

PERSONAL SERVICE AGREEMENT

36033

THIS AGREEMENT is made and entered, in duplicate, as of August 2, 2021 for reference purposes only, pursuant to authorization by the PARKS AND RECREATION COMMISSION of the City of Long Beach ("Commission") by and between KUTTURAN CHAMORU FOUNDATION, a California Corporation, ("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 instruction or services related to Micronesian Arts and Polynesian Dance 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.

6. METHOD OF PAYMENT. City shall pay Contractor after City's

1 verification of enrollment based on City's records. Contractor shall distribute Contract
2 Class Comment Cards to all class participants at the end of the last class.

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

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

17 9. MATERIALS AND THE LIKE. Contractor shall furnish all labor,
18 supervision, supplies, materials, tools, machinery, equipment, appliances, transportation,
19 and the like necessary to or used in giving instruction or performing services under this
20 Agreement, at Contractor's sole cost. Contractor shall not require that participants in
21 instruction or services purchase any items needed for the class from Contractor if those
22 items are available from any other source. Contractor shall not store any materials,
23 supplies, equipment, and the like in Department facilities without advanced written approval
24 by the Director.

25 10. COMPLIANCE AND FINGERPRINTING. In providing instruction or
26 services, Contractor shall comply with all applicable laws, rules, regulations and directions
27 from the Director of City's Department of Parks, Recreation and Marine ("Director") or
28 designee. Pursuant to Department policies regarding adult activity with children on

1 Department property, Contractor shall ensure Contractor and all of its members, teachers,
2 volunteers, and contractors are fingerprinted through Live Scan as part of the background
3 check process prior to teaching and/or interacting with children.

4 11. PUBLICITY. Where possible, the Department will assist Contractor
5 with the promotion and marketing of Contractor Programs. Contractor and the Department
6 shall not place, maintain or permit signs, names, insignias, logos, descriptive material or
7 the like or advertise, promote or publicize, whether written or oral, the other and/or its
8 services without the prior written approval of the other.

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

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

27 13. TERMINATION. Notwithstanding any other provision in this
28 Agreement, either party shall have the right to terminate this Agreement by giving ten (10)

1 days prior written notice to the other party.

2 On termination, City shall pay to Contractor that proportion of compensation
3 identified in Section 5 earned by Contractor and unpaid by City as of the date of termination,
4 after receipt by City of an invoice from Contractor showing the unpaid amount.

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

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

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

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

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

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

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

28 21. NOTICE. Any notice given in relation to this Agreement shall be in

1 writing and personally delivered or deposited in the U. S. Postal Service, first class, postage
2 prepaid, addressed to Contractor at 3637 Lemon Avenue, Long Beach, California, 90807,
3 and to City at 2760 N. Studebaker Road, Long Beach, CA 90815-1697 Attn: Director,
4 Department of Parks, Recreation and Marine. Notice of change of address shall be given
5 in the same manner as other notices. Notice shall be deemed given on the date personal
6 delivery is made or two (2) days after deposit in the mail, whichever occurs first.

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

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

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

15 8/6, 2021

[Signature]
Kutturan Chamoru Foundation,
a California Corporation

17 "Contractor"

18 PARKS AND RECREATION
19 COMMISSION OF THE CITY OF LONG
20 BEACH, CALIFORNIA

21 August 30th, 2021

By [Signature]
Director

23 "City"

24 This Agreement is approved as to form on August 23, 2021.

26 CHARLES PARKIN, City Attorney

27 By [Signature]

Deputy

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

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19 COMMISSION OF THE CITY OF LONG
20 BEACH, CALIFORNIA

21 _____, 2021

By _____
Director

23 "City"

24 This Agreement is approved as to form on _____, 2021.

25 CHARLES PARKIN, City Attorney

26 By _____
27 Deputy
28

EXHIBIT A
PERSONAL SERVICE AGREEMENT
LOCATION - HOMELAND

September 1, 2021 – August 31, 2022

NAME

Kutturan Chamoru Foundation

CLASS INSTRUCTION

Micronesian Arts and Polynesian Dance