

| <b><i>TITLE VI AND ENVIRONMENTAL JUSTICE POLICIES</i></b> | <b>POLICY</b>           |               |
|---|-------------------------|---------------|
|   | <b>Document Number:</b> | AS-HR-PL-2582 |
|   | <b>Version Number:</b>  | 01            |

### **1.0 Purpose:**

Title VI (codified at 42 U.S.C. §2000 et seq.) was enacted as part of the landmark Civil Rights Act of 1964. It prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.

In order to comply with Federal Transit Administration's (FTA) Title VI Circular 4702.1B and Environmental Justice Circular 4703.1 requirements, VTA is required to create and adopt Major Service Change, Disparate Impact, and Disproportionate Burden Policies. These policies are used during the planning process to evaluate the impact of major service and fare changes on minority and low income passengers.

In the development of these policies, VTA was also required to seek input from the community, including low-income, minority, and limited English proficient populations, which are traditionally under-represented in the transit decision-making process.

### **2.0 Scope:**

These policies apply to all "major" service changes, and to all fare changes, regardless of magnitude, except as specifically defined herein.

### **3.0 Responsibilities:**

All VTA employees are required to comply with federal and state Title VI and environmental justice laws, regulations, and administrative directives with regard to policies, projects, programs, services, and activities. The Title VI and Environmental Justice Procedures describe divisional and departmental responsibilities.

### **4.0 Policy:**

In accordance with FTA Title VI requirements, VTA shall perform a Service or Fare Equity Analysis to evaluate the positive and negative impacts of all major service and fare changes on minority and low income passengers. The Major Service Change policy determines which proposed service changes require an Equity Analysis. The Disparate Impact and Disproportionate Burden policies contained provide guidance to staff in their analysis of the effects of the proposed changes. As previously noted, all fare changes proposals are subject to a Fare Equity Analysis.

VTA's Board of Directors must approve the Major Service Change, Disparate Impact, and Disproportionate Burden policies before they can be incorporated into the Title VI Program and submitted to the FTA. Any future amendments to the policies are also subject to Board review.

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#### 4.1 Major Service Change Policy

MTA implements service changes on a quarterly basis in January, April, July and October. Proposed "major" service changes must be submitted to the MTA Board of Directors for review and approval. For Title VI purposes, all "major" service changes will require a Service Equity Analysis.

The following modifications shall be considered "major" service changes:

- The establishment of a new transit line or service;
- The elimination of a transit line or service;
- A route change that impacts 25 percent or more of a line's route miles;
- Span of service or frequency changes affecting 25 percent or more of a line's revenue vehicle hours;
- A series of changes on a single route which are included in the two-year Transit Service Plan and cumulatively meet any of the above criteria;
- Proposed changes that are anticipated to be controversial with a particular community or interested parties based on public feedback; and
- A system-wide change concurrently affecting 5 percent or more of the total system revenue hours.

The following types of modifications are not classified as "major" service changes and shall not require Service Equity Analyses:

- Special event service;
- Routing changes due to construction or other road closures; and
- Special service operated during emergencies;

Service change proposals that do not meet the criteria for "major" service changes are still subject to an appropriate level of public review and comment.

#### 4.2 Disparate Impact Policy

The Disparate Impact Policy establishes a threshold for determining if a given service or fare change would result in a fair distribution of positive and negative effects on minority passengers.

As defined by FTA Title VI Circular 4702.1B:

*Disparate impact refers to a facially neutral policy or practice that disproportionately affects members of a group identified by race, color, or national origin, where the recipient's policy or practice lacks a substantial legitimate justification and where there exists*

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*one or more alternatives that would service the same legitimate objectives but with less disproportionate effect on the basis of race, color, or national origin.*

*The policy shall establish a threshold for determining when adverse effects of fare/service changes are borne disproportionately by minority populations. The disparate impact threshold defines statistically significant disparity and may be presented as a statistical percentage of impacts borne by minority populations compared to impacts borne by non-minority populations. The disparate impact threshold must be applied uniformly... and cannot be altered until the next Title VI Program submission.*

For Service or Fare Equity Analyses conducted by VTA, a disparate impact threshold of 10 percent shall be used to determine if minority riders are more negatively affected – or less positively affected – by the proposed change(s) than VTA riders as a whole. The 10 percent threshold applies to the difference between the aggregate impacts of the proposed change(s) on minority passengers and the aggregate impacts of the proposed change(s) on overall VTA ridership. Analyses shall be based on the most recent VTA passenger survey data, but may also use census data if survey data is inadequate or unavailable.

If VTA finds that a disparate impact exists, it shall analyze alternatives to determine if another alternative could serve the same legitimate objective with less of a disparate impact. If a less discriminatory alternative does not exist **and** VTA has substantial legitimate justification that cannot otherwise be accomplished, VTA shall mitigate the impact of the change on affected minority riders.

#### 4.3 Disproportionate Burden Policy

The Disproportionate Burden Policy establishes a threshold for determining if a given service or fare change would result a fair distribution of positive and negative effects on low-income riders.

As defined by FTA Title VI Circular 4702.1B:

*Disproportionate burden refers to a neutral policy or practice that disproportionately affects low-income populations more than non-low-income populations. A finding of disproportionate burden requires the recipient to evaluate alternatives and mitigate where practicable.*

*The policy shall establish a threshold for determining when*

*adverse effects of service or fare changes are borne disproportionately by low-income populations. The disproportionate burden threshold defines statistically significant disparity and may be presented as a statistical percentage of impacts borne by low-income populations as compared to impacts born by non-low-income populations. The disproportionate burden threshold must be applied uniformly... and cannot be altered until the next Title VI Program submission.*

For Service or Fare Equity Analyses conducted by VTA, a disproportionate burden threshold of 10 percent shall be used to determine if low-income riders are more negatively affected – or less positively affected – by the proposed change(s) than VTA riders as a whole. The 10 percent threshold applies to the difference in the aggregate impacts of the proposed change(s) on low-income passengers compared to the aggregate impacts of the proposed change(s) on overall VTA ridership. Analyses shall be based on the most recent VTA passenger survey data, but may also use census data if survey data is inadequate or unavailable.

If VTA finds that low-income populations will incur a disproportionate burden from a proposed service or fare change, VTA shall identify alternatives available to affected low-income riders and take steps to avoid, minimize, or mitigate impacts where practicable.

## 5.0 Definitions:

### 5.1 Environmental Justice

The overarching objective of environmental justice is a fair distribution of the benefits or burdens associated with Federal programs, policies, and activities.

### 5.2 Fare Change

An increase or decrease in a transit provider's fare. All fare changes, except the following, are subject to a fare equity analysis:

- “Spare the air days” or other instances when a local municipality or transit agency has declared that all passengers ride free.
- Temporary fare reductions that are mitigating measures for other actions.
- Promotional fare reductions. If promotional or temporary fare reductions last longer than six months, then FTA considers the fare reduction permanent and the transit provider must conduct a fare equity analysis.

### 5.3 Limited English Proficient (LEP) persons

Refers to persons for whom English is not their primary language and who have a limited ability to read, write, speak, or understand English. It includes people who

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reported to the U.S. Census that they speak English less than very well, not well, or not at all.

**5.4 Low-income Population**

Refers to any readily identifiable group of low-income persons who live in geographic proximity, and, if circumstances warrant, geographically dispersed/transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed FTA program, policy, or activity.

**5.5 Minority Population**

Means a readily identifiable group of minority persons who live in geographic proximity and, if circumstances warrant, geographically dispersed/transient populations (such as migrant workers or Native Americans) who will be similarly affected by a proposed DOT program, policy, or activity.

**5.6 National Origin**

Means the particular nation in which a person was born, or where the person's parents or ancestors were born.

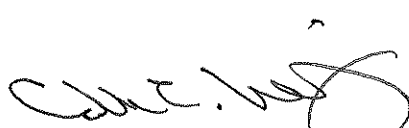
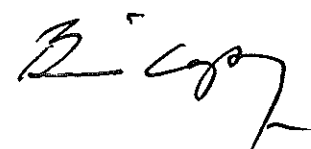
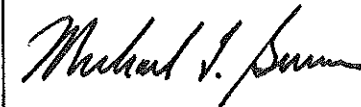
**5.7 Title VI**

Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participated in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

**6.0 Summary of Changes:**

Initial release of this policy. This policy was approved by the Board of Directors on November 7, 2013.

**7.0 Approval Information:**

| <i>Prepared by</i>  | <i>Reviewed by</i>   | <i>Approved by</i>   |
|---|--|--|
| <br>Camille Williams<br>Title VI/LEP Project Manager | <br>Bill Lopez<br>Chief Administrative Officer | <br>Michael T. Burns<br>General Manager |

11/18/13  
Date Signed