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VIA ELECTRONIC MAIL

City Council
City of Monterey Park
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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 866.

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 residents 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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