

## **SUBCONTRACT between LYRASIS and SBCOAC**

This Subcontract is entered into by and between LYRASIS and the Santa Barbara County Office of Arts & Culture (“SBCOAC”), where LYRASIS is the recipient of Grant Award Number 1906-06914 from The Andrew W. Mellon Foundation in support of the project entitled “Performing Arts Readiness (PAR) Phase 2,” within which SBCOAC will participate in the circuit rider program as detailed below.

The parties agree to the following terms and conditions:

### **Article 1. Statement of Work.**

SBCOAC shall perform the work described in Attachment A, Statement of Work, attached and incorporated into this subcontract. SBCOAC shall use its best efforts in conducting this work, but does not guarantee any specific project outcome.

### **Article 2. Period of Performance**

The period of performance shall be from September 1, 2020, through February 28, 2022.

### **Article 3. Compensation and Payments**

LYRASIS agrees to pay SBCOAC a total of \$65,700 to engage a contractor to conduct work as described in Attachment A. Should funds remain unspent at the conclusion of the period of performance, SBCOAC shall notify LYRASIS and will be obligated to return unspent funds to LYRASIS if so directed. Upon execution of this subcontract, Sponsor shall send full payment to: Santa Barbara County Office of Arts & Culture, P.O. Box 2369, Santa Barbara, CA 93120.

### **Article 4. Project Management**

LYRASIS’ Principal Investigator Thomas F. R. Clareson is responsible for oversight of work performed under this subcontract in relationship to goals of the Grant Award. SBCOAC is responsible for the conduct of work funded through this subcontract as described in Attachment A.

### **Article 5. Reports**

SBCOAC shall provide to LYRASIS:

- (1) Brief monthly reports via email to the Principal Investigator describing progress for each of the 17 initial months of the period of performance.
- (2) A final report within 30 days of the end of the performance period that describes accomplishments during the entire period and includes a report of expenditures.
- (3) Copies of any emergency response and continuity of operations plans completed for performing arts organizations with the assistance of SBCOAC’s circuit rider.

### **Article 6. Intellectual Property**

- (1) LYRASIS shall have the right to provide information and distribute reports to the Andrew W. Mellon Foundation about work performed under this subcontract.

- (2) SBCOAC shall make all documents created under this subcontract available to the nonprofit educational, scholarly, and/or charitable communities on a royalty-free basis according to the terms of a Creative Commons attribution license. "Documents" is defined as any or all of the reports, evaluations, analyses, presentations, educational materials, and/or other documents prepared in connection with the project for use by SBCOAC in performance of the work described in Attachment A. "Documents" excludes documentation whose significance is limited to the internal administration of the project and any confidential information contained in assessments, emergency response or continuity of operations plans created for other organizations, although such confidential information shall be retained in plans shared with LYRISIS under Article 5.
- (3) LYRISIS may wish to share emergency response and/or continuity of operations plans provided under Article 5 as models for the performing arts community. In such cases, SBCOAC agrees to assist LYRISIS in: (a) obtaining permission from the relevant organization, (b) removing confidential information from the plan, and (c) working with the relevant organization to apply a Creative Commons attribution license to the portion that will be shared. No emergency response or continuity of operations plan provided under Article 5 will be shared without permission of the organization for which it was created.

#### **Article 7. Records Retention**

Financial records and other records pertaining to this subcontract shall be maintained and retained by SBCOAC for a period of three (3) years from the termination date of subcontract. LYRISIS and the Andrew W. Mellon Foundation reserve the right to conduct, upon reasonable notice, on- or off-site audits of financial accounting and other documents related to this subcontract.

#### **Article 8. Indemnification**

- (1) SBCOAC shall defend, indemnify and hold LYRISIS, its officers, employees and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this subcontract, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of SBCOAC, their officers, agents or employees.
- (2) LYRISIS shall defend, indemnify and hold SBCOAC, its officers, employees and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this subcontract, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of LYRISIS, its officers, agents or employees.

#### **Article 9. Force Majeure**

No party shall be responsible for delays or failures in performance resulting from acts beyond the control of the offending party. Such acts shall include, but shall not be limited to, acts of God, fire, flood, earthquake, other natural disaster, nuclear accident, strike, lockout, riot, freight embargo, public regulated utility, or governmental statutes or regulations superimposed after the fact.

## **Article 10. Disputes**

Any dispute arising under this subcontract which is not settled between the parties may be settled by mediation, non-binding arbitration or other appropriate legal proceedings.

## **Article 11. Termination**

Each party may terminate this subcontract upon thirty (30) days advance written notice to the Principal Investigator of the other party. In the event of such early termination, SBCOAC shall be entitled to payments of all allowable costs incurred and non-cancellable obligations to the effective date of such termination. Unspent funds and/or disallowed costs from payments made by LYRISIS to SBCOAC shall be returned to LYRISIS within thirty (30) days of the termination date.

## **Article 12. Amendments and Notices**

Any amendment(s) to this subcontract must be in writing and signed by Principal Investigators or Authorized Representatives of both parties.

## **Article 13. Independent Contractor**

SBCOAC is deemed at all times to be an independent contractor and shall be responsible for the manner in which it performs the work under this subcontract. Nothing contained herein shall be construed as creating the relationship of employer and employee between SBCOAC and LYRISIS or its officers and employees.

## **Article 14. Confidentiality**

SBCOAC and LYRISIS agree to protect each other's confidential information with the same degree of care as they would their own. All confidential documents must be clearly marked as "Confidential." If information is orally disclosed which is deemed to be confidential, such confidential information must be reduced to writing within seven (7) days of the oral disclosure by the disclosing party and provided to the other party clearly marked as "Confidential." Should it become necessary to disclose confidential information to third parties, including the Andrew W. Mellon Foundation, LYRISIS will notify SBCOAC, or SBCOAC will notify LYRISIS, in writing and in advance.

## **Article 15. Severability**

If any provision of this subcontract is determined to be illegal or unenforceable by a court of competent jurisdiction, the other provisions shall remain in full force and effect.

## **Article 16. Entire Subcontract**

This subcontract represents the entire understanding and contract between the parties regarding the subject matter herein, and supersedes any previous written or oral representations, statements, negotiations, or subcontracts.

## **Article 17. Execution on Counterparts**

This Agreement may be executed in any number of counterparts and each such counterpart shall for all purposes be deemed to be an original; and all such counterparts, or as many of

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IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed on the day and year written below.

ATTEST:  
MONA MIYASATO  
CLERK OF THE BOARD

By:   
Deputy Clerk

COUNTY OF SANTA BARBARA:

By:   
GREGG HART  
Chair, Board of Supervisors

APPROVED AS TO ACCOUNTING FORM:  
BETSY SCHAFFER, CPA  
AUDITOR-CONTROLLER

By: \_\_\_\_\_  
Deputy Auditor- Controller

By:   
GEORGE CHAPJIAN  
Director, Community Services Dept.

APPROVED AS TO FORM:  
MICHAEL C. GHIZZONI  
COUNTY COUNSEL

By: \_\_\_\_\_  
Deputy County Counsel

APPROVED AS TO FORM:  
RAY AROMATORIO, ARM, AIC  
RISK MANAGEMENT

By: \_\_\_\_\_  
Risk Manager

ATTEST:

ATTEST:  
VERN RITTER  
CHIEF FINANCIAL OFFICER

By: 

LYRASIS:

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IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed on the day and year written below.

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COUNTY OF SANTA BARBARA:

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GREGG HART  
Chair, Board of Supervisors

APPROVED AS TO ACCOUNTING FORM:  
BETSY SCHAFFER, CPA  
AUDITOR-CONTROLLER

By:   
GEORGE CHAPJIAN  
Director, Community Services Dept.

By:   
Deputy Auditor- Controller  
Digitally signed by C. Edwin Price, Jr.  
Date: 2020.08.06 14:47:24 -07'00'

APPROVED AS TO FORM:  
MICHAEL C. GHIZZONI  
COUNTY COUNSEL

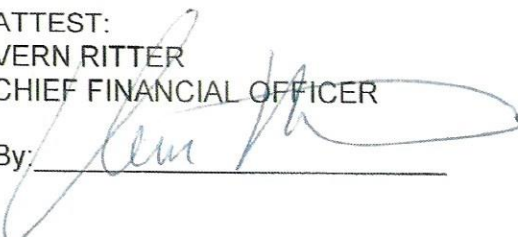
APPROVED AS TO FORM:  
RAY AROMATORIO, ARM, AIC  
RISK MANAGEMENT

By:   
Deputy County Counsel

By: \_\_\_\_\_  
Ray Aromatorio, Date: 2020.08.06  
Risk Manager 15:10:06 -04'00'  
Risk Manager

ATTEST:

LYRASIS:

ATTEST:  
VERN RITTER  
CHIEF FINANCIAL OFFICER  
By: 

## ATTACHMENT A: Statement of Work

The “Performing Arts Readiness (PAR) Phase 2” project, funded by The Andrew W. Mellon Foundation, seeks to improve emergency preparedness among performing arts organizations through advocacy and outreach to raise awareness, provision of resources and training that address the context of performing arts, development of basic tools to assist with planning and advocacy, and provision of sub-grants to support network development and institutional preparedness. As part of this project, LYRASIS and its partners will fund a circuit rider program. Circuit riders will work directly with performing arts organizations on a local level, providing expertise, knowledge and mentoring to staffs and Boards in regard to effective emergency preparedness.

SBCOAC will use these funds to engage an independent contractor to serve in the role of “circuit rider” for 18 months to support the office in promoting and educating arts and culture nonprofit venues, museums and nonprofits regarding all aspects of emergency preparedness for performing arts organizations in Santa Barbara, Ventura, and San Luis Obispo Counties (the latter two for final 6 months of the grant only), including risk and needs assessment, creation/updating of continuity of operations plans (CoOP) and other disaster response plans, on-site training, and response assistance. The circuit rider’s work will occur simultaneously with other project activities and make use of project outputs, such as training programs and information resources. Goals, objectives, deliverables and evaluation plans will be defined in an individualized work plan to be created at a training and planning meeting in late summer/early fall 2020. The circuit rider will work under the day-to-day supervision of a designated staff member of SBCOAC. Duties anticipated for the circuit rider include:

- Communications within the region to raise awareness of the need for and value of emergency preparedness, including such activities as: presentations; site visits; conference participation; written communications through social media, listservs, blogs, newsletters, and/or other relevant sources; and coordination, utilization, and support for local implementation of project-wide communications.
- Provision of training programs for local organizations using locally and/or project-designed training curriculum/materials.
- Provision of locally relevant information resources to support emergency preparedness for performing arts organizations through the sponsor and/or LYRASIS project websites as appropriate.
- Consultations with performing arts organizations about emergency preparedness, formally and informally, in-person and via email and telecommunications. Work may include facilitation of planning meetings, assessment of organizational risks and vulnerabilities, making recommendations about process and/or plan contents, and reviewing draft plans.
- Assistance when possible in local response and recovery efforts when emergencies happen that affect performing arts organizations.
- Encouragement and support for development and/or engagement of performing arts organizations in local emergency support networks.
- Work with central project staff to conduct of assessments and evaluations.

Funds provided to support the SBCOAC circuit rider are \$61,200 for contractor funding and \$4,500 for travel and other local expenses, exclusive of any potential travel for the initial (late summer/early fall 2020) planning meeting and any project-wide events, which will be funded directly or reimbursed by LYRASIS.