

CITY OF INDUSTRY

CITY COUNCIL SPECIAL MEETING AGENDA

JULY 26, 2018
9:00 AM



Mayor Mark Radecki
Mayor Pro Tem Cory Moss
Council Member Abraham Cruz
Council Member Catherine Marcucci
Council Member Newell Ruggles

Location: City Council Chamber, 15651 East Stafford Street, City of Industry, California 91744

Addressing the City Council:

- ▶ **Agenda Items:** *Members of the public may address the City Council on any matter listed on the Agenda. In order to conduct a timely meeting, there will be a three-minute time limit per person for any matter listed on the Agenda. Anyone wishing to speak to the City Council is asked to complete a Speaker's Card which can be found at the back of the room and at the podium. The completed card should be submitted to the City Clerk prior to the Agenda item being called and prior to the individual being heard by the City Council.*
- ▶ **Public Comments (Agenda Items Only):** *During public comments, if you wish to address the City Council during this Special Meeting, under Government Code Section 54954.3(a), you may only address the City Council concerning any item that has been described in the notice for the Special Meeting.*

Americans with Disabilities Act:

- ▶ *In compliance with the ADA, if you need special assistance to participate in any City meeting (including assisted listening devices), please contact the City Clerk's Office (626) 333-2211. Notification of at least 48 hours prior to the meeting will assist staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting.*

Agendas and other writings:

- ▶ *In compliance with SB 343, staff reports and other public records permissible for disclosure related to open session agenda items are available at City Hall, 15625 East Stafford Street, Suite 100, City of Industry, California, at the office of the City Clerk during regular business hours, Monday through Friday 9:00 a.m. to 5:00 p.m. Any person with a question concerning any agenda item may call the City Clerk's Office at (626) 333-2211.*
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1. Call to Order
2. Flag Salute
3. Roll Call
4. Public Comments

5. **ACTION ITEMS**

- 5.1 Consideration of Resolution No. CC 2018-38 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDUSTRY, CALIFORNIA, AUTHORIZING AND DIRECTING THE ISSUANCE OF A LEGISLATIVE SUBPOENA FOR THE PRODUCTION OF BOOKS OR OTHER DOCUMENTS CONCERNING THE MASTER GROUND LEASE BETWEEN THE CITY OF INDUSTRY AND SAN GABRIEL VALLEY WATER AND POWER, LLC

RECOMMENDED ACTION: Adopt Resolution No. CC 2018-38.

- 5.2 Discussion and direction regarding termination of the Professional Services Agreement with Advantus Capital Management, Inc./Securian Asset Management, Inc. for investment adviser services

RECOMMENDED ACTION: Provide direction to staff.

6. Adjournment. The next regular City Council Meeting will be Thursday, August 9, 2018 at 9:00 a.m.

CITY COUNCIL

ITEM NO. 5.1

RESOLUTION NO. CC 2018-38

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDUSTRY, CALIFORNIA, AUTHORIZING AND DIRECTING THE ISSUANCE OF A LEGISLATIVE SUBPOENA FOR THE PRODUCTION OF BOOKS OR OTHER DOCUMENTS CONCERNING THE MASTER GROUND LEASE BETWEEN THE CITY OF INDUSTRY AND SAN GABRIEL VALLEY WATER AND POWER, LLC

WHEREAS, Section 37104 of the Government Code authorizes a City Council to issue a legislative subpoena “requiring attendance of witnesses or production of books or other documents for evidence or testimony in any action or proceeding pending before it”; and

WHEREAS, there exists a Master Ground Lease (and related amendments) (“Lease”) between the City and San Gabriel Valley Water and Power, LLC (“SGVWP”), concerning certain property set forth therein; and

WHEREAS, pursuant to the terms of the Lease, SGVWP sought, and received from the City, reimbursement for costs incurred by SGVWP in connection with exploring the feasibility of, and seeking approvals for, the planning and development of a solar project at the property subject to the Lease; and

WHEREAS, the City has since terminated the Lease on two occasions; and

WHEREAS, the City has received numerous public records requests concerning the Lease and the related reimbursements; and

WHEREAS, the City has requested from SGVWP, but not received, all documents evidencing work performed for which SGVWP has sought reimbursement under the Lease; and

WHEREAS, matters relating to compliance with contractual obligations, resolution of existing litigation, compliance with the California Public Records Act, and maintaining proper documentation for payments made by the City in preparation for audits, are proper legislative concerns, thereby proving that a legislative subpoena is an appropriate vehicle for investigative purposes; and

WHEREAS, a legislative subpoena pursuant to Government Code section 37104 may be authorized by a resolution of the City Council, and issued by the Mayor; and

WHEREAS, if the subpoenaed party does not comply once served, Government Code section 37106 requires the Mayor to submit a report to the Superior Court reporting the noncompliance and failure to appear.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF INDUSTRY, CALIFORNIA, HEREBY FINDS, DETERMINES, AND RESOLVES AS FOLLOWS:

Section 1. The above recitals are true and correct and are incorporated herein by reference.

Section 2.

- a. The Mayor is authorized and directed to issue the legislative subpoena attached hereto as Exhibit A, and incorporated herein by reference, directed to the personal most knowledgeable and/or custodian of records at San Gabriel Valley Water and Power, LLC, and commanding production of books or other documents and/or business records; and
- b. City staff is directed to serve the legislative subpoena immediately in accordance with all legal requirements for service of subpoenas; and
- c. If San Gabriel Valley Water and Power, LLC fails to comply with the legislative subpoena authorized by this Resolution, the Mayor is authorized and directed to immediately submit a report of noncompliance to the Los Angeles County Superior Court, in accordance with State law.

Section 3. The provisions of this Resolution are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the Resolution or their applicability to other persons or circumstances.

Section 4. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Industry at a special meeting held on July 26, 2018, by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

Mark D. Radecki, Mayor

ATTEST:

Diane M. Schlichting, City Clerk

SUBPOENA

In re: MASTER GROUND LEASE BETWEEN THE CITY OF INDUSTRY AND SAN GABRIEL VALLEY WATER AND POWER, LLC)))))	Subpoena for Personal Appearance and Production of Documents (California Government Code §§ 37104 <i>et seq.</i>)
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TO: CUSTODIAN OF RECORDS, SAN GABRIEL VALLEY WATER AND POWER, LLC

FROM: CITY OF INDUSTRY

YOU ARE ORDERED TO APPEAR AND TO PRODUCE RECORDS described in Section 5, below, as follows:

1. You are ordered to appear in person and to produce the records described in Section 5 at the City of Industry City Council Meeting on August 10, 2018 to be held at 9:00 a.m. (or as soon thereafter as the matter may be considered) in City Council Chambers located at 15651 E. Stafford Street, City of Industry, California.

2. The personal attendance of the custodian of records and the production of the records are required by this subpoena, unless compliance occurs as set forth in Section 3, below.

3. You are not required to appear in person at the City Council Meeting specified above, if you:

(a) Produce the records described in Section 5 to Troy Helling, Acting City Manager, (or his/her authorized designee), at City of Industry City Hall, located at 15625 E. Stafford Street, City of Industry, California; and

(b) The records produced are delivered prior to the City Council Meeting specified above at a time mutually acceptable to you and the Acting City Manager.

4. Definitions and Instructions:

(a) "Documents" means all writings, as that term is defined in California Evidence Code Section 250, including, but not limited to, all graphic magnetic, electronic, computerized or otherwise recorded matter, however produced or reproduced and whether or not now in existence, pertaining in any manner to the subject matter indicated, and includes, but not limited to, all originals, copies, non-identical copies (or copies different from the originals due to notes made on such copies or because of indications that such copies were sent to different individuals that the original or different for any other reason) and drafts of all (1) correspondence including e-mail, letters, telegrams, teletype messages, and cables; (2) statements, reports, maps, studies, notes, memoranda and forms; (3) diaries, calendars, appointment books, corporate minutes, telephone slips; (4) records, transcripts, computer printouts, recordings and memoranda of events, meetings, conferences or telephone conversations; and (5) ledgers, books of account, invoices, bills, expense account reports, vouchers and statements.

(b) Computer files, including but not limited to all electronic mail messages, shall be produced in electronic form, together with instructions and all materials necessary to use or interpret the data, including computer files. Electronic mail messages shall also be provided, even if only available on backup or archive tapes or disks.

5. The records in your possession or control to be produced for inspection are as follows:

(a) Documents pertaining to any advancements and/or reimbursements paid by the City of Industry to San Gabriel Valley Water and Power related to the Master Ground Lease between the City of Industry and San Gabriel Valley Water and Power, LLC, dated May 17, 2016 (“Master Ground Lease”), and all amendments thereto.

(b) Any and all documents relating to payments made to the following, for which San Gabriel Valley Water and Power, LLC submitted requests for reimbursement to the City of Industry: Ambient Communities, LLC; DAMG Alternative Energy, LLC; DAMG Advisors LLC; JGM Design, Inc., ZGlobal Inc.; Blue Oak Energy, LLC; Kimley-Horn and Associates, Inc.; Terracon Consultants, Inc.; Solar Engineering Consultants, LLC; Helix Environmental Planning, Inc.; Arcadis U.S., Inc.; Kitchell Construction, Inc.; Downey Brand LLP; Dechert LLP; Day Carter Murphy LLP; Orrick, Herrington & Sutcliffe LLP; Dongell Lawrence Finney LLP; Randall MacDougall; Forward Realty LLC; Brooks Kincaid; Sonia Wolcott; Dennis & Dennis, LLP; Finney Arnold LLP; Energeia USA, Inc.; Green Tech Coast LLC; M. Cubed; Rockport Investment Partners; Watermark Investment Partners; Chapman and Cutler; Houlihan Lokey; and Southern California Edison.

(c) Any and all documents relating to payments for which San Gabriel Valley Water and Power, LLC submitted requests for advancements and/or reimbursements to the City of Industry.

(d) Any and all documents, including invoices, submitted to San Gabriel Valley Water and Power, LLC concerning work performed or work to be performed concerning the feasibility, due diligence, development, and/or construction of a solar project on the property set forth in the Master Ground Lease between the City of Industry and San Gabriel Valley Water and Power, LLC.

(e) Any and all reports, memoranda, notes, documents and/or studies, concerning the feasibility, due diligence, development, and/or construction of a solar project on the property set forth in the Master Ground Lease between the City of Industry and San Gabriel Valley Water and Power, LLC.

(f) Any and all reports, memoranda, notes, and other documents and/or studies, concerning the feasibility, due diligence, development, and/or construction of a solar project on the property set forth in the Master Ground Lease between the City of Industry and San Gabriel Valley Water and Power, LLC, for which San Gabriel Valley Water and Power, LLC sought advancements and/or reimbursements from the City of Industry.

Dated: July 26, 2018

City of Industry

By: _____
Mark D. Radecki, Mayor

Attest:

By: _____
Diane M. Schlichting, City Clerk

Approved as to Form:

By: _____
James M. Casso, City Attorney

CITY COUNCIL

ITEM NO. 5.2

HANDOUT ITEM

(To be Distributed Prior to Meeting)