



City Council of Monterey Park
The City Council Acting on Behalf of the Successor Agency of the Former Redevelopment Agency, the Housing Authority, the Monterey Park Financing Authority and the Monterey Park Geologic Hazard Abatement District Agenda

Special Meeting
Monterey Park City Hall, Room 266
320 W. Newmark Avenue, Monterey Park, CA 91754

Wednesday, March 18, 2026
5:30 PM

Mission Statement

The mission of the City of Monterey Park is to provide excellent service, foster growth and opportunity, and create a joyous and collaborative environment.

Land Acknowledgment

We would like to acknowledge that the land we inhabit today was once known as Tovangaar, the home of the Gabrieleño-Tongva people. We show our respect to the Gabrieleño-Tongva people, as well as all Indigenous people, past, present, and future, and honor their labor as original caretakers of this land. We commit to uplifting the Gabrieleño-Tongva people, invite you to acknowledge the history, and join us in caring for this land.

General Information

Documents related to an Agenda item are available to the public in the City Clerk's Office located at 320 West Newmark Avenue, Monterey Park, CA 91754, during normal business hours and at www.montereypark.ca.gov/agendas.

Per the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please email City Hall at mpclerk@montereypark.ca.gov or call (626) 307-1359 for reasonable accommodation at least 8 hours before a meeting. Council Chambers are wheelchair accessible.

Pursuant to Government Code § 54954.3(a), the public may address the City Council only on matters listed on this Agenda. No other public comment will be accepted. Pursuant to Rule 5 of Resolution No. 12226 (adopted February 17, 2021), speakers are limited to a total of five minutes for Public Comment. If desirable, the Mayor and City Council may change the amount of time allowed for speakers. Written Communication will be accepted up to 3 hours before the meeting by completing an online form at www.montereypark.ca.gov/writtencomm.

The City Council will recess into Closed Session following public comment and the Open Session items, if any. Public participation is not allowed during Closed Session.

1. Call to Order

Mayor

2. Roll Call

Henry Lo, Vinh Ngo, Jose Sanchez, Thomas Wong, Elizabeth Yang

3. Telecommunications Announcement, if requested

4. Public Communications

5. Closed Session

Upon conclusion of Closed Session, the Mayor and/or City Attorney will announce any reportable actions in accordance with the Brown Act.

5.A. Conference With Legal Counsel—Anticipated Litigation (Threat of litigation pursuant to Government Code § 54956.9(d)(2)): One matter.

Facts and Circumstances: See attached letters dated February 4, 2026, February 10, 2026, and March 4, 2026.

6. Adjournment

From: [James Pugh](#)
To: [Yang, Elizabeth](#); [Lo, Henry](#); [Sanchez, Jose](#); [Wong, Thomas](#); [Ngo, Vinh T.](#)
Cc: [MPClerk](#); [Alvarez, Inez](#); [Hou, Timothy](#); [Berger, Karl H.](#); [Munoz, Eliana](#); [Bryan Marsh](#); [Chris Flynn](#); [Scott Rynders](#); [Kent Raygor](#); [Rocky Delgadillo](#); [Jeff Snow](#)
Subject: Council Hearing Agenda Item 9.A - 1977 Saturn - Preserving Legal Issues for Record
Date: Wednesday, February 4, 2026 3:34:40 PM
Attachments: [1977 Saturn - Data Center Item 9.A - 2.4.26.pdf](#)
Importance: High

[EXTERNAL EMAIL]

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

City Councilmembers and City Staff,

As you know, the process around the data center project has devolved. Other members of the applicant team are working with the city and community to advance the project.

Our focus is legal. The applicant prefers not to litigate, but the city's actions are forcing the issue. We oppose a ban on data centers and request the city not take such action, in any manner.

The attached letter is for your consideration and the administrative record.

Regards,

James E. Pugh | Partner
SheppardMullin | Costa Mesa
+1 714-424-2854 | ext. 12854
+1 949-877-4891 | mobile

From: James Pugh
Sent: Tuesday, December 2, 2025 8:54 AM
To: 'eyang@montereypark.ca.gov' <eyang@montereypark.ca.gov>; 'hlo@montereypark.ca.gov' <hlo@montereypark.ca.gov>; 'josanchez@montereypark.ca.gov' <josanchez@montereypark.ca.gov>; 'twong@montereypark.ca.gov' <twong@montereypark.ca.gov>; 'vngo@montereypark.ca.gov' <vngo@montereypark.ca.gov>
Cc: 'MPClerk' <MPClerk@MontereyPark.ca.gov>; 'ialvarez@montereypark.ca.gov' <ialvarez@montereypark.ca.gov>; 'thou@montereypark.ca.gov' <thou@montereypark.ca.gov>; 'kberger@bwslaw.com' <kberger@bwslaw.com>; 'emunoz@montereypark.ca.gov' <emunoz@montereypark.ca.gov>; 'Bryan Marsh' <bmarsh@stratcap.com>; Chris Flynn <cflynn@stratcap.com>; Scott Rynders <scott@rynderscorp.com>
Subject: 1977 Saturn - Litigation Risk Letter
Importance: High

Dear Honorable Mayor and City Council Members,

Attached is an important letter that summarizes key information about the 1977 Saturn project. We prepared this letter for the City to provide simple answers to recent questions and provide facts about the project. We respectfully ask that you review it before the City Council hearing on December 3, 2025 to facilitate informed decision making.

Thank you,

James E. Pugh | Partner
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JPugh@sheppardmullin.com | [Bio](#)

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Attention: This message is sent by a law firm and may contain information that is privileged or confidential. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.

February 4, 2026

File Number: 89AF-371175

VIA E-MAIL

City Council
City of Monterey Park
320 W. Newmark Avenue
Monterey Park, CA 91754
Email: c/o City Clerk,
MPCLerk@montereypark.ca.gov

Re: 1977 Saturn Data Center Project – Agenda Item 9.A on City Council Agenda

Dear Mayor and City Councilmembers,

We represent HMC StratCap 1977 Saturn, LLC (“Applicant”) regarding its data center project (“Project”) located at 1977 Saturn Street (“Project Site”) in the City of Monterey Park (“City”). It is clear to us that the City’s actions against the Project, especially lately, have become hostile. Item 9.A on the agenda for the February 4, 2026 city council meeting is yet another step evidencing the City’s ill will and bias against the Project and/or Applicant. We oppose and object to Item 9.A and request that the City not impose a data center ban in any manner. The City’s actions are subjecting it to potential litigation risks and financial liability as discussed below.

The Applicant’s preferred path for the Project is to work with the City to responsibly permit the Project and engage the community in a reasonable manner. However, since early December 2025, the city council has essentially reversed its position on the Project in a manner that amounts to an abuse of discretion and is contrary to evidence in the record. As we have previously noted, as recently as November 19, 2025, the City issued a staff report for the Project finding that it would not create significant impacts on the environment. That finding was backed by the City’s own environmental review pursuant to the California Environmental Quality Act (“CEQA”). The City hired an independent CEQA consultant to ensure that the City’s Initial Study/Mitigated Negative Declaration (“IS/MND”) adequately analyzed impacts. Similarly, the City prepared a draft ordinance (for potential approval of the Project) stating that, based on the evidence presented to the city council, the City need not prepare further environmental review. Nonetheless, the City has now flipped its position (regarding environmental review and a potential ban on data centers) and appears to have crossed the line into advocacy against the Project. The City’s flip was tied directly to, and may be in concert with, certain project opponents, and was not based on credible evidence. Those actions are unlawful and demonstrate that councilmembers are no longer neutral and unbiased.

With nearly every step in the administrative process, the City has established roadblocks, created delay, used administrative tools to undercut the Project, and generally abused its

discretion. Similarly, the councilmembers' statements to the press, coordination with opponents, and public deliberations on the data center matter demonstrate that there is an unacceptable probability of bias, and likely actual bias, on the part of a municipal decisionmaker. The Project contains quasi-adjudicatory and quasi-legislative actions combined, which triggers strict legal protocols. Accordingly, we must preserve issues for the administrative record and intend to further demonstrate the City's unlawful actions. At this time, we merely preserve certain issues for the record as the City considers a data center ban, and a potential ballot measure, to accomplish the same. We see the City's actions as politically-motivated steps, unsupported by evidence or law, intentionally designed to strip the Applicant's legal rights.

The City's effort to enact a city-wide ban of data centers also would result in an unconstitutional taking in violation of the California and United States Constitutions. In addition, the City's use of long-duration moratoriums, that are unsupported by evidence, alone can lead to liability for an unconstitutional taking. The City knows, and a court of law ultimately would understand, that the City's actions here are focused on the Applicant's property and Project. There is no hiding that fact regardless of the City's attempts to cloak the truth by claiming its actions are generally applicable to data center uses. The Applicant's project is the one and only proposed data center in the City – and the City's actions are clearly targeted at just the Applicant and this Project. The City has toggled between moratoriums, permanent bans, and other regulatory constraints that when viewed holistically demonstrate the City's unlawful acts. We reserve all rights to pursue a takings claim against the City.

The City also is violating the Applicant's substantive and procedural due process rights. Land use decisions, like all government actions, are subject to the substantive requirements of the federal and state due process clauses. Substantive due process guards against arbitrary and capricious government action, even when the decision to take that action is made through procedures that are in themselves constitutionally adequate. The City's flip-flopping based purely on public opposition and political pressure is not a basis for the city council to arbitrarily and capriciously implement measures to kill the Project, especially in the face of strong evidentiary support for the Project. Likewise, the law requires procedural due process, including but not limited to, the provision of adequate notice and an opportunity to be heard before a governmental deprivation of an individual's life, liberty, or property. Such procedural due process requires a fair hearing and administrative process. Here, the City has been anything but fair. Instead, the City has, in bad faith, repeatedly coerced and baited the Applicant into certain private decisionmaking while flaunting applicable legal procedures during public decisionmaking. We reserve all rights to pursue due process claims against the City.

The City also is violating equal protection laws. When a land use action is motivated by ill will or subjective action wholly unrelated to any legitimate state objective, an equal protection claim may be sustained as establishing that the government action is irrational. Of course, an equal protection claim can rest on additional legal constructs, which also apply in this matter. The City's actions of late have been reactionary, and based on public pressure, that the councilmembers perceive as politically threatening. As a result, the councilmembers have exhibited vindictive action and illegitimate animus toward the Applicant and the Project, which is not based on fact or evidence. Moreover, it seems clear from council hearings, and independent actions of certain city staff and elected officials, that the City is acting on improper motive and

February 4, 2026

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shirking the duties of legitimate informed decisionmaking. Even if a government action has a rational basis on its face, an equal protection challenge to the action can be based on a claim that the proffered rationale for the action is pretextual. Similarly, the City's actions on their face apply to the Project alone, as evidenced by councilmembers' own deliberations, and because the Applicant's project is the only data center proposed in the City. Examining the record in this matter, especially the recent actions of the City, demonstrates pretext for denial of the Project. All of this is within the context of the City deviating from its own rules wherein the data center is consistent with the general plan land use designation and permitted uses in the municipal code. These issues and other evidence of unlawful acts will be exposed in the disclosure of public records and communications, discovery, and depositions. We reserve all rights to pursue equal protection claims against the City.

In conclusion, the Applicant prefers not to litigate this matter, but the City's actions are forcing the issue. While we believe there are workable solutions to revitalize the chronic vacancy plaguing Saturn Park, we cannot sit idly by while the City tramples the Applicant's legal rights. The City's actions also appear shortsighted, and based primarily on a vocal contingent of people that are lying loudly about the characteristics of the Project. Recall, some of those same people have threatened you with political and physical violence; and are rage-baiting an uninformed mob to pressure your decisionmaking. There is an opportunity here to cut through the noise – and work with the genuinely concerned residents of the City – to find a mutually acceptable solution for the City, Applicant, and interested residents. However, no parties can embrace that opportunity if the City continues its onslaught of unlawful and reactionary actions against the Project. This Project would be an economic engine for the City and can be constructed and operated in an environmentally sensitive manner. The Project would provide the City with recurring revenue to address the City's most pressing social and structural issues, all without stressing the City's tax base or its fire and life safety services. That would be a direct benefit for the City's residents and businesses. Moreover, the Applicant has demonstrated its willingness to prove the environmental soundness of the Project and provide the community with tangible benefits that improve neighborhood connectivity and establish new open space that can be enjoyed by all. The City is on the verge of squandering those opportunities in exchange for litigation risk and economic damages.

Regards,



James E. Pugh
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

February 4, 2026

Page 4

cc:

mpclerk@montereypark.ca.gov

Inez Alvarez, City Manager, ialvarez@montereypark.ca.gov

Timothy Hou, Director of Community Development, thou@montereypark.ca.gov

Karl Berger, City Attorney, kberger@bwslaw.com

Bryan Marsh, StratCap

Chris Flynn, StratCap

Scott Rynders, The Rynders Corporation

Kent R. Raygor, Sheppard Mullin

Rockard J. Delgadillo, Sheppard Mullin

SMRH:4890-6474-8275.2



February 10, 2026

VIA E-MAIL

City Council
City of Monterey Park
320 W. Newmark Avenue
Monterey Park, CA 91754
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Kent R. Raygor
+1.310.228.3730
kraygor@sheppard.com

File Number: 89AF-371175

Re: Notice Of Duty To Preserve Evidence

Dear City of Monterey Park and City Councilmembers:

As you know, we represent HMC StratCap 1977 Saturn, LLC ("**Applicant**") regarding the proposed data center project ("**Project**") at 1977 Saturn Street ("**Project Site**") in the City of Monterey Park. The City of Monterey Park has an existing and continuing obligation under state and federal law to preserve all evidence relating to the Project.

Please take immediate steps to ensure that the City of Monterey Park, its City Council (including Councilmembers Thomas Wong, Elizabeth Yang, Jose Sanchez, Henry Lo, Vinh T. Ngo, and any other individuals who have served at any time on the City of Monterey Park City Council since January 1, 2023), its City Manager (Inez Alvarez), its Director of Community Development (Timothy Hou), its City Attorney (Karl Berger), and its (prior since January 1, 2023 and current) employees, its staff, and all persons and entities who are in active concert or participation with the City of Monterey Park or who are associated or affiliated with the City of Monterey Park (collectively, the "**City**"), and any special consultants to the City, including but not limited to, Talbot Consulting Group (Paul Talbot) and Willdan (Jeffery Anderson) preserve and maintain, and do not alter or modify in any manner, the following documents, communications, information, electronically-stored information ("**ESI**"), data, devices, and materials¹:

¹ As used in these enumerated items:

- "**ESI**" includes information stored on digital systems, networks, and devices. Digital systems, networks, and devices include systems, networks, and devices that are currently in use and that are no longer in use. Digital systems networks, and devices also include systems, networks, and devices to which the City does not have immediate proximity, but over which it has agency. Examples include, without limitation, servers, computers, laptops, smartphones and tablets, messaging systems, digital devices, and cloud and other repositories.

The term "ESI" should be afforded the broadest possible definition. It includes, by way of example and not limitation, potentially relevant information stored electronically, magnetically, or optically as digital communications (e.g., e-mail, groupware, voicemail, and text, direct or private messages), word-processed documents and drafts, spreadsheets and tables and worksheets, sound recordings (e.g., .WAV and .MP3 files), databases, calendar and diary application data (e.g., Outlook PST), and backup and archival files.

ESI resides within electronic, cloud-based, magnetic, and optical storage media. Some ESI might reside in areas the City deems reasonably accessible. Some ESI might reside in areas the City

1. All mobile phones, smartphones, wearable technology devices, computers, tablets, laptops, and handheld wireless devices belonging to or used by the City and its special consultants since January 1, 2023, as well as all cloud-based, computer, and other data backup and archival systems or accounts used to back up or archive data in such devices and tangible things. ***Note that, if it becomes necessary, we intend to have such devices and tangible items delivered to and inspected by a third-party data recovery and forensic expert/analyst pursuant to CALIFORNIA CODE OF CIVIL PROCEDURE §§ 2031.030(1) and (4) so please make sure that all devices and all data and communications on such devices are preserved.***
2. All Documents, ESI, Social Media Messaging, and Tangible Things that reflect, concern, mention, or relate to: (a) all entities associated with the Applicant; (b) applications for the Project; (c) the Project and its entitlements; (d) data centers and similar permitted uses; (e) the property located at 1977 Saturn Street; (f) McCaslin Park; (g) Saturn Park; (h) the Saturn Park Advisory Review Committee ("SPARC"); (i) the Saturn Park Innovation/Technology Zone ("SPITZ"); (j) all data center and project-related ordinances, moratoriums, and city actions; (k) staff reports; (l) environmental review documents; (m) related communications with California State Legislators; (n) related communications with teachers' unions and other union groups; (o) related communications with activist groups and their

deems not reasonably accessible. ESI stored in both areas must be preserved so as not to deny the Applicant's right to examine such evidence or impact the City's obligation to secure the evidence or a court's ability to adjudicate any issues if necessary.

- **"Tangible Things"** includes, but is not limited to, all work-related, home or personal computers, tablets, laptops and servers, handheld wireless devices, wearable technology devices (e.g., smartwatches), mobile phones and smartphones, PDAs, electronic archives, computer hard drives, removable data storage devices, back-up tapes, thumb drives or other back-up storage media, video content, audiovisual content, photographs, and calendars.
- **"Documents"** is used herein in the broadest sense possible and shall mean and include, without any limitation, any and all "writings" as that term is defined by CALIFORNIA EVIDENCE CODE § 250, papers, correspondence, notes, letters, facsimiles, transmittals, bulletins, policies, binders, file folders, printed matter, notebooks, minutes, agenda, memoranda, calendars, calendar entries, files, studies, forecasts, surveys, appraisals, invoices, statements, notes of meetings or interviews or telephone conversations, press releases, recordings of meetings or conversations or interviews either in writing or made upon any mechanical, electronic or electrical recording device, computer inputs or outputs, or any other written, graphic, or recorded representations or communications whatsoever, and any other form of communication or representation including letters, records, pictures, film, videotape, sounds, symbols, or communications thereof. The term "documents" also shall include all (a) communications (whether written, oral or electronic), including all letters, telefaxes, emails, text, direct or private messages, snapshots, letters, notes, minutes, correspondence, conferences, conversations, meetings, telephone calls, discussions, negotiations, acts, events, transactions, telegrams, handwritten transcriptions, and computer transcriptions; (b) content on websites, blogs, vlogs, and social media platforms; and (c) any and all drafts or "work-in-progress" versions of the foregoing.
- **"Social Media Messaging"** includes SMS texts, MMS messages, posts, tweets, direct messages DMs, private messages (PMs), videos, snaps, or messages on any social media platform, including, but not limited to: WhatsApp; WeChat; Instagram; YouTube; Twitter; X; TikTok; Slack; Pinterest; Facebook; Snapchat; LinkedIn; Viber; Telegram; Google Hangouts; Voxer; HeyTell; Talkatone; and Silent Phone.

members, including but not limited to, San Gabriel Valley Progressive Action; (p) related communications with teachers unions; and (q) related communications with media and press.

3. All Documents, ESI, Social Media Messaging, and Tangible Things reflecting any communications (whether written, oral or electronic, including, but not limited to, communications and content through Google, Yelp, Twitter/X, Instagram, and YouTube) that reflect, concern, mention, or relate any of the items listed in paragraph 2, above.

All of the foregoing is collectively referred to hereinafter as the “**Written And Electronic Information To Be Preserved**”.

Note that the obligation to preserve and maintain, and not alter or modify in any manner, such Written And Electronic Information To Be Preserved extends to all persons and entities with whom the City has had any communications or meetings. The City should reach out to all such persons and entities and ensure that they are on notice to preserve and maintain, and not alter, destroy, delete or modify in any manner, all such Written And Electronic Information To Be Preserved.

Please ensure that the City maintains all such Written And Electronic Information To Be Preserved and prevents any alteration, destruction, deletion, or modification of it—intentional or unintentional. The City must put a document and data retention policy in place that preserves at least the following:

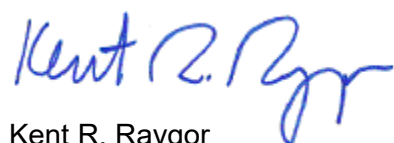
- All e-mails, texts, ESI, and Social Media Messaging concerning, reflecting, or containing Written And Electronic Information To Be Preserved. ***The City must not delete any e-mails, texts, ESI, Social Media Messaging, or other communications, whether maintained in servers or text accounts belonging to, or used by, the City.***
- All electronic databases, files and file fragments, including, but not limited to, word processing files and files from electronic calendars and scheduling programs, work-related, home or personal computers, tablets, laptops and servers, handheld wireless devices, wearable technology devices, mobile phones and smartphones, PDAs, electronic archives, computer hard drives, removable data storage devices, back-up tapes, thumb drives or other back-up storage media, and other devices upon which Written And Electronic Information To Be Preserved is or might have been stored.
- All systems and computer hard drives, removable data storage devices, back-up tapes or other back-up or archival storage media, including those no longer in use, that might be storing or might at one time have stored files or file fragments concerning, related to, or containing Written And Electronic Information To Be Preserved.
- Any other electronic data concerning, reflecting, or containing Written And Electronic Information To Be Preserved—***including, but not limited to, any and all metadata associated with such Written And Electronic Information To Be Preserved.***

The City must immediately stop any activity, including, but not limited to, deletion, rotation, destruction, disposal, replacement, overwriting and erasure, in whole or in part, that might result in the loss, deletion or alteration of any Written And Electronic Information To Be Preserved. To the extent any changes are made to electronic data processing or storage devices or systems, the City must maintain an activity log documenting such changes. With respect to fixed drives on stand-alone personal computers and networked workstations, the City must not alter or erase Written And Electronic Information To Be Preserved, and must not perform other procedures (such as data compression or disk re-fragmentation or optimization routines) that might affect or impact the Written And Electronic Information To Be Preserved stored therein, unless a true and correct copy has been made of all active files and file fragments, and all directory listings, including hidden files, for all directories and subdirectories containing such files, and arrangements have been made to preserve such copies during the pendency of this matter.

Finally, please note that, if the City fails to fully preserve and maintain all such materials, this failure could constitute spoliation of evidence and could subject the City to serious additional liability. See *Golden Door Properties, LLC v. Superior Court*, 53 Cal. App. 5th 733, 746 (2020) (“a lead agency may not destroy, but rather must retain, writings [that Public Resources Code] section 21167.6 mandates for inclusion in the record of proceedings”); *Wm. T. Thompson Co. v. General Nutrition Corp.*, 593 F. Supp. 1443, 1455 (C.D. Cal. 1984); *Kronisch v. United States*, 150 F.3d 112, 130 (2nd Cir. 1998); *Sensonics, Inc. v. Aerosonic Corp.*, 81 F.3d 1566, 1575 (Fed. Cir. 1996); *Mathias v. Jacobs*, 197 F.R.D. 29, 37 (S.D.N.Y. 2000); *Bayoil, S.A. v. Polembros Shipping Ltd.*, 196 F.R.D. 479, 482 (S.D. Tex. 2000); *Silvestri v. General Motors Corp.*, 271 F.3d 583, 591 (4th Cir. 2001); *Residential Funding Corp. v. DeGeorge Financial Shipping Ltd.*, 306 F.3d 99, 107 (2nd Cir. 2002); *Cedars-Sinai Medical Center v. Superior Court of Los Angeles County*, 18 Cal. 4th 1 (1998); CALIFORNIA EVIDENCE CODE § 413; CALIFORNIA PENAL CODE § 135; CALIFORNIA PUBLIC RESOURCES CODE § 21167.6.

The statements in this letter do not constitute a full and complete statement of the facts of, or our client’s rights or defenses with regard to, this matter, nor do such statements constitute a waiver of any of our client’s legal or equitable rights or defenses, all of which are expressly reserved.

Very truly yours,



Kent R. Raygor
for SHEPPARD MULLIN RICHTER & HAMPTON LLP

cc: Karl H. Berger, City Attorney, kberger@bwslaw.com
James E. Pugh, Sheppard
Jack H. Rubens, Sheppard
Rockard J. Delgadillo, Sheppard

SMRH:4932-6022-4909.1



Received 7:40pm
3/4/2026. [Signature]

March 4, 2026

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jpugh@sheppard.com

File Number: 89AF-371175

VIA ELECTRONIC MAIL

City Council
City of Monterey Park
320 W. Newmark Avenue
Monterey Park, CA 91754
Email: c/o City Clerk,
MPClerk@montereypark.ca.gov

Re: Data Center Moratorium and Ballot Proposition – Agenda Items 11.B & 12.A

Dear City Council Members:

We represent HMC StratCap 1977 Saturn, LLC (“Applicant”) regarding its data center project (“Project”) located at 1977 Saturn Street (“Project Site”) in the City of Monterey Park (“City”). We reviewed the City’s agenda package for the March 4, 2026 hearing. As expected, the City continues its attack on the Project while claiming that its actions are not targeted at the Applicant. The administrative record proves otherwise.

In addition, our discussion below further demonstrates that the City is unlawfully scheming to kill the Project while trying to simultaneously cloak its moves with claims of legislative immunity and ultimately shifting decision-making about the Project to the ballot to avoid litigation risks. The City’s staff reports, draft resolutions and ordinances, and even the proposed proposition, are clearly biased, lack impartiality, and are riddled with false statements. All of this is simply pretext for denial of the Project one way or another. The Council’s proposed actions exacerbate the City’s litigation risks.

In any case, our request of the City Council is: (1) do not extend the data center moratorium; and (2) do not proceed with a ballot proposition, for June 2026, to ban data centers citywide. We object to both proposed actions. Proceeding with these actions is not supported by evidence or law.

I. There is No Legitimate Evidence or Purpose to Extend the Moratorium.

Item 11.B on the City’s March 4, 2026 agenda proposes to amend, and extend, existing Urgency Ordinance No. 2272 until January 21, 2027. This is yet another biased City tactic to delay and undercut the Project into an eventual denial. As you know, the City has previously found that the Project did not result in significant impacts on the environment and therefore does not pose a threat to the public health, safety or welfare. In addition, the City has not provided

any evidence to support its claim that data centers – proposed in the City – threaten public health. Moreover, the City has not provided evidence of any significant change in conditions or circumstances, related to the Project specifically, or data centers generally, that warrants extending the moratorium. In fact, the only thing that has changed between November 19, 2025 (i.e., when the City found that the only data center proposed in the City would not have an impact on the environment) and now is that a group of opposition activists have threatened the political future of the City Councilmembers. That occurrence triggered the City's reversal of its prior evidence-based position on the Project. Now, the City has built a glasshouse of ordinances, ballot propositions, and sham findings that reverse the City's prior findings in California Environmental Quality Act ("CEQA") documents, and planning department determinations based on the municipal code, that demonstrated a moratorium is not warranted. Plainly speaking, and as demonstrated in the record, this was done for the sole and specific purpose of defeating the Project. The City's claims otherwise are hollow – and its leadership knows that fact is true.

Furthermore, we point out that the litigation risk here is real regardless of the City's claim of "legislative immunity." Legislative power is not fully unfettered nor immune from the law. While normally courts may choose not to inquire into legislative motive, legislative purpose is a factor to be considered in determining whether a City's land use actions are invalid as discriminatory. The principle limiting judicial inquiry into the legislative body's police power objectives does not bar scrutiny of discrimination against a particular parcel of property. The law provides that a city cannot unfairly discriminate against a particular parcel of land, and the courts may properly inquire as to whether the scheme implemented by the City here has been applied fairly and impartially. Be honest with yourselves – you know the web spun here is not impartial. The record is chock full of examples of discriminatory purpose. We intend to expose that point widely if the City continues forcing the Applicant to litigate this matter.

The proposed ordinance amending Ordinance No. 2272 is merely one example of the deceit and discrimination against the Project. Below are more specific examples of how the City's proposed moratorium extension is discriminatory. To start with, the City Attorney is trying to cover his tracks by amending the moratorium from applying only to Saturn Park (which clearly targeted the Project Site at 1977 Saturn Street) to now applying citywide . . . even though there are no other data centers being proposed or considered within the City. Next, the City continues claiming (in Section 2.C) that "any decision regarding data centers within Saturn Park are completely discretionary for the City Council." That statement is not true and is meant to cloud the truth that the decision to approve a data center in Saturn Park involves both legislative actions and quasi-judicial actions, which further curtail the City Council's discretion. Here, the City Council is abusing its discretion on both fronts. Also, the City's fake finding (in Section 2.D) that the moratorium extension is necessary "to prevent frustration of these studies and the implementation of new regulations [for data centers] . . . requires enactment of this Ordinance" is nonsense. The City is rushing a ballot proposition forward concurrently with the proposed moratorium extension. If passed, that proposition would preclude the City from developing data centers, let alone data center regulations. So, in essence, the moratorium has locked the Applicant in place (even prohibiting the processing of its application) while the City escalates its attack with a ballot proposition. The City's findings are a façade meant to appear legitimate, but are so clearly not. Likewise, the City's baseless finding (in Section 2.E and 4.C) that the moratorium is necessary to protect the City from the energy, noise, air quality, and aesthetics impacts of a data center lack merit and supporting evidence. The City produced a detailed CEQA document that proves otherwise. In contrast to that scientific and project-specific evidence, the best evidence (included in its staff reports) the City can seem to muster for the

moratorium is rehashed press articles about data centers in Virginia and Texas, which are wildly inapplicable compared to the design, size, technology, and operational characteristics of the Project in the City. Wholly inaccurate evidence is not substantial evidence.

Likewise, the City's claims about the duration of the moratorium lack important context for several reasons. One, this is the second time the City imposed a moratorium on data centers in the City. As the record shows, and our prior letters demonstrate, the City first imposed a moratorium on the Project in June 2024. That moratorium was clearly designed to pressure the Applicant into negotiations with the City about entitlements and exactions for the City's benefit. Miraculously (or more accurately, consequently), once the City extracted its desired position from the Applicant, the City terminated the moratorium, and continued processing the Project. Now, approximately 18 months later, the City is yet again using virtually the same moratorium to stop processing the Project, and ultimately kill it with a ballot proposition. Accordingly, the City's claims (in Section 2.G and Section 4) that the moratorium(s) are "short duration" and "will not in any way deprive any persons of rights granted by state or federal laws" are flatly false. The City's repeated use of moratoriums to initially stall the Applicant's administrative process, and then to halt the process completely (until January 2027) while the City introduces a Project-killing ballot proposition (for a June 2026 vote), are a clear pattern of targeted discrimination and abuse of power. The City's actions and regulation have: (a) undermined the Applicant's distinct investment-backed expectations; (b) imposed harsh economic effects on the landowner; and (c) are laced with ill-willed character of government action, which collectively ripens this situation into a takings claim.

We incorporate all prior arguments and evidence in the record regarding the unlawfulness of the moratoriums. For the reasons therein and above, we request that the City Council not extend the existing moratorium.

II. The City's Proposed Ballot Proposition is Prejudiced and Not Impartial.

The City's proposed data center measure is facially, and unlawfully, prejudiced against data centers. The Elections Code requires the statement of the measure to be a true and impartial synopsis of the purpose of the proposed measure, and it shall be in language that is neither argumentative nor likely to create prejudice for or against the measure.

Here, just as it has done throughout the administrative process for the Project, the City is setting up the ballot proposition with bias. The proposition is impermissibly partisan. We expect the City Attorney's forthcoming "impartial analysis" of the proposition to be equally misleading and biased in favor of prohibiting data centers. Specifically, the proposition (captioned "Community Act Prohibiting Data Centers") states that "[s]hall the ordinance amending the City of Monterey Park General Plan to prohibit data centers citywide to protect air quality, drinking water resources, and public health; prevent impacts to electricity and water rates; with the prohibition of data centers continuing until ended by the voters, be adopted?" The proposition is written in a manner that would greatly prejudice voters in favor of the measure, and it presents the classic Hobson's choice of: either protecting resources, health, and utility rates; or permitting data centers. That intentional paradox is deceitful by the City, and unlawful and untrue for several reasons.

To start with, the language signals to voters the City Council's view of how they should vote (i.e., to "prohibit" data centers), and it casts an unfavorable light upon data centers by coupling data centers with lightning rod issues such as environmental impacts, utility rates, and

public health; and all of that is against the backdrop of the City's own administrative record that demonstrates the data center proposed in the City has none of those impacts. Accordingly, the proposition disparages data centers and favors the City's particular partisan position to deny the Project and prohibit all data centers.

In addition, the text of the ballot question contains a more extensive flaw rendering it inconsistent with the applicable Elections Code provisions. The central phrasing of the ballot question (including the operative words " . . . to prohibit data centers citywide to protect . . . ") pits data centers against other issues voters may care about even though the City has not provided evidence of the causal relationship between the data center and the lightning rod issues weaved into the narrative of the proposition. In other words, the proposition promotes the prohibition of data centers by implying that voters must approve the measure (and thereby prohibit data centers) if they want to protect air quality, drinking water resources, public health and utility rates. The City's biased and untrue construction of the ballot proposition is a sufficiently egregious deviation from the prescribed form that falls outside the limits of substantial compliance. Courts have blocked similarly crafted propositions. Therefore, on its face, and especially when viewed within the context of the City's other biased actions, the proposed ballot proposition is unlawful.

Technically speaking, the City's administrative record contains detailed quantitative evidence that proves the Project does not significantly impact the environment. For example, the Initial Study/Mitigated Negative Declaration ("IS/MND") and its related expert technical reports conclude that: (1) neither construction nor operation of the Project would result in exceedances of air quality standards; (2) the water demand of the Project is less than office uses on the Project Site, and the Project was designed with highly-efficient water-saving technology; (3) there were no other identified public health effects of the Project, and in fact, in many instances the data center use would be less impactful than other land uses; and (4) there is no evidence in the record that the Project would adversely impact electricity or water rates. Instead, the electricity provider (Southern California Edison) concluded that it could service the Project with existing energy resources and all infrastructure costs associated with the Project would be paid for by the Applicant. Not only is the City's phrasing of the proposition flawed, but the technical merit of the claims within the proposition are flatly false. Therefore, the City's claim that this action reasonably relates to regional welfare is not supportable, and hence it cannot be assumed that a land use ordinance can never be invalidated as an enactment in excess of the police power.

Furthermore, express evidence in the record thus far (which would be supplemented by evidence discovered during the course of litigation) will demonstrate that the City's ballot proposition is directed at the Applicant's development and that its specific purpose was to prevent the Project. That is prohibited by law. As one simple example, aligning with additional case law on this issue, the City only months earlier duly enacted an ordinance to expressly permit data centers in Saturn Park and on the Project Site consistent with the applicable general plan land use designation (Innovation/Technology) and municipal code zoning (Saturn Park Innovation/Technology Zone) for the express purpose of permitting the Project. Now, the City Council has later attempted, without any significant change in circumstances and without considering appropriate planning criteria, to effectively rezone the Project Site (via the ballot proposition) for the purpose of defeating the Project. We trust that a court would, consistent with legal precedent, find that type of subsequent rezoning invalid as arbitrary and discriminatory.

Finally, we reserve all rights to challenge the City's actions related to the ballot proposition on all applicable legal grounds.

III. The City's Proposed Data Center Ban is Inconsistent with its Support of Proposed State Laws.

As a related matter, the City is expressing its support for California Legislature bills addressing data center regulations. We recognize that data center regulations are evolving at the State level. However, to our knowledge none of those State bills propose banning data centers. Thus, the City's actions here are not aligned with State law and are instead aligned with a discriminatory abuse of power targeted to kill the Project and reach far beyond smart legislative actions related to data center regulations generally. Below are select examples that prove this point.

First, proposed Assembly Bill 1577 requires primarily, among other things, monthly reporting by data center owners of power usage effectiveness ("PUE"), water usage effectiveness, and fuel consumption. This bill does not propose a data center ban. And, as we have pointed out in prior letters, and as is evidenced in the IS/MND, the Project is a state-of-the-art data center with a highly effective PUE, extremely efficient water use, and minimal use of onsite fuels. Thus, the Project is aligned with the intent of AB 1577.

Second, proposed Senate Bill 886 is geared primarily towards ratepayer protections and establishes criteria for large load customers (which is defined as customers with peak demand of at least 75 megawatts) to bear responsibility for transmission facility upgrades triggered by a facility interconnection. This bill does not propose a data center ban. The Project is only approximately 49 megawatts and therefore would not be subject to this law because the Project is too small. Moreover, the Applicant has already negotiated with Southern California Edison to pay for the construction of transmission facilities needed for the Project. Thus, the Project is aligned with the intent of SB 886.

Third, proposed Senate Bill 887 would specify that data centers are not ministerial projects exempt from CEQA and would allow data centers (that require at least 50 megawatts for peak load) to qualify as environmental leadership development projects for purposes of CEQA streamlining. This bill does not propose a data center ban. Here, the Project was not processed ministerially and did not seek an exemption from CEQA, and again, the Project is too small (49 megawatts) for SB 887 to apply. More telling, SB 887 recognizes the importance of data centers in California's economy, proclaiming "[a]s the nation's technology, innovation and environmental leader, it is critical that the Legislature develop standards to encourage technology development while protecting California residents . . .". That is a balanced legislative approach recognizing the importance of data centers and environmental regulation. In stark contrast, the City's flat-out ban of data centers – even relatively small data centers such as the Project – is a draconian political reaction to misinformation fed to the public (and elected officials) by a group of agitators. To be clear, we recognize and appreciate the legitimate concerns of the City who have expressed concern. That is why the Applicant was willing to further evaluate the Project and further demonstrate its merits. Nonetheless, the City's actions here are not aligned with proposed State law.

Fourth, proposed Senate Bill 978 would primarily establish special rate structures for large-scale energy users for facilities with operational requirements of at least 75 megawatts and would require data centers to pay upfront costs for transmission capacity, use clean back-

up generation, and employ a living wage workforce. This bill does not propose a data center ban. Here, again, the Project is too small (49 megawatts) for SB 978 to apply. Moreover, the Project would pay for upfront transmission facility cost, could establish cleaner back-up energy, and has already committed to labor agreements. Accordingly, even though SB 978 would not apply, the Project is aligned with its intent.

Overall, these examples demonstrate a clear point – the City is overreaching with its proposed data center ban.

IV. Conclusion

For all of these reasons, we urge the City Council to reject any extension of the moratorium and to decline to proceed with the proposed June 2026 ballot measure. As we have established, the City's current course is unsupported by substantial evidence, inconsistent with the City's prior CEQA and land use determinations, and reflects a targeted and discriminatory effort to frustrate and ultimately defeat a single pending project – thereby materially increasing the City's exposure to legal risk. If the City nonetheless moves forward, the Applicant will take all steps necessary to protect its rights and to challenge the City's conduct on all available grounds.

Sincerely,



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