

To: Board of Directors

Date: June 3, 2013

From: Laramie Bowron, Manager of Planning

Reviewed by:

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### **Subject: Title VI of the Civil Rights Act - Proposed Disproportionate Burden Policy / Disparate Impact Policy / Major Service Change Policy**

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#### **Summary of Issues:**

In October 2012, the Federal Transit Administration (“FTA”) released new guidelines for compliance with Title VI of the Civil Rights Act of 1964 (FTA Circular 4702.1B). The new Circular includes numerous new requirements, and clarifies or builds on requirements set forth in the prior Circular.

Circular FTA C 4702.1B requires that the governing body of each large transit operator (defined to include County Connection) must adopt several new policies before undertaking any fare or service changes.

Three of the new policies – the Major Service Change Policy, Disparate Impact Policy and Disproportionate Burden Policy – must be subject to extensive public outreach before Board adoption. The Major Service Change policy governs when an agency is required to analyze effects of potential service changes to guard against unintentional discrimination, and the Disproportionate Burden and Disparate Impact policies set thresholds for finding that an agency’s proposed fare changes or major service changes could have potentially discriminatory effects on low-income or minority populations, respectively.

#### **Public Participation:**

Over the past few months, County Connection staff has developed draft Major Service Change, Disparate Impact and Disproportionate Burden Policies and conducted public outreach (detailed below), including three public meetings with language services available, to provide information and get feedback on the draft policies. Staff has incorporated public input gathered through this outreach into the policies proposed for Board approval.

- 1) Meetings:
  - a. March 28, 2013 – Monument Corridor Transportation Action Team

*Comments: Include an annual review to ensure that major service change threshold has not been crossed*

- b. April 15, 2013 – Public Meeting at the San Ramon Community Center

*Comments: Consistent with prior comment to include an annual review for major service changes*

- c. May 14, 2013 - Public Meeting at the Walnut Creek Library

*Comments: None*

- 2) April 1<sup>st</sup> – June 1<sup>st</sup>, 2013 – Policies available for comments on County Connection Website
- 3) June 20, 2013 – Public Hearing and Proposed Adoption at the County Connection Board of Directors Meeting

*Comments will be accepted during a public hearing at the June 20 board meeting. All comments received may be considered by the Board at that time, prior to taking action on the proposed policies.*

**Comments:**

Staff has added language to the proposed Major Service Change Policy in response to public comments to include service changes to ensure that the quarterly changes do not cumulatively cross the “major service change” threshold over any one-year period.

**Recommendation:**

Staff recommends the Board adopt the proposed Major Service Change, Disparate Impact, and Disproportionate Burden policies set forth in the attachment.

**Options:**

- 1) Adopt the proposed Title VI policies and resolution as presented
- 2) Modify and adopt the policies in light of comments received during the public hearing at the June 20 meeting
- 3) Defer action until a later date

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## Title VI of the Civil Rights Act - Proposed Major Service Change Policy / Disparate Impact Policy / Disproportionate Burden Policy

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### Summary of Issues:

In October 2012, the Federal Transit Administration released new guidelines for compliance with Title VI of the Civil Rights Act of 1964 (Title VI Circular 4702.1B). Under the Circular, transit operators are required to study proposed fare changes and “major” service changes before the changes are adopted to ensure that they do not have a discriminatory effect based on race, ethnicity, national origin or socio-economic status of affected populations. As a first step, public transit providers must adopt their own “Major Service Change,” “Disparate Impact,” and “Disproportionate Burden,” policies. The three policies, and County Connection’s proposals, are described below.

### Major Service Change Policy

#### Description:

This policy establishes a threshold for when a proposed service increase or decrease is “major,” and thus must be subject to a Title VI Equity Analysis.

County Connection previously defined major service decreases in its adopted “Public Hearing Policy.” The new Policy will apply this threshold to both increases and decreases, and provide for changes to be measured not just individually, but on a cumulative basis over a 12-month period.

#### Proposed Policy:

County Connection defines a major service change as:

1. An increase or decrease of 25 percent or more to the number of transit route miles of a bus route; or
2. An increase or decrease of 25 percent or more to the number of daily transit revenue miles of a bus route for the day of the week for which the change is made; or
3. A change of service that affects 25 percent or more of daily passenger trips of a bus route for the day of the week for which the change is made.

Changes shall be counted cumulatively, with service changes being “major” if the 25 percent change occurs at one time or in stages, with changes totaling 25 percent over a 12-month period.

The following service changes are exempted from this policy:

1. Changes to service on a route with fewer than 10 total trips in a typical service day are not considered “major” unless service on that route is eliminated completely on any such day.

2. The introduction or discontinuation of short- or limited-term service (e.g., promotional, demonstration, seasonal or emergency service, or service provided as mitigation or diversions for construction or other similar activities), as long as the service will be/has been operated for no more than twelve months.
3. County Connection-operated transit service that is replaced by a different mode or operator providing a service with similar or better headways, fare, transfer options, span of service, and stops.

### **Disparate Impact Policy**

#### **Description:**

The Disparate Impact Policy establishes a threshold for determining whether proposed fare or major service changes have a disproportionately adverse effect on minority populations relative to non-minority populations on the basis of race, ethnicity or national origin.

The threshold is the difference between the burdens borne by, or benefits experienced by, minority populations compared to non-minority populations. Exceeding the threshold means either that a fare or major service change negatively impacts minority populations more than non-minority populations, or that the change benefits non-minority populations more than minority populations. A change with disparate impacts that exceed the threshold can only be adopted (a) if there is substantial legitimate justification for the change, and (b) if no other alternatives exist that would serve the same legitimate objectives but with less disproportionate effects on the basis of race, color or national origin.

#### **Proposed Policy:**

County Connection establishes that a fare change, major service change or other policy has a disparate impact if minority populations will experience 20% more of the cumulative burden, or experience 20% less of the cumulative benefit, relative to non-minority populations, unless (a) there is substantial legitimate justification for the change, and (b) no other alternatives exist that would serve the same legitimate objectives but with less disproportionate effects on the basis of race, color or national origin.

### **Disproportionate Burden Policy**

#### **Description:**

The Disproportionate Burden Policy establishes a threshold for determining whether proposed fare or major service changes have a disproportionately adverse effect on low-income populations relative to non-low-income populations.

The threshold is the difference between the burdens borne by, and benefits experienced by, low-income populations compared to non-low income populations. Exceeding the threshold means either that a fare or service change negatively impacts low-income populations more than non-low-income populations, or that the change benefits non-low-income populations more than low-income populations.

If the threshold is exceeded, County Connection must avoid, minimize or mitigate impacts where practicable.

**Proposed Policy:**

County Connection establishes that a fare change, major service change or other policy has a disproportionate burden if low-income populations will experience 20% more of the cumulative burden, or experience 20% less of the cumulative benefit, relative to non-low-income populations unless the disproportionate effects are mitigated.

## RESOLUTION NO. 2013-019

### Central Contra Costa Transit Authority

#### Board of Directors

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#### **Adoption of Major Service Change, Disparate Impact, and Disproportionate Burden policies required for compliance with Title VI of the Civil Rights Act of 1964**

**WHEREAS**, the County of Contra Costa and the Cities of Clayton, Concord, the Town of Danville, Lafayette, Martinez, the Town of Moraga, Orinda, Pleasant Hill, San Ramon and Walnut Creek (hereinafter "Member Jurisdictions") have formed the Central Contra Costa Transit Authority ("CCCTA"), a joint exercise of powers agency created under California Government Code Section 6500 et seq., for the joint exercise of certain powers to provide coordinated and integrated public transportation services within the area of its Member Jurisdictions; and

**WHEREAS**, Title VI of the Civil Rights Act of 1964 requires recipients of Federal grants and other federal financial assistance to operate their programs and services in a nondiscriminatory manner without regard to, race, color or national origin; and

**WHEREAS**, the Federal Transit Administration (FTA) issued Circular FTA C 4702.1B, effective October 1, 2012, setting forth requirements and guidelines for Title VI compliance; and

**WHEREAS**, as set forth in the above-referenced Circular, the Board of Directors is required to adopt policies to guide the equitable distribution of County Connection services; and

**WHEREAS**, the County Connection is also required to adopt policies to define when a service change is sufficiently broad or large to necessitate a review of its potential impacts on minority and low-income populations, and to define when a fare change or major service change will have a disparate impact on minority populations or impose a disproportionate burden on low-income populations, all of which policies and definitions are required to be subject to public input; and

**WHEREAS**, over the past three months, staff has presented draft policies to the Marketing, Planning, and Legislative Committee and the public through public meetings, and accepted public comment on the policies; and

**WHEREAS**, the General Manager recommends the Board approve the attached definition of "Major Service Change," and Disparate Impact and Disproportionate Burden policies, which comply with FTA requirements and which will guide future decisions regarding and monitoring of County Connection programs and services to ensure they are provided equitably, without discrimination based on race, color or national origin.

**NOW, THEREFORE, BE IT RESOLVED** the Board of Directors of the Central Contra Costa Transit Authority hereby approves the attached definition of "Major Service Change," and Disparate Impact and Disproportionate Burden policies.

Regularly passed and adopted this 20th day of June, 2013 by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

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Erling Horn, Chair, Board of Directors

ATTEST:

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Lathina Hill, Clerk to the Board