

PERSONAL SERVICE AGREEMENT

36180

THIS AGREEMENT is made and entered, in duplicate, as of November 30, 2021 for reference purposes only, pursuant to authorization by the PARKS AND RECREATION COMMISSION of the City of Long Beach ("Commission") at its meeting on November 18, 2021, by and between, VIGENEAREAY PHRIANG, an individual ("Contractor") and the CITY OF LONG BEACH, a municipal corporation ("City").

1. ATTACHMENT "A". Attachment "A" to this Agreement is incorporated by this reference but shall be replaced during the term of this Agreement if the Commission adopts new or different fees. The replacement shall be designated Attachment "A-1" and so forth and shall then be incorporated by this reference.

2. SERVICES. Contractor shall provide free and low-cost public instruction or services related to Ancient Khmer Martial Arts, Bokator Style, Instruction (Programs) on the days, at the times and locations, and with the minimum and maximum registration limits indicated in Attachment "A".

3. TERM. The term of this Agreement shall begin on September 1, 2021 and end at 11:59 p.m. on August 31, 2022, unless terminated earlier in accordance with Section 13. The term may be extended for two (2) additional one-year periods at the discretion of the Department of Parks, Recreation, & Marine Director ("Director").

4. FEES. City shall collect and process fees sent to it directly before and after the instruction or services begin. Contractor may, at Contractor's option, collect fees at the location where class is held and then shall deposit those fees within two (2) business days after receipt with the City's Department of Parks, Recreation and Marine, Registration/Reservations Office, between 9:00 a.m. and 6:00 p.m. on Monday through Friday, excluding holidays. Contractor must obtain approval from the Council for all fees that Contractor charges prior to the start of the instruction or services.

5. COMPENSATION. City shall pay to Contractor the following as compensation: Twenty Five Dollars (\$25.00) per hour to teach Programs.

1                   6.     METHOD OF PAYMENT. City shall pay Contractor after City's  
2 verification of enrollment based on City's records. Contractor shall distribute Contract  
3 Class Comment Cards to all class participants at the end of the last class.

4                   7.     INDEPENDENT CONTRACTOR. In giving instruction or performing  
5 services, Contractor is and shall act as an independent contractor and not an employee,  
6 representative, or agent of City. Contractor shall be free to contract for similar instruction  
7 or services for others during the term of this Agreement. Contractor acknowledges and  
8 agrees that (a) City will not withhold taxes of any kind from Contractor's compensation, (b)  
9 City will not obtain workers' compensation or pay unemployment insurance to, for or on  
10 Contractor's behalf, and (c) City will not provide and Contractor is not entitled to any of the  
11 usual and customary rights, benefits or privileges of City employees. Contractor expressly  
12 warrants that Contractor shall not represent himself/herself to be an employee or agent of  
13 City.

14                  8.     CONFLICT OF INTEREST. Contractor, by executing this Agreement,  
15 certifies that at the time Contractor executes it and during the term of this Agreement  
16 Contractor does not and will not give instruction or perform services for any other person  
17 or entity which would create a conflict, whether monetary or otherwise, as between the  
18 interests of the City and the interests of that other person or entity.

19                  9.     MATERIALS AND THE LIKE. Contractor shall furnish all labor,  
20 supervision, supplies, materials, tools, machinery, equipment, appliances, transportation,  
21 and the like necessary to or used in giving instruction or performing services under this  
22 Agreement, at Contractor's sole cost. Contractor shall not require that participants in  
23 instruction or services purchase any items needed for the class from Contractor if those  
24 items are available from any other source.

25                  10.    COMPLIANCE. In providing instruction or services, Contractor shall  
26 comply with all applicable laws, rules, regulations and directions from the Director of City's  
27 Department of Parks, Recreation and Marine ("Director") or designee.

28                  11.    PUBLICITY. Contractor shall not place, maintain or permit signs,

names, insignias, logos, descriptive material or the like or advertise, promote or publicize the instruction or services without the prior written approval of the Director or designee.

12. INDEMNITY. Contractor shall indemnify, protect and hold harmless City, its Boards, Commissions, and their officials, employees and agents ("Indemnified Parties"), from and against any and all liability, claims, demands, damage, loss, obligations, causes of action, proceedings, awards, fines, judgments, penalties, costs and expenses, arising or alleged to have arisen, in whole or in part, out of or in connection with (1) Contractor's breach or failure to comply with any of its obligations contained in this Agreement, or (2) negligent or willful acts, errors, omissions or misrepresentations committed by Contractor, its officers, employees, agents, subcontractors, or anyone under Contractor's control, in the performance of work or services under this Agreement (collectively "Claims" or individually "Claim").

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

13. TERMINATION. If Contractor defaults in performance, City shall give to Contractor ten (10) days' written notice to cure. If Contractor has not cured the default within that 10-day period, this Agreement shall automatically terminate on the tenth day without further notice from City.

Notwithstanding any other provision in this Agreement, either party shall have the right to terminate this Agreement by giving thirty (30) days prior written notice to the other party.

On termination, City shall pay to Contractor that proportion of compensation

1 identified in Section 5 earned by Contractor and unpaid by City as of the date of termination,  
2 after receipt by City of an invoice from Contractor showing the unpaid amount.

3 14. AUDIT. City shall have the right at all reasonable times during the  
4 term of this Agreement and for a period of five (5) years after termination or expiration of  
5 this Agreement to examine, audit, inspect, review, extract information from, and copy all  
6 books, records, accounts, and other documents of Contractor relating to this Agreement..

7 15. MINIMUM PARTICIPATION. City shall have the right to discontinue  
8 a class or service or to relocate its location if the minimum class size established by  
9 Contractor is not met for two (2) consecutive seasons (for example, Winter and Spring).

10 16. AMENDMENT. This Agreement, except the replacement of  
11 Attachment "A", shall not be amended or any provision or breach waived except in writing  
12 signed by the parties which expressly refers to this Agreement.

13 17. GOVERNING LAW. This Agreement shall be governed by and  
14 construed pursuant to the laws of the State of California.

15 18. INTEGRATION. This Agreement, including all attachments,  
16 constitutes the entire understanding between the parties and supersedes all other  
17 agreements, oral or written, that relates to the subject of this Agreement.

18 19. NONDISCRIMINATION. Subject to applicable laws, rules and  
19 regulations, Contractor shall not discriminate in the performance of this Agreement on the  
20 basis of race, religion, national origin, color, age, sex, sexual orientation, gender identity,  
21 AIDS, HIV status, handicap or disability.

22 20. NO WAIVER. The acceptance of services or the payment of money  
23 by City shall not operate as a waiver of any provision of this Agreement, or of any right to  
24 damages or indemnity under this Agreement. The waiver of one default shall not constitute  
25 a waiver of any other default or of the same default which subsequently occurs.

26 21. NOTICE. Any notice given in relation to this Agreement shall be in  
27 writing and personally delivered or deposited in the U. S. Postal Service, first class, postage  
28 prepaid, addressed to Contractor at 1827 Gardenia Avenue, #A, Long Beach, California,

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

90806, and to City at 2760 N. Studebaker Road, Long Beach, CA 90815-1697 Attn:  
Director, Department of Parks, Recreation and Marine. Notice of change of address shall  
be given in the same manner as other notices. Notice shall be deemed given on the date  
personal delivery is made or two (2) days after deposit in the mail, whichever occurs first.

22. CONTINUATION. Termination or expiration of this Agreement shall  
not terminate the rights or liabilities of either party which accrued or existed during the term  
of this Agreement and prior to its termination or expiration.

23. GOVERNING DOCUMENT. To the extent that there is any ambiguity  
or inconsistency between this Agreement and Attachment "A", the terms and provision of  
Attachment "A" shall govern.

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

12/13/2021

2021

*Vigeneareay Phiang*  
VIGENEAREAY PHRIANG

"Contractor"

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

By

*Brent Dennis*

Director

"City"

This Agreement is approved as to form on December 27, 2021.

CHARLES PARKIN, City Attorney

By

*Anita Lakhani*

Anita Lakhani, Deputy City Attorney

# EXHIBIT “A”

**ATTACHMENT A**  
**PERSONAL SERVICE AGREEMENT**

**LOCATION – HOMELAND**

September 1, 2021 - August 31, 2022

**NAME**

Vigeneareay Phriang

**CLASS INSTRUCTION**

Ancient Khmer Martial Arts  
(Bokator Style Instruction)