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9 TELEPHONE: 619-231-5858  
10 FACSIMILE: 619-231-5853

11 ATTORNEYS FOR PETITIONERS  
12 CITRUS ST PARTNERS, LLC

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego  
**02/18/2020** at 04:00:00 PM  
Clerk of the Superior Court  
By Carolina Miranda, Deputy Clerk

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF SAN DIEGO, CENTRAL COUNTY DIVISION**

CITRUS ST PARTNERS, LLC,

PETITIONER,

v.

CITY OF LEMON GROVE; CITY  
COUNCIL OF THE CITY OF LEMON  
GROVE; AND DOES 1-10,

RESPONDENTS.

) CASE No: 37-2019-00064690-CU-MC-CTL  
)  
) **DECLARATION OF SUZANNE R.**  
) **VARCO IN SUPPORT OF**  
) **PETITIONER'S OPPOSITION TO KIM**  
) **INVESTMENTS, LLC'S EX PARTE**  
) **APPLICATION TO INTERVENE**  
)  
) Judge: Hon. Richard S. Whitney  
) Dept.: C-68  
) Date: February 19, 2020  
) Time: 8:45 a.m.  
)  
) Petition filed: December 5, 2019  
)  
)  
)

[IMAGED FILE]

DOES 11-20,

REAL PARTIES IN INTEREST.

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I, Suzanne R. Varco, hereby declare as follows:

1. I am a partner in the law firm of Varco & Rosenbaum Environmental Law Group LLP. I know the following of my own personal knowledge and if called as a witness, I could and would competently testify to the matters discussed herein.

2. I am the lead attorney for Citrus St Partners, LLC, the Petitioner in this action.

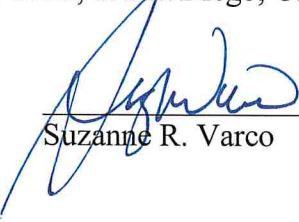
3. On February 14, 2020, I received an email from Richard Andrews informing me that he had scheduled an *ex parte* hearing in this Court on February 19, 2020 at 8:45 a.m. for the purpose of seeking an order to intervene in this matter or, alternatively, an order shortening time for hearing on KIM Investments' noticed motion for intervention currently scheduled for hearing on May 1, 2020. A true and correct copy of Mr. Andrews email and letter dated February 14, 2020 are attached as Exhibit 1.

4. On that same day, February 14, 2020, I responded to Mr. Andrews' email, informing him that I was unavailable on February 19, 2020, and requested that he continue KIM Investments' *ex parte* hearing to a later date. A true and correct copy of my February 14, 2020 email to Mr. Andrews is attached as Exhibit 2.

5. I received no response from Mr. Andrews, or any counsel or representative for KIM Investments, to my February 14, 2020 email.

I declare, subject to penalty of perjury under the laws of the state of California, that the foregoing is true and correct.

Executed this 18 day of February 2020, at San Diego, California.

  
\_\_\_\_\_  
Suzanne R. Varco

# **EXHIBIT 1**

## Suzanne Varco

---

**From:** Andrews, Richard <richard@austinlegalgroup.com>  
**Sent:** 2-14-20 1:30 PM  
**To:** Suzanne Varco; Grant Olsson; kss@ifap.com; aso@ifap.com  
**Cc:** Leetham, Tamara; Austin, Gina  
**Subject:** Ex Parte Notice for Feb. 19, 2020  
**Attachments:** 20-0214 Ex Parte Notice.pdf

Counsel:

Please see the attached notice regarding our ex parte hearing next week and let us know if you will be opposing and/or appearing.

Best,

Richard L. Andrews Jr., Esq.

Austin Legal Group, APC  
3990 Old Town Ave, Suite A-101, San Diego, California 92110  
Office Phone: 619.924.9600 // Office Fax: 619.881.0045  
[richard@austinlegalgroup.com](mailto:richard@austinlegalgroup.com)

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Austin Legal Group, APC

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SAN DIEGO, CA 92110

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FACSIMILE  
(619) 881-0045

Writer's Email:  
richard@austinlegalgroup.com

February 14, 2020

*Via E-Mail Only*

Suzanne R. Varco  
Grant R. Olsson  
Varco & Rosenbaum Law Group LLP  
225 Broadway, Suite 1900  
San Diego, CA 92101  
svarco@envirolawyer.com  
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Kristen S. Steinke  
Alena Shamos  
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960 Canterbury Place, Suite 300  
Escondido, CA 92025-3870  
kss@lfap.com  
aso@lfap.com

**Re: Ex Parte Notice- February 19, 2020  
Case No. 37-2019-00064690-CU-MC-CTL  
Citrus St Partners LLC v. City of Lemon Grove**

Counsel:

This letter constitutes notice that proposed intervenor KIM Investments, LLC will be appearing ex parte for an order to intervene in the above-titled case, or in the alternative, an order shortening time on its noticed motion for intervention set for May 1, 2020. The ex parte will be heard February 19, 2020 at 8:45 a.m. in Department C-68 of the San Diego County Superior Court located at 330 W. Broadway, San Diego, California 92101 before the Honorable Richard S. Whitney.

Please let us know whether you will be appearing and/or opposing our ex parte application.

Sincerely,

AUSTIN LEGAL GROUP, APC



Richard L. Andrews, Jr.

# **EXHIBIT 2**

## Suzanne Varco

---

**From:** Suzanne Varco  
**Sent:** 2-14-20 2:22 PM  
**To:** Andrews, Richard; Grant Olsson; kss@lfap.com; aso@lfap.com  
**Cc:** Leetham, Tamara; Austin, Gina  
**Subject:** RE: Ex Parte Notice for Feb. 19, 2020

Richard,

Thank you for providing KIM's *ex parte* notice. The KIM Investments opposition papers to our *ex parte* motion (heard earlier this week) stated that KIM's *ex parte* was set for February 18. Ms. Leetham also represented to the court at this week's *ex parte* hearing that KIM's *ex parte* hearing was set for February 18. Consequently, we adjusted our calendars to be available on February 18. I, unfortunately, have an unavoidable conflict on February 19 (the date stated in your notice), and would ask that you continue KIM's *ex parte* hearing to a later date.

Additionally, while we do object to the court ruling on KIM's motion for intervention at an *ex parte* hearing, particularly when lead counsel for a party in the case is unavailable, we have no objection to the court shortening time to advance the hearing on KIM's motion to intervene to an earlier date convenient for all parties.

Suzanne

**Suzanne R. Varco**  
**Environmental Law Group LLP**  
**Varco & Rosenbaum**  
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---

**From:** Andrews, Richard <richard@austinlegalgroup.com>  
**Sent:** Friday, February 14, 2020 1:30 PM  
**To:** Suzanne Varco <svarco@envirolawyer.com>; Grant Olsson <golsson@envirolawyer.com>; kss@lfap.com; aso@lfap.com  
**Cc:** Leetham, Tamara <tamara@austinlegalgroup.com>; Austin, Gina <gaustin@austinlegalgroup.com>  
**Subject:** Ex Parte Notice for Feb. 19, 2020

Counsel:

Please see the attached notice regarding our ex parte hearing next week and let us know if you will be opposing and/or appearing.

Best,

Richard L. Andrews Jr., Esq.

Austin Legal Group, APC  
3990 Old Town Ave, Suite A-101, San Diego, California 92110  
Office Phone: 619.924.9600 // Office Fax: 619.881.0045  
[richard@austinlegalgroup.com](mailto:richard@austinlegalgroup.com)

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