



August 14, 2015

Chairwoman Mary Nichols
California Air Resources Board
1001 I Street
Sacramento, CA 95814

RE: Comments on Supplement to the Draft Funding Guidelines for Agencies that Administer California Climate Investments (Greenhouse Gas Reduction Fund)

Dear Chairwoman Nichols, Board Members, and Staff,

On behalf of the undersigned organizations, we thank the California Air Resources Board (CARB) for your leadership in developing the draft Funding Guidelines for investments from the Greenhouse Gas Reduction Fund (GGRF), as well as the Supplement to the Draft Funding Guidelines (Supplement or Supplemental Guidance). We commend CARB for extending the time allowed for public participation, and the geographic diversification of public workshops, both of which helped to promote meaningful public input. Additionally, we thank you for the opportunity to review the discussion draft and supplemental document and to voice our concerns and suggestions regarding development and implementation of the draft Guidelines at this important stage. We submitted comments per the initial deadline on draft guidelines, and focus these comments on the Supplemental Guidance.

As organizations committed to improving health and increasing access to opportunity among California's most vulnerable communities, we thank you for considering our input on several key areas of the draft Funding Guidelines and Supplement. Although the Funding Guidelines present an important step forward in elevating the importance of strategic and equitable investment, more must be done to maximize environmental, public health, and economic benefits to disadvantaged communities across the State as outlined in Senate Bill 535 and Assembly Bills 1532 and 32. As such, we strongly urge CARB to incorporate and address the following recommendations in its Guidelines to ensure that Greenhouse Gas Reduction Fund (GGRF) investments advance projects and efforts that truly support the intended outcomes of relevant state mandates.

Comments in Response to the Supplement to the Draft Funding Guidelines

Improve Transparency in GGRF Investments

We are encouraged by CARB's efforts to increase transparency throughout the project selection process and offer the additional suggestions to further enhance transparency and fairness.

The Supplement states that "agencies must post basic information about all of the applications or proposals that are submitted for consideration," and goes on to list "minimum items" that must be posted. The "minimum items" list must include co-benefits that result from the project and if said co-benefits are targeted to DACs, non-DACs, and/or lower income residents.

The Supplement identifies other transparency measures that will follow funding determination. The guidelines state "after projects are selected and all funds are encumbered..." These transparency measures should not await encumbrance of funds which could take several months after funding decisions are made. Post-funding decision transparency measures must be implemented as soon as funding decisions are finalized. The draft supplement also states that after funding decisions are made, "[a]gencies may choose to provide additional or updated information if they determine such information would be useful to promote transparency." This is not sufficient. Each application - regardless of whether it was successful or not - and the scoring of each application, must be made publicly available as soon as possible following funding determinations and project selection.

Maximizing Benefits to Disadvantaged Communities

All projects should be evaluated on the extent to which they provide benefits to disadvantaged communities and lower income residents, not just those projects competing for qualification as a project located within or providing benefits to disadvantaged communities. Guidelines and scoring criteria must prioritize and incentivize co-benefits, and in particular co-benefits for disadvantaged communities and lower income residents for all project applicants and applications.

All projects should also be evaluated on whether they harm or burden, directly or indirectly, a disadvantaged community. Such harm is inconsistent with the intent of the GGRF and the guidelines must prohibit use of funds that result in direct and/or indirect harm to the very communities the program intends to protect. Additionally, the guidelines should require administering agencies to assign equal weight in their scoring criteria to co-benefits as they do to GHG emission reductions. This guarantees the success of the overall program and its effectiveness in improving environmental, social, and economic well-being.

Table 2-2 gives examples of common needs of disadvantaged communities, and the guidelines state that an applicant can demonstrate a benefit to a disadvantaged community by relying on benefits included in this table of common needs. Such reliance does not itself guarantee a meaningful benefit to a disadvantaged community as required by statute and by these guidelines. If an applicant relies on a common need, the need must be corroborated by local information that demonstrates that the identified benefit is actually relevant to the particular community or communities targeted. Each disadvantaged community in California is unique and has distinct challenges. The success of GGRF

projects that are intended to benefit disadvantaged communities is dependent on the extent to which projects meet the needs of community residents and maximizes opportunities for that particular community. Meaningful participation and engagement of community residents in the planning, design, and implementation of projects is essential for the success of these projects. Project applicants should be required to submit explicit and deliberate steps they take to achieve a meaningful level of participation and input into project selection and development. The state's Active Transportation Program requires project applicants to demonstrate meaningful public participation throughout design and implementation of proposed projects and assigns substantial weighting to that section in the scoring of those projects. CARB can point to this program in its guidance documents to administering agencies.

In the supplemental guidance, CARB has added important examples to common needs of disadvantaged communities. For example, we appreciate CARB's clarifying language on mechanisms to target jobs and career development opportunities in disadvantaged communities. However, as we noted in our correspondence regarding the initial draft guidelines, all projects that have job creation or retention components should create quality jobs and professional development opportunities for disadvantaged communities and lower income residents.

In Table 2-2 we also request that language be expanded under the "create quality jobs, etc." bullet. Examples of tools/strategies that support targeting training and hiring to individuals with barriers to employment should be clarified here to state (see underlined portion): project labor agreements with targeted hire commitments, community benefit agreements, community workforce agreements, partnerships with community-based workforce development and job training entities that serve individuals with barriers to employment, etc.

Additionally, we appreciate recognition of displacement pressures on certain communities and applaud the inclusion of anti-displacement language in the table. However, this language provided must be further refined. As noted in our initial correspondence, CARB's guidance must reflect the need to ensure anti-displacement protections where necessary while not creating an obstacle for jurisdictions and communities that do not confront displacement pressures, and therefore have not yet developed anti-displacement policies and strategies.

Figure 2-X: Examples of Strategies for Maximizing Benefits to Disadvantaged Communities

The "Program Design" section states that a portion of funding for projects with benefits to disadvantaged communities should be set aside. While an overall set-aside for disadvantaged community projects has already been identified, but are supportive of increasing the minimum set-aside established by SB 535 and securing a set aside for those programs that do not have one. As noted in our initial correspondence, all GGRF funded projects must be assessed on the extent to which they provide co-benefits to disadvantaged communities not just those projects seeking designation as a qualifying project under SB 535 based on its benefit to disadvantaged communities. While we appreciate CARB's guidance that all projects be designed to avoid substantial burdens to disadvantaged communities, we reiterate that *all* GGRF funded projects must

avoid any and all burdens to disadvantaged communities that are already disproportionately burdened by multiple sources of pollution.

We also appreciate guidance offered in the “Competitive Solicitations” section aimed at maximizing benefits to disadvantaged communities. However, the guidelines must go beyond merely providing a list of possible strategies instead requiring administering agencies to provide extra points for projects that clearly demonstrate how the proposed project addresses community needs and provides multiple co-benefits to disadvantaged communities. These incentives should be extended to all projects and not just those located in and/or benefitting disadvantaged communities. For example if an applicant is providing both health, environmental, *and* economic co-benefits, they should be scored higher than an applicant providing co-benefits in just one category as the former has a greater degree of maximizing benefits. Furthermore, all applicants must demonstrate how stated co-benefits will be actualized.

We appreciate language in the supplemental guidance that emphasizes the importance of early and ongoing outreach through culturally relevant methods. We recommend that in addition to focusing outreach efforts to community residents, administering agencies should also reach out to local nonprofits and government agencies that work with disadvantaged communities on a regular basis.

Improving Awareness and Access to GGRF Funds

While we appreciate and commend the CARB for taking steps to provide outreach to disadvantaged communities, we believe that provision of technical assistance must be strengthened, particularly for disadvantaged communities with insufficient resources to access funds. Disadvantaged communities are most in need of additional resources to both develop and implement GGRF projects. Agencies and organizations representing disadvantaged communities often lack the technical and financial capacity to develop and put forward competitive project proposals that reduce GHG emissions and maximize co-benefits. Therefore, CARB’s suggestion that a CARB staff member or private contractor be hired to connect communities to liaisons at administering agencies for programs is not sufficient. Rather, technical assistance such as grant writing assistance and assistance in maximizing benefits to disadvantaged communities and lower income residents is also necessary, especially in communities and regions with limited planning and development resources.

Assessment of Projects Receiving Credit per SB 535 and/or Burdening Disadvantaged Communities

As noted in our initial correspondence, we are disappointed in several of the projects that appear to be deemed projects located in and/or benefitting disadvantaged communities. Several of these projects and the apparent determinations of “benefit” do not conform to the letter or spirit of SB 535. We intend to continue to advise CARB and GGRF administering agencies to create guidelines that promote and ensure projects and programs that meaningfully and assuredly benefit disadvantaged communities. Some projects are receiving SB 535 credit simply due to proximity to a

disadvantaged community; as they are located in the same census tract as a disadvantaged community, within a half-mile of a DAC census tract, or within a zip code that contains a disadvantaged census tract. However, these projects do not necessarily benefit the community, and thus, must not be used as a proxy for SB 535 credit. In fact, many of these projects - including waste diversion projects and dairy digesters - may even directly or indirectly create additional burdens and environmental harms for disadvantaged communities. We will continue to assess GGRF investments, especially those receiving credit per SB 535, for their benefit to, and potential negative impact on disadvantaged communities during the remainder of the comment period.

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We thank you for your tireless commitment to this work, and for the continuous development of the Funding Guidelines towards a more equitable and inclusive process. The incorporation of the above recommendations into the Funding Guidelines will help to support the success of the GGRF investment projects, and will ensure that benefits credited toward disadvantaged communities are not only targeted, but maximized in our communities with the greatest need in truly meaningful ways. Significant environmental, public health, and economic outcomes as outlined in SB 535 and AB 32 can be achieved if the GGRF process is transparent, accountable, and most importantly, inclusive. Once again we thank you for your leadership and commitment to this work, and respectfully ask for your support of these important recommendations as you finalize the Funding Guidelines. Questions or concerns regarding this letter can be addressed to Phoebe Seaton, Co-Director for Leadership Justice and Accountability at (310) 980-6494 or pseaton@leadershipcounsel.org.

Sincerely,

Phoebe Seaton, Co-Director
Leadership Counsel for Justice and Accountability

Judith Bell, President
PolicyLink