

**AGREEMENT BETWEEN
THE CITY OF SAN DIEGO
AND
HORTON PLAZA THEATRE FOUNDATION
FOR PROVIDING GENERAL STEWARDSHIP OF LYCEUM THEATRES
INFRASTRUCTURE**

SERVICES AGREEMENT

This Agreement is entered into by and between the City of San Diego, a municipal corporation (City), and Horton Plaza Theatre Foundation (Contractor) (collectively, the Parties).

RECITALS

A. City needs to administer and provide general stewardship of Lyceum Theatres Infrastructure as further described in the Scope of Services (Services), attached hereto as Exhibit A.

B. Contractor has the expertise, experience, equipment, and personnel necessary to provide the Services and City forces are presently unable to adequately provide the required Services.

C. City and Contractor wish to enter into an agreement whereby City will retain Contractor to provide the Services.

D. Contractor is a Non-Profit Organization under Section 501(c)(3) of the U.S. Internal Revenue Code.

E. Pursuant to SDMC section 22.3210, the Purchasing Agent has certified that this Agreement is exempt from competitive bidding requirements because this Agreement furthers a specific public policy, is in the public interest, and does not exceed the threshold set forth in the SDMC.

NOW, THEREFORE, for good and valuable consideration, the sufficiency of which is acknowledged, City and Contractor agree as follows:

**ARTICLE 1
CONTRACTOR SERVICES**

1.1 Scope of Services. Contractor shall provide the Services described in Exhibit A, which is incorporated herein by reference.

1.2 Contract Administrator. The Commission for Arts and Culture (Department) is the Contract Administrator for this Agreement. The Contract Administrator's contact information is as follows:

Bell Reza, Program Coordinator
1200 3rd Avenue Suite 924
San Diego, CA 92101
Phone (619) 816-6651
breza@sandiego.gov

1.3 Additional Provisions. This Agreement incorporates by reference additional provisions pertinent to this Agreement, attached hereto as Exhibit D.

1.4 General Contract Terms and Provisions. This Agreement incorporates by reference City's General Contract Terms and Provisions, attached hereto as Exhibit B.

1.5 Submittals Required with the Agreement. Contractor is required to submit all forms and information listed in Exhibit C before this Agreement is executed.

1.6 Reserved.

ARTICLE 2 DURATION OF AGREEMENT

2.1 Effective Date. This Agreement shall be effective on the date it is executed by the last Party to sign the Agreement and approved by the City Attorney in accordance with San Diego Charter Section 40.

2.2 Agreement Term. This Agreement shall be for a term beginning on the Effective Date and ending on June 30, 2026. The term of this Agreement shall not exceed five (5) years unless approved by the City Council by ordinance.

ARTICLE 3 COMPENSATION

3.1 Amount of Compensation. The City shall pay the Contractor for performance of all Services rendered in accordance with this Agreement, including reasonably related expenses, in an amount not to exceed \$250,000, and in installments as outlined in Exhibit B.

3.2 Annual Appropriation of Funds. Contractor acknowledges that the Agreement Term may extend over multiple City fiscal years, and Contractor understands and agrees that work and compensation under this Agreement is contingent on the City Council appropriating funding for and authorizing such work and compensation for those fiscal years. City may terminate the Agreement if sufficient funds are not duly appropriated and authorized for any given fiscal year, or if funds appropriated and authorized for this Contract are exhausted before the fiscal year concludes. City is not obligated to pay Contractor for any amounts not duly appropriated and authorized by the City Council.

ARTICLE 4
CONTRACT DOCUMENTS

4.1 Contract Documents. This Agreement, including its exhibits, schedules, and attachments, constitute the Contract Documents. The Contract Documents completely describes the Services to be provided.

4.2 Counterparts. This Agreement may be executed in counterparts, which when taken together shall constitute the single signed original as though all Parties had executed the same page.

IN WITNESS WHEREOF, this Agreement is executed by City and Contractor acting by and through their authorized officers.

CONTRACTOR
Horton Plaza Theatres Foundation

CITY OF SAN DIEGO
A Municipal Corporation

By: Suzanne R. Varco
Suzanne R. Varco (May 9, 2026 12:46:11 PDT)

Name: Suzanne R. Varco

Title: President

Date: 05/09/2026

By: C Abarca

Name: Claudia Abarca

Director, Purchasing & Contracting

Date: 05/29/2026

Approved as to form this 3 day of
June, 2026.
HEATHER FERBERT, City Attorney

By: Michael Park
Michael Park (Jun 3, 2026 14:29:05 PDT)

Deputy City Attorney

Michael Park

Print Name

EXHIBIT A
SCOPE OF SERVICE

A. OVERVIEW

- 1. Administer and provide general stewardship of Lyceum Theatres Infrastructure.**
 - a. Collaborate with Civic Communities, who will provide part-time administrative support to oversee the ongoing maintenance, upgrades, and enhancements of theatrical and non-theatrical systems, ensuring the facility remains safe, functional, and aesthetically maintained.
 - b. Utilize Recognized Obligation Payment Schedule (ROPS) funding for ordinary wear and tear, obsolescence of furniture, fixtures, and equipment, and code, life, and safety requirements as needed.
- 2. Administer Operations of Horton Plaza Theatre Foundation.**
 - a. Adhere to all obligations of 501C3 standards, follow best practices in board oversight, reporting and transparency.
 - b. Ensure compliance with Brown Act procedures and protocols.
 - c. Adhere to all reporting requirements to the City via Cultural Affairs as set forth in this agreement.
 - d. Be available to City via Cultural Affairs as reasonable to report on facility renovations, programming, community engagement, etc. Be available at least once a year to report to Commission for Arts & Culture.
 - e. Research/identify operational cost efficiencies within existing budget. Report to Board/Cultural Affairs.
 - f. Track and interface with Stockdale on Campus at Horton renovations, including those effecting Lyceum: parking, pedestrian access, elevators, etc., and routinely report to Board.
 - g. Ensure that facility is property secured and maintained during extended period of closure until facility may be reopened – projected to be late calendar year 2026.
- 3. In anticipation of the Lyceum remaining closed until late 2026 due to construction delays at Campus at Horton, prepare for re-opening as follows:**
 - a. As possible, collaborate in partners such as the Downtown Partnership, San Diego Theatres, Projected Arts District Partners, etc., to elevate the visibility of the Lyceum.
 - b. Identify and contract an operator to manage daily operational and facility management activities, ensuring alignment with the facility's mission to serve as a community cultural space that reflects San Diego's cultural and ethnic diversity. 1 January 2026 target date to contract an operator (including management structure). Ensure that a local staff person is hired to represent the operator, interface with community, coordinate bookings, etc.

- c. As appropriate, solicit outside funding for operations/programming.
- d. Ensure the facility program includes nonprofit rates that are affordable to small and mid-sized performing arts organizations, film festivals, and similar entities based in the City of San Diego.
- e. Administer the Production Assistance Fund (PAF) to underwrite rates for City of San Diego arts and culture organizations, ensuring equitable access to the facility. Develop plan to expand PAF as part of fund development strategy as stated above.
- f. Work with the contracted operator to implement efficient booking methods, maximize utilization of the space, and comply with industry best practices.
- g. Engage local vendors and non-performance organizations to operate concessions, café, bar, and provide necessary operational services such as staffing, ticketing, and gallery management.
- h. Ensure that an art gallery program is operated with a high level of professionalism reflective of a City-owned space, ideally in partnership with an external curator specializing in local visual arts. All gallery planning and programming will be conducted in partnership with and at the approval of Cultural Affairs.

B. EXPENSES

- 1. Operational Expenses
 - a. \$250,000 for facility expenses – property and liability premiums, property taxes, utilities, facility maintenance, office expense, and administration.

EXHIBIT C
CITY REQUIRED FORMS

Contractor Standards Pledge of Compliance form

Business Tax Certificate (if applicable)

Insurance Certificates with all endorsements

Taxpayer Identification form W-9 (if not currently on file)

IRS Letter of Non-Profit 501(c) (3) Status

Living Wage Certification form or approved Living Wage Exemption form (if applicable)

Exhibit D

ADDITIONAL PROVISIONS

1.1 Mandatory Reporting.

- 1.1.1 Mid-Year Report.** Contractor must submit a mid-year report in a format to be specified by City. City will not approve Contractor's final invoice, or release reimbursement for such invoice, until Contractor has submitted a mid-year report to City.
- 1.1.2 Final Performance Report.** Contractor must submit a Final Performance Report in a format to be specified by City prior to submitting the final invoice by July 31, 2026, indicating the extent to which the program objectives contained in Exhibit A of this Agreement were accomplished. The Final Performance Report must be accompanied by the final invoice and documentation evidencing credit to the City of San Diego for its financial support, including but not limited to copies of publicity. Contractor must also attach to the Final Performance Report a Statement of Compliance signed by the executive director or other chief executive officer of the Contractor, certifying that the Contractor has complied with the terms of the Agreement. City will not make the final reimbursement unless Contractor submits the Final Performance Report with the final invoice.

1.2 Financial Disclosure. Contractor must submit copies of true, accurate, and complete financial disclosure documentation by July 31, 2026, evidencing the Contractor's financial status for the Contractor's fiscal year ending on or before June 30, 2026. These financial documents must include, but are not limited to the following:

- a. A statement of the expenditure of City funds by program to be identified in the same expenditure classifications as contained in the City funded final budget approved through the application process and compared with the budgeted amounts.
- b. A statement of revenues and expenditures and a balance sheet of all funds received by the Contractor.

1.3 Audits.

- a. Contractor must provide City audited financial statements, as well as a statement of revenues and expenditures with the balance sheet of all funds received by Contractor, that are i) prepared in accordance with generally accepted accounting principles (GAAP); ii) audited by an

independent Certified Public Accountant in accordance with generally accepted auditing standards (GAAS); and iii) submitted to the Contract Administrator (described in Article IV below) within 150 calendar days of Contractor's fiscal year end. Upon written request by Contractor, and in the sole discretion of the Contract Administrator, Contractor may be granted up to thirty (30) additional calendar days to comply with this requirement.

- b. In accordance with the Single Audit Act of 1984 (PL 98-502) pertaining to recipients of federal funds, if expending \$500,000 or more (or the current federal threshold) in total federal funding Page 3 of 13 from all sources in a year, Contractor must have an Annual Single Audit conducted in accordance with Federal OMB Circular Nos. A-110 and A-133. Contractor must ensure that Single Audits are completed within 180 calendar days of completion of the audit. City, at its sole discretion, may conduct an annual review of any such third-party audit(s).

1.4 Acknowledgement of City. Contractor and all subcontractors must acknowledge City's financial support in all documents prepared pursuant to this Agreement and on Contractor's website. Such acknowledgement must be prominently displayed on the Documents and website. When any such document expresses an opinion regarding a matter of public policy, the acknowledgement must note that the opinion(s) stated in the document does not necessarily reflect the policy of The City of San Diego. Contractor and all subcontractors must secure the review and approval from City of the content, form, and location of all acknowledgements on any documents, if other than the sample language provided below, which approval will not be unreasonably withheld. The following is an example of a credit line that might be used: "This program is (wholly or partially) funded by the City of San Diego".

1.5 Required Notification. Contractor must inform Contract Administrator, in writing, within ten (10) days of the occurrence of any of the following changes:

- a. The resignation, retirement, or discharge of its executive director, chief executive officer, or other managing agent;
- b. A majority change in the membership of the board of directors;
- c. A change in programming that significantly deviates from Contractor's mission or overall purpose; and
- d. A change in annual operating income such that the matching fund requirement will not be met by the end of the contract year.

1.6 Payments.

- 1.6.1 Contractor can only use City funds for those expenditures related to staffing, general operations, advertising, publicity, promotional activities, research activities, and any other reasonable and appropriate

costs associated with Contractor's activities listed in **Exhibit A**.

1.6.2 City will not make any reimbursement to Contractor if any of the following is not on file with City:

- a. The Final Performance Report, and any financial disclosure or audit required under any previous contract; and
- b. Any other document required under this Agreement, including proof of required insurance.

1.6.3 Contractor will not be reimbursed for any expenditure that has been, or should be, properly charged to a funding source other than City, nor for expenditures which are ineligible under applicable City Council Policies, waivers, or this Agreement, unless approved, in writing, by City. A request for reimbursement that is not consistent with the Budget Summary (**Exhibit A**), except as provided in this Section, and is not supported with proper documentation will be considered an ineligible expenditure.

1.6.4 Reimbursements will be made in accordance with this Agreement, and only upon written request to the Contract Administrator. Each written request must consist of a completed invoice form to be provided by Contract Administrator.

1.6.5 Invoices must be submitted as stated below unless written approval is secured in advance from the Contract Administrator. Invoices may be submitted according to the following schedule:

After February 1, 2026, submit the first invoice, for expenses incurred on or between February 1 – March 31, 2026;

After April 1, 2026, submit the second invoice, for expenses incurred on or between April 1 – April 30, 2026;

After May 1, 2026, submit the third invoice, for expenses incurred on or between May 1 – May 31, 2026;

After June 1, 2026, submit the fourth invoice, for expenses incurred on or between June 1 – June 30, 2026.

1.6.6 The first invoice must be no more than 50% of the total amount of the Agreement. The second request must be no more than 22% of the total amount of the Agreement. The third request must be no more than 18% of the total amount of the Agreement. The fourth request must be no more than 10% of the total amount of the Agreement unless written approval stating otherwise is secured in advance from the Contract Administrator.

1.6.7 Contractor must submit reconciliation reports, as stated below, reflecting all expenditures paid, in whole or in part, with City funds from previous City reimbursements prior to submitting invoices for additional requests for reimbursement. Such reports must provide documentation of all funds spent, copies of checks, invoices, credit statements, receipts, payroll documentation, and bank statements. On March 31, 2026, submit reconciliation report for expenditures made from February 1 – March 31, 2026

On April 30, 2026, submit reconciliation report for expenditures made from April 1 – April 30, 2026

On May 31, 2026, submit reconciliation report for expenditures made from May 1 – May 31, 2026

On July 31, 2026, submit reconciliation report for expenditures made from June 1 – June 30, 2026 and a final performance report.

1.6.8 City reserves the right to temporarily withhold or adjust any reimbursement, subject to City's approval of the reconciliation reports, all financial disclosures, and any audits required of Contractor under this Agreement. City's approval will not be withheld unreasonably.

1.6.9 Allocation reimbursements not claimed before July 31, 2026, will be forfeited.

1.6.10 City will not be responsible in any way for monetary losses of any type incurred by Contractor as a result of Contractor's conducting the Scope of Services. Contractor agrees that City's monetary contribution is limited to the amount provided for in this Agreement, and that City will not be responsible for cash costs or support services other than as provided for in this Agreement.