

CITY OF INDUSTRY

CITY COUNCIL SPECIAL MEETING AGENDA

MAY 25, 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 2018-16 – 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: Approve Resolution No. CC 2018-16.

- 5.2 Consideration of Resolution No. CC 2018-17 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDUSTRY, CALIFORNIA, APPROVING A DONATION TO THE INDUSTRY BUSINESS COUNCIL & CHAMBER OF COMMERCE IN AN AMOUNT UP TO NINETEEN THOUSAND DOLLARS (\$19,000.00) FOR THE SECOND ANNUAL TASTE OF THE TOWN EVENT

RECOMMENDED ACTION: Approve Resolution No. CC 2018-17.

6. Adjournment. The next regular City Council Meeting will be Thursday, June 14, 2018 at 9:00 a.m.

CITY COUNCIL

ITEM NO. 5.1

RESOLUTION NO. CC 2018-16

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 may seek reimbursement for cost 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 Lease allows the City to request evidence of any work performed for which SGVWP has sought reimbursement; and

WHEREAS, the City has received numerous public records request 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 Pro Tem 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 Pro Tem 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 May 25, 2018, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

Cory Moss, Mayor Pro Tem

ATTEST:

Diane M. Schlichting, City Clerk

SUBPOENA

In re: MASTER GROUND LEASE BETWEEN) Subpoena for Production of
THE CITY OF INDUSTRY AND SAN GABRIEL) Business Records
VALLEY WATER AND POWER, LLC) California Government
) Code §§37104 et seq.
)

TO: CUSTODIAN OF RECORDS, SAN GABRIEL VALLEY WATER AND POWER, LLC

FROM: CITY OF INDUSTRY

YOU ARE ORDERED TO APPEAR AND TO PRODUCE BUSINESS RECORDS described in Section 4, below, as follows:

1. You are ordered to appear in person and to produce the records described in Section 4 at the City of Industry City Council Meeting on June 14, 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 4 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. The records to be produced for inspection are as follows: business records 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, and all amendments thereto:

(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.

(c) 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.

(d) 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.

(e) 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.

(f) 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.

(g) 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: May _____, 2018

City of Industry

By: _____
Cory Moss, Mayor Pro Tem

Attest:

By: _____
Diane M. Schlichting, City Clerk

Approved as to Form:

By: _____
James M. Casso, City Attorney

CITY COUNCIL

ITEM NO. 5.2

RESOLUTION NO. CC 2018-17

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF INDUSTRY, CALIFORNIA APPROVING A DONATION TO THE INDUSTRY BUSINESS COUNCIL & CHAMBER OF COMMERCE IN AN AMOUNT UP TO NINETEEN THOUSAND DOLLARS (\$19,000.00) FOR THE SECOND ANNUAL TASTE OF THE TOWN EVENT

RECITALS

WHEREAS, the Industry Business Council & Chamber of Commerce (“IBC”) is a California non-profit, action-oriented business organization, serving the needs of its members, which includes various business located in the City of Industry; and

WHEREAS, the IBC is holding its second annual Taste of the Town event (“Event”) on June 8, 2018, at the Industry Hills Expo Center; and

WHEREAS, the Event serves as a fundraiser for local community based organizations, including the Industry Charity Events Council, formerly known as the Industry Hills Charity Pro Rodeo, the City of Industry Lions Club, the Hacienda Heights Kiwanis Club, the Delhaven Community Center, the Hacienda Heights Improvement Association, the Industry Hills Rotary Club, the Walnut Valley Rotary Club and the Soroptimist International of Puente Hills. These organizations provide a variety of valuable benefits to the community, including, but not limited to, scholarships for local youth, assistance with civic advocacy, humanitarian services for business and professional leaders, promoting principals of good government and good citizenship, and improving the lives of women and girls who face obstacles such as poverty, violence and teen pregnancy; and

WHEREAS, the IBC requested a donation from the City to assist with the costs associated with the Event; and

WHEREAS, the City’s donation serves a public purpose in that it allows the IBC to hold the Event, which serves as a valuable fundraiser to various community based organizations. These organizations provide services that enhance the lives of those who live and work in the City; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF INDUSTRY DOES HEREBY RESOLVE, DETERMINE, FIND, AND ORDER AS FOLLOWS:

SECTION 1: The City Council finds that all of the facts set forth in the Recitals are true and correct, and are incorporated herein by reference.

SECTION 2: The City's donation serves a public purpose in that it allows the IBC to hold the Event, which serves as a valuable fundraiser to various community based organizations. These organizations provide services that enhance the lives of those who live and work in the City.

SECTION 3: The City Council hereby approves a donation of up to Nineteen Thousand Dollars (\$19,000.00) to the IBC for the Event, upon submission of invoices for the cost of the Event by the IBC to the City, and subject to approval by the City.

SECTION 4: The Acting City Manager is hereby authorized and directed to take such other and further action consistent with this Resolution, in order to implement this Resolution on behalf of the City.

SECTION 5: 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 6: That the City Clerk shall certify to the adoption of this Resolution and that the same shall be in full force and effect.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Industry at a special meeting held on May 25, 2018, by the following vote:

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

Cory Moss, Mayor Pro Tem

ATTEST:

Diane M. Schlichting, City Clerk