



September 21, 2015

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

**Re: Proposed Funding Guidelines for Agencies that Administer California Climate Investments**

Dear Chair Nichols and Air Resources Board Members:

The SB 535 Coalition and partners welcome this opportunity to provide additional comments on the Proposed Funding Guidelines for Agencies that Administer California Climate Investments, released September 4, 2015.

Our comments here build on the concerns raised in our previous comments. We are encouraged to see the new transparency requirements and a move toward providing stronger direction to administering agencies on how to maximize benefits to disadvantaged communities. We continue to urge ARB to do all that is necessary to fully realize the statutory mandates of AB 1532 (2012) and SB 535 (2012) and achieve significant benefits that address disadvantaged community needs. To achieve these goals, *at a minimum*, the Guidelines should (1) require all SB 535 investments to address high priority disadvantaged community needs as an eligibility requirement (2) concretely require agencies to prioritize the SB 535 investments that provide the most significant benefits to disadvantaged communities (3) ensure more benefits are targeted to the neediest end-users, and (4) provide clear prohibitions on direct displacement and strategies for avoiding economic displacement.

**Require all SB 535 investments to address high priority disadvantaged community needs.**

The proposed Guidelines include several laudable changes that are consistent with an overarching requirement that all SB 535 investments meet priority needs in disadvantaged communities, but they stop short of including that specific requirement. ARB should correct this omission by stating unequivocally that every SB 535 dollar must address an important community need.

For instance, the draft Guidelines require all administering agencies to “describe efforts to address common needs in disadvantaged communities or specific needs identified by community residents or representatives” in their guidelines and solicitation materials. (p. 1-36). That is an appropriate requirement; but describing agency efforts must be coupled with an overarching requirement that individual investments meet those specific needs.

Similarly, the new proposal that agencies award extra points to projects that meet community needs (p. 2-16) – while it is appropriate for non-SB 535 investments – should not be part of the SB 535 guidance. Rather, “address[ing] an important community need” identified by a disadvantaged community should be a threshold requirement for every investment that counts toward SB 535. Once meeting community needs becomes a baseline requirement, individual projects that demonstrate strong community support for and involvement in their project proposal should receive funding priority.

**Concretely require agencies to prioritize the investments that provide the most significant benefits to disadvantaged communities.**

The Guidelines identify two, equally important, objectives that apply to maximizing benefits: maximizing the percentage of GGRF allocations for projects that benefit disadvantaged communities and giving selection priority to projects that maximize benefits, “e.g., use scoring criteria that favors projects which provide multiple benefits or the most significant benefits. . .” (p. 2-9) Both objectives are equally important and necessary to address the chronically underserved condition of the most disadvantaged census tracts in California. The Guidelines, however, defer development of a more robust protocol requiring agencies to prioritize projects that provide multiple benefits or the most significant benefits, until after ARB develops methodologies for quantifying co-benefits. Instead of this approach, the Guidelines should require agencies to develop and implement strategies for achieving both objectives, to be continuously refined as calculation protocols become more robust.

We are pleased and supportive of the approach included in the supplemental text requiring agencies to provide details about the **strategies they will use to maximize disadvantaged community benefits** on each Expenditure Record. To make this approach as robust as possible, agencies should be required to address both maximization objectives -- both strategies to maximize the percentage of projects that benefit disadvantaged communities and strategies for prioritizing the projects that provide multiple and or significant co-benefits. Describing these crucial strategies for maximizing benefits to

disadvantaged communities before specific projects are selected and making this information available to the public, enables the public to be engaged in refining and improving maximization strategies and ensuring accountability.

The Expenditure Record should be further strengthened by requiring agencies to describe how the benefits provided will be responsive to community needs. A key component of maximizing benefits is prioritizing the investments that significantly meet priority community needs. It is important for administering agencies to identify and follow robust approaches that prioritize the investments most advantageous to the disadvantaged community they aim to benefit.

Finally, to ensure that SB 535 investments meet the statutory mandate to maximize co-benefits, Appendix 2.A should be amended. In addition to meeting one of the eligibility criteria, all SB 535 investments must: (1) meet priority disadvantaged community needs and (2) provide multiple and/or significant co-benefits.

### **Target investment benefits to the neediest households to implement AB 1532.**

AB 1532 directs GGRF investments to both “disadvantaged communities **and** households.” (Health & Safety Code section 39712). This mandate is important when applied to SB 535 investments as well as to the entire Fund. To determine who benefits from California Climate Investments both within DACs and in other areas of the state, we need to focus on the end users of the investments, e.g., transit riders, park-goers. All projects, but most importantly, those either located within or providing benefits to disadvantaged communities should carefully target the benefits to the most disadvantaged households residing within those communities.

As AB 1532 applies to both investments that satisfy SB 535’s minimum set asides and those that do not, we recommend that the Guidelines include provisions that encourage agencies to provide additional incentives for projects that don’t qualify for SB 535 but do provide benefits to disadvantaged households.

### **Provide clear prohibitions on direct displacement and incentivize strategies for avoiding economic displacement**

“Direct/physical displacement” occurs when people are forced to move due to demolition or building rehabilitation of their homes. “Indirect/economic displacement” results when existing residents are priced out by rising rents, forced to move because of no-fault evictions, properties are converted from rental to ownership, or otherwise compelled to move involuntarily.

Protections against both types of displacement are essential to GHG-reduction. For example, housing demolition that forces lower income households to move away from transit hubs greatly increases the likelihood they will rely on higher-polluting cars as a

primary transportation mode.<sup>1</sup> It can also lead to a decrease in transit ridership as higher-income households move into transit-adjacent locations and use transit at lower rates, thereby undermining the state's GHG reduction goals and reduces the value of public transit investments.<sup>2</sup> Conversely, providing opportunities for these families to continue living near an expanding transit system supports it long-term with reliable ridership. This is the ideal outcome, both for social policy and for GHG emission reductions.

For these and other reasons, we recommend that all GGRF investments, including, but not limited to, those made to satisfy SB 535's set-aside, include strong protections against both physical and economic displacement.

The Guidelines and Supplement begin to address this issue in the context of SB 535 investments, but they must go further to effectively address displacement. We appreciate that avoiding negative impacts such as displacement or increased public health risks is identified as a key strategy for maximizing benefits to disadvantaged communities (p. 2-16) and that anti-displacement strategies are identified in the chart of common disadvantaged community needs (p. 2-14). Displacement of disadvantaged households or small businesses does severely undermine the benefits to disadvantaged communities.

While the identification of displacement as an area of concern is a strong step forward, the displacement crisis requires strong action, not simply supportive language. In their current form, the Guidelines do not clearly enough prohibit or mitigate displacement within DACs or guarantee anti-displacement protections for the millions of lower income households living outside DACs. We strongly recommend that any state agency receiving GGRF funds should draw on the best practices that have been developed by cities, counties and regions throughout the state to design programs that avoid displacement whenever possible and mitigate any displacement that is unavoidable. Each agency expending GGRF funds should require that funded projects:

- Be designed to avoid a net loss of homes currently or recently occupied by low-income households;
- Comply with model relocation and replacement requirements developed after decades of wide-spread displacement under redevelopment; AND
- Where necessary, avoid risk of economic displacement by locating in jurisdictions with economic anti-displacement measures in place; and to the extent feasible, provide training and/or jobs to local workers.

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<sup>1</sup> *Why Creating and Preserving Affordable Homes Near Transit is a Highly Effective Climate Protection Strategy* (TransForm and the California Housing Partnership Corporation, 2014), available at <http://www.chpc.net/dnld/AffordableTODResearch051514.pdf>.

<sup>2</sup> Stephanie Pollack, Barry Bluestone, and Chase Billingham, *Maintaining Diversity in America's Transit-Rich Neighborhoods: Tools for Equitable Neighborhood Change* (Dukakis Center for Urban and Regional Policy, 2010), available at <http://www.dukakiscenter.org/reportssummary>.

The Guidelines created for programs administered by the Strategic Growth Council and CalSTA have taken steps in the right direction. Stronger guidance from ARB will bolster these efforts and assist other state agencies that have not yet grappled with displacement in their programs.

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We encourage ARB to incorporate our recommendations and increase California's ability to achieve the significant environmental, public health, and economic outcomes outlined in AB 32 and SB 535. These improvements will ensure that SB 535 investments credited as benefitting disadvantaged communities maximize benefits for the communities with the greatest need.

Sincerely,

Mari Rose Taruc  
State Organizing Director  
**Asian Pacific Environmental Network**

Katelyn Roedner Sutter  
Environmental Justice Program Director  
**Catholic Charities, Diocese of Stockton**

Bill Magavern  
Policy Director  
**Coalition For Clean Air**

Stella Ursua  
President  
**Green Education Inc.**

Alvaro Sanchez  
Director, Environmental Equity  
**The Greenlining Institute**

Marybelle Nzegwu  
Staff Attorney  
**Public Advocates Inc.**

## **Suggested Changes (indicated in italics)**

### **All California Climate Investment that receive SB 535 funds must meet important disadvantaged community needs as an eligibility requirement.**

Both of these approaches require that the project provide direct, meaningful and assured benefits to a disadvantaged community, regardless of location, *and that each project proponent demonstrate how the project's benefits address important disadvantaged community needs.* (2-6)

Will project provide ~~direct~~ *multiple co-benefits* to one or more disadvantaged communities, consistent with at least one of the criteria in Appendix 2.A? *IF YES, Demonstrate how the selected criteria and benefits provided address common needs in disadvantaged communities or specific needs identified by community residents or representatives.* (2-19, Appendix 2.A-2)

### **Provide significant benefits:**

#### **-By prioritizing projects that meet needs and incorporate authentic community engagement**

Competitive Solicitations: Prioritize or award extra points for projects that: ~~Address an important community need~~ *Include robust public engagement during project development and design and demonstrate how the outcomes of community outreach were incorporated into project design.* (2-15 Figure 2-2: Examples of Strategies for Maximizing Benefits)

#### **-By requiring administering agencies to develop and implement strategies for SB 535 implementation that prioritize the projects that provide multiple and/or significant co-benefits to disadvantaged communities.**

This document focuses on the first example, pending ARB development of methodologies for quantifying or evaluating co-benefits. However, agencies ~~may choose to~~ *should begin developing policies to* implement the second example as well, ~~if they have the means to provide~~ and begin developing consistent calculation protocols ~~to project applicants for current fiscal year funds.~~ (2-9)

### **Require Anti-Displacement Protections for all GGRF investments.**

- *No California Climate Investment project should result in a net loss of units occupied, or recently occupied by lower income households. If existing housing units are demolished or converted, they must be replaced on a 1-for- 1 basis with units of comparable size and affordability, and displaced residents must be given the first opportunity to occupy those units.*

**AND**

- *Wherever necessary, stationary projects should be located in jurisdictions with policies that protect against economic displacement of lower income residents (see list of sample*

*anti-displacement policies). Projects that provide income-qualified benefits to very-low and low-income people and households (e.g. 100% affordable housing developments, low-income transit pass programs) should be presumed not to create a risk of economic displacement.*

### ***Sample Local Anti-Displacement Policies***

#### ***Direct Displacement***

- 1. One-for-one replacement of all units occupied by lower-income households, including***  
*a) first right of return for displaced households, 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. Anti-harassment*** ordinance to protect tenants from harassment and threats that amount to constructive eviction without ever taking formal eviction action.
- 5. Rent stabilization*** ordinance to protect existing tenants against rising rents that result from investment in TOD neighborhoods.
- 6. Affordable housing and/or community stabilization impact fees*** to ensure that private developers do their part to offset potential negative impacts of new construction.
- 7. Jobs-housing linkage fee*** to ensure that developers of commercial projects contribute to meeting the increased demand for affordable housing caused by attracting new workers.
- 8. Relocation assistance*** requirement to financially assist tenants who must move due to Ellis Act, condo conversion, or other no-fault evictions.
- 9. Condominium conversion restrictions*** to help protect the stock of existing rental housing, including limitations on the number of units that can be converted per year; relocation assistance for displaced tenants; and one-for-one replacement, inclusionary units, or fees to mitigate the loss of rental housing.

*10. **Acquisition and rehabilitation program** to improve and preserve market rate affordable units as permanently affordable homes, including a tenant right of first refusal policy.*

*11. **“Source of income” non-discrimination** ordinance that prohibits discrimination against Section 8 voucher holders by landlords.*

*12. **Land banking** program, including dedication of publicly owned land, to preserve and protect parcels for affordable housing development.*

*13. **Targeted and/or local hire.** Target a meaningful percentage of job training and hiring to disadvantaged workers .*