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September 15, 2014

Mary Nichols, Chair
California Air Resources Board

Re: Comments on ARB Draft Interim Guidance on Investments to Benefit Disadvantaged Communities

Dear Chair Nichols and Members of the Air Resource Board:

We are glad to see a number of equitable principles articulated in ARB's Draft "Interim Guidance on Investment to Benefit Disadvantaged Communities" (released August 22). Support for community participation and anti-displacement measures in particular are reflected in the draft guidelines. However, there are a number of ways by which these guidelines could be enhanced to provide more clarity and specificity on particular mechanisms to ensure that disadvantaged communities are truly benefited by the Greenhouse Gas Reduction Fund (GGRF) monies.

We hold the following suggestions to improve the draft guidelines:

- The 10% set aside for projects *within* disadvantaged communities and the 25% set aside for projects that *benefit* disadvantaged communities should be considered separately, not as overlapping.
- Geographic location should not be a lone factor in determining meaningful investment in disadvantaged communities.
- Funds should be invested in the transportation modes that are most relied upon by disadvantaged communities, such as bus transit.
- The guidelines should seek to maximize multi-sector collaboration.
- Projects with anti-displacement measures should be prioritized.
- Meaningful community participation should be built into projects from their initial conception.
- The guidelines should prioritize investments to the full spectrum of disadvantaged communities, even if they are not within the top 25% cutoff.

Consider the 10% and 25% set asides separately, not as overlapping.

We are happy to see the guidelines support investments in disadvantaged communities "in a way that exceeds the 10 percent and 25 percent investment



targets.”¹ The 10% and 25% investments should be viewed as minimum benchmarks. Moreover, the 10% funding for projects within disadvantaged communities should be considered *separately* from the 25% funding going toward benefiting disadvantaged communities, not as a subset of that 25%. We believe the guidelines should reflect a push for this total of at least 35% investment to disadvantaged communities overall, particularly in light of the fact that SB 535 does not specify how these two set-aside categories should be treated.

Incorporate population, not only location measures, for assessing benefit.

We appreciate the acknowledgement that some projects, such as improvements to a bus line, can benefit disadvantaged communities even if they are not completely located in those communities. However, ARB should expand its guidelines to consider other sorts of investments that would benefit disadvantaged communities even if not geographically located within one.

For example, affordable housing, no matter where it is built, will have a positive impact on disadvantaged communities by allowing members of that community to locate closer to sites of opportunity. Additionally, a transportation line that allows individuals in disadvantaged communities to access quality jobs and other resources will benefit that community regardless of how much of the project is physically within the community.

Conversely, simply requiring that 10% of projects be built within a disadvantaged community will not necessarily ensure that low-income residents benefit from the investment. For example, a new transit system could be built in a disadvantaged community that is too expensive for local residents to afford.

Meaningfully invest in transit.

Investing in existing transit systems is critical in order to ensure that low-income people in disadvantaged communities are benefiting from GGRF dollars. The Low-Carbon Transit Operations Program and the Transit and Intercity Rail Capital Program should be encouraged by ARB to set guidelines that focus on benefiting disadvantaged households by increasing bus frequency and bus lines on the routes that these individuals rely upon. Free transit pass programs are another type of investment that deeply benefits disadvantaged communities.

Investing in local and regional transit, particularly bus routes, will support low-income and transit-dependent households as they travel to work, school, and other engagements. Expanding the ability for these individuals to take transit will reduce their Vehicle Miles Traveled (VMT) in personal vehicles that add to greenhouse gas emissions. Additionally, investing in bus transit provides more per dollar benefit than similar levels of investment in rail. The guidelines should seek to prioritize this more effective and accessible type of transit.

¹ Draft Interim Guidance at p. 15.



Expand multi-agency collaboration.

The transit programs should not operate in a vacuum; instead the agencies responsible for their implementation should work in collaboration with Affordable Housing and Sustainable Communities staff to ensure that affordable housing is being developed at the site of new transportation investments.

While we are pleased that the ARB guidelines suggest that “whenever feasible, agencies should seek opportunities to work together to provide multiple benefits in disadvantaged communities,”² we feel that stronger language is required for agencies to make such critical collaboration a commitment. Specifically, potential projects should be ranked in terms of how many guideline criteria they satisfy, rather than simply having to meet one of many criteria. This would help ensure that projects with the most co-benefits and maximum positive impact on disadvantaged communities are selected.

Clarify anti-displacement language

Anti-displacement language should be added to each set of the specific Appendix guidelines in addition to the Affordable Housing and Sustainable Communities projects. Transportation investments, for example, have the potential to increase land values and thereby trigger displacement mechanisms. Guidelines should support no net loss of units occupied by lower-income households. They also need to prioritize funding to areas with existing anti-displacement policies or where 100% of the funding will go toward low-income residents.

See the attached “Sample Local Anti-Displacement Policies” for further examples on this point.

Bolster community participation requirements.

We applaud ARB and CalEPA’s efforts thus far in working to involve community in the guideline development and disadvantaged community selection process. We are also glad to see that the guidelines support “outreach efforts that seek to engage and involve disadvantaged community members or their representatives.”³

However, as with many of the guidelines, we are concerned about how this priority will be operationalized in the funding allocation process and how agencies will be held accountable for their stated plan. Guidance on community participation should be bolstered in the Appendix to ensure that it truly remains a priority.

² Draft Interim Guidance at p. 16.

³ Draft Interim Guidance at p. 15.



Additionally, it is important to distinguish between simple community outreach and meaningful community engagement and support, prioritizing the latter. Disadvantaged communities need to be involved in the projects from the earliest stages to completion. Disadvantaged communities should also be allowed to have a voice in determining additional project guidelines specific to their community's particular needs and opportunities.

Serve a broader range of disadvantaged communities.

Urban Habitat supports the years of thoughtful planning and hard work that have gone into creating the CalEnviroScreen tool. It is important for the state of California to have a cumulative impacts measurement apparatus, and CalEnviroScreen goes a long way in the direction of that vision.

However, we do have concerns about some of the Bay Area communities that have not been categorized as disadvantaged communities through the specific measures of the CalEnviroScreen, even though they have suffered under environmental injustices for decades. As the Bay Area Air Quality Management District (BAAQMD) recently noted, some such communities include the Bayview/Hunter's Point area in San Francisco, parts of West Oakland, parts of Richmond, and parts of San Jose.

We believe that guidelines for all GGRF funds should take into account a fuller spectrum of disadvantaged communities and prioritize funding to areas with higher environmental and poverty burdens, even if they are not within the top 25% of all California census tracts.

Conclusion

Thank you for your hard work to ensure that investments counted toward SB 535's mandates meet the priority needs of socio-economically disadvantaged residents and households in California and provide *significant net benefits* by carefully avoiding foreseeable burdens.

Sincerely,

Ellen Wu
Executive Director
Urban Habitat

Attached: Sample Local Anti-Displacement Policies



Sample Local Anti-Displacement Policies

Direct Displacement

1. **One-to-one replacement** of all units occupied by lower-income households. Best practices include a) first right of return, b) income levels affordable to displaced households, c) location within the same neighborhood, d) timely replacement of lost units, and e) comparable unit size.
2. **Relocation benefits** at the same level as required by the Uniform Relocation Act for households displaced by new development.

Economic Displacement

3. **Just Cause eviction** ordinance to protect tenants from arbitrary, discriminatory or retaliatory evictions while ensuring that landlords can lawfully evict tenants for a legitimate reason.
4. **Rent stabilization** ordinance to protect existing tenants against rising rents that result from investment in TOD neighborhoods.
5. **Condominium conversion** restrictions to help protect the stock of existing rental housing, such as limitations on the number of units that can be converted per year.
6. **Acquisition and rehabilitation** program to improve and preserve market rate affordable units as permanently affordable homes.
7. **“Source of income” non-discrimination** ordinance that prohibits discrimination against Section 8 voucher holders by landlords.
8. **Land banking** program, including dedication of publicly owned land, to preserve and protect parcels for affordable housing development.
9. **Affordable housing and/or community stabilization impact fees** to ensure that private developers do their part to offset potential negative impacts of new construction.
10. **Jobs-housing linkage fee** to ensure that employers help meet workforce housing needs.
11. **Relocation assistance** requirement to minimize housing instability for tenants who must move due to Ellis Act, condo conversion, or other no-fault evictions.