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Chief Executive Officer

September 9, 2014

Ms. Mary Nichols, Chairman  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95812

**Subject: Comments on Interim Guidance on Investments to Benefit Disadvantaged Communities**

Dear Chairman Nichols:

The Orange County Transportation Authority (OCTA) appreciates the opportunity to offer comments on the California Air Resources Board's (ARB) Interim Guidance to Agencies Administering Greenhouse Gas Reduction Fund Monies on Investments to Benefit Disadvantaged Communities (interim guidance). Meeting the disadvantaged investment requirements outlined under SB 535 (Chapter 830, Statutes of 2012) will require strong collaboration between not only the ARB and administering agencies, but also any agencies receiving funding from the cap-and-trade program, to ensure any guidance is streamlined and allows for flexibility to meet different project needs and requirements.

OCTA is supportive of efforts within the draft guidance to provide for multiple means for a project to provide a benefit to a disadvantaged community. Specifically, for the criteria to evaluate projects for Transit and Intercity Rail Capital Program (TIRCP) and the Low Carbon Transit Operations Program (LCTOP), OCTA supports the recommended criteria to allow projects that connect to disadvantaged communities or include stops within a disadvantaged communities to be deemed as both providing a benefit and be located within a disadvantaged community. However, this guidance could be clarified to state that the service does not solely need to be located within a disadvantaged community, but could be connecting that community to a job center or other services outside of a disadvantaged community. For instance, if an agency chooses to increase service on an existing transit route, or creates a new transit route, which includes transit stops in both disadvantaged communities and non-disadvantaged communities, that service should meet the requirements of SB 535.

OCTA is also supportive of proposed criteria that would look to the ridership of intercity rail, commuter bus or rail transit lines, allowing for transit fare incentives to those populations to qualify both as a benefit to disadvantaged communities and be deemed as located within a disadvantaged community. The guidance should go

further and also allow increased service on lines that include ridership primarily from disadvantaged communities to also qualify to meet the requirements of SB 535. Transportation connections are often provided for riders originating from disadvantaged communities to reach their ultimate destination where a direct transit route is not feasible. These connections provide a clear benefit to those communities, even when a stop or station is not necessarily located in that community.

The interim guidance should also specifically allow for a project sponsor to use criteria allowed under one funding pot to qualify under a different funding pot, if a similar type of project is being proposed for funding. For instance, under the Affordable Housing and Sustainable Communities Program, transit and rail capital projects are eligible for funding. A project applicant should therefore have the ability to use the criteria allowed under the TIRCP or LCTOP to prove that a transit project is located within and/or provides a benefit to a disadvantaged community. The same goes for the Low Carbon Transportation Program, where an agency may want to apply to use the funds for the purchase of zero-emission buses.

Further clarification is also needed within the proposed criteria for the Affordable Housing and Sustainable Communities Program. Rather require a complete avoidance of any displacement within disadvantaged communities, there should be an allowance to mitigate that displacement. As currently read, a project which would provide a new rail or transit line within a disadvantaged community, but which would require some right-of-way acquisition, which may include one business, would not meet this criteria because it would not completely avoid displacement. This does not seem to achieve the intended consequences of either cap-and-trade investments or SB 535.

The interim guidance does not specifically address which of the CalEnviroScreen methods will be used to determine benefits to a disadvantaged community. OCTA would support clarification that any of the five methods outlined under the California Environmental Protection Agency's document entitled "Approaches to Identifying Disadvantaged Communities," should be authorized. Each method targets specific criteria SB 535 uses to define disadvantaged communities, including population and pollution characteristics. Flexibility should be provided to allow investments to target communities that disproportionately are impacted by any of these criteria, rather than only communities that are impacted by all criteria. In addition, OCTA recommends that investment be allowed in communities scoring in the top 25 percent to ensure that all disadvantaged communities can receive the benefit of cap-and-trade investment.

Chairman Mary Nichols  
September 9, 2014  
Page 3

Finally, there are a couple of areas within the interim guidance that further streamlining and clarification can be provided which will allow for an improved process with increased stability. Currently the guidance recommends administering agencies undertake an extensive public outreach process prior to directing any funds. This can be a costly undertaking and duplicative of many existing processes. Rather than create a new process, the guidelines should allow administering agencies to use existing processes to achieve the same goal. Specifically for transit agencies administering LCTOP funds, existing public processes should be utilized rather than forcing agencies to undertake a new process which may not be cost efficient, decreasing the overall impact of cap-and-trade funds.

In addition, the interim guidance acknowledges that a more extensive process will be undertaken by the ARB in 2015 to create more extensive guidance related to reporting, measurement and defining benefits to disadvantaged communities. To the maximum extent possible, a transition period should be allowed between revised guidelines so that long-term planning can be done to ensure that projects will maintain their benefits to disadvantaged communities. Administering agencies should also be authorized to allow projects already approved for funding and deemed to be located in and/or a benefit to a disadvantaged community under one set of guidelines to maintain that status even when guidelines are later revised.

OCTA appreciates the opportunity to comment on the development of guidance for determining benefits to disadvantaged communities under the cap-and-trade program. If you or your staff have any questions regarding OCTA's position on the use of cap-and-trade revenues, please contact either Kurt Brotcke, Director of Planning, at (714) 560-5742, or Kristin Essner, Principal Government Relations Representative, at (714) 560-5754.

Sincerely,



Darrell Johnson  
Chief Executive Officer

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c: Platinum Advisors, LLC