RESPONSES TO COMMENTS FOR THE MITIGATED NEGATIVE DECLARATION & INITIAL STUDY

GSC HOLDING GROUP, LLC
4400 TEMPLE CITY BOULEVARD

DEVELOPMENT AGREEMENT NO. 02-18
MEDICINAL CANNABIS CONDITIONAL USE PERMIT NO. 07-18;
MEDICINAL CANNABIS CONDITIONAL USE PERMIT NO. 08-18;
MEDICINAL CANNABIS CONDITIONAL USE PERMIT NO. 09-18

LEAD AGENCY:

CITY OF EL MONTE
COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT
PLANNING DIVISION
11333 VALLEY BOULEVARD
EL MONTE, CALIFORNIA 91731

REPORT PREPARED BY:

BLODGETT BAYLOSIS ENVIRONMENTAL PLANNING
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NOVEMBER 27, 2018

ELMT 023

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1. COMMENTS AND RESPONSES TO COMMENTS

The City circulated the Mitigated Negative Declaration and Initial Study for a 30-day review period. Comment letters to date, were received from the following agencies and entities at the conclusion of the review period:

Emails Dated November 24, 2018
Carol Daugherty
Citizen of Temple City

Email Dated November 25, 2018
Mom Lee
Citizen of Temple City

Letter Dated November 21, 2018
City of Rosemead

Letter Dated November 26, 2018
City of Temple City

Email Dated November 27, 2018
James Flourney
Save Our Community

This section details the emails received from Ms. Carol Daugherty dated November 24, 2018, and the Lead Agency's responses to these comments.

Email 1.

This proposed facility which supposedly if for medical reasons should not be located in the area proposed. I oppose this because of the danger of those abusing the drug, creating safety hazards for those of us who do not and will not want to use this stuff - The homeless encamp there, Amazon uses that area for their trucks and employee parking during the work week, there are too many negatives for this to be considered. My house is within 3 blocks and La Rosa School is with one mile or so this proposed facility. Knowing that some will abuse this "medical" marijuana and become violent or attempt to rob the place just to get their fix, I wouldn't feel safe walking that area above it to shop at the businesses there. This is a poor choice of location - if you really want to put something like this in El Monte, find another location

Response 1.

The proposal includes medicinal-only cannabis cultivation, manufacturing, and distribution operations. No retail cannabis or cannabis product retail sales or activities will be permitted. Access to the proposed project will be controlled and enforcement will be strict. Individuals will only be allowed to enter the facility with a permitted escort.

Email 2.

I very much oppose this location for any marijuana facility, whether medical or not. I live close to this area, within 3 blocks from my house this would be used for this purpose. This would bring additional crime and safety problems from those who use this drug into Temple City, an elementary school, La Rosa, is close to this area also and I truly believe this would be a big mistake to put this kind of facility where a drug is involved and misused by many people this close to Temple City, please find another location if you must have this facility in El Monte and not involve Temple City residents, businesses or schools. Also, the homeless use this area for their camping and living places. Amazon uses this area for parking their trucks and vehicles during the week.

If you really want a eye sore like this and temptation for those who feel they have to have that drug for whatever reason, put it in El Monte closer to the center of town or with an area that will not affect Temple City too much.

Response 2.

Please refer to the previous response. The proposed project will utilize the existing building, though improvements in terms of security, utilities, and building design will be made to accommodate the proposed use. In addition, new landscaping will be installed and the building's exterior will be painted. No changes to the building's height will occur and the existing building size (floor area) will remain unchanged.

Email #1

From: Carol Daugherty [mailto:carol.daugherty.1941@gmail.com]
Sent: Saturday, November 24, 2018 11:11 AM
To: Betty Donavanik
Subject: Proposed Marijuana facility by El Monte

This proposed facility which supposedly if for medical reasons should not be located in the area proposed. I oppose this because of the danger of those abusing the drug, creating safety hazards for those of us who do not and will not want to use this stuff - The homeless encamp there, Amazon uses that area for their trucks and employee parking during the work week, there are too many negatives for this to be considered. My house is within 3 blocks and La Rosa School is with one mile or so this proposed facility. Knowing that some will abuse this "medical" marijuana and become violent or attempt to rob the place just to get their fix, I wouldn't feel safe walking that area above it to shop at the businesses there. This is a poor choice of location - if you really want to put something like this in El Monte, find another location

Email #2

From: Carol Daugherty [mailto:carol.daugherty.1941@gmail.com]
Sent: Saturday, November 24, 2018 11:15 AM
To: Betty Donavanik
Subject: Proposed El Monte Medical Marijuana Facility

I very much oppose this location for any marijuana facility, whether medical or not. I live close to this area, within 3 blocks from my house this would be used for this purpose. This would bring additional crime and safety problems from those who use this drug into Temple City, an elementary school, La Rosa, is close to this area also and I truly believe this would be a big mistake to put this kind of facility where a drug is involved and misused by many people this close to Temple City, please find another location if you must have this facility in El Monte and not involve Temple City residents, businesses or schools. Also, the homeless use this area for their camping and living places. Amazon uses this area for parking their trucks and vehicles during the week.
If you really want a eye sore like this and temptation for those who feel they have to have that drug for whatever reason, put it in El Monte closer to the center of town or with an area that will not affect Temple City too much.

This section details the email received from Ms. Mom Lee November 25, 2018, and the Lead Agency's responses to these comments.

Email 1.

Hi there- in responding to the Temple city council proposal in contacting El Monte city council, I would like to express my strong rejection to the marijuana facility proposal on temple city blvd and Ellen - since this is going to impact the safety of our neighborhood badly.

This kind of facility should be built in area which less population density with no school around. We have so many school in Temple city, El Monte and Arcadia surrounding neighborhood- this is going to irritate the student life seeing all the incomers.

Profit is one thing but the future health of our children are far more important than profit to the city and any particular small business.

Please abandon this idea/ project.

Response 1.

The comment is noted for the record. The proposed used is located within The project site is located within the "Northwest Area Medicinal-only Commercial Cannabis" area under EL Monte City Ordinance No. 2924.

-----Original Message-----
From: mom lee [mailto:momlee800@yahoo.com]
Sent: Sunday, November 25, 2018 10:05 AM
To: Betty Donavanik
Cc: momlee800@yahoo.com
Subject: Medical marijuana facility in El Monte next to temple city

Hi there- in responding to the Temple city council proposal in contacting El Monte city council, I would like to express my strong rejection to the marijuana facility proposal on temple city blvd and Ellen - since this is going to impact the safety of our neighborhood badly.

This kind of facility should be built in area which less population density with no school around. We have so many school in Temple city, El Monte and Arcadia surrounding neighborhood- this is going to irritate the student life seeing all the incomers.
Profit is one thing but the future health of our children are far more important than profit to the city and any particular small business.
Please abandon this idea/ project.

Thanks
Residents from Temple city

Response to Comment Letter Dated November 21, 2018
City of Rosemead

Comment 1.

The City of Rosemead has reviewed the IS/MND that was prepared for the proposed El Monte Medical Marijuana Park proposed at 4400 Temple City Boulevard. We appreciate the opportunity to comment on the document and have the following comments:

Response 1.

The comment is noted for the record. No response is required.

Comment 2.

3.15.2.A - *Inadequate Public Services Analysis (Fire). The MND states that fire protection is provided by the Los Angeles County Fire Department, which also serves the City of Rosemead. The MND further states that, "...the Development Agreement will ensure any cost to the Fire Department will be provided by the Applicant." Due to the close proximity of the project location to the City of Rosemead, certain significant or backup calls for fire service could be responded by the County Fire Department resources serving Rosemead. To this date, Rosemead has not been consulted by either the applicant, the City of El Monte, or the County Fire Department on potential project related fire safety service impacts or terms of the Development Agreement that ensures cost to be provided by the Applicant.*

Response 2.

The Project Applicant consulted with the Los Angeles Fire Department (Department) very early in the planning process. The Department provided the Applicant with a list of development requirements that must be adhered to. The Department requires multiple fire safety features including sprinklers, gas detection alarms, ventilation systems, and specific signage. The entire building will also be equipped with new or upgraded sprinklers. The Development Agreement will ensure any cost to the Fire Department will be provided by the Applicant. In conclusion, proposed use will be required to adhere to all site and development requirements identified by the Los Angeles County Fire Department.

Comment 3.

3.15.2.A – Inadequate Public Services Analysis (Police). The MND states that law enforcement services within El Monte is provided by the El Monte Police Department from one police station located at 1133 Valley Boulevard. The MND also states that, "...the Development Agreement will ensure any costs to the Fire [sic] Department will be provided by the Applicant." Due to the close proximity of the project location to the City of Rosemead, certain significant or back up calls may be responded by the Los Angeles County Sheriff's Department under contract with Rosemead. Certain law enforcement events or activities from the said site may also encroach into the City of Rosemead which would be responded by the Sheriff's Department. To this date, Rosemead has not been consulted by either the applicant or the City of El Monte on potential project related law enforcement service impacts or terms of the Development Agreement that ensures cost to be provided by the Applicant.

Response 3.

The proposed use will not involve any activities that will encroach into Rosemead. The proposal includes medicinal-only cannabis cultivation, manufacturing, and distribution operations. No retail cannabis or cannabis product retail sales or activities will be permitted. The proposed use will operate within an existing 71,658 square foot industrial building. The existing building will be remodeled and the utilities will be upgraded to accommodate the proposed use.

As stated in the IS/MND, access will be controlled and enforcement will be strict. Individuals will only be allowed to enter the facility with a permitted escort. Access will be further controlled by a manned security station and access to the facility will require the use of key cards to unlock the doors. Individual employees will be equipped with panic software that could be uploaded onto their phones for use in case of an emergency. Other security features include onsite security, interior and exterior security cameras, motion sensitive outdoor lighting, and blacked-out windows. Most importantly, no retail cannabis or cannabis product retail sales or activities will be permitted within the facility. The Applicant will also be required to prepare a security plan pursuant to local and State regulations.

Comment 4.

3.17.2 - Inadequate Traffic analysis. A traffic study was not prepared to identify traffic and safety impacts of the proposed project. The City of Rosemead is concerned that there would potentially be significant impacts on the streets and other public facilities within the City of Rosemead. The MND should identify and include an analysis of the traffic and safety impacts, as well as impacts to the roadways and other public improvements, with appropriate mitigations. Please note that this was also a concern of the City of Rosemead of the Magellan Gateway (known previously as Temple Palms) Industrial Park Project, which as a result, did impact the Temple City Boulevard roadway in the City of Rosemead.

Response 4.

The IS/MND did consider the proposed traffic impacts for those CEQA issues requiring analysis. The project site is presently occupied by a furniture outlet and telecommunications facility. At the time the IS/MND was prepared, the project site was occupied by the two aforementioned businesses. The project site is presently occupied by Flat Fair, a furniture store and by Turnaround Communication, a telecommunications company.

The proposed use's operational characteristics will result in different trip generation and distribution though the proposed project's traffic generation will be less than the existing uses or typical manufacturing uses. According to the ITE, a manufacturing use will result in up to 274 daily trips with 52 AM peak hour trips and 52 PM peak hour trips. The proposed project will employ a total of 46 persons overall. This translates into between 92 and 184 daily trips from the employees. Two vans will be used for distribution purposes with two deliveries per day for each van. Minimal additional trips will come from vendors and suppliers. As a result, the proposed project's traffic impacts will be less that that compared to the existing uses or typical manufacturing uses with similar floor area.

Comment 5.

The comments are based on the IS/MND that was distributed to the City of Rosemead for review. Additional comments may follow once the Planning Commission Staff Report is available for review. Please feel free to contact me at (626) 569-2169 or bkim@cityofrosemead.org, if you have any questions regarding this matter. Rosemead City Hall is open from 7:00 a.m. to 6:00 p.m., Monday through Thursday. City Hall is closed on Fridays.

Response 5.

The comment is noted for the record.

MAYOR:
STEVEN LY

MAYOR PRO TEM:
MARGARET CLARK

COUNCIL MEMBERS:
SANDRA ARMENTA
POLLY LOW



City of Rosemead

8838 E. VALLEY BOULEVARD P.O BOX 399
ROSEMEAD, CALIFORNIA 91770
TELEPHONE (626) 569-2100
FAX (626) 307-9218

November 21, 2018

Ms. Betty Donavanik
Community & Economic Development Director
City of El Monte
11333 Valley Boulevard
El Monte, CA 91731

Subject: Notice of Intent to Adopt a Mitigated Negative Declaration – El Monte Medical Marijuana Park

Dear Ms. Donavanik,

The City of Rosemead has reviewed the IS/MND that was prepared for the proposed El Monte Medical Marijuana Park proposed at 4400 Temple City Boulevard. We appreciate the opportunity to comment on the document and have the following comments:

Section 3.15 Public Services

3.15.2.A - Inadequate Public Services Analysis (Fire). The MND states that fire protection is provided by the Los Angeles County Fire Department, which also serves the City of Rosemead. The MND further states that, "...the Development Agreement will ensure any cost to the Fire Department will be provided by the Applicant." Due to the close proximity of the project location to the City of Rosemead, certain significant or backup calls for fire service could be responded by the County Fire Department resources serving Rosemead. To this date, Rosemead has not been consulted by either the applicant, the City of El Monte, or the County Fire Department on potential project related fire safety service impacts or terms of the Development Agreement that ensures cost to be provided by the Applicant.

3.15.2.B – Inadequate Public Services Analysis (Police). The MND states that law enforcement services within El Monte is provided by the El Monte Police Department from one police station located at 1133 Valley Boulevard. The MND also states that, "...the Development Agreement will ensure any costs to the Fire [sic] Department will be provided by the Applicant." Due to the close proximity of the project location to the City of Rosemead, certain significant or back up calls may be responded by the Los Angeles County Sheriff's Department under contract with Rosemead. Certain law enforcement events or activities from the said site may also encroach into the City of Rosemead which would be

November 21, 2018
City of El Monte IS/MND
Medicinal Cannabis CUP 07-18, 08-18-, 09-18

responded by the Sheriff's Department. To this date, Rosemead has not been consulted by either the applicant or the City of El Monte on potential project related law enforcement service impacts or terms of the Development Agreement that ensures cost to be provided by the Applicant.

Section 3.17 Transportation & Circulation

3.17.2 - Inadequate Traffic analysis. A traffic study was not prepared to identify traffic and safety impacts of the proposed project. The City of Rosemead is concerned that there would potentially be significant impacts on the streets and other public facilities within the City of Rosemead. The MND should identify and include an analysis of the traffic and safety impacts, as well as impacts to the roadways and other public improvements, with appropriate mitigations. Please note that this was also a concern of the City of Rosemead of the Magellan Gateway (known previously as Temple Palms) Industrial Park Project, which as a result, did impact the Temple City Boulevard roadway in the City of Rosemead.

The comments are based on the IS/MND that was distributed to the City of Rosemead for review. Additional comments may follow once the Planning Commission Staff Report is available for review.

Please feel free to contact me at (626) 569-2169 or bkim@cityofrosemead.org, if you have any questions regarding this matter. Rosemead City Hall is open from 7:00 a.m. to 6:00 p.m., Monday through Thursday. City Hall is closed on Fridays.

Sincerely,

Ben Kim
Director of Community Development

Cc: Gloria Molleda, City Manager
Lily Valenzuela, Planning & Economic Development Manager

Response to Comment Letter Dated November 26, 2018
City of Temple City

Comment 1.

We submit this letter on behalf of the City of Temple City (City) in connection with the GSC Holding Group, LLC's applications (Development Agreement No. 02- 18, Conditional Use Permit (CUP) No. 07-18, CUP No. 08-18, and CUP No. 09- 18) for a project involving a 71,658 Square Foot cannabis cultivation facility at 4400 Temple City Boulevard (Project).

The mitigated negative declaration (MND) for the Project raises significant and substantial concerns to both the City and City residents as do the three proposed CUPs. These concerns, as explained in detail below, include failure to adequately study the environmental impacts of this Project that result in conclusions unsupported by the information provided in the MND, failure to consider the cumulative effects of this Project as one of 8 similar applications for marijuana cultivation facilities in the immediate vicinity of the Project, and issues concerning the CUP findings of fact and conditions of approval.

Response 1.

The comment is noted for the record. Responses to specific comments are provided in the remainder of the Response to Comment document.

Comment 2.

The Project involves retrofitting an existing 71,658 square foot industrial building to allow for the conducting of commercial cannabis cultivation, manufacturing, and distribution operations on a 4.4 acre site in the City of El Monte's M-2 General Manufacturing zone. The Project will be located at 4400 Temple City Boulevard with frontage along the east side of Ellis Lane/Temple City Boulevard.

Response 2.

The comment is noted for the record. No response is required.

Comment 3.

Residential development occupies frontage along the west side of Ellis Lane, opposite the project site, and City residents, including families with small children, live, work, shop and attend school in the immediate neighborhood of the Project site. The Project will employ up to 46 people to conduct operations that involve growing marijuana (also known as cannabis) using water and grow-related lighting, drying and processing cannabis for distribution, and extracting oil from cannabis using volatile solvents that when present in the air in sufficient quantities will ignite or explode, and that will pollute the groundwater on a site that is already subject to remediation requirements.

Response 3.

The comment implies that potentially certain explosive chemicals will be allowed to collect at potentially explosive concentrations into the interior or would be exhausted into the outside air. The project site is currently occupied by an existing industrial building that will be "repurposed" to accommodate the proposed use. Due to the age of the on-site improvements, construction related activities related to the requisite tenant improvements could reveal lead and/or asbestos-containing materials. The potentially hazardous materials that are often associated with medical cannabis facilities include the following: Mold, Skin Sensitivity, Corrosive Chemicals, Carbon dioxide (CO_2), Carbon monoxide (CO), and Indoor Air Quality (Ozone, VOCs and terpenes). The project must adhere to all requirements governing the handling, removal, and disposal of asbestos-containing materials, lead paint, and other hazardous substances and materials. A listing of those products and/or activities that will require the use of hazardous materials or will result in the generation of hazardous materials and/or wastes must be provided.

Comment 4.

CEQA was adopted with two purposes in mind: to ensure environmental protection by requiring full disclosure of a project's significant impacts on the environment; and to encourage transparency in government. (Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553.) CEQA requires that a project's significant environmental impacts must be disclosed to both the public and the decision makers before a project is approved, so that the decision is well-informed and so that public can hold the decision-makers accountable. (Laurel Heights Improvement Ass'n of San Francisco v. Regents of the University of California (1988) 47 Cal.3d 376, 392.)

Response 4.

The comment is noted for the record. The City of El Monte oversaw the preparation of the IS/MND that is the subject of this comment letter. Through this process, the City evaluated the impacts of the proposed use on all of the mandatory CEQA issue areas. Potentially significant impacts were identified for a number of those issues though mitigation was found to be effective in reducing the impacts to levels that were less than significant. To indicate that the City, in its capacity as Lead Agency for the project, failed to disclose the proposed project's significant impacts is not correct.

Comment 5.

A city has a duty to investigate the potential environmental impacts of a project. A court may consider an agency's failure to gather relevant data in determining whether there is a "fair argument" that a project's environmental impacts may be significant. (See generally Sundstrom v. County of Mendocino (1988) 202 Cal. App. 3d 296, 311 (holding that absence of evidence in record can itself support "fair argument" of significant impacts).)

Response 5.

The comment is noted for the record. Please see previous response.

Comment 6.

If an Initial Study identifies potentially significant impacts, revisions may be made to the Project to "clearly reduce impacts to a level of insignificance" through an MND and there cannot be substantial evidence in the record that the project as revised would have a significant effect on the environment. (Public Resources Code §21080(c)(2); 14 Cal. Code Regs. §15070(b).) The changes and conditions must be agreed upon by the applicant before the MND can be released for public review. (14 Cal. Code Regs. §15070(b)(1).)

Response 6.

The comment is noted for the record. The IS/MND identified mitigation measures that would be effective in reducing the project's potential impacts to levels that were less than significant. These mitigation measures are also mentioned in the Mitigation Monitoring and Reporting Program to ensure that they are implemented.

Comment 7.

Here, approving this Project based on the existing environmental "review" would violate the California Environmental Quality Act (CEQA). The environmental "review" and "analysis" performed in the Initial Study and MND for the Project are cursory, superficial and wholly inadequate, especially with respect to gathering the relevant data concerning the Project's environmental impacts. The current MND does not fulfill these purposes and does not satisfy CEQA's requirements.

Response 7.

The comment is noted for the record. We are unclear as to the meaning of "existing environmental review." The IS/MND clearly indicates that the proposed use would occupy an existing industrial building, which is in fact the case. The IS/MND evaluates the potential impacts of the proposed use, which are measured from the existing "baseline," which is a requirement under CEQA.

Comment 8.

The Project description is insufficient. "An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR" (San Joaquin Raptor/Wildlife Rescue Center v. County of Stanislaus (1994) 27 Cal. App. 4th 713, 730, quoting County of Inyo v. City of Los Angeles (1977) 71 Cal. App. 3d 185, 193.) An "accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity." (Id. (citation omitted).) Thus, an inaccurate or incomplete project description renders the analysis of significant environmental impacts inherently unreliable. Here, the Project description does not satisfy CEQA's requirements.

Response 8.

The comment is noted for the record. The above comment is unclear as to why the project description included in Section 2 of the IS/MND is inadequate. The project description includes a background discussion, the physical characteristics of the proposed use, the operational characteristics of the proposed

use, outlines the construction phasing, and identifies the discretionary actions. In addition, the project location is identified using both narrative and exhibits.

Comment 9.

The Project description is insufficient because it lacks basic information about the Project operations. For example, the MND discusses how the Project involves commercial medicinal cannabis cultivation, and manufacturing using hazardous substances, and distribution operations, but does not provide any Project-specific information, or even information from comparable operations, that will provide information concerning the amount of organic waste generated by the cultivation, how cannabis by-products will be disposed and in what quantities, the types of pesticides or hazardous substances commonly used (and their proper handling), the risks of mishandling solvents and the potential impacts of such mishandling, or the types of anticipated deliveries from the site and the traffic impacts of those deliveries. Without proper description of the Project and its operations, it is difficult to provide any meaningful review of the Project's impacts.

Response 9.

The issues raised in the above comment were considered in detail in the analysis sections of the IS/MND. For example, the impacts related to energy consumption, waste disposal, water consumption, etc. were discussed under the particular issue area. It is also important to note that the growing, cultivation, and manufacturing of the cannabis and cannabis products will be undertaken in a completely indoor and secured environment.

Comment 10.

The MND does not adequately analyze the Project and its impacts on the environment. The CEQA violations do not end with the inadequate Project description. The MND itself is flawed because it does not analyze the Project and its impacts on the environment. A lead agency prepares an initial study to determine whether a negative declaration, a mitigated negative declaration or full environmental impact report is the appropriate environmental review document. (14 CCR §15365 (CEQA Guidelines).) The initial study must consider "all phases of project planning, implementation and operation...." (CEQA Guidelines §15063(b)(1).) The initial study must analyze whether any aspect of a project, either individually or cumulatively, may cause a significant adverse impact to the environment. (CEQA Guidelines §15063(b)(1).)

Response 10.

The comment is noted for the record. The criticism that "The MND itself is flawed because it does not analyze the Project and its impacts on the environment" is difficult to specifically respond to. The IS/MND evaluates the impacts, and where appropriate recommends mitigation, for the individual issue areas that were analyzed. The thresholds for each issue area were first identified, followed by an evaluation of the potential impacts, and mitigation was then provided. In addition, the Lead Agency determined that an environmental impact report (EIR) was not warranted for the proposed use. This discussion will be expanded under a later response.

Comment 11.

The initial study must include enough information to allow the lead agency to determine the environmental review document appropriate. (Center for Sierra Nevada Conservatives v. County of El Dorado (2012) 202 Cal. App. 4th 1156 (citations omitted).) The record must provide evidence to support conclusions reached in an initial study. (Lighthouse Field Beach Rescue v. City of Santa Cruz (2005) 131 Cal. App. 4th 1591.) When, as here, a lead agency "fails to gather information and undertake an adequate environmental analysis in its initial study, a negative declaration is inappropriate." (El Dorado County Taxpayers for Quality Growth v. County of El Dorado (2004) 122 Cal. App. 4th 1591, 1597.) Failure to adequately analyze all of a project's potentially significant impacts or provide evidence to support conclusions reached in the initial study is a failure to comply with CEQA.

Response 12.

The Lead Agency required and oversaw the preparation of the IS/MND. The analysis considered a wider range of issue areas that would allow for a comprehensive review of the proposed use. Where a potentially significant impact was identified, the City included mitigation measures that would be effective in reducing the impacts to levels that were less than significant. The IS/MND concluded that no unmitigable significant impacts would remain following the implementation of the requisite mitigation.

Comment 13.

When a project may have a significant impact on the environment, an EIR, not an MND, must be prepared. CEQA requires that an EIR must be prepared "whenever it can be fairly argued on the basis of substantial evidence that the project may have significant environmental impact." (No Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68, 75.) Substantial evidence "means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached." (CEQA Guidelines section 15384(a).) The fair argument standard is a low threshold test for requiring preparation of an EIR. (Id. at 84.) The preference is to resolve any doubts "in favor of environmental review." (Architectural Heritage Assn. v. County of Monterey (2004) 122 Cal. App. 4th 1095, 1110.)

Response 13.

The Lead Agency determined that an EIR was not required for the proposed use. This determination is clearly identified in the IS/MND. The comment fails to identify those issues where there is a potential for a significant unmitigable impact where an EIR would be warranted.

Comment 14.

Here, there are multiple instances where the MND fails to disclose, analyze and mitigate significant impacts concerning public services, traffic/transportation, hazardous materials, and solid waste. Moreover, the MND includes no mention whatsoever of the Project's significant cumulative impacts, particularly with respect the multiple marijuana uses currently being processed by the City of El Monte

for location in the vicinity of the Project. Because this Project may have a significant impact on the environment, an EIR must be prepared.

Response 14.

At the time the IS/MND was prepared, a single application had been submitted to the City, which was provided to the preparers of the CEQA document. The other issues referred to on the comment were analyzed in the IS/MND.

Comment 15.

Public Services. The MND's deficiencies continue with respect to the consideration of impacts on public services. CEQA Guidelines, Appendix G, XIV Public Services, require the lead agency to consider whether the project will "result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services."

Response 15.

The comment is noted for the record. The IS/MND evaluated the environmental impacts of the proposed use on a number of public services, including law enforcement, fire department, and schools.

Comment 16.

To comply with the Guidelines' mandate, the MND should at a minimum analyze whether the Project will result in any changes in calls for service for the Project site that would necessitate new or altered government facilities. But the MND does not provide any information regarding calls for service at existing projects of similar size and operational characteristics. While the MND acknowledges there may be an increase in calls for service, the MND includes no information regarding the Project's day-to-day operations, it is not possible to even attempt to analyze any changes to calls for service levels and its impact.

Response 16.

The preparers of the IS/MND participated in meetings with City staff, including representatives of the El Monte Police Department. During these meetings, questions were raised regarding potential concerns related to cannabis operations. This project will not involve any retail sales and will not open to the public. The site will be secured and security will include cameras and restricted access. The major law enforcement problems are related to retail sales operations associated with recreational marijuana, which does not apply to this project.

Comment 17.

For example, the MND concludes that the Project will have less than significant impacts on public services such as fire protection. The MND states how the "two largest threats to fire safety include the

concentration of flammable plants in individual grow rooms [and] the use of VOCs [volatile organic compounds] as part of the extraction/oil production process." The MND further admits that there will be an "increase in the demand for ... fire service calls" but then without explanation states that the increase is "less than significant" because fire response costs will be paid by the applicant. This conclusion fails to meaningfully review the threat to fire safety, the data indicating that there will be an increase in demand for fire services, and how such impacts that increase demand for fire service ratios, response times, or performance can be solved by payment of money alone.

Response 17.

The Fire Department has and will continue to review the site and operational plans. Representatives of the fire department have provided a listing of development requirements and regulations that must be implemented. In addition, extensive mitigation has been required to ensure that the impacts are less than significant.

Comment 18.

Similarly, the MND concludes that the Project will have less than significant impacts on public services such as police protection because there will be security plan in place. However, while the MND acknowledges that security plans are necessary to maintain security for a facility that cultivates a federally controlled substance, it does not provide any data on calls for service at existing projects of similar size and operational characteristics. Without such information, it is unclear how any agency can provide an adequate review of the impact to police services, let alone conclude that a security plan to be developed in the future will decrease impacts to police services to a less than significant level.

Response 18.

The City of El Monte Police Department will be responsible for responding to all calls for service as is the case for all land uses and development within the City. As stated in the IS/MND, access will be controlled and enforcement will be strict. Individuals will only be allowed to enter the facility with a permitted escort. Access will be further controlled by a manned security station and access to the facility will require the use of key cards to unlock the doors. Individual employees will be equipped with panic software that could be uploaded onto their phones for use in case of an emergency. Other security features include onsite security, interior and exterior security cameras, motion sensitive outdoor lighting, and blacked-out windows. Most importantly, no retail cannabis or cannabis product retail sales or activities will be permitted within the facility. The Applicant will also be required to prepare a security plan pursuant to local and State regulations.

Comment 19.

Further, all discussion of public services impacts focuses on the El Monte Police Department and other El Monte city services. However, given the Project's location on the border of Temple City, it is reasonable to assume that Temple City services may also be impacted by the project, specifically the Los Angeles County Sheriff's Department as Temple City's contract law enforcement. As such, the MND must acknowledge potential impacts on all public services based on the Project's location and operations, not based only on

jurisdictional boundaries.

Response 19.

Please refer to previous response. While it is the case that the City of El Monte maintains joint service agreement with the Los Angeles County Sheriff's Department, no impacts are anticipated on the Los Angeles County Sheriff's Department.

Comment 20.

Despite information that identifies potential impacts, the MND states that "no mitigation is required" and that any impact is offset by adding a payment upon the applicant through a development agreement, which can be amended over time to reduce or even eliminate the payment. Furthermore, these plans must be enforceable through permit conditions, agreements or other legally binding documents, which are not identified in detail in the mitigation measures. (14 CaL Code Regs. §15126.4.)

Response 20.

The comment is noted. As stated previously, the proposed use will employ extensive security measures that will be designed to lessen or eliminate any potential security related impacts. In addition, the existing building will undergo improvements to ensure that current building, safety, and fire codes are adhered to. As stated previously, the Los Angeles County Sheriff's Department has also submitted a list of regulations and development requirements that must be adhered to.

Comment 21.

Transportation/Traffic. The MND's consideration of impacts to transportation and traffic also does nothing but graze the surface. Temple City Boulevard and Ellis Lane are located within the City of Temple City, and all traffic from the Project will directly impact Temple City's streets and intersections. However, Temple City was not consulted prior to or during the preparation of the traffic impact analysis. Temple City was not given the opportunity to provide any input on the intersections studied or methodologies used. The MND does not contain any data concerning uses related to cannabis cultivation and distribution using commercial vans. The traffic impact analysis relies upon an over-simplified assumption about employee trip generation that does not accurately characterize employee travel behavior, and completely ignores the additional daily trips that will be created by commercial delivery trucks and vans.

Response 21.

The proposed use will not involve any modifications to Ellis Lane or any other streets in the area. The project will utilize the existing driveway connections with Ellis Lane. The IS/MND did consider the proposed traffic impacts for those CEQA issues requiring analysis. The project site is presently occupied by a furniture outlet and telecommunications facility. At the time the IS/MND was prepared, the project site was occupied by the two aforementioned businesses. The project site is presently occupied by Flat Fair, a furniture store and by Turnaround Communication, a telecommunications company.

The proposed use's operational characteristics will result in different trip generation and distribution though the proposed project's traffic generation will be less than the existing uses or typical manufacturing uses. According to the ITE, a manufacturing use will result in up to 274 daily trips with 52 AM peak hour trips and 52 PM peak hour trips. The proposed project will employ a total of 46 persons overall. This translates into between 92 and 184 daily trips from the employees. Two vans will be used for distribution purposes with two deliveries per day for each van. Minimal additional trips will come from vendors and suppliers. As a result, the proposed project's traffic impacts will be less that that compared to the existing uses or typical manufacturing uses with similar floor area.

Comment 22.

As such, the MND's failure to provide any information regarding the day-to-day operations of the Project also renders the conclusion of no significant impacts to traffic and transportation suspect. Instead, the MND cites to the "former use" of a furniture store, which presumably uses large scale trucks (with much less trip and delivery frequency compared to smaller commercial vans) and claims that there will be no impact to the circulation system. This data may be useful to evaluate other manufacturing uses similar to that of a furniture store, but without operational data concerning marijuana cultivation and delivery services, this discussion lacks any meaningful data to conclude that there are no significant impacts and that no mitigation measure is required.

Response 22.

A traffic study that considers large trucks employs a passenger-car equivalent factor that adjusts the number of trips related to larger trucks. In any event, the proposed business will use two delivery vans at peak operation capacity for the distribution of the manufactured products. Unlike the existing use, no large truck traffic generation is anticipated.

Comment 23.

Hazardous Materials. The MND further identifies how the Project use is commonly associated with hazardous materials, including the use of pesticides, nutrients, and corrosive chemicals, some of which are flammable and others which will create dangerous vapors. While the MND claims that the applicant will identify the hazardous materials will be used and comply with legal requirements for handling them as mitigation measures, these plans must be enforceable through permit conditions, agreements or other legally binding documents, which are not identified in detail in the mitigation measures. (14 Cal. Code Regs. §15126.4.) The MND cannot possibly claim to have fully disclosed and addressed the Project's impacts on the environment when it so blatantly defers even naming the hazardous materials to be used in Project operations.

Response 23.

The IS/MND characterizes the materials and the related hazards associated with medicinal cannabis, manufacturing, and cultivation operations. The project must adhere to all requirements governing the handling, removal, and disposal of asbestos-containing materials, lead paint, and other hazardous substances and materials. A listing of those products and/or activities that will require the use of hazardous

materials or will result in the generation of hazardous materials and/or wastes must be provided. The Applicant will also be required to prepare a Safety and Preparedness Plan that must be reviewed and approved by the LA Co. Fire Department prior to the issuance of the Occupancy Permit.

Comment 24.

Furthermore, the MND identifies how vapor extraction wells are currently required to remove volatile organic contaminants from the groundwater. To address this issue, the MND only states that the applicant must prepare an "interior improvement plan and site plan that maintains the integrity of the existing wells while indicating the location and extent of new wells." However, this "review" fails to discuss the operations that necessitate this need to remove volatile organic contaminants, how interior improvement plans or site plans will mitigate this issue, or why such mitigation was omitted from the mitigation measures. It does not address the need or extent of new wells, deferring this to a site plan to be prepared later, and does not discuss if or how the installation of additional wells is related to the Project or what environmental impacts may result from the additional wells. It also does not address whether the use and storage of solvents on site would affect the current vapor extraction or how the misuse or spills of the solvents could negatively affect the ongoing remediation efforts. Nor does the MND discuss the potential for organic material to be stored on the site and to decompose in a manner affecting the remediation efforts. In short, the MND fails to square the proposed Project operations with the ongoing environmental remediation efforts at all.

Response 24.

The former occupant of the existing building, Miller Dial Corporation, was engaged in the manufacturing of nameplates, panels, product identification, membrane switches, dials, and instruments. The business opened in 1953. The manufacturing processes included photo lab, anodizing, etching, and painting among others. These operations were conducted in an 85,000 square-foot, one story concrete block building. The facility was equipped with degreasers in the metal decoration area, paint storage inside the north end of the building, and a chemical storage area outside to the east of building. A Sump was located southwest of the chemical storage area. In February 1995, several potential source areas, such as, a clarifier, paint room, former vapor degreaser, storage and fotofoil areas were identified. The processes known to use solvents included silk screening, spray coating, roller coating, resist stripping, handwipe cleaning, equipment cleaning, and equipment lubrication. The DTSC required the use of vapor extraction wells to remove the volatile organic compounds (VOCs) from the groundwater. The Applicant has prepared an interior improvement plan and site plan that maintains the integrity of the existing wells while indicating the location and extent of new wells. This equipment is required regardless of the occupant. The chemicals stored on-site in the grow rooms and vaults will be segregated from the vapor extraction wells.

Comment 25.

Waste. *The MND's consideration of solid waste impacts is superficial and lacks meaningful environmental review. The MND does not contain any data concerning solid waste generated by cannabis cultivation and distribution. As such, the MND's failure to provide any information regarding the day-to-day operations of the Project also renders the conclusion of no significant impacts to solid waste in excess of state or local standards, or local capacity, suspect.*

Response 25.

According to the Applicant, the on-site activities would not involve the generation of any organic cannabis-related waste. Any organic residue would be recycled for either compost or reprocessing. The solid waste that would ultimately be generated would be conventional refuse.

Comment 26.

The MND uses data of general manufacturing uses to determine the projected amount of cannabis waste and solvents, but without operational data concerning marijuana cultivation and delivery services, this discussion lacks any meaningful data to conclude that there are no significant impacts and that no mitigation measure is required, especially when the solid waste generated are large amounts of federally controlled substances.

Response 26.

Please refer to previous response.

Comment 27.

Cumulative impacts. The MND fails to address how the City of El Monte is currently processing 8 applications that would allow for cannabis facilities within the immediate area of the proposed Project and how such approvals, including approval of this Project, would interact to create cumulative impacts on the area and the residents living nearby.

Response 27.

The proposed project considered in the IS/MND was the first application that was processed as part of the City's "Northwest Area Medicinal-only Commercial Cannabis" area under the El Monte City Ordinance No. 2924. It is also important to note that any future cannabis use permitted under the City's ordinance will be required to undergo environmental review similar to that which was undertaken for this project.

Comment 28.

"[A] cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the...[MND] together with other projects causing related impacts." (Guidelines, § 15130(a)(1).) "The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." (CEQA Guidelines, § 15355(b) (emphasis added).)

Response 28.

The comment is noted for the record. Please refer to previous response.

Comment 29.

Here, it is likely that the Project will have significant cumulative impacts on the environment, particularly because there are a total of 8 projects currently being considered by the City of El Monte for the immediate area of the Project, all of which will have the same type of use, and therefore will generate the same or substantially similar environmental effects. That is, they will have the same or similar traffic impacts, the same or similar public service impacts, the same or similar waste impacts, and the same or similar hazardous materials impacts. But not only are these impacts not properly analyzed for the Project, they are not even mentioned as cumulative impacts of the 8 reasonably foreseeable projects in the immediate area. With no mention of, much less any attempt to analyze and address cumulative impacts, CEQA will be violated if the Project moves forward. (Gentry v. City of Murrieta (1995) 36 Cal. App. 4th 1359.).

Response 30.

The comment is noted for the record. The proposed project considered in the IS/MND was the first application that was processed as part of the City's "Northwest Area Medicinal-only Commercial Cannabis" area under the El Monte City Ordinance No. 2924. It is also important to note that any future cannabis use permitted under the City's ordinance will be required to undergo environmental review similar to that which was undertaken for this project.

Comment 31.

Planning and Land Use Law Violations. The Project includes three separate CUP applications for cannabis cultivation, manufacturing, and distribution. While all these activities are proposed to occur on the same site within one building, they are three distinct uses, each requiring individual analysis. However, the findings of fact as listed in proposed Resolution No. 3527 address the Project as a whole and do not enumerate findings for each of the uses to be authorized by the three CUPs. The different uses each have different operational aspects and impacts that must be acknowledged in the findings of fact. More significantly, the findings of fact fail to demonstrate how the Project will not be detrimental to adjacent and nearby residential properties in the City of Temple City. While acknowledging the residential uses to the west, the findings rely upon blanket statements about compliance with conditions of approval, mitigation measures, and regulatory requirements to argue that the project will not be detrimental to neighboring residences. The only specific item mentioned is that the Project will provide buffering to the adjacent residential properties through large setbacks and landscaping. However, this visual buffering fails to address the primary areas of concern that could lead to detrimental impacts, including air quality, traffic, and hazardous materials. Further, as noted throughout this letter, the identified mitigation measures are incomplete or inadequate to mitigate the potential environmental impacts, so relying on such mitigation measures in the findings of fact makes the findings themselves suspect.

Response 31.

The IS/MND indicates the proposed project will require the following discretionary approvals related to a CUP:

1. Medicinal Cannabis Conditional Use Permit (MCCUP) No. 07-18 for medicinal cannabis cultivation;
2. Medicinal Cannabis Conditional Use Permit (MCCUP) No. 08-18 for medicinal cannabis manufacturing; and,
3. Medicinal Cannabis Conditional Use Permit (MCCUP) No. 09-18 for medicinal cannabis distribution.

The aforementioned CUPs are a component of the larger project. In other words, the project will be involved with the cultivation, manufacturing, and distribution of medical cannabis. All three activities require a separate CUP. However, the collective requirements are considered to be a single project since all three CUPs will be required in this particular instance.

Comment 32.

The findings of fact also rely upon compliance with the proposed conditions of approval. However, this too is problematic given the flexibility of some conditions. For example, one of the primary ways in which the Project may be detrimental to adjacent residences is by emanating offensive odors. While the MND and staff report talk extensively about odor control, and one of the mitigation measures relates to odor control, condition of approval 53 only requires installation of a ventilation and filtration system that prevents odors from exiting the structure "to the greatest extent feasible." The language of the condition would allow excessive equipment costs to deem effective odor control infeasible, which eliminates any guarantee that the Project will not create offensive odors that would adversely impact neighboring residential properties, and negates any finding of fact that affirmatively claims the project will not be detrimental to neighboring residential properties.

Response 32.

The project Applicant will employ new technologies that will be beneficial to the odor control plan as time progresses including the following:

1. Carbon Filters. Also known as carbon scrubbers, carbon filters are historically one of the best methods for odor control. This type of filter use pellets of charcoal to trap the terpenes. Carbon filters are simple to install, effective, and reliable. Carbon filters will be installed at key locations in the facility and will be monitored and replaced by staff on a regular basis.
2. Air Filters. Standard air filters, also referred to as air purifiers, are typically made of densely woven fiber screens. These filters trap particles as air circulates through the filter, which can either be a stand-alone unit or incorporated into a ventilation system depending on the exact specifications.

3. Negative Ion Generators. The machines will use a negative charge to attract positively charged particles in the air. This equipment will be installed in areas that do not interfere with the production activities but instead can proactively treat the air in order to meet regulations.

4. Air-tight Seals. The proposed facility will utilize air-tight seals throughout the facility. Predominately used in the exhaust system, these air tight seals will be used in order to keep the exhaust system efficient and effective.

5. Negative Air Pressure. The Applicant will make use of negative air pressure in order to retain odor for treatment. This will help to serve as a safeguard of odor escaping into the ambient air until it can be treated using the techniques above. GSC Holding Group, LLC. will seal the facility, except for the intake and exhaust, which creates suction when exhaust fans are turned off. The proper use of both negative air and negative ion generators will efficiently expunge odor before leaving the facilities.

6. Staff Training. The facility's employees will be trained regarding compliance with industry best standards and facility regulations in order to achieve successful odor control. Employees will be trained in the use of odor control methods as well as any new techniques and technologies that may be added in the future.

The project Applicant will be required to prepare an Odor Management Plan pursuant to Los Angeles County Department of Public Health construction guidelines. In addition, the entire cultivation process will occur in separate rooms. Airlock rooms are provided throughout the facility. These rooms provide additional odor suppression.

Comment 33.

In addition, and as noted throughout this letter, the location of up to 8 of this type of facility within the immediate area allows the "greatest extent feasible" language to render the condition completely illusory. If and when all 8 facilities claim excessive cost as a reason to avoid mitigation, offensive odors will fill the area.

Response 33.

The proposed project considered in the IS/MND was the first application that was processed as part of the City's "Northwest Area Medicinal-only Commercial Cannabis" area under the El Monte City Ordinance No. 2924. It is also important to note that any future cannabis use permitted under the City's ordinance will be required to undergo environmental review similar to that which was undertaken for this project.

Comment 34.

Conclusion. The MND is replete with conclusions but completely lacking in facts to support them. In the absence of facts, the lead agency may not summarily conclude that the Project will have no significant environmental impacts. (Sierra Club v. State Bd. of Forestry (1994) 7 Cal. 4th 1215.).

Response 34.

The comment is noted for the record. The Lead Agency does not concur with the comment.

Comment 35.

For this reason, we reiterate that the City of El Monte must address the concerns as stated concerning the MND and CUPs. At the very least, the Project must be halted at this time to undergo substantial revisions to the MDN and the CUPs; in reality the Project should be subjected to full environmental review via an EIR and to additional public outreach about its impacts and the cumulative impacts of at least 8 projects to be located in the immediate area.

Response 35.

The comment is noted for the record. The proposed project considered in the IS/MND was the first application that was processed as part of the City's "Northwest Area Medicinal-only Commercial Cannabis" area under the El Monte City Ordinance No. 2924. It is also important to note that any future cannabis use permitted under the City's ordinance will be required to undergo environmental review similar to that which was undertaken for this project.

Comment 36.

Similarly, the findings for the CUPs lack specificity and instead are comprised of blanket statements attempting to justify three separate activities but failing to justify any of them. The conditions of approval for the CUPs are similarly faulty, as they fail to include either the specificity or the strict controls necessary to allow the Project to peacefully coexist with the residential neighbors in Temple City or with Temple City in general.

Response 36.

This comment is noted for the record. The IS/MND indicates the proposed project will require the following discretionary approvals related to a CUP:

1. Medicinal Cannabis Conditional Use Permit (MCCUP) No. 07-18 for medicinal cannabis cultivation;
2. Medicinal Cannabis Conditional Use Permit (MCCUP) No. 08-18 for medicinal cannabis manufacturing; and,
3. Medicinal Cannabis Conditional Use Permit (MCCUP) No. 09-18 for medicinal cannabis distribution.

The aforementioned CUPs are a component of the larger project. In other words, the project will be involved with the cultivation, manufacturing, and distribution of medical cannabis. All three activities require a separate CUP. However, the collective requirements are considered to be a single project since all three CUPs will be required in this particular instance.

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November 26, 2018

VIA EMAIL TO BDONAVANIK@ELMONTECA.GOV AND FIRST CLASS MAIL

Director Betty Donavanik
Economic Development Department
City of El Monte
11333 Valley Boulevard
El Monte, CA 91731

Re: Initial Study and Mitigated Negative Declaration prepared for GSC Holding Group, LL Project for a 71,658 Square Foot Cannabis Cultivation Facility at 4400 Temple City Boulevard

Director Donavanik:

We submit this letter on behalf of the City of Temple City (City) in connection with the GSC Holding Group, LLC's applications (Development Agreement No. 02-18, Conditional Use Permit (CUP) No. 07-18, CUP No. 08-18, and CUP No. 09-18) for a project involving a 71,658 Square Foot cannabis cultivation facility at 4400 Temple City Boulevard (Project).

The mitigated negative declaration (MND) for the Project raises significant and substantial concerns to both the City and City residents as do the three proposed CUPs. These concerns, as explained in detail below, include failure to adequately study the environmental impacts of this Project that result in conclusions unsupported by the information provided in the MND, failure to consider the cumulative effects of this Project as one of 8 similar applications for marijuana cultivation facilities in the immediate vicinity of the Project, and issues concerning the CUP findings of fact and conditions of approval.

I. The Project

The Project involves retrofitting an existing 71,658 square foot industrial building to allow for the conducting of commercial cannabis cultivation, manufacturing, and distribution operations on a 4.4 acre site in the City of El Monte's M-2 General Manufacturing zone. The Project will be located at 4400 Temple City Boulevard with frontage along the east side of Ellis Lane/Temple City Boulevard.

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Residential development occupies frontage along the west side of Ellis Lane, opposite the project site, and City residents, including families with small children, live, work, shop and attend school in the immediate neighborhood of the Project site.

The Project will employ up to 46 people to conduct operations that involve growing marijuana (also known as cannabis) using water and grow-related lighting, drying and processing cannabis for distribution, and extracting oil from cannabis using volatile solvents that when present in the air in sufficient quantities will ignite or explode, and that will pollute the groundwater on a site that is already subject to remediation requirements.

II. CEQA Violations

CEQA was adopted with two purposes in mind: to ensure environmental protection by requiring full disclosure of a project's significant impacts on the environment; and to encourage transparency in government. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553.) CEQA requires that a project's significant environmental impacts must be disclosed to both the public and the decision makers before a project is approved, so that the decision is well-informed and so that public can hold the decision-makers accountable. (*Laurel Heights Improvement Ass'n of San Francisco v. Regents of the University of California* (1988) 47 Cal.3d 376, 392.)

A city has a duty to investigate the potential environmental impacts of a project. A court may consider an agency's failure to gather relevant data in determining whether there is a "fair argument" that a project's environmental impacts may be significant. (*See generally Sundstrom v. County of Mendocino* (1988) 202 Cal. App. 3d 296, 311 (holding that absence of evidence in record can itself support "fair argument" of significant impacts).)

If an Initial Study identifies potentially significant impacts, revisions may be made to the Project to "clearly reduce impacts to a level of insignificance" through an MND and there cannot be substantial evidence in the record that the project as revised would have a significant effect on the environment. (Public Resources Code §21080(c)(2); 14 Cal. Code Regs. §15070(b).) The changes and conditions must be agreed upon by the applicant before the MND can be released for public review. (14 Cal. Code Regs. §15070(b)(1).)

Here, approving this Project based on the existing environmental "review" would violate the California Environmental Quality Act (CEQA). The environmental "review" and "analysis" performed in the Initial Study and MND for the Project are cursory, superficial and wholly inadequate, especially with respect to gathering the relevant data

concerning the Project's environmental impacts. The current MND does not fulfill these purposes and does not satisfy CEQA's requirements.

A. The Project description is insufficient

"An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR." (*San Joaquin Raptor/Wildlife Rescue Center v. County of Stanis*laus (1994) 27 Cal. App. 4th 713, 730, quoting *County of Inyo v. City of Los Angeles* (1977) 71 Cal. App. 3d 185, 193.) An "accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity." (*Id.* (citation omitted).) Thus, an inaccurate or incomplete project description renders the analysis of significant environmental impacts inherently unreliable. Here, the Project description does not satisfy CEQA's requirements.

The Project description is insufficient because it lacks basic information about the Project operations. For example, the MND discusses how the Project involves commercial medicinal cannabis cultivation, and manufacturing using hazardous substances, and distribution operations, but does not provide any Project-specific information, or even information from comparable operations, that will provide information concerning the amount of organic waste generated by the cultivation, how cannabis by-products will be disposed and in what quantities, the types of pesticides or hazardous substances commonly used (and their proper handling), the risks of mishandling solvents and the potential impacts of such mishandling, or the types of anticipated deliveries from the site and the traffic impacts of those deliveries. Without proper description of the Project and its operations, it is difficult to provide any meaningful review of the Project's impacts.

B. The MND does not adequately analyze the Project and its impacts on the environment

The CEQA violations do not end with the inadequate Project description. The MND itself is flawed because it does not analyze the Project and its impacts on the environment. A lead agency prepares an initial study to determine whether a negative declaration, a mitigated negative declaration or full environmental impact report is the appropriate environmental review document. (14 CCR §15365 (CEQA Guidelines).) The initial study must consider "all phases of project planning, implementation and operation. ..." (CEQA Guidelines §15063(b)(1).) The initial study must analyze whether any aspect of a project, either individually or cumulatively, may cause a significant adverse impact to the environment. (CEQA Guidelines §15063(b)(1).)

The initial study must include enough information to allow the lead agency to determine the environmental review document appropriate. (*Center for Sierra Nevada Conservatives v. County of El Dorado* (2012) 202 Cal. App. 4th 1156 (citations omitted).) The record must provide evidence to support conclusions reached in an initial study. (*Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal. App. 4th 1591.) When, as here, a lead agency "fails to gather information and undertake an adequate environmental analysis in its initial study, a negative declaration is inappropriate." (*El Dorado County Taxpayers for Quality Growth v. County of El Dorado* (2004) 122 Cal. App. 4th 1591, 1597.) Failure to adequately analyze all of a project's potentially significant impacts or provide evidence to support conclusions reached in the initial study is a failure to comply with CEQA.

When a project may have a significant impact on the environment, an EIR, not an MND, must be prepared. CEQA requires that an EIR must be prepared "whenever it can be fairly argued on the basis of substantial evidence that the project may have significant environmental impact." (*No Oil, Inc. v. City of Los Angeles* (1974) 13 Cal.3d 68, 75.) Substantial evidence "means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached." (CEQA Guidelines section 15384(a).) The fair argument standard is a low threshold test for requiring preparation of an EIR. (*Id.* at 84.) The preference is to resolve any doubts "in favor of environmental review." (*Architectural Heritage Assn. v. County of Monterey* (2004) 122 Cal. App. 4th 1095, 1110.)

Here, there are multiple instances where the MND fails to disclose, analyze and mitigate significant impacts concerning public services, traffic/transportation, hazardous materials, and solid waste. Moreover, the MND includes no mention whatsoever of the Project's significant cumulative impacts, particularly with respect the multiple marijuana uses currently being processed by the City of El Monte for location in the vicinity of the Project. Because this Project may have a significant impact on the environment, an EIR must be prepared.

1. Public Services

The MND's deficiencies continue with respect to the consideration of impacts on public services. CEQA Guidelines, Appendix G, XIV Public Services, require the lead agency to consider whether the project will "result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable

service ratios, response times or other performance objectives for any of the public services."

To comply with the Guidelines' mandate, the MND should at a minimum analyze whether the Project will result in any changes in calls for service for the Project site that would necessitate new or altered government facilities. But the MND does not provide any information regarding calls for service at existing projects of similar size and operational characteristics. While the MND acknowledges there may be an increase in calls for service, the MND includes no information regarding the Project's day-to-day operations, it is not possible to even attempt to analyze any changes to calls for service levels and its impact.

For example, the MND concludes that the Project will have less than significant impacts on public services such as fire protection. The MND states how the "two largest threats to fire safety include the concentration of flammable plants in individual grow rooms [and] the use of VOCs [volatile organic compounds] as part of the extraction/oil production process." The MND further admits that there will be an "increase in the demand for ... fire service calls" but then without explanation states that the increase is "less than significant" because fire response costs will be paid by the applicant. This conclusion fails to meaningfully review the threat to fire safety, the data indicating that there will be an increase in demand for fire services, and how such impacts that increase demand for fire service ratios, response times, or performance can be solved by payment of money alone.

Similarly, the MND concludes that the Project will have less than significant impacts on public services such as police protection because there will be security plan in place. However, while the MND acknowledges that security plans are necessary to maintain security for a facility that cultivates a federally controlled substance, it does not provide any data on calls for service at existing projects of similar size and operational characteristics. Without such information, it is unclear how any agency can provide an adequate review of the impact to police services, let alone conclude that a security plan to be developed in the future will decrease impacts to police services to a less than significant level.

Further, all discussion of public services impacts focuses on the El Monte Police Department and other El Monte city services. However, given the Project's location on the border of Temple City, it is reasonable to assume that Temple City services may also be impacted by the project, specifically the Los Angeles County Sheriff's Department as Temple City's contract law enforcement. As such, the MND must

acknowledge potential impacts on all public services based on the Project's location and operations, not based only on jurisdictional boundaries.

Despite information that identifies potential impacts, the MND states that "no mitigation is required" and that any impact is offset by adding a payment upon the applicant through a development agreement, which can be amended over time to reduce or even eliminate the payment. Furthermore, these plans must be enforceable through permit conditions, agreements or other legally binding documents, which are not identified in detail in the mitigation measures. (14 Cal. Code Regs. §15126.4.)

2. **Transportation/Traffic**

The MND's consideration of impacts to transportation and traffic also does nothing but graze the surface. Temple City Boulevard and Ellis Lane are located within the City of Temple City, and all traffic from the Project will directly impact Temple City's streets and intersections. However, Temple City was not consulted prior to or during the preparation of the traffic impact analysis. Temple City was not given the opportunity to provide any input on the intersections studied or methodologies used. The MND does not contain any data concerning uses related to cannabis cultivation and distribution using commercial vans. The traffic impact analysis relies upon an over-simplified assumption about employee trip generation that does not accurately characterize employee travel behavior, and completely ignores the additional daily trips that will be created by commercial delivery trucks and vans.

As such, the MND's failure to provide any information regarding the day-to-day operations of the Project also renders the conclusion of no significant impacts to traffic and transportation suspect. Instead, the MND cites to the "former use" of a furniture store, which presumably uses large scale trucks (with much less trip and delivery frequency compared to smaller commercial vans) and claims that there will be no impact to the circulation system. This data may be useful to evaluate other manufacturing uses similar to that of a furniture store, but without operational data concerning marijuana cultivation and delivery services, this discussion lacks any meaningful data to conclude that there are no significant impacts and that no mitigation measure is required.

3. **Hazardous Materials**

The MND further identifies how the Project use is commonly associated with hazardous materials, including the use of pesticides, nutrients, and corrosive chemicals, some of which are flammable and others which will create dangerous vapors. While the MND claims that the applicant will identify the hazardous materials will be used and

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comply with legal requirements for handling them as mitigation measures, these plans must be enforceable through permit conditions, agreements or other legally binding documents, which are not identified in detail in the mitigation measures. (14 Cal. Code Regs. §15126.4.) The MND cannot possibly claim to have fully disclosed and addressed the Project's impacts on the environment when it so blatantly defers even naming the hazardous materials to be used in Project operations.

Furthermore, the MND identifies how vapor extraction wells are currently required to remove volatile organic contaminants from the groundwater. To address this issue, the MND only states that the applicant must prepare an "interior improvement plan and site plan that maintains the integrity of the existing wells while indicating the location and extent of new wells." However, this "review" fails to discuss the operations that necessitate this need to remove volatile organic contaminants, how interior improvement plans or site plans will mitigate this issue, or why such mitigation was omitted from the mitigation measures. It does not address the need or extent of new wells, deferring this to a site plan to be prepared later, and does not discuss if or how the installation of additional wells is related to the Project or what environmental impacts may result from the additional wells. It also does not address whether the use and storage of solvents on site would affect the current vapor extraction or how the misuse or spills of the solvents could negatively affect the ongoing remediation efforts. Nor does the MND discuss the potential for organic material to be stored on the site and to decompose in a manner affecting the remediation efforts. In short, the MND fails to square the proposed Project operations with the ongoing environmental remediation efforts at all.

4. **Waste**

The MND's consideration of solid waste impacts is superficial and lacks meaningful environmental review. The MND does not contain any data concerning solid waste generated by cannabis cultivation and distribution. As such, the MND's failure to provide any information regarding the day-to-day operations of the Project also renders the conclusion of no significant impacts to solid waste in excess of state or local standards, or local capacity, suspect.

The MND uses data of general manufacturing uses to determine the projected amount of cannabis waste and solvents, but without operational data concerning marijuana cultivation and delivery services, this discussion lacks any meaningful data to conclude that there are no significant impacts and that no mitigation measure is required, especially when the solid waste generated are large amounts of federally controlled substances.

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5. **Cumulative impacts**

The MND fails to address how the City of El Monte is currently processing 8 applications that would allow for cannabis facilities within the immediate area of the proposed Project and how such approvals, including approval of this Project, would interact to create cumulative impacts on the area and the residents living nearby.

"[A] cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the . . . [MND] together with other projects causing related impacts." (Guidelines, § 15130(a)(1).) "The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and *reasonably foreseeable probable future projects*. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time." (CEQA Guidelines, § 15355(b) (emphasis added).)

Here, it is likely that the Project will have significant cumulative impacts on the environment, particularly because there are a total of 8 projects currently being considered by the City of El Monte for the immediate area of the Project, all of which will have the same type of use, and therefore will generate the same or substantially similar environmental effects. That is, they will have the same or similar traffic impacts, the same or similar public service impacts, the same or similar waste impacts, and the same or similar hazardous materials impacts. But not only are these impacts not properly analyzed for the Project, they are not even mentioned as cumulative impacts of the 8 reasonably foreseeable projects in the immediate area. With no mention of, much less any attempt to analyze and address cumulative impacts, CEQA will be violated if the Project moves forward. (*Gentry v. City of Murrieta* (1995) 36 Cal. App. 4th 1359.)

III. Planning and Land Use Law Violations

The Project includes three separate CUP applications for cannabis cultivation, manufacturing, and distribution. While all these activities are proposed to occur on the same site within one building, they are three distinct uses, each requiring individual analysis. However, the findings of fact as listed in proposed Resolution No. 3527 address the Project as a whole and do not enumerate findings for each of the uses to be authorized by the three CUPs. The different uses each have different operational aspects and impacts that must be acknowledged in the findings of fact. More significantly, the findings of fact fail to demonstrate how the Project will not be detrimental to adjacent and nearby residential properties in the City of Temple City. While acknowledging the residential uses to the west, the findings rely upon blanket statements about compliance with conditions of approval, mitigation measures, and

regulatory requirements to argue that the project will not be detrimental to neighboring residences. The only specific item mentioned is that the Project will provide buffering to the adjacent residential properties through large setbacks and landscaping. However, this visual buffering fails to address the primary areas of concern that could lead to detrimental impacts, including air quality, traffic, and hazardous materials. Further, as noted throughout this letter, the identified mitigation measures are incomplete or inadequate to mitigate the potential environmental impacts, so relying on such mitigation measures in the findings of fact makes the findings themselves suspect.

The findings of fact also rely upon compliance with the proposed conditions of approval. However, this too is problematic given the flexibility of some conditions. For example, one of the primary ways in which the Project may be detrimental to adjacent residences is by emanating offensive odors. While the MND and staff report talk extensively about odor control, and one of the mitigation measures relates to odor control, condition of approval 53 only requires installation of a ventilation and filtration system that prevents odors from exiting the structure "to the greatest extent feasible." The language of the condition would allow excessive equipment costs to deem effective odor control infeasible, which eliminates any guarantee that the Project will not create offensive odors that would adversely impact neighboring residential properties, and negates any finding of fact that affirmatively claims the project will not be detrimental to neighboring residential properties.

In addition, and as noted throughout this letter, the location of up to 8 of this type of facility within the immediate area allows the "greatest extent feasible" language to render the condition completely illusory. If and when all 8 facilities claim excessive cost as a reason to avoid mitigation, offensive odors will fill the area.

IV. Conclusion

The MND is replete with conclusions but completely lacking in facts to support them. In the absence of facts, the lead agency may not summarily conclude that the Project will have no significant environmental impacts. (*Sierra Club v. State Bd. of Forestry* (1994) 7 Cal. 4th 1215.)

For this reason, we reiterate that the City of El Monte must address the concerns as stated concerning the MND and CUPs. At the very least, the Project must be halted at this time to undergo substantial revisions to the MDN and the CUPs; in reality the Project should be subjected to full environmental review via an EIR and to additional public outreach about its impacts and the cumulative impacts of at least 8 projects to be located in the immediate area.

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Similarly, the findings for the CUPs lack specificity and instead are comprised of blanket statements attempting to justify three separate activities but failing to justify any of them. The conditions of approval for the CUPs are similarly faulty, as they fail to include either the specificity or the strict controls necessary to allow the Project to peacefully coexist with the residential neighbors in Temple City or with Temple City in general.

Sincerely,

Burke, Williams & Sorensen, LLP

Gregory M. Murphy

cc: Eric S. Vail, City Attorney
Bryan Cook, City Manager

LA #4824-8630-8736 v2
11/26/18

This section details the email received from Mr. James Flournoy, Save our Community, on November 27, 2018, and the Lead Agency's responses to this email.

Email 1.

I question a mitigated negative declaration. The existing building may not be seismically safe could you under CPRA provide a copy of the report required by the Seismic Hazards Mapping act AND the required lead agencies independent peer review of that report. Also the "Near Fault" seismic calculations for the Whittier and Puente Hills Thrust faults and the long duration results from the Southern San Andreas as found in the USGS Shakeout Scenario and later. And the resumes of the preparers and the reviewers.

Response 1.

The comment is noted for the record. The existing building will be required to undergo a number of interior improvements that must be in accordance with the applicable and most recent 2016 building code requirements. The document has been circulated to numerous public agencies for review and comment. The proposed project is not located within a seismic hazard risk area or a fault rupture zone. The level of risk for the project site will be no greater than that of the remainder of the City. According to the California Geological Survey, the aforementioned faults will not represent a unique risk to the project site.

From: James Flournoy [mailto:saveourcommunitysgv@gmail.com]
Sent: Tuesday, November 27, 2018 7:21 AM
To: Betty Donavanik
Subject: Mitigated negative declaration

Save Our Community
unincorporated public benefit association
via e-mail

I question a mitigated negative declaration
The existing building may not be seismically safe
could you under CPRA provide a copy of the report required by the Seismic Hazards Mapping act
AND the required lead agencies independent peer review of that report
Also the "Near Fault" seismic calculations for the Whittier and Puente Hills Thrust faults and the long duration results from the Southern San Andreas as found in the USGS Shakeout Scenario and later
And the resumes of the preparers and the reviewers
Thanks
Jim Flournoy
Secretary

for clarification code cites below

"Guidelines for Reviewing Geologic Reports" adopted by the State Mining and Geology Board for advisory purposes in 1996. (revised , now CGS Note 41)

www.conservation.ca.gov/cgs/Pages/Note_41.aspx

see also CGS SP 117A

and the LA CODPW getoechnical report guidelines which area a standard of practice in Southern California

all need to be updated to the latest CBC and ASCE-7 2016