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City of San Jose Comment Letter

Additional submitted attachment is included below.

Office of the City Manager

August 21, 2026

California Energy Commission
715 P Street
Sacramento, CA 95814

RE: Docket 24-BPS-01 – Building Energy Performance Strategy Report

Dear Commissioners:

The City of San José (City) appreciates the opportunity to provide comments on the California Energy Commission's (CEC's) draft Building Performance Standards (BPS) regulations (Docket No. 24-BPS-01). The City supports the CEC's efforts to establish a statewide framework that improves energy performance, reduces greenhouse gas emissions, and advances California's climate goals. San José has extensive experience implementing building benchmarking and performance policies. Since 2018, the City has administered its Energy and Water Building Performance Ordinance, requiring owners of privately-owned commercial and multifamily buildings 20,000 square feet or greater as well as municipally owned buildings 15,000 square feet or greater to track and benchmark their energy and water use annually. Beginning in 2023, the ordinance features a Beyond Benchmarking component where building owners must demonstrate satisfactory building energy and water efficiency every five years, or undergo actions for efficiency improvement. Based on this experience, the City respectfully offers the following comments and recommendations.

1. Support Local Building Performance Standards and Conduct a Cost-Benefit Analysis

The City supports the CEC's recommendation that local jurisdictions implement BPS for buildings not covered by the statewide program. Local governments are well positioned to tailor policies to their building stock while supporting statewide energy and climate objectives. The City also supports the CEC's recommendation to conduct a cost-benefit analysis of implementing a BPS. Understanding the anticipated implementation costs for both jurisdictions and building owners will help stakeholders evaluate staffing needs, administrative costs, and capital planning requirements. Implementing a local BPS program will require significant new administrative resources beyond the City's existing benchmarking program. City staff would be responsible for developing local implementation procedures, reviewing compliance submittals, responding to building owner questions, evaluating requests for extensions or exemptions, conducting outreach and education, tracking compliance, and enforcement. In addition, the City would need to evaluate municipal facilities, develop capital improvement plans, and identify funding for building upgrades necessary to meet future performance targets. Without a clear understanding of implementation costs, local jurisdictions will have difficulty identifying staffing needs and incorporating these responsibilities into future operating and capital budgets.

Recommendation: The CEC should conduct a comprehensive cost-benefit analysis that evaluates implementation costs for both local jurisdictions and building owners. The CEC should also develop case studies illustrating common building improvement measures, estimated project costs, anticipated energy savings, and payback periods to assist building owners in long-term capital planning.

2. Align BPS Reporting with Existing Benchmarking Requirements

The City recommends aligning BPS reporting with California's existing annual benchmarking reporting deadline of June 1. Using a single reporting deadline would reduce administrative burden for both building owners and public agencies by allowing benchmarking and BPS compliance activities to occur simultaneously. Requiring a separate reporting deadline for BPS would require City staff to prepare, review, and validate essentially the same building data twice throughout the year.

Recommendation: Require BPS reports to be submitted by June 1 to align with California's annual benchmarking reporting requirements. Additionally, work with California local jurisdiction staff in setting the BPS compliance deadline given that annual benchmarking compliance deadlines vary across the state. For San José the deadline is May 1.

3. Verification Requirements Should Balance Data Quality with Implementation Costs

The City supports verification requirements that improve the accuracy and consistency of reported building data. However, the proposed recommendation requiring building owners to hire a licensed professional to verify building information would create unnecessary costs without meaningful benefits, particularly if multiple site visits are required during evaluation years. Many of the data elements proposed for verification already exist in building records maintained by owners or public agencies. Licensed professionals often rely on as-built drawings, construction records, utility information, and documentation already maintained by the building owner. For example, Gross Floor Area can be obtained through County Assessor records or existing building documentation without requiring repeated on-site inspections.

These requirements could disproportionately affect small businesses, nonprofit organizations, affordable housing providers, and owners with large building portfolios by increasing compliance costs. The City maintains comprehensive records for its municipal facilities, including construction drawings, facility information, capital improvement records, and utility consumption data. Requiring the City to hire licensed professionals to independently verify information that already exists in municipal records would increase compliance costs without improving data quality. Because the City owns numerous covered facilities, these verification costs could become substantial over multiple compliance cycles and divert limited facility operating funds from actual energy efficiency improvements. Similar challenges would affect school districts, counties, nonprofit organizations, affordable housing providers, and owners of large building portfolios that would be required to obtain repeated third-party verification.

Recommendation: The Commission should allow building owners to self-certify required information and require third-party verification only when data quality concerns or inconsistencies are identified. Hiring a licensed professional should remain optional, and exemptions should be available where documentation already exists. The Commission should also develop standardized guidance, training materials, and calculation tools to reduce reliance on licensed professionals and provide technical assistance when inconsistencies are identified.

4. Establish a Five-Year Baseline for Building Performance

The City supports the CEC's recommendation to establish building performance baselines using an average of multiple years of benchmarking data. However, the City recommends using a five-year average rather than one or three years. The City's analysis of its municipal portfolio demonstrates that annual Site Energy Use Intensity (EUI) can fluctuate significantly even when no major operational changes occur. Across the City's 22 municipally owned buildings greater than 50,000 square feet, Site EUI varied between approximately 10 and 60 units during the past three years and building performance did not consistently decrease each year. Relying on fewer than five years of benchmarking data increases the likelihood that temporary conditions will affect compliance targets. This could require the City to invest limited capital funds in buildings that appear to underperform because the baseline year was not representative of typical operations. Since commercial buildings have been benchmarked under AB 802 since 2018 and multifamily buildings since 2019, sufficient historical data exists to establish a five-year baseline for most covered buildings.

Recommendation: The City recommends establishing baseline performance using a five-year average of benchmarking data whenever sufficient historical information is available.

5. Validate Benchmarking Data Before Establishing Baselines and Performance Targets

The City recommends that the CEC work closely with local jurisdictions that administer benchmarking programs before establishing statewide BPS baselines and performance targets. A statewide program will only be as effective as the data used to develop it. If baseline data are incomplete or inconsistent across jurisdictions, the resulting performance targets may not accurately reflect building performance. The City has identified differences in how benchmarking data are collected and managed that could affect statewide analyses. For example, San José receives benchmarking data at the Assessor Parcel Number level rather than at the individual building level. As a result, multiple buildings may be associated with a single San José Building ID and reported as a single benchmarking record. Without understanding these local data structures, statewide analyses may inadvertently compare properties that are not directly comparable or establish performance baselines using inaccurate building-level information. Other local jurisdictions may have similar data management practices, historical data limitations, or local reporting nuances that should be understood before statewide baselines and targets are finalized. Incorporating these datasets without validating their consistency could result in performance targets that do not accurately represent California's building stock and create compliance challenges for building owners.

Recommendation: Before establishing statewide BPS baselines and performance targets, the CEC should collaborate with local jurisdictions that administer benchmarking programs to understand local data and reporting practices. Doing so will help ensure that statewide baselines and performance targets are based on accurate and consistent building performance data.

6. Provide Relative Improvement Compliance Pathways

The City supports the CEC's recommendation to establish multiple compliance pathways that provide flexibility for buildings with different characteristics and financial resources of building owners. In addition to establishing building-specific Site EUI targets, the regulations should allow buildings to comply by demonstrating a specified percentage reduction in Site EUI or Site greenhouse gas inventory (GHGI) relative to the building's baseline performance or the building type mean. Municipal building improvements are typically planned years in advance through the Capital Improvement Program and must compete against other public infrastructure needs. For example, the City is currently planning a decarbonization project for a 30,000 square foot building which will cost approximately $10 million. Even smaller energy efficiency projects can cost hundreds of thousands of dollars to more than $1 million. Providing flexibility in compliance pathways would allow building owners to prioritize investments that produce meaningful energy savings while saving money. Other jurisdictions have successfully incorporated similar approaches. The City of Denver allows compliance through a 30% reduction in site EUI, while the City's Energy and Water Building Performance Ordinance allows buildings to comply by achieving either a Site EUI at least 25% below the local mean or 15% below the building's baseline.

Recommendation: In addition to building-specific performance targets, allow compliance through demonstrated percentage reductions in Site EUI and Site GHGI relative to a building's baseline or building type average.

7. Support Financial Incentives for Building Performance Standards

The City strongly supports the CEC's recommendation to provide financial assistance to help building owners comply with BPS. While energy efficient equipment and building electrification reduce long-term operating costs and greenhouse gas emissions, these improvements often require significant upfront capital investment. Municipal capital budgets are established several years in advance and must balance investments in economic development, public safety, transportation, parks, and other essential infrastructure. Without dedicated funding for BPS, municipalities may be required to delay or reduce other capital projects to finance building upgrades. Providing grants, rebates, low-interest financing, tax incentives, and other funding opportunities would reduce barriers to implementation and encourage building owners to pursue comprehensive retrofits rather than incremental improvements. Simplified application processes would be equally important to ensure funding programs are accessible and efficient.

Recommendation: Establish funding programs that include grants, rebates, low-interest financing, and tax incentives supported by streamlined application processes to reduce barriers and accelerate BPS implementation.

Thank you for the opportunity to provide comments on the draft BPS regulation. The City appreciates the CEC's continued collaboration with local governments and looks forward to working with the CEC as the regulations are finalized.

Sincerely,

Emily Lam
Director, City Manager's Office of Administration, Policy, and Intergovernmental Relations