal remedies. The arbitrator shall prepare in writing and provide to the parties an award including factual findings and the reasons on which the decision is based. The arbitrator shall not have the power to commit errors of law or legal reasoning. The award is subject to review for legal error, confirmation, correction or vacatur only in a California state court of competent jurisdiction and only pursuant to the California Arbitration Act. If any party refuses or neglects to appear at or to participate in arbitration proceedings after reasonable notice, the arbitrator may decide the controversy in accordance with whatever evidence is presented by the participating party or parties. The arbitrator shall award costs and reasonable attorney fees to the prevailing party or parties.