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Re: Proposed Low Carbon Transit Operations Program (LCTOP) Guidelines, FY 2015-16

Dear Ms. Priebe:

Thank you for the opportunity to comment on the proposed new Guidelines for the Low Carbon Transit Operations Program (LCTOP), made available to the public on December 1, 2015.

The undersigned organizations, members and supporters of the Sustainable Communities for All Coalition and the SB 535 Coalition, proposed and helped shape the LCTOP. First, we successfully proposed this program for inclusion in the 2013 Investment Plan.[1] We then helped shape the program that the Legislature created in SB 862 (2014) and funded with a continuous budget appropriation. Our aim in doing so was to create a program that reduced GHG emissions by increasing transit service and ridership levels.

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[1] See *Cap-and-Trade Auction Proceeds Investment Plan* (May 14, 2013), p. 27. See id., pp. A-7 and A-8 for our coalition priorities, including our priority to "[e]xpand or improve public transit service, with significant funding for operations to quickly expand service and increase ridership."

Transit operations are inadequately funded, relative to the importance of frequent and affordable transit service both to low-income riders and to California's climate policy. Declining transit service levels and rising fares have deprived low-income people of mobility and the access to opportunity – jobs, schools, health care and groceries – it brings. And we wholeheartedly agree with the assessment in the draft California Transportation Plan that significant VMT and GHG reductions will be achieved if "[a]ll transit services [are] doubled … [with] free transfers [and] reduced transfer wait times."[2]

SB 862, the legislation that created the LCTOP, directly addressed our goals and objectives. The Legislature created the program in order to "provide operating and capital assistance for transit agencies to reduce greenhouse gas emissions and *improve mobility, with a priority on serving disadvantaged communities*." Pub. Res. Code § 75230(a). Accordingly, the statute requires "[t]he *recipient transit agency* [to] demonstrate that each expenditure *directly enhances or expands transit service* to *increase mode share*" and "that each expenditure reduces greenhouse gas emissions." Id., §§ 75230(d)(2), (3). Finally, "[f]or transit agencies whose service areas include disadvantaged communities … , at least 50 percent" of the LCTOP funds received "shall be expended on projects or services that … benefit the disadvantaged communities, consistent with the guidance developed by the State Air Resources Board …." Id., §§ 75230(e).

In other words, by statute, LCTOP program funds:

- may only be spent by "transit agencies,"
- may only be spent on projects that <u>both</u> (a) "directly" enhance or expand transit <u>service</u> *and* (b) increase transit <u>ridership</u>, and
- must improve <u>mobility</u> for residents of disadvantaged communities.

In addition, like all GGRF programs, the reduction of GHG emissions achieved by LCTOP investments must be *in addition to* reductions already achieved through other funding sources, and may not supplant those other sources.

We applaud several improvements in the new Guidelines over the 2014 version. The new Guidelines, for instance, now explicitly *exclude* many purely capital investments that do not "directly" increase service and ridership levels.[3] They also *maintain* eligibility for projects with components that reduce fares and promote active transportation, although the active transportation component can be strengthened. We recommend revising item B.2. on the Eligible Project List (which currently reads "Install new transit stop/station that connect[s] to bike paths/pedestrian paths") to read: "Improve bicycle and pedestrian facilities (bike lanes, sidewalks, multi-use paths, traffic calming measures, street crossings, etc) in the direct vicinity of new or existing transit stops/stations."

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[2] *California Transportation Plan 2040* (draft, March 2015), p. 91, Table 17.

[3] For instance, the 2014 Guidelines permitted the purchase of transit vehicles and the installation of infrastructure, without any direct tie to the operation of expanded or enhanced new transit service. Those project types have now appropriately been excluded from the Eligible Projects List.

Several other important changes are necessary to ensure that the Guidelines faithfully implement the statutory requirements. Specifically, the Guidelines should make it clear that (1) purely capital projects that do not operate enhanced or expanded transit service are not eligible; (2) LCTOP funds may not supplant other revenue sources; (3) LCTOP funds may only be spent by "transit agencies"; and (4) LCTOP projects that do not provide direct and meaningful mobility benefits to residents of disadvantaged communities may not be counted toward SB 535 requirements.

1. Capital uses of LCTOP must be incidental to the operation of more service.

While the new Guidelines exclude some of the purely capital projects on which much of the first year's funding was inappropriately spent, they do not yet clearly meet the objectives and requirements of the statute. ***The Guidelines should be modified in two respects to achieve consistency with the statute***. First, they should make it clear from the very start, and reiterate throughout, that *every* project funded with LCTOP support must "*directly enhance or expand transit service*." And second, project types included in the "Eligible Project List" in Attachment A should be modified to implement this overarching principle. In particular:

- Operational Project A.1. includes as an eligible use "increase capacity [e.g., add more buses or railcars to existing routes]" without specifying that this refers to operating more service on those existing routes, and only secondarily to buying new transit vehicles.
- Capital Project B.1. makes the addition of "new stops/stations for local bus, intercity rail, commuter bus or rail service" an eligible use. This, too, should be modified to make the addition of new stops eligible only when coupled with increased service levels.

These changes will not only bring the Guidelines into conformity with the statute, but also ensure that the program maximizing GHG cuts by shifting more drivers onto transit.

2. Like all GGRF funds, LCTOP funds may not supplant other revenue sources:

The Guidelines should explicitly require project sponsors to demonstrate that their proposed use of LCTOP funds will not supplant other funding sources. The LCTOP is meant to "directly enhance or expand transit service," not to backfill service or capital projects that are already in service or already planned to be funded from other sources. Moreover, the GHG reductions to be achieved by funds provided from *any* Greenhouse Gas Reduction Fund program are intended to be new reductions. The Guidelines, however, do not make this non-supplantation requirement clear, nor does the application process at the front end and the reporting process at the back end require transit agencies to provide the budget information necessary to ensure transparent compliance with this requirement.

3. Only transit agencies are eligible to expend LCTOP funds:

By statute, LCTOP grants may only be expended by "*transit agencies*." At the same time, the funding formula, taken from the State Transit Assistance program, provides "population based" funding to cities, counties and regional agencies, some of which do not operate transit service. The Guidelines should be revised to expressly address the process by which agencies that receive an LCTOP allocation but that do not operate service directly provide those funds to eligible transit agencies. And future Caltrans reports of the "final projects" on which LCTOP funds are expended should transparently indicate the transit agency that used the funds to enhance or expand its transit service.

4. Disadvantaged communities must receive "direct and meaningful" *mobility* benefits:

Finally, the Legislature has implemented SB 535 in the context of the LCTOP by requiring half those funds to benefit disadvantaged communities within a transit agency's service area. Since the primary benefit of LCTOP projects is to "improve mobility" by "directly enhancing or expanding transit service," no dollar spent on a project that does not provide *mobility* benefits to residents of a disadvantaged community can be counted toward that 50 percent.

Other co-benefits to residents of disadvantaged communities, of course, include diminished emissions of harmful co-pollutants in their communities. The Guidelines, however, imply that a project can count toward SB 535 if it provides *no other benefit* to a disadvantaged community than the <u>indirect</u> one of reducing the emissions occasioned by mobility benefits received directly by *other* residents. That "trickle down" approach to disadvantaged community benefits runs contrary to the spirit of SB 535. And it runs directly contrary to the express requirement of ARB's SB 535 guidance that SB 535 investments provide "*direct*, *meaningful*, and assured benefits" to disadvantaged communities.

Attachment B to the new Guidelines includes a list of criteria taken from a completely different GGRF program – the Low Carbon Transportation Program (p. 27). The Guidelines should clarify that benefits in that list of criteria other than "project provides greater mobility … for disadvantaged community residents" (bullet D) are relevant only to the question of "maximizing" co-benefits, but may not, in and of themselves, qualify as the "direct" and "meaningful" benefits required by the ARB guidance.

We appreciate the opportunity to comment on the December 1 draft, and look forward to seeing these changes implemented right away, so as to ensure that the new round of LCTOP funding fully meets the objectives and requirements of the statute while promoting the goals that led our organizations and coalitions to champion adoption of this program.

Sincerely,

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