

OFFICE OF THE CITY ATTORNEY
DAWN MCINTOSH, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4664

SECOND AMENDMENT TO PERSONAL SERVICE AGREEMENT NO. 36155

36155

THIS SECOND AMENDMENT TO PERSONAL SERVICE AGREEMENT NO. 36155 is made and entered, in duplicate, as of September 18, 2023 for reference purposes only, pursuant to a minute order adopted by the Parks and Recreation Commission of the City of Long Beach at its meeting on November 18, 2021, by and between by and between OMARI QUARLES, an individual, ("Contractor"), and the CITY OF LONG BEACH, a municipal corporation ("City").

WHEREAS, City requires specialized services requiring unique skills to be performed in connection with instruction or services related to Afrikan Drum and Dance Instruction (Programs); and

WHEREAS, City and Contractor (the "Parties") entered into Personal Service Agreement No. 36155 (the "Agreement") whereby Contractor agreed to provide these services; and

WHEREAS, the Parties entered into a First Amendment to extend the term for one (1) additional one-year period until August 31, 2023; and

WHEREAS, the Parties desire to extend the term for one (1) additional one-year period, amend the indemnity section and add insurance requirements to the agreement;

NOW, THEREFORE, in consideration of the mutual terms, covenants, and conditions herein contained, the Parties agree as follows:

1. Section 3 of the Agreement is hereby amended to read as follows.

"3. TERM. The term of this Agreement shall begin on September 1, 2021 and end at 11:59 p.m. on August 31, 2024, unless terminated earlier in accordance with Section 13."

2. Section 12 of the Agreement is hereby amended to read as follows:

12. INDEMNITY.

A. Contractor shall indemnify, protect and hold harmless

OFFICE OF THE CITY ATTORNEY
DAWN MCINTOSH, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4664

1 City of Long Beach, its Boards, Commissions, and their officials, employees
2 and agents ("Indemnified Parties"), from and against any and all liability,
3 claims, demands, damage, loss, obligations, causes of action, proceedings,
4 awards, fines, judgments, penalties, costs and expenses, including attorneys'
5 fees, court costs, expert and witness fees, and other costs and fees of
6 litigation, arising or alleged to have arisen, in whole or in part, out of or in
7 connection with (1) Contractor's breach or failure to comply with any of its
8 obligations contained in this Agreement, including all applicable federal and
9 state labor requirements including, without limitation, the requirements of
10 California Labor Code section 1770 et seq. or (2) negligent or willful acts,
11 errors, omissions, or misrepresentations committed by Contractor, its
12 officers, employees, agents, subcontractors, or anyone under Contractor's
13 control, in the performance of work or services under this Agreement
14 (collectively "Claims" or individually "Claim").

15 B. In addition to Contractor's duty to indemnify, Contractor
16 shall have a separate and wholly independent duty to defend Indemnified
17 Parties at Contractor's expense by legal counsel approved by City, from and
18 against all Claims, and shall continue this defense until the Claims are
19 resolved, whether by settlement, judgment or otherwise. No finding or
20 judgment of negligence, fault, breach, or the like on the part of Contractor
21 shall be required for the duty to defend to arise. City shall notify Contractor
22 of any Claim, shall tender the defense of the Claim to Contractor, and shall
23 assist Contractor, as may be reasonably requested, in the defense.

24 C. If a court of competent jurisdiction determines that a
25 Claim was caused by the sole negligence or willful misconduct of Indemnified
26 Parties, Contractor's costs of defense and indemnity shall be (1) reimbursed
27 in full if the court determines sole negligence by the Indemnified Parties, or
28 (2) reduced by the percentage of willful misconduct attributed by the court to

OFFICE OF THE CITY ATTORNEY
DAWN MCINTOSH, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4664

1 the Indemnified Parties.

2 D. The provisions of this Section shall survive the expiration
3 or termination of this Agreement.

4 3. Section 13 of the Agreement is hereby added to read as follows, and
5 all sections of the Agreement thereafter shall be renumbered in consecutive order:

6 13. INSURANCE.

7 A. As a condition precedent to the effectiveness of
8 this Agreement, Contractor shall procure and maintain at Contractor's
9 expense for the duration of this Agreement from an insurance
10 company that is admitted to write insurance in the State of California
11 or that has a rating of or equivalent to an A:VIII by A.M. Best and
12 Company the following insurance:

13 i. Commercial general liability insurance equivalent
14 in coverage scope to ISO CG 00 01 10 93 naming the City of Long
15 Beach and its officials, employees, and agents as additional insureds
16 on a form equivalent in coverage scope to ISO CG 20 26 11 85 from
17 and against claims, demands, causes of action, expenses, costs, or
18 liability for injury to or death of persons, or damage to or loss of
19 property arising out of activities or work performed by or on behalf of
20 the Contractor in an amount not less than One Million Dollars (US
21 \$1,000,000) per occurrence and Two Million Dollars (US \$2,000,000)
22 in general aggregate.

23 ii. If Contractor shall or may work alone with minors
24 as part of this Agreement, the insurance provided under Section
25 13.A.i. shall not exclude coverage for liability resulting from allegations
26 of abuse and molestation.

27 iii. As required by the Labor Code of the State of
28 California, workers' compensation and employer's liability insurance

OFFICE OF THE CITY ATTORNEY
DAWN MCINTOSH, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4664

1 with minimum limits of One Million Dollars (US \$1,000,000) per
2 accident or occupational illness. The policy shall be endorsed with a
3 waiver of the insurer's right of subrogation against the City of Long
4 Beach and its insurers, officials, employees, and agents.

5 iv. If use of a vehicle is part of the Contractor's scope
6 of services, commercial automobile liability insurance equivalent in
7 coverage scope to ISO CA 00 01 06 92 in an amount not less than
8 Five Hundred Thousand Dollars (US \$500,000) combined single limit
9 (CSL) covering Symbol 1 ("any auto").

10 B. Any self-insurance program or self-insurance
11 retention must be approved separately in writing by City and shall
12 protect the City of Long Beach and its officials, employees, and agents
13 in the same manner and to the same extent as they would have been
14 protected had the policy or policies not contained retention provisions.
15 Each insurance policy shall be endorsed to state that coverage shall
16 not be suspended, voided, or canceled by either party except after
17 thirty (30) days prior written notice to City, and shall be primary and
18 not contributing to any other insurance or self-insurance maintained
19 by City.

20 C. Any subcontractors which Contractor may use in
21 the performance of this Agreement shall be required to indemnify the
22 City to the same extent as the Contractor and to maintain insurance in
23 compliance with the provisions of this section.

24 D. If Contractor desires a waiver of any insurance
25 requirement, the following applies:

26 i. General liability: Contractor must explain why
27 there is no general liability exposure to the City resulting from its
28 performance to the sole satisfaction of the Risk Manager.

E. Contractor shall deliver to City certificates of insurance and original endorsements for approval as to sufficiency and form prior to the start of performance hereunder. The certificates and endorsements for each insurance policy shall contain the original signature of a person authorized by that insurer to bind coverage on its behalf. "Claims-made" policies are not acceptable unless City Risk Manager determines that "Occurrence" policies are not available in the market for the risk being insured. In a "Claims-made" policy is accepted, it must provide for an extended reporting period of not less than three (3) years. Such insurance as required herein shall not be deemed to limit Contractor's liability relating to performance under this Agreement. City reserves the right to require complete certified copies of all said policies at any time. Any modification or waiver of the insurance requirements herein shall be made only with the approval of City Risk Manager. The procuring of insurance shall not be construed as a limitation on liability or as full performance of the

indemnification provisions of this Agreement.

4. Except as expressly modified herein, all of the terms and conditions contained in Personal Service Agreement No. 36155 are ratified and confirmed and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement with all formalities required by law as of the date first stated above.

9/26/2023, 2023

DocuSigned by:



422BAE70903F40B...

Omari Quarles

"Contractor"

PARKS AND RECREATION
COMMISSION OF THE CITY OF LONG
BEACH, CALIFORNIA

Oct. 03

, 2023

By



Director

"City"

This Second Amendment to Personal Service Agreement No. 36155 is approved as to form on September 27th, 2023.

DAWN MCINTOSH, City Attorney

By



Deputy

OFFICE OF THE CITY ATTORNEY
DAWN MCINTOSH, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4664