

E-FILED  
2/3/2022 7:33 AM  
Clerk of Court  
Superior Court of CA,  
County of Santa Clara  
22CV394443  
Reviewed By: A. Villanueva

1 KARL OLSON, Cal. Bar No. 104760  
AARON FIELD, Cal. Bar No. 310648  
2 CANNATA O'TOOLE FICKES & OLSON LLP  
100 Pine Street, Suite 350  
3 San Francisco, CA 94111  
Telephone: 415.409.8900  
4 Facsimile: 415.409.8904  
Email: kolson@cofolaw.com  
5 afield@cofolaw.com

6 Attorneys for Petitioner SAN JOSÉ SPOTLIGHT

7 DAVID E. SNYDER, Cal. Bar No. 262001  
MONICA N. PRICE, Cal. Bar No. 335464  
8 FIRST AMENDMENT COALITION  
534 4th Street, Suite B  
9 San Rafael, CA 94901-3334  
Telephone: 415.460.5060  
10 Email: dsnyder@firstamendmentcoalition.org  
mprice@firstamendmentcoalition.org

11 Attorneys for Petitioner FIRST AMENDMENT  
12 COALITION

13  
14 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
15 COUNTY OF SANTA CLARA

22CV394443

17 SAN JOSÉ SPOTLIGHT and FIRST  
AMENDMENT COALITION,  
18  
19 Petitioners,  
20  
21 v.  
22 CITY OF SAN JOSÉ and MAYOR SAMUEL  
THEODORE LICCARDO, individually and as  
an official for the City of San José  
23 Respondents.

Case No. 22CV394443  
**VERIFIED PETITION FOR WRIT OF  
MANDATE AND DECLARATORY AND  
INJUNCTIVE RELIEF UNDER THE  
CALIFORNIA PUBLIC RECORDS ACT**

24  
25 Petitioners San José Spotlight (“Spotlight”), a nonprofit digital news organization, and  
26 First Amendment Coalition (“FAC”), a non-profit organization (collectively, “Petitioners”),  
27 petition the Court, through this Verified Petition for Writ of Mandate, to command Respondents  
28

1 City of San José (the “City”) and Mayor Samuel Liccardo (“Liccardo”), individually and as an  
2 official for the City of San José (collectively, “Respondents”), to comply with the California  
3 Public Records Act (“CPRA”), Government Code section 6250, *et seq.*, the California  
4 Constitution, Article I, section 3(b), and San José Open Government Ordinance No. 12.21.010 and  
5 to declare that Respondents have failed to do so.

## 6 INTRODUCTION

7 1. This Petition for Writ of Mandate under the California Public Records Act seeks to  
8 enforce the public’s right of access to records, including but not limited to those relating to  
9 communications between city staff and lobbyists for business and other interests. In particular, but  
10 not exclusively, this Petition seeks to enforce the public’s right of access to communications sent  
11 or received on non-governmental email accounts—a right squarely enunciated by the California  
12 Supreme Court in *City of San Jose v. Superior Court* (2017) 2 Cal.5th 608, 620 (“*San Jose*”).  
13 Despite the Supreme Court’s ruling in a case involving his own City, Mayor Liccardo continues to  
14 engage in extensive work-related correspondence on his non-governmental electronic devices, a  
15 practice discouraged by the Supreme Court’s ruling.

16 2. As explained more fully below, it is evident from the unlawful manner in which  
17 Respondents have withheld records that, contrary to the *San Jose* decision, Respondents are either  
18 not properly preserving or not properly producing—or both—emails and other records contained  
19 on non-governmental devices and accounts, as required.

20 3. Between December 2020 and May 2021, Petitioners made several requests to  
21 Respondents for access to public records pursuant to the CPRA. Respondents’ responses to these  
22 requests were not in compliance with the CPRA, in particular (but not exclusively) by failing to  
23 fully produce responsive documents from Respondent Liccardo’s personal email account and texts  
24 from Liccardo’s personal device(s).

25 4. San José, more than other cities in California, is or should be aware of the  
26 requirement under the CPRA that public agencies conduct an adequate search of, and produce  
27 public records from, non-governmental devices or accounts, such as Liccardo’s personal email  
28 account. In *San Jose*, this state’s high court held that “a city employee's writings about public

1 business are not excluded from CPRA simply because they have been sent, received, or stored in a  
2 personal account.” (*San Jose, supra*, 2 Cal. 5th at p. 629.) This holding arose out of Respondents’  
3 failure to produce such records in that case; Respondent Liccardo was himself Mayor of San José  
4 when the decision issued and was a city councilmember when the lawsuit was originally filed.

5 5. Because records on non-governmental accounts or devices constitute “public  
6 records” within the meaning of the CPRA, Respondents were obligated to conduct a thorough  
7 search of officials’ personal email accounts, including Liccardo’s. However, they did not do so  
8 until specifically prompted, and even now, after months of prodding and requests from Petitioners,  
9 they have not fully searched Liccardo’s personal email accounts. Respondents’ failure to search  
10 for, much less fully produce, records from personal devices and accounts appears in their  
11 responses to other requests by San José Spotlight, as set forth below. Even when Petitioner San  
12 José Spotlight specifically reminded the City of its obligation to search personal accounts, the  
13 record productions were incomplete and redacted information without sufficiently stated  
14 justification as required under California law. It is obvious from the responses provided by  
15 Respondents that the City of San José is not in compliance with the seminal California Supreme  
16 Court CPRA decision that bears the city’s name.

17 6. Upon information and belief, this failure is a widespread and longstanding pattern  
18 and practice.

19 **PARTIES**

20 7. Petitioner San José Spotlight is a nonprofit, community-supported digital news  
21 organization based in San José. It is dedicated to unbiased, independent political news and local  
22 issues.

23 8. Petitioner First Amendment Coalition is a nonprofit public interest organization  
24 based in San Rafael. It is dedicated to advancing free speech, more open and accountable  
25 government, and public participation in civic affairs, including by protecting and promoting the  
26 “people’s right to know” about their government so that they may hold it accountable.

27 9. Petitioners are members of the public under Government Code section 6252,  
28 subdivision (b), and are beneficially interested in the outcome of these proceedings; they have a

1 clear, present and substantial right to the relief sought herein and no plain, speedy and adequate  
2 remedy at law other than that sought herein. Under Government Code section 6258, “[a]ny person  
3 may institute proceedings for injunctive or declarative relief or writ of mandate . . . to enforce his  
4 or her right to inspect or to receive a copy of any public record or class of public records under this  
5 chapter.”

6 10. Respondent City of San José is a local agency, under Government Code section  
7 6252, subdivision (a), in possession of records subject to the CPRA, with offices in San José.  
8 Respondent Mayor Samuel Liccardo is a government official in possession of records subject to  
9 the CPRA, with offices in San José.

10 **JURISDICTION AND VENUE**

11 11. The relief sought by Petitioners is expressly authorized under Government Code  
12 sections 6258 and 6259, subdivision (a), Code of Civil Procedure sections 1060 and 1085, *et seq.*,  
13 Article 1, section 3(b) and Article VI, section 10 of the California Constitution, and San José Open  
14 Government Ordinance No. 12.21.290. Venue is proper under Code of Civil Procedure sections  
15 394 and 395, Government Code section 6259, subdivision (a). Petitioners are informed and  
16 believe that some or all of the records to which they seek access are in Santa Clara County, and  
17 that the acts and events giving rise to the claims occurred in Santa Clara County.

18 **FACTS SUPPORTING THE CAUSES OF ACTION**

19 **San José Spotlight’s Request for the Largent Emails**

20 12. On November 19, 2020, homeless advocate Scott Largent emailed Respondent  
21 Liccardo at his government email address. (Ex. A.) Largent stated that he was “concerned that my  
22 Emails are accessible by a records request and this can make my life very difficult.” (*Id.*) Liccardo  
23 responded on January 12, 2021: “Please communicate with me at the following email: [redacted].  
24 Please do not share the email address. I’m going to delete this email from my government  
25 account.” (*Id.*)  
26

27 13. However, when Spotlight submitted, on June 24, 2021, a CPRA request to  
28 Respondents for “all email and text message communications” between Liccardo and Largent sent

1 or received after November 1, 2020 (“The Largent Emails”), Respondents claimed on July 20,  
2 2021 that “City Staff did not identify any documents that are responsive to your request.” (Ex. B.)

3 14. On July 22, 2021, Spotlight notified City Attorney Nora Frimann that Spotlight  
4 independently obtained emails between Liccardo and Largent that were clearly responsive to  
5 Spotlight’s June 24, 2021 request. (Ex. C.) Spotlight inquired why the City had not provided  
6 Liccardo and Largent’s email exchange—or any other records in response to that request. (*Id.*)  
7 Spotlight notified Frimann that in the emails, Liccardo stated that he would “delete this email from  
8 [his] government account” and directed Largent to contact him on his private email account. (*Id.*)

9 15. The city then abruptly changed its tune. A few hours later, Liccardo’s staff  
10 member Henry Smith notified San José Spotlight that the June 24, 2021 CPRA request was  
11 “prematurely closed” and that Liccardo would search his personal email account once he returned  
12 from vacation. (Ex. D.) On August 9, 2021, Respondents produced four heavily redacted emails.  
13 (Ex. A.) In a corresponding letter, Respondents did not explain why these public records were not  
14 acknowledged or provided until after Spotlight exposed the city’s failure to produce or explain  
15 withholding for obviously responsive records, but asserted that the City “handled the email at  
16 issue appropriately and lawfully.” (Ex. E; Ex. F.)

17 16. In the August 9, 2021 letter, Respondents also asserted, inconsistent with the  
18 CPRA, that “withholding of the email from disclosure would be proper to protect the privacy  
19 interest of the resident who sent the email.” (Ex. F) The CPRA, however, permits redaction *at*  
20 *most* to protect such privacy interests—not wholesale withholding of records. (See, e.g., Gov.  
21 Code § 6253, subd. (a).) Indeed, the August 9 letter itself acknowledges this, stating that  
22 “normally, we would redact Mr. Largent’s name to protect his identity as a potential whistleblower  
23 under the official information privilege. However, because Mr. Largent and San José Spotlight has  
24 made his identity public, we are not redacting his name.” (Ex. F.)

1           17.     Notably, Respondents’ August 9, 2021 letter does **not** assert that Respondents ever  
2 searched through Liccardo’s personal emails, as required under the *San Jose* decision, prior to  
3 being informed that Spotlight already had a copy of at least one responsive email. Respondents  
4 ultimately produced largely unredacted emails between Liccardo and Largent, as set forth below,  
5 in response to the “Personal Accounts Requests”. (See Ex. G.) However, one of the Largent  
6 Request emails from January 13, 2021 at 6:27 AM was entirely withheld from the Personal  
7 Accounts Requests production without explanation, indicating ongoing inconsistencies and issues  
8 with Respondents' procedures. (See Ex. A.)

10           18.     Upon information and belief, and based in part on Respondents’ behavior with  
11 respect to the Largent Emails, Respondents regularly fail to search for public records residing on  
12 non-governmental devices or accounts, particularly Liccardo’s non-governmental accounts.

14           19.     Upon information and belief, and based in part on Respondents’ behavior with  
15 respect to the Largent emails, Liccardo regularly and improperly deletes emails from his  
16 governmental email account.

17           20.     Liccardo frequently, if not exclusively, uses his personal email to conduct public  
18 business. (Ex. H.) Indeed, he has instructed his staff to use his personal Gmail account to “ensure  
19 [he] sees” messages and directs members of the public to use his personal email address. (Ex. I;  
20 Ex. A [*See* January 12, 2021 email].) This practice appears to be well-known among Liccardo’s  
21 staff, and his staff members have engaged in this practice as well. (Ex. J.)

23           21.     When combined with the City’s and Liccardo’s regular failure to search through  
24 Liccardo’s personal accounts, upon information and belief, these practices regularly result in an  
25 absence of public access to the written communications of the Mayor of the largest city in the Bay  
26 Area.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

26. Respondents have provided only one text message in response to the Personal Accounts Requests (Ex. M), although it is apparent from the face of what Respondents *have* produced that many more text messages exist, or at least did before improper deletion. For example, the following documents, among others, indicate that additional text messages responsive to the Personal Accounts Requests exist (or existed):

- Liccardo emailed Attorney General Rob Bonta’s Chief of Staff, Viviana Becerra, stating “I texted the Attorney General today.” (Ex. N.)
- In an email exchange with Ed Clendaniel of the Mercury News, Liccardo stated “Yeah, I’m particularly frustrated because I had a text exchange with Borenstein and sent an email to the first article’s author,” in reference to Mercury News articles about Valley Transportation Authority Spending. (Ex. O.)
- In an email discussing an upcoming infrastructure bill, Liccardo stated that “Therese texted me today to connect Alfredo and the MTC for a meeting on HSR lobbying for the upcoming infrastructure bill.” (Ex. P.)
- In an email to Golden State Warriors executive Yoyo Chan, Liccardo stated “My apologies for failing to remember to follow up on our text until today” regarding donations for San José Aspires. (Ex. Q.)
- Liccardo’s staff member Isela Chaparro emailed Liccardo with the subject line, “Just texted you Re: this Tomorrow” in reference to a Special Session for Harvard Mayors. (Ex. R.)
- Alex Shoor with Catalyze SV emailed Liccardo “Per our text exchange, in response to your request for an overview on Catalyze SV.” (Ex. S.)



1           27. Respondents also withheld budget documents, calendars, and staff reports and  
2 memoranda, contrary to the CPRA and San José Resolution No. 77135.

3           28. In the end, Respondents took almost six months to respond to the Personal  
4 Accounts Requests, and the belated productions are still incomplete at best. Throughout the  
5 production, the City failed to provide an estimated date of completion, as required under the  
6 CPRA. (Ex. T.) (See Gov. Code § 6253, subd. (c).) On January 20, 2021, the City produced some  
7 additional documents and notified Petitioners that the City has “closed” the Personal Accounts  
8 Requests. (Ex. U.)

10                                           **Spotlight’s Guardino Request**

11           29. Respondents’ pattern and practice of failing to search for, much less produce,  
12 records residing on the personal accounts of Liccardo and other city officials appears again in  
13 Respondents’ failure to conduct an adequate search for or produce documents in response to  
14 Spotlight’s request for emails and texts involving Bloom Energy lobbyist Carl Guardino.

15           30. On December 12, 2020, Spotlight submitted a CPRA request seeking a copy of all  
16 email and text message communications between the San José City Council, Liccardo’s office and  
17 Bloom Energy officials, including Guardino, over the last three months. (Ex. V.) The request  
18 specifically asked for items stored on personal devices. (*Id.*) Guardino’s required lobbying report  
19 to the city shows that he had email or letter communications with eight members of the San José  
20 City Council, as well as with Liccardo on December 1, 2020. (Ex. W.) Respondents did not  
21 produce this correspondence.

22           31. Spotlight followed up with a CPRA request on April 17, 2021, specifically asking  
23 for the correspondence that Guardino’s lobbying report shows exists. (Ex. X.) The request noted  
24 that although these records were responsive to Spotlight’s December 12, 2020 request,  
25 Respondents did not produce them in response to that request. (*Id.*) The April 17, 2021 request  
26 specifically asked for not just the correspondence between Guardino and Liccardo (as well as eight  
27 councilmembers), but for “replies as well as emails/texts sent and received from personal devices  
28 and accounts as it relates to public business.” (*Id.*)

1           32.     The City unilaterally granted itself six extensions to search for records over the  
2 course of nine months before ultimately “closing” the request without having produced any of the  
3 records referenced in the lobbying report. (Ex. Y.)

4           33.     Later, in response to the Personal Accounts Requests, Respondents produced two  
5 December 1, 2020 email exchanges between Guardino and Liccardo. (Ex. Z.) The emails  
6 discussed language for the upcoming natural gas ban exemption granted to Bloom Energy. (*Id.*)  
7 These emails were certainly responsive to the December 12, 2020 Guardino Request, but were not  
8 produced in response to that request. (Ex. Z.) When asked why it took over a year to finally  
9 produce these emails—and only in response to a different, later request—Respondent Liccardo’s  
10 Chief Communications Officer, Rachel Davis, acknowledged that the emails should have been  
11 produced by calling their omission an “administrative overstep.” (Ex. AA.) It is unclear if either of  
12 these two emails is the email identified in Guardino’s lobbying report. (Ex. W.) If so, the email or  
13 emails should also have been produced in response to the April 17, 2021 Guardino Request as  
14 well. The City did not produce these emails in response to either request. The Personal Accounts  
15 Requests productions also revealed several previously unproduced emails that were responsive to  
16 Spotlight's December 12, 2020 request. (Ex. BB.)

17           34.     Upon receiving the Guardino Requests, Respondents either (a) failed to search for  
18 the relevant records, (b) found them but failed to produce them, or alternatively failed to explain  
19 why the records are exempt from disclosure, as required, or (c) improperly destroyed records that  
20 were responsive to the original December 12, 2020 and subsequent April 17, 2021 requests.

21                                                       **FIRST CAUSE OF ACTION**

22                                               **For Violation of the California Public Records Act, Article I**

23           **Section 3(b) of the California Constitution, and the San José Open Government Ordinance**

24           35.     Petitioners reallege Paragraphs 1 through 34 above as though fully incorporated  
25 herein.

26           36.     Petitioners’ requests each describe public records as defined by the CPRA.

27           37.     Respondents violated the CPRA by failing to produce responsive records to those  
28 requests and/or by redacting responsive information from records they have produced, and the

1 exceptions to the CPRA that warrant withholding of material do not apply, including but not  
2 limited to Respondents' failure to adequately demonstrate, as required under the CPRA and the  
3 San José Open Government Ordinance, that information redacted from the records they have  
4 produced can be lawfully withheld.

5 38. Respondents have repeatedly failed to conduct adequate searches in response to  
6 Petitioners' requests, including but not limited to their failure to search personal devices and  
7 accounts. These failures are violations of the CPRA.

8 39. Respondents have repeatedly violated the CPRA's mandate that agencies "shall  
9 make [public] records promptly available" (Gov. Code § 6253, subd. (b)) and that agencies may  
10 not "delay or obstruct the inspection or copying of public records." (Gov. Code § 6253, subd. (d).)  
11 Respondents have also failed to comply with San José Resolution No. 77135, section 4.3.1.6(E),  
12 requiring the City to provide an estimate as to when records will be made available.

13 40. An actual controversy exists as to whether the materials requested by Petitioners  
14 must be disclosed, and whether those records, or any part thereof, are exempt from disclosure.

15 41. Petitioners have no plain, speedy and adequate remedy to obtain the records they  
16 have requested, other than this Petition. Petitioner is entitled to institute proceedings for a writ of  
17 mandate to enforce their rights and the public's rights to obtain records responsive to Petitioners'  
18 requests. Furthermore, under Government Code section 6258, Petitioners are entitled to have the  
19 proceedings resolved on an expedited basis consistent "with the object of securing a decision to  
20 these matters at the earliest possible time." (Gov. Code section 6258.)

21 **SECOND CAUSE OF ACTION**

22 **For Declaratory and Injunctive Relief**

23 42. Petitioners reallege Paragraphs 1 through 41 above as though fully incorporated  
24 herein.

25 43. The CPRA and California Constitution require disclosure of the public records  
26 Petitioners have requested.

27 44. The burden lies with Respondents to demonstrate "on the facts of the particular  
28 case the public interest served by not disclosing the record clearly outweighs the public interest

1 served by disclosure of the record.” (Gov. Code section 6255(a). Respondents have failed to carry  
2 this burden and failed to carry the burden of showing any other potential exemption from the  
3 CPRA.

4 45. The CPRA and California Constitution require Respondents to conduct an adequate  
5 search of records in response to a PRA request. Respondents have failed to do so.

6 46. Respondents have demonstrated a pattern and practice of failing to adequately  
7 search for and produce emails sent or received on non-governmental devices or accounts.  
8 Respondent Liccardo has also engaged in a pattern and practice of deleting emails and texts on his  
9 “private” electronic devices.

10 47. Petitioners seek a judicial determination that the records sought by Petitioners but  
11 not yet disclosed by Respondents are public records as defined by Government Code section 6253,  
12 subdivision (e), are subject to disclosure under Government Code section 6253, subdivisions (a)  
13 and (b) and Article I, section 3(b) of the California Constitution, and that Respondents violated the  
14 CPRA by failing to promptly make the requested materials available to the public.

15 48. Petitioners seek a judicial determination that the Respondents are in violation of the  
16 mandate articulated by *City of San Jose v. Superior Court* (2017) 2 Cal. 5th 608, that they search  
17 for and produce public records sent or received on non-governmental devices and accounts.

18 49. Petitioners also seek an order, *inter alia*, prohibiting Respondents from allowing  
19 employees to use only non-governmental accounts, i.e., that they must at a minimum copy  
20 governmental accounts when sending communications that relate to the public’s business, as  
21 outlined by the Supreme Court in the *San Jose* decision. (2 Cal.5th at 628 [advising that agencies  
22 can “require that employees use or copy their government accounts for all communications  
23 touching on public business”].) Petitioners additionally seek declaratory and injunctive relief that  
24 if respondents deleted records responsive to petitioners’ requests, they violated the Public Records  
25 Act and Government Code section 34090, which prevents deletion of records which are less than  
26 two years old.  
27  
28

1 **PRAYER FOR RELIEF**

2 Wherefore, Petitioners San José Spotlight and First Amendment Coalition pray for writ  
3 relief and judgment as follows:

4 1. That the Court order Respondent Mayor Samuel Liccardo to conduct an adequate  
5 search of his personal devices and accounts, and submit an affidavit “providing the agency and a  
6 reviewing court with a sufficient factual basis upon which to determine whether contested items  
7 were agency records or personal materials” pursuant to the procedure described in *City of San Jose*  
8 *v. Superior Court* (2017) 2 Cal. 5th 608, 627-628.

9 2. That the Court order Respondents to do an adequate search of all the records  
10 withheld or redacted, including a search for documents in personal accounts and documents held  
11 on personal devices, and thereafter order such documents produced or, if produced but improperly  
12 redacted, provided without such redactions.

13 3. That the Court order Respondents City of San José and Mayor Samuel Liccardo to  
14 produce all of the records requested in Petitioners’ Public Records Act requests, including those  
15 records currently being withheld by Respondents;

16 4. Alternatively, if the Court does not immediately order production of the records  
17 requested, that it order Respondents to show cause why the records should not be released, to  
18 prepare a log of withheld records, and thereafter order the requested records to be disclosed;

19 5. Alternatively, if the Court does not immediately order the requested records to be  
20 disclosed and released, that the Court conduct an *in camera* review of the records requested, and  
21 thereafter order them to be released;

22 6. For a declaration that the withheld materials are public records as defined by  
23 Government Code section 6252, subdivision (e) in that they contain information relating to the  
24 conduct of the people’s business, prepared, owned, used or retained by Respondents, and are  
25 subject to disclosure under Article 1, section 3(b) of the California Constitution as writings of  
26 public officials, and that Respondents violated the Public Records Act by both failing to promptly  
27 make the materials available to Petitioners and the public, and by excessive delays;

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

7. For a declaration that Respondents' failure to search through personal devices of city employees violated the CPRA.

8. For a declaration that Respondents' failure to adequately search through and produce public records violated San José Open Government Ordinance No. 12.21.010 and that Respondents "participate in education and training about the open government ordinance and the consolidated open government and ethics resolution" pursuant to San José Open Government Ordinance No. 12.21.440.

9. For an order prohibiting Respondent City of San José from allowing employees to use only non-governmental accounts, i.e., that employees must at a minimum copy governmental accounts, consistent with the California Supreme Court's observation that agencies should "adopt policies that will reduce the likelihood of public records being held in employees' private accounts," such as requiring that employees "use or copy their government accounts for all communications touching on public business." (*City of San Jose v. Superior Court* (2017) 2 Cal. 5th 608, 628.)

10. That the court find that if respondents have deleted responsive records, they violated the Public Records Act and Government Code section 34090, and ordering the respondents not to delete records which are less than two years old;

11. For an award of attorneys' fees and costs to Petitioners pursuant to Government Code section 6259, subdivision (d) and/or Code of Civil Procedure section 1021.5; and

12. For such other and further relief as the Court may deem just and proper.

Dated: February 3, 2022

CANNATA O'TOOLE FICKES & OLSON LLP

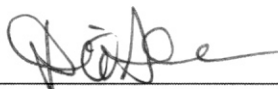
By

KARL OLSON  
AARON FIELD  
Attorneys for Petitioner SAN JOSÉ SPOTLIGHT

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: February 2, 2022

FIRST AMENDMENT COALITION

By   
\_\_\_\_\_  
DAVID E. SNYDER  
MONICA N. PRICE  
Attorneys for Petitioner FIRST  
AMENDMENT COALITION

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**VERIFICATION**

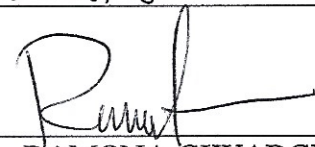
I, Ramona Giwargis, declare as follows:

1. I am the co-founder and CEO of San José Spotlight, one of the petitioners in this action, and I am authorized to make this verification on its behalf.

2. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE AND DECLARATORY AND INJUNCTIVE RELIEF UNDER THE CALIFORNIA PUBLIC RECORDS ACT. The same is true of my own knowledge, except as to matters stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of State of California that the foregoing is true and correct.

Executed this 2 day of February, 2022 at Livermore, CA.



RAMONA GIWARGIS



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**VERIFICATION**

I, David E. Snyder, declare as follows:

1. I am the Executive Director of First Amendment Coalition, one of the petitioners in this action, and I am authorized to make this verification on its behalf.

2. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE AND DECLARATORY AND INJUNCTIVE RELIEF UNDER THE CALIFORNIA PUBLIC RECORDS ACT. The same is true of my own knowledge, except as to matters stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of State of California that the foregoing is true and correct.

Executed this 2<sup>nd</sup> day of February, 2022 at San Rafael, California.

  
\_\_\_\_\_  
DAVID E. SNYDER

## **Exhibit A**

**Smith, Henry**

---

**From:** Sam Liccardo <[REDACTED]>  
**Sent:** Monday, August 2, 2021 3:10 PM  
**To:** Hadnot, Rhonda  
**Subject:** Fwd: Police Reports

[External Email]

----- Forwarded message -----

**From:** Liccardo, Sam <[REDACTED]>  
**Date:** Tue, Jan 12, 2021 at 8:59 PM  
**Subject:** RE: Police Reports  
**To:** Scott Largent <[REDACTED]>  
**Cc:** Sam Liccardo <[REDACTED]>

Scott, my apologies for my lack of response.  
Please communicate with me at the following email: [REDACTED]. Please do not share the email address.  
I'm going to delete this email from my government account.  
Help me better understand what you're getting at - [REDACTED]

Sam

---

**From:** Scott Largent <[REDACTED]>  
**Sent:** Thursday, November 19, 2020 10:38 AM  
**To:** Liccardo, Sam <[sam.liccardo@sanjoseca.gov](mailto:sam.liccardo@sanjoseca.gov)>  
**Subject:** Police Reports

[External Email]

I am being sued and Prosecuted by the City / Da's (One person on a sidewalk asking questions) so my attorney is advising me to "have him present" or do not do it.... well.... nothing will ever change or get fixed if I go that route....

Since you are an Attorney I am sure you would provide the same legal advice to your client.  
So this is me doing the right thing in the City I love..... I am worried that this will all play out in my court trial when [REDACTED]

So let's start off with this stuff below.... [REDACTED]  
[REDACTED] This is a whole big pile of shat and for another email) this below is what you need to see now.... [REDACTED]

[REDACTED] leaves me stunned to say the least.

[REDACTED]

[REDACTED] I have limited resources but can still get stuff done.

I am also concerned that my Emails are accessible by a records request and this can make my life very difficult. Safety is also a concern [REDACTED].

Is there a better option to communicate? I would also like to discuss my research on the County Behavioral Health Disaster. I spent a lot of time researching why our city is turning into the Zombie Apocalypse and what the county is "NOT" doing. I am basically a "FREE" consultant.... I was able to figure out how bad [REDACTED] is for our community.... it does not work...

If we set our differences aside we could really get something done.

Remember.... You are the Mayor of the City [REDACTED]..... I have a vested interest in cleaning things up....

If this is all being investigated can we at least get on the same page? I am worried [REDACTED] will derail what is more likely already occurring. I just don't know...I am in the dark...

Scott Largent

[REDACTED]

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

**Smith, Henry**

---

**From:** Sam Liccardo [REDACTED]  
**Sent:** Monday, August 2, 2021 3:12 PM  
**To:** Hadnot, Rhonda  
**Subject:** Fwd: Shivaun, this is one of the two emails he sent me...  
**Attachments:** [REDACTED]

[External Email]

----- Forwarded message -----

**From:** Sam Liccardo [REDACTED]  
**Date:** Wed, Jul 28, 2021 at 1:13 PM  
**Subject:** Shivaun, this is one of the two emails he sent me...  
**To:** Nurre, Shivaun <[shivaun.nurre@sanjoseca.gov](mailto:shivaun.nurre@sanjoseca.gov)>

May apologies for the delay in sending your way...  
Open to your thoughts about next steps.  
Cheers,  
Sam

----- Forwarded message -----

**From:** Scott Largent [REDACTED]  
**Date:** Wed, Jan 13, 2021 at 6:27 AM  
**Subject:** [REDACTED]  
**To:** [REDACTED]

All good... I appreciate the apology and also the quick response after my Public Comment....

[REDACTED]..... It's really worth reading the entire thing to get an idea of what was going on [REDACTED]. The amount of [REDACTED], Etc was just a little shocking. Woooooow!!!

This could very well be an [REDACTED] it was buried? [REDACTED] and maybe they just [REDACTED] ?? I just don't know.... [REDACTED].... I personally think [REDACTED]....

I figure it's best to just [REDACTED] and you can see what I am talking about.... the [REDACTED]. The [REDACTED].

[REDACTED].....

Also....

[REDACTED]  
[REDACTED] There is more information I can provide  
but I thought this would just be a start....

As far as the [REDACTED] issue I can send that your way pretty soon. Most of that stuff is [REDACTED] and I am in the process of getting it more organized.

Our conversations are between us and will remain that way. I will not share your contact info with anyone. This is the case with many elected officials and they have always appreciated that I do that....

Oh.... and don't worry.... i won't bother you all the time.... this stuff just seems very important for you to know what is really going on at the [REDACTED] ....

Scott Largent  
[REDACTED]

--

Sam Liccardo  
Mayor, City of San Jose

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

**Smith, Henry**

---

**From:** Sam Liccardo [REDACTED]  
**Sent:** Monday, August 2, 2021 3:10 PM  
**To:** Hadnot, Rhonda  
**Subject:** [REDACTED]  
**Attachments:** [REDACTED]

[External Email]

----- Forwarded message -----

**From:** Scott Largent [REDACTED]  
**Date:** Tue, Jan 12, 2021 at 10:27 PM  
**Subject:** [REDACTED]  
**To:** [REDACTED]

All good... I appreciate the apology and also the quick response after my Public Comment...

[REDACTED] ..... It's really worth reading the entire thing to get an idea of what was going on [REDACTED]. The amount of [REDACTED], Etc was just a little shocking. Woooooow!!!

[REDACTED] it was buried? [REDACTED]  
[REDACTED] ?? I just don't know.... [REDACTED]  
[REDACTED] .... [REDACTED]  
[REDACTED] ....

I figure it's best to just [REDACTED] and you can see what I am talking about... the [REDACTED]  
[REDACTED] The [REDACTED]  
[REDACTED]

[REDACTED] ....

Also.... [REDACTED]  
[REDACTED]

[REDACTED] There is more information I can provide but I thought this would just be a start....

As far as the [REDACTED] issue I can send that your way pretty soon. Most of that stuff is [REDACTED] and I am in the process of getting it more organized.

Our conversations are between us and will remain that way. I will not share your contact info with anyone. This is the case with many elected officials and they have always appreciated that I do that....

Oh.... and don't worry.... i won't bother you all the time.... this stuff just seems very important for you to know what is really going on at the [REDACTED]....

Scott Largent  
[REDACTED]

This message is from outside the City email system. Do not open links or attachments from untrusted sources.



## Smith, Henry

---

**From:** Sam Liccardo [REDACTED]  
**Sent:** Monday, August 2, 2021 3:11 PM  
**To:** Hadnot, Rhonda  
**Subject:** Fwd: Watch "When Civil and Peaceful Protest turns into Federal Charges (08.28.2020)" on YouTube

[External Email]

----- Forwarded message -----

**From:** Scott Largent [REDACTED]  
**Date:** Wed, Jan 13, 2021 at 12:07 PM  
**Subject:** Watch "When Civil and Peaceful Protest turns into Federal Charges (08.28.2020)" on YouTube  
**To:** Sam Liccardo [REDACTED]

<https://youtu.be/fgw9s6n-ELc>

Video footage from 8.28.2020

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

## **Exhibit B**



Monica Price &lt;mprice@firstamendmentcoalition.org&gt;

---

**Fwd: PRA Request: Scott Largent**

---

**Monica Price** <mprice@firstamendmentcoalition.org>  
To: Monica Price <mprice@firstamendmentcoalition.org>

Thu, Jan 13, 2022 at 12:35 PM

----- Forwarded message -----

From: **Tran Nguyen** <tran@sanjosespotlight.com>  
Date: Fri, Aug 6, 2021 at 1:51 PM  
Subject: Re: PRA Request: Scott Largent  
To: Smith, Henry <Henry.Smith@sanjoseca.gov>  
Cc: Ramona Giwargis <ramona@sanjosespotlight.com>

Hi Henry,

Thank you for your response. I want to check in to see when we should expect this to be fulfilled. It has been five business days since your last email.

Thanks so much. Please let me know if you need anything from me.  
Best,  
Tran

On Thu, Jul 22, 2021 at 2:49 PM Smith, Henry <Henry.Smith@sanjoseca.gov> wrote:

Hi Ramona and Tran,

On July 20, 2021, we prematurely closed out your June 24, 2021 PRA request asking for "A copy of all email and text message communications between Mayor Sam Liccardo and/or members of his staff and Scott Largent from Nov. 1, 2020 until present day. Please include emails/texts sent and received from personal devices and accounts as it relates to public business."

We were not able to complete our search of the Mayor's personal email account. The Mayor is currently on vacation and will return on July 30, after which we will complete our search and supplement our response.

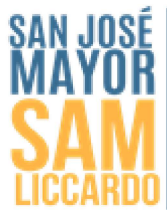
Regarding your questions, the City's Retention Policy does not require all correspondence to be retained for at least 2 years or permanently. There are specific categories of documents that must be retained, such as specific constituent complaints or requests for service. Documents that do not fall within the specific categories of the retention schedule do not need to be retained. There has been no violation of the CPRA.

Thanks!

**Henry Smith**

Agenda Services Manager & Strategic Initiatives Associate

p: (408) 535-4831 | e: [henry.smith@sanjoseca.gov](mailto:henry.smith@sanjoseca.gov)



**Connect with us:** Facebook, Instagram, Twitter, Website  
*Proudly serving San José: America's 10th Largest City & the Capital of Silicon Valley*

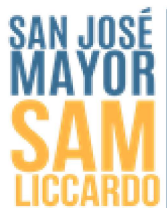
---

**From:** "Smith, Henry" <[Henry.Smith@sanjoseca.gov](mailto:Henry.Smith@sanjoseca.gov)>  
**Date:** Tuesday, July 20, 2021 at 11:15 AM  
**To:** Ramona Giwargis <[ramona@sanjosespotlight.com](mailto:ramona@sanjosespotlight.com)>  
**Cc:** PublicRecordsRequest <[PublicRecordsRequest@sanjoseca.gov](mailto:PublicRecordsRequest@sanjoseca.gov)>  
**Subject:** Re: PRA Request: Scott Largent

Hi Ramona,

City Staff did not identify any documents that are responsive to your request below. Your request is now completed. Please let me know if you have any questions.

Thanks,



**Henry Smith**

Agenda Services Manager & Strategic Initiatives Associate

p: (408) 535-4831 | e: [henry.smith@sanjoseca.gov](mailto:henry.smith@sanjoseca.gov)

**Connect with us:** Facebook, Instagram, Twitter, Website  
*Proudly serving San José: America's 10th Largest City & the Capital of Silicon Valley*

---

**From:** "Smith, Henry" <[Henry.Smith@sanjoseca.gov](mailto:Henry.Smith@sanjoseca.gov)>  
**Date:** Friday, July 9, 2021 at 2:37 PM  
**To:** Ramona Giwargis <[ramona@sanjosespotlight.com](mailto:ramona@sanjosespotlight.com)>  
**Cc:** PublicRecordsRequest <[PublicRecordsRequest@sanjoseca.gov](mailto:PublicRecordsRequest@sanjoseca.gov)>  
**Subject:** Re: PRA Request: Scott Largent

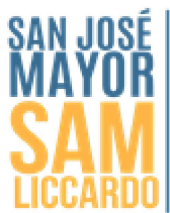
Hi Ramona,

We are in receipt of your Public Records Act request received on June 24. This letter serves as the City's notification of the need for an extension of time to fully respond, pursuant to Government Code section 6253(c).

The City requires an extension of time under Government Code section 6253(c), in order to complete its review of potentially responsive records, compile copies and provide a coordinated, complete response to your request as required by the Public Records Act. We will respond to your request with further updates by no later than 7/20/21.

The City intends to assert any and all exemptions and privileges applicable to potentially responsive records. The City also hereby reserves all other rights, including the right to object on the grounds that the request is overly broad and/or unduly burdensome.

Please contact me if you have any questions pertaining to your Public Records Act request.



**Henry Smith**

Agenda Services Manager & Strategic Initiatives Associate

p: (408) 535-4831 | e: [henry.smith@sanjoseca.gov](mailto:henry.smith@sanjoseca.gov)

**Connect with us:** Facebook, Instagram, Twitter, Website

*Proudly serving San José: America's 10th Largest City & the Capital of Silicon Valley*

---

**From:** Ramona Giwargis <[ramona@sanjosespotlight.com](mailto:ramona@sanjosespotlight.com)>

**Sent:** Friday, July 9, 2021 11:07 AM

**To:** PublicRecordsRequest <[PublicRecordsRequest@sanjoseca.gov](mailto:PublicRecordsRequest@sanjoseca.gov)>; Lowry, Jessica <[jessica.lowry@sanjoseca.gov](mailto:jessica.lowry@sanjoseca.gov)>

**Subject:** Re: FW: PRA Request: Scott Largent

[External Email]

Hello,

I'm following up on my PRA request below filed on June 24. A response/records were due to me on July 6. Three days have passed and I have not received any correspondence from the city.

Could you please provide an update?

Thanks,

Ramona

--

Ramona Giwargis  
Co-Founder & Editor  
(408) 206-5327  
[@RamonaGiwargis](https://twitter.com/RamonaGiwargis)

Support our award-winning nonprofit journalism with a [tax-deductible donation](#).

On Fri, Jun 25, 2021 at 5:56 PM PublicRecordsRequest <[PublicRecordsRequest@sanjoseca.gov](mailto:PublicRecordsRequest@sanjoseca.gov)> wrote:

Good Afternoon:

The City is in receipt of your Public Records Act Request which you emailed to [publicrecordsrequest@sanjoseca.gov](mailto:publicrecordsrequest@sanjoseca.gov) on June 24, 2021, received by the City on June 25, 2021 and copied below for reference.

Our staff is currently collecting the documents and we will notify you by July 6, 2021 of disclosable public records. I will, at that time, also inform you of the costs incurred by the City in copying the responsive documents.

Please contact me if you have any questions pertaining to your Public Records Act request at [publicrecordsrequest@sanjoseca.gov](mailto:publicrecordsrequest@sanjoseca.gov).

Thank you,

JESSICA LOWRY, J.D.

Open Government Manager

City of San Jose | City Manager's Office

[jessica.lowry@sanjoseca.gov](mailto:jessica.lowry@sanjoseca.gov)

[www.sanjoseca.gov](http://www.sanjoseca.gov)

NOTICE TO RECIPIENT: This communication is intended only for the person to whom it is addressed and may be protected by law. If you receive this in error, any review, use, dissemination, distribution or copying is strictly prohibited. Please notify us immediately of the error and delete this communication and any attachments from your system. Thank you for your cooperation.

---

**From:** Ramona Giwargis <[ramona@sanjosespotlight.com](mailto:ramona@sanjosespotlight.com)>

**Sent:** Thursday, June 24, 2021 11:25 PM

**To:** Lowry, Jessica <[jessica.lowry@sanjoseca.gov](mailto:jessica.lowry@sanjoseca.gov)>; PublicRecordsRequest <[PublicRecordsRequest@sanjoseca.gov](mailto:PublicRecordsRequest@sanjoseca.gov)>

**Cc:** Tran Nguyen <[tran@sanjosespotlight.com](mailto:tran@sanjosespotlight.com)>

**Subject:** PRA Request: Scott Largent

[External Email]

Hello Jessica,

I hope all is well. Under the California Public Records Act, I'm requesting the following:

- A copy of all email and text message communications between Mayor Sam Liccardo and/or members of his staff and Scott Largent from Nov. 1, 2020 until present day. Please include emails/texts sent and received from personal devices and accounts as it relates to public business.

The California Public Records Act requires a response within ten business days. If access to the records I'm requesting will take longer, please let me know when I might expect copies or the ability to inspect the requested records. If I will need to pay for copies, please notify me in advance of the costs.

Thanks,

Ramona

--

Ramona Giwargis  
Co-Founder & Editor  
(408) 206-5327  
@RamonaGiwargis

**Support our award-winning nonprofit journalism with a [tax-deductible donation](#).**

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

## **Exhibit C**



**San José Spotlight: Questions about the mayor's emails**

3 messages

**Tran Nguyen** <tran@sanjosespotlight.com>  
To: "Frimann, Nora" <Nora.Frimann@sanjoseca.gov>

Thu, Jul 22, 2021 at 11:03 AM

Hi Nora,

This is Tran Nguyen with SJ Spotlight. I'm hoping to ask you some questions about the city's policy on public officials deleting emails and retention of records.

In particular, we believe that the mayor had deleted at least one email thread with a resident from his government email account.

We obtained some emails from earlier this year between Mayor Liccardo and a resident named Scott Largent. In an email dated Jan. 12, the mayor wrote (screenshot included here): **"Please communicate with me at the following email: [sam.liccardo@gmail.com](mailto:sam.liccardo@gmail.com). Please do not share the email address.**

**I'm going to delete this email from my government account."**

From: Liccardo, Sam <sam.liccardo@sanjoseca.gov>  
Date: Tue, Jan 12, 2021 at 8:59 PM  
Subject: RE: Police Reports  
To: Scott Largent <scottlargent38@gmail.com>  
Cc: Sam Liccardo <sam.liccardo@gmail.com>

Scott, my apologies for my lack of response.  
Please communicate with me at the following email: [sam.liccardo@gmail.com](mailto:sam.liccardo@gmail.com). Please do not share the email address.  
I'm going to delete this email from my government account.  
Help me better understand what you're getting at -- that S.J.P.D or some associates had something to do with Ochoa's death?  
Regarding the code enforcement official tipping off low companies--do you have any names?

Sam

Emails obtained by SJS show that Mayor Liccardo and Largent continued their conversation, with the mayor using his private gmail account.

When SJ Spotlight filed a PRA for these emails from the city, the city confirmed that there are no responsive records (correspondence included).

My questions:

- Does this violate [city's retention policy](#) that requires all correspondence to be retained for at least 2 years, if not permanently?
- Has the mayor done this before?
- Have other public officials?
- What kind of enforcement mechanism does the city of San Jose have to prevent violations of CPRA, such as this?

**My deadline is 5 p.m. today.** I'm available at 541-735-8564.

Thank you,  
Tran



Trần Nguyễn  
Politics & Local Government Reporter/ Report For America Corps Member  
(541) 735-8564  
@nguyenntrann  
**Support our award-winning nonprofit journalism with a [tax-deductible donation](#).**

**PRA Request\_ Scott Largent.pdf**  
466K

**Frimann, Nora** <nora.frimann@sanjoseca.gov>  
To: Tran Nguyen <tran@sanjosespotlight.com>  
Cc: "Fisher, Kevin" <Kevin.Fisher@sanjoseca.gov>

Thu, Jul 22, 2021 at 11:35 AM

Hi Tran: I'm away on vacation, but I've asked Kevin Fisher to respond to your inquiry.  
Thanks,  
Nora

Get [Outlook for iOS](#)

**From:** Tran Nguyen <tran@sanjosespotlight.com>  
**Sent:** Thursday, July 22, 2021 8:03:53 PM  
**To:** Frimann, Nora <nora.frimann@sanjoseca.gov>  
**Subject:** San José Spotlight: Questions about the mayor's emails

[External Email]

[Quoted text hidden]

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

**Fisher, Kevin** <Kevin.Fisher@sanjoseca.gov>  
To: Tran Nguyen <tran@sanjosespotlight.com>

Thu, Jul 22, 2021 at 2:52 PM

Hi Tran,

We understand that you submitted these questions to the Mayor's Office as well, and the Mayor's Office will therefore respond to these questions directly.

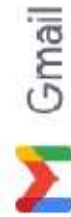
**Kevin Fisher**  
Assistant City Attorney

City of San Jose  
Office of the City Attorney  
[200 East Santa Clara Street, 16th Floor](#) Tower  
San Jose, CA 95113-1905  
Main Ph.: (408) 535-1900  
Direct: (408) 535-1943  
Fax No: (408) 998-3131

NOTICE TO RECIPIENT: This communication is intended only for the person to whom it is addressed, and may be protected by law. If you receive this in error, any review, use, dissemination, distribution, or copying is strictly prohibited. Please notify us immediately of the error and delete this communication and any attached documents from your system. Thank you for your cooperation.

[Quoted text hidden]

## **Exhibit D**



Tran Nguyen <tran@sanjosespotlight.com>

---

**Fwd: PRA Request: Scott Largent**

**Smith, Henry** <Henry.Smith@sanjoseca.gov>  
To: Ramona Giwargis <ramona@sanjosespotlight.com>  
Cc: Tran Nguyen <tran@sanjosespotlight.com>

Thu, Jul 22, 2021 at 2:49 PM

Hi Ramona and Tran,

On July 20, 2021, we prematurely closed out your June 24, 2021 PRA request asking for "A copy of all email and text message communications between Mayor Sam Liccardo and/or members of his staff and Scott Largent from Nov. 1, 2020 until present day. Please include emails/texts sent and received from personal devices and accounts as it relates to public business."

We were not able to complete our search of the Mayor's personal email account. The Mayor is currently on vacation and will return on July 30, after which we will complete our search and supplement our response.

Regarding your questions, the City's Retention Policy does not require all correspondence to be retained for at least 2 years or permanently. There are specific categories of documents that must be retained, such as specific constituent complaints or requests for service. Documents that do not fall within the specific categories of the retention schedule do not need to be retained. There has been no violation of the CPRA.

Thanks!

[Quoted text hidden]

## **Exhibit E**



Tran Nguyen <tran@sanjosespotlight.com>

---

## Question About the Mayor's Email

Fisher, Kevin <Kevin.Fisher@sanjoseca.gov>  
To: Tran Nguyen <tran@sanjosespotlight.com>  
Cc: "Lutzky, Andy" <Andy.Lutzky@sanjoseca.gov>

Fri, Jul 23, 2021 at 3:04 PM

Hello Tran,

This is the response from the City Attorney's Office regarding the Mayor's email at issue:

The Mayor handled the email at issue appropriately and lawfully. Not only does the City's Retention Policy not require all correspondence to be retained, but the withholding of the email from disclosure would be proper to protect the privacy interest of the resident who sent the email, as that resident expressed a concern that he would be subject to retaliation for raising his concerns about SJPD with the Mayor.

Kevin Fisher  
Assistant City Attorney

[Get Outlook for iOS](#)

## **Exhibit F**

August 9, 2021

Ramona Giwargis  
San Jose Spotlight

*Via email only: [ramona@sanjosespotlight.com](mailto:ramona@sanjosespotlight.com)*

This is in response to your June 24, 2021 PRA request asking for “A copy of all email and text message communications between Mayor Sam Liccardo and/or members of his staff and Scott Largent from Nov. 1, 2020 until present day. Please include emails/texts sent and received from personal devices and accounts as it relates to public business.”

We obtained an extension to July 20, 2021.

On July 20, the City notified you that we had closed out the request and there were no responsive records.

On July 22, we notified you that we had prematurely closed out the request and would complete our search and supplement our response after July 30, 2021.

On July 23, 2021, Tran was additionally provided the following statement from Kevin Fisher, Assistant City Attorney in the City Attorney’s Office: “The Mayor handled the email at issue appropriately and lawfully. Not only does the City’s Retention Policy not require all correspondence to be retained, but the withholding of the email from disclosure would be proper to protect the privacy interest of the resident who sent the email, as that resident expressed a concern that he would be subject to retaliation for raising his concerns about SJPD with the Mayor.”

Since that time, City Staff has identified and collected the following attached four emails and one additional pdf document that are responsive to your request. Please note that the City received the attached pdf with previously redacted text.

The four emails are being redacted by the City pursuant to the following statutes:

- Privacy [California Government Code § 6254(c); California Constitution, Article 1, Section 1]
- Deliberative Process [California Government Code § 6255]; Official information privilege because this information was acquired in confidence by the Mayor in the course of his or her duty and not open, or officially disclosed, to the public prior to

Ramona Giwargis  
August 9, 2021  
Page 2 of 2

the time the claim of privilege is made. See California League of California Cities Public Record Act Guide, available at <https://www.cacities.org/PRAGuide>, page 27. City of San Jose Sunshine Resolution No. 77135 page 4-15, Section 4.3.3.1.C (Withholding whistleblower information encourages members of the public to come forward to report potential wrongdoings outweighs the public interest in releasing the information)

Please note that normally, we would redact Mr. Largent's name to protect his identity as a potential whistleblower under the official information privilege. However, because Mr. Largent and San Jose Spotlight has made his identity public, we are not redacting his name.

The following employees Henry Smith, and Arlene Silva, Deputy City Attorney and Neelam Naidu, Senior Deputy City Attorney participated in the decision to withhold records. Your request is now completed.

Any person who believes that he or she has been inappropriately denied access to City of San José public records, may appeal to the City Council Rules and Open Government Committee. For more information on the appeals process, see [www.sanjoseca.gov/your-government/departments-offices/office-of-the-city-manager/official-city-records/appeals](http://www.sanjoseca.gov/your-government/departments-offices/office-of-the-city-manager/official-city-records/appeals).

Sincerely,  
Jessica Lowry, JD  
Open Government Manager  
City of San Jose

Cc: Tran Nguyen: [tran@sanjosespotlight.com](mailto:tran@sanjosespotlight.com)



## **Exhibit G**

**From:** Sam Liccardo **Personally Identifiable Information**  
**Sent:** Monday, October 04, 2021 6:17 PM EDT  
**To:** Hadnot, Rhonda <rhonda.hadnot@sanjoseca.gov>  
**Subject:** Fwd: Officer John Tompkins / David Ochoa / Reports  
**Attachment(s):** "B1903424, Tompkins, John.pdf"

[External Email]

----- Forwarded message  
**From:** Sam Liccardo **Personally Identifiable Information**  
**Date:** Mon, Aug 2, 2021 at 3:10 PM  
**Subject:** Fwd: Officer John Tompkins / David Ochoa / Reports  
**To:** Hadnot, Rhonda <[Rhonda.Hadnot@sanjoseca.gov](mailto:Rhonda.Hadnot@sanjoseca.gov)>

----- Forwarded message  
**From:** Scott Largent **Personally Identifiable Information**  
**Date:** Tue, Jan 12, 2021 at 10:27 PM  
**Subject:** Officer John Tompkins / David Ochoa / Reports  
**To:** **Personally Identifiable Information**

All good... I appreciate the apology and also the quick response after my Public Comment...

I have attached the police reports for both officer John Tompkins and David Ochoa..... It's really worth reading the entire thing to get an idea of what was going on with this officer. The amount of Guns, Drugs, Laptops, Hard Drives, Etc was just a little shocking. Woooooow!!!

This could very well be an ongoing investigation or it was buried? Sunnyvales Chief used to be one of our Deputy Chiefs and maybe they just halted the investigation?? I just don't know.... They seized several Iphones with Valid Warrants and this would open the door to whoever he was involved with as far as his "so called" side biz.... I personally think he was selling to other officers and those were the messages about "Wholesale" pricing....

I figure it's best to just provide the reports and you can see what I am talking about.... the Death Certificate for Ochoa is also included along with the receipt for the 150k bail that was paid for on Christmass. The Certificate was filed into the court record in November and his charges were dismissed because he is dead (Or is he??).... These cases are being heard in Palo Alto but I was able to access the court files at the Main Hall of Justice.

These files are now sealed and cannot be accessed without a Subpoena. Tompkins filed a motion to have this done.....

Also.... The bail was a lot of money \$150k and also someone hired (Ochoa) a lawyer out of Los Angeles. Some of the court motions were well done but must have cost "Big Bucks" I wonder who paid for that?? They were really fighting to get things thrown out that would have benefited Tompkins

John was in tight with Eddie and also several of the "High Ups" with the POA. There is more information I can provide but I thought this would just be a start....

As far as the CODE enforcement issue I can send that your way pretty soon. Most of that stuff is not scanned and I am in the process of getting it more organized.

Our conversations are between us and will remain that way. I will not share your contact info with anyone. This is the case with many elected officials and they have always appreciated that I do that.....

Oh.... and don't worry..... i won't bother you all the time.... this stuff just seems very important for you to know what is really going on at the PD....

Scott Largent  
**Personally Identifiable Information** cell

PRAR\_SJ05504

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

**From:** Sam Liccardo **Personally Identifiable Information**  
**Sent:** Monday, October 04, 2021 6:18 PM EDT  
**To:** Hadnot, Rhonda <rhonda.hadnot@sanjoseca.gov>  
**Subject:** Fwd: Police Reports

[External Email]

----- Forwarded message -----  
**From:** Sam Liccardo **Personally Identifiable Information**  
**Date:** Mon, Aug 2, 2021 at 3:09 PM  
**Subject:** Fwd: Police Reports  
**To:** Hadnot, Rhonda <Rhonda.Hadnot@sanjoseca.gov>

----- Forwarded message -----  
**From:** Liccardo, Sam **Personally Identifiable Information**  
**Date:** Tue, Jan 12, 2021 at 8:59 PM  
**Subject:** RE: Police Reports  
**To:** Scott Largent **Personally Identifiable Information**  
**Cc:** Sam Liccardo **Personally Identifiable Information**

Scott, my apologies for my lack of response.  
Please communicate with me at the following email: **Personally Identifiable Information** Please do not share the email address.  
I'm going to delete this email from my government account.  
Help me better understand what you're getting at – that SJPD or some associates had something to do with Ochoa's death?  
Regarding the code enforcement official tipping off tow companies—do you have any names?

Sam

---

**From:** Scott Largent **Personally Identifiable Information**  
**Sent:** Thursday, November 19, 2020 10:35 AM  
**To:** Liccardo, Sam **Personally Identifiable Information**  
**Subject:** Police Reports

[External Email]

I am being sued and Prosecuted by the City / Da's (One person on a sidewalk asking questions) so my attorney is advising me to "have him present" or do not do it.... well.... nothing will ever change or get fixed if I go that route....

Since you are an Attorney I am sure you would provide the same legal advice to your client.

So this is me doing the right thing in the City I love.... I am worried that this will all play out in my court trial when this information is needed now to clean up the PD and Code Enforcement.

So let's start off with this stuff below.... Code Enforcement was also involved and I have the documentation to prove how they were tipping off the tow companies (This is a whole big pile of shat and for another email) this below is what you need to see now.... It is a Shocking REPORT (2)!!! Just the fact that this Police Officer was doing all these wild illegal things leaves me stunned to say the least.

Officer John Thompkins (Google him)

Docket# 1903424

Police Report Numbers for Sunnyvale PD (Where the arrest took place)

Report# 19-6217

Daniel Ochoa (Dead / or a confidential informant?? Witness Protection??)

PRAR\_SJ05635

Docket# B1903399 (Death certificate filed into case last month / charges dropped / found dead of apparent drug overdose in San Mateo) I have the death certificate.

This man was a long time confidential informant for SJPd from the word on the streets.

Police Report Numbers for Sunnyvale PD # 19-5652

I have the hard copy reports and still need to Scan them....Is there a way I can drop this off at City Hall and have you guys Scan them?? Worse case I can stop by Fed Ex and scan them.... I have the entire criminal file with everything...

Since I am currently Homeless I have limited resources but can still get stuff done.

I am also concerned that my Emails are accessible by a records request and this can make my life very difficult. Safety is also a concern since I have a 5 year old daughter that lives in San Jose.

Is there a better option to communicate? I would also like to discuss my research on the County Behavioral Health Disaster. I spent a lot of time researching why our city is turning into the Zombie Apocalypse and what the county is "NOT" doing. I am basically a "FREE" consultant.... I was able to figure out how bad Manleys court room is for our community.... it does not work...

If we set our differences aside we could really get something done.

Remember.... You are the Mayor of the City my beautiful little girl is growing up in..... I have a vested interest in cleaning things up....

If this is all being investigated can we at least get on the same page? I am worried my Investigation and my court case will derail what is more likely already occurring. I just don't know...I am in the dark...

Scott Largent

Personally Identifiable Information

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

## **Exhibit H**

**From:** Sam Liccardo [REDACTED]  
**Sent:** Tuesday, August 17, 2021 8:15 PM EDT  
**To:** Hadnot, Rhonda <rhonda.hadnot@sanjoseca.gov>  
**Subject:** Fwd: SJ MOTI Helium Pilot Update - July 2021

[External Email]

----- Forwarded message -----

**From:** Sun, Jordan <[Jordan.Sun@sanjoseca.gov](mailto:Jordan.Sun@sanjoseca.gov)>  
**Date:** Thu, Jul 29, 2021 at 11:01 AM  
**Subject:** Fwd: SJ MOTI Helium Pilot Update - July 2021  
**To:** Sam Liccardo [REDACTED]

Hi Sam - making sure you received this. Thanks!

Jordan Sun | Chief Innovation Officer  
City of San José, Mayor's Office  
e: [jordan.sun@sanjoseca.gov](mailto:jordan.sun@sanjoseca.gov)

---

**From:** Sun, Jordan  
**Sent:** Thursday, July 29, 2021 12:25:20 AM  
**Subject:** SJ MOTI Helium Pilot Update - July 2021

Dear Team (CETF, Helium, VSC, and San José),

I'd like to share with you some key updates regarding the Helium pilot (**friendly reminder this pilot is under embargo!**). First, I want to thank each of you for your support – as Patrons hosting our hotspots, as collaborative colleagues for our hotspot deployment process + project launch efforts, and as early believers investing your organization's time/energy/resources to build the partnership infrastructure for where we are today.

[REDACTED]

6255 Balancing Test

Third, aside from deploying more hotspots and launching this project of course, we have a few remaining items. [REDACTED]

[REDACTED]

6255 Balancing Test

**From:** Sam Liccardo <[REDACTED]>  
**Sent:** Wednesday, August 25, 2021 2:17 PM EDT  
**To:** Hadnot, Rhonda <rhonda.hadnot@sanjoseca.gov>  
**Subject:** Fwd: Automatic reply: Help from Dept of Justice on gun control initiative

[External Email]

----- Forwarded message -----  
**From:** **Viviana Becerra** <[Viviana.Becerra@doj.ca.gov](mailto:Viviana.Becerra@doj.ca.gov)>  
**Date:** Thu, Jul 8, 2021 at 3:46 PM  
**Subject:** Automatic reply: Help from Dept of Justice on gun control initiative  
**To:** Sam Liccardo <[REDACTED]>

I am out of the office and will return Monday, July 12, 2021.

For urgent matters, please contact Chief Deputy Attorney General, Matt Rodriguez ([matthew.rodriguez@doj.ca.gov](mailto:matthew.rodriguez@doj.ca.gov)).

Viviana "Vivi" Becerra  
Chief of Staff  
Office of the Attorney General  
California Department of Justice  
1300 I Street, 17th Floor  
Sacramento, CA 95814  
(916) 210-6178

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

PRAR\_SJ00048



**From:** Sam Liccardo <[REDACTED]>  
**Sent:** Wednesday, August 25, 2021 2:05 PM EDT  
**To:** Hadnot, Rhonda <rhonda.hadnot@sanjoseca.gov>  
**Subject:** Fwd: Lofgren // SJPD MCAT Contact  
**Attachment(s):** "Outlook-ebc3jxte.png", "Zoe Lofgren Request.pdf"

[External Email]

----- Forwarded message -----

**From:** Mata, Anthony <ANTHONY.MATA@sanjoseca.gov>  
**Date:** Mon, Jul 12, 2021 at 5:38 AM  
**Subject:** Fwd: Lofgren // SJPD MCAT Contact  
**To:** Sam Liccardo <[REDACTED]>

Begin forwarded message:

**From:** "Mata, Anthony" <ANTHONY.MATA@sanjoseca.gov>  
**Date:** July 11, 2021 at 7:05:00 PM PDT  
**To:** "Liccardo, Sam" <sam.liccardo@sanjoseca.gov>  
**Subject:** FW: Lofgren // SJPD MCAT Contact

More info on the grant application.

**From:** Aponte, Steven <Steven.Aponte@sanjoseca.gov>  
**Sent:** Thursday, June 17, 2021 10:02 AM  
**To:** Mata, Anthony <ANTHONY.MATA@sanjoseca.gov>; Joseph, Paul <PAUL.JOSEPH@sanjoseca.gov>  
**Subject:** Fw: Lofgren // SJPD MCAT Contact

Hi,

I'm sure you've both seen the article addressing the request for \$1 Mil to go to Congress via Congresswoman Zoe Lofgren for our MCAT unit.

I've attached the email below from when the Congresswoman's office reached out to our Fiscal/Grant admin on 6/9/21.

- Here's some background on the submission by the congresswoman (I've also attached it as a PDF):
  - <https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:8083a7a3-d390-4e39-8724-1bfc8509fa3f>
- Here's a link to ALL of Lofgrens requested funding projects:<https://lofgren.house.gov/community-project-funding-requests>
- Here's a list of ALL the requests made by Congress, of which **only 1% actually get funded**: <https://appropriations.house.gov/transparency>

**Here is an expected timeline for the request:**

This project must be approved through the House Appropriations committee; it's "marked-up," amended as needed, and approved by a majority.

PRAR\_SJ00315

In July-October Congress Finalizes Spending Levels.

Floor Consideration: After approval by the Appropriations Committee, the bill heads to the House and Senate floors where they may be further amended and eventually passed by a majority. Most times, the bills passed by House and Senate differ in some significant ways and must be reconciled. It can also be voted down.

Final Passage - Once a final bill has been negotiated between the two chambers, it must then pass the House and Senate and be signed by the President. If Congress cannot agree on new funding levels before Oct. 1, a continuing resolution is required and the project can be kicked back to committee, where it starts all over again or dies.

**If we want to keep pressure on the possibility of getting funding for MCAT, we can work with the CMO to use our federal lobbyists (Holland & Knight LLP) to keep us updated and keep pressure on legislators during each step. This is usually something that requires Council Direction.**

Let me know if you have any questions!

thanks,

**Officer Steve Aponte #4390**

Media Relations Unit | Office of the Chief

San Jose Police Department

201 West Mission Street, San Jose, CA 95110

408-277-5339 | [Steven.Aponte@sanjoseca.gov](mailto:Steven.Aponte@sanjoseca.gov)

[Follow SJPD PIO on Twitter](#) or visit [SJPD.org](http://SJPD.org)

---

**From:** Vurich, Alice <[Alice.Vurich@sanjoseca.gov](mailto:Alice.Vurich@sanjoseca.gov)>

**Sent:** Wednesday, June 9, 2021 4:03 PM

**To:** Kim, Priscilla <[Priscilla.Kim@mail.house.gov](mailto:Priscilla.Kim@mail.house.gov)>

**Cc:** McFadden, Stanley <[STANLEY.MCFADDEN@sanjoseca.gov](mailto:STANLEY.MCFADDEN@sanjoseca.gov)>; Perez, Lisa <[lisa.perez@sanjoseca.gov](mailto:lisa.perez@sanjoseca.gov)>; Felton, Alexandria <[Alexandria.Felton@sanjoseca.gov](mailto:Alexandria.Felton@sanjoseca.gov)>; Aponte, Steven <[Steven.Aponte@sanjoseca.gov](mailto:Steven.Aponte@sanjoseca.gov)>; Camarillo, Christian <[CHRISTIAN.CAMARILLO@sanjoseca.gov](mailto:CHRISTIAN.CAMARILLO@sanjoseca.gov)>

**Subject:** RE: Lofgren // SJPD MCAT Contact

Hi Priscilla,

Thank you for reaching out and we are happy to hear that there is interest in knowing more about the Mobile Crisis Assessment Team in San Jose. The best contact for the reporter is:

Officer Steven Aponte

Email: [steven.aponte@sanjoseca.gov](mailto:steven.aponte@sanjoseca.gov)

Phone: 408-277-5339

Please let me know if there is anything else I can provide or be of assistance.

Thank you,

**Alice Vurich, Senior Grants Analyst**

**San Jose Police Department – Fiscal Administration**

201 W Mission St, San Jose, CA 95110

Direct: 408-537-1623

Cell: **Personally Identifiable Information**

---

**From:** Kim, Priscilla <[Priscilla.Kim@mail.house.gov](mailto:Priscilla.Kim@mail.house.gov)>

**Sent:** Wednesday, June 9, 2021 3:37 PM

**To:** Vurich, Alice <[Alice.Vurich@sanjoseca.gov](mailto:Alice.Vurich@sanjoseca.gov)>

**Cc:** McFadden, Stanley <[STANLEY.MCFADDEN@sanjoseca.gov](mailto:STANLEY.MCFADDEN@sanjoseca.gov)>; Perez, Lisa <[lisa.perez@sanjoseca.gov](mailto:lisa.perez@sanjoseca.gov)>; Felton, Alexandria <[Alexandria.Felton@sanjoseca.gov](mailto:Alexandria.Felton@sanjoseca.gov)>

**Subject:** Lofgren // SJPD MCAT Contact

[External Email]

Hi Alice,

We had a reporter reach out wanting to speak with someone about the Mobile Crisis Assessment Team (MCAT) after seeing we had submitted it to the Appropriations Committee for community project funding consideration. Do you have a best contact we can provide who may be able to speak to the program?

Thanks,

Priscilla

Priscilla A. Kim

Rep. Zoe Lofgren (CA-19)

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

PRAR\_SJ00317

**From:** Sam Liccardo <[Redacted] Personally Identifiable Information>  
**Sent:** Monday, August 30, 2021 7:24 PM EDT  
**To:** Hadnot, Rhonda <rhonda.hadnot@sanjoseca.gov>  
**Subject:** [Redacted] Non-Responsive

[External Email]

----- Forwarded message -----  
**From:** Sam Liccardo <[Redacted] Personally Identifiable Information>  
**Date:** Sun, Jun 27, 2021 at 10:17 AM  
**Subject:** [Redacted] Non-Responsive  
**To:** EM Garcetti <[Redacted]>  
**Cc:** Darrell Steinberg <[Redacted] Personally Identifiable Information>

[Redacted] Non-Responsive

On Sun, Jun 27, 2021 at 9:08 AM EM Garcetti <[Redacted]> wrote:

[Redacted] Non-Responsive

On Fri, Jun 25, 2021, 6:03 AM Darrell Steinberg <[Redacted]> wrote:

[Redacted] Non-Responsive

On Jun 25, 2021, at 3:39 AM, Sam Liccardo <[Redacted]> wrote:

[Redacted] Non-Responsive

----- Forwarded message -----

**From:** Green, Scott <[scott.green@sanjoseca.gov](mailto:scott.green@sanjoseca.gov)>  
**Date:** Thu, Jun 24, 2021 at 8:57 PM  
**Subject:** Fwd: TOMORROW: In Santa Clara County, Governor Newsom to Highlight State Action to Tackle Homelessness  
**To:** Sam Liccardo <[Redacted]>, Davis, Rachel <[Rachel.Davis@sanjoseca.gov](mailto:Rachel.Davis@sanjoseca.gov)>

FYI

Sent from my iPhone

Begin forwarded message:

**From:** Vanessa Gonzalez <[vanessa@cruzstrategies.com](mailto:vanessa@cruzstrategies.com)>  
**Date:** June 24, 2021 at 8:22:49 PM PDT  
**To:** "Green, Scott" <[scott.green@sanjoseca.gov](mailto:scott.green@sanjoseca.gov)>, "Felton, Alexandria" <[Alexandria.Felton@sanjoseca.gov](mailto:Alexandria.Felton@sanjoseca.gov)>, "Davis, Martina" <[Martina.Davis@sanjoseca.gov](mailto:Martina.Davis@sanjoseca.gov)>, "Zarate, Sarah" <[Sarah.Zarate@sanjoseca.gov](mailto:Sarah.Zarate@sanjoseca.gov)>  
**Cc:** steve cruz <[steve@cruzstrategies.com](mailto:steve@cruzstrategies.com)>

PRAR\_SJ00825

**Subject: Fwd: TOMORROW: In Santa Clara County, Governor Newsom to Highlight State Action to Tackle Homelessness**

[External Email]

**Vanessa Gonzalez**

Director of Government Relations | Cruz Strategies  
925 L Street, Suite 600  
Sacramento, CA 95814

Begin forwarded message:

**From:** Governor's Press Office <[govpressoffice@gov.ca.gov](mailto:govpressoffice@gov.ca.gov)>

**Date:** June 24, 2021 at 7:06:42 PM PDT

**To:** [vanessa@cruzstrategies.com](mailto:vanessa@cruzstrategies.com)

**Subject: TOMORROW: In Santa Clara County, Governor Newsom to Highlight State Action to Tackle Homelessness**

**Reply-To:** Governor's Press Office <[govpressoffice@gov.ca.gov](mailto:govpressoffice@gov.ca.gov)>

[View this email in a web browser](#) | [Forward to a friend](#)

Office of the Governor

MEDIA ADVISORY:

Thursday, June 24, 2021

Contact: Governor's Press Office

(916) 445-4571

**TOMORROW: In Santa Clara County, Governor Newsom to Highlight State Action to Tackle Homelessness**

SANTA CLARA COUNTY – Governor Gavin Newsom will visit a Homekey site in Santa Clara County tomorrow to highlight the nation-leading program – the largest expansion of housing for people experiencing homelessness in recent history.

**WHEN:** Friday, June 25, 2021 at approx. 10:30 a.m. PDT

**LIVESTREAM:** @CAgovernor [Twitter](#) page, California Governor [Facebook](#) page and California Governor [YouTube](#) page.

This press conference is also available to TV stations on the TVu Grid as "CALOES\_SOC" and on the LiveU Matrix under "CA-Governors-Office."

**\*\*NOTE:** This event is open to credentialed media only, reporters interested in attending must RSVP to [govpressoffice@gov.ca.gov](mailto:govpressoffice@gov.ca.gov) by 8:00 a.m. with names of the reporters who will be in attendance for information on covering the event.

###

**Governor Gavin Newsom**

State Capitol Building  
Sacramento, CA 95814

[Forward](#) [View in Browser](#)

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

--  
Sam Liccardo  
Mayor, City of San Jose

--  
Sam Liccardo  
Mayor, City of San Jose

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

PRAR\_SJ00827

**From:** Sam Liccardo **Personally Identifiable Information**  
**Sent:** Monday, August 30, 2021 8:56 PM EDT  
**To:** Hadnot, Rhonda <rhonda.hadnot@sanjoseca.gov>  
**Subject:** Fwd: **Personally Identifiable Information** key messages - for input

[External Email]

----- Forwarded message -----

**From:** Lutzky, Andy <Andy.Lutzky@sanjoseca.gov>  
**Date:** Sat, Jun 5, 2021 at 3:44 PM  
**Subject:** RE: **Personally Identifiable Information** key messages - for input  
**To:** Liccardo, Sam <sam.liccardo@sanjoseca.gov>, Reed, Jim <Jim.Reed@sanjoseca.gov>, Pereira, Paul <Paul.Pereira@sanjoseca.gov>, Guimera, Christina <Christina.Guimera@sanjoseca.gov>, Davis, Rachel <Rachel.Davis@sanjoseca.gov>, **Personally Identifiable Information**

Updated: **6255 Balancing Test**

**From:** Lutzky, Andy  
**Sent:** Friday, June 4, 2021 7:24 PM  
**To:** Liccardo, Sam <sam.liccardo@sanjoseca.gov>; Reed, Jim <Jim.Reed@sanjoseca.gov>; Pereira, Paul <Paul.Pereira@sanjoseca.gov>; Guimera, Christina <Christina.Guimera@sanjoseca.gov>; Davis, Rachel <Rachel.Davis@sanjoseca.gov>; **Personally Identifiable Information**  
**Subject:** RE: **Personally Identifiable Information** key messages - for input

+ Mayor Gmail.

**From:** Lutzky, Andy  
**Sent:** Friday, June 4, 2021 5:21 PM  
**To:** Liccardo, Sam <sam.liccardo@sanjoseca.gov>; Reed, Jim <Jim.Reed@sanjoseca.gov>; Pereira, Paul <Paul.Pereira@sanjoseca.gov>; Guimera, Christina <Christina.Guimera@sanjoseca.gov>; Davis, Rachel <Rachel.Davis@sanjoseca.gov>  
**Subject:** **Personally Identifiable Information** key messages - for input

Hi all – as food for thought, [sharing initial ideas](#) for public-facing key messages for our work on **Deliberative Process Privilege**

The aim of these messages is to supplement the great ongoing memo work, distilling it into pithy, memorable soundbites and messages that could show up in written materials, the press conference, and interviews.

We'd love feedback on these ideas – on whether they accurately and authentically convey the what and the why of our proposals.

Happy to chat tonight/over the weekend on feedback. Team is standing by to build out further.

Thanks all –

Andy



**Andy Lutzky**  
Chief Communications and Marketing Officer, City of San Jose  
*Proudly serving San José: America's 10th Largest City & the Capital of Silicon Valley*

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

PRAR\_SJ00841

## **Exhibit I**



**From:** Sam Liccardo **Personally Identifiable Information**  
**Sent:** Monday, September 06, 2021 7:19 PM EDT  
**To:** Hadnot, Rhonda <rhonda.hadnot@sanjoseca.gov>  
**Subject:** Fwd: San José DST Projects

[External Email]

----- Forwarded message -----

**From:** Liccardo, Sam <[sam.liccardo@sanjoseca.gov](mailto:sam.liccardo@sanjoseca.gov)>  
**Date:** Mon, May 24, 2021 at 8:00 AM  
**Subject:** RE: San José DST Projects  
**To:** Pereira, Paul <[Paul.Pereira@sanjoseca.gov](mailto:Paul.Pereira@sanjoseca.gov)>, Sam Liccardo **Personally Identifiable Information**, Nicholas <[Nicholas.Almeida@sanjoseca.gov](mailto:Nicholas.Almeida@sanjoseca.gov)>

Paul, please use my gmail to ensure that I see these kinds of messages. **Personally Identifiable Information**

**Deliberative Process Privilege**

**From:** Pereira, Paul <[Paul.Pereira@sanjoseca.gov](mailto:Paul.Pereira@sanjoseca.gov)>  
**Sent:** Sunday, May 23, 2021 4:21 PM  
**To:** Liccardo, Sam <[sam.liccardo@sanjoseca.gov](mailto:sam.liccardo@sanjoseca.gov)>  
**Subject:** Fw: San José DST Projects

Hi Sam,

Here's an overview of what Chris is faced with, directly from him. I'm also attaching the latest SJ Bridge program that they sent us about 3 weeks ago. It hasn't changed at all since January. **Personally Identifiable Information**

**Deliberative Process Privilege**

Paul Pereira

Office of Mayor Sam Liccardo /

Partially assigned to the Emergency Operations Center

[paul.pereira@sanjoseca.gov](mailto:paul.pereira@sanjoseca.gov)

*Please consider the environment before printing this email*

**From:** Chris Richardson <[Chris@streetsteam.org](mailto:Chris@streetsteam.org)>  
**Sent:** Wednesday, May 19, 2021 3:16 PM  
**To:** Pereira, Paul <[Paul.Pereira@sanjoseca.gov](mailto:Paul.Pereira@sanjoseca.gov)>  
**Cc:** Erika Laguna <[erika@streetsteam.org](mailto:erika@streetsteam.org)>  
**Subject:** San José DST Projects

[External Email]

Hey Paul,

Thanks again for taking my call. Here is a quick recap of our conversation:

-The Litter and Trash contract through General Funds is going away at the end of the month, leaving DST in a very tough spot.

PRAR\_SJ02291

**From:** Sam Liccardo <[REDACTED]>  
**Sent:** Wednesday, August 25, 2021 2:26 PM EDT  
**To:** Hadnot, Rhonda <[rhonda.hadnot@sanjoseca.gov](mailto:rhonda.hadnot@sanjoseca.gov)>  
**Subject:** Fwd: Your call with Rhonda

[External Email]

----- Forwarded message -----

**From:** Sam Liccardo <[REDACTED]>  
**Date:** Wed, Jun 23, 2021 at 8:02 AM  
**Subject:** Your call with Rhonda  
**To:** [REDACTED] Hadnot, Rhonda <[Rhonda.Hadnot@sanjoseca.gov](mailto:Rhonda.Hadnot@sanjoseca.gov)>  
[REDACTED] Personally Identifiable Information

**Personally Identifiable Information**

I'm very sorry to hear that with everything you're going through right now, you're also facing these horrible frustrations. I have reached out to the VTA leadership, and Rhonda is working out on a couple of other channels to push for resolution on several of these fronts.

I'm chained to my zoom screen right now in a multi-day Council meeting, but we will reach out to you over the next 48 and 72 hours with updates as we're able to either make progress or report what we learn.

This is my direct email address, which I read three or four times a week. We'll be back in touch shortly.

Sam

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

## **Exhibit J**

**From:** Sam Liccardo **Personally Identifiable Information**  
**Sent:** Monday, August 30, 2021 8:11 PM EDT  
**To:** Hadnot, Rhonda <rhonda.hadnot@sanjoseca.gov>  
**Subject:** Fwd: Mayors' Letter on Gun Violence to President Biden: Sign-on Needed ASAP

[External Email]

----- Forwarded message -----

**From:** Guimera, Christina <[Christina.Guimera@sanjoseca.gov](mailto:Christina.Guimera@sanjoseca.gov)>

**Date:** Mon, Jun 14, 2021 at 1:22 PM

**Subject:** Re: Mayors' Letter on Gun Violence to President Biden: Sign-on Needed ASAP

**To:** Jim Reed **Personally Identifiable Information**, Rachel Davis **Personally Identifiable Information**, Sam Liccardo

**Personally Identifiable Information**, Kat Baumgartner-Wilson **Personally Identifiable Information**, Paul Pereira **Personally Identifiable Inform**

**Deliberative Process Privilege**

Thanks,  
Christina

Get [Outlook for iOS](#)

**From:** Jim Reed **Personally Identifiable Information**

**Sent:** Monday, June 14, 2021 12:47:19 PM

**To:** Rachel Davis **Personally Identifiable Information**; Guimera, Christina <[Christina.Guimera@sanjoseca.gov](mailto:Christina.Guimera@sanjoseca.gov)>; Sam Liccardo

**Personally Identifiable Information**; Kat Baumgartner-Wilson **Personally Identifiable Information**; Paul Pereira **Personally Identifiable Information**

**Subject:** Fwd: Mayors' Letter on Gun Violence to President Biden: Sign-on Needed ASAP

[External Email]

Adding Christina, Paul P. and Rach.

**Deliberative Process Privilege**

----- Forwarded message -----

**From:** Wilson, Kat <[Kat.Wilson@sanjoseca.gov](mailto:Kat.Wilson@sanjoseca.gov)>

**Date:** Mon, Jun 14, 2021 at 12:43 PM

**Subject:** Fwd: Mayors' Letter on Gun Violence to President Biden: Sign-on Needed ASAP

**To:** Jim Reed **Personally Identifiable Information**, Sam Liccardo **Personally Identifiable Information**

**Kat Wilson**

Energy & Environmental Policy Advisor

cell: **Personally Identifiable Information**

[kat.wilson@sanjoseca.gov](mailto:kat.wilson@sanjoseca.gov)

**From:** Felton, Alexandria <[Alexandria.Felton@sanjoseca.gov](mailto:Alexandria.Felton@sanjoseca.gov)>

**Sent:** Monday, June 14, 2021 12:34:25 PM

**To:** Pollner, Leslie I (WAS - X75149) <[Leslie.Pollner@hklaw.com](mailto:Leslie.Pollner@hklaw.com)>; Wilson, Kat <[Kat.Wilson@sanjoseca.gov](mailto:Kat.Wilson@sanjoseca.gov)>

**Subject:** RE: Mayors' Letter on Gun Violence to President Biden: Sign-on Needed ASAP

Hi Leslie,

PRAR\_SJ00922

I am looping in Kat Wilson from the Mayor's Office. Kat is fielding letter requests while Scott is out this week.

Kat, from time-to-time, we get requests for the Mayor to sign on to letters from the US Conference of Mayors and related organizations. Can you help with getting the Mayor's sign-off?

Thanks!

Alex

**Alexandria Felton**

Intergovernmental Relations Officer

City of San José | Office of the City Manager

408.535.8116 | [alexandria.felton@sanjoseca.gov](mailto:alexandria.felton@sanjoseca.gov)

*Please check out [www.siliconvalleystrong.org](http://www.siliconvalleystrong.org) to help out with COVID-19.*

---

**From:** [Leslie.Pollner@hkllaw.com](mailto:Leslie.Pollner@hkllaw.com) [mailto:[Leslie.Pollner@hkllaw.com](mailto:Leslie.Pollner@hkllaw.com)]  
**Sent:** Monday, June 14, 2021 12:01 PM  
**To:** Felton, Alexandria <[Alexandria.Felton@sanjoseca.gov](mailto:Alexandria.Felton@sanjoseca.gov)>  
**Subject:** FW: Mayors' Letter on Gun Violence to President Biden: Sign-on Needed ASAP

[External Email]

Hi Alex: Know that mayor will want to sign on to this. Can you help get sign off?

**From:** Laura Waxman <[lwaxman@usmayors.org](mailto:lwaxman@usmayors.org)>  
**Sent:** Monday, June 14, 2021 2:58 PM  
**To:** Green, Scott <[scott.green@sanjoseca.gov](mailto:scott.green@sanjoseca.gov)>  
**Cc:** Pollner, Leslie I (WAS - X75149) <[Leslie.Pollner@hkllaw.com](mailto:Leslie.Pollner@hkllaw.com)>  
**Subject:** Fwd: Mayors' Letter on Gun Violence to President Biden: Sign-on Needed ASAP

*[External email]*

Scotti,

Below is a letter to the President on gun violence that we plan to send tomorrow. Conference of Mayors President and Dayton Mayor Nan Whaley asked us specifically to invite Mayor Liccardo to sign on, and we hope that he will. The letter will be released in a press conference tomorrow afternoon. **Please let me know ASAP if the Mayor will sign onto the letter. Would be great to know today if possible, but can still add mayors up until 11 AM EDT tomorrow if necessary.**

Thanks,

Laura

The President

The White House

Washington, DC 20500

Dear Mr. President:

We write to congratulate you and your Administration on the steps you have already taken to address the scourge of gun violence we face in cities across America. These include the Department of Justice's proposed rules to stop the proliferation of ghost guns and clarify that when individuals use accessories to convert pistols into short-barreled rifles, they must comply with the heightened regulations on those dangerous and easily concealable weapons; the Department's publication of a model state red flag law; and the prioritization of gun violence intervention efforts in the various grant programs and increased funding to carry them out. We also applaud the actions announced by the Justice Department on May 26th that will bring together and enlist U.S. Attorneys, the Department's law enforcement agencies and other relevant Department components in a coordinated and comprehensive violent crime reduction initiative.

We believe there are other steps that the federal government is uniquely qualified to take to enhance the efforts already underway. These steps will help to reduce the epidemic of gun violence that we face daily in our cities:

- Continue to use the platform of the Presidency to make reducing gun violence not just a law enforcement priority, but truly a public health imperative. Stressing the importance of root cause analysis and supporting investments in mental health, community health initiatives, our youth, particularly efforts to help them reconnect to school and community in the aftermath of the pandemic, as well as support for proven efforts to help returning residents transition back into communities from incarceration are all crucial. These and other efforts to build peaceful and vibrant neighborhoods are essential and the effective use of soft power interventions. As you know well, we cannot police our way out of this problem, but saying it is not good enough. As a nation, we need to take concrete, tangible steps and as our leader, your voice is critically important in this fight.

- It is important that your Administration continue to take a leadership role in enacting meaningful and common-sense gun control legislation. We are clear-eyed about the political challenges, but now more than ever, we need to continue this hard but necessary work. So many cities and towns are now dots on a map of mass shootings that could have been prevented if there was a federal web of uniform laws on background checks, eliminating access to guns for those who have a demonstrated history of mental illness or other disqualifying conditions, just to name a few. The challenges that cities and states face around the proliferation of crime guns do not respect geographic boundaries, and require a federal set of laws. Here are some specific steps that must be taken:

1. We need universal background checks and closure of simple loopholes, a ban on assault weapons, and policies that keep guns out of the hands of people who are dangerous to themselves and others as well as promote gun safety.
2. Additionally, adequate federal enforcement of existing laws is critical, including supporting federal efforts to investigate federally licensed gun dealers, including the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) which has been constrained by the gun lobby. Illegal gun trafficking market originating in other states and ending up on the streets of cities like Chicago, Detroit, Baltimore, St. Louis and others is a significant source of the gun violence in these and other cities. Interstate gun trafficking requires a federal focus. It can never be adequately addressed by local law enforcement alone and requires sufficient staffing.
3. Additionally, every day, on social media platforms, illegal gun sales are happening among criminals. Here again, local law enforcement has limited tools to address this significant threat. There needs to be both regulatory and enforcement actions to bring accountability to these social media platforms that often ignore the problem entirely and make it difficult for local law enforcement to stop these illegal sales. The weight of the federal government is needed to elevate this issue and demand a level of accountability that will keep our residents safe.
4. Finally, we urge this Administration to authorize the provision of resources for the purchase of National Integrated Ballistic Information Network (NIBN) machines and staffing for more firearms examiners. These two elements would be important and worthwhile investments.

We stand ready to work with you and Vice President Harris, Ambassador Susan Rice and Attorney General Merrick Garland to see these actions implemented as quickly as possible and this administrative and legislative agenda achieved.

Sincerely,

--

Laura DeKoven Waxman  
Director of Public Safety  
The U.S. Conference of Mayors  
1620 Eye Street, NW  
Washington, DC 20006  
(202) 489-7534  
[lwaxman@usmayors.org](mailto:lwaxman@usmayors.org)

---

NOTE: This e-mail is from a law firm, Holland & Knight LLP ("H&K"), and is intended solely for the use of the individual(s) to whom it is addressed. If you believe you received this e-mail in error, please notify the sender immediately, delete the e-mail from your computer and do not copy or disclose it to anyone else. If you are not an existing client of H&K, do not construe anything in this e-mail to make you a client unless it contains a specific statement to that effect and do not disclose anything to H&K in reply that you expect it to hold in confidence. If you properly received this e-mail as a client, co-counsel or retained expert of H&K, you should maintain its contents in confidence in order to preserve the attorney-client or work product privilege that may be available to protect confidentiality.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

## **Exhibit K**





July 30, 2021

**By Email Only**

Mayor Sam Liccardo  
City of San Jose  
200 E. Santa Clara Street  
San Jose, California 95113  
sam.liccardo@sanjoseca.gov

Karl Olson  
kolson@cofolaw.com

**Re: Public Records Act Request**

Dear Mayor Sam Liccardo,

On June 24, 2021, the nonprofit news organization San José Spotlight requested “a copy of all email and text message communications between Mayor Sam Liccardo and/or members of his staff and Scott Largent from Nov. 1, 2020 until present day. Please include emails/texts sent and received from personal devices and accounts as it relates to public business.”

The city acknowledged receipt of this request on June 25, 2021.

On July 9, 2021, Henry Smith, an agenda services manager in the Mayor’s Office, requested “an extension of time to fully respond” until July 20, 2021.

On July 20, 2021, Smith closed out the news organization's records request by saying no responsive documents exist. Smith wrote, “City Staff did not identify any documents that are responsive to your request below. Your request is now completed. Please let me know if you have any questions.”

But as San José Spotlight revealed in its July 23, 2021 article titled [\*San Jose mayor uses private email to skirt public records law\*](#) numerous emails existed between Liccardo and resident Scott Largent, including emails sent and received from both the mayor’s official government account and personal Gmail ([sam.liccardo@gmail.com](mailto:sam.liccardo@gmail.com)) account.

Not only did the city fail to turn over records that we know exist, the mayor violated the California Public Records Act by deleting emails from his government account and directing the resident to communicate on his private Gmail in an apparent effort to thwart the law and dodge disclosure requirements.

On July 22, 2021, Smith backtracked by saying the city “prematurely” closed out San José Spotlights public records request without conducting a search of the mayor’s personal email account.

First, I’m writing to notify you that the mayor’s actions are in violation of the California Public Records Act. As you know, the California Supreme Court in *City of San*

*Jose v. Superior Court* (2017) 2 Cal. 5<sup>th</sup> 608 -- a case which arose out of your use of “private” electronic devices to conduct public business -- held that emails on “private” electronic devices which deal with public business must be disclosed. It is very troubling that, four years after that Supreme Court decision, the Mayor is still trying to circumvent the Public Records Act.

Second, with the knowledge that Liccardo deletes public emails, uses his personal Gmail to conduct city business and the city’s failure to turn over those records, we’re now insisting that the mayor’s private email accounts be searched and that we receive copies of all emails sent from his private Gmail account pertaining to city business.

Under California Public Records Act, we are requesting all emails from January 1, 2021 to July 30, 2021 on the personal Gmail account belonging to Liccardo (sam.liccardo@gmail.com) that discuss or relate to the city of San Jose, its officials and employees, government agencies or decision-making bodies that operate in the city, and any communications with city residents.

As you are well aware, the California Supreme Court has ruled that communications using personal accounts and/or devices to conduct city/public business are subject to the California Public Records Act. See *City of San Jose v. Superior Court*, 2 Cal.5th 608 (2017).

This request also covers any “deleted” items that have not yet been permanently deleted from these accounts. Additionally, we request that Liccardo and the city of San Jose preserve any records that may be scheduled for permanent deletion on a set schedule as well, and put a “litigation hold” on them.

If I can provide any clarification on this request, please contact me at (415) 602-0841, or Aaron Field at (408) 781-2757. Thank you for your timely attention to this matter.

Sincerely,

CANNATA O’TOOLE FICKES & OLSON LLP



KARL OLSON

KO:kg

CC:

Henry Smith, Agenda Services Manager  
Office of Mayor Sam Liccardo  
200 E. Santa Clara Street  
San Jose, California 95113  
henry.smith@sanjoseca.gov

Cristin Reak Zeljak, Public Records Act Coordinator  
City of San Jose, Office of the City Attorney  
200 E. Santa Clara Street, 16th Floor  
San Jose, California 95113  
cristin.reak-zeljak@sanjoseca.gov

Ramona Giwargis, CEO of San José Spotlight  
1900 Camden Avenue  
San Jose, California 95124  
[ramona@sanjosespotlight.com](mailto:ramona@sanjosespotlight.com)

Aaron Field

## **Exhibit L**



July 26, 2021

Mayor Sam Liccardo  
City of San José  
200 E. Santa Clara Street  
San José, California 95113  
[sam.liccardo@sanjoseca.gov](mailto:sam.liccardo@sanjoseca.gov)

RE: Public Records Act Request

Dear Mayor Liccardo,

I am requesting access to records in your possession or control and/or records in the possession or control of the City of San José for the purposes of inspection and copying pursuant to the California Public Records Act, California Government Code § 6250 et seq. (“CPRA”), Article I, § 3(b) of the California Constitution, and the San Jose, California Open Government Ordinance. The specific records I seek to inspect and copy are listed below. As used herein, “Record” includes “Public Records” and “Writings” as those terms are defined at Government Code § 6252(e) & (g).

1. All emails from November 18, 2020 to July 26, 2021 on the personal gmail account belonging to San José Mayor Sam Liccardo (identified as s\*\*\*\*\*@gmail.com by the San José Spotlight) that discuss or relate to the City of San José, its officials and employees, government agencies or decision-making bodies that operate in the city, and any communications with City of San José residents.
2. All other communications from November 18, 2020 to July 26, 2021, whether facilitated by email, social media, or any other personal communication services, with San José Mayor Sam Liccardo that discuss or relate to the City of San José, its officials and employees, government agencies or decision-making bodies that operate in the city, and any communications with City of San José residents.

If you contend that any portion of the records requested is exempt from disclosure by express provisions of law, Government Code § 6253(a) requires segregation and redaction of that material in order that the remainder of the records may be released. If you contend that any express provision of law exists to exempt from disclosure all or a portion of the records I have requested, Government Code § 6253(c) requires that you notify me of the reasons for the determination not later than 10 days from your receipt of this request. Government Code §§ 6253(d) & 6255(b) require that any response to this request that includes a determination that

the request is denied, in whole or in part, must be in writing and include the name and title of the person(s) responsible for the City's response.

Government Code § 6253(d) prohibits the use of the 10-day period, or any provisions of the CPRA or any other law, "to delay access for purposes of inspecting public records." In case there is any doubt about the public nature of these records, the California Supreme Court has ruled that communications regarding the conduct of personal business using personal accounts are subject to the California Public Records Act. See *City of San Jose v. Superior Court*, 2 Cal.5th 608 (2017). This request also covers any "deleted" items that have not yet been permanently deleted from these accounts. We request that Mayor Liccardo and the City of San José preserve any records that may be scheduled for permanent deletion on a set schedule as well.

In responding to this request, please keep in mind that Article 1, § 3(b)(2) of the California Constitution expressly requires you to broadly construe all provisions that further the public's right of access, and to apply any limitations on access as narrowly as possible.

If I can provide any clarification that will help expedite your attention to my request, please contact me at [mprice@firstamendmentcoalition.org](mailto:mprice@firstamendmentcoalition.org) or (925) 639-5127.

Thank you for your timely attention to this matter.

Sincerely,  
Monica Price  
First Amendment Coalition  
(925) 639-5127

CC:

Henry Smith, Public Records Act Coordinator  
Office of Mayor Sam Liccardo  
200 E. Santa Clara Street  
San José, California 95113  
[henry.smith@sanjoseca.gov](mailto:henry.smith@sanjoseca.gov)

Cristin Reak Zeljak, Public Records Act Coordinator  
City of San José, Office of the City Attorney  
200 E. Santa Clara Street, 16th Floor  
San José, California 95113  
[cristin.reak-zeljak@sanjoseca.gov](mailto:cristin.reak-zeljak@sanjoseca.gov)

## **Exhibit M**

**From:** Sam Liccardo **Personally Identifiable Information**

**Sent:** Monday, September 06, 2021 7:59 PM EDT

**To:** Hadnot, Rhonda <rhonda.hadnot@sanjoseca.gov>

**Subject:** Fwd: Dinesh at IBM authorized 10k for NorCal College Promise Coalition.... I failed to see all of my texts from last week....

[External Email]

----- Forwarded message -----

**From:** Sam Liccardo **Personally Identifiable Information**

**Date:** Sat, May 15, 2021 at 8:32 PM

**Subject:** Dinesh at IBM authorized 10k for NorCal College Promise Coalition.... I failed to see all of my texts from last week....

**To:** <[Candace.le@sanjoseca.gov](mailto:Candace.le@sanjoseca.gov)>, <[Kendra.ODonoghue@sanjoseca.gov](mailto:Kendra.ODonoghue@sanjoseca.gov)>, <[nicholas.almeida@sanjoseca.gov](mailto:nicholas.almeida@sanjoseca.gov)>



Dinesh >

Will send via email

Thu, Apr 29, 4:51 PM

Sam, I was able to secure 100k for Aspire.. A mention of IBM as a sponsor would be good..

Also got 100k for save the bay

Sunday 6:39 PM

Dinesh, I hope you're enjoying a fabulous Mother's Day weekend. Hey, I have a question for you about IBM's generous support for our San Jose Aspries initiative: we're part of a consortium of cities advocating for statewide support of "college promise" programs that will enable all of us to scale our work. Would we be consistent with the terms of your generous gift if we used \$10,000 of that 100K total to pay for our annual participation in the Northern California College Promise Coalition? We are hopeful that our joint efforts will enable us to expand the SJ Aspries program and its impact. Sam

Read Sunday

Monday 8:04 PM

Sam, that is fine..

Subject

Message



This message is from outside the City email system. Do not open links or attachments from untrusted sources.

## **Exhibit N**

**From:** Sam Liccardo <[REDACTED]>  
**Sent:** Wednesday, August 25, 2021 2:02 PM EDT  
**To:** Hadnot, Rhonda <rhonda.hadnot@sanjoseca.gov>  
**Subject:** Fwd: Help from Dept of Justice on gun control initiative

[External Email]

----- Forwarded message -----

**From:** Sam Liccardo <[REDACTED]>  
**Date:** Thu, Jul 8, 2021 at 3:46 PM  
**Subject:** Help from Dept of Justice on gun control initiative  
**To:** <[viviana.becerra@doj.ca.gov](mailto:viviana.becerra@doj.ca.gov)>  
**Cc:** Guimera, Christina <[Christina.Guimera@sanjoseca.gov](mailto:Christina.Guimera@sanjoseca.gov)>, Opsal, Shelley <[shelley.opsal@sanjoseca.gov](mailto:shelley.opsal@sanjoseca.gov)>, Chaparro, Isela <[Isela.Chaparro@sanjoseca.gov](mailto:Isela.Chaparro@sanjoseca.gov)>

Viviana,

Welcome back.

I texted the Attorney General today, and he suggested you'd be the best person to talk to.

Could we set up a brief call to discuss a gun violence/ control initiative that we're working on?

Specifically, I'd like to inquire about whether California DOJ could help us avoid tripping over a preemption issue in state law? It involves the use of the state registry to keep records relating to a fee we'd like to charge to gun owners to compensate the city & county for the cost of gun violence response.

I've cc'd our team, who can set up a call at your convenience.

Cheers,

Sam

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

PRAR\_SJ00287

## **Exhibit O**

From: Sam Liccardo [redacted] **Personally Identifiable Information**  
Sent: Monday, October 04, 2021 6:13 PM EDT  
To: Hadnot, Rhonda <rhonda.hadnot@sanjoseca.gov>  
Subject: Fwd: Ed, is this too long to get printed?

[External Email]

----- Forwarded message -----

From: Ed Clendaniel <edclendaniel@bayareanewsgroup.com>  
Date: Thu, Jan 14, 2021 at 8:54 PM  
Subject: Re: Ed, is this too long to get printed?  
To: Sam Liccardo [redacted] **Personally Identifiable Information**

Sure - should work unless we get something crazy happening around the inauguration.

Ed

Sent from my iPhone

On Jan 14, 2021, at 8:30 PM, Sam Liccardo [redacted] wrote:

Thanks Ed. Hope you're doing well.

Hey, I'm told that my blackout period is nearing its end this week, so I was going to submit something about "pivoting in the pandemic"-- lessons we're learning to better address challenges after the pandemic (eg, around homelessness, digital divide, etc). Is that a publish-worthy topic? I can send you a draft next week.  
Sam

On Wed, Jan 13, 2021 at 3:41 PM Ed Clendaniel <edclendaniel@bayareanewsgroup.com> wrote:

Sam,

Your letter will appear in Thursday's paper and online Thursday morning. I chatted with Bert and Dan, and we didn't make any significant changes.

Ed

On Mon, Jan 11, 2021 at 8:45 AM Sam Liccardo [redacted] wrote:

Ok, I'll cut some of the sentences with hyperlinks to the articles and the op-ed, but you'll need those when you talk to Bert, because the articles and op-ed say it all. Is this any better?

Last fall, VTA staff clumsily made public a half-prepared spreadsheet describing three categories of future Measure B spending, while insisting it was *not* a spending plan. Not a single VTA board member endorsed it. Some city officials assumed otherwise, however, expressing outrage at paying for BART expansion by sacrificing Measure B countywide projects to which the spreadsheet did not allocate funding. The *Mercury News* repeatedly parroted that false assertion in articles and an editorial. Last week, the paper identified a "new plan," which was nothing more than a spreadsheet that reflects Measure B's capacity to fund all of the voter-approved categories of projects. Please focus your coverage on engaging, rather than merely enraging, the public. Proposed spending plans *will be considered for the first time* by the VTA Board at its January 22<sup>nd</sup> meeting, and we encourage public participation (see [vta.org](http://vta.org)). I am confident the Board will approve an actual plan that robustly invests in every voter-approved category of countywide transportation projects.

Sam Liccardo

On Mon, Jan 11, 2021 at 8:12 AM Ed Clendaniel <edclendaniel@bayareanewsgroup.com> wrote:

It would probably be simplest to trim it first and then send that version to Bert so I can hear his side of it. I'll deal with Borenstein. But I think it makes more sense to give Bert the final version rather than send the original version to him and then have to go back and forth a second time over the final version. Make sense?

Ed

On Mon, Jan 11, 2021 at 8:04 AM Sam Liccardo [redacted] wrote:

Yeah, totally understood. I can cut it if you prefer to go that route. Yeah, I'm particularly frustrated because I had a text exchange with Borenstein and sent an email to the first article's author, and would have hoped that by now, somebody in the editor's team would have been a little more demanding of the most recent author to actually discern what VTA staff is saying about the document before assuming the characterization given to it by opponents who are trying to demagogue and issue. I twice urged Borenstein to identify the "VTA leaders" who he asserted were pushing a "proposed plan" to direct spending to BART at the expense of other priorities, and he sidestepped my question each time. He just asserted it was my job to prove the negative, rather than his job to get the facts right in the first instance.

The coverage just continues to generate anger in a public that believes that some decision has been made, rather than inviting people to actually participate meaningfully. WE have enough outrage in our political environment, Ed, and it would do everyone a world of good if the outrage could be focused on facts rather than suppositions.

On Mon, Jan 11, 2021 at 6:58 AM Ed Clendaniel <edclendaniel@bayareanewsgroup.com> wrote:

Hi Sam,

Sorry to be slow in responding -- turned off my email Saturday afternoon after the mass craziness of the week.

Yes, it would need to be trimmed. We've been pretty tough with the length for letters for the past year, although on occasion one slips by us with 160 words or so.

I would also need to do our standard run by Bert Robinson to hear his take on the issue. I make the ultimate call, but whenever a letter criticizes our news coverage, I always check in with the reporter or editor to hear their side of the story. And I know you feel strongly about this (the editorial was written while I was away, as you may recall).

Ed

On Sat, Jan 9, 2021 at 8:21 PM Sam Liccardo [redacted] wrote:

The *Mercury News* repeatedly mischaracterizes the Valley Transportation Authority's planning process for Measure B spending. Last fall, VTA staff clumsily made public a half-prepared spreadsheet describing three categories of future Measure B spending, while insisting it was *not* a spending plan. Not a single VTA board member endorsed it. Other elected officials assumed otherwise, expressing outrage at paying for BART expansion by sacrificing Measure B countywide projects to which the spreadsheet did not allocate funding. The *Mercury News* doubled down on

the false assertion, claiming that (apparently imaginary) "VTA leaders" had proposed this "plan," and then added an editorial labelling it as "bad faith" and "deceptive".

Last week, VTA staff released another spreadsheet, to demonstrate the ample capacity of Measure B to fund all voter-approved countywide priorities. VTA staff again publicly explained that this was *not* a spending plan, but sure enough, [the Mercury News called it a "new plan" — repeatedly.](#)

Please stop fueling this fictitious "outrage theater." Proposed spending plans *will be considered for the first time* by the VTA Board at its January 22<sup>nd</sup> meeting, and we encourage public participation (see [vta.org](#)). I am confident the Board will approve an actual plan that robustly invests in every voter-approved category of countywide transportation projects.

Sam Liccardo

--

Ed Clendaniel Editorial Page Editor | Editorial  
[ecclendaniel@bayareanewsgroup.com](mailto:ecclendaniel@bayareanewsgroup.com)

 Direct

[@EdClendaniel](#)

 bayareanewsgroup.com

Over 5 million engaged readers weekly

--

Ed Clendaniel Editorial Page Editor | Editorial  
[ecclendaniel@bayareanewsgroup.com](mailto:ecclendaniel@bayareanewsgroup.com)

 Direct

[@EdClendaniel](#)

 bayareanewsgroup.com

Over 5 million engaged readers weekly

--  
Ed Clendaniel Editorial Page Editor | Editorial  
[ecclendaniel@bayareanewsgroup.com](mailto:ecclendaniel@bayareanewsgroup.com)

 Direct

[@EdClendaniel](#)

 bayareanewsgroup.com

Over 5 million engaged readers weekly

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

## **Exhibit P**

**From:** Sam Liccardo [REDACTED]  
**Sent:** Tuesday, September 21, 2021 7:51 PM EDT  
**To:** Hadnot, Rhonda <rhonda.hadnot@sanjoseca.gov>  
**Subject:** Fwd: Monday April 12th call re High Speed Rail

[External Email]

----- Forwarded message -----

**From:** Sam Liccardo [REDACTED]  
**Date:** Fri, Apr 9, 2021 at 3:40 PM  
**Subject:** Monday April 12th call re High Speed Rail  
**To:** Therese W. McMillan <tmcmillan@bayareametro.gov>, Nicholas Nick Josefowitz <nicholas@josefowitz.com>, Nicholas Josefowitz <nicholas@getsfmoving.com>, <alfredo.pedroza@countyofnapa.org>, Rebecca Long <rlong@bayareametro.gov>, Green, Scott <scott.green@sanjoseca.gov>

Friends,

Therese texted me today to connect Alfredo and the MTC for a meeting on HSR lobbying for the upcoming infrastructure bill. I didn't realize at the time that we already had a Monday noon call set up with our & SF's lobbyist & the HSR lobbyist & Rebecca to discuss that very topic, and it makes sense for you all to join if you're able (if you're not able, no worries-- we'll get you in next time). We've been working with a constellation of cities (and bipartisan mayors) on HSR advocacy with the Governor and our Senators, but would like to talk about a more comprehensive strategy to get funding into the infrastructure bill for a major investment in Valley-to-Valley (and SF) extension in the upcoming months.

Don't hesitate to call me if you have any questions or if you'd like to talk -- my cell: [REDACTED] Scott on our team, above, will be coordinating our efforts.

Cheers,  
Sam

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

PRAR\_SJ03325



## **Exhibit Q**

**From:** Sam Liccardo - **Personally Identifiable Information**  
**Sent:** Monday, September 13, 2021 7:57 PM EDT  
**To:** Hadnot, Rhonda <rhonda.hadnot@sanjoseca.gov>  
**Subject:** Fwd: Yoyo, following up on our text exchange....  
**Attachment(s):** "Overview.pdf", "SJ Aspires Event & Sponsorship Overview.pdf"

[External Email]

----- Forwarded message -----  
**From:** Sam Liccardo - **Personally Identifiable Information**  
**Date:** Mon, Mar 8, 2021 at 12:52 PM  
**Subject:** Yoyo, following up on our text exchange....  
**To:** Yoyo Chan <YChan@warriors.com>, O'Donoghue, Kendra <Kendra.ODonoghue@sanjoseca.gov>, Le, Candace <Candace.le@sanjoseca.gov>

Yoyo,

My apologies for failing to remember to follow up on our text until today-- I hope that this email finds you doing well. I loved the piece that the Chronicle did on you a while back-- good to see you kicking butt out there!

As I mentioned on the text, I write to ask the Warriors to consider becoming a branding partner, as well as making a transformative investment in the educational future of our youth, and in economic equity. We've launched an initiative, "SJ Aspires," that has developed a digital platform that I'd like to believe will become a national model for reducing barriers for students from low-income families to college, and for dramatically improving the racial and gender diversity of our Silicon Valley workforce.

Below is the "pitch," along with attachments that can provide more information, including about sponsorships for our April 15th fundraiser. I would be happy to talk with you or others on your team to answer any questions you might have, and to discuss how this initiative can be a catalyst for educational opportunity.

I've copied Kendra and Candace, who are spearheading this initiative. Thanks again for taking the time to consider my request.

Cheers,

Sam  
Cell:

PS,  
Here's the "email pitch," if you'd like to share it internally:

SJ Aspires reduces two key barriers to college-- financial and informational--for underserved students.

**Our challenge:-** The overwhelming majority of public high school students in San Jose do not have college-educated parents, and receive (on average) only 12 minutes of college counseling over their entire four years of high school. Most San Jose students are Latinx, and the overwhelming majority are students of color. Two-thirds of San Jose's high school freshmen fail to achieve any postsecondary success in San Jose--leaving an entire generation of youth of color behind. Only 3% of Silicon Valley tech professionals are Latinx, even though Latinx residents comprise one-third of our community.

**How it works:** As described in the attachment, we've created a digital platform for high school students, providing them with virtual "signposts" about the good decisions and accomplishments that set them on a college-going path. The platform also tracks their progress. They earn varying quantities of "Scholar Dollars" for each accomplishment or task: e.g, passing A-G courses, engaging in after-school programs like robotics or drama, achieving at least a B grade in key subjects, getting a summer job, or completing an interactive on-line module on financial aid. Upon graduation, the "Scholar Dollars" transform to (up to \$5,000) real dollars, to offset the students' costs of post-secondary education.

**What**

**we're doing now, and our next steps:** We quietly launched

this program last August at three high schools serving more than 800 high-need, diverse students. I've raised \$3.5 million so far, but we'd like to serve more students, so we're hosting a public fundraising event on April 15th, at which we'd love to feature your support. We also believe that we can also tweak this platform in the months ahead to serve more specific goals of our donors, eg, supporting female students in STEM achievement, or targeting Black and Brown students, etc.. Stanford University has engaged with us to study the efficacy of this innovative model in encouraging high school students to make college-oriented choices. We're also beginning to engage with other community partners to assist with parental education, student mentoring, and other key supports of our kids.

We

would love to be able to pitch this initiative to your team for a request for philanthropic support--can we set up a meeting with you or another senior team member?

Please

don't hesitate to call me if you have any questions-- my cell **Personally Identifiable Information**

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

## **Exhibit R**

**From:** Sam Liccardo <[REDACTED]>  
**Sent:** Tuesday, September 21, 2021 8:03 PM EDT  
**To:** Hadnot, Rhonda <rhonda.hadnot@sanjoseca.gov>  
**Subject:** Fwd: Just texted you Re: this Tomorrow

[External Email]

----- Forwarded message -----

**From:** Chaparro, Isela <Isela.Chaparro@sanjoseca.gov>  
**Date:** Tue, Apr 6, 2021 at 11:28 AM  
**Subject:** Just texted you Re: this Tomorrow  
**To:** Sam Liccardo <[REDACTED]>

Hi Sam,

Below is info regarding tomorrow's session.

---

**From:** Chaparro, Isela  
**Sent:** Monday, March 22, 2021 8:28 AM  
**To:** Sam Liccardo <[REDACTED]>  
**Subject:** April 7 Lunch w/ Stu Shiff / Bloomberg Session Re: Public Safety Innovation and Racial Justice

Hi Sam,

Following up on this. You have a lunch w/ Stu Shiff that day at noon. The Bloomberg event is from 10am-12pm. I'll need to re-schedule Stu if you would like to participate in the Bloomberg session.

Thanks,  
Isela

---

**From:** Chaparro, Isela  
**Sent:** Tuesday, March 16, 2021 3:58 PM  
**To:** Sam Liccardo <[REDACTED]>  
**Subject:** FW: Special Session for Bloomberg Harvard Mayors: Public Safety Innovation and Racial Justice

Hi Sam,

Is this something you would like to participate in? It's a special session on public safety reform and racial justice in cities on Wednesday, April 7 from 10am-12pm.

Thanks,  
Isela

---

**From:** Bloomberg Harvard City Leadership Initiative <cityleadership\_mayors@harvard.edu>  
**Sent:** Tuesday, March 16, 2021 9:05 AM  
**To:** Liccardo, Sam <sam.liccardo@sanjoseca.gov>  
**Cc:** Chaparro, Isela <Isela.Chaparro@sanjoseca.gov>; Hadnot, Rhonda <rhonda.hadnot@sanjoseca.gov>; Sykes, Dave <Dave.Sykes@sanjoseca.gov>  
**Subject:** Special Session for Bloomberg Harvard Mayors: Public Safety Innovation and Racial Justice

Dear Mayor Sam Liccardo,

The Bloomberg Harvard City Leadership Initiative and the William Monroe Trotter Collaborative for Social Justice invite you to join alumni and current Bloomberg Harvard mayors in a special session on public safety reform and racial justice in cities.

Harvard Professors Cornell Brooks and Jorrit de Jong will lead this interactive session that will engage mayors around three key pillars: a more holistic approach to public safety, an inclusive stakeholder engagement process, and the role of public narrative and mayoral leadership in acknowledging the past and driving progress.

Mayors Sheehan of Albany, NY, Woodfin of Birmingham, AL and Curtatone of Somerville, MA, will share lessons with regards to the reforms they have worked on with the Trotter Collaborative over the past year.

The session will take place on **April 7 from 1:00 p.m. to 3:00 p.m. US Eastern Time**. Please RSVP using [this link](#) and save the date in your calendars.

PRAR\_SJ03309

Don't hesitate to reach out to me at [david\\_margalit@harvard.edu](mailto:david_margalit@harvard.edu) with any questions.

We hope to see you there.

Best,  
Dave

**David Margalit** | Executive Program Director  
**Bloomberg Harvard City Leadership Initiative**  
79 JFK Street, Mailbox 74, Cambridge, MA 02138 USA  
617.496.4068 | [david\\_margalit@harvard.edu](mailto:david_margalit@harvard.edu) | [cityleadership.harvard.edu](http://cityleadership.harvard.edu)

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

## **Exhibit S**

**From:** Sam Liccardo **Personally Identifiable Information**  
**Sent:** Monday, October 04, 2021 6:26 PM EDT  
**To:** Hadnot, Rhonda <rhonda.hadnot@sanjoseca.gov>  
**Subject:** Fwd: Info about Catalyze SV for Western Digital  
**Attachment(s):** "January 2021 - 1-Page Overview of Catalyze SV.pdf"

[External Email]

----- Forwarded message -----

**From:** Alex Shoor <[alex@catalyzesv.org](mailto:alex@catalyzesv.org)>  
**Date:** Fri, Jan 8, 2021 at 2:52 AM  
**Subject:** Info about Catalyze SV for Western Digital  
**To:** Sam Liccardo **Personally Identifiable Information**

Sam,

Nice job to you & your team on the Obama Boulevard presser! Too bad it got quickly overshadowed by the awful attack in DC. :(

Per our text exchange, in response to your request for an overview on Catalyze SV, please find attached a 1-pager. Thanks for sharing it with Western Digital so that we may possibly be invited to apply for [their Community Grants program](#).

Gratefully,  
Alex

Alex Shoor  
Executive Director  
Catalyze SV  
[alex@CatalyzeSV.org](mailto:alex@CatalyzeSV.org)

Engage: [www.CatalyzeSV.org](http://www.CatalyzeSV.org)  
Donate: [www.CatalyzeSV.org/donate](http://www.CatalyzeSV.org/donate)

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

PRAR\_SJ05305



## **Exhibit T**

August 19, 2021

Monica Price  
Legal Fellow  
First Amendment Coalition  
534 4th Street, #B  
San Rafael, CA 94901

Via Email Only: [mprice@firstamendmentcoalition.org](mailto:mprice@firstamendmentcoalition.org)

Re: July 26, 2021 Public Records Act Request for Mayor emails/communications  
from November 18, 2020 to July 26, 2021

Dear Ms. Price:

We are in receipt of your Public Records Act request (PRAR) dated July 26, 2021 and received on July 26, 2021.

On August 5, 2021, we notified you of the need for an extension of time to fully respond, pursuant to Government Code section 6253(c), and that we would respond to your request by August 19, 2021.

City Staff has identified and collected the attached documents that are responsive to your request.

SharePoint Link:

<https://sanjoseca.sharepoint.com/:f:/s/PRA/EtgvGU5L0e1HgmSVMD9Kq1sByJBmxKtBDQm52ePZXkUDWw?e=U1hbee>

Please note that these documents are being redacted pursuant to the following statutes:

- Contact information such as personal email addresses and personal phone numbers and social media personal images are redacted for Privacy [California Government Code § 6254(c); California Constitution, Article 1, Section 1]
- Deliberative Process [California Government Code § 6255]; Predecisional internal emails are part of the decisionmaking process for items that will come before Council and the disclosure of which would chill the candid discussion needed for optimum decisionmaking inside the Mayor's Office
- Balancing Test [California Government Code § 6255]; Withholding of project data and communications outweighs the public's interest in disclosure because it would

result in disseminating information that may lead to misinformation, published inaccurate data and confusion in the public

Please note that 1 personnel-related document is being withheld pursuant to the following statute:

- Privacy [California Government Code § 6254(c); California Constitution, Article 1, Section 1]

The following employees participated in the decision to redact and/or withhold records: Chief of Staff for the Office of the Mayor Jim Reed, Senior Deputy City Attorney Neelam Naidu, Senior Deputy City Attorney Rene Ortega and Deputy City Attorney Arlene Silva.

Due to the voluminous public record request, the need to search for, collect the requested records and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request, and the need for consultation and necessary coordination with different City departments, we are providing responsive records on a rolling basis.

The City intends to assert any and all exemptions and privileges applicable to potentially responsive records. The City also hereby reserves all other rights, including the right to object on the grounds that the request is overly broad and/or unduly burdensome.

Please contact me if you have any questions pertaining to your Public Records Act request at [publicrecordsrequest@sanjoseca.gov](mailto:publicrecordsrequest@sanjoseca.gov).

Sincerely,

Jessica Lowry, J.D.  
Open Government Manager  
City of San Jose  
City Manager's Office

CC: Mayor Sam Liccardo  
Henry Smith  
Ramona Giwargis  
Cristin Reak-Zeljck

August 30, 2021

Monica Price  
Legal Fellow  
First Amendment Coalition  
534 4th Street, #B  
San Rafael, CA 94901

Via Email Only: [mprice@firstamendmentcoalition.org](mailto:mprice@firstamendmentcoalition.org)

Re: July 26, 2021 Public Records Act Request for Mayor emails/communications  
from November 18, 2020 to July 26, 2021

Dear Ms. Price:

We are in receipt of your Public Records Act request (PRAR) dated July 26, 2021 and received on July 26, 2021.

On August 5, 2021, we notified you of the need for an extension of time to fully respond, pursuant to Government Code section 6253(c), and that we would respond to your request by August 19, 2021. On August 19, 2021 we provided you with a set of responsive documents.

City Staff has identified and collected additional documents that are responsive to your request which can be found at the below SharePoint link.

SharePoint Link:

[https://sanjoseca.sharepoint.com/:f:/s/PRA/EnbrhZyQ0XNJmXawi\\_OF6SoBirryXkLgNYtx0X3fPuuUhw?e=bEe7jP](https://sanjoseca.sharepoint.com/:f:/s/PRA/EnbrhZyQ0XNJmXawi_OF6SoBirryXkLgNYtx0X3fPuuUhw?e=bEe7jP)

Please note that parts of these documents are being redacted pursuant to the following statutes:

- Contact information such as personal email addresses, personal phone numbers and signatures are redacted for Privacy [California Government Code § 6254(c); California Constitution, Article 1, Section 1]
- Deliberative Process [California Government Code § 6255]; Predecisional internal emails are part of the decision making process for items that will come before Council and the disclosure of which would chill the candid discussion needed for optimum decision making inside the Mayor's Office and with consultant federal lobbyist

- Drafts [California Government Code § 6254(a)] that are not retained in the ordinary course of business and the public interest in withholding these records outweighs the public interest in disclosure to allow the frank discussion of legal or policy matters that might be inhibited if subjected to public scrutiny
- Balancing Test [California Government Code § 6255];
  - California Government Code § 54956.9; attorney-client privileged communications: withholding of privileged closed session discussions outweighs the public's interest in disclosure
  - IT security (redact google document links and zoom links)
  - White House security
  - Withholding of project data and communications outweighs the public's interest in disclosure because it would result in disseminating information that may lead to misinformation, published inaccurate data and confusion in the public

Please note that documents are being withheld pursuant to the following statutes:

- Privacy/Personnel [California Government Code § 6254(c); California Constitution, Article 1, Section 1]
- Attorney-Client Privileged Communication [California Government Code § 6254(k); California Evidence Code §§ 952, 954]
- Balancing Test [California Government Code § 6255]: Negotiations prior to their conclusion justify nondisclosure
- Deliberative Process [California Government Code § 6255]; Predecisional internal emails are part of the decisionmaking process for items that will come before Council and the disclosure of which would chill the candid discussion and flow of information needed for optimum decisionmaking inside the Mayor's Office. *See Times Mirror Co. v. Superior Court*, 53 Cal.3d 1325, 1338, 1343 (1991).

The following employees participated in the decision to redact and/or withhold records: Chief of Staff for the Office of the Mayor Jim Reed, Chief Communications and Marketing Officer Andy Lutsky, Strategic Initiatives Manager / Climate and Service / Agenda Services Manager Henry Smith, City Attorney Nora Frimann, Assistant City Attorney Kevin Fisher, Senior Deputy City Attorney Neelam Naidu, Senior Deputy City Attorney Rene Ortega and Deputy City Attorney Arlene Silva.

Monica Price  
August 30, 2021  
Page 3 of 3

Due to the voluminous public record request, the need to search for, collect the requested records and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request, and the need for consultation and necessary coordination with different City departments, we will continue to provide responsive records on a rolling basis.

The City intends to assert any and all exemptions and privileges applicable to potentially responsive records. The City also hereby reserves all other rights, including the right to object on the grounds that the request is overly broad and/or unduly burdensome.

Please contact me if you have any questions pertaining to your Public Records Act request at [publicrecordsrequest@sanjoseca.gov](mailto:publicrecordsrequest@sanjoseca.gov).

Sincerely,

Jessica Lowry, J.D.  
Open Government Manager  
City of San Jose  
City Manager's Office

CC: Mayor Sam Liccardo  
Henry Smith  
Ramona Giwargis  
Cristin Reak-Zeljck  
Tina Nasser

August 30, 2021

Via Email Only

Karl Olson, Esq.  
Cannata O'Toole Fickes & Olson LLP  
100 Pine Street, Suite 350  
San Francisco, CA 94111  
[kolson@cofolaw.com](mailto:kolson@cofolaw.com)

Kristel Gelera, Legal Assistant  
Cannata O'Toole Fickes & Olson LLP  
100 Pine Street, Suite 350  
San Francisco, CA 94111  
[kgelera@cofolaw.com](mailto:kgelera@cofolaw.com)

Re: July 30, 2021 Public Records Act Request for Mayor emails/communications

Dear Mr. Olson:

We are in receipt of your Public Records Act request (PRAR) dated July 30, 2021 and received on July 30, 2021.

On August 9, 2021, we notified you of the need for an extension of time to fully respond, pursuant to Government Code section 6253(c), and that we would respond to your request by August 23, 2021. On August 23, 2021 we provided you with a set of responsive documents.

City Staff has identified and collected additional documents that are responsive to your request which can be found at the below SharePoint link.

SharePoint Link: <https://sanjoseca.sharepoint.com/:f/s/PRA/EvgUbkpIYdxP112-UacY34IBSWYHaRs37TZqvXhhuVXsxA?e=p89xGR>

Please note that parts of these documents are being redacted pursuant to the following statutes:

- Contact information such as personal email addresses, personal phone numbers and signatures are redacted for Privacy [California Government Code § 6254(c); California Constitution, Article 1, Section 1]
- Deliberative Process [California Government Code § 6255]; Predecisional internal emails are part of the decision making process for items that will come before Council and the disclosure of which would chill the candid discussion needed for optimum decision making inside the Mayor's Office and with consultant federal lobbyist
- Drafts [California Government Code § 6254(a)] that are not retained in the ordinary course of business and the public interest in withholding these records outweighs the

public interest in disclosure to allow the frank discussion of legal or policy matters that might be inhibited if subjected to public scrutiny

- Balancing Test [California Government Code § 6255];
  - California Government Code § 54956.9; attorney-client privileged communications: withholding of privileged closed session discussions outweighs the public's interest in disclosure
  - IT security (redact google document links and zoom links)
  - White House security
  - Withholding of project data and communications outweighs the public's interest in disclosure because it would result in disseminating information that may lead to misinformation, published inaccurate data and confusion in the public

Please note that documents are being withheld pursuant to the following statutes:

- Privacy/Personnel [California Government Code § 6254(c); California Constitution, Article 1, Section 1]
- Attorney-Client Privileged Communication [California Government Code § 6254(k); California Evidence Code §§ 952, 954]
- Balancing Test [California Government Code § 6255]: Negotiations prior to their conclusion justify nondisclosure
- Deliberative Process [California Government Code § 6255]; Predecisional internal emails are part of the decisionmaking process for items that will come before Council and the disclosure of which would chill the candid discussion and flow of information needed for optimum decisionmaking inside the Mayor's Office. *See Times Mirror Co. v. Superior Court*, 53 Cal.3d 1325, 1338, 1343 (1991).

The following employees participated in the decision to redact and/or withhold records: Chief of Staff for the Office of the Mayor Jim Reed, Chief Communications and Marketing Officer Andy Lutsky, Strategic Initiatives Manager / Climate and Service / Agenda Services Manager Henry Smith, City Attorney Nora Frimann, Assistant City Attorney Kevin Fisher, Senior Deputy City Attorney Neelam Naidu, Senior Deputy City Attorney Rene Ortega and Deputy City Attorney Arlene Silva.



Karl Olson  
August 30, 2021  
Page 3 of 3

Due to the voluminous public record request, the need to search for, collect the requested records and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request, and the need for consultation and necessary coordination with different City departments, we will continue to provide responsive records on a rolling basis.

The City intends to assert any and all exemptions and privileges applicable to potentially responsive records. The City also hereby reserves all other rights, including the right to object on the grounds that the request is overly broad and/or unduly burdensome.

Please contact me if you have any questions pertaining to your Public Records Act request at [publicrecordsrequest@sanjoseca.gov](mailto:publicrecordsrequest@sanjoseca.gov).

Sincerely,

Jessica Lowry, J.D.  
Open Government Manager  
City of San Jose  
City Manager's Office

CC: Mayor Sam Liccardo  
Henry Smith  
Ramona Giwargis  
Cristin Reak-Zeljak  
Tina Nasser

September 3, 2021

Monica Price  
Legal Fellow  
First Amendment Coalition  
534 4th Street, #B  
San Rafael, CA 94901

Via Email Only: [mprice@firstamendmentcoalition.org](mailto:mprice@firstamendmentcoalition.org)

Re: July 26, 2021 Public Records Act Request for Mayor emails/communications  
from November 18, 2020 to July 26, 2021

Dear Ms. Price:

We are in receipt of your Public Records Act request (PRAR) dated July 26, 2021 and received on July 26, 2021.

On August 5, 2021, we notified you of the need for an extension of time to fully respond, pursuant to Government Code section 6253(c), and that we would respond to your request by August 19, 2021. On August 19, 2021 we provided you with a set of responsive documents. On August 30, 2021 we provided you with an additional set of responsive documents.

City Staff has identified and collected additional documents that are responsive to your request which can be found at the below SharePoint link.

SharePoint Link:

[https://sanjoseca.sharepoint.com/:f:/s/PRA/ErJqVe6AvGdGgiPGOn89c\\_cBYddKxEeCdLkveGkFqmmvQA?e=0gEgpD](https://sanjoseca.sharepoint.com/:f:/s/PRA/ErJqVe6AvGdGgiPGOn89c_cBYddKxEeCdLkveGkFqmmvQA?e=0gEgpD)

Please note that parts of these documents are being redacted pursuant to the following statutes:

- Contact information such as personal email addresses, personal phone numbers, social media images, and signatures are redacted for Privacy [California Government Code § 6254(c); California Constitution, Article 1, Section 1]
- Deliberative Process [California Government Code § 6255]; Predecisional internal emails are part of the decision making process for items that will come before Council and the disclosure of which would chill the candid discussion needed for

- optimum decision making inside the Mayor's Office, within the City, with consultants and with consultant lobbyists
- California Government Code § 6255 [City of San José v. Superior Court, 74 Cal. App. 4th 1008 (1999) "public interest served by withholding public records containing personal information relating to complainants outweighs public interest served by disclosure"]
  - Drafts [California Government Code § 6254(a)] that are not retained in the ordinary course of business and the public interest in withholding these records outweighs the public interest in disclosure to allow the frank discussion of legal or policy matters that might be inhibited if subjected to public scrutiny
  - Balancing Test [California Government Code § 6255]; IT security

Please note that documents are being withheld pursuant to the following statutes:

- Privacy/Personnel [California Government Code § 6254(c); California Constitution, Article 1, Section 1]
- Attorney-Client Privileged Communication [California Government Code § 6254(k); California Evidence Code §§ 952, 954]
- California Government Code § 54956.9; attorney-client privileged communications: withholding of privileged closed session materials outweighs the public's interest in disclosure
- Deliberative Process [California Government Code § 6255]; Predecisional internal emails are part of the decisionmaking process for items that will come before the Mayor's Office, Council and the City, and the disclosure of which would chill the candid discussion and flow of information needed for optimum decisionmaking inside the Mayor's Office, within the City, with consultants and with consultant lobbyists. *See Times Mirror Co. v. Superior Court*, 53 Cal.3d 1325, 1338, 1343 (1991).

The following employees participated in the decision to redact and/or withhold records: Chief of Staff for the Office of the Mayor Jim Reed, Chief Communications and Marketing Officer Andy Lutsky, Press Secretary Rachel Davis, Strategic Initiatives Manager / Climate and Service / Agenda Services Manager Henry Smith, Senior Deputy City Attorney Neelam Naidu, and Deputy City Attorney Arlene Silva.

Due to the voluminous public record request, the need to search for, collect the requested records and appropriately examine a voluminous amount of separate and distinct records that are

Monica Price  
September 3, 2021  
Page 3 of 3

demanded in a single request, and the need for consultation and necessary coordination with different City departments, we will continue to provide responsive records on a rolling basis.

The City intends to assert any and all exemptions and privileges applicable to potentially responsive records. The City also hereby reserves all other rights, including the right to object on the grounds that the request is overly broad and/or unduly burdensome.

Please contact me if you have any questions pertaining to your Public Records Act request at [publicrecordsrequest@sanjoseca.gov](mailto:publicrecordsrequest@sanjoseca.gov).

Sincerely,

Jessica Lowry, J.D.  
Open Government Manager  
City of San Jose  
City Manager's Office

CC: Mayor Sam Liccardo  
Henry Smith  
Ramona Giwargis  
Cristin Reak-Zeljak  
Tina Nasser

September 3, 2021

Via Email Only

Karl Olson, Esq.  
Cannata O'Toole Fickes & Olson LLP  
100 Pine Street, Suite 350  
San Francisco, CA 94111  
[kolson@cofolaw.com](mailto:kolson@cofolaw.com)

Kristel Gelera, Legal Assistant  
Cannata O'Toole Fickes & Olson LLP  
100 Pine Street, Suite 350  
San Francisco, CA 94111  
[kgelera@cofolaw.com](mailto:kgelera@cofolaw.com)

Re: July 30, 2021 Public Records Act Request for Mayor emails/communications

Dear Mr. Olson:

We are in receipt of your Public Records Act request (PRAR) dated July 30, 2021 and received on July 30, 2021.

On August 9, 2021, we notified you of the need for an extension of time to fully respond, pursuant to Government Code section 6253(c), and that we would respond to your request by August 23, 2021. On August 23, 2021 we provided you with a set of responsive documents. On August 30, 2021 we provided you with an additional set of responsive documents.

City Staff has identified and collected additional documents that are responsive to your request which can be found at the below SharePoint link.

SharePoint Link:

<https://sanjoseca.sharepoint.com/:f:/s/PRA/Eru0COpWrw1Ir2sRwPnRdWABUDbEQWKd2zAv6zz8W2L1xQ?e=lokzkg>

Please note that parts of these documents are being redacted pursuant to the following statutes:

- Contact information such as personal email addresses, personal phone numbers, social media images, and signatures are redacted for Privacy [California Government Code § 6254(c); California Constitution, Article 1, Section 1]
- Deliberative Process [California Government Code § 6255]; Predecisional internal emails are part of the decision making process for items that will come before Council and the disclosure of which would chill the candid discussion needed for optimum decision making inside the Mayor's Office, within the City, with consultants and with consultant lobbyists

- California Government Code § 6255 [City of San José v. Superior Court, 74 Cal. App. 4th 1008 (1999) “public interest served by withholding public records containing personal information relating to complainants outweighs public interest served by disclosure”]
- Drafts [California Government Code § 6254(a)] that are not retained in the ordinary course of business and the public interest in withholding these records outweighs the public interest in disclosure to allow the frank discussion of legal or policy matters that might be inhibited if subjected to public scrutiny
- Balancing Test [California Government Code § 6255]; IT security

Please note that documents are being withheld pursuant to the following statutes:

- Privacy/Personnel [California Government Code § 6254(c); California Constitution, Article 1, Section 1]
- Attorney-Client Privileged Communication [California Government Code § 6254(k); California Evidence Code §§ 952, 954]
- California Government Code § 54956.9; attorney-client privileged communications: withholding of privileged closed session materials outweighs the public’s interest in disclosure
- Deliberative Process [California Government Code § 6255]; Predecisional internal emails are part of the decisionmaking process for items that will come before the Mayor’s Office, Council and the City, and the disclosure of which would chill the candid discussion and flow of information needed for optimum decisionmaking inside the Mayor’s Office, within the City, with consultants and with consultant lobbyists. *See Times Mirror Co. v. Superior Court*, 53 Cal.3d 1325, 1338, 1343 (1991).

The following employees participated in the decision to redact and/or withhold records: Chief of Staff for the Office of the Mayor Jim Reed, Chief Communications and Marketing Officer Andy Lutsky, Press Secretary Rachel Davis, Strategic Initiatives Manager / Climate and Service / Agenda Services Manager Henry Smith, Senior Deputy City Attorney Neelam Naidu, and Deputy City Attorney Arlene Silva.

Due to the voluminous public record request, the need to search for, collect the requested records and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request, and the need for consultation and necessary coordination with different City departments, we will continue to provide responsive records on a rolling basis.

Karl Olson  
September 3, 2021  
Page 3 of 3

The City intends to assert any and all exemptions and privileges applicable to potentially responsive records. The City also hereby reserves all other rights, including the right to object on the grounds that the request is overly broad and/or unduly burdensome.

Please contact me if you have any questions pertaining to your Public Records Act request at [publicrecordsrequest@sanjoseca.gov](mailto:publicrecordsrequest@sanjoseca.gov).

Sincerely,

Jessica Lowry, J.D.  
Open Government Manager  
City of San Jose  
City Manager's Office

CC: Mayor Sam Liccardo  
Henry Smith  
Ramona Giwargis  
Cristin Reak-Zeljak  
Tina Nasser

September 15, 2021

Monica Price  
Legal Fellow  
First Amendment Coalition  
534 4th Street, #B  
San Rafael, CA 94901

Via Email Only: [mprice@firstamendmentcoalition.org](mailto:mprice@firstamendmentcoalition.org)

Re: July 26, 2021 Public Records Act Request for Mayor emails/communications  
from November 18, 2020 to July 26, 2021

Dear Ms. Price:

We are in receipt of your Public Records Act request (PRAR) dated July 26, 2021 and received on July 26, 2021.

On August 5, 2021, we notified you of the need for an extension of time to fully respond, pursuant to Government Code section 6253(c), and that we would respond to your request by August 19, 2021. On August 19, 2021 we provided you with a set of responsive documents. On August 30, 2021 and September 3, 2021, we provided you with an additional set of responsive documents.

City Staff has identified and collected additional documents that are responsive to your request which can be found at the below SharePoint link.

SharePoint Link:

[https://sanjoseca.sharepoint.com/:f:/s/PRA/EgAPwdD\\_JMJNkvUN4o95wtgBnct6226QetVcBP5Fd473Dg?e=6awbhg](https://sanjoseca.sharepoint.com/:f:/s/PRA/EgAPwdD_JMJNkvUN4o95wtgBnct6226QetVcBP5Fd473Dg?e=6awbhg)

Please note that parts of these documents are being redacted pursuant to the following statutes:

- Contact information such as personal email addresses, personal phone numbers, and signatures are redacted for Privacy [California Government Code § 6254(c); California Constitution, Article 1, Section 1]
- Deliberative Process [California Government Code § 6255]; Predecisional internal emails are part of the decision making process for items that will come before the City and the disclosure of which would chill the candid discussion and flow of



information needed for optimum decision making and policy matters inside the Mayor's Office, within the City, with consultants and with consultant lobbyists

- California Government Code § 6255 [City of San José v. Superior Court, 74 Cal. App. 4th 1008 (1999) “public interest served by withholding public records containing personal information relating to complainants outweighs public interest served by disclosure”]
- Balancing Test [California Government Code § 6255]: IT security; Bank/financial information; Negotiations prior to their conclusion justify nondisclosure
- Attorney-Client Privileged Communication [California Government Code § 6254(k); California Evidence Code §§ 952, 954]
- Common Interest Doctrine in a matter of joint concern in the outcome of the CPUC administrative proceedings; Pending litigation

Please note that some documents are being withheld pursuant to the following statutes:

- Privacy/Personnel [California Government Code § 6254(c); California Constitution, Article 1, Section 1]
- Drafts [California Government Code § 6254(a)] that are not retained in the ordinary course of business and the public interest in withholding these records outweighs the public interest in disclosure to allow the frank discussion of legal or policy matters that might be inhibited if subjected to public scrutiny
- Attorney-Client Privileged Communication [California Government Code § 6254(k); California Evidence Code §§ 952, 954]
- California Government Code § 54956.9; attorney-client privileged communications: withholding of privileged closed session materials outweighs the public's interest in disclosure
- Deliberative Process [California Government Code § 6255]; Predecisional internal emails are part of the decision making process for items that will come before the City, and the disclosure of which would chill the candid discussion and flow of information needed for optimum decision making and policy matters inside the Mayor's Office, within the City, with consultants and with consultant lobbyists. *See Times Mirror Co. v. Superior Court*, 53 Cal.3d 1325, 1338, 1343 (1991).
- Balancing Test [California Government Code § 6255]: Withholding of preliminary project data and communications outweighs the public's interest in disclosure because it would result in disseminating information that may lead to misinformation, published

inaccurate data and confusion in the public; Negotiations prior to their conclusion justify nondisclosure

- Common Interest Doctrine in a matter of joint concern in the outcome of the CPUC administrative proceedings; Pending litigation

The following employees participated in the decision to redact and/or withhold records: Chief of Staff for the Office of the Mayor Jim Reed, Senior Deputy City Attorney Luisa Elkins, Senior Deputy City Attorney Lynne Lampros, Senior Deputy City Attorney Neelam Naidu, and Deputy City Attorney Cameron Day.

Due to the voluminous public record request, the need to search for, collect the requested records and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request, and the need for consultation and necessary coordination with different City departments, we will continue to provide responsive records on a rolling basis.

The City intends to assert any and all exemptions and privileges applicable to potentially responsive records. The City also hereby reserves all other rights, including the right to object on the grounds that the request is overly broad and/or unduly burdensome.

Please contact me if you have any questions pertaining to your Public Records Act request at [publicrecordsrequest@sanjoseca.gov](mailto:publicrecordsrequest@sanjoseca.gov).

Sincerely,

Jessica Lowry, J.D.  
Open Government Manager  
City of San Jose  
City Manager's Office

CC: Mayor Sam Liccardo  
Henry Smith  
Ramona Giwargis  
Cristin Reak-Zeljak  
Tina Nasserri

September 15, 2021

Via Email Only

Karl Olson, Esq.  
Cannata O'Toole Fickes & Olson LLP  
100 Pine Street, Suite 350  
San Francisco, CA 94111  
[kolson@cofolaw.com](mailto:kolson@cofolaw.com)

Kristel Gelera, Legal Assistant  
Cannata O'Toole Fickes & Olson LLP  
100 Pine Street, Suite 350  
San Francisco, CA 94111  
[kgelera@cofolaw.com](mailto:kgelera@cofolaw.com)

Re: July 30, 2021 Public Records Act Request for Mayor emails/communications

Dear Mr. Olson:

We are in receipt of your Public Records Act request (PRAR) dated July 30, 2021 and received on July 30, 2021.

On August 9, 2021, we notified you of the need for an extension of time to fully respond, pursuant to Government Code section 6253(c), and that we would respond to your request by August 23, 2021. On August 23, 2021 we provided you with a set of responsive documents. On August 30, 2021 we provided you with an additional set of responsive documents.

City Staff has identified and collected additional documents that are responsive to your request which can be found at the below SharePoint link.

SharePoint Link:

<https://sanjoseca.sharepoint.com/:f:/s/PRA/EowdPaPjUCJGoDp3jnZSmegB8E8cli-GizNp-36QaQjYMA?e=Ze3fM1>

Please note that parts of these documents are being redacted pursuant to the following statutes:

- Contact information such as personal email addresses, personal phone numbers, and signatures are redacted for Privacy [California Government Code § 6254(c); California Constitution, Article 1, Section 1]
- Deliberative Process [California Government Code § 6255]; Predecisional internal emails are part of the decision making process for items that will come before the City and the disclosure of which would chill the candid discussion and flow of information needed for optimum decision making and policy matters inside the Mayor's Office, within the City, with consultants and with consultant lobbyists

- California Government Code § 6255 [City of San José v. Superior Court, 74 Cal. App. 4th 1008 (1999) “public interest served by withholding public records containing personal information relating to complainants outweighs public interest served by disclosure”]
- Balancing Test [California Government Code § 6255]: IT security; Bank/financial information; Negotiations prior to their conclusion justify nondisclosure
- Attorney-Client Privileged Communication [California Government Code § 6254(k); California Evidence Code §§ 952, 954]
- Common Interest Doctrine in a matter of joint concern in the outcome of the CPUC administrative proceedings; Pending litigation

Please note that some documents are being withheld pursuant to the following statutes:

- Privacy/Personnel [California Government Code § 6254(c); California Constitution, Article 1, Section 1]
- Drafts [California Government Code § 6254(a)] that are not retained in the ordinary course of business and the public interest in withholding these records outweighs the public interest in disclosure to allow the frank discussion of legal or policy matters that might be inhibited if subjected to public scrutiny
- Attorney-Client Privileged Communication [California Government Code § 6254(k); California Evidence Code §§ 952, 954]
- California Government Code § 54956.9; attorney-client privileged communications: withholding of privileged closed session materials outweighs the public’s interest in disclosure
- Deliberative Process [California Government Code § 6255]; Predecisional internal emails are part of the decision making process for items that will come before the City, and the disclosure of which would chill the candid discussion and flow of information needed for optimum decision making and policy matters inside the Mayor’s Office, within the City, with consultants and with consultant lobbyists. *See Times Mirror Co. v. Superior Court*, 53 Cal.3d 1325, 1338, 1343 (1991).
- Balancing Test [California Government Code § 6255]: Withholding of preliminary project data and communications outweighs the public’s interest in disclosure because it would result in disseminating information that may lead to misinformation, published inaccurate data and confusion in the public; Negotiations prior to their conclusion justify nondisclosure

- Common Interest Doctrine in a matter of joint concern in the outcome of the CPUC administrative proceedings; Pending litigation

The following employees participated in the decision to redact and/or withhold records: Chief of Staff for the Office of the Mayor Jim Reed, Senior Deputy City Attorney Luisa Elkins, Senior Deputy City Attorney Lynne Lampros, Senior Deputy City Attorney Neelam Naidu, and Deputy City Attorney Cameron Day.

Due to the voluminous public record request, the need to search for, collect the requested records and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request, and the need for consultation and necessary coordination with different City departments, we will continue to provide responsive records on a rolling basis.

The City intends to assert any and all exemptions and privileges applicable to potentially responsive records. The City also hereby reserves all other rights, including the right to object on the grounds that the request is overly broad and/or unduly burdensome.

Please contact me if you have any questions pertaining to your Public Records Act request at [publicrecordsrequest@sanjoseca.gov](mailto:publicrecordsrequest@sanjoseca.gov).

Sincerely,

Jessica Lowry, J.D.  
Open Government Manager  
City of San Jose  
City Manager's Office

CC: Mayor Sam Liccardo  
Henry Smith  
Ramona Giwargis  
Cristin Reak-Zeljak  
Tina Nasserri

October 15, 2021

Monica Price  
Legal Fellow  
First Amendment Coalition  
534 4th Street, #B  
San Rafael, CA 94901

Via Email Only: [mprice@firstamendmentcoalition.org](mailto:mprice@firstamendmentcoalition.org)

Re: July 26, 2021 Public Records Act Request for Mayor emails/communications  
from November 18, 2020 to July 26, 2021

Dear Ms. Price:

We are in receipt of your Public Records Act request (PRAR) dated July 26, 2021 and received on July 26, 2021.

On August 5, 2021, we notified you of the need for an extension of time to fully respond, pursuant to Government Code section 6253(c), and that we would respond to your request by August 19, 2021. On August 19, 2021 we provided you with a set of responsive documents. On August 30, 2021, September 3, 2021, and September 15, 2021, we provided you with additional sets of responsive documents.

City Staff has identified and collected additional documents that are responsive to your request which can be found at the below SharePoint link.

SharePoint Link:

[https://sanjoseca.sharepoint.com/:f:/s/PRA/EiLq6djovKBDiyKv\\_AairdsBe6JuHzP1SHuj4c273-3D1w?e=QkcLFO](https://sanjoseca.sharepoint.com/:f:/s/PRA/EiLq6djovKBDiyKv_AairdsBe6JuHzP1SHuj4c273-3D1w?e=QkcLFO)

Please note that parts of these documents are being redacted pursuant to the following statutes:

- Contact information such as personal email addresses, personal phone numbers, and signatures are redacted for Privacy [California Government Code § 6254(c); California Constitution, Article 1, Section 1]
- Deliberative Process [California Government Code § 6255]; Predecisional internal emails are part of the decision making process for items that will come before the City, and the disclosure of which would chill the candid discussion and flow of

information needed for optimum decision making and policy matters inside the Mayor's Office, within the City, with consultants and with consultant lobbyists. *See Times Mirror Co. v. Superior Court*, 53 Cal.3d 1325, 1338, 1343 (1991).

- California Government Code § 6255 [City of San José v. Superior Court, 74 Cal. App. 4th 1008 (1999) “public interest served by withholding public records containing personal information relating to complainants outweighs public interest served by disclosure”]
- Balancing Test [California Government Code § 6255]: IT security; California Evidence Code § 1040, Official information privilege.

Please note that some documents are being withheld pursuant to the following statutes:

- Drafts [California Government Code § 6254(a)] that are not retained in the ordinary course of business and the public interest in withholding these records outweighs the public interest in disclosure to allow the frank discussion of legal or policy matters that might be inhibited if subjected to public scrutiny
- California Government Code § 54956.9; attorney-client privileged communications [California Government Code § 6254(k); California Evidence Code §§ 952, 954]: withholding of privileged closed session materials outweighs the public's interest in disclosure
- Deliberative Process [California Government Code § 6255]; Predecisional internal emails are part of the decision making process for items that will come before the City, and the disclosure of which would chill the candid discussion and flow of information needed for optimum decision making and policy matters inside the Mayor's Office, within the City, with consultants and with consultant lobbyists. *See Times Mirror Co. v. Superior Court*, 53 Cal.3d 1325, 1338, 1343 (1991).
- Balancing Test [California Government Code § 6255]: Negotiations prior to their conclusion justify nondisclosure
- Common Interest Doctrine in a matter of joint concern in the outcome of CPUC administrative proceedings; Pending litigation

The following employees participated in the decision to redact and/or withhold records: Chief of Staff for the Office of the Mayor Jim Reed, Strategic Initiatives Manager / Climate and Service / Agenda Services Manager Henry Smith, Senior Deputy City Attorney Luisa Elkins, Senior Deputy City Attorney Lynne Lampros, Senior Deputy City Attorney Neelam Naidu, and Deputy City Attorney Arlene Silva.

Monica Price  
October 15, 2021  
Page 3 of 3

Due to the voluminous public record request, the need to search for, collect the requested records and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request, and the need for consultation and necessary coordination with different City departments, we will continue to provide responsive records on a rolling basis.

The City intends to assert any and all exemptions and privileges applicable to potentially responsive records. The City also hereby reserves all other rights, including the right to object on the grounds that the request is overly broad and/or unduly burdensome.

Please contact me if you have any questions pertaining to your Public Records Act request at [publicrecordsrequest@sanjoseca.gov](mailto:publicrecordsrequest@sanjoseca.gov).

Sincerely,

Jessica Lowry, J.D.  
Open Government Manager  
City of San Jose  
City Manager's Office

CC: Mayor Sam Liccardo  
Henry Smith  
Ramona Giwargis  
Cristin Reak-Zeljak  
Tina Nasser



October 15, 2021

Via Email Only

Karl Olson, Esq.  
Cannata O'Toole Fickes & Olson LLP  
100 Pine Street, Suite 350  
San Francisco, CA 94111  
[kolson@cofolaw.com](mailto:kolson@cofolaw.com)

Kristel Gelera, Legal Assistant  
Cannata O'Toole Fickes & Olson LLP  
100 Pine Street, Suite 350  
San Francisco, CA 94111  
[kgelera@cofolaw.com](mailto:kgelera@cofolaw.com)

Re: July 30, 2021 Public Records Act Request for Mayor emails/communications

Dear Mr. Olson:

We are in receipt of your Public Records Act request (PRAR) dated July 30, 2021 and received on July 30, 2021.

On August 9, 2021, we notified you of the need for an extension of time to fully respond, pursuant to Government Code section 6253(c), and that we would respond to your request by August 23, 2021. On August 23, 2021 we provided you with a set of responsive documents. On August 30, 2021 and September 15, 2021 we provided you with an additional set of responsive documents.

City Staff has identified and collected additional documents that are responsive to your request which can be found at the below SharePoint link.

SharePoint Link: <https://sanjoseca.sharepoint.com/:f:/s/PRA/EofTrHY-A7RNqGrM1MOAcOQBqIfD2kWxLxkMRq-K6UvVfg?e=lfDFsR>

Please note that parts of these documents are being redacted pursuant to the following statutes:

- Contact information such as personal email addresses, personal phone numbers, and signatures are redacted for Privacy [California Government Code § 6254(c); California Constitution, Article 1, Section 1]

Please note that some documents are being withheld pursuant to the following statutes:

- Drafts [California Government Code § 6254(a)] that are not retained in the ordinary course of business and the public interest in withholding these records outweighs the public interest in disclosure to allow the frank discussion of legal or policy matters that might be inhibited if subjected to public scrutiny

- California Government Code § 54956.9; attorney-client privileged communications [California Government Code § 6254(k); California Evidence Code §§ 952, 954]: withholding of privileged closed session materials outweighs the public's interest in disclosure
- Deliberative Process [California Government Code § 6255]; Predecisional internal emails are part of the decision making process for items that will come before the City, and the disclosure of which would chill the candid discussion and flow of information needed for optimum decision making and policy matters inside the Mayor's Office, within the City, with consultants and with consultant lobbyists. *See Times Mirror Co. v. Superior Court*, 53 Cal.3d 1325, 1338, 1343 (1991).

The following employees participated in the decision to redact and/or withhold records: Chief of Staff for the Office of the Mayor Jim Reed, Strategic Initiatives Manager / Climate and Service / Agenda Services Manager Henry Smith, Senior Deputy City Attorney Neelam Naidu, and Deputy City Attorney Arlene Silva.

Due to the voluminous public record request, the need to search for, collect the requested records and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request, and the need for consultation and necessary coordination with different City departments, we will continue to provide responsive records on a rolling basis.

The City intends to assert any and all exemptions and privileges applicable to potentially responsive records. The City also hereby reserves all other rights, including the right to object on the grounds that the request is overly broad and/or unduly burdensome.

The City will not provide a list of redacted and withheld documents, as requested, because the Public Records Act does not require that the City create a "privilege log" or list that identifies the specific records being redacted or withheld. (*See Haynie v. Superior Court*, 26 Cal.4th 1061, 1075 (2001)).

Please contact me if you have any questions pertaining to your Public Records Act request at [publicrecordsrequest@sanjoseca.gov](mailto:publicrecordsrequest@sanjoseca.gov).

Sincerely,

Jessica Lowry, J.D.  
Open Government Manager  
City of San Jose  
City Manager's Office

CC: Mayor Sam Liccardo  
Henry Smith  
Ramona Giwargis  
Cristin Reak-Zeljak  
Tina Nasser

December 13, 2021

Monica Price  
Legal Fellow  
First Amendment Coalition  
534 4th Street, #B  
San Rafael, CA 94901

Via Email Only: [mprice@firstamendmentcoalition.org](mailto:mprice@firstamendmentcoalition.org)

Re: July 26, 2021 Public Records Act Request for Mayor emails/communications  
from November 18, 2020 to July 26, 2021

Dear Ms. Price:

We are in receipt of your Public Records Act request (PRAR) dated July 26, 2021 and received on July 26, 2021.

On August 5, 2021, we notified you of the need for an extension of time to fully respond, pursuant to Government Code section 6253(c), and that we would respond to your request by August 19, 2021. On August 19, 2021 we provided you with a set of responsive documents. On August 30, 2021, September 3, 2021, September 15, 2021, and October 15, 2021, we provided you with additional sets of responsive documents.

City Staff has identified and collected additional documents that are responsive to your request which can be found at the below SharePoint link.

SharePoint Link: [https://sanjoseca.sharepoint.com/:f:/s/PRA/EhhOtx-e2exDtBeB1D5DxOgBxQeylOMIrdvA6KpZq3\\_hbQ?e=BN282M](https://sanjoseca.sharepoint.com/:f:/s/PRA/EhhOtx-e2exDtBeB1D5DxOgBxQeylOMIrdvA6KpZq3_hbQ?e=BN282M)

Please note that parts of these documents are being redacted pursuant to the following statutes:

- Contact information such as personal email addresses, personal phone numbers, and signatures are redacted for Privacy [California Government Code § 6254(c); California Constitution, Article 1, Section 1]
- Deliberative Process [California Government Code § 6255]; Predecisional internal emails are part of the decision making process for items that will come before the City, and the disclosure of which would chill the candid discussion and flow of information needed for optimum decision making and policy matters inside the

Mayor's Office, within the City, with consultants and with consultant lobbyists. *See Times Mirror Co. v. Superior Court*, 53 Cal.3d 1325, 1338, 1343 (1991).

- California Government Code § 6255 [City of San José v. Superior Court, 74 Cal. App. 4th 1008 (1999) “public interest served by withholding public records containing personal information relating to complainants outweighs public interest served by disclosure”]
- Balancing Test [California Government Code § 6255]: IT security; California Evidence Code § 1040, Official information privilege.
- Balancing Test [California Government Code § 6255]: privacy in mentor and student names outweighs public interest in disclosure when data is provided.

Please note that some documents are being withheld pursuant to the following statutes:

- Drafts [California Government Code § 6254(a)] that are not retained in the ordinary course of business and the public interest in withholding these records outweighs the public interest in disclosure to allow the frank discussion of legal or policy matters that might be inhibited if subjected to public scrutiny
- California Government Code § 54956.9; attorney-client privileged communications [California Government Code § 6254(k); California Evidence Code §§ 952, 954]: withholding of privileged closed session materials outweighs the public's interest in disclosure
- Deliberative Process [California Government Code § 6255]; Predecisional internal emails are part of the decision making process for items that will come before the City, and the disclosure of which would chill the candid discussion and flow of information needed for optimum decision making and policy matters inside the Mayor's Office, within the City, with consultants and with consultant lobbyists. *See Times Mirror Co. v. Superior Court*, 53 Cal.3d 1325, 1338, 1343 (1991).

The following employees participated in the decision to redact and/or withhold records: Strategic Initiatives Manager / Climate and Service / Agenda Services Manager Henry Smith, Senior Deputy City Attorney Neelam Naidu, and Deputy City Attorney Arlene Silva.

Due to the voluminous public record request, the need to search for, collect the requested records and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request, and the need for consultation and necessary coordination with different City departments, we will continue to provide responsive records on a rolling basis.

Monica Price  
December 13, 2021  
Page 3 of 3

The City intends to assert any and all exemptions and privileges applicable to potentially responsive records. The City also hereby reserves all other rights, including the right to object on the grounds that the request is overly broad and/or unduly burdensome.

Please contact me if you have any questions pertaining to your Public Records Act request at [publicrecordsrequest@sanjoseca.gov](mailto:publicrecordsrequest@sanjoseca.gov).

Sincerely,

Jessica Lowry, J.D.  
Open Government Manager  
City of San Jose  
City Manager's Office

CC: Mayor Sam Liccardo  
Henry Smith  
Ramona Giwargis  
Cristin Reak-Zeljak  
Tina Nasser

December 13, 2021

Via Email Only

Karl Olson, Esq.  
Cannata O'Toole Fickes & Olson LLP  
100 Pine Street, Suite 350  
San Francisco, CA 94111  
[kolson@cofolaw.com](mailto:kolson@cofolaw.com)

Kristel Gelera, Legal Assistant  
Cannata O'Toole Fickes & Olson LLP  
100 Pine Street, Suite 350  
San Francisco, CA 94111  
[kgelera@cofolaw.com](mailto:kgelera@cofolaw.com)

Re: July 30, 2021 Public Records Act Request for Mayor emails/communications

Dear Mr. Olson:

We are in receipt of your Public Records Act request (PRAR) dated July 26, 2021 and received on July 26, 2021.

On August 5, 2021, we notified you of the need for an extension of time to fully respond, pursuant to Government Code section 6253(c), and that we would respond to your request by August 19, 2021. On August 19, 2021 we provided you with a set of responsive documents. On August 30, 2021, September 3, 2021, September 15, 2021, and October 15, 2021, we provided you with additional sets of responsive documents.

City Staff has identified and collected additional documents that are responsive to your request which can be found at the below SharePoint link.

SharePoint Link:

<https://sanjoseca.sharepoint.com/:f:/s/PRA/EIFyKE0a4ZFCs217jBbVYwkBgP1pBtr1m0YVdDVva0YAqA?e=wEZsTR>

Please note that parts of these documents are being redacted pursuant to the following statutes:

- Contact information such as personal email addresses, personal phone numbers, and signatures are redacted for Privacy [California Government Code § 6254(c); California Constitution, Article 1, Section 1]

Please note that some documents are being withheld pursuant to the following statutes:

- Drafts [California Government Code § 6254(a)] that are not retained in the ordinary course of business and the public interest in withholding these records outweighs the public interest in disclosure to allow the frank discussion of legal or policy matters that might be inhibited if subjected to public scrutiny

- California Government Code § 54956.9; attorney-client privileged communications [California Government Code § 6254(k); California Evidence Code §§ 952, 954]: withholding of privileged closed session materials outweighs the public's interest in disclosure
- Deliberative Process [California Government Code § 6255]; Predecisional internal emails are part of the decision making process for items that will come before the City, and the disclosure of which would chill the candid discussion and flow of information needed for optimum decision making and policy matters inside the Mayor's Office, within the City, with consultants and with consultant lobbyists. *See Times Mirror Co. v. Superior Court*, 53 Cal.3d 1325, 1338, 1343 (1991).

The following employees participated in the decision to redact and/or withhold records: Strategic Initiatives Manager / Climate and Service / Agenda Services Manager Henry Smith, Senior Deputy City Attorney Neelam Naidu, and Deputy City Attorney Arlene Silva.

Due to the voluminous public record request, the need to search for, collect the requested records and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request, and the need for consultation and necessary coordination with different City departments, we will continue to provide responsive records on a rolling basis.

The City intends to assert any and all exemptions and privileges applicable to potentially responsive records. The City also hereby reserves all other rights, including the right to object on the grounds that the request is overly broad and/or unduly burdensome.

Please contact me if you have any questions pertaining to your Public Records Act request at [publicrecordsrequest@sanjoseca.gov](mailto:publicrecordsrequest@sanjoseca.gov).

Sincerely,

Jessica Lowry, J.D.  
Open Government Manager  
City of San Jose  
City Manager's Office

CC: Mayor Sam Liccardo  
Henry Smith  
Ramona Giwargis  
Cristin Reak-Zeljak  
Tina Nasser

## **Exhibit U**



January 20, 2022

Monica Price  
Legal Fellow  
First Amendment Coalition  
534 4th Street, #B  
San Rafael, CA 94901

Via Email Only: [mprice@firstamendmentcoalition.org](mailto:mprice@firstamendmentcoalition.org)

Re: July 26, 2021 Public Records Act Request for Mayor emails/communications  
from November 18, 2020 to July 26, 2021

Dear Ms. Price:

We are in receipt of your Public Records Act request (PRAR) dated July 26, 2021 and received on July 26, 2021.

On August 5, 2021, we notified you of the need for an extension of time to fully respond, pursuant to Government Code section 6253(c), and that we would respond to your request by August 19, 2021. On August 19, 2021 we provided you with a set of responsive documents. On August 30, 2021, September 3, 2021, September 15, 2021, October 15, 2021, December 13, 2021, and January 18, 2022, we provided you with additional sets of responsive documents.

City Staff has identified and collected additional documents that are responsive to your request which can be found at the below SharePoint link.

SharePoint Link:

[https://sanjoseca.sharepoint.com/:f/s/PRA/Eo5d5RI7wPBvjkhCjBr3OQBx1-L9x\\_th65c-aLBm\\_6hag?e=oV8NXc](https://sanjoseca.sharepoint.com/:f/s/PRA/Eo5d5RI7wPBvjkhCjBr3OQBx1-L9x_th65c-aLBm_6hag?e=oV8NXc)

Please note that parts of these documents are being redacted pursuant to the following statutes:

- Contact information such as personal email addresses, personal phone numbers, personal contact information, and signatures are redacted for Privacy [California Government Code § 6254(c); California Constitution, Article 1, Section 1]

Please note that some documents are being withheld pursuant to the following statutes:

- Drafts [California Government Code § 6254(a)] that are not retained in the ordinary course of business and the public interest in withholding these records outweighs the

public interest in disclosure to allow the frank discussion of legal or policy matters that might be inhibited if subjected to public scrutiny

- California Government Code § 54956.9; attorney-client privileged communications [California Government Code § 6254(k); California Evidence Code §§ 952, 954]: withholding of privileged closed session materials outweighs the public's interest in disclosure
- Deliberative Process [California Government Code § 6255]; Predecisional internal emails are part of the decision making process for items that will come before the City, and the disclosure of which would chill the candid discussion and flow of information needed for optimum decision making and policy matters inside the Mayor's Office, within the City, with consultants and with consultant lobbyists. *See Times Mirror Co. v. Superior Court*, 53 Cal.3d 1325, 1338, 1343 (1991).

The City intends to assert any and all exemptions and privileges applicable to potentially responsive records. The City also hereby reserves all other rights, including the right to object on the grounds that the request is overly broad and/or unduly burdensome.

The following employees participated in the decision to redact and/or withhold records: Strategic Initiatives Manager / Climate and Service / Agenda Services Manager Henry Smith, Senior Deputy City Attorney Neelam Naidu, and Deputy City Attorney Arlene Silva.

Your request is now completed.

Any person who believes that he or she has been inappropriately denied access to City of San José public records, may appeal to the City Council Rules and Open Government Committee. For more information on the appeals process, see <http://www.sanjoseca.gov/your-government/departments-offices/office-of-the-city-manager/official-city-records/appeals>.

Please contact me if you have any questions pertaining to your Public Records Act request at [publicrecordsrequest@sanjoseca.gov](mailto:publicrecordsrequest@sanjoseca.gov).

Sincerely,

Jessica Lowry, J.D.  
Open Government Manager  
City of San Jose  
City Manager's Office

CC: Mayor Sam Liccardo  
Henry Smith  
Ramona Giwargis  
Cristin Reak-Zeljak  
Tina Nasseri

January 20, 2022

Via Email Only

Karl Olson, Esq.  
Cannata O'Toole Fickes & Olson LLP  
100 Pine Street, Suite 350  
San Francisco, CA 94111  
[kolson@cofolaw.com](mailto:kolson@cofolaw.com)

Kristel Gelera, Legal Assistant  
Cannata O'Toole Fickes & Olson LLP  
100 Pine Street, Suite 350  
San Francisco, CA 94111  
[kgelera@cofolaw.com](mailto:kgelera@cofolaw.com)

Re: July 30, 2021 Public Records Act Request for Mayor emails/communications

Dear Mr. Olson:

We are in receipt of your Public Records Act request (PRAR) dated July 26, 2021 and received on July 26, 2021.

On August 5, 2021, we notified you of the need for an extension of time to fully respond, pursuant to Government Code section 6253(c), and that we would respond to your request by August 19, 2021. On August 19, 2021 we provided you with a set of responsive documents. On August 30, 2021, September 3, 2021, September 15, 2021, and October 15, 2021, we provided you with additional sets of responsive documents.

City Staff has identified and collected additional documents that are responsive to your request which can be found at the below SharePoint link.

SharePoint Link:

[https://sanjoseca.sharepoint.com/:f:/s/PRA/Eky0uvsCz0dPvsV7yc4vEDkBCdWm1YHYbIL6qBJJ\\_oVpPw?e=Ida5kj](https://sanjoseca.sharepoint.com/:f:/s/PRA/Eky0uvsCz0dPvsV7yc4vEDkBCdWm1YHYbIL6qBJJ_oVpPw?e=Ida5kj)

Please note that parts of these documents are being redacted pursuant to the following statutes:

- Contact information such as personal email addresses, personal phone numbers, personal contact information, and signatures are redacted for Privacy [California Government Code § 6254(c); California Constitution, Article 1, Section 1]

Please note that some documents are being withheld pursuant to the following statutes:

- Drafts [California Government Code § 6254(a)] that are not retained in the ordinary course of business and the public interest in withholding these records outweighs the

public interest in disclosure to allow the frank discussion of legal or policy matters that might be inhibited if subjected to public scrutiny

- California Government Code § 54956.9; attorney-client privileged communications [California Government Code § 6254(k); California Evidence Code §§ 952, 954]: withholding of privileged closed session materials outweighs the public's interest in disclosure
- Deliberative Process [California Government Code § 6255]; Predecisional internal emails are part of the decision making process for items that will come before the City, and the disclosure of which would chill the candid discussion and flow of information needed for optimum decision making and policy matters inside the Mayor's Office, within the City, with consultants and with consultant lobbyists. *See Times Mirror Co. v. Superior Court*, 53 Cal.3d 1325, 1338, 1343 (1991).

The City intends to assert any and all exemptions and privileges applicable to potentially responsive records. The City also hereby reserves all other rights, including the right to object on the grounds that the request is overly broad and/or unduly burdensome.

The following employees participated in the decision to redact and/or withhold records: Strategic Initiatives Manager / Climate and Service / Agenda Services Manager Henry Smith, Senior Deputy City Attorney Neelam Naidu, and Deputy City Attorney Arlene Silva.

Your request is now completed.

Any person who believes that he or she has been inappropriately denied access to City of San José public records, may appeal to the City Council Rules and Open Government Committee. For more information on the appeals process, see <http://www.sanjoseca.gov/your-government/departments-offices/office-of-the-city-manager/official-city-records/appeals>.

Please contact me if you have any questions pertaining to your Public Records Act request at [publicrecordsrequest@sanjoseca.gov](mailto:publicrecordsrequest@sanjoseca.gov).

Sincerely,

Jessica Lowry, J.D.  
Open Government Manager  
City of San Jose  
City Manager's Office

CC: Mayor Sam Liccardo  
Henry Smith  
Ramona Giwargis  
Cristin Reak-Zeljak  
Tina Nasserri

## **Exhibit V**



Monica Price <mprice@firstamendmentcoalition.org>

---

## Fwd: PRA Request: Bloom Energy

---

**Monica Price** <mprice@firstamendmentcoalition.org>  
To: Monica Price <mprice@firstamendmentcoalition.org>

Wed, Jan 19, 2022 at 3:12 PM

----- Forwarded message -----

From: **Ramona Giwargis** <ramona@sanjosespotlight.com>  
Date: Tue, Feb 2, 2021 at 6:18 PM  
Subject: Re: PRA Request: Bloom Energy  
To: Lowry, Jessica <jessica.lowry@sanjoseca.gov>

Hi Jessica,

Got it! Thanks so much.

Take care,  
Ramona

--



Ramona Giwargis  
Co-Founder & Editor  
(408) 206-5327  
@RamonaGiwargis

**Support our award-winning nonprofit journalism with a [tax-deductible donation](#).**

On Tue, Feb 2, 2021 at 4:33 PM Lowry, Jessica <jessica.lowry@sanjoseca.gov> wrote:

Good Afternoon:

Attached please find the missing letter.

In terms of the replies from the Vice Mayor and David Gomez, I have been informed by staff that there are no replies as neither responded to those texts. Instead of replying to those texts, staff reached out to set up a meeting with the Vice Mayor and Mr. Cuneen.

Thank you,

JESSICA LOWRY, J.D.

Open Government Manager

City of San Jose | City Manager's Office

[jessica.lowry@sanjoseca.gov](mailto:jessica.lowry@sanjoseca.gov)

[www.sanjoseca.gov](http://www.sanjoseca.gov)

NOTICE TO RECIPIENT: This communication is intended only for the person to whom it is addressed and may be protected by law. If you receive this in error, any review, use, dissemination, distribution or copying is strictly prohibited. Please notify us immediately of the error and delete this communication and any attachments from your system. Thank you for your cooperation.

---

**From:** Ramona Giwargis <[ramona@sanjosespotlight.com](mailto:ramona@sanjosespotlight.com)>  
**Sent:** Monday, February 1, 2021 11:15 PM  
**To:** Lowry, Jessica <[jessica.lowry@sanjoseca.gov](mailto:jessica.lowry@sanjoseca.gov)>  
**Subject:** Re: PRA Request: Bloom Energy

[External Email]

Hello Jessica,

Thanks so much for sending this along. I noticed I'm missing some documents in this latest batch.

For example, on page 1, the emails reference an attached letter from Carl Guardino and Shawn Soderberg. But the letter is not included in my packet. Could you please ask the council office to send that and any other attachments?

Also, on page 10, I see two text messages from Jim Cuneen to Vice Mayor Chappie Jones and his Chief of Staff David Gomez. However, I'm missing the replies from Chappie and David. I only have one side of the conversation. Can you please gather and release the entire conversation since this is pertaining to city business and should be released under my PRA?

Thanks again, Jessica. I appreciate your help.

--

Ramona Giwargis  
Co-Founder & Editor  
(408) 206-5327  
[@RamonaGiwargis](https://www.instagram.com/RamonaGiwargis)

**Support our award-winning nonprofit journalism with a [tax-deductible donation](#).**

On Mon, Feb 1, 2021 at 6:25 PM Lowry, Jessica <[jessica.lowry@sanjoseca.gov](mailto:jessica.lowry@sanjoseca.gov)> wrote:

Good Afternoon:

City Staff has identified and collected the following attached documents that are responsive to your request. We have prepared the attached SharePoint link that contains disclosable responsive documents [https://sanjoseca.sharepoint.com/:f:/s/PRA/Eh4Du67uXYFHoGDZBIKwuv0BiZObbUuJxK7R20P\\_EranrA?email=ramona%40sanjosespotlight.com&e=MzI3H9](https://sanjoseca.sharepoint.com/:f:/s/PRA/Eh4Du67uXYFHoGDZBIKwuv0BiZObbUuJxK7R20P_EranrA?email=ramona%40sanjosespotlight.com&e=MzI3H9)

Please note that some documents are being withheld or redacted pursuant to the following statutes:

- Privacy [California Government Code § 6254(c); California Constitution, Article 1, Section 1]: Personal identifying information for private citizens has been withheld.

David Gomez, Chief of Staff participated in the decision to withhold.

Please know that staff is still in the process of gathering responsive documents and will provide you with a further update no later than February 12, 2021

Thank you,

JESSICA LOWRY, J.D.

Open Government Manager

City of San Jose | City Manager's Office

[jessica.lowry@sanjoseca.gov](mailto:jessica.lowry@sanjoseca.gov)

[www.sanjoseca.gov](http://www.sanjoseca.gov)

NOTICE TO RECIPIENT: This communication is intended only for the person to whom it is addressed and may be protected by law. If you receive this in error, any review, use, dissemination, distribution or copying is strictly prohibited. Please notify us immediately of the error and delete this communication and any attachments from your system. Thank you for your cooperation.

---

**From:** Lowry, Jessica  
**Sent:** Monday, January 25, 2021 6:42 PM  
**To:** [ramona@sanjosespotlight.com](mailto:ramona@sanjosespotlight.com)  
**Subject:** RE: PRA Request: Bloom Energy

Good Afternoon:

Staff is still in the process of gathering responsive documents. I will have a further update to you no later than February 1, 2021.



Thank you,

JESSICA LOWRY, J.D.

Open Government Manager

City of San Jose | City Manager's Office

[jessica.lowry@sanjoseca.gov](mailto:jessica.lowry@sanjoseca.gov)

[www.sanjoseca.gov](http://www.sanjoseca.gov)

NOTICE TO RECIPIENT: This communication is intended only for the person to whom it is addressed and may be protected by law. If you receive this in error, any review, use, dissemination, distribution or copying is strictly prohibited. Please notify us immediately of the error and delete this communication and any attachments from your system. Thank you for your cooperation.

---

**From:** Lowry, Jessica

**Sent:** Monday, January 11, 2021 5:21 PM

**To:** [ramona@sanjosespotlight.com](mailto:ramona@sanjosespotlight.com)

**Subject:** RE: PRA Request: Bloom Energy

Good Afternoon:

City Staff has identified and collected the following attached documents that are responsive to your request. We have prepared the attached SharePoint link that contains disclosable responsive documents. <https://sanjoseca.sharepoint.com/:f:/s/PRA/EkH594W013tNkr3eXtIK0BEB7AWntQEUKHY5MfhZS2-2qA?email=ramona%40sanjosespotlight.com&e=suhvOA>

Please note that some documents are being withheld or redacted pursuant to the following statutes:

- Privacy [California Government Code § 6254(c); California Constitution, Article 1, Section 1]: Personal identifying information for private citizens has been withheld.

Neelam Naidu, Senior Deputy City Attorney II and Kimberly Hernandez, Administrative Assistant participated in the decision to withhold.

Please know that staff is still in the process of gathering responsive documents and will provide you with a further update no later than January 25, 2021.

Thank you,

JESSICA LOWRY, J.D.

Open Government Manager

City of San Jose | City Manager's Office

[jessica.lowry@sanjoseca.gov](mailto:jessica.lowry@sanjoseca.gov)

[www.sanjoseca.gov](http://www.sanjoseca.gov)

NOTICE TO RECIPIENT: This communication is intended only for the person to whom it is addressed and may be protected by law. If you receive this in error, any review, use, dissemination, distribution or copying is strictly prohibited. Please notify us immediately of the error and delete this communication and any attachments from your system. Thank you for your cooperation.

---

**From:** Lowry, Jessica  
**Sent:** Monday, December 28, 2020 4:14 PM  
**To:** [ramona@sanjosespotlight.com](mailto:ramona@sanjosespotlight.com)  
**Subject:** FW: PRA Request: Bloom Energy

Good Afternoon:

We are in receipt of your Public Records Act request sent on December 12, 2020 and received by the City on December 14, 2020. This letter serves as the City's initial response to your request and notification of the need for an extension of time to fully respond, pursuant to Government Code section 6253(c).

The City requires an extension of time under Government Code section 6253(c), in order to complete its review of potentially responsive records, compile copies and provide a coordinated, complete response to your request as required by the Public Records Act. We will respond to your request with further updates by no later than January 11, 2021.

The City intends to assert any and all exemptions and privileges applicable to potentially responsive records. The City also hereby reserves all other rights, including the right to object on the grounds that the request is overly broad and/or unduly burdensome.

Please contact me if you have any questions pertaining to your Public Records Act request at [publicrecordsrequest@sanjoseca.gov](mailto:publicrecordsrequest@sanjoseca.gov)

Thank you,

JESSICA LOWRY, J.D.

Open Government Manager

City of San Jose | City Manager's Office

[jessica.lowry@sanjoseca.gov](mailto:jessica.lowry@sanjoseca.gov)

[www.sanjoseca.gov](http://www.sanjoseca.gov)

NOTICE TO RECIPIENT: This communication is intended only for the person to whom it is addressed and may be protected by law. If you receive this in error, any review, use, dissemination, distribution or copying is strictly prohibited. Please notify us immediately of the error and delete this communication and any attachments from your system. Thank you for your cooperation.

**From:** PublicRecordsRequest  
**Sent:** Monday, December 14, 2020 11:45 AM  
**To:** [ramona@sanjosespotlight.com](mailto:ramona@sanjosespotlight.com)  
**Subject:** FW: PRA Request: Bloom Energy

Good Morning:

We are in receipt of your Public Records Act request received on December 12, 2020 and is copied below.

Our staff is currently collecting the documents and we will notify you by December 28, 2020 of disclosable public records. I will, at that time, also inform you of the costs incurred by the City in copying the responsive documents.

Please contact me if you have any questions pertaining to your Public Records Act request at [publicrecordsrequest@sanjoseca.gov](mailto:publicrecordsrequest@sanjoseca.gov).

Thank you,

JESSICA LOWRY, J.D.

Open Government Manager

City of San Jose | City Manager's Office

[jessica.lowry@sanjoseca.gov](mailto:jessica.lowry@sanjoseca.gov)

[www.sanjoseca.gov](http://www.sanjoseca.gov)

NOTICE TO RECIPIENT: This communication is intended only for the person to whom it is addressed and may be protected by law. If you receive this in error, any review, use, dissemination, distribution or copying is strictly prohibited. Please notify us immediately of the error and delete this communication and any attachments from your system. Thank you for your cooperation.

---

**From:** Ramona Giwargis <[ramona@sanjosespotlight.com](mailto:ramona@sanjosespotlight.com)>  
**Sent:** Saturday, December 12, 2020 9:00 AM  
**To:** PublicRecordsRequest <[PublicRecordsRequest@sanjoseca.gov](mailto:PublicRecordsRequest@sanjoseca.gov)>  
**Cc:** Carly Wipf <[carly@sanjosespotlight.com](mailto:carly@sanjosespotlight.com)>  
**Subject:** PRA Request: Bloom Energy

[External Email]

Hello,

Under the California Public Records Act, I am requesting the following:

- A copy of all email and text message communications between San Jose Mayor Sam Liccardo, Chief of Staff Jim Reed and any mayoral office employees and Bloom Energy officials, including Carl Guardino, and any other employees, partners, associates, consultants or attorneys linked to Bloom Energy. Please include communications for the last three months. Please include emails/texts sent and received from personal devices and accounts as it relates to public business.
- A copy of all email and text message communications between any San Jose councilmembers/their employees and Bloom Energy officials, including Carl Guardino, and any other employees, partners, associates, consultants or attorneys linked to Bloom Energy. Please include communications for the last three months. Please include emails/texts sent and received from personal devices and accounts as it relates to public business.

The California Public Records Act requires a response within ten business days. If access to the records I'm requesting will take longer, please let me know when I might expect copies or the ability to inspect the requested records. If I will need to pay for copies, please notify me in advance of the costs.

Thank you for considering my request.

--



Image removed by  
sender.

Ramona Giwargis  
Co-Founder & Editor  
(408) 206-5327  
@RamonaGiwargis

**Support our award-winning nonprofit journalism with a [tax-deductible donation](#).**

This message is from outside the City email system. Do not open links or attachments from untrusted sources.


This message is from outside the City email system. Do not open links or attachments from untrusted sources.

## **Exhibit W**

## Lobbyist Contact Details


<b>Week Ending</b>	12/06/2020	<b>Email</b>	<a href="mailto:carl.guardino@bloomenergy.com">carl.guardino@bloomenergy.com</a>
<b>Lobbyist Firm</b>	N/A	<b>Phone</b>	<a href="tel:(415)732-7700">(415) 732-7700</a>
<b>Client</b>	Bloom Energy	<b>Contact Name</b>	Carl Guardino
<b>Comp Quarter-To-Date</b>		<b>Exp Quarter-To-Date</b>	
<b>Topic of Lobbyist action</b>	ORDINANCE OF THE CITY OF SAN JOSE AMENDING CHAPTER 17.845 OF TITLE 17 OF THE SAN JOSE MUNICIPAL CODE TO AMEND SECTIONS 17.845.010, 17.845.020, 17.845.030, 17.845.040, 17.845.050, AND 17.845.060 AND ADD SECTION 17.845.045 TO PROHIBIT NATURAL GAS INFRASTRUCTURE IN NEWLY CONSTRUCTED BUILDINGS		

## City Officials Contacted

Date of Contact	Lobbyist Representative	City Official Contacted 	TypeOfContact
12/01/2020	Carl Guardino	Chappie Jones	Email or Letter
12/01/2020	Carl Guardino	Dev Davis	Email or Letter
12/01/2020	Carl Guardino	Johnny Khamis	Email or Letter
11/30/2020	Carl Guardino	Lan Diep	Scheduled PhoneCall
12/01/2020	Carl Guardino	Lan Diep	Email or Letter
11/30/2020	Carl Guardino	Maya Esparza	Scheduled PhoneCall
12/01/2020	Carl Guardino	Maya Esparza	Email or Letter
12/01/2020	Carl Guardino	Mayor Sam Liccardo	Scheduled PhoneCall
12/01/2020	Carl Guardino	Mayor Sam Liccardo	Email or Letter
12/01/2020	Carl Guardino	Pam Foley	Email or Letter
11/30/2020	Carl Guardino	Raul Peralez	Scheduled PhoneCall
12/01/2020	Carl Guardino	Sergio Jimenez	Email or Letter
12/01/2020	Carl Guardino	Sylvia Arenas	Email or Letter

## Campaign Contributions, Independent Expenditures, Fundraising & Donations(SJMC 12.12.420.A-E;12.12.430.B)

I. Disclose all campaign and officeholder contributions (monetary and non-monetary) made, delivered, or acted as an intermediary for by the Lobbyist or any person acting on behalf of the Lobbyist during the preceding week to any elected City official or candidate for City office OR Disclose all campaign and officeholder contributions (monetary and non-monetary) made at the behest of any City Official during the preceding week to any other elected public official or candidate for public office.

Date of Contribution 	Beneficiary's Information	Name of City Official that made the request	Amount or Description of in-kind Contribution	Contribute
No Data				

## Expenditure Details

All independent expenditures made during the preceding week on behalf of a City Official or candidate for City Office

Date of Expenditure 	Beneficiary's Name, Office and/or campaign	Amount or value of the independent Expenditure
No Data		

## Payment for Consultant and Other Services (9SJMC 12.12.420.F; 12.12.430.B)

Payments received in the preceding quarter to date for services to the city of San Jose, elected City Official, City Official-Elect, and/or their controlled committees or officeholder committees.

Date of Contribution ↓	Payment Received From	Description Of Service	Date(s) Of Service	Amount of Payment
No Data				

### Activity Expenses (SJMC 12.12.420.H; 12.12.430.B)

All activity expenses in the preceding quarter to date that directly benefit a City Official, City Official-Elect, or member of his or her immediate family or domestic partner. Activity Expenses include payments, gifts as defined by Chapter 12.08, honoraria, consulting fees, salaries, and other forms of compensation.

Date Of Activity ↓	Name of City Official or City Official-Elect Benefiting including benefits to immediate family	Description	Expenses
No Data			

## **Exhibit X**





Monica Price <mprice@firstamendmentcoalition.org>

---

## Fwd: PRA Request: Bloom Energy Part 2

---

**Monica Price** <mprice@firstamendmentcoalition.org>  
To: Monica Price <mprice@firstamendmentcoalition.org>

Wed, Jan 19, 2022 at 4:10 PM

----- Forwarded message -----

**From:** PublicRecordsRequest <PublicRecordsRequest@sanjoseca.gov>  
**Date:** Mon, Apr 19, 2021 at 3:40 PM  
**Subject:** RE: PRA Request: Bloom Energy Part 2  
**To:** Ramona Giwargis <ramona@sanjosespotlight.com>

Hi Ramona:

I apologize for any inconvenience this may have caused. I have reached out to staff and asked them to provide any missing responsive records to you.

Thank you,

JESSICA LOWRY, J.D.

Open Government Manager

City of San Jose | City Manager's Office

[jessica.lowry@sanjoseca.gov](mailto:jessica.lowry@sanjoseca.gov)

[www.sanjoseca.gov](http://www.sanjoseca.gov)

NOTICE TO RECIPIENT: This communication is intended only for the person to whom it is addressed and may be protected by law. If you receive this in error, any review, use, dissemination, distribution or copying is strictly prohibited. Please notify us immediately of the error and delete this communication and any attachments from your system. Thank you for your cooperation.

---

**From:** Ramona Giwargis <ramona@sanjosespotlight.com>  
**Sent:** Saturday, April 17, 2021 12:05 AM  
**To:** PublicRecordsRequest <PublicRecordsRequest@sanjoseca.gov>  
**Cc:** Sonya Herrera <sonya.m.herrera@gmail.com>; Nguyen, Tran (MU-Student) <tran.nguyen@mail.missouri.edu>  
**Subject:** PRA Request: Bloom Energy Part 2

[External Email]

Hello,

Under the California Public Records Act, I'm requesting the following:

- A copy of the following 9 email communications sent from Carl Guardino to San Jose Councilmembers Sergio Jimenez, Chappie Jones, Dev Davis, Lan Diep (if available), Sylvia Arenas, Maya Esparza, Pam Foley, Johnny Khamis (if available) and Mayor Sam Liccardo. These records were not produced in my last PRA request although they met the scope and requirements of what I asked for. Please include replies as well as emails/texts sent and received from personal devices and accounts as it relates to public business.

Ordinance of the City of San Jose Amending Chapter 17.045 of Title 17 of the San Jose Municipal Code to Amend Sections 17.045.010, 17.045.020, 17.045.030, 17.045.040, 17.045.050, and 17.045.060 and Add Section 17.045.045 to Prohibit Natural Gas Infrastructure in Newly-Constructed Buildings

City Officials Contacted

Showing 1 - 12 of 13

Date of Contact SL	Lobbyist Representative	City Official Contacted	TypeOfContact
11/22/2020	Carl Guardino	Maya Esparza	Scheduled PhoneCall
11/22/2020	Carl Guardino	Paul Peters	Scheduled PhoneCall
11/22/2020	Carl Guardino	Lan Diep	Scheduled PhoneCall
12/01/2020	Carl Guardino	Mayor Sam Liccardo	Scheduled PhoneCall
12/01/2020	Carl Guardino	Sergio Jimenez	Email or Letter
12/01/2020	Carl Guardino	Chappie Jones	Email or Letter
12/01/2020	Carl Guardino	Dev Davis	Email or Letter
12/01/2020	Carl Guardino	Lan Diep	Email or Letter
12/01/2020	Carl Guardino	Mayor Sam Liccardo	Email or Letter
12/01/2020	Carl Guardino	Sylvia Arenas	Email or Letter
12/01/2020	Carl Guardino	Maya Esparza	Email or Letter
12/01/2020	Carl Guardino	Pam Foley	Email or Letter
12/01/2020	Carl Guardino	Johnny Khamis	Email or Letter

- A copy of all email, text and Slack (or other messaging system) communications between Environmental Services Department officials, including director Kerrie Romanow, and Bloom Energy officials, including Carl Guardino, and any other employees, partners, associates, lobbyists, consultants or attorneys linked to Bloom Energy for the last three months. Please include emails/texts sent and received from personal devices and accounts as it relates to public business. I'm specifically interested in seeing the language Bloom Energy officials emailed to Romanow to include in her supplemental memos.
- A copy of all email, text and Slack (or other messaging system) between San Jose Mayor Sam Liccardo, San Jose councilmembers, their staff and Environmental Services Department officials, including director Kerrie Romanow, with regard to Bloom Energy, San José Spotlight and the city's natural gas ban from March 15 until present. Please include replies as well as emails/texts sent and received from personal devices and accounts as it relates to public business.

The California Public Records Act requires a response within ten business days. If access to the records I'm requesting will take longer, please let me know when I might expect copies or the ability to inspect the requested records. If I will need to pay for copies, please notify me in advance of the costs.

Thank you for considering my request.

Take care,

Ramona

--

Ramona Giwargis  
 Co-Founder & Editor  
 (408) 206-5327  
 @RamonaGiwargis

Support our award-winning nonprofit journalism with a [tax-deductible donation](#).

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

## **Exhibit Y**



Monica Price <mprice@firstamendmentcoalition.org>

---

## Fwd: FW: PRA Request: Bloom Energy Part 2

---

**Monica Price** <mprice@firstamendmentcoalition.org>  
To: Monica Price <mprice@firstamendmentcoalition.org>

Wed, Jan 19, 2022 at 4:10 PM

----- Forwarded message -----

From: **Lowry, Jessica** <jessica.lowry@sanjoseca.gov>  
Date: Fri, Jul 2, 2021 at 2:33 PM  
Subject: FW: PRA Request: Bloom Energy Part 2  
To: Ramona Giwargis <ramona@sanjosespotlight.com>

Good Afternoon:

The City is in receipt of your Public Records Act Request which is copied below.

City Staff has identified and collected the following attached documents that are responsive to your request. We have prepared the following SharePoint link that contains disclosable responsive documents. [https://sanjoseca.sharepoint.com/:f:/s/PRA/EpDke5oKXXZGiMR-I5sQkiwBpGhiF-npZg6rZOO\\_vKlycA?email=ramona%40sanjosespotlight.com&e=KKBPI3](https://sanjoseca.sharepoint.com/:f:/s/PRA/EpDke5oKXXZGiMR-I5sQkiwBpGhiF-npZg6rZOO_vKlycA?email=ramona%40sanjosespotlight.com&e=KKBPI3)

Your request is now completed.

Any person who believes that he or she has been inappropriately denied access to City of San José public records, may appeal to the City Council Rules and Open Government Committee. For more information on the appeals process, see [www.sanjoseca.gov/your-government/departments-offices/office-of-the-city-manager/official-city-records/appeals\\_](http://www.sanjoseca.gov/your-government/departments-offices/office-of-the-city-manager/official-city-records/appeals_)

Please contact me if you have any questions pertaining to your Public Records Act request at [publicrecordsrequest@sanjoseca.gov](mailto:publicrecordsrequest@sanjoseca.gov).

Thank you,

JESSICA LOWRY, J.D.

Open Government Manager

City of San Jose | City Manager's Office

[jessica.lowry@sanjoseca.gov](mailto:jessica.lowry@sanjoseca.gov)

[www.sanjoseca.gov](http://www.sanjoseca.gov)

NOTICE TO RECIPIENT: This communication is intended only for the person to whom it is addressed and may be protected by law. If you receive this in error, any review, use, dissemination, distribution or copying is strictly prohibited. Please notify us immediately of the error and delete this communication and any attachments from your system. Thank you for your cooperation.

**From:** Lowry, Jessica  
**Sent:** Friday, June 25, 2021 5:40 PM  
**To:** Ramona Giwargis <[ramona@sanjosespotlight.com](mailto:ramona@sanjosespotlight.com)>  
**Subject:** FW: PRA Request: Bloom Energy Part 2

Good Afternoon:

Staff is still in the process of gathering responsive documents and will provide you with a further update no later than July 2, 2021.

However, staff has gathered a portion of the remaining responsive documents which can be found at this SharePoint link: [https://sanjoseca.sharepoint.com/:f:/s/PRA/EjmYIs\\_zjuxPI2Qp7FKIF44BmCysFAuT3\\_dkEonuUbokLw?email=ramona%40sanjosespotlight.com&e=BPHjQm](https://sanjoseca.sharepoint.com/:f:/s/PRA/EjmYIs_zjuxPI2Qp7FKIF44BmCysFAuT3_dkEonuUbokLw?email=ramona%40sanjosespotlight.com&e=BPHjQm)

Thank you,

JESSICA LOWRY, J.D.

Open Government Manager

City of San Jose | City Manager's Office

[jessica.lowry@sanjoseca.gov](mailto:jessica.lowry@sanjoseca.gov)

[www.sanjoseca.gov](http://www.sanjoseca.gov)

NOTICE TO RECIPIENT: This communication is intended only for the person to whom it is addressed and may be protected by law. If you receive this in error, any review, use, dissemination, distribution or copying is strictly prohibited. Please notify us immediately of the error and delete this communication and any attachments from your system. Thank you for your cooperation.

---

**From:** Lowry, Jessica  
**Sent:** Friday, June 18, 2021 7:49 PM  
**To:** Ramona Giwargis <[ramona@sanjosespotlight.com](mailto:ramona@sanjosespotlight.com)>  
**Subject:** FW: PRA Request: Bloom Energy Part 2

Hi Ramona:

Staff is still in the process of gathering responsive documents. I will provide you with a further update no later than June 25, 2021.

Thank you,

JESSICA LOWRY, J.D.

Open Government Manager

City of San Jose | City Manager's Office

[jessica.lowry@sanjoseca.gov](mailto:jessica.lowry@sanjoseca.gov)

[www.sanjoseca.gov](http://www.sanjoseca.gov)

NOTICE TO RECIPIENT: This communication is intended only for the person to whom it is addressed and may be protected by law. If you receive this in error, any review, use, dissemination, distribution or copying is strictly prohibited. Please notify us immediately of the error and delete this communication and any attachments from your system. Thank you for your cooperation.

---

**From:** Lowry, Jessica  
**Sent:** Friday, June 11, 2021 5:35 PM  
**To:** Ramona Giwargis <[ramona@sanjosespotlight.com](mailto:ramona@sanjosespotlight.com)>  
**Subject:** RE: PRA Request: Bloom Energy Part 2

Hi Ramona:

Staff is still in the process of gathering records. I will provide you an update no later than June 18, 2021.

Thank you,

JESSICA LOWRY, J.D.

Open Government Manager

City of San Jose | City Manager's Office

[jessica.lowry@sanjoseca.gov](mailto:jessica.lowry@sanjoseca.gov)

[www.sanjoseca.gov](http://www.sanjoseca.gov)

NOTICE TO RECIPIENT: This communication is intended only for the person to whom it is addressed and may be protected by law. If you receive this in error, any review, use, dissemination, distribution or copying is strictly prohibited. Please notify us immediately of the error and delete this communication and any attachments from your system. Thank you for your cooperation.

---

**From:** Lowry, Jessica  
**Sent:** Friday, May 28, 2021 5:38 PM  
**To:** [ramona@sanjosespotlight.com](mailto:ramona@sanjosespotlight.com)  
**Subject:** FW: PRA Request: Bloom Energy Part 2

Good Afternoon:

Staff is still in the process of gathering records and I will provide you with further updates no later than June 11, 2021.

However, staff has gathered a portion of these documents which can be found at this SharePoint link.  
[https://sanjoseca.sharepoint.com/:f:/s/PRA/Eg\\_AOXAYh4JHmnmI0c5bf00B4ykGI84WaNEEH-7ySQUv5g?email=ramona%40sanjosespotlight.com&e=fnwNGG](https://sanjoseca.sharepoint.com/:f:/s/PRA/Eg_AOXAYh4JHmnmI0c5bf00B4ykGI84WaNEEH-7ySQUv5g?email=ramona%40sanjosespotlight.com&e=fnwNGG)

Thank you,

JESSICA LOWRY, J.D.

Open Government Manager

City of San Jose | City Manager's Office

[jessica.lowry@sanjoseca.gov](mailto:jessica.lowry@sanjoseca.gov)

[www.sanjoseca.gov](http://www.sanjoseca.gov)

NOTICE TO RECIPIENT: This communication is intended only for the person to whom it is addressed and may be protected by law. If you receive this in error, any review, use, dissemination, distribution or copying is strictly prohibited. Please notify us immediately of the error and delete this communication and any attachments from your system. Thank you for your cooperation.

---

**From:** Lowry, Jessica  
**Sent:** Friday, May 14, 2021 4:28 PM  
**To:** [ramona@sanjosespotlight.com](mailto:ramona@sanjosespotlight.com)  
**Subject:** RE: PRA Request: Bloom Energy Part 2

Good Afternoon:

Staff is still in the process of gathering records and I will provide you with further updates no later than May 28, 2021.

However, staff has gathered a portion of these documents which can be found at this SharePoint link.  
[https://sanjoseca.sharepoint.com/:f:/s/PRA/EuvRK-Sm8Y9BgdaOCNwN\\_uEBGNXawf79TiP\\_oj9rA27eUQ?email=ramona%40sanjosespotlight.com&e=ar97i9](https://sanjoseca.sharepoint.com/:f:/s/PRA/EuvRK-Sm8Y9BgdaOCNwN_uEBGNXawf79TiP_oj9rA27eUQ?email=ramona%40sanjosespotlight.com&e=ar97i9)

Please note that some documents are being withheld or redacted pursuant to the following statutes: Privacy [California Government Code § 6254(c); California Constitution, Article 1, Section 1]: Personal identifying information of private citizens has been redacted.

Thank you,

JESSICA LOWRY, J.D.

Open Government Manager

City of San Jose | City Manager's Office

[jessica.lowry@sanjoseca.gov](mailto:jessica.lowry@sanjoseca.gov)

[www.sanjoseca.gov](http://www.sanjoseca.gov)

NOTICE TO RECIPIENT: This communication is intended only for the person to whom it is addressed and may be protected by law. If you receive this in error, any review, use, dissemination, distribution or copying is strictly prohibited. Please notify us immediately of the error and delete this communication and any attachments from your system. Thank you for your cooperation.



---

**From:** PublicRecordsRequest  
**Sent:** Monday, May 10, 2021 3:39 PM  
**To:** Ramona Giwargis <[ramona@sanjosespotlight.com](mailto:ramona@sanjosespotlight.com)>  
**Subject:** RE: PRA Request: Bloom Energy Part 2

Good Afternoon:

Staff is still in the process of gathering these records and I hope to have them to you before May 14<sup>th</sup>.

Thank you,

JESSICA LOWRY, J.D.

Open Government Manager

City of San Jose | City Manager's Office

[jessica.lowry@sanjoseca.gov](mailto:jessica.lowry@sanjoseca.gov)

[www.sanjoseca.gov](http://www.sanjoseca.gov)

NOTICE TO RECIPIENT: This communication is intended only for the person to whom it is addressed and may be protected by law. If you receive this in error, any review, use, dissemination, distribution or copying is strictly prohibited. Please notify us immediately of the error and delete this communication and any attachments from your system. Thank you for your cooperation.

---

**From:** Ramona Giwargis <[ramona@sanjosespotlight.com](mailto:ramona@sanjosespotlight.com)>  
**Sent:** Sunday, May 9, 2021 11:52 PM  
**To:** PublicRecordsRequest <[PublicRecordsRequest@sanjoseca.gov](mailto:PublicRecordsRequest@sanjoseca.gov)>  
**Subject:** Re: PRA Request: Bloom Energy Part 2

[External Email]

Hello,

Thank you for sending along this first batch of documents. I'm looking forward to the next set of records on May 14. I'm still missing a number of requested documents that I know exist and are responsive to my request:

- A copy of the 9 email communications sent from Carl Guardino to San Jose Councilmembers Sergio Jimenez, Chappie Jones, Dev Davis, Lan Diep (if available), Sylvia Arenas, Maya Esparza, Pam Foley, Johnny Khamis (if available) and Mayor Sam Liccardo on Dec. 1.
- A copy of emails from Bloom Energy officials and San Jose ESD staff related to the language Bloom Energy emailed to ESD Director Kerrie Romanow to include in her supplemental memos.

I appreciate your help.

Thanks,

Ramona

--

	Ramona Giwargis Co-Founder & Editor (408) 206-5327 @RamonaGiwargis
--	-----------------------------------------------------------------------------

**Support our award-winning nonprofit journalism with a [tax-deductible donation](#).**

On Fri, Apr 30, 2021 at 4:16 PM PublicRecordsRequest <[PublicRecordsRequest@sanjoseca.gov](mailto:PublicRecordsRequest@sanjoseca.gov)> wrote:

Good Afternoon:

We are in receipt of your Public Records Act request received on April 19, 2021. This letter serves as the City's notification of the need for an extension of time to fully respond, pursuant to Government Code section 6253(c).

The City requires an extension of time under Government Code section 6253(c), in order to complete its review of potentially responsive records, compile copies and provide a coordinated, complete response to your request as required by the Public Records Act. We will respond to your request with further updates by no later than May 14, 2021.

However, staff has gathered a portion of the responsive documents which can be found at this SharePoint link: [https://sanjoseca.sharepoint.com/:f:/s/PRA/EpT9\\_1grZ-BLkQjDbNHQdwgBi\\_LNUuNJJa-i3Ojdv7D5KpA?email=ramona%40sanjosespotlight.com&e=07DUrm](https://sanjoseca.sharepoint.com/:f:/s/PRA/EpT9_1grZ-BLkQjDbNHQdwgBi_LNUuNJJa-i3Ojdv7D5KpA?email=ramona%40sanjosespotlight.com&e=07DUrm)

Please note that some documents were redacted pursuant to the following statutes: Privacy [California Government Code § 6254(c); California Constitution, Article 1, Section 1]: Personal identifying information of private citizens has been redacted.

The City intends to assert any and all exemptions and privileges applicable to potentially responsive records. The City also hereby reserves all other rights, including the right to object on the grounds that the request is overly broad and/or unduly burdensome.

Please contact me if you have any questions pertaining to your Public Records Act request at [publicrecordsrequest@sanjoseca.gov](mailto:publicrecordsrequest@sanjoseca.gov)

Thank you,

JESSICA LOWRY, J.D.

Open Government Manager

City of San Jose | City Manager's Office

[jessica.lowry@sanjoseca.gov](mailto:jessica.lowry@sanjoseca.gov)

[www.sanjoseca.gov](http://www.sanjoseca.gov)

NOTICE TO RECIPIENT: This communication is intended only for the person to whom it is addressed and may be protected by law. If you receive this in error, any review, use, dissemination, distribution or copying is strictly prohibited. Please notify us immediately of the error and delete this communication and any attachments from your system. Thank you for your cooperation.

**From:** Ramona Giwargis <[ramona@sanjosespotlight.com](mailto:ramona@sanjosespotlight.com)>  
**Sent:** Saturday, April 17, 2021 12:05 AM  
**To:** PublicRecordsRequest <[PublicRecordsRequest@sanjoseca.gov](mailto:PublicRecordsRequest@sanjoseca.gov)>  
**Cc:** Sonya Herrera <[sonya.m.herrera@gmail.com](mailto:sonya.m.herrera@gmail.com)>; Nguyen, Tran (MU-Student) <[tran.nguyen@mail.missouri.edu](mailto:tran.nguyen@mail.missouri.edu)>  
**Subject:** PRA Request: Bloom Energy Part 2

[External Email]

Hello,

Under the California Public Records Act, I'm requesting the following:

- A copy of the following 9 email communications sent from Carl Guardino to San Jose Councilmembers Sergio Jimenez, Chappie Jones, Dev Davis, Lan Diep (if available), Sylvia Arenas, Maya Esparza, Pam Foley, Johnny Khamis (if available) and Mayor Sam Liccardo. These records were not produced in my last PRA request although they met the scope and requirements of what I asked for. Please include replies as well as emails/texts sent and received from personal devices and accounts as it relates to public business.

**Ordinance of the City of San Jose Amending Chapter 17.844 of Title 17 of the San Jose Municipal Code to Amend Sections 17.844.010, 17.844.020, 17.844.030, 17.844.040, 17.844.050, AND 17.844.060 AND ADD SECTION 17.844.045 TO PROHIBIT NATURAL GAS INFRASTRUCTURE IN NEWLY CONSTRUCTED BUILDINGS**

**City Officials Contacted**

Showing 1 - 12 of 13

Date of Contact (s)	Legislator Representative	City Official Contacted	Type of Contact
11/02/2020	Carl Guardino	Maya Esparza	Scheduled Phone Call
11/02/2020	Carl Guardino	Raul Peres	Scheduled Phone Call
11/02/2020	Carl Guardino	Lan Diep	Scheduled Phone Call
12/01/2020	Carl Guardino	Mayor Sam Liccardo	Scheduled Phone Call
12/01/2020	Carl Guardino	Sergio Jimenez	Email or Letter
12/01/2020	Carl Guardino	Chappie Jones	Email or Letter
12/01/2020	Carl Guardino	Dev Davis	Email or Letter
12/01/2020	Carl Guardino	Lan Diep	Email or Letter
12/01/2020	Carl Guardino	Mayor Sam Liccardo	Email or Letter
12/01/2020	Carl Guardino	Sylvia Arenas	Email or Letter
12/01/2020	Carl Guardino	Maya Esparza	Email or Letter
12/01/2020	Carl Guardino	Pam Foley	Email or Letter
12/01/2020	Carl Guardino	Johnny Khamis	Email or Letter

- A copy of all email, text and Slack (or other messaging system) communications between Environmental Services Department officials, including director Kerrie Romanow, and Bloom Energy officials, including Carl Guardino, and any other employees, partners, associates, lobbyists, consultants or attorneys linked to Bloom Energy for the last three months. Please include emails/texts sent and received from personal devices and accounts as it relates to public business. I'm specifically interested in seeing the language Bloom Energy officials emailed to Romanow to include in her supplemental memos.

- A copy of all email, text and Slack (or other messaging system) between San Jose Mayor Sam Liccardo, San Jose councilmembers, their staff and Environmental Services Department officials, including director Kerrie Romanow, with regard to Bloom Energy, San José Spotlight and the city's natural gas ban from March 15 until present. Please include replies as well as emails/texts sent and received from personal devices and accounts as it relates to public business.

The California Public Records Act requires a response within ten business days. If access to the records I'm requesting will take longer, please let me know when I might expect copies or the ability to inspect the requested records. If I will need to pay for copies, please notify me in advance of the costs.

Thank you for considering my request.

Take care,

Ramona

--



Ramona Giwargis

Co-Founder & Editor

(408) 206-5327

@RamonaGiwargis

**Support our award-winning nonprofit journalism with a tax-deductible donation.**

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

## **Exhibit Z**

**From:** Sam Liccardo **Personally Identifiable Information**  
**Sent:** Monday, October 04, 2021 7:03 PM EDT  
**To:** Hadnot, Rhonda <rhonda.hadnot@sanjoseca.gov>  
**Subject:** Fwd: My revision

[External Email]

----- Forwarded message -----  
**From:** Carl Guardino <[Carl.Guardino@bloomenergy.com](mailto:Carl.Guardino@bloomenergy.com)>  
**Date:** Tue, Dec 1, 2020 at 11:15 AM  
**Subject:** RE: My revision  
**To:** Sam Liccardo <**Personally Identifiable Information**>

Dear Mayor Liccardo –

Thank you for your ongoing leadership for our City.

I have just forwarded your language below to our General Counsel and our technical team to seek their insights as to whether it meets the resiliency goals that your City and Bloom Energy share. I hope to have a response within the next hour.

Thank you again for your time and leadership.

Sincerely,

Carl

Carl Guardino  
Executive Vice President  
Global Government Affairs & Policy

**From:** Sam Liccardo **Personally Identifiable Information**  
**Sent:** Tuesday, December 1, 2020 10:57 AM  
**To:** Carl Guardino <[Carl.Guardino@bloomenergy.com](mailto:Carl.Guardino@bloomenergy.com)>  
**Subject:** My revision

EXTERNAL EMAIL

---

"Facilities with a Distributed Energy Resource that meets Section 94203 of Title 17 California Code of Regulation requirements and are necessary for the public health, safety or economic welfare in the event of an electric grid outage, until December 31, 2023. The Director will report to Council no later than December 31, 2023 on the financial feasibility of zero-emission and low-emission alternatives for backup power and distributed generation/storage. Upon receipt of that report, Council will determine whether to extend this exemption, based on the economic feasibility of low- or zero-emission alternatives. "

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

PRAR\_SJ05416

**From:** Sam Liccardo **Personally Identifiable Information**  
**Sent:** Monday, October 04, 2021 7:03 PM EDT  
**To:** Hadnot, Rhonda <rhonda.hadnot@sanjoseca.gov>  
**Subject:** Fwd: FW: 11.25 with hardship fix

[External Email]

----- Forwarded message -----  
**From:** Green, Scott <[scott.green@sanjoseca.gov](mailto:scott.green@sanjoseca.gov)>  
**Date:** Tue, Dec 1, 2020 at 1:39 PM  
**Subject:** FW: 11.25 with hardship fix  
**To:** Sam Liccardo **Personally Identifiable Information**

FYI

**From:** Carl Guardino <[Carl.Guardino@bloomenergy.com](mailto:Carl.Guardino@bloomenergy.com)>  
**Sent:** Tuesday, December 1, 2020 1:21 PM  
**To:** Liccardo, Sam <[sam.liccardo@sanjoseca.gov](mailto:sam.liccardo@sanjoseca.gov)>; Reed, Jim <[Jim.Reed@sanjoseca.gov](mailto:Jim.Reed@sanjoseca.gov)>; Green, Scott <[scott.green@sanjoseca.gov](mailto:scott.green@sanjoseca.gov)>  
**Cc:** Amy Mmagu <[Amy.Mmagu@bloomenergy.com](mailto:Amy.Mmagu@bloomenergy.com)>; Delaney Hunter <[delaney@caladvisorsllc.com](mailto:delaney@caladvisorsllc.com)>; Shawn Soderberg <[Shawn.Soderberg@bloomenergy.com](mailto:Shawn.Soderberg@bloomenergy.com)>; Stephen Lamm <[Stephen.Lamm@bloomenergy.com](mailto:Stephen.Lamm@bloomenergy.com)>; Jim Cunneen <[Jim.Cunneen@bloomenergy.com](mailto:Jim.Cunneen@bloomenergy.com)>; Carillo, Pete <[pete@siliconvalleyadvisors.com](mailto:pete@siliconvalleyadvisors.com)>; Carl Guardino <[Carl.Guardino@bloomenergy.com](mailto:Carl.Guardino@bloomenergy.com)>  
**Subject:** 11.25 with hardship fix

[External Email]

Dear Mayor Liccardo, Jim and Scott –

Please find below suggested edits to the November 25 staff supplemental memo. It is technology neutral, has a clear end date, allows for hardship considerations and can still help meet the resiliency needs of your City.

We welcome your feedback.

Sincerely,

Carl

Keep 11.25 language as is and modify hardship exemption to allow for resiliency.

#### **17.845.050 Hardship Exemption**

- A. If an applicant for a Newly Constructed Building believes that the type of project or physical site conditions or necessary operational requirements, ***or the public health, safety or economic welfare in the event of an electric grid outage*** make it a hardship or infeasible to meet the requirements of this Chapter, or the project meets the City's adopted sustainability and environmental policies, then the applicant may request an exemption or modification from the Director. The burden shall be on the applicant to demonstrate the grounds for any exemption.
- B. In making a determination in response to an application under Subsection A above, if the Director determines that the facts offered in support of an application demonstrate that the purposes of this Chapter will have been achieved to the maximum extent reasonably allowed by the circumstances, then the Director may issue a decision requiring compliance with less than the full extent of the requirements of this Chapter but to the fullest extent reasonably achievable given the circumstances, provided such requirements meet or exceed the electrical readiness requirements in San José Municipal Code Chapter 24.12.
- C. The Director's decision shall contain a statement of the facts upon which the decision was based, as well as the reduced compliance level requirements that must be achieved. The Director's decision shall become a condition of the development or building permit issued for the project.
- D. The Director's decision shall be mailed or electronically mailed to the applicant to the address shown on the application.

## **Exhibit AA**





Monica Price <mprice@firstamendmentcoalition.org>

---

## Fwd: San José Spotlight: Questions about Bloom Energy's involvement in crafting SJ's gas ban ordinance

---

Monica Price <mprice@firstamendmentcoalition.org>  
To: Monica Price <mprice@firstamendmentcoalition.org>

Wed, Feb 2, 2022 at 9:12 AM

----- Forwarded message -----

From: **Tran Nguyen** <tran@sanjosespotlight.com>

Date: Tue, Feb 1, 2022 at 4:07 PM

Subject: Fwd: San José Spotlight: Questions about Bloom Energy's involvement in crafting SJ's gas ban ordinance

To: Ramona Giwargis <ramona@sanjosespotlight.com>



Trần Nguyễn

Politics & Local Government Reporter/ Report For America Corps Member  
(541) 735-8564

@nguyenntrann

Support our award-winning nonprofit journalism with a [tax-deductible donation](#).

----- Forwarded message -----

From: **Davis, Rachel** <Rachel.Davis@sanjoseca.gov>

Date: Tue, Feb 1, 2022 at 4:03 PM

Subject: Re: San José Spotlight: Questions about Bloom Energy's involvement in crafting SJ's gas ban ordinance

To: Tran Nguyen <tran@sanjosespotlight.com>

Hi Tran,

Thanks for your email! You can attribute the following to me.

The Mayor publicly urged city staff to work with Bloom and other providers of off-grid power sources in fashioning this ordinance, because many of our labs, dialysis centers, data centers, and hospitals critically need electricity that is more reliable than PG&E can provide. City Staff publicly admitted that they failed to do so, so we followed up. Our job is to find solutions that work, and that requires working with stakeholders to understand their perspectives and to incorporate them where aligned with our city's goals. We did so successfully in this instance, and earned national recognition as the largest US city to adopt all-electric building standards.

Let me know if you have further questions!

For your last question: This was an administrative overstep on our part and we are taking steps to make sure it doesn't happen again.

Rachel Davis  
Chief Communications Officer  
Office San Jose Mayor Sam Liccardo

On Feb 1, 2022, at 11:02 AM, Tran Nguyen <tran@sanjosespotlight.com> wrote:

[External Email]

Hi Rachel,

I'm working on a follow up on what we wrote last year re: the city's gas ban and its last minute exemption. I'm hoping the Mayor could help answer some of my questions re: Bloom Energy's involvement in crafting SJ's gas ban ordinance:

From the latest batch of the Mayor's emails from his Gmail account, we found two email threads happening on Dec. 1, the day of the gas ban vote, where the Mayor's office and Bloom Energy working together on the final language of the exemption:

On Dec.1, Mayor Liccardo emailed Carl Guardino at 10:57a with proposed language for the ordinance. Guardino confirmed that the language from the Mayor was forwarded to Bloom Energy's counsel to review at 11:15a.

----- Forwarded message -----

From: Carl Guardino <Carl.Guardino@bloomenergy.com>  
Date: Tue, Dec 1, 2020 at 11:15 AM  
Subject: RE: My revision  
To: Sam Liccardo <[REDACTED]>

Dear Mayor Liccardo –

Thank you for your ongoing leadership for our City.

I have just forwarded your language below to our General Counsel and our technical team to seek their insights as to whether it meets the resiliency goals that your City and Bloom Energy share. I hope to have a response within the next hour.

Thank you again for your time and leadership.

Sincerely,

Carl

Carl Guardino  
Executive Vice President  
Global Government Affairs & Policy

From: Sam Liccardo <[REDACTED]>  
Sent: Tuesday, December 1, 2020 10:57 AM  
To: Carl Guardino <Carl.Guardino@bloomenergy.com>  
Subject: My revision

EXTERNAL EMAIL

---

"Facilities with a Distributed Energy Resource that meets Section 94203 of Title 17 California Code of Regulation requirements and are necessary for the public health, safety or economic welfare in the event of an electric grid outage, until December 31, 2023. The Director will report to Council no later than December 31, 2023 on the financial feasibility of zero-emission and low-emission alternatives for backup power and distributed generation/storage. Upon receipt of that report, Council will determine whether to extend this exemption, based on the economic feasibility of low- or zero-emission alternatives."

At 1:21p the same day, Bloom Energy emailed the Mayor's office with suggested edits to the language to be added onto the exemption. The bolded text in this email ended up in the city ordinance that was ultimately enacted.

----- Forwarded message -----

From: Green, Scott <[scott.green@sanjoseca.gov](mailto:scott.green@sanjoseca.gov)>  
 Date: Tue, Dec 1, 2020 at 1:39 PM  
 Subject: FW: 11.25 with hardship fix  
 To: Sam Liccardo

**Personally Identifiable Information**

FYI

From: Carl Guardino <[Carl.Guardino@bloomenergy.com](mailto:Carl.Guardino@bloomenergy.com)>  
 Sent: Tuesday, December 1, 2020 1:21 PM  
 To: Liccardo, Sam <[sam.liccardo@sanjoseca.gov](mailto:sam.liccardo@sanjoseca.gov)>; Reed, Jim <[Jim.Reed@sanjoseca.gov](mailto:Jim.Reed@sanjoseca.gov)>; Green, Scott <[scott.green@sanjoseca.gov](mailto:scott.green@sanjoseca.gov)>  
 Cc: Amy Mmagu <[Amy.Mmagu@bloomenergy.com](mailto:Amy.Mmagu@bloomenergy.com)>; Delaney Hunter <[delaney@caladvisorsllc.com](mailto:delaney@caladvisorsllc.com)>; Shawn Soderberg <[Shawn.Soderberg@bloomenergy.com](mailto:Shawn.Soderberg@bloomenergy.com)>; Stephen Lamm <[Stephen.Lamm@bloomenergy.com](mailto:Stephen.Lamm@bloomenergy.com)>; Jim Cunneen <[jim.cunneen@bloomenergy.com](mailto:jim.cunneen@bloomenergy.com)>; Carillo, Pete <[pete@siliconvalleyadvisors.com](mailto:pete@siliconvalleyadvisors.com)>; Carl Guardino <[Carl.Guardino@bloomenergy.com](mailto:Carl.Guardino@bloomenergy.com)>  
 Subject: 11.25 with hardship fix

[External Email]

Dear Mayor Liccardo, Jim and Scott –

Please find below suggested edits to the November 25 staff supplemental memo. It is technology neutral, has a clear end date, allows for hardship considerations and can still help meet the resiliency needs of your City.

We welcome your feedback.

Sincerely,

Carl

Keep 11.25 language as is and modify hardship exemption to allow for resiliency.

**17.845.050 Hardship Exemption**

- A. If an applicant for a Newly Constructed Building believes that the type of project or physical site conditions or necessary operational requirements, **or the public health, safety or economic welfare in the event of an electric grid outage** make it a hardship or infeasible to meet the requirements of this Chapter, or the project meets the City's adopted sustainability and environmental policies, then the applicant may request an exemption or modification from the Director. The burden shall be on the applicant to demonstrate the grounds for any exemption.
- B. In making a determination in response to an application under Subsection A above, if the Director determines that the facts offered in support of an application demonstrate that the purposes of this Chapter will have been achieved to the maximum extent reasonably allowed by the circumstances, then the Director may issue a decision requiring compliance with less than the full extent of the requirements of this Chapter but to the fullest extent reasonably achievable given the circumstances, provided such requirements meet or exceed the electrical readiness requirements in San José Municipal Code Chapter 24.12.
- C. The Director's decision shall contain a statement of the facts upon which the decision was based, as well as the reduced compliance level requirements that must be achieved. The Director's decision shall become a condition of the development or building permit issued for the project.
- D. The Director's decision shall be mailed or electronically mailed to the applicant to the address shown on the application.

PRAR\_SJ04856

- Can you help clarify why the city was working with Bloom Energy, a private company, on its ordinance the day of the vote?
- Is it a potential conflict of interest or unethical for the city to allow a business to work directly with the Mayor and help write a city policy and an exemption that ultimately benefits them?
- Was the city attorney and your colleagues on the City Council aware that the ordinance was partly written by Bloom Energy before the vote?
- Is this a common practice in your office to include languages suggested by private companies in city policies?
- Also, why were these emails not disclosed in our first CPRA request on Dec. 14, 2020?

My deadline is 9a tomorrow morning. Please let me know if I could help clarify anything.

Many thanks,

Tran

**SAN JOSÉ**  
**spotlight**

Trần Nguyễn  
 Politics & Local Government Reporter/  
 Report For America Corps Member  
 (541) 735-8564  
 @nguyenntrann

**Support our award-winning nonprofit journalism with a**

**tax-deductible donation.**

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

## **Exhibit BB**

**From:** Liccardo, Sam, **Personally Identifiable Information**  
**Sent:** Monday, December 14, 2020 4:52 PM EST  
**To:** Smith, Henry <Henry.Smith@sanjoseca.gov>  
**Subject:** PRA: Bloom energy 01  
**Attachment(s):** "2020\_11\_24 San Jose Briefing, TO SHOW.pdf"

---

**From:** Carl Guardino <Carl.Guardino@bloomenergy.com>  
**Sent:** Wednesday, November 25, 2020 6:29 AM  
**To:** Liccardo, Sam <sam.liccardo@sanjoseca.gov>; Sam Liccardo [REDACTED] Green, Scott <scott.green@sanjoseca.gov>; Kline, Kelly <Kelly.Kline@sanjoseca.gov>; Burton, Chris <Christopher.Burton@sanjoseca.gov>; Mitchell, Lori <Lori.Mitchell@sanjoseca.gov>; Romanow, Kerrie <Kerrie.Romanow@sanjoseca.gov>; Davies, Ken <Ken.Davies@sanjoseca.gov>; Donato-Weinstein, Nathan <Nathan.Donato-Weinstein@sanjoseca.gov>  
**Cc:** Sharelynn Moore <Sharelynn.Moore@bloomenergy.com>; Greg Cameron <Greg.Cameron@bloomenergy.com>; Scott Reynolds <Scott.Reynolds@bloomenergy.com>; Martin Perry <Martin.Perry@bloomenergy.com>  
**Subject:** Green Hydrogen: San Jose slides

[External Email]

Dear Mayor Liccardo and City of San Jose Leaders –

Thank you for your proactive interest on ways in which we can work together on two of our mutual environmental and economic goals – keeping our energy sources resilient and reliable while simultaneously working to eliminate both local air pollution and greenhouse gases.

Our call and conversation yesterday on green hydrogen was, we hope, simply a starting point on how a great city and a great technology company can partner on these important issues.

As promised, please find attached the slide deck that we had prepared for yesterday's discussion. Your proactive interest and enthusiasm to find potential partners to move a demonstration project forward is quite intriguing. We look forward to continuing that conversation.

In the meantime, we wish each of you, and your families, a safe, healthy and enjoyable Thanksgiving season.

Warm Regards,

Carl

Carl Guardino

Executive Vice President

Global Government Affairs & Policy

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Bloomenergy®

City of San Jose

# HYDROGEN BRIEFING

NOVEMBER 24TH, 2020

A blue 3D rectangular sign with rounded corners. The top half is a lighter blue and contains the text 'H2 Hydrogen' in white. The 'H2' is in a large, stylized font where the '2' is smaller and positioned to the right of the 'H'. The bottom half of the sign is a darker blue and is currently blank. The sign is set against a background of a blue sky with white clouds.

H2  
Hydrogen

# TODAY'S PARTICIPANTS



**Greg Cameron**  
EVP, Chief Financial Officer  
Joined 2020



**Sharelynn Moore**  
Chief Marketing Officer  
Joined 2020



**Carl Guardino**  
EVP, Government Affairs & Policy  
Joined 2020



**Martin Perry**  
VP, Engineering  
Joined 2003



**Scott Reynolds**  
VP, Head of Structured Finance  
Joined 2004



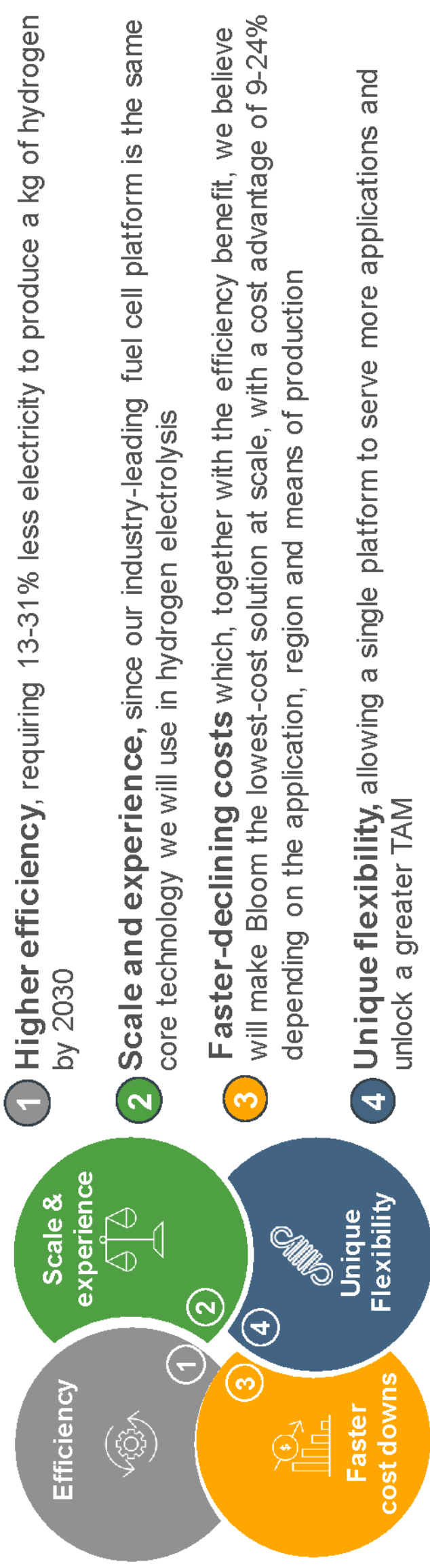
**Morgan Stanley**



# TODAY'S KEY TAKEAWAYS

Leading experts agree that hydrogen, a carbon-free fuel, is a critical element in reaching full decarbonization.

Bloom Energy's solid oxide platform is uniquely differentiated in the fast-growing hydrogen market, with **four key advantages**:



# H2 NEEDED TO FULLY DECARBONIZE

**Power generation and grid balancing**

Centralized power (including storage) and distributed power (off-grid, backup power)

Hydrogen as an energy carrier and storage medium

**Transportation fuel**  
(including material handlings, light- and heavy- duty vehicles, captive fleets, rail)

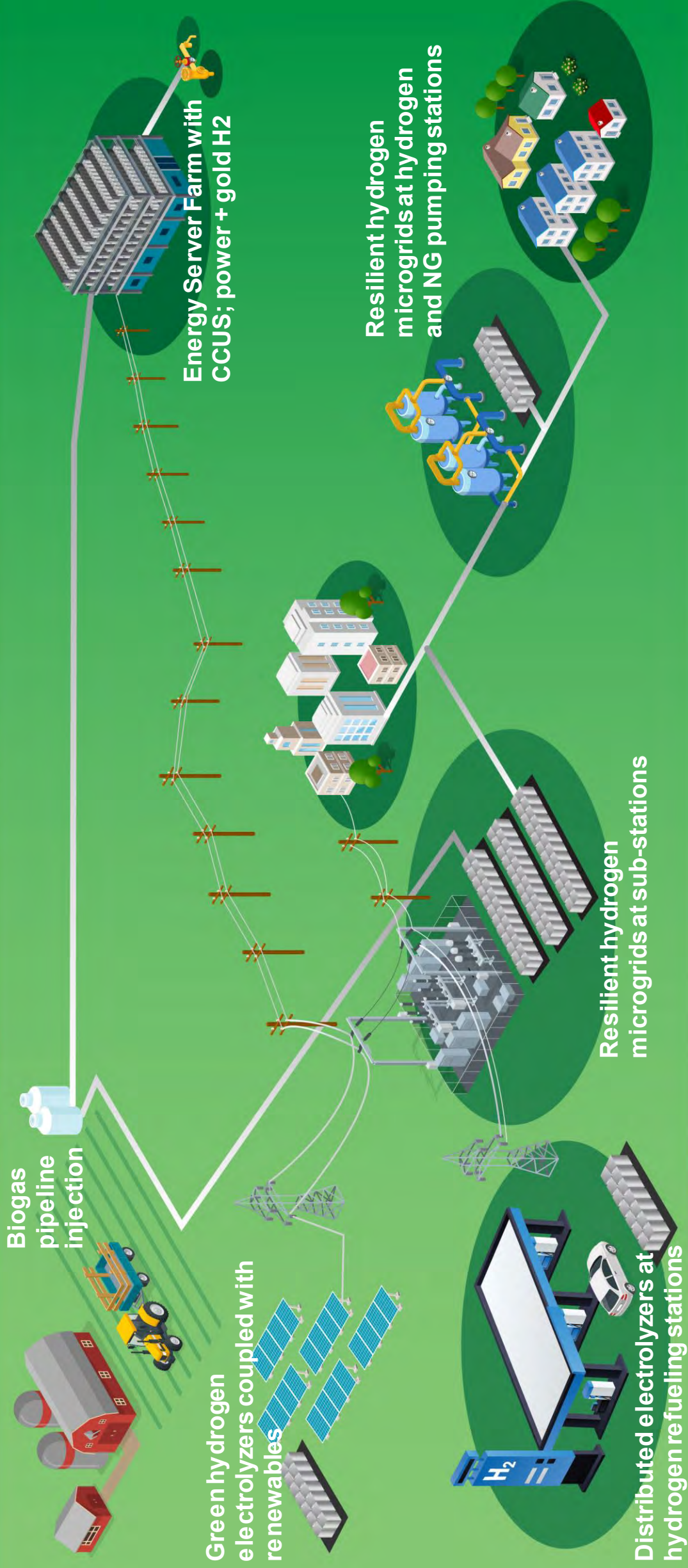


**Heating fuel for industry**

Feedstock for industry (ammonia, methanol, refineries, steel) and long-distance transport (aviation, marine)

**Heating fuel for residential and commercial buildings**  
(including blending into the gas grid, combined heat and power)

# GAS GRID OF THE FUTURE



# H2 MARKET VALUED AT ~\$1T BY 2050; ~\$0.5T BY 2035

The total market potential for hydrogen has a large range depending on scenarios

\$T  
MMT

Hydrogen Demand in 2050 based on H2 forecasts in Energy Transition Scenarios

2035 2050 Details to follow



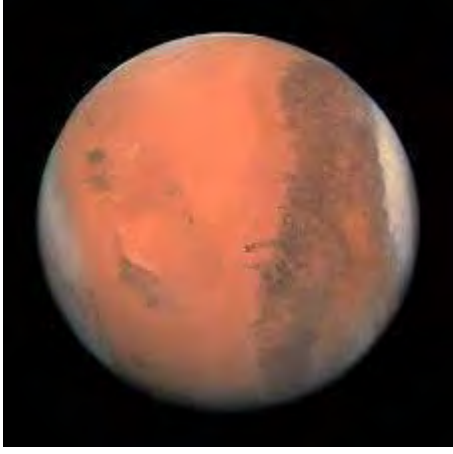
1. Market value assumes \$2,000/H2 and \$1,500/H2 average production cost in 2030 and 2050 and 30% operating margin
2. Midpoint between Hydrogen Council 2030 and 2040 value (14 EJ and 28 EJ)
3. Interpolated value based on 2030 and 2050 values (18 EJ and 83 EJ for McKinsey 1.5C, 7 EJ and 29 EJ for IRENA)
4. Does not include hydrogen use as a feedstock

Source: BNEF, Hydrogen Council, Shell, BP, DNV GL, IRENA, Energy Transition Commissions, McKinsey

Proprietary and Confidential

# SCALE AND EXPERIENCE: OUR PLATFORM WAS BUILT FOR HYDROGEN

Solid oxide was first designed to enable a hydrogen economy on Mars



First units made hydrogen 15 years ago

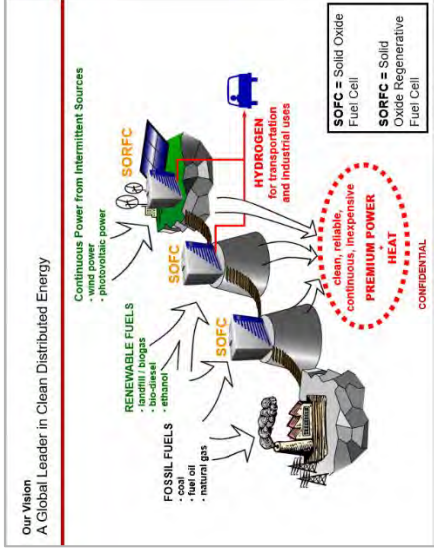


19 hydrogen patents

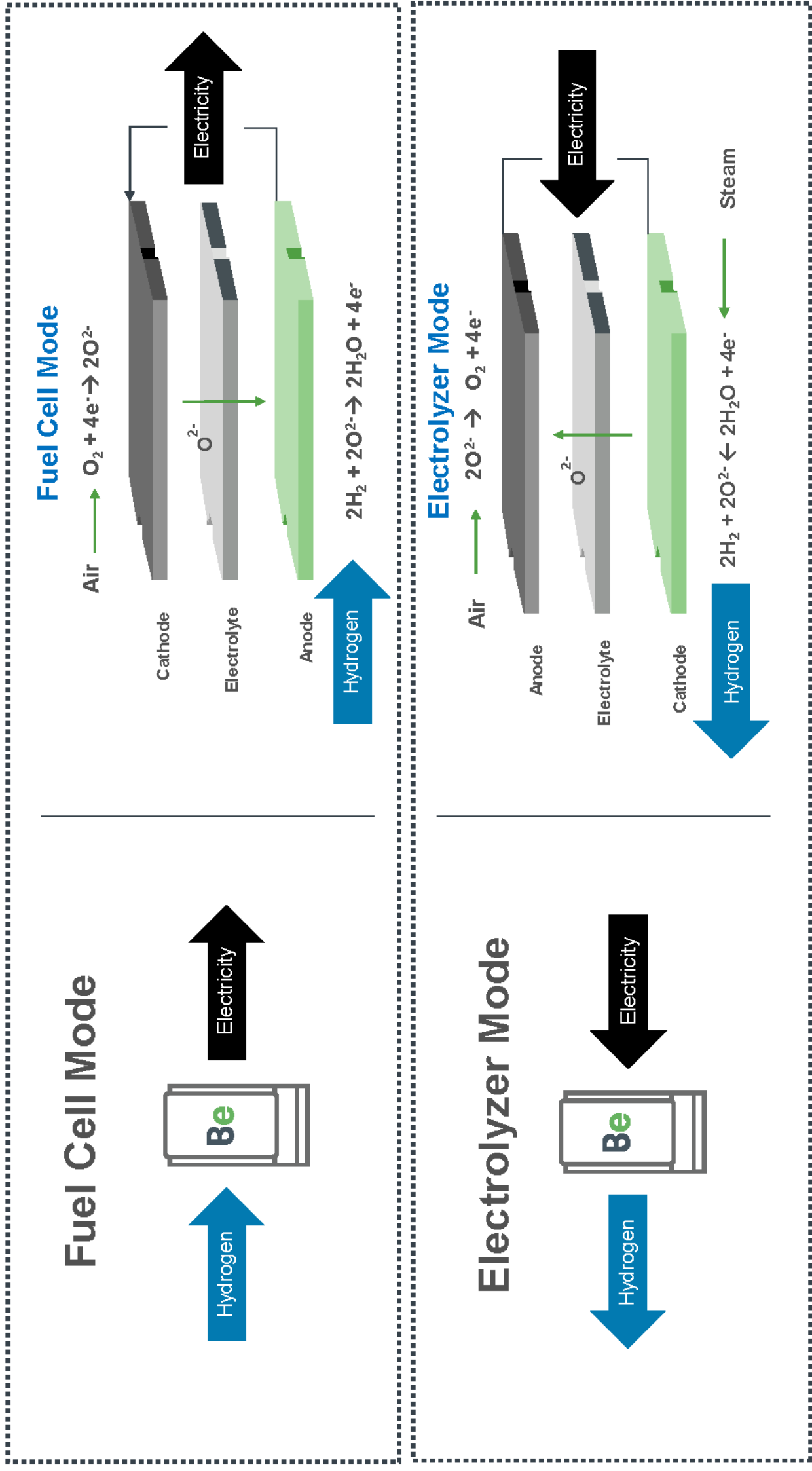
US Patent 7,887,971  
 US Patent 6,821,663  
 US Patent 6,924,053

Long term strategy has always focused on hydrogen...

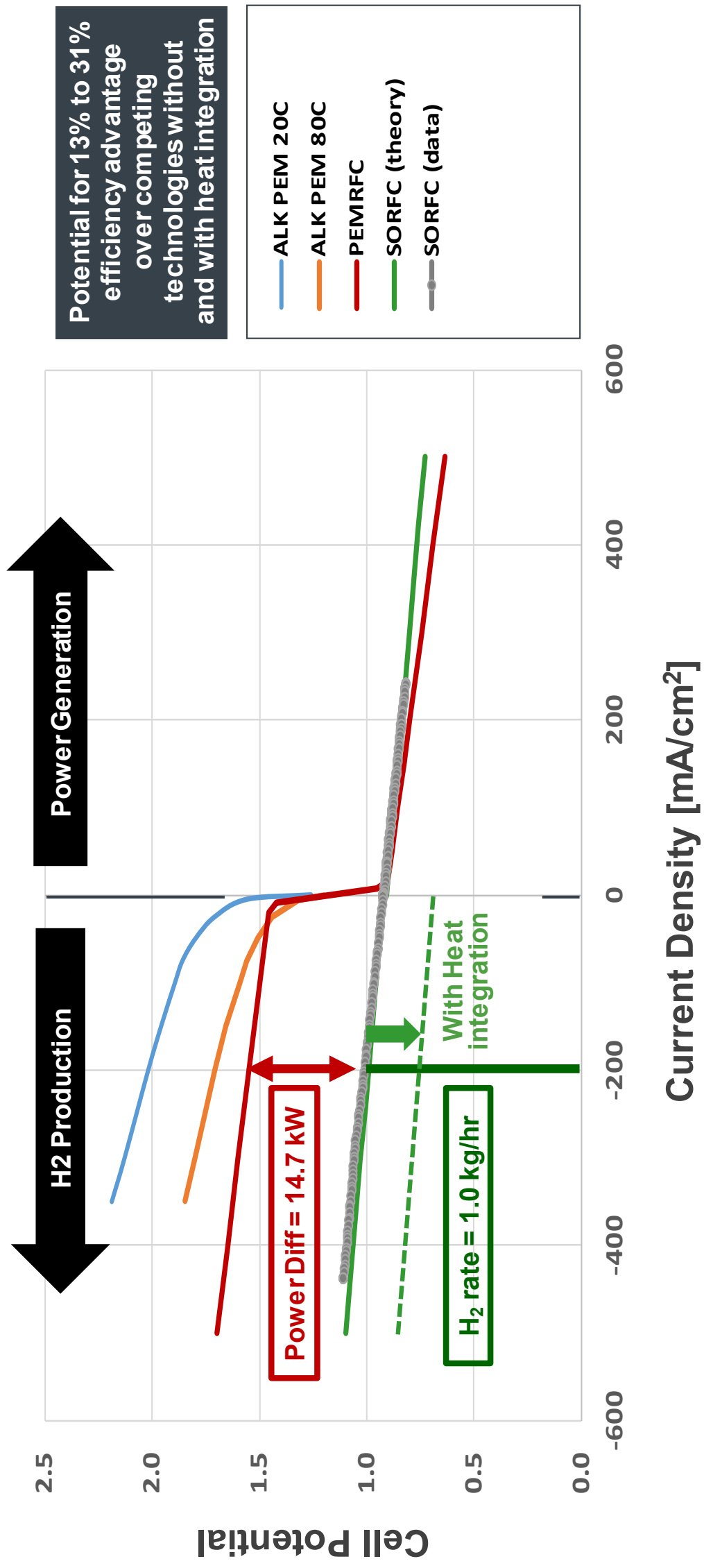
... when the economics made sense



# SOLID OXIDE: A REVERSIBLE CELL AT THE CORE OF OUR PLATFORM



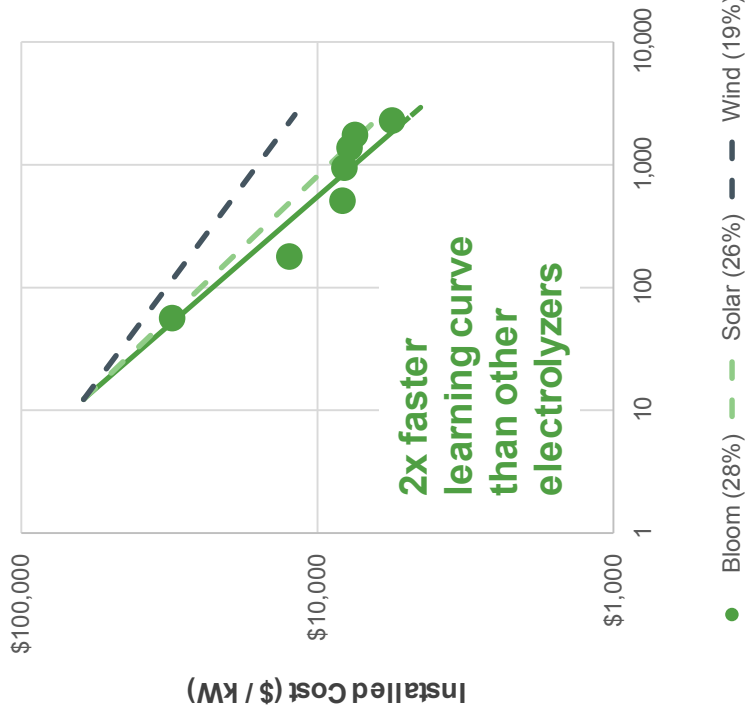
# FUNDAMENTAL PHYSICS MEANS SOLID OXIDE REQUIRES FEWER KWHS PER KG OF H2



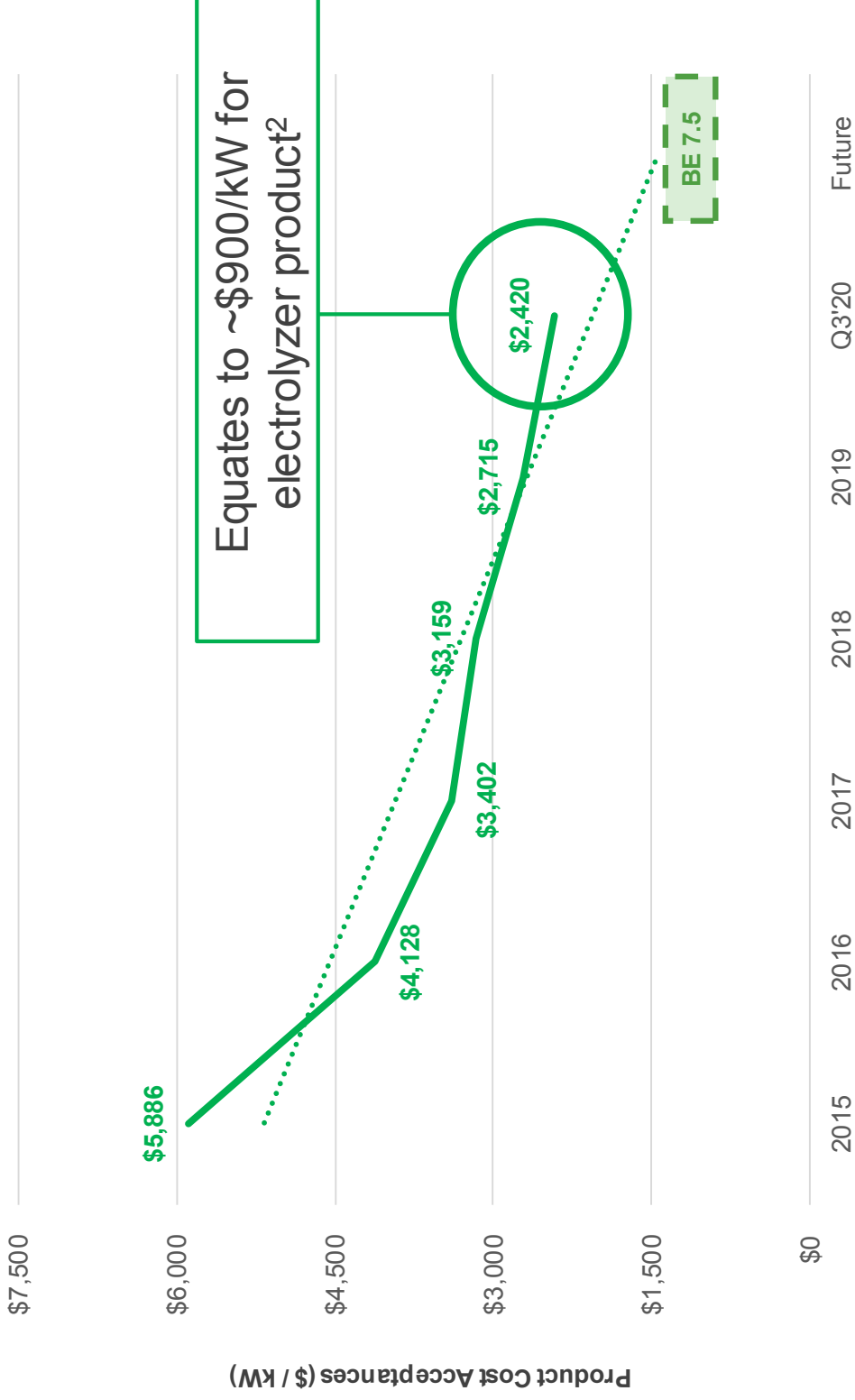
# OUR COST REDUCTION HISTORY LOOKS JUST LIKE SOLAR

## Learning Rate at Pace of Solar

Bloom's **historical learning rate of 28%** compares favorably to learning rates experienced in the solar and wind industries



## Product Cost of Acceptance<sup>(1)</sup>



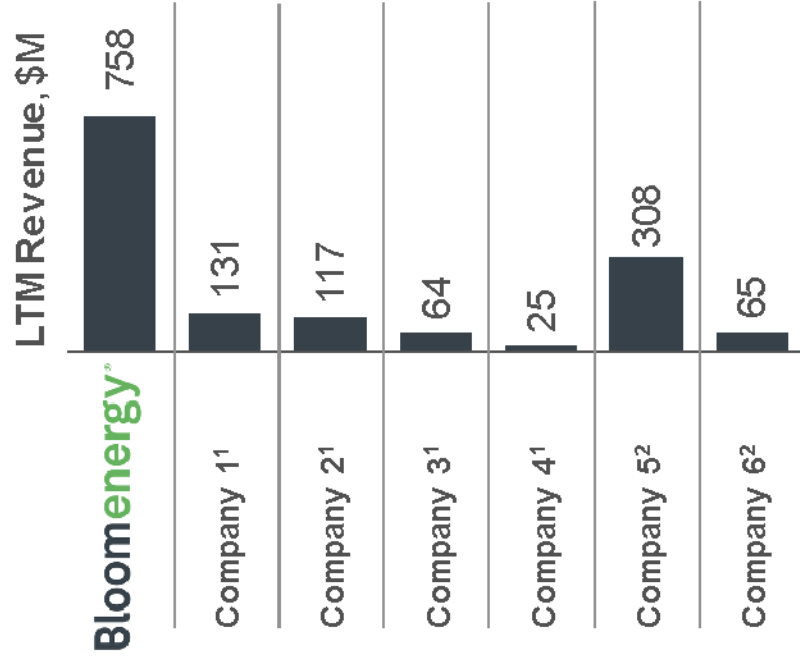
## Cumulative Production (kW)

1. Annual metrics represent period end costs (Q4).
2. Due to electrolyzers being rated for input power rather than output power.



# SCALE AND EXPERIENCE: BLOOM'S UNMATCHED SCALE IN SOFC TRANSLATES DIRECTLY TO SOEC

Bloom is larger than the 6 largest competitors combined



Building scale and experience in the process

**30%+ CAGR**  
Over the last decade

**500MW+**  
Installed Base

**800 billion+**  
cell hours

**~\$1 billion**  
Cumulative RD&D

Which is directly translatable to hydrogen generation

Same core platform



Same supply chain



Same manufacturing process



Same partners

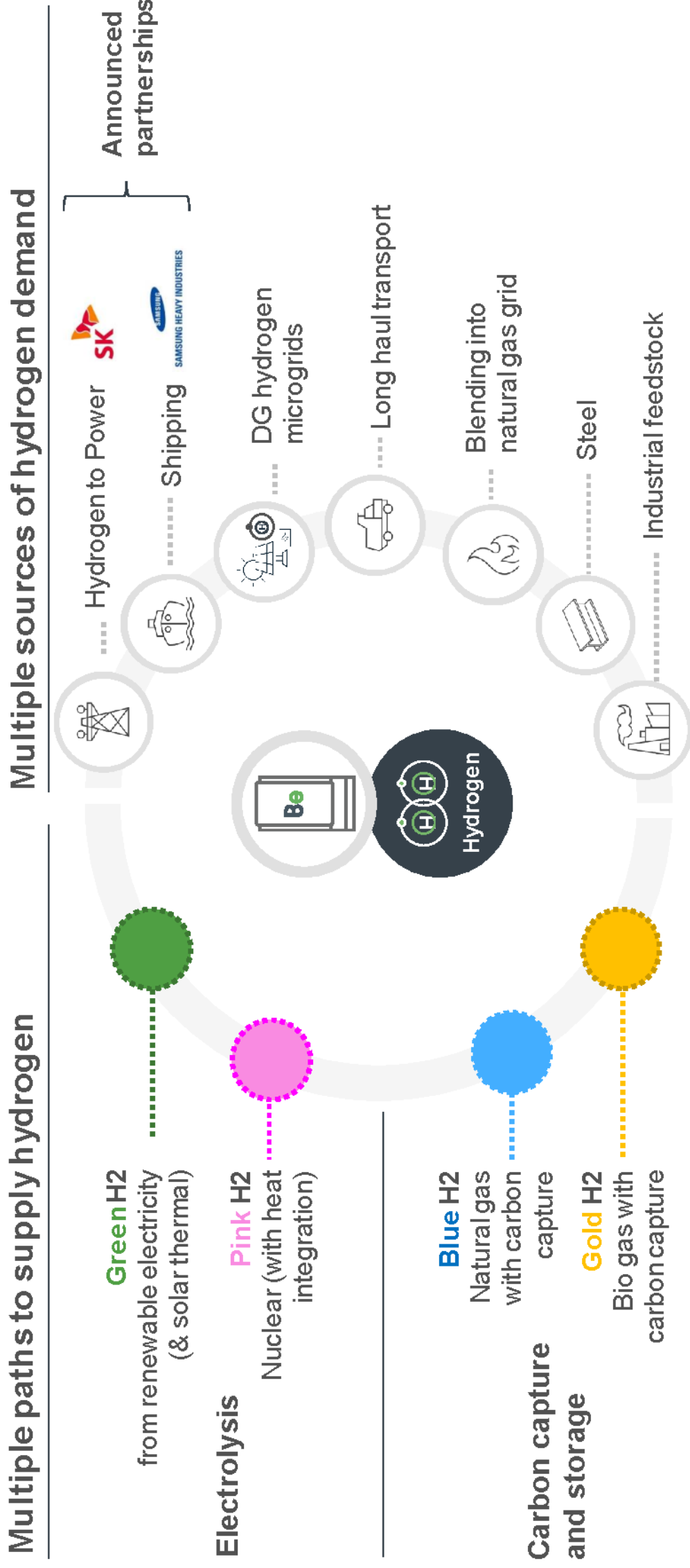


Same monitoring infrastructure



1. Hydrogen competitors  
2. Fuel cell competitors  
Source: FactSet Nov. 2020, dnb.com

# OUR HYDROGEN PLATFORM CREATES UNIQUE FLEXIBILITY FOR DECARBONIZATION

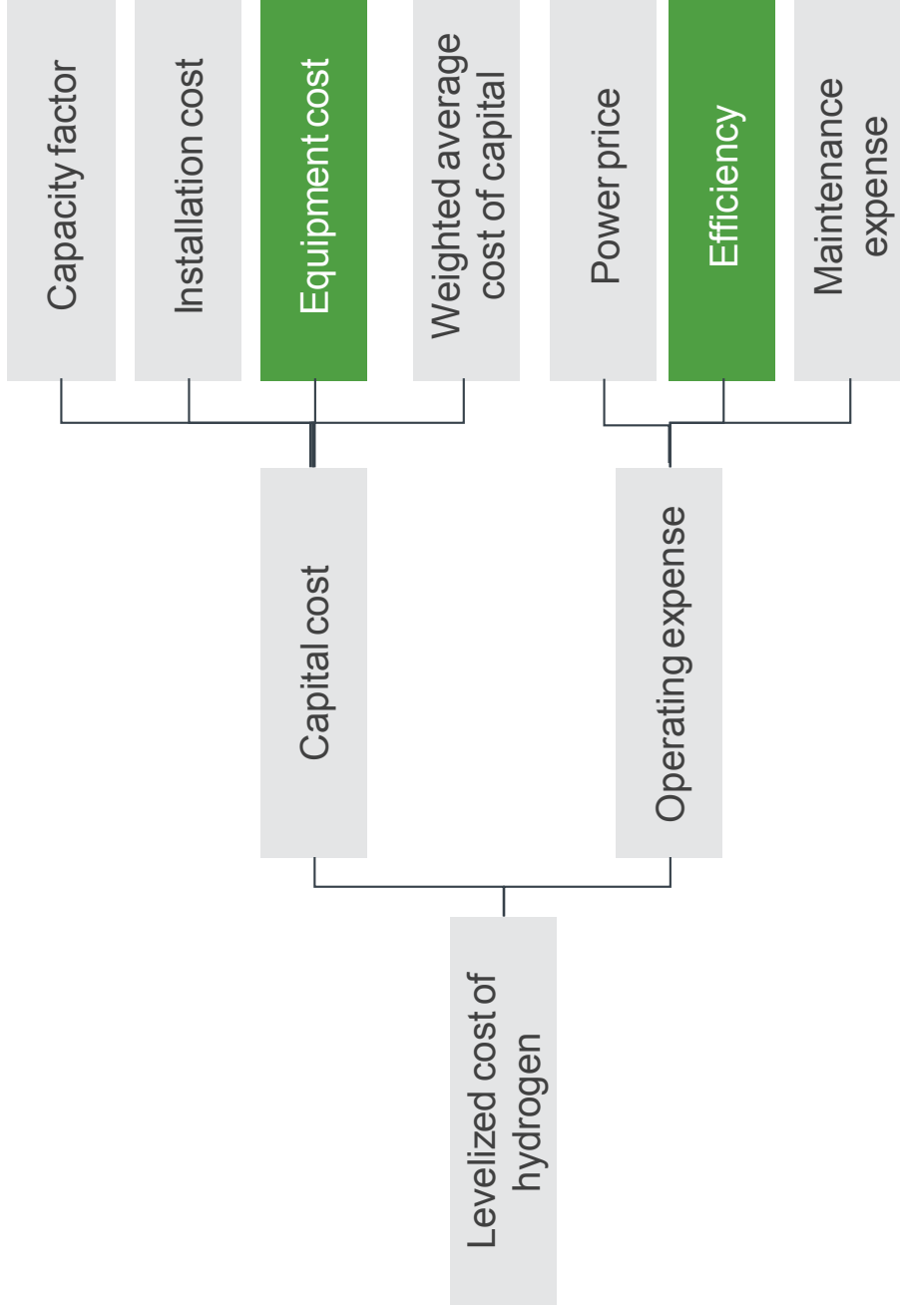


Our unique flexibility enables a diverse set of solutions for innovative energy players looking to fully decarbonize at the lowest possible cost – without compromising on resiliency.

# HYDROGEN ECONOMICS

- Assume same across tech
- Bloom advantage

## Levelized cost of hydrogen drivers



**2x faster learning curve** than other electrolyzer technologies means lower capex costs at scale

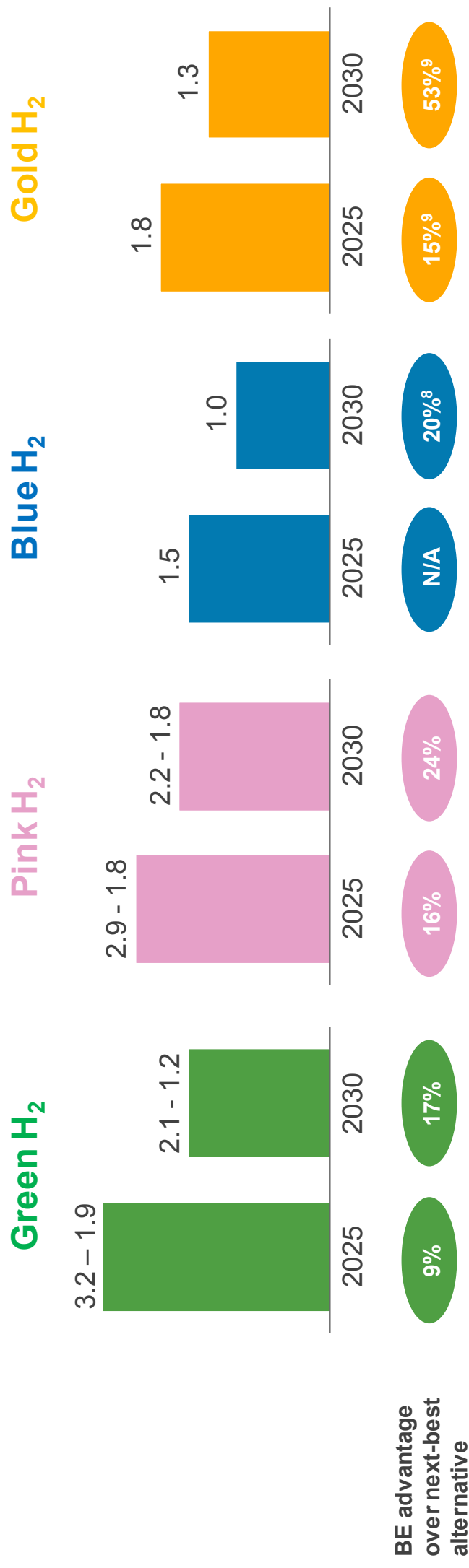
**13-31% higher efficiency**, means less power per kg and lower fuel costs

## Bloom advantages

Result: **9-24% lower** hydrogen cost potential than other technologies

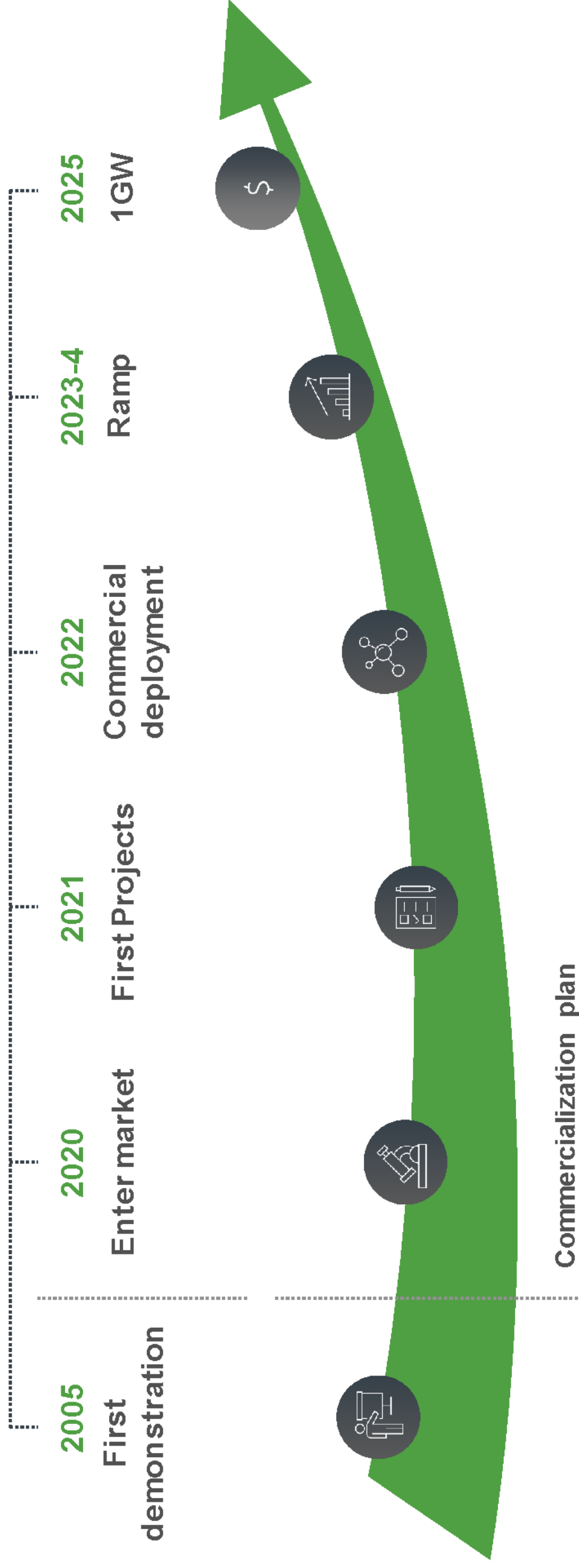
# CORE TECHNOLOGY ADVANTAGES OF SOLID OXIDE ENABLES LOWEST COST HYDROGEN ACROSS THE SPECTRUM

Estimated production price of hydrogen<sup>1</sup>, \$/kg



1. See Appendix for version with full citations and methodology.

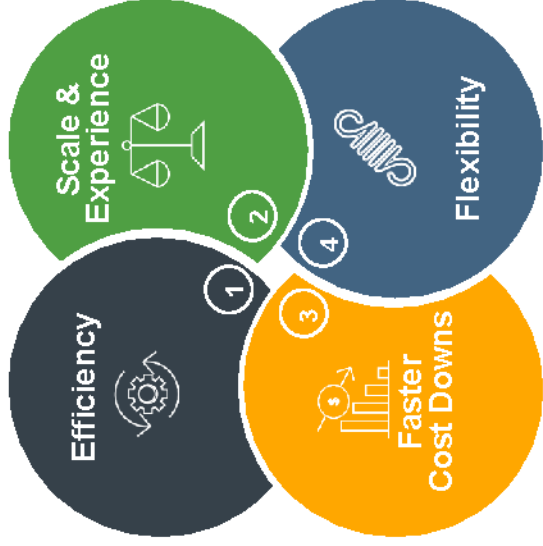
# COMMERCIALIZATION TIMING



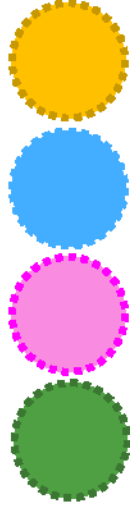
# TODAY'S TAKEAWAYS

## Bloom has a unique Platform

Four advantages...



Four colors of hydrogen...



## Superior Cost and Performance

**9-24% better**

LCOH potential than other technologies

**<\$600/kW**

cost potential based on historical performance

## Ready for Growth

**1GW**

capacity potential by 2025

**\$750MM**

potential for hydrogen revenue by 2025

A long, perspective view of a row of solar panels installed on a rooftop. The panels are dark and reflective, showing the surrounding environment. In the background, a modern building with large windows and some greenery are visible. The overall scene is bright and clear.

Bloomenergy®

# HYDROGEN MARKET MOMENTUM IS BUILDING REPRESENTING ~\$50B OF TAM BY 2025

 Estimated annual TAM, 2025 (GW of electrolyzer)

## Various hydrogen applications...

Efficiency/waste heat allow us to achieve lower cost than competition

Flexibility creates significant economic value

SOEC efficiency at higher power prices yield better delivered economics for customers

**9**

**14**

**9**

**9**

**2**

**16**

**Green** H<sub>2</sub> for industrial and steel in the EU

**Pink** H<sub>2</sub> from nuclear in the EU and US

**Blue/Gold** H<sub>2</sub> for generators (utilities or IPPs) in the US for blending or sale as an industrial feedstock

**Green** H<sub>2</sub> for transport in the EU

**Green** H<sub>2</sub> for transport in Japan and South Korea

**Green** H<sub>2</sub> for blending into the NG T&D network

*Text* Total 2025 TAM<sup>1</sup>: ~\$50bn

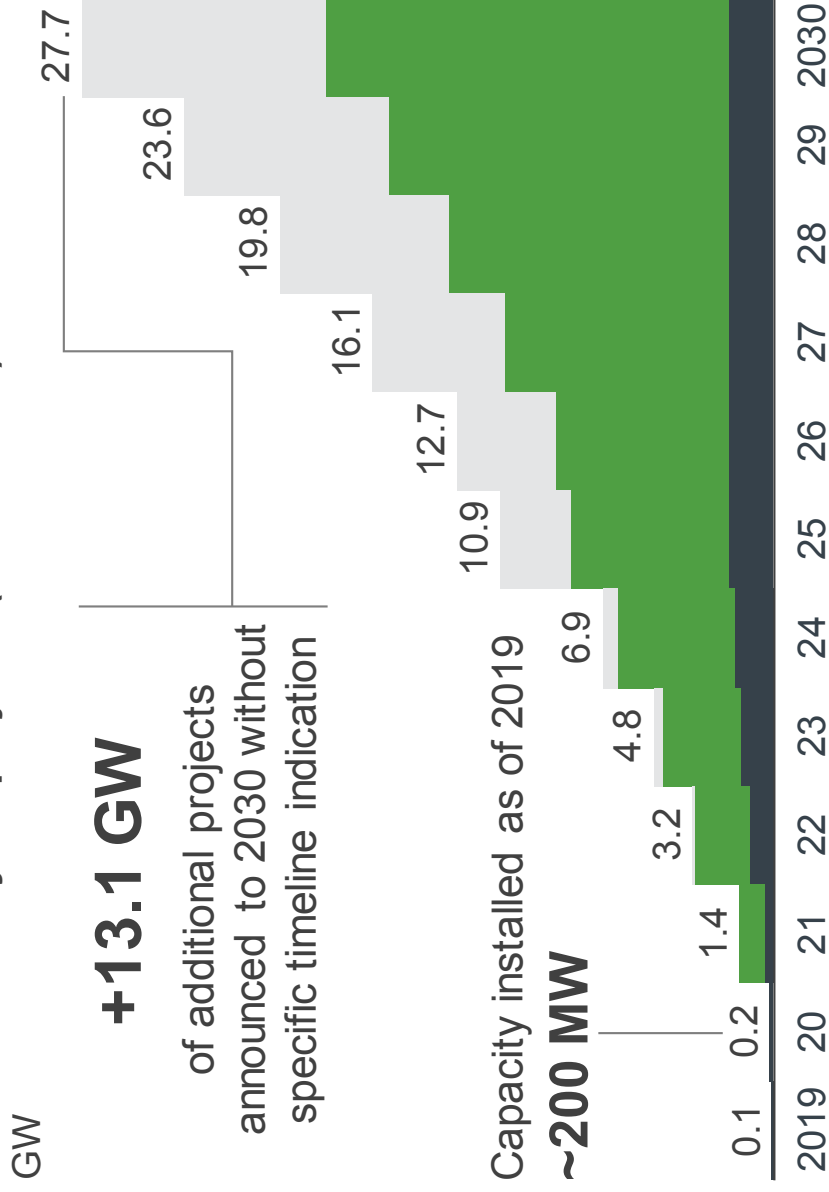
Total 2030 TAM<sup>1</sup>: ~\$300bn

1. Based on calculated prices at historical learning curve rates.



# SURGE IN MARKET ACTIVITY AROUND HYDROGEN

Global electrolyzer projects (announced)<sup>1</sup>



**+13.1 GW**

of additional projects announced to 2030 without specific timeline indication

Capacity installed as of 2019

**~200 MW**

**6+ GW**

Targeted by the EU until 2024

**40+ GW**

EU Hydrogen Strategy target until 2030

“2x40 GW” in discussion

**~27.7 GW**

Sep 2020

**~18.0 GW**

Mar 2020

**~1.8 GW**

Jun 2019

1. For projects without known deployment timeline capacity additions were interpolated between known milestones

**From:** Liccardo, Sam **Personally Identifiable Information**  
**Sent:** Monday, December 14, 2020 4:52 PM EST  
**To:** Smith, Henry <Henry.Smith@sanjoseca.gov>  
**Subject:** PRA: Bloom energy 02  
**Attachment(s):** "Bloom Energy - SJ Ordinance Supplemental Memo Support 11.24.20.pdf"

---

**From:** **Personally Identifiable Information**  
**Sent:** Tuesday, November 24, 2020 9:41 AM  
**To:** Liccardo, Sam <sam.liccardo@sanjoseca.gov>  
**Cc:** Green, Scott <scott.green@sanjoseca.gov>; Reed, Jim <Jim.Reed@sanjoseca.gov>; Carrillo, Pete <pete@siliconvalleyadvisors.com>; 'Carl Guardino' <Carl.Guardino@bloomenergy.com>; Kline, Kelly <Kelly.Kline@sanjoseca.gov>  
**Subject:** Natural Gas

[External Email]

Hi Mayor Liccardo (and Jim, Kelly and Scott),

Please find the attached letter from Bloom Energy General Counsel Ms. Shawn Soderberg and Executive Vice President Mr. Carl Guardino regarding support for the Natural Gas Ordinance as proposed by City Staff on November 16 in their Supplemental Memorandum.

We believe the City staff has now included language in the November 16 Supplemental Memo to improve the proposed ordinance that will balance the environmental integrity of the underlying ordinance by ensuring mid and long-term climate goals are considered while also providing short-term resiliency needs. While the staff had inadvertently not included Bloom as a stakeholder for outreach in the development of their new policy for over two years, we are grateful they apparently realized the oversight and reached out for our input last week.

This modification, which Bloom and now many residents, employers and organizations support, will continue to allow for new green pipe infrastructure for commercial and industrial facilities with a distributed energy resource that is necessary for public health, safety or economic welfare in the event of a grid outage but only until December 31, 2023, or when pipeline-delivered low- or zero-carbon fuels are commercially available. This is a balanced approach that will allow companies to choose cleaner energy options than dirty diesel if they need resiliency and also continues the development of infrastructure which will likely soon contain renewable fuels which in turn will aid the city in meeting its environmental goals. California's electric grid is facing unprecedented challenges as a result of wildfire risk and extreme heat. An uninterrupted supply of electricity is critical for sustainable communities, particularly as more infrastructure, including buildings and vehicles, are vulnerable.

On behalf of our client Bloom Energy, my colleague Pete Carrillo and I would be grateful for your consideration in supporting the staff report as finalized on November 16 when it returns to Council on December 1. This is a matter of great importance to employees and employers that rely on a clean, resilient and reliable energy future. Please feel free to reach out to me, Carl Guardino or Pete with any questions you might have.

Kind Regards,  
Jim Cunneen

This message is from outside the City email system. Do not open links or attachments from untrusted sources.



November 24, 2020

Mayor Sam Liccardo & Council Members  
City of San Jose  
200 E Santa Clara Street  
San Jose, CA 95110

**Re: SUPPORT OF THE SUPPLEMENTAL MEMORANDUM FOR ORDINANCE OF THE CITY OF SAN JOSE AMENDING CHAPTER 17.845 OF TITLE 17 OF THE SAN JOSE MUNICIPAL CODE TO AMEND SECTIONS 17.845.010, 17.845.020, 17.845.030, 17.845.040, 17.845.050, AND 17.845.060 AND ADD SECTION 17.845.045 TO PROHIBIT NATURAL GAS INFRASTRUCTURE IN NEWLY CONSTRUCTED BUILDINGS**

Dear Mayor Liccardo & Councilmembers:

Bloom Energy supports the Supplemental Staff Memorandum from November 16, 2020, "to allow for exemptions for facilities with distributed energy resources that meet Section 94203 of Title 17 California Code of Regulation requirements and are necessary for the public health, safety or economic welfare in the event of the ever-increasing electric grid outages facing our state, until December 31, 2023, or until low- or zero-carbon fuels are commercially available for the supply pipeline. The Director will report to Council no later than December 31, 2023, on low- and zero-carbon fuel availability." This supplemental staff memo will allow customers to continue making investments in their own energy resilience and continue investments in the infrastructure to deliver renewable energy long term.

### **About Bloom Energy**

Bloom Energy is a San Jose-based company with more than 700 employees locally and more than 1,200 worldwide. Bloom Energy manufactures unique distributed fuel-cell power systems, which are among the most energy-efficient on the planet; which virtually eliminate local air pollution like NO<sub>x</sub>, SO<sub>x</sub> and particulate matter that disproportionately impact disadvantaged communities.

The company, founded with the mission of making clean, reliable energy affordable for everyone on earth, has both altruism and innovation in its DNA. Its technology, invented in the U.S., continues to evolve and progress. Bloom Energy Servers can now use both biogas and renewable hydrogen, in addition to natural gas. Bloom Energy's technology is the most advanced on the market today to create electricity from natural gas – the reformation of which is one of the most efficient ways to derive hydrogen fuel today.

### **Why Bloom Energy Supports Staff Recommendation**

The fact of the matter is that the health and environmental impacts of combustion-related pollutants are both very significant and readily quantifiable – and have become even more apparent in the age of COVID. The economic and health benefits associated with reducing NO<sub>x</sub>, SO<sub>x</sub> and particulate matter emissions outweigh the same benefits of reducing carbon emissions on a per-ton basis.



Moreover, there is a steadily growing body of evidence indicating that local combustion-related air pollution has far more serious and harmful consequences to human health and the environment than previously understood, including recent findings that combustion-related air pollution:

- May be as harmful to your lungs as smoking cigarettes
- Increases preterm birth risk
- Causes dementia; and that
- Particulate matter is the largest environmental health risk factor in the nation, and the resulting health impacts are borne disproportionately by disadvantaged communities.

Beyond health concerns (which should be reason enough), in the age of COVID, climate change, increasingly severe weather incidents, wildfires, extreme heat and the like, resiliency and reliability are more critical than ever before. Without reliable energy to power our essential services, a grid outage may result in dire consequences for businesses and communities alike.

In early August, Bloom microgrids powered customers through Hurricane Isaias, preventing 25 power outages for customers in various areas in the Northeast, including a 911 call center in Huntington, New York. And, examples like this abound. Microgrids can save businesses hundreds of thousands of dollars in downtime costs and keep essential community services like grocery stores, telecoms operators, and hospitals powered through severe weather events and outages.

### **Bloom Energy response to the pandemic**

In the nearly 10 months since the onset of the COVID-19 pandemic, Bloom Energy Servers have been continually delivering power to facilities around the globe that are providing essential services. More than 20,000 fuel cell modules are currently deployed across more than 700 sites, sending power to hospitals, healthcare manufacturers, biotechnology, grocery stores, hardware stores, banks, telecom facilities, and other critical infrastructure.

Beyond continuing to run its core business throughout the COVID-19 pandemic, Bloom Energy has been rapidly deploying microgrids to pop-up and field hospitals handling COVID patient overflow through contracts with both the State of California and the private sector. As the case counts continue to rise, the company's services are ever-more critical: Bloom Energy Servers can reduce smog-forming pollution and particulate matter by more than 99% compared with existing combustion-based power generation sources, especially relevant as COVID-19 patients typically experience respiratory distress. Bloom's Energy Servers – which can be deployed and installed in as little as three days – are also quiet, so vibrations do not disrupt sensitive medical equipment or disturb surrounding residential communities, and they are compact, typically occupying the equivalent of three parking spaces.



Bloom has also been fighting the pandemic on yet another front. As the U.S. faced a critical shortage of ventilators, a medical device used to treat respiratory failure in COVID-19 patients, Bloom leveraged its expertise and capabilities in product end-of-life management to refurbish hundreds of out-of-service ventilators across the U.S. The company worked with state agencies and customers – many of which are hospitals and medical device companies – to identify supplies of unused, out-of-service ventilators for repair. To date, the company has refurbished more than 1,300 ventilators across California, Delaware, and Pennsylvania

Finally, as heat waves and wildfires engulfed California, Bloom Energy launched an initiative to export excess megawatts of power generation from our customers across the State to help relieve the strain on the aging and overtaxed grid. With the generous support and unwavering commitment from customers, partners, and civic leaders, we were able to take megawatts of that excess power generation and return it to the grid to provide relief to centralized capacity limitations in California.

Bloom Energy Servers produce reliable electricity using a fuel-flexible, non-combustion process that significantly reduces or eliminates carbon dioxide emissions while virtually eliminating criteria pollutants (SO<sub>x</sub>, NO<sub>x</sub> and PM 2.5) and water usage. The result is an alternative option for energy infrastructure that combines increased electrical reliability and improved energy security with significantly lower environmental impact. Bloom's fuel cell systems were invented in California and are manufactured in California and are being deployed throughout California to help the State meet its energy, environmental and economic objectives.

### **Consequence of Negative Action**

As noted above, California's electric grid is facing unprecedented challenges as a result of wildfire risk and extreme heat, and the areas served by Pacific Gas & Electric have been specifically impacted. An uninterrupted supply of electricity is an indispensable element of business continuity, the State's post COVID economic recovery, and the protection of our most vulnerable citizens. The costs of both Public Safety Power Shutoff (PSPS) events and blackouts are borne disproportionately by those who already carry economic and environmental burdens, including the elderly and working families who are now forced to deal with issues of food insecurity, non-functioning medical devices, and employment disruption.

The decision to prohibit gas infrastructure in new facilities can be expected to lead to community and business impacts that include widespread use of diesel backup generators, compounding local air quality problems disproportionately impacting the same vulnerable populations. Presently, diesel generators are used in San Jose to allow companies to protect their critical operations. Without access to resilience exemptions, companies may need to reimagine where to locate their critical facilities, including data centers and precision manufacturing facilities.



Utilizing the existing gas infrastructure with low- to no-carbon fuels will increasingly enable cost-effective, reliable, resilient, and renewable power generation to complement intermittent resources like wind and solar. Hydrogen provides a promise of a zero-carbon fuel that can and should be leveraged to de-carbonize the gas system. Banning the pipeline infrastructure, will limit the State's ability to fully decarbonize. The roadmap to meeting the State's carbon-reduction goals should include a variety of policies and technologies to enable a clean, reliable and affordable transition. Intermittent renewable resources must be paired with reliable generation to keep the lights on and business running.

The modifications called for in the Supplemental Staff Memorandum balance the environmental integrity of the underlying ordinance by ensuring that our mid- and long-term climate goals are obtained while also providing short-term resiliency needs. As a clean, technology developer, manufacturer and employer in California, Bloom Energy supports the Supplemental Staff Memorandum from November 16, 2020.

Sincerely,

Personally Identifiable Information

Personally Identifiable Information

Carl Guardino  
Executive Vice President

Shawn Soderberg  
Executive Vice President  
General Counsel

Cc: Mayor Sam Liccardo, [sam.liccardo@sanjoseca.gov](mailto:sam.liccardo@sanjoseca.gov)  
Vice Mayor Chappie Jones, [chappie.jones@sanjoseca.gov](mailto:chappie.jones@sanjoseca.gov)  
Councilmember Sergio Jimenez, [Sergio.jimenez@sanjoseca.gov](mailto:Sergio.jimenez@sanjoseca.gov)  
Councilmember Lan Diep, [lan.diep@sanjoseca.gov](mailto:lan.diep@sanjoseca.gov)  
Councilmember Magdalena Carrasco,  
[Magdalena.carrasco@sanjoseca.gov](mailto:Magdalena.carrasco@sanjoseca.gov)  
Councilmember Dev Davis, [dev.davis@sanjoseca.gov](mailto:dev.davis@sanjoseca.gov)  
Councilmember Maya Esparza, [maya.esparza@sanjoseca.gov](mailto:maya.esparza@sanjoseca.gov)  
Councilmember Sylvia Arenas, [sylvia.arenas@sanjoseca.gov](mailto:sylvia.arenas@sanjoseca.gov)  
Councilmember Pam Foley, [pam.foley@sanjoseca.gov](mailto:pam.foley@sanjoseca.gov)  
Councilmember Johnny Khamis, [johnnykhamis@sanjoseca.gov](mailto:johnnykhamis@sanjoseca.gov)  
David Sykes, City Manager, [david.sykes@sanjoseca.gov](mailto:david.sykes@sanjoseca.gov)  
Rosalynn Hughey, Director, Planning, Building, and Code Enforcement,  
[rosalynn.hughey@sanjoseca.gov](mailto:rosalynn.hughey@sanjoseca.gov)  
Kerrie Romanow, Director, Environmental Services,  
[kerrie.romanow@sanjoseca.gov](mailto:kerrie.romanow@sanjoseca.gov)  
Jim Ortbal, City Manager's Office [jim.ortbal@sanjoseca.gov](mailto:jim.ortbal@sanjoseca.gov)

P

**From:** Liccardo, Sam, **Personally Identifiable Information**  
**Sent:** Monday, December 14, 2020 4:53 PM EST  
**To:** Smith, Henry <Henry.Smith@sanjoseca.gov>  
**Subject:** PRA: Bloom energy 03  
**Attachment(s):** "Bloom Energy - SJ Ordinance Supplemental Memo Support 11.24.20.pdf"

---

**From:** Carl Guardino <Carl.Guardino@bloomenergy.com>  
**Sent:** Tuesday, November 24, 2020 8:13 AM  
**To:** Liccardo, Sam <sam.liccardo@sanjoseca.gov>; Sam Liccardo **Personally Identifiable Information**  
**Cc:** Reed, Jim <Jim.Reed@sanjoseca.gov>; Green, Scott <scott.green@sanjoseca.gov>; Carl Guardino <Carl.Guardino@bloomenergy.com>  
**Subject:** Letter from Bloom Energy - Nat Gas Ban

[External Email]

Dear Mayor Liccardo:

Thank you for your service to the residents and employers of the City of San Jose, as we both work for reliable, resilient clean energy to protect the community from rolling blackouts, PSPS events, wildfires and heatwaves – which are only growing in duration and intensity – while we concurrently work towards our mutual, ambitious climate goals.

Please find attached our letter on the proposed Natural Gas Ban, to be heard by Council next Tuesday, December 1 – and Bloom Energy’s support for the [November 16 Staff Supplemental Memo](#), which appropriately recognizes that we need to keep focus on solving for resiliency today and greening the pipeline tomorrow.

While we understand that the city has been engaged in this effort for nearly three years, proactively engaging a variety of stakeholders, Bloom Energy – proudly headquartered in San Jose with nearly 800 Valley employees – was not informed of this city-led effort until four business days before the initial Council vote was called. Nevertheless, our goal has been to constructively engage in a positive way to benefit the city and our community.

As you review our attached letter of support, co-signed by me and Ms. Shawn Soderberg, Executive Vice President & General Counsel, please know that we are fully available to you and your staff. This issue is far too important to the city, its residents, neighborhoods and employers to miss this opportunity for clean, resilient, reliable energy that meets today’s needs and plans for our future.

Warm Regards,

Carl

Carl Guardino

Executive Vice President

Global Government Affairs & Policy

This message is from outside the City email system. Do not open links or attachments from untrusted sources.



November 24, 2020

Mayor Sam Liccardo & Council Members  
City of San Jose  
200 E Santa Clara Street  
San Jose, CA 95110

**Re: SUPPORT OF THE SUPPLEMENTAL MEMORANDUM FOR ORDINANCE OF THE CITY OF SAN JOSE AMENDING CHAPTER 17.845 OF TITLE 17 OF THE SAN JOSE MUNICIPAL CODE TO AMEND SECTIONS 17.845.010, 17.845.020, 17.845.030, 17.845.040, 17.845.050, AND 17.845.060 AND ADD SECTION 17.845.045 TO PROHIBIT NATURAL GAS INFRASTRUCTURE IN NEWLY CONSTRUCTED BUILDINGS**

Dear Mayor Liccardo & Councilmembers:

Bloom Energy supports the Supplemental Staff Memorandum from November 16, 2020, "to allow for exemptions for facilities with distributed energy resources that meet Section 94203 of Title 17 California Code of Regulation requirements and are necessary for the public health, safety or economic welfare in the event of the ever-increasing electric grid outages facing our state, until December 31, 2023, or until low- or zero-carbon fuels are commercially available for the supply pipeline. The Director will report to Council no later than December 31, 2023, on low- and zero-carbon fuel availability." This supplemental staff memo will allow customers to continue making investments in their own energy resilience and continue investments in the infrastructure to deliver renewable energy long term.

**About Bloom Energy**

Bloom Energy is a San Jose-based company with more than 700 employees locally and more than 1,200 worldwide. Bloom Energy manufactures unique distributed fuel-cell power systems, which are among the most energy-efficient on the planet; which virtually eliminate local air pollution like NOx, SOx and particulate matter that disproportionately impact disadvantaged communities.

The company, founded with the mission of making clean, reliable energy affordable for everyone on earth, has both altruism and innovation in its DNA. Its technology, invented in the U.S., continues to evolve and progress. Bloom Energy Servers can now use both biogas and renewable hydrogen, in addition to natural gas. Bloom Energy's technology is the most advanced on the market today to create electricity from natural gas – the reformation of which is one of the most efficient ways to derive hydrogen fuel today.

**Why Bloom Energy Supports Staff Recommendation**

The fact of the matter is that the health and environmental impacts of combustion-related pollutants are both very significant and readily quantifiable – and have become even more apparent in the age of COVID. The economic and health benefits associated with reducing NOx, SOx and particulate matter emissions outweigh the same benefits of reducing carbon emissions on a per-ton basis.





Moreover, there is a steadily growing body of evidence indicating that local combustion-related air pollution has far more serious and harmful consequences to human health and the environment than previously understood, including recent findings that combustion-related air pollution:

- May be as harmful to your lungs as smoking cigarettes
- Increases preterm birth risk
- Causes dementia; and that
- Particulate matter is the largest environmental health risk factor in the nation, and the resulting health impacts are borne disproportionately by disadvantaged communities.

Beyond health concerns (which should be reason enough), in the age of COVID, climate change, increasingly severe weather incidents, wildfires, extreme heat and the like, resiliency and reliability are more critical than ever before. Without reliable energy to power our essential services, a grid outage may result in dire consequences for businesses and communities alike.

In early August, Bloom microgrids powered customers through Hurricane Isaias, preventing 25 power outages for customers in various areas in the Northeast, including a 911 call center in Huntington, New York. And, examples like this abound. Microgrids can save businesses hundreds of thousands of dollars in downtime costs and keep essential community services like grocery stores, telecoms operators, and hospitals powered through severe weather events and outages.

### **Bloom Energy response to the pandemic**

In the nearly 10 months since the onset of the COVID-19 pandemic, Bloom Energy Servers have been continually delivering power to facilities around the globe that are providing essential services. More than 20,000 fuel cell modules are currently deployed across more than 700 sites, sending power to hospitals, healthcare manufacturers, biotechnology, grocery stores, hardware stores, banks, telecom facilities, and other critical infrastructure.

Beyond continuing to run its core business throughout the COVID-19 pandemic, Bloom Energy has been rapidly deploying microgrids to pop-up and field hospitals handling COVID patient overflow through contracts with both the State of California and the private sector. As the case counts continue to rise, the company's services are ever-more critical: Bloom Energy Servers can reduce smog-forming pollution and particulate matter by more than 99% compared with existing combustion-based power generation sources, especially relevant as COVID-19 patients typically experience respiratory distress. Bloom's Energy Servers – which can be deployed and installed in as little as three days – are also quiet, so vibrations do not disrupt sensitive medical equipment or disturb surrounding residential communities, and they are compact, typically occupying the equivalent of three parking spaces.



Bloom has also been fighting the pandemic on yet another front. As the U.S. faced a critical shortage of ventilators, a medical device used to treat respiratory failure in COVID-19 patients, Bloom leveraged its expertise and capabilities in product end-of-life management to refurbish hundreds of out-of-service ventilators across the U.S. The company worked with state agencies and customers – many of which are hospitals and medical device companies – to identify supplies of unused, out-of-service ventilators for repair. To date, the company has refurbished more than 1,300 ventilators across California, Delaware, and Pennsylvania

Finally, as heat waves and wildfires engulfed California, Bloom Energy launched an initiative to export excess megawatts of power generation from our customers across the State to help relieve the strain on the aging and overtaxed grid. With the generous support and unwavering commitment from customers, partners, and civic leaders, we were able to take megawatts of that excess power generation and return it to the grid to provide relief to centralized capacity limitations in California.

Bloom Energy Servers produce reliable electricity using a fuel-flexible, non-combustion process that significantly reduces or eliminates carbon dioxide emissions while virtually eliminating criteria pollutants (SO<sub>x</sub>, NO<sub>x</sub> and PM 2.5) and water usage. The result is an alternative option for energy infrastructure that combines increased electrical reliability and improved energy security with significantly lower environmental impact. Bloom's fuel cell systems were invented in California and are manufactured in California and are being deployed throughout California to help the State meet its energy, environmental and economic objectives.

### **Consequence of Negative Action**

As noted above, California's electric grid is facing unprecedented challenges as a result of wildfire risk and extreme heat, and the areas served by Pacific Gas & Electric have been specifically impacted. An uninterrupted supply of electricity is an indispensable element of business continuity, the State's post COVID economic recovery, and the protection of our most vulnerable citizens. The costs of both Public Safety Power Shutoff (PSPS) events and blackouts are borne disproportionately by those who already carry economic and environmental burdens, including the elderly and working families who are now forced to deal with issues of food insecurity, non-functioning medical devices, and employment disruption.

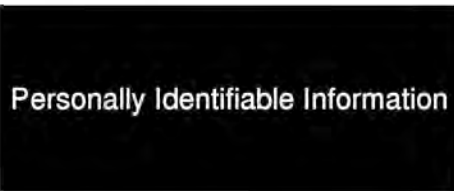
The decision to prohibit gas infrastructure in new facilities can be expected to lead to community and business impacts that include widespread use of diesel backup generators, compounding local air quality problems disproportionately impacting the same vulnerable populations. Presently, diesel generators are used in San Jose to allow companies to protect their critical operations. Without access to resilience exemptions, companies may need to reimagine where to locate their critical facilities, including data centers and precision manufacturing facilities.



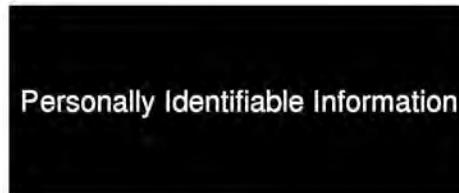
Utilizing the existing gas infrastructure with low- to no-carbon fuels will increasingly enable cost-effective, reliable, resilient, and renewable power generation to complement intermittent resources like wind and solar. Hydrogen provides a promise of a zero-carbon fuel that can and should be leveraged to de-carbonize the gas system. Banning the pipeline infrastructure, will limit the State's ability to fully decarbonize. The roadmap to meeting the State's carbon-reduction goals should include a variety of policies and technologies to enable a clean, reliable and affordable transition. Intermittent renewable resources must be paired with reliable generation to keep the lights on and business running.

The modifications called for in the Supplemental Staff Memorandum balance the environmental integrity of the underlying ordinance by ensuring that our mid- and long-term climate goals are obtained while also providing short-term resiliency needs. As a clean, technology developer, manufacturer and employer in California, Bloom Energy supports the Supplemental Staff Memorandum from November 16, 2020.

Sincerely,



Carl Guardino  
Executive Vice President



Shawn Soderberg  
Executive Vice President  
General Counsel

Cc: Mayor Sam Liccardo, [sam.liccardo@sanjoseca.gov](mailto:sam.liccardo@sanjoseca.gov)  
Vice Mayor Chappie Jones, [chappie.jones@sanjoseca.gov](mailto:chappie.jones@sanjoseca.gov)  
Councilmember Sergio Jimenez, [Sergio.jimenez@sanjoseca.gov](mailto:Sergio.jimenez@sanjoseca.gov)  
Councilmember Lan Diep, [lan.diep@sanjoseca.gov](mailto:lan.diep@sanjoseca.gov)  
Councilmember Magdalena Carrasco,  
[Magdalena.carrasco@sanjoseca.gov](mailto:Magdalena.carrasco@sanjoseca.gov)  
Councilmember Dev Davis, [dev.davis@sanjoseca.gov](mailto:dev.davis@sanjoseca.gov)  
Councilmember Maya Esparza, [maya.esparza@sanjoseca.gov](mailto:maya.esparza@sanjoseca.gov)  
Councilmember Sylvia Arenas, [sylvia.arenas@sanjoseca.gov](mailto:sylvia.arenas@sanjoseca.gov)  
Councilmember Pam Foley, [pam.foley@sanjoseca.gov](mailto:pam.foley@sanjoseca.gov)  
Councilmember Johnny Khamis, [johnnykhamis@sanjoseca.gov](mailto:johnnykhamis@sanjoseca.gov)  
David Sykes, City Manager, [david.sykes@sanjoseca.gov](mailto:david.sykes@sanjoseca.gov)  
Rosalynn Hughey, Director, Planning, Building, and Code Enforcement,  
[rosalynn.hughey@sanjoseca.gov](mailto:rosalynn.hughey@sanjoseca.gov)  
Kerrie Romanow, Director, Environmental Services,  
[kerrie.romanow@sanjoseca.gov](mailto:kerrie.romanow@sanjoseca.gov)  
Jim Ortbal, City Manager's Office [jim.ortbal@sanjoseca.gov](mailto:jim.ortbal@sanjoseca.gov)

P



**From:** Liccardo, Sam <sam.liccardo@sanjoseca.gov>  
**Sent:** Monday, December 14, 2020 4:53 PM EST  
**To:** Smith, Henry <Henry.Smith@sanjoseca.gov>  
**Subject:** PRA: Bloom energy 04

---

**From:** Carl Guardino <Carl.Guardino@bloomenergy.com>  
**Sent:** Wednesday, November 18, 2020 6:13 AM  
**To:** Liccardo, Sam <sam.liccardo@sanjoseca.gov>  
**Cc:** Green, Scott <scott.green@sanjoseca.gov>; Reed, Jim <Jim.Reed@sanjoseca.gov>; Carl Guardino <Carl.Guardino@bloomenergy.com>  
**Subject:** Project to Supply 100% Hydrogen-Powered Solid-Oxide Fuel Cells & Electrolyzers

[External Email]

Dear Mayor Liccardo (Jim and Scott) –

Good morning. I believe you will find the news below of great interest towards our mutual goals of clean, reliable, resilient energy that is more affordable to everyone.

This has now been publicly released as of 6:03am, so I am now allowed to send it to you. I hope you are as proud as I am of a San Jose-Headquartered company that you have in Bloom Energy.

We welcome the opportunity to answer any questions you may have.

Warm Regards,

Carl

Carl Guardino

Executive Vice President

Global Government Affairs & Policy

**Bloom Energy and SK E&C Win Competitive Bid for Korea's Changwon RE100 Project to Supply 100% Hydrogen-Powered Solid-Oxide Fuel Cells and Electrolyzers**

*RE100 Global Program Aims to Create Fully Renewable Ecosystems*

**SAN JOSE, Calif.** – Nov. 18, 2020 – Bloom Energy (NYSE: BE) and SK Engineering and Construction (SK E&C) today announced they have won a competitive Request for Proposal (RFP) under the RE100 program to supply solid-oxide fuel cells (SOFC) powered by 100 percent hydrogen and electrolyzers to an industrial complex in Changwon, Korea. [The RE100](#) is a global renewable energy initiative led by the Climate Group to accelerate the move toward zero-carbon electricity grids. The Changwon RE100 proposal process, run by the Korean Industrial Complex Corporation, is a project aimed at identifying and selecting partners to contribute to a fully renewable ecosystem in Korea.

Bloom Energy will supply 1.8 megawatts of hydrogen-powered fuel cells through a multi-stage deployment from late 2021 into 2022. The fuel cells will be the cornerstone of a microgrid that also includes onsite solar and battery storage.

“SK E&C and Bloom Energy are paving the way toward a zero-carbon energy future,” said Jason Ahn, CEO, SK E&C. “With a projected domestic deployment of 8.4 gigawatts of stationary fuel cells, coupled with an additional 6.6 gigawatts for international export, Korea is trailblazing the hydrogen economy. We are honored to be selected by the Korean Industrial Complex Corporation for this inspiring RE100 project – a testament to Bloom Energy and SK E&C’s market leadership.”

In addition, Bloom Energy intends to supply its solid oxide electrolyzer cells (SOEC), which will be capable of producing green hydrogen via solar and battery, to the site in 2022. The green hydrogen produced by the SOEC, which is created through electrolysis by converting water and renewable electricity into hydrogen without carbon emissions, will be used to power the hydrogen SOFC.

“Since Bloom Energy’s founding, nearly two decades ago, we’ve known that our technology platform could play a critical role in the hydrogen economy,” said KR Sridhar, founder, chairman and CEO, Bloom Energy. “When it came to hydrogen, the question was never if – but when. With emerging interest in the adoption of hydrogen, our commercial hydrogen strategy is on schedule, and the timing for market entry is right. As the world’s most significant and influential consumers demand and conform to RE100 standards, we are well-positioned with our technology platform to lead in this massive global transformation.”

In July, Bloom Energy [announced](#) it would introduce hydrogen-powered fuel cells and electrolyzers that produce renewable hydrogen to the South Korean market through its longstanding partnership with SK E&C. That project, under which 100 kilowatts of hydrogen-powered Bloom Energy Servers are scheduled to ship by the end of the year, is expected to power on in early 2021.

As hydrogen is both widely available and contains no carbon, many governments are now recognizing it as an essential tool for full decarbonization. South Korea’s government-supported Hydrogen Economy Roadmap is

notably among the most ambitious in the world, with the aim of ensuring 15,000 megawatts of hydrogen fuel cell installations, 6.2 million hydrogen vehicles and 1,200 hydrogen charging stations are in operation by 2040. In addition, 66 countries and nearly all of the largest utilities in the United States have pledged to fully or significantly decarbonize by 2050.

Later today, at 4:30 p.m. EST/1:30 p.m. PST, Bloom Energy will host an investor conference call to discuss its approach to hydrogen as well as an update on its entry into the commercial hydrogen market and its hydrogen-powered fuel cells.

For more details, visit: <https://www.bloomenergy.com/newsroom/press-releases/bloom-energy-announces-upcoming-investor-event-nov-18-2020>

###

### **About Bloom Energy**

Bloom Energy's mission is to make clean, reliable energy affordable for everyone in the world. The company's product, the Bloom Energy Server, delivers highly reliable and resilient, always-on electric power that is clean, cost-effective, and ideal for microgrid applications. Bloom's customers include many Fortune 100 companies and leaders in manufacturing, data centers, healthcare, retail, higher education, utilities, and other industries. For more information, visit [www.bloomenergy.com](http://www.bloomenergy.com).

### **Cautionary Note Regarding Forward-Looking Statements**

*This press release contains forward-looking statements within the meaning of the federal securities laws that involve risks and uncertainties. Words such as "anticipates," "could," "expects," "intends," "plans," "projects," "believes," "seeks," "estimates," "can," "may," "will," "would" and similar expressions identify such forward-looking statements. These statements include, but are not limited to, Bloom Energy's expectations regarding the hydrogen fuel cell market in South Korea, Bloom Energy's expectations regarding its hydrogen-powered fuel cells and electrolyzers, and Bloom Energy's ability to successfully deliver these new hydrogen applications. These statements should not be taken as guarantees of results and should not be considered an indication of future activity or future performance. Actual events or results may differ materially from those described in this press release due to a number of risks and uncertainties, including those included in the risk factors section of Bloom Energy's Annual Report on Form 10-K for the year ended December 31, 2019, its most recent Quarterly Report on Form 10-Q for the quarter ended September 30, 2020 and other risks detailed in Bloom Energy's SEC filings from time to time. Bloom Energy undertakes no obligation to revise or publicly update any forward-looking statements unless if and as required by law.*

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

**From:** Liccardo, Sam <sam.liccardo@sanjoseca.gov>  
**Sent:** Monday, December 14, 2020 4:54 PM EST  
**To:** Smith, Henry <Henry.Smith@sanjoseca.gov>  
**Subject:** PRA: Bloom energy 05  
**Attachment(s):** "bloom-energy-how-bloom-reduces-emissions-technical-note.pdf"

---

**From:** Carl Guardino <Carl.Guardino@bloomenergy.com>  
**Sent:** Wednesday, November 18, 2020 5:53 AM  
**To:** Liccardo, Sam <sam.liccardo@sanjoseca.gov>  
**Cc:** Green, Scott <scott.green@sanjoseca.gov>; Amy Mmagu <Amy.Mmagu@bloomenergy.com>; Delaney Hunter <delaney@caladvisorsllc.com>; Stephen Lamm <Stephen.Lamm@bloomenergy.com>; Shawn Soderberg <Shawn.Soderberg@bloomenergy.com>; Carl Guardino <Carl.Guardino@bloomenergy.com>  
**Subject:** Detailed rationale to reject exemption #4 (Agenda Item 6.3)

[External Email]

Dear Mayor Liccardo (Stephen, Amy, Delaney and Shawn) –

Mayor, thank you for seeking our insights and response from the proponents of banning natural gas in the City of San Jose. As a starting point, we recommend you read the attached Emissions White Paper, to provide you with the substance and context needed.

We would welcome the opportunity to meet with you and your team for an in-depth, interactive dialogue on this important topic – and the resiliency that San Jose's residents and employers need and deserve.

Warm Regards,

Carl  
Carl Guardino  
Executive Vice President  
Global Government Affairs & Policy

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

# How Bloom Reduces Emissions

## Executive Summary

Bloom Energy's mission is to make clean, reliable, and affordable energy for everyone in the world. Our solid oxide fuel cell product, the Bloom Energy Server, delivers highly reliable and resilient, 'Always On' clean electric power. Our Energy Servers generate electricity without combustion, utilizing natural gas, biogas, or hydrogen as fuel. At Bloom Energy, we work to contribute to the creation of sustainable communities by reducing carbon emissions and criteria air pollutants.

Our Energy Servers that run on hydrogen or biogas can produce carbon neutral power, and those fueled by natural gas produce carbon emissions. Our Energy Servers are however, among the most effective ways to displace less efficient centralized power plants with more efficient distributed generation, thereby achieving the combination of near-term emission reductions and increased resiliency. Power generation from our Energy Servers reduce carbon emissions and other air pollutants in the same manner as wind and solar generation — by displacing dirtier power plants. However, unlike wind and solar, our Energy Servers can do so around the clock.

To validate the net emissions reduction impact of our Energy Servers, Bloom commissioned a leading independent engineering firm, DNV-GL, to review the methodology used to determine our Energy Server's emissions performance. DNV-GL found that our analysis relies upon valid reference data and computational approaches aligned with industry practice.

The results show that since Bloom began commercial deployments in 2011 our systems have achieved:

- Approximately **2.33 million metric tonnes of CO<sub>2</sub> reduction globally through 2019**, equivalent to 18,900 acres of forest preservation or taking nearly one half of one million cars off the road for a year<sup>1</sup>
- Associated criteria pollutant reductions, including **5.05 million pounds of sulfur oxides (SO<sub>x</sub>), and 8.9 million lbs. of nitrogen oxides (NO<sub>x</sub>), equivalent to** preventing approximately 5,200 lost work days and more than 30,000 days of restricted activity due to illness.<sup>2</sup>

In this paper, we review Bloom's emissions profile to illustrate how our technology reduces emissions and delivers local air quality benefits. We'll review our historical performance and how Bloom is positioned to continue leading the way toward a low carbon future.

## Marginal Emissions: Comparing Absolute Emissions with Emissions from Displaced Alternatives

Establishing Bloom's climate impact requires a comparison between its absolute emissions and the emissions from displaced alternatives. When a new, efficient distributed energy resource, such as a solar project or Bloom Energy Server, is brought online, it reduces the amount of power required from energy sources that generate "on the margin" – meaning those units that are operating to meet the last unit of energy demand.

The PJM regional transmission organization<sup>3</sup> explains how this works, describing wholesale energy markets that function to dispatch generators as follows:<sup>4</sup>

The price for wholesale electricity [is]..... set by organized wholesale markets. The clearing price for electricity in these wholesale markets is determined by an auction in which generation resources offer in a price at which they can supply a specific number of megawatt-hours of power.

If a resource submits a successful bid and will therefore be contributing its generation to meet demand, it is said to "clear" the market. The cheapest resource will "clear" the market first, followed by the next cheapest option and so forth until demand is met. When supply matches demand, the market is "cleared," and the price of the last resource to offer in (plus other market operation charges) becomes the wholesale price of power.

1 <https://www.epa.gov/energy/greenhouse-gas-equivalencies-calculator>

2 Based on California default values from the Clean Power Plan [https://www3.epa.gov/ttnecas1/docs/ria/utilities\\_ria\\_final-clean-power-plan-existing-units\\_2015-08.pdf](https://www3.epa.gov/ttnecas1/docs/ria/utilities_ria_final-clean-power-plan-existing-units_2015-08.pdf)

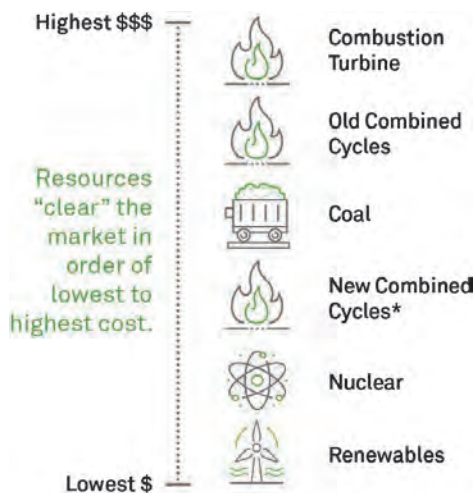
3 PJM coordinates the movement of wholesale electricity in all or parts of 13 states and the District of Columbia

4 <https://learn.pjm.com/electricity-basics/market-for-electricity.aspx>



As a result of the wholesale energy market structure and the operating costs of power plants (see *Figure 1* below), the “marginal generator” that is displaced from the power market when its power is no longer needed is typically a CO<sub>2</sub> emitter and is generally the highest CO<sub>2</sub> emitter operating at any given time.

**Figure 1: Prioritization of Dispatch<sup>5</sup>**



\* New combined cycles are more fuel efficient.

Energy providers on the margin are typically the most flexible but least efficient energy generation sources, which operate at the lowest electrical efficiency. This necessarily brings the highest levels of associated emissions, as more fuel is required to generate power per unit of electricity delivered. When more efficient or cost effective solutions displace marginal power sources, the highest cost resources are the first resources requested to be shut off.

Based on these current market dynamics, oil is the highest cost of these options, then coal where applicable, then natural gas. The average coal power plant has an emission rate of 2,065 lbs. of CO<sub>2</sub>/MWh while natural gas plants emit at 895 - 1,307 lbs.<sup>6</sup> In comparison, Bloom Energy fuel cells have an emission rate of 679 - 833 lbs. CO<sub>2</sub>/MWh.<sup>7</sup>

Every unit of electricity that Bloom Energy Servers produce offsets a unit of electricity from a marginal source with corresponding benefits for emissions. Since Bloom’s carbon intensity is lower than the displaced alternatives, the net impact is measurable emissions reductions. Carbon impact measurement based on the displacement of marginal emissions is the standard for emissions accounting for distributed energy generation assets such as Bloom’s Energy Servers.

### Bloom Energy Servers Compared to US Marginal Emissions – Carbon Impact & Air Quality

Figure 2 shows Bloom’s historical domestic absolute carbon emissions modelled against those that would have been produced by the generation of an equivalent amount of electricity from the marginal generators in the regions in which the units operate<sup>8</sup>. The analysis represents Bloom’s combined historical average fleet emissions performance of both its first generation ES5700/10 systems and current ES-5 systems.

Bloom’s CO<sub>2</sub> emissions reductions — the yellow line in *Figure 2* — are based on comparison to historical EPA eGRID non-baseload data, which is issued every two years (not yet released for 2018). It serves as a transparent proxy for marginal emissions values across the relevant time period and regional footprint. Regional performance comparisons (see *Figure 9: Regional Breakout* below) illustrate that Bloom has reduced emissions compared to the power plants we have displaced (the marginal emitter) in every region in all years.

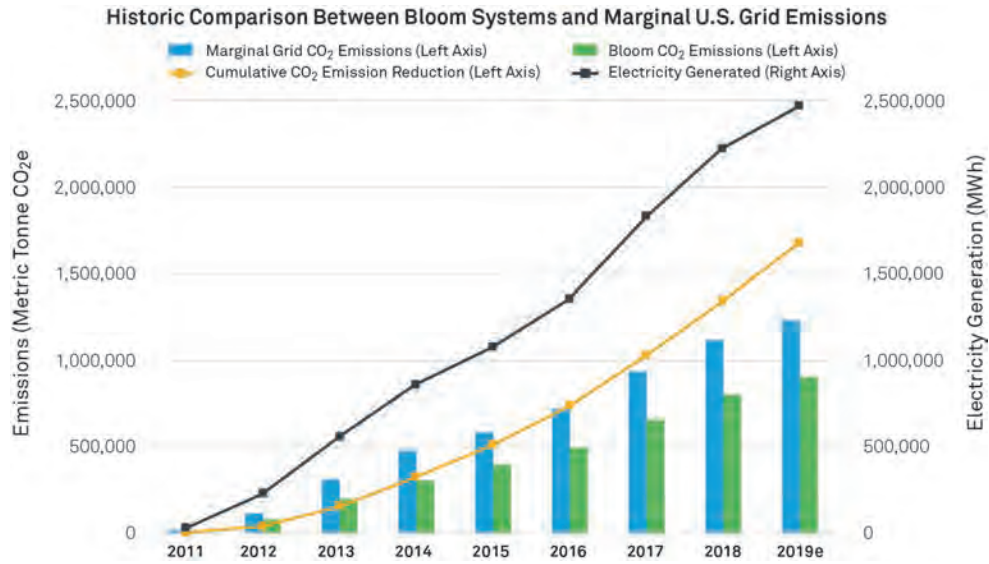
5 PJM Learning Center Website <https://learn.pjm.com/electricity-basics/market-for-electricity.aspx>

6 2017 EIA data from ‘Electric Power Annual’ Dataset

7 Bloom E5 Datasheet

8 <https://www.epa.gov/energy/emissions-generation-resource-integrated-database-egrid>

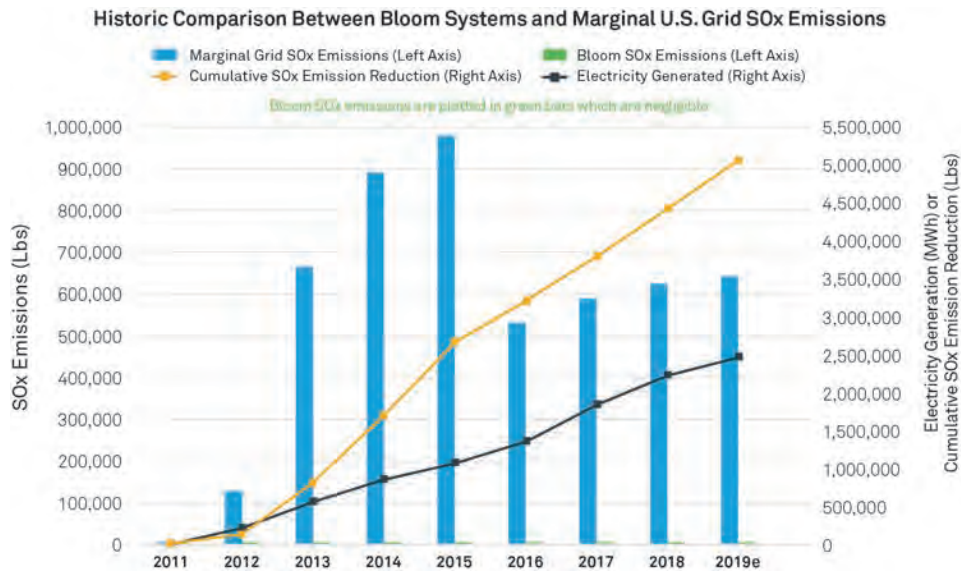
Figure 2: Carbon Impact

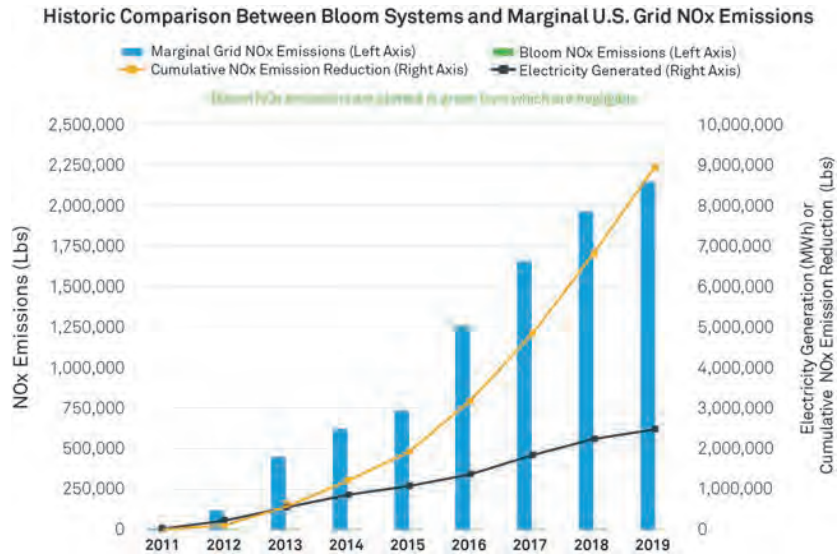


\*2019e is pro-rated for the entire year based on Jan-Sep rate.

We've taken the same approach for evaluating air quality impact for SO<sub>x</sub> and NO<sub>x</sub>, two primary criteria pollutants also benchmarked in EPA's eGRID non-baseload data. As demonstrated in Figure 3 below, Bloom's output does not even register in the chart in relation to displaced marginal emissions.

Figure 3: Air Quality Impact





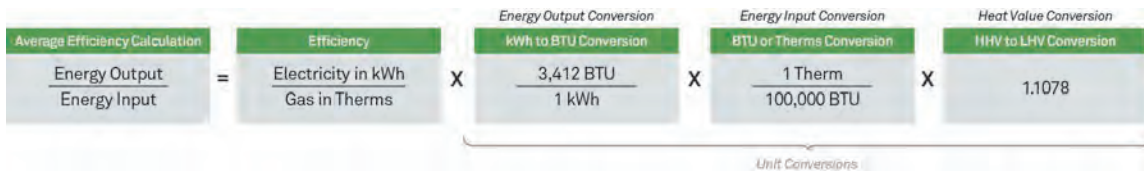
### Carbon Impact Methodology

To begin determining our carbon emissions, we use the standard chemical conversions in the equation below to derive pounds of CO<sub>2</sub> emitted per kWh from our natural gas-fueled Energy Servers, the volumes of which can be directly calculated based on an Energy Server’s net electrical efficiency (the fraction of the input chemical energy in the fuel converted into electrical energy).

$$\frac{\text{lbs CO}_2}{\text{kWh}} = \frac{1 \text{ mmBtu}}{1,000,000 \text{ Btu}} \times \frac{116.89 \text{ lbs CO}_2}{\text{mmBtu}} \times \frac{3,412 \text{ Btu}}{\text{kWh}} \times \frac{1}{\text{Eff} (\%)} \times 1.1078$$

Note: lower heating value (LHV) is converted to higher heating value (HHV) by a factor of 1.1078. It is also worth noting is that this analysis captures the overall MWh produced by Bloom’s fleet outlined in Figure 2 to ensure any variations in system output are accurately and fully reflected in the calculations.

Bloom monitors and aggregates daily system efficiency levels down to the level of each Energy Server through use of the conversion below.



Using these conversions, Bloom can calculate the carbon emissions profile from its equipment, but that isn’t the same thing as Bloom’s climate impact. To measure emissions reductions, Bloom’s absolute emissions are then compared to the emissions from the generators we displace — the marginal emission.

### Methodology Validated by Expert Organizations and Academia

Researchers at the Rochester Institute of Technology, Carnegie Mellon<sup>9</sup>, UCSD, Yale, Dartmouth, the National Bureau of Economic Research<sup>11</sup>, UC Berkeley<sup>12</sup>, and UC Davis<sup>13</sup> have published on the appropriateness of the marginal

9 Environ. Sci. Technol. 2017512112988-12997

10 Environ. Sci. Technol. 2012, 46, 4742–4748

11 Graff Zivin, J.S., et al. Spatial and temporal heterogeneity of marginal emissions: Implications for electric cars and other electricity-shifting policies. J. Econ. Behav. Organ. (2014),

12 JAERE, volume 5, number 1. © 2018 by The Association of Environmental and Resource Economists

13 American Economic Journal: Economic Policy 2015, 7(3): 291–326

emissions based impact calculation methodology. Additionally, the following sample of organizations use this approach in program administration:

- World Resources Institute
  - In guidance for voluntary carbon reporting under its GHG Protocol<sup>14</sup>
- California Public Utilities Commission
  - In measuring performance under the Self Generation Incentive Program (SGIP)<sup>15</sup>
- The UNFCCC's Clean Development Mechanism
  - In generating Certified Emissions Reductions from grid connected distributed energy projects under the Kyoto Protocol<sup>16</sup>
- Business Renewables Center (BRC)
  - In guiding its 200 member brands to account for the impacts of power purchase agreements. NGO partners in the BRC include the Rocky Mountain Institute, World Wildlife Fund, World Resources Institute, Business for Social Responsibility, and CDP's RE 100 Program and We Mean Business Coalition<sup>17</sup>

Marginal emissions proxies are tracked by the US Environmental Protection Agency (EPA), in its eGRID non-baseload reference data. The EPA suggests that this data is "recommended to estimate emission reductions from... projects that reduce consumption of grid supplied electricity<sup>18</sup>."

Bloom follows this recommendation and utilizes this data to calculate our historical domestic emissions reductions by comparing our systems' localized annual emissions to the marginal emissions displaced (see *Figure 4* below for the geographical regions reported). For clarity, we also incorporate the EPA's default values for line losses from transmission avoided by our distributed deployments.

Other sources of marginal emissions data and methodology exist, but eGRID data provides a consistent, transparent methodology covering all US regions over all of the years needed to produce an historical analysis for Bloom's entire fleet. To confirm results of our analysis using hourly marginal emissions data, Bloom commissioned the non-profit organization WattTime to reconstruct the analysis using its 2018 proprietary model for California and found comparable results.

**Figure 4: Grid Subregions**<sup>19</sup>



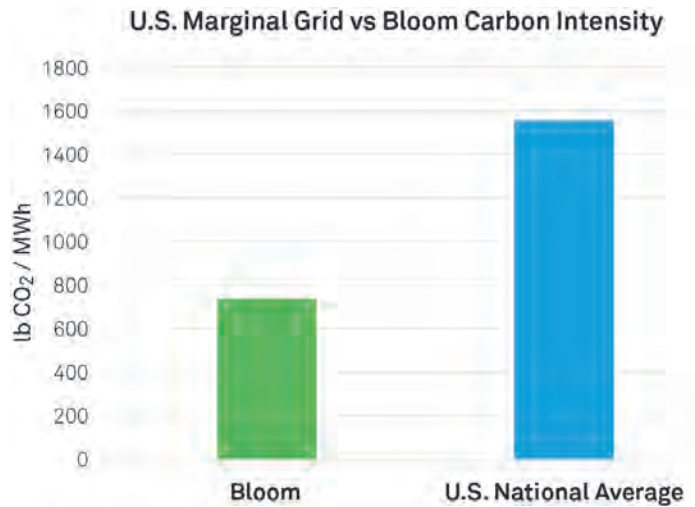
14 <http://pdf.wri.org/GHGProtocol-Electricity.pdf>  
 15 [https://www.cpuc.ca.gov/uploadedFiles/CPUC\\_Public\\_Website/Content/Utilities\\_and\\_Industries/Energy/Energy\\_Programs/Demand\\_Side\\_Management/Customer\\_Gen\\_and\\_Storage/2017\\_SGIP\\_AES\\_Impact\\_Evaluation.pdf](https://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Utilities_and_Industries/Energy/Energy_Programs/Demand_Side_Management/Customer_Gen_and_Storage/2017_SGIP_AES_Impact_Evaluation.pdf)  
 16 <https://cdm.unfccc.int/methodologies/PAmethodologies/tools/am-tool-07-v4.0.pdf>  
 17 <https://businessrenewables.org/what-we-do/>  
 18 [https://www.epa.gov/sites/production/files/2018-02/documents/egrid2016\\_technicalsupportdocument\\_0.pdf](https://www.epa.gov/sites/production/files/2018-02/documents/egrid2016_technicalsupportdocument_0.pdf)  
 19 <https://www.epa.gov/energy/emissions-generation-resource-integrated-database-egrid>

### Carbon Impact Breakdown

Utilizing the methodology described above, our analysis below shows that Bloom’s fleet has generated emissions reductions in every year and every region we operate since beginning scalable commercial deployments in 2011.

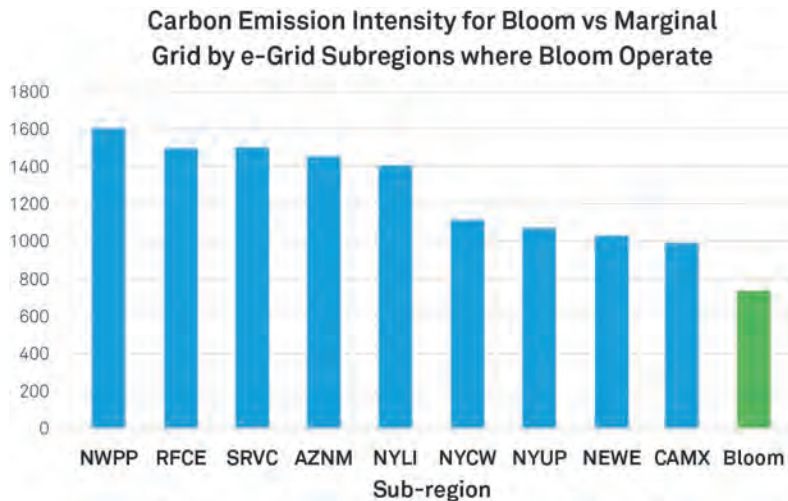
Figure 5 below demonstrates how power produced by a Bloom ES-5 system is more than 50% less carbon intensive than the national average of displaced alternatives based on 2016 eGRID data.

Figure 5



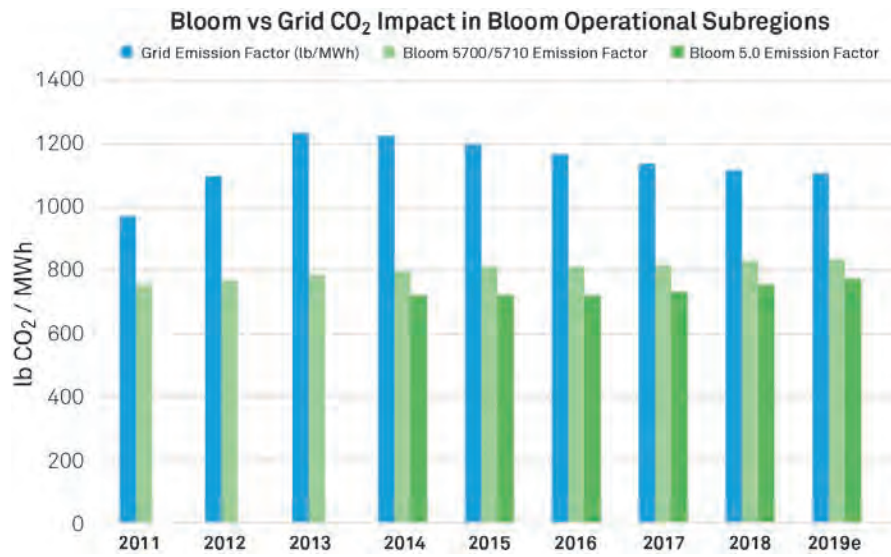
Moving beyond a national average, in Figure 6 below, we also see that Bloom’s ES-5 systems are more carbon efficient than marginal emitters in every region we operate based on 2016 eGRID data.

Figure 6



For transparency, it is also important to understand how Bloom’s less efficient first generation ES5700/10 systems perform. The graphic below demonstrates how each fleet has performed year-over-year versus the marginal emissions average of the regions in which they operate. Although it is a characteristic of solid oxide fuel cells that the absolute emissions from the fleet increase each year as efficiency degrades over time, Figure 7 shows that such efficiency degradation does not materially affect the emissions reductions.

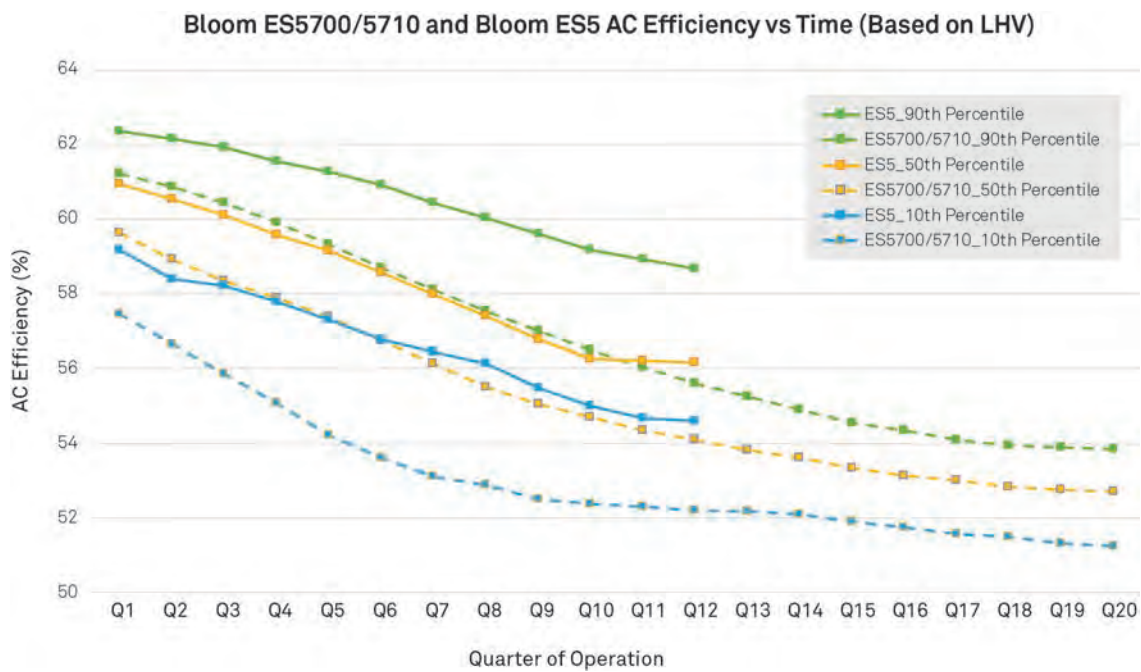
Figure 7



As with any thermal power plant, Bloom’s efficiency performance is the primary driver of absolute emissions in deployments where natural gas is used as fuel. Bloom provides our customers with warranties and guaranties regarding our Energy Servers’ efficiency, and we repair any Energy Server that fails to perform in accordance with these commitments.

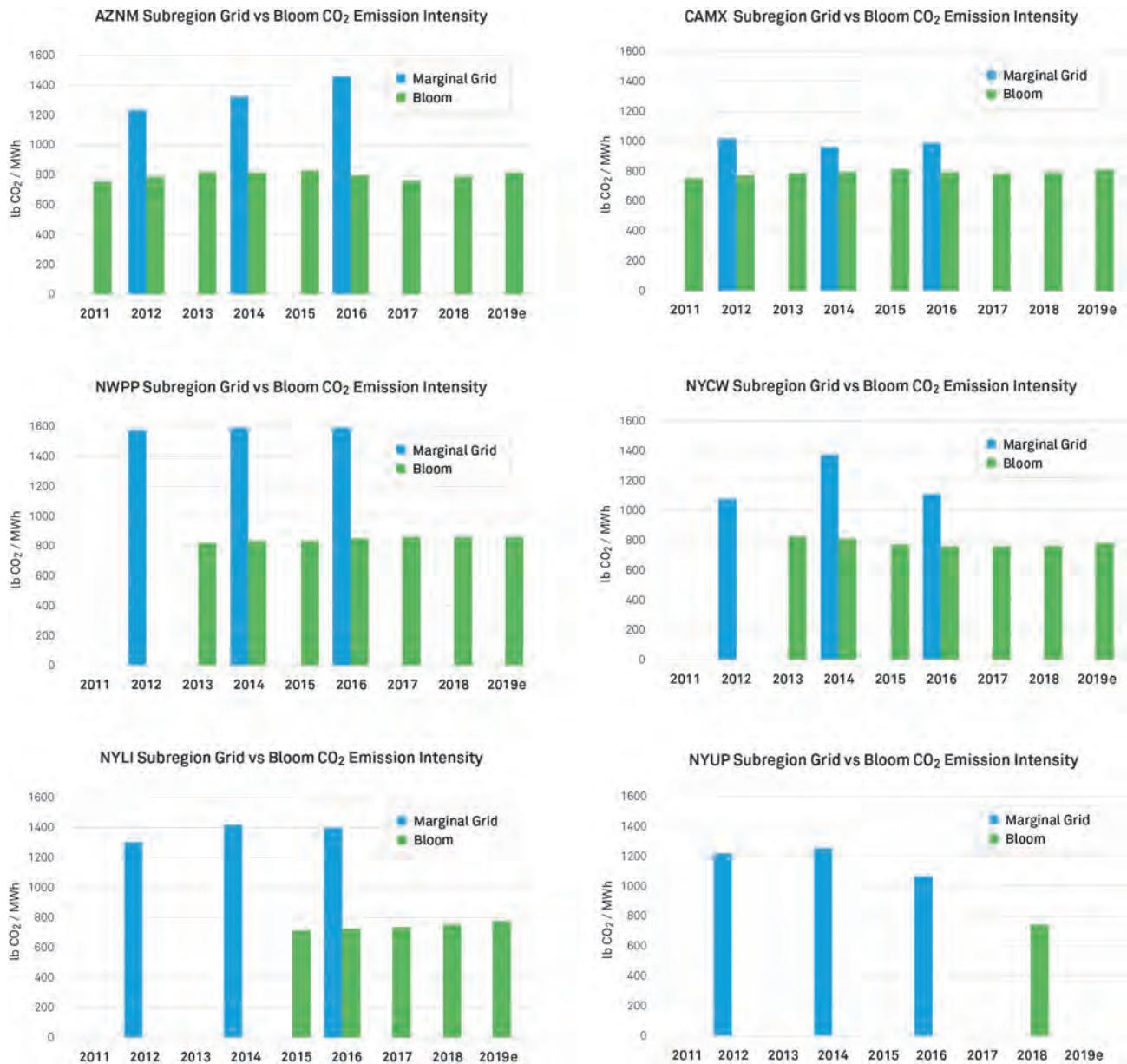
Figure 8 below shows another view of Bloom’s efficiency performance, with the plot showing five-year average fleet efficiencies for both ES 5700/10 and ES5 equipment generations. As fleets age, we see average efficiency declines, but the degradation stabilizes, which ensures continued emissions reductions over the system’s life.

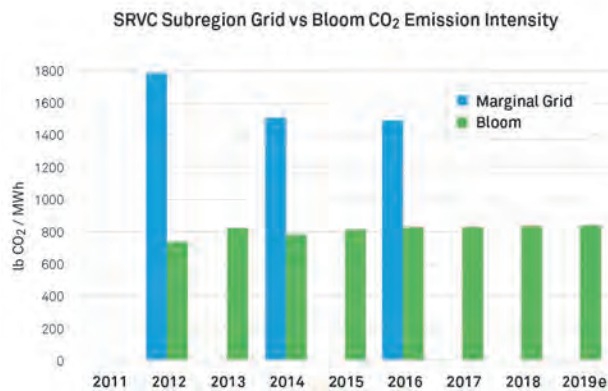
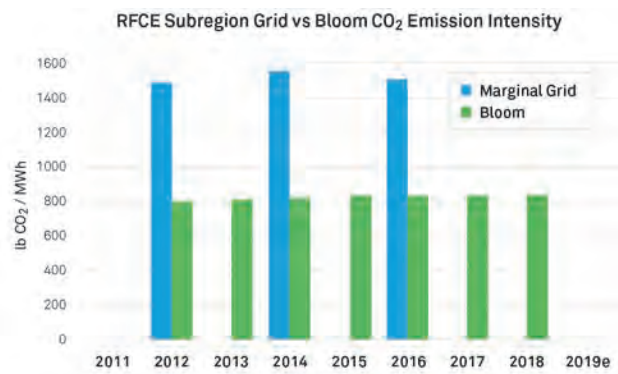
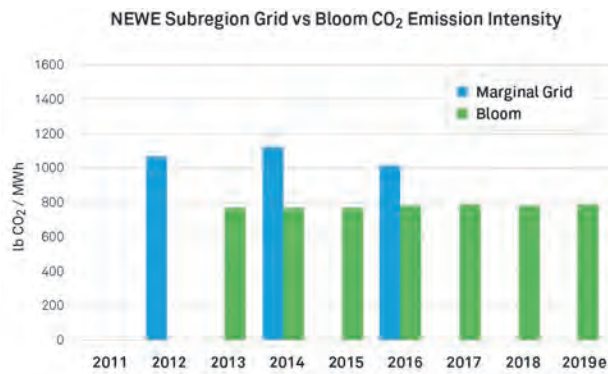
Figure 8



Finally, *Figure 9* below shows emissions reductions quantification from the fleet across all the EPA subregions in which Bloom operates. Our fleet's carbon efficiency ranges from 20-60% depending on the mix of marginal emitters active in a particular region.

**Figure 9: Regional Breakout**





**Additional Emissions Reductions**

Importantly, this data reflects the emissions results of Bloom’s entire deployed fleet: including systems Bloom owns, customers own, and third-party financiers own. We purposely do not distinguish between those ownership dynamics because we want to transparently demonstrate the nature of Bloom’s total equipment performance outside of transactional dynamics that might shift emissions accounting responsibility to one party or another.

The overall reported impact of Bloom’s Energy Servers includes additional emissions reductions beyond what is captured by the marginal emissions comparisons depicted in the graphs above, including:

- 18.78 MW of directed biogas transactions, neutralizing the carbon emissions from Bloom units equivalent to 552,250 MtCo<sub>2</sub>e<sup>20</sup>
- 14.35 MW of international deployments in India, Korea and Japan whose marginal grid emissions are generally higher, resulting in even greater emissions reductions than those cited in domestic comparisons and yield approximately 109,960 MtCo<sub>2</sub>e<sup>21</sup>
- Displacement of emissions from the use of diesel generators at customer facilities totaling approximately 2 million pounds of known emissions savings to date

**Air Quality Breakdown**

Criteria pollutants are a class of smog forming air pollutants regulated by the EPA<sup>22</sup>, including NO<sub>x</sub> and SO<sub>x</sub>. They are the primary source of pollution and are produced during fossil fuel combustion power generation and when backup power generators are in use. Bloom’s non-combustion based fuel cells emit virtually no air pollutants.

20 Assumes system owners continued biogas sourcing at initial rates beyond initial contract term

21 Assumes Japanese marginal emissions values recommended by Ministry of Environment, Indian values from the Central Electricity Authority, and Korea based on US marginal emissions average as proxy

22 <https://www.epa.gov/criteria-air-pollutants>



The health and environmental impacts of combustion related pollutants are both very significant and readily quantifiable. In fact, calculations of the economic and health benefits associated with reducing NOx and particulate matter emissions have been found to exceed the economic and health benefits of reducing carbon emissions on a per ton basis.<sup>23</sup> In light of the overwhelming challenge presented by global climate change, the desire to reduce carbon emissions is appropriately the first and most important emissions reduction objective.

However, there is a steadily growing body of evidence indicating that local combustion related air pollution has far more serious and harmful consequences to human health and the environment than previously understood, including recent findings that:

- Combustion related air pollution may be as harmful to your lungs as smoking cigarettes;<sup>24</sup>
- Combustion related air pollution increases preterm birth risk;<sup>25</sup>
- Combustion related air pollution causes dementia;<sup>26</sup> and
- Particulate matter is the largest environmental health risk factor in the nation, and the resulting health impacts are borne disproportionately by disadvantaged communities;<sup>27</sup>

### **Technology Performance Validation**

The California Air Resources Board has certified Bloom Energy Servers as a Distributed Generation<sup>28</sup> technology due to its air quality emissions profile. This distinction is given to only the cleanest electricity generation technologies in California. As a part of Bloom's certification process with the California Air Resources Board to become a Distributed Generation technology, Bloom went through third party validated testing of its ES5 Systems by the Avagadro Group (now Montrose Environmental) to determine that its emissions of nitrogen oxides, carbon monoxide and VOCs were below the certified limits.

### **Preventing Pollution and Reducing Emissions During Grid Outages with Microgrids**

Bloom's Energy Servers can form the basis of resilient microgrids, which have the capability to separate themselves from the grid and carrying critical load during an outage, the frequency, duration and severity of which are increasing every year. We have deployed more than 85 microgrids to date globally and our systems rode through 550 power outages in 2018 alone.

When Bloom microgrids are in place, they can prevent the need for both marginal generation and backup diesel generators, which emit both carbon and criteria pollutants into the communities surrounding displaced marginal generators as well as any community facing a prolonged power outage. Diesel generators also need testing, regularly emitting criteria pollutants even when there is no grid outage.

### **Impact Moving Forward**

While we cannot fully predict the forward evolution of marginal emissions profiles, we anticipate that more baseload renewable power will continue to be brought online. With proper integration of renewables into the grid baseload, the marginal emissions rates are likely to stay constant and continue to be driven by inefficient carbon generators in the near to medium term.

23 Institute for Policy Integrity, New York University School of Law, "How States Can Value Pollution Reductions from Distributed Energy Resources" July 2018, available at: [https://policyintegrity.org/files/publications/E\\_Value\\_Brief\\_-\\_v2.pdf](https://policyintegrity.org/files/publications/E_Value_Brief_-_v2.pdf)

24 Wang M, Aaron CP, Madrigano J, et al. Association Between Long-term Exposure to Ambient Air Pollution and Change in Quantitatively Assessed Emphysema and Lung Function. JAMA. 2019;322(6):546–556. doi:10.1001/jama.2019.10255 Aubrey, Allison. Air Pollution May Be As Harmful To Your Lungs As Smoking Cigarettes, Study Finds. NPR. 13 August 2019. <https://www.npr.org/sections/health-shots/2019/08/13/750581235/air-pollution-may-be-as-harmful-to-your-lungs-as-smoking-cigarettes-study-finds>

25 Mendola, P. et al. Air pollution and preterm birth: Do air pollution changes over time influence risk in consecutive pregnancies among low-risk women? International Journal of Environmental Research and Public Health, 2019. <https://www.nih.gov/news-events/news-releases/nih-study-suggests-higher-air-pollution-exposure-during-second-pregnancy-may-increase-preterm-birth-risk>

26 Jung CR, et. al. Ozone, particulate matter, and newly diagnosed Alzheimer's disease: a population-based cohort study in Taiwan 2015. <https://www.ncbi.nlm.nih.gov/pubmed/25310992> <https://www.wired.com/story/air-pollution-dementia/>

27 Tessum et al. Inequity in consumption of goods and services adds to racial-ethnic disparities in air pollution exposure. PNAS March 26, 2019 116 (13) 6001-6006; first published March 11, 2019 <https://doi.org/10.1073/pnas.1818859116>

28 <https://ww2.arb.ca.gov/node/1605/about>

The marginal emissions in a given region are often the last indicator to change when a grid is transitioning to renewable energy. For example, according to the California Independent System Operator (“CAISO”), the average marginal emissions rate for Northern California is listed as 984 lbs. of CO<sub>2</sub>/MWh — which is higher than Bloom’s Energy Server emission rate of 679 — 833 lbs. CO<sub>2</sub>/Mwh discussed above. The Northern California average marginal emissions rate is consistent with that of natural gas fired marginal generation, despite the fact that the CAISO grid mix has 31% renewables<sup>29</sup>.

In new markets Bloom is actively exploring, including New Jersey, Maryland and Washington D.C., Bloom’s ES5 systems are more carbon efficient than the marginal generator in the eGRID subregion covering the states by more than 50%.

Still, Bloom’s commitment to climate action and a clean energy future is moving the company further into new fuels, industries, and technologies that hold the potential for even lower carbon intensity energy production. The journey has already begun, with our current Energy Servers providing carbon reductions in every region in which we operate, as articulated in this paper. But, where do we go from here?

### ***Our Low Carbon Pathway***

First, Bloom is actively developing international market opportunities in regions with dirtier grids and higher marginal emissions rates. Additionally, we are working to support new industries like shipping, which is currently powered largely by heavily polluting bunker fuel.

We are also focused on using renewable biogas as the fuel for our Energy Servers. The renewable natural gas market is maturing rapidly, as fuel sources are identified, pipeline capacity is constructed and project development, transactional and policy dynamics mature. Bloom is supporting the growth of this sector in order to help supply customers with the lowest carbon intensive fuel sources possible, but also to support rural communities and municipalities who would benefit from Bloom’s flexible, decentralized and resilient energy solution.

For scenarios in which renewable fuels are not available, Bloom is pushing technology and business model boundaries to pioneer carbon capture, utilization & storage (CCUS) potential from its Energy Servers. Because carbon and nitrogen never mix in Bloom’s fuel cells, it is both feasible and cost effective to capture CO<sub>2</sub>, which can be stored in underground geologic formations or utilized in new products or processes like cement manufacturing and alternative fuel development.

Finally, Bloom sees the widespread deployment of renewable hydrogen fuel emerging as a goal on its low carbon pathway, given that no net greenhouse gases are produced in the process.

### **Conclusion**

Carbon mitigation is hugely important in the long term fight against global climate change. Reducing criteria pollutants has immediate, local and demonstrable impact on human health and wellness. Thanks to its distributed, Always On, non-combustion process of generating clean electricity, Bloom is engaged in both battles, working every day to reduce emissions, build resilience, and promote sustainable communities.

---

<sup>29</sup> <http://www.caiso.com/Documents/GreenhouseGasEmissions-TrackingReport-Aug2019.pdf>

**From:** Liccardo, Sam <sam.liccardo@sanjoseca.gov>  
**Sent:** Monday, December 14, 2020 4:54 PM EST  
**To:** Smith, Henry <Henry.Smith@sanjoseca.gov>  
**Subject:** PRA: Bloom energy 06

---

**From:** Carl Guardino <Carl.Guardino@bloomenergy.com>  
**Sent:** Monday, November 16, 2020 8:54 AM  
**To:** Liccardo, Sam <sam.liccardo@sanjoseca.gov>; Reed, Jim <Jim.Reed@sanjoseca.gov>; Green, Scott <scott.green@sanjoseca.gov>  
**Cc:** Amy Mmagu <Amy.Mmagu@bloomenergy.com>; Delaney Hunter <delaney@caladvisorsllc.com>; Shawn Soderberg <Shawn.Soderberg@bloomenergy.com>; Carl Guardino <Carl.Guardino@bloomenergy.com>  
**Subject:** Alternative language

[External Email]

Dear Mayor Liccardo, Jim and Scott (Amy, Delaney and Shawn):

Please find below our suggested language which we believe is good for the city, it's resiliency, our environment and economy.

Warm Regards,

Carl Guardino  
Executive Vice President  
Global Government Affairs & Policy  
Bloom Energy  
@carlosguardino

**LANGUAGE**

**17.845.040 Exception for Hospitals and Attached Accessory Dwelling Units and Other Specified Facilities**

The requirements of this Chapter shall not apply to either a Hospital or an attached Accessory Dwelling Units in an existing mixed-fuel building.  
The requirements of this Chapter shall not apply to facilities maintaining a distributed energy resource to protect public and economic health and safety in the event of an electrical grid outage until such a time that low or zero carbon fuels are commercially available in the pipeline delivered. Staff will report to Council no later than December 31, 2023 on the state of low and zero carbon fuel availability.

**CONCEPTS**

- Allow for the exception until such time that biofuels/hydrogen are feasible and commercially available to use in the current natural gas systems.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

**From:** Liccardo, Sam <sam.liccardo@sanjoseca.gov>  
**Sent:** Monday, December 14, 2020 4:55 PM EST  
**To:** Smith, Henry <Henry.Smith@sanjoseca.gov>  
**Subject:** PRA: Bloom energy 07

---

**From:** Carl Guardino <Carl.Guardino@bloomenergy.com>  
**Sent:** Friday, November 13, 2020 8:51 AM  
**To:** Sam Liccardo <[REDACTED]> Green, Scott <scott.green@sanjoseca.gov>; Liccardo, Sam <sam.liccardo@sanjoseca.gov>  
**Cc:** Shawn Soderberg <Shawn.Soderberg@bloomenergy.com>; Amy Mmagu <Amy.Mmagu@bloomenergy.com>; Delaney Hunter <delaney@caladvisorsllc.com>; Charles Fox <Charles.Fox@bloomenergy.com>; Carl Guardino <Carl.Guardino@bloomenergy.com>  
**Subject:** Thank You - San Jose Climate Resiliency

[External Email]

Dear Mayor Liccardo and Scott –

On behalf of Bloom Energy and our employees and families, I want to thank you both for reaching out to seek our insights on an incredibly important draft ordinance for climate resiliency in San Jose.

We are honored to provide feedback on this important proposal, which we believe will strengthen our mutual goals for a healthy environment, robust economy and energy resiliency to serve the residents, employers and communities in the 10<sup>th</sup> largest city in America. I hope we can make this a model ordinance for other cities across our country to emulate.

Please find our suggestion below. With these suggestions included, we would proudly support this important ordinance.

**17.845.040 Exception for Hospitals and Attached Accessory Dwelling Units and Other Specified Facilities**

The requirements of this Chapter shall not apply to either a Hospital or an attached Accessory Dwelling Units in an existing mixed-fuel building.

The requirements of this Chapter shall not apply to facilities maintaining a distributed energy resource to protect public and economic health and safety in the event of an electrical grid outage as long as the facility maintains a physical connection to the electrical grid and the distributed energy resource meets the requirements of Section 94203 of Title 17 of the California Code of Regulations.

As we move forward with this important proposal, please use us as a resource with expertise and passion for clean, reliable and resilient energy that is affordable to our residents, employers and communities. Please thank your professional staff for their shared passion on these issues. Bloom Energy is honored to have its global headquarters located in San Jose.

Warm Regards,

Carl

Carl Guardino  
Executive Vice President  
Global Government Affairs & Policy

This message is from outside the City email system. Do not open links or attachments from untrusted sources.