

RESOLUTION NO. 23-55

A RESOLUTION OF NECESSITY OF THE CITY COUNCIL OF THE CITY OF PARLIER FOR THE ACQUISITION OF REAL PROPERTY CONVEYED BY THE CITY OF PARLIER TO THE FRESNO COUNTY FIRE PROTECTION DISTRICT PURSUANT TO CODE OF CIVIL PROCEDURE §1240.610 FOR USE THAT IS A MORE NECESSARY PUBLIC USE THAN THE USE TO WHICH THE PROPERTY IS PUT BY FRESNO COUNTY FIRE PROTECTION DISTRICT CONSISTING OF A PREVIOUSLY CITY OWNED FIRE STATION AT 1300 PARLIER AVENUE AND AUTHORIZING THE CITY ATTORNEY TO FILE SUIT IN EMINENT DOMAIN, OR OTHERWISE, TO ACQUIRE SUCH PROPERTY AND TO APPLY FOR AN ORDER OF POSSESSION BEFORE JUDGMENT

WHEREAS, the City Council of the City of Parlier is a party to a Mutual Release and Compromise Agreement dated September 13, 2016, but executed by the City on October 10, 2016 which provides for, among other things, for the City's conveyance of its ownership interest in the fire equipment, real property and fire station located at 1300 E. Parlier Avenue in the City of Parlier to the Fresno County Fire Protection District (District) and the City did in fact convey the fire station to the District; and

WHEREAS, on August 21, 2014, LAFCO approved the annexation of Parlier to the District; and

WHEREAS, on July 1, 2004, the City and the District entered into an agreement for fire protection services entitled "Fresno County Fire Protection District and City of Parlier Agreement for Fire Protection Services" (2004 Agreement) pursuant to which the District agreed, in exchange for a price computed based upon property tax revenues accruing to the City to provide fire protection and suppression services; and

WHEREAS, the City has given formal notice of its rescission of the September 13, 2016, Mutual Release and Compromise Agreement with the District and continues to pay the District the cost of providing fire protection services and suppression within the City pursuant to the terms of the 2004 Agreement; and

WHEREAS, as part of its rescission of the Mutual Release and Compromise Agreement, the City of Parlier demanded, among other things, the return to the City by conveyance by grant deed of the fire station and District refuses to convey the fire station to the City; and

WHEREAS, the fire station is dedicated to a public use for the benefit of the citizens and inhabitants of the City of Parlier, was acquired with public money and is only useable for and by the entity responsible for providing fire protection and suppression services and has no intrinsic value whatsoever other than as a fire station for use by the agency or entity providing that service; and

WHEREAS, the City intends to seek an order of LAFCO detaching the District from the City and intends to terminate the 2004 Agreement and enter into a different agreement with a different agency or entity to provide fire protection and suppression services within the City of Parlier, which the District has consistently failed to provide at adequate levels, or any levels; and

WHEREAS, pursuant to the provisions of CCP §940.610, the use of the fire station is required to be by the entity or agency providing fire protection and suppression services to the City of Parlier, and the rescission of the Mutual Release, the ultimate termination of the 2004 Agreement, and the making of a different agreement with a different agency or entity for providing fire protection and suppression services in the City of Parlier, means that use of the fire station, for the purposes it was acquired and developed by the City of Parlier or the agency with which it contracts is a higher, more important, and more necessary public use than the use of the fire station by District which, following the termination of the 2004 Agreement and detachment of the District from the City of Parlier cannot be used by District, and is of no value to District and District paid no compensation for the fire station as the Mutual Release which the City has rescinded by notice provides for no consideration for its conveyance to the District; and

WHEREAS, District was given notice that the City Council of the City of Parlier will consider the adoption of this Resolution of Necessity on this date in the City Council Chambers and the location of those chambers all in the manner required by law and the acquisition of the real property for the use of the City of Parlier or the entity or agency it hires to provide fire protection and suppression services within the City is a more necessary public use than the use to which the property is being put by the District and the District may no longer use that property for that purpose and acquisition of the real property, the City Fire Station, is necessary and required for the engagement of a different entity or agency to provide fire protection and suppression services within the City of Parlier (the "Project").

NOW, THEREFORE, be it resolved as follows:

1. The foregoing recitals are true and correct.
2. Based on the evidence presented and the findings set forth in the recitals to this Resolution, the City Council of the City of Parlier by two-thirds vote, or more, of its members under Civil Code §1240.030 and 1245.230, and under CCP §1240.610 finds, determines and declares that the public interest and necessity require the Project, the Project is plainly located in the manner that is most compatible with the greatest good and least injury and the Property identified in the recitals, incorporated by this reference, is necessary for the Project because the use to which Parlier intends to put the Property is the use for which it is intended and was publicly dedicated.
3. The offer required by Government Code §7267.2(a) has not been made because the fire station effectively has no market value since it is required to be used

for a public purpose and District cannot provide those services, once the 2004 Agreement has been terminated and the District is detached from the City; and, the District is not entitled to any consideration for its Mutual Release Agreement because the Agreement is illegal, and has been duly rescinded by the service of proper notice so that the District is required to convey the Property, the fire station, to the City of Parlier.

4. All conditions and statutory requirements necessary to the exercise of the power of eminent domain (the right to take) to acquire the Property interest referred to in the recitals above have all been complied with by the City.

5. The City Attorney is hereby authorized and empowered to commence and maintain a proceeding in the Superior Court of the State of California to acquire the fire station for the reasons set forth in the recitals to this Resolution appearing above.

6. The City Attorney is authorized and empowered to prepare or have prepared and to prosecute or retain counsel to prosecute in the name of the City of Parlier proceedings in the proper court as is necessary for such acquisition.

7. The City Attorney is empowered and authorized to make application to the court for an order of possession of the fire station before judgment in these proceedings.

8. The City Clerk is authorized and directed to accept a deed to the fire station property described above for or on behalf of the City of Parlier, and to execute an agreement for the acquisition of that property if settlement with the District providing for a conveyance of fire station to the City of Parlier can be mutually agreed upon between the City and the District.

The foregoing Resolution was adopted and approved at a regular meeting of the City Council of the City of Parlier held on September 17, 2020 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

Alma Beltran, Mayor, City of Parlier

ATTEST:

Bertha Augustine, City Clerk, City of Parlier

**AMENDED PROFESSIONAL SERVICES
CONSULTING AGREEMENT**

DATED: September 17, 2020

PARTIES: Sonia Hall, Granted Solutions (hereinafter the "**Consultant**"); and
City of Parlier (hereinafter the "**Client**")

AGREEMENT:

The undersigned hereby agree to the following terms and conditions:

Section 1. Duties of Consultant: Consultant shall provide the Client with the following duties:

- 1) Sonia Hall will serve as the City of Parlier City Administrator. Her duties include:
 - a) Oversee all departments in the city and keep the council apprised on all city business;
 - b) Attend all City Council Meetings and meetings with outsiders on behalf of City.
- 2) Organize Community Services. Those duties include:
 - a) Community Events
 - b) Housing programs
 - c) Economic Development programs
 - d) Oversee any recreation programs or any other programs that may come to the city through grant funding.
 - e) Support the council and city manager with any other programs requested.
- 3) Technical assistance and support as needed in cooperation with city departments and other contractors.
- 4) Continue to provide grant writing services as needed for the City of Parlier.
- 5) Provide additional staffing to fulfill the duties as listed above.

Consultant will work at the will and under the direction of the Mayor and City Council.

Section 2. Time for Performance of Duties: Consultant agrees to have staff available to manager the Community Development Department during the hours of 9am to 6pm on all days that the city hall is open. Consultant shall have control over the Agreement.

Section 3. Term of the Agreement: The effective date of this amended Agreement is September 17, 2020 and shall continue to September 17, 2021. The term of this Agreement will extend automatically for successive 6 month terms unless the Client

provides written notice stating they do not want it renewed. Notice must be given at least 45 days before the Renewal Date of any term.

Section 4. Compensation: Compensation is listed on Attachment A. Client shall pay Consultant on the 1st day of each month.

Section 5. Expenses: The Client agrees to reimburse the Consultant for reasonable out-of-pocket expenses related to performing services on behalf of the Client. Such expenses typically might include, but are not limited to, phone calls, faxes, copies, postage, parking, gas, messengers, travel, and lodging expenses. Consultant shall provide Client with a receipt and a description of the expense. Client shall reimburse Consultant within thirty (30) days of Consultant providing the receipt and description of expenses to Client.

Section 6. Relationship: Consultant shall perform its services hereunder as an independent contractor and not as an employee of the Client or an affiliate of Client. It is expressly understood and agreed to by the parties hereto that Consultant shall have no authority to represent or bind the Client or any affiliate thereof in any manner, except as may be agreed to expressly by the Client in writing from time to time. It is understood that the authorized signatory for the City is the Mayor.

Section 7. Confidentiality: Except in the course of the performance of its duties hereunder, each party agrees that it shall not disclose any trade secrets, know-how, or other proprietary information not in the public domain learned as a result of this Agreement. Similarly, the parties agree that they shall not disclose or divulge the existence of this Agreement, or any of its term or conditions to third parties, except as is necessary to perform the terms and conditions stated herein.

Section 8. Indemnification: The Client agrees to indemnify and hold harmless the Consultant, its members, officers, directors, employees and each person who controls Consultant or any of its affiliates from and against any losses, claims, damages, liabilities and expenses whatsoever (including reasonable costs of investigation or defending any action) to which they or any of them may become subject under any applicable law arising out of Consultant's performance under this Agreement and will reimburse Consultant for all expenses (including counsel fees) as they are incurred. Consultant maintains liability insurance in the amount of one million dollars.

Section 9. Assignment: This Agreement shall not be assignable by either party; provided however, that Consultant shall have the discretion to allocate its duties hereunder to owners, affiliates, or employees of Consultant.

Section 10. No Guaranteed Result: Client acknowledges and agrees that Consultant does not have control over third party decision makers, and therefore Consultant makes no representations, warranties or guarantees that it can achieve any particular results. Consultant, however, shall act in good faith toward the performance of

its duties described above.

Section 11. Prior Agreements: The prior agreements between the parties for Community Development Services and Grant Writing Services will be replaced with this Agreement. This Agreement may only be modified by a writing signed by both parties.

Section 12. Governing Law: This Agreement shall be deemed to be a contract made under the laws of the State of California and for all purposes shall be construed in accordance with the laws of said State.

Section 13. Attorney's Fees: In the event legal action is brought to enforce or interpret this Agreement, the prevailing party shall be entitled to recover their reasonable attorney's fees and collection costs from the other party.

Section 14. Notices: All notices will be sent via certified mail or overnight courier such as Federal Express, to:

Consultant at: Granted Solutions
 1110 N. Echo
 Fresno, CA 93728

Client at: City of Parlier
 1100 E. Parlier Ave
 Parlier, CA 93648

Section 15. Termination for Cause: This Agreement may be terminated by either party, upon sixty (60) days written notice. Client shall compensate Consultant for all services rendered prior to the date of termination.

IN WITNESS THEREOF, this Agreement is executed on the dates set forth below and effective on the date first set forth above.

"CONSULTANT"

"CLIENT"

Granted Solutions

City of Parlier

By

By

Sonia Hall, Owner

Parlier Mayor

Date _____

Date _____

ATTACHMENT A

Compensation Schedule

Staff Member	Hourly Pay
Sonia Hall City Administrator Duties	\$55.00

In Addition, a maximum of \$3,000 for each month in which a Grant Application is Prepared by Consultant.