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**CITY OF PORT LAVACA**

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**COUNCIL MEETING: JUNE 24, 2024**

**DATE:** 06.19.2024

**TO:** HONORABLE MAYOR AND CITY COUNCIL MEMBERS

**FROM:** JODY WEAVER, INTERIM CITY MANAGER

**SUBJECT: AMENDMENT TO CONSULTANT SUSAN LANG'S CONTRACT**

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**BACKGROUND:**

Until very recently, we had been advertising (beginning when Susan Lang submitted her letter of resignation last September) for a new Finance Director on TML and other places. To date we have received no applicants with any municipal finance experience. As I reported in my March update report to Council, I contracted with Susan Lang to assist Brittney, as the Acting Finance Director, on an as needed hourly basis with the Audit and other training and education she might need as we headed into budget season. The contract was for 6 months, ending on July 26 and Not to exceed \$25,000.

After Brittney and I discussed this with the Finance Committee last week, I am requesting authorization from Council to extend this consulting contract to September 30 and increase the Not to exceed amount by \$11,000. This will make Susan's expertise on the City's current budget available to Brittney as we work to prepare a balanced budget to present to Council this summer.

I would like to include that Brittney and her staff have been doing an excellent job even with one position short. Brittney and Reyanne both received the required Public Funds Investment Act training in December. Brittney has a bachelor's degree in business administration and will receive certification as a Government Finance Officer with the passing of the last of 5 tests required. (i.e. she has already passed 4). I have found her to be extremely detail oriented, conscientious and has many ideas to improve, streamline operations and save the city money. As of April 1, I transitioned her from Acting Finance Director to Interim Finance Director. At this time my intention is to make her the Finance Director effective October 1 with the new fiscal year. At that point (and probably much sooner) her training/consulting hours with Susan Lang will be completed and she will have performed a full year of finance director duties and, as evidenced by her actions so far, very effectively.

**RECOMMENDATIONS:**

**Approve the amended Consultant Agreement dated 6.24.2024**

**ATTACHMENTS:**

- *Amended Consultant Agreement*
- *Consultant Agreement dated 1/26/2024*

## Amended Consultant Agreement

This Consultant Agreement (the “Agreement”) is dated 06/24/2024, by and between the City of Port Lavaca, Texas (the “City”) and Susan Lang, (the “Consultant”).

**Whereas** the City desires to retain consulting services to provide training and education to the acting or incoming Financial Director;

**Whereas** the Consultant has expertise and significant prior experience in the area of the City’s business;

**Whereas** the City, having utilized the services, now wishes to amend the original agreement dated 1/26/2024 by extending the Term and increasing the Maximum Payment; and

**Whereas** the City wishes to use the consulting services of the Consultant, and the Consultant is willing to provide their services to the City, as hereinafter amended;

**Now Therefore**, in consideration of the mutual terms, conditions, and covenants hereinafter set forth, the City and the Consultant hereby agree as follows:

### Article V

#### Term, Termination and Assignment

5.1 **Term.** This Agreement is made for a period of six (6) months, beginning on 1/26/2024, subject to the terms and conditions set forth herein and may be renewed or extended for an additional time period term if agreed by the Parties in writing at least thirty (30) days prior to the expiration of the initial term or any renewal or extension term.

a **Extension of Term:** Agreement will expire 9/30/2024, unless renewed or extended at least (30) days prior to expiration.

### Article VI

#### Miscellaneous

6.4 **Maximum Payment under this Agreement.** Amounts payable under this Agreement shall not exceed \$36,000.00. Should it be anticipated that the amount paid to Consultant will exceed that amount, Consultant acknowledges that this Agreement would need to be approved by the City Council of City prior to payment of any amount exceeding \$25,000.00 in one budget and/or calendar year.

**The sections, as amended, along with the original agreement dated 1/26/2024, constitute the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter.**

IN WITNESS WHEREOF this Contract has been executed on the 24<sup>th</sup> day of June, 2024.

CITY OF PORT LAVACA

CONSULTANT

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Jack Whitlow, Mayor  
202 North Virginia  
Port Lavaca Texas 77979  
Phone (361) 552-9793 ext. 222

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Susan Lang  
P.O. Box 74  
La Ward, Texas 77970  
Phone (281) 330-9150

ATTEST:

\_\_\_\_\_  
Mandy Grant, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Anne Marie Odefey, City Attorney

## **Consultant Agreement**

This Consultant Agreement (the "Agreement") is dated 01 / 26 / 2024, by and between the City of Port Lavaca, Texas (the "City") and Susan Lang, (the "Consultant").

**Whereas** the City desires to retain consulting services to provide training and education to the acting or incoming Financial Director;

**Whereas** the Consultant has expertise and significant prior experience in the area of the City's business; and

**Whereas** the City wishes to use the consulting services of the Consultant, and the Consultant is willing to provide their services to the City, as hereinafter set forth;

**Now Therefore**, in consideration of the mutual terms, conditions, and covenants hereinafter set forth, the City and the Consultant hereby agree as follows:

### **Article I Services**

1.1 **Consultant Services.** Consultant shall be available and shall provide for the City professional consulting services in the area of training and education for the incoming finance director ("Consulting Service") as requested. The Consulting Services shall be performable during regular business hours, which are anticipated to be 8:00 a.m. through 5:00 p.m. on Monday through Friday (the "Regular Business Hours"). The Consulting Services do not include any request for services which must be performed outside of Regular Business Hours, e.g. attendance at city council meetings.

1.2 **Duties.** The Consultant shall be available during regular business hours, two (2) days a week, with a maximum of ten (10) hours per week, either at the office or other place designated by the City and acceptable to the Consultant. Consultant shall faithfully and to the best of her ability perform and render such services and perform such duties as may be required by the City.

1.3 **Hours.** The Consultant shall neither be required to maintain regular office hours with the City nor to perform duties in accordance with any formal work schedule. The Consultant shall give reasonable notice to the City of any plans to take vacation which shall render the Consultant unavailable to the City. City has no obligation to provide Consultant a minimum number of hours of work and the work shall be performed upon request by City under the terms of this Agreement.

### **Article II Independent Contractor**

2.1 **Independent Contractor.** Nothing herein shall be construed to create an employer-employee relationship between the City and the Consultant. The Consultant is an independent contractor and not an employee of the City or any of its subsidiaries or affiliates. The Consultant shall have responsibility for and control over the details and means of performing the Consulting Services and shall be subject to the directions of the City only with respect to the scope and general results required. The Consultant acknowledges and agrees that Consultant is obligated to report as income all compensation received by Consultant pursuant to this Agreement, and Consultant agrees to and acknowledges the obligation to pay all self-employment and other taxes thereon. Furthermore, the City agrees to provide a 1099 to Consultant for the intention of Consultant reporting compensation received from the City.

### **Article III Compensation**

3.1 **Rate.** In consideration for the Consulting Services to be performed by the Consultant under this Agreement, the City shall pay Consultant at the rate of \$300.00 per hour, invoiced monthly for the time spent on Consulting Services. City shall pay Consultant the amounts due pursuant to submitted invoices within thirty (30) days after such invoices are received by the City.

3.2 **Expenses.** Additionally, the City will pay Consultant as invoiced for the mileage expenses incurred while the Agreement between Consultant and the City is in effect at the then-current IRS reimbursement rate.

3.3 **Premium Services.** In consideration for services performed by the Consultant outside the scope of the Consulting Services under this Agreement, the City will pay Consultant at the rate of \$500.00 per hour.

### **Article IV Confidentiality**

4.1 **Confidentiality.** Both parties acknowledge that during the course of this Agreement, they may have access to confidential information of the other party. Confidential information includes trade secrets, business plans, financial information, customer lists and any other information identifies as confidential by the disclosing party. The receiving party will use the confidential information solely for the purpose of fulfilling its obligations under this Agreement and, to the extent allowed under state law, will not disclose such information to any third party without prior written consent from the disclosing party.

4.2 **Data Privacy.** The Consultant agrees to comply with all applicable data protection laws and regulations while performing the Consulting Services. The Consultant will implement suitable technical and organizational measure to protect any personal data processed on behalf of the City.

### **Article V Term, Termination and Assignment**

5.1 **Term.** This Agreement is made for a period of six (6) months, beginning on 01 / 26 / 2024, 2024, subject to the terms and conditions set forth herein and may be renewed or extended for an additional time period term if agreed by the Parties in writing at least thirty (30) days prior to the expiration of the initial term or any renewal or extension term.

5.2 **Breach.** In the event of breach by either party or failure to perform any of its material obligations hereunder, the non-defaulting party will notify such breach or default in writing and may terminate this Agreement by written notice if the defaulting party has not remedied such breach or default within two (2) days of the notification of breach. Such termination shall operate immediately upon receipt by the defaulting party of the termination notice.

5.3 **Termination.** Either party may terminate this Agreement with a prior fourteen (14) day written notice given to the other party. The Termination of this Agreement by the City for any cause shall not give rise to payment of any damages, indemnity, or other amounts, provided, however, that in the event of termination of this Agreement for reasons other than the Consultant's willful misconduct, bad faith, or gross negligence, the Consult shall be entitled to receive the fees earned that are due and payable at the time of such termination.

5.4 **Assignment.** Neither party may assign this Agreement without the consent of the other party. Both parties acknowledge and agree that transactions that do not result in a change of actual control or management shall not be considered on assignment.

5.5 **Notice.** Any notice or communication permitted or required by this Agreement shall be deemed effective when personally delivered or deposited, postage prepaid, in the first class mail of the United States, or international mail properly addressed to the appropriate party at the address set forth below:

City of Port Lavaca  
Joanna P. Weaver, Interim City Manager  
202 North Virginia  
Port Lavaca, Texas 77979  
Phone: (361) 552-9793  
Email: [jweaver@portlavaca.org](mailto:jweaver@portlavaca.org)

Susan Lang  
P.O. Box 74  
La Ward, Texas 77970  
Phone: (281) 330-9150  
Email: [SusanLang319@yahoo.com](mailto:SusanLang319@yahoo.com)

## **Article VI Miscellaneous**

6.1 **Entire Agreement and Amendments.** This Agreement constitutes the entire agreement of the parties with regard to the subject matter hereof, and replaces and supersedes all other agreements or understandings, whether written or oral. No amendment or extension of the Agreement shall be binding unless in writing and signed by both parties.

6.2 **Binding Effect, Assignment.** This Agreement shall be binding upon and shall inure to the benefit of the Consultant and the City and to the City successors and assigns. Nothing in this Agreement shall be construed to permit the assignment by the Consultant of any of its rights or obligations hereunder, and such assignment is expressly prohibited without the prior written consent of the City.

6.3 **Governing Law, Severability.** This Agreement shall be governed by the laws of the State of Texas. The invalidity or unenforceability of any provision of the Agreement shall not affect the validity or enforceability of any other provision.

6.4 **Maximum Payment under this Agreement.** Amounts payable under this Agreement shall not exceed \$25,000.00. Should it be anticipated that the amount paid to Consultant will exceed that amount, Consultant acknowledges that this Agreement would need to be approved by the City Council of City prior to payment of any amount exceeding \$25,000.00 in one budget and/or calendar year.

**This Agreement constitutes the sole and only agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter.**

IN WITNESS WHEREOF this Contract has been executed on the \_\_\_ day of 01 / 26 / 2024,  
2024.

CITY OF PORT LAVACA



\_\_\_\_\_  
Joanna P. Weaver, Interim City Manager  
202 North Virginia  
Port Lavaca Texas 77979  
Phone (361) 552-9793 ext. 222

CONSULTANT



\_\_\_\_\_  
Susan Lang  
P.O. Box 74  
La Ward, Texas 77970  
Phone (281) 330-9150

APPROVED AS TO FORM:



\_\_\_\_\_  
Anne Marie Odefey, City Attorney



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|-------------------------|--|
| Title                   | Final - Consultant Agreement - Lang 24.01.26.pdf |
| File name               | Final%20-%20Consu...ng%2024.01.26.pdf            |
| Document ID             | c9711a00425ce0d9d1f51ffbe6001d91722cf46c         |
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| Status                  | ● Signed   |

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**01 / 26 / 2024**  
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Sent for signature to Anne Marie Odefey (amo@portlavacalaw.com), Jody Weaver (jweaver@portlavaca.org) and Susan Lang (susanlang319@yahoo.com) from thomas@gwosdzlaw.com  
IP: 173.207.145.178



VIEWED

**01 / 26 / 2024**  
20:37:25 UTC

Viewed by Jody Weaver (jweaver@portlavaca.org)  
IP: 24.116.194.252



SIGNED

**01 / 26 / 2024**  
20:38:33 UTC

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**01 / 26 / 2024**  
20:53:20 UTC

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IP: 72.24.6.211



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**01 / 26 / 2024**  
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Viewed by Susan Lang (susanlang319@yahoo.com)  
IP: 208.101.238.7

**01 / 26 / 2024**  
23:06:02 UTC

Signed by Susan Lang (susanlang319@yahoo.com)  
IP: 208.101.238.7

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Signed by Anne Marie Odefey (amo@portlavacalaw.com)  
IP: 216.17.28.242

  
COMPLETED

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The document has been completed.