September 15, 2017

California Air Resources Board
Climate Investments Branch
Attn: Matthew Botill, Branch Chief
1001 I Street
Sacramento, CA 95814

Submitted Via Electronic Submission Form

Comments re: Draft Updates to CARB's Funding Guidelines for Agencies that Administer California Climate Investments

Dear Mr. Botill:

The undersigned participants of the California Climate Equity Coalition (CCEC or Coalition) Steering Committee are pleased to submit comments on the California Air Resources Board (CARB or ARB)'s draft 2017 update to the Funding Guidelines for Agencies that Administer California Climate Investments (draft Funding Guidelines).

CCEC is a statewide equity network of organizations that collaborate to maximize the benefits of climate investments to underserved Californians and communities. Our Coalition was instrumental in the passage of AB 1550 (Gomez 2016) that increased the minimum portion of climate investments that must be located in and benefit disadvantaged and low-income communities, and provide direct benefits to low-income households (AB 1550 populations or underserved residents).

Now, ARB has the opportunity to incorporate our recommendations on how agencies should implement AB 1550 and other related laws in compliance with the spirit and the letter of the law. Additionally, in order to maximize benefits to AB 1550 populations, ARB should adopt our recommendations to require that program and project administrators foster engagement with and leadership by underserved residents, as well as provide multiple benefits while avoiding substantial burdens to these residents.

Our specific recommendations are as follows:

1) Foster Community Engagement and Leadership.

a) Require direct community engagement and leadership.

The draft Funding Guidelines require administering agencies to "*directly* engage and involve local community residents and community-based organizations in AB 1550," when making climate investments that would be counted toward meeting AB 1550's requirements.[1] ARB's emphasis that administering agencies directly engage residents and CBOs in climate investments provides a minimal level of transparency and accountability to underserved communities on how climate investments are being made. It is a first step in the right direction toward underserved residents being able to actually *shape and decide* what types of and how climate investments should be made in their own communities.

ARB also updated Appendix 2.A tables for each program so that each project needs to fulfill 3 steps to be able to be counted toward meeting AB 1550 requirements: Step 1 on ensuring that the project is located within a disadvantaged or low-income community, or targets low-income households; Step 2 on addressing community or household need; and Step 3 on benefitting a disadvantaged or low-income community, or low-income household.

Although ARB allows administering agencies to choose one out of four options to satisfy Step 2, *two out of the four options do not require agencies to directly engage community residents or CBOs*. Specifically, agencies can do any of the following in Step 2: A. "Hosting community meetings, workshops, outreach efforts...and provide documentation showing how the received input was considered in the selection of projects that address those needs"; B. Identify CalEnviroScreen factors relevant to a community; C. Receive documentation of support on project and select one with documented broad community support; *or* D. Identify a community or household need from Table 2-2 regarding community needs.[2] Therefore, ARB allows administering agencies and project applicants to choose which community needs they are addressing from CalEnviroScreen (Option B) or Table 2-2 (Option D), which essentially can contradict the requirement for agencies to directly engage residents and community-based organizations.

In order for its guidance on direct community engagement to stay consistent, ARB should eliminate Option B and D, and instead require agencies ensure that applicants adopt either Option A or C in order to satisfy Step 2. Specifically, the final Funding Guidelines should be rephrased to include the following language on page 2-15 (proposed changes in red):

- "To determine community or household needs, ~~ARB~~ ~~recommends~~ ~~that~~ administering agencies and/or applicants should directly engage ~~local~~low-income and disadvantaged community

[1] Draft 2017 update to the Funding Guidelines for Agencies that Administer California Climate Investments, at 2-14 (emphasis added) [*hereinafter* Draft Funding Guidelines].
[2] Draft Funding Guidelines, Appendix 2.A, Step 2 (in all tables).

residents and local community-based groups to identify an important need for that community along with steps to meaningfully address that need.

- ~~Applicants can also use a variety of approaches, including~~Methods of direct engagement include conducting a Participatory Budgeting process led by low-income residents,[3] hosting community meetings, focus groups, workshops, surveys targeting input from low-income residents, or conducting other ~~outreach~~ direct efforts to get input on important community and household needs and selecting a need that has documented broad support from low-income residents local community-based organizations that primarily serve or work with low-income residents.~~documenting how the input will be considered in project design or selection; looking at individual factors in CalEnviroScreen that most impact an AB 1550 community; receiving documentation of broad support for a proposed project from local community-based groups and residents; or referring to the list of common needs in Table 2-2 and selecting a need that has documented broad support from local community-based organizations and residents. These approaches should have appropriate documentation reflecting the breath and meaningfulness of these community needs.~~ In addition, implementing agencies or applicants should look at the factors in CalEnviroScreen that caused an area to be defined as a disadvantaged community or referring to the list of common needs in Table 2-2, and provide that information to community-based organizations and low-income residents as part of the community engagement process."

b) Evaluate the level of community engagement and leadership.

ARB should direct agencies to document and assess the different levels in which CBOs and low-income residents are engaged at the application stage, not at the reporting stage. This will help incentivize the use of authentic and meaningful community engagement in the development of programs and projects. In particular, ARB should direct administering agencies to require project applicants to describe--with reference to the tiers of engagement in Appendix A, below--how the community was directly engaged in the process of assessing and prioritizing needs and of developing a proposed project that meets those needs. Additionally, ARB should direct administering agencies to use the engagement ranking system, or something equivalent, as part of their application evaluation process. The Transformative Climate Communities (TCC) program is a good step in the right direction by requiring applicants to include a community engagement plan that includes specified components, **<u>and</u>** awards up to 10 points to community engagement plans that maximize deep community engagement and leadership.

It is important to note that under the ranking system, applications that would rank "high" in engagement demonstrate community decision-making and leadership, e.g., those that used the Participatory Budgeting (PB) process. PB has been included as a best practice that is encouraged in guidelines from Caltrans (for SB 1 Sustainable Community Planning Grants) and the Strategic Growth Council (for the TCC program). Applications that would rank "low" in engagement include those that merely incorporate community input based on consultation, e.g., via surveys or workshops.

[3] Participatory Budgeting, or PB, is now incorporated into both the final guidelines of the Transformative Climate Communities program, and the final draft guidelines of a new $25 million a year Sustainable Communities Planning Grant program under SB 1 (Beall 2017).

2) Implement AB 1550 In Strict Compliance with Statutory Requirements.

The new, three-step format in the draft Funding Guidelines for determining whether an investment may count toward AB 1550 represents a good approach to ensuring projects satisfy the location/geographic condition in the law, meet community-identified need(s), and are designed to deliver direct, meaningful, and assured benefit(s) to AB 1550 populations. Specifically, we are pleased with the new location/geographic threshold for low carbon transportation and transit projects, which is more stringent in the draft Funding Guidelines than under the current version, in order to determine that these investments are within a disadvantaged or low-income census tract or for a low-income household before being counted toward AB 1550 compliance. This new approach, compared to the framework under the previous funding guidelines, will better ensure that AB 1550 populations are the direct recipients of climate investments as well as the multiple co-benefits these programs offer (e.g., improved air quality and increased transit access and mobility).

However, the new three-step format for counting AB 1550 investments includes jobs and job training *benefits* for low-income households under Step 1, which should be aimed primarily at determining the *location or geography* of a project within a disadvantaged or low-income community. While the CCEC Steering Committee appreciates the emphasis on employment and workforce development stemming from climate investments, this approach regarding jobs and job training that ARB includes throughout Appendix 2.A is unnecessary.

To assess AB 1550 compliance for low-income households under Step 1, the appropriate question to ask agencies and/or applicants is whether the targeted primary beneficiary of a consumer or individual-based investment (e.g., a recipient of an EV rebate or a free transit pass) is a low-income individual or household. A similar approach could be applied to the incomes of multiple individuals and households that are served by a single investment (e.g., a community solar, affordable housing near transit, or transit service or infrastructure project).

Employment and workforce education and training are important and significant. However, potential economic benefits of climate investments should not be treated the same as the main good or service made available by an investment, when it comes to determining AB 1550 compliance. Treating a jobs co-benefit as satisfying the "benefitting low-income households" criterion would also cause confusion among legislators, advocates and community-based groups, and the public at large--all of which expect climate investments to bring direct and multiple benefits to project beneficiaries. Therefore, we recommend deleting the job/job training benefits for low-income households in Step 1 of the criteria for determining AB 1550 compliance.[4]

[4] In accordance with deleting the proposed jobs/job training criterion, ARB should also amend the leading paragraph for Step 1 of all Appendix 2.A tables to the following: "STEP 1- ~~AB 1550 Populations.~~ Location Within Disadvantaged and Low-income Communities & Program Participation by Low-Income Households. *Evaluate the project against each of the following criteria for a disadvantaged community or, low-income community, or a low-income household . . . .*"

3) Ensure Each Project Brings Multiple Benefits.

The 2017 draft guidelines *recommend* but do not require that administering agencies provide additional points for applications in competitive solicitations that describe multiple benefits the projects will bring, in a qualitative manner.[5] ARB also added the reporting requirement directing agencies to "Provide a qualitative description of how the project benefits AB 1550 populations. Include quantitative metrics if available."[6]

While it is possible that certain agencies may do a more thorough job of describing how the programs benefit AB 1550 populations, they will likely do so in an inconsistent manner given the above ambiguous guidance. ARB should therefore be more specific in further directing administering agencies to ask applicants to qualitatively or quantitatively document their strategies toward maximizing at least one benefit in each category: economic, public health, AND environmental, at the application stage. This would signal that all applicants must speak to their strategies and approaches for incorporating multiple benefits.

We believe existing state laws support ARB in providing more prescriptive guidance to administering agencies with respect to ensuring programs deliver multiple benefits in addition to climate pollution mitigation. Specifically, the legislative intent language in SB 535 states the following: "(g) It is the intent of the Legislature that this act continue California's implementation of Assembly Bill 32 by directing resources to the state's most impacted and disadvantaged communities to ensure activities taken pursuant to that authority will provide economic and health *benefits* to these communities as originally intended." Additionally, AB 1532 (Pérez, 2012) provides that moneys in the Greenhouse Gas Reduction Fund (GGRF) shall be used to further the regulatory purposes of AB 32, and shall be used, where applicable and to the extent feasible, to "maximize economic, environmental, and public health *benefits* to the state" and "direct investment toward the most disadvantaged communities and households in the state." The latter phrase is especially important to demonstrate low-income households and DAC residents should be the primary and direct recipients of investments, and not incidental beneficiaries.

Program-specific Recommendations on Documenting Multiple Benefits

<u>Transit Programs</u>

The purpose of GGRF transit programs is (in the case of LCTOP) "for transit agencies to reduce greenhouse gas emissions *and improve mobility, with a priority on serving disadvantaged communities*."[7] This should be reflected in the new GGRF guidelines with language that requires that a transit investment

[5] Draft Funding Guidelines, at 2-19.
[6] Draft Funding Guidelines, Appendix 3.A (in all tables).
[7] Pub. Res. Code, sec. 75230 (a) (as amended by SB 824 (Beall, 2016)) (emphasis added). Similarly, the purpose of the Transit and Intercity Rail Program is to "modernize California's intercity, commuter, and urban rail systems and bus and ferry transit systems to . . . (1) reduce emissions of greenhouse gases. [and] (2) expand and improve transit service to increase ridership . . . .". (Pub. Res. Code, sec. 75220 (a) (as amended by SB 9 (Beall, 2015))).

may only count toward SB 535/AB 1550 minimums if it *both* reduces GHG emissions *and* provides mobility benefits to residents of a disadvantaged community.

Given the explicit requirement in both transit programs to improve mobility, we urge ARB to require that projects demonstrate mobility benefits to riders in low-income and disadvantaged communities. Specifically, we propose that ARB add the following language to the lead paragraph in Step 3 of the Appendix 2.A table regarding transit programs:

> Project must provide mobility benefits predominantly to low-income households regardless of location. In addition, p~~P~~roject must meet at least one of the following criteria focused on increasing transit service along transit lines or corridors that have stations or stops within an AB 1550 community, improving transit access to AB 1550 populations, or reducing air pollution in an AB 1550 community~~.~~: . . . .

This requirement is achievable, and in fact is already being met by transit agencies across the state. Our analysis shows that both small and large transit operators in both rural and urban areas already measure ridership income by transit line. Accordingly, we also recommend that ARB include ridership increases, in particular by low-income residents, as a project benefit that transit project administrators need to report.[8] Finally, it is important to note that the above recommended language conveys that while project proponents must demonstrate a project's mobility benefits, they should and can feasibly achieve additional benefits depending on project, including air pollution reduction.

A second revision is also needed. In preliminary discussions, ARB climate investments staff indicated that the draft Funding Guidelines have addressed the issue of mobility by requiring a transit project to have a stop in a disadvantaged or low-income community. However, according to the draft Funding Guidelines only projects that improve transit service or those that increase transit access are required to provide a stop within a disadvantaged or low-income community.[9] ARB still allows agencies to count some transit projects as providing a "benefit" to communities/households so long as they improve infrastructure/equipment (e.g., charging stations, zero-emission buses, rail electrification) that reduce air pollution, and are at least partially located within an AB 1550 community--even though these projects do not need to have at least one stop within a disadvantaged or low-income community.[10]

In addition to explicitly requiring project proponents to demonstrate that projects provide benefits as discussed above, we also urge ARB to close this loophole. Specifically, we recommend the following amendments to Step 1 of the Appendix 2.A table regarding transit programs: "A. Is the project at least ~~partially~~primarily located within the boundaries of and ~~**disadvantaged community**~~ ~~census tract? For projects that improve transit service or increase transit access along transit lines or corridors, is the project~~ serving at least one stop located within the boundaries of a disadvantaged community census tract?".[11]

[8] As a part of "Estimated Project Co-benefits and Indicators" in Draft Funding Guidelines, Appendix 3.A-16.

[9] Draft Funding Guidelines, at 2.A-11.

[10] Draft Funding Guidelines, at 2.A-9 to 2.A-13.

[11] Accordingly, Step 3, Sub-bullet F for the transit table under Appendix 2.A should also be amended to make clear the following: "Project creates or improves infrastructure or equipment that reduces air pollution on regular

The above recommended language for sub-bullet A should be applied to sub-bullets B and C within this table, as well.

In addition, we recommend including all consumer-based projects to the list of eligible projects under Step 1 for sub-bullet D: "For projects that provide consumer-based incentives (e.g., vouchers, rebates, transit passes, free-fare days, vanpooling, car-sharing, bike-sharing, or other advanced technology mobility services), is the incentive to provide benefits to a resident of a **disadvantaged community** census tract . . . ." The above recommended language for sub-bullet D should be applied to sub-bullets E and F within this table, as well. We recommend deleting Sub-bullet G regarding jobs/job training for low-income households,[12] per Recommendation 2 above.

4) Require Agencies to Report Avoiding Substantial Burdens.

a) Require Agencies and Project Proponents to Avoid Burdens of All GGRF Investments to Low-income Households and Small and/or Minority and/or Women-Owned Businesses.

In the draft Funding Guidelines, ARB proposes to require agencies to: "Design programs and select projects that avoid substantial burdens, such as including physical or economic displacement of AB 1550 populations or businesses in AB 1550 communities, or as well as increased exposure to toxics or other health risks."[13] However, this proposed language eliminates the requirement under the 2015 Funding Guidelines that agencies avoid making investments that would result in substantial burdens to *low-income residents* of disadvantaged communities.[14] Low-income households, regardless whether they live within or outside of disadvantaged or low-income communities, are the most vulnerable to harms like displacement and pollution. They are also vulnerable to negative impact by *any* investment, not just those that would be counted toward meeting AB 1550 requirements.

Therefore, ARB should maintain the requirement that all programs and projects should avoid substantial burdens to low-income households. Specifically, we recommend the following language to be incorporated into the final Funding Guidelines:

> Agencies must design programs and select all GGRF projects to avoid substantial burdens, such as physical or economic displacement of low income households and small businesses and minority or women-owned businesses, or increased exposure of low-income households to toxics or other health risks.

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scheduled routes that service stations or stops in an AB 1550 community~~are primarily within an AB 1550 community~~ . . . ."

[12] Accordingly, Step 3, Sub-bullet G for the transit table under Appendix 2.A should also be amended to make clear the following: "Project provides increased access to shared-mobility transportation options for residents of an AB 1550 community or low-income households . . . ."

[13] Draft Funding Guidelines, at 2-14.

[14] Specifically, the 2015 Funding Guidelines required agencies to "avoid substantial burdens, such as physical or economic displacement of *low income* disadvantaged community residents and businesses or increased exposure to toxic or other health risks." 2015 Funding Guidelines, at 2-12 (emphasis added).

b) Provide Further Guidance on a Programmatic Approach to Avoiding Substantial Burdens.

ARB also expanded the avoiding substantial burdens requirement to cover not only project selection but also program designs,[15] which is a step in the right direction of avoiding likely burdens on a programmatic level. Based on our preliminary conversation with staff, we also understand that ARB is considering requiring agencies to take all programmatic actions to avoid any identified substantial burdens.

To establish a program-based approach to avoiding substantial burdens, ARB should provide an inclusive list of potential burdens to low-income residents and small businesses that could result from the implementation of climate investments. This list of potential burdens should include, among other things: a net increase in criteria air pollutants or toxic air contaminants; groundwater or surface water impacts; a net increase of vehicle miles traveled; physical or economic displacement of low-income residents or local small businesses; and significant increase in housing, transportation, or electricity costs.

Then, ARB should require administering agencies to assess which of these harms are potential risks of the climate investment programs they administer. Once the specific likely harms have been identified for the particular GGRF program, ARB should require implementing agencies to take all programmatic actions in their guidelines to avoid any identified substantial burdens. This could include, for instance, eliminating eligibility of particular types of projects that are likely to impose substantial harms, requiring documentation to enforce avoidance of potential harms , or tailoring eligibility in order to ensure those burdens are avoided.

c) Provide Further Guidance on a Project-based Approach to Avoiding Substantial Burdens.

Furthermore, the draft Funding Guidelines do not require project applicants/sponsors to report on the strategies they proposed (prior to implementation) or adopted (post-implementation) to avoid substantial burdens.[16] Thus, ARB should also require all GGRF administering agencies to ask applicants to describe their strategies on avoiding substantial burdens, in particular on low-income households, at the application stage. At the reporting stage, ARB should require project sponsors to describe how the project has, in fact, avoided the identified substantial burdens.

Program-specific Recommendations on Avoiding Substantial Burdens

<u>Affordable Housing and Sustainable Communities (AHSC)</u>

The 2015 guidelines required all AHSC projects located within disadvantaged communities to "avoid displacement of disadvantaged community residents and businesses."[17] However, the 2017 draft

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[15] Draft Funding Guidelines, at 2-14.

[16] *See* Volume 3 regarding reporting requirements in the draft Funding Guidelines.

[17] 2015 Funding Guidelines for Agencies that Administer California Climate Investments, Appendix 2.A-12.

guidelines now allow a “project [that] is designed to avoid displacement of residents from [AB 1550] communities" as *one of four options* for projects to demonstrate that the AHSC project benefits AB 1550 communities under Step 3. Thus, ARB should update this table to require that all AHSC projects to “avoid economic and physical displacement of low-income households,” regardless of where the project is located.

Low-Income Weatherization Program (LIWP)

As an example of how a program is attempting to avoid burdens of low-income households, LIWP-LMF requires owners of non-deed restricted rental properties to certify that tenants will not be evicted or that rents will not be increased for a period of two years solely due to measures installed through LIWP-LMF funding. The Association of Energy Affordability (AEA), the service provider for the Large Multi-Family LIWP program, requires that property owners who participate in the program sign an Incentive Reservation and Participation Agreement, which outlines these requirements. By signing this agreement, the owner acknowledges penalties and possible annual rent reviews for a 10-year term for Rent Affordability Standards. However, little information is available about how these standards and penalties are enforced. Consistent with our recommendation of requiring project sponsors to describe how the project has, in fact, avoided the identified substantial burdens, ARB could direct agencies to better enforce anti-displacement policies by requiring program administrators to report on frequency of review of affordability standards and issuance of penalties. This could offer ARB and advocates information to assess the effectiveness of tenant protection measures utilized in this program.

Sincerely,

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Appendix A: Levels of Community Engagement

We recommend the following community engagement ranking structure GGRF administering agencies can use to evaluate the level of community engagement and leadership that is included in project proposals and in delivering project benefits:

Engagement will be ranked "*high*" (i.e. demonstrating community leadership and decision-making for a majority or all of a project) where one of the following is met:

- A community-based organization (CBO) led by, or with a mission to serve, disadvantaged/low-income community residents or low-income households is the lead applicant or co-applicant to receive funding from project;
- Disadvantaged/low-income community residents or low-income households oversaw the entire process of needs assessment and prioritization, project development and project selection as members of a steering committee that, in partnership with project applicant, designed the process and oversaw the implementation of the process (e.g., through a participatory budgeting approach);
- A community-owned/developed plan is funded as the majority of or an entire project; or
- Two or more of the indicators under "moderate" engagement (below) have been met.

Engagement will be ranked "*moderate*" (i.e. demonstrating community collaboration and partnership) where any one of the following has taken place:

- A plan developed by community residents or low-income households is funded for a component of a project (e.g., assistance with funding grassroots participation, provision of technical assistance, aid in project implementation);
- Stakeholders signed a memorandum of understanding regarding a component of a project that clearly designates the roles, responsibilities, compensation, and authority of each partner, and in which core partners are low-income households and/or CBOs with a specific mission to serve them. The partnership includes either a shared decision-making authority, or delegation of duties directly responsible for project outcomes and implementation, for multiple phases of project development or implementation;
- Before the development or selection of project alternatives, at least one meeting took place in which disadvantaged/low-income community residents or low-income households deliberated to identify and prioritize the unmet needs of their community, provided that the project demonstrates it will address one of the priority needs identified;
- Disadvantaged/low-income community residents or low-income households participated, with technical support, in the development of project alternatives that would address one or more of those priority unmet needs that were identified in the recent past through such a meeting as described in the bullet above;
- Disadvantaged/low-income community residents or low-income households exercised decision-making authority to select the preferred project from among two or more alternatives, either as members of a project selection committee or through a community voting process;

- The project sponsor engages disadvantaged/low-income community residents or low-income households as true partners in the development of project alternatives, and the selection among those alternatives, in another manner; or
- The project sponsor provides funding to CBO(s) led by, or with a mission to serve, disadvantaged/low-income community residents or low-income households to conduct community engagement activities consistent with any of the above.

Engagement will be ranked "*low*" where none of the above have taken place, regardless of the extent of outreach, education, and consultation activities, such as the following:

- Community and agency collaborate and mutually learn from each other in earlier stages of project development in designing and implementing the project; or
- Applicant conducts community consultation (e.g., via workshops, roundtable discussions, focus groups, surveys) where applicant documents and reports how consultation has influenced the final project. Community consultation sessions are held at diverse, accessible times and locations.

Points can be awarded for high, moderate and low, with zero points for none of the listed community engagement activities (e.g., merely informing community of investment/project opportunities and/or allowing comments on agency proposals.).