**Main Office Phone:**
310 - 798-2400
**Direct Dial:**
310-798-2400 Ext. 1

Carstens, Black & Minteer LLP
700 North Pacific Coast Highway, Suite 200
Redondo Beach, CA 90277-2147
www.cbcearthlaw.com

**Douglas P. Carstens**
Email Address:
*dpc@cbcearthlaw.com*

March 5, 2026

Mayor and City Council
City of Monterey Park
320 W Newmark Ave,
Monterey Park, CA 91754

c/o City Clerk, mpclerk@montereypark.ca.gov

RE: Citywide Data Center Prohibition; City Council Hearing March 4, 2026, **Agenda Item Number 12.A; Further Comment**

Honorable Mayor and City Council:

On behalf of No Data Center MPK, composed of concerned residents of the City of Monterey Park ("City"), we appreciate your actions taking steps to prohibit data centers throughout the City by ballot measure, by ordinance, and by moratorium. This is indeed a belt and suspenders and girdle approach that looks to include appropriate levels of protection for community members. These would be necessary and important exercises of the City's police powers as measures necessary to protect public health and welfare. (*Hermosa Beach Stop Oil Coalition v. City of Hermosa Beach* (2001) 86 Cal.App.4th 534, 555.) We write to respectfully suggest two more items of clarity for the proposed ballot measure.

One clarification that must be made is that it is intended to apply retroactively. All that would be required is to add a sentence such as "This measure is intended to apply retroactively." This clarity would avoid any confusion in the future such as occurred in *Hermosa Beach Stop Oil Coalition* where the courts had to discern the intent of voters there to apply a ballot measure retroactively. (*Id*. at 549-550.)

The second area of clarification that we suggest is to make sure any prohibition on data centers added to the City's General Plan and Municipal Code can only be changed by a vote of the electorate in the future. This is a valid and necessary term in ballot measures. Such a provision would provide an extra layer of assurance and protection to the electorate that a future City Council, less responsive to the public than perhaps the current City Council is, would be persuaded in the future to undo the positive steps accomplished by the ballot measure. A provision such as this was included in the ballot measure at issue in *Pala Band of Mission Indians v. Board of Supervisors of San Diego County* (1997) 54 Cal.App.4th 565. Such a provision is very necessary because it seemed like Mr. Berger indicated his view that the council has authority to "clean up any ambiguities through its own zoning regulations." (March 4, 2026 City Council Meeting Video, 4:23:30 mark.) We assume he is referring to clarifications that are non-substantive in nature and would not create possible loopholes or opportunities for data centers to locate in the City in the future without a vote of the electorate because the ballot measure is somehow viewed as ambiguous.

**Conclusion.**

We support the City's intention to add a prohibition to data centers to the Municipal Code. We ask that the City adopt such a prohibition by ordinance as soon as possible as well. We sincerely hope that it would be done within 20-30 days or less since the ordinance would likely look very similar to the proposed ballot measure. Further, the prohibition on data centers should be added to the City's General Plan as well as its Municipal Code.

The ballot measure must be clarified to state that it is intended to apply retroactively and that any future repeal of the prohibition on data centers can only be done with a vote of the electorate.

Protecting the health and welfare of City residents is critical enough that it demands strong and clear measures. We look forward to working with you to ensure data centers are prohibited city wide.

Sincerely,

Douglas P. Carstens

Cc: City Attorney Karl H. Berger, KBerger@bwslaw.com