

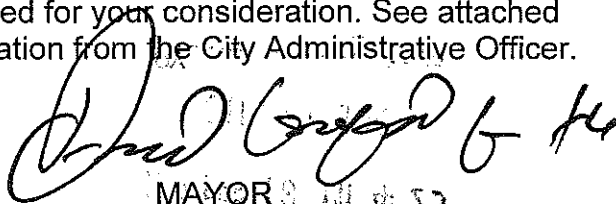
0220-00210-0231

**TRANSMITTAL**

TO The City Council	DATE SEP 18 2009	COUNCIL FILE NO.
FROM The Mayor		COUNCIL DISTRICT

**Proposed Contract with Veolia Transportation for the  
DASH Packages 1, 2 and 3 Services**

Transmitted for your consideration. See attached  
communication from the City Administrative Officer.



MAYOR'S OFFICE

MAS:ALB:06100036t

REPORT FROM

## OFFICE OF THE CITY ADMINISTRATIVE OFFICER

---

Date: September 17, 2009

CAO File No. 0220-00210-0231

Council File No.

Council District:

To: The Mayor

From: Miguel A. Santana, City Administrative Officer 

Reference: Referred for Report by the Mayor on July 30, 2009; Department of Transportation Request dated July 24, 2009

Subject: **PROPOSED CONTRACT WITH VEOLIA TRANSPORTATION FOR TRANSIT OPERATION SERVICES FOR DASH PACKAGES 1, 2 AND 3**

---

### SUMMARY

The Department of Transportation (DOT) requests authority to execute a proposed five-year contract, including an initial three-year term with two one-year optional extensions, with Veolia Transportation for transit operation services for the City's DASH Packages 1, 2 and 3. These three packages represent all Citywide DASH services. Two transit firms (MV Transportation and Veolia Transportation) responded to DOT's RFP for all DASH services. While both firms were responsive and are highly experienced, Veolia Transportation provided the most cost-effective proposal, totaling \$10.3 million less. Veolia Transportation currently operates the DASH Package 3 and is compliant with all City contracting requirements. The City retains the right to revise services provided by Veolia Transportation or to terminate the contract at any time.

Upon review of the attached DOT request, it is recommended that this request be approved and forwarded to the City Council for their consideration. The recommendations contained in the Department's report are appropriate and can be adopted as presented.

In addition, the requested action is in accordance with the City's Financial Policies in that budgeted funds are available for this purpose.

### FISCAL IMPACT STATEMENT

Total compensation for the three-year term will not exceed \$65 million. Funding for the costs occurring this fiscal year is provided in the City's 2009-10 Proposition A Adopted Budget. Funding for future year's operations will be budgeted in future City Proposition A fund budgets, contingent upon available funding. There is no impact to the General Fund.

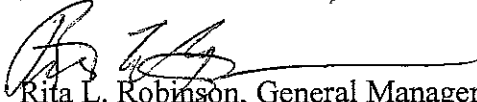
MAS:ALB:06100036

Attachment

**CITY OF LOS ANGELES**  
INTER-DEPARTMENTAL CORRESPONDENCE

Date: July 24, 2009

To: Honorable Antonio R. Villaraigosa, Mayor  
Attention: Pamela Finley, Legislative Coordinator

From:   
Rita L. Robinson, General Manager  
Department of Transportation

Subject: **RECOMMENDATION TO AWARD CONTRACT FOR  
COMMUNITY DASH PACKAGE 1, 2 AND 3 SERVICES**

2009 JUL 30 PM 3:59  
CITY ADMINISTRATIVE OFFICER

**SUMMARY**

In April 2009, the Department of Transportation issued a Request for Proposals (RFP) for the continued operation of the DASH Package 1, 2 and 3 shuttle bus services. The RFP invited firms to submit a proposal to operate each of the three service packages, and the combined Package 1-2 services, for a three year contract term and two option years. The Department received proposals from two firms in response to its RFP, MV Transportation and Veolia Transportation. An evaluation panel consisting of representatives from the Los Angeles County Metropolitan Transportation Authority (MTA), Santa Monica Big Blue Bus and LADOT evaluated the proposals. This report contains the evaluation panel's recommendation that the City award a contract to Veolia Transportation for the operation of all three service packages.

The proposals submitted by Veolia Transportation for the combined DASH Package 1-2 services and for the stand-alone DASH Package 3 service were rated higher by the evaluation panel based primarily on cost-effectiveness relative to the proposals submitted by MV Transportation. Both MV Transportation and Veolia Transportation are experienced providers of contracted transit service. MV Transportation is the incumbent operator of the DASH Package 1-2 services, and Veolia Transportation is the incumbent operator of the DASH Package 3 services. While both firms submitted strong proposals, the proposed costs submitted by Veolia Transportation were significantly less than the costs submitted by MV Transportation. Overall, the proposed total cost submitted by Veolia Transportation for the combined DASH Package 1, 2 and 3 services was approximately \$10.3 million less expensive than the proposed costs submitted by MV Transportation over the three year term of the contract.

## **RECOMMENDATION**

That the Council:

AUTHORIZE the General Manager, Department of Transportation, to execute a three-year contract with two one-year options with Veolia Transportation for the DASH Package 1, 2 and 3 services, subject to the approval of the City Attorney as to form and legality.

## **BACKGROUND**

Since 1984, the City of Los Angeles Department of Transportation (LADOT) has provided Downtown and community-based DASH shuttle bus services to enhance mobility for residents of the City. LADOT currently operates seven DASH routes in Downtown Los Angeles and 27 Community DASH services throughout Los Angeles connecting residents to commercial, medical, public and social facilities, and serving as a feeder service to regional transit services provided by the MTA, Metrolink and other transit agencies.

An important feature of LADOT's DASH program is the use of smaller, 30-foot transit vehicles to enhance access in local neighborhoods and foster acceptance by residents. In addition, the Department has utilized alternative-fueled vehicles, which is consistent with the City's longstanding commitment to the operation of clean fuel vehicles. Further, all new DASH bus purchases since 1998 have been for low-floor vehicles that ease ingress and egress for passengers including the elderly and persons with disabilities. The Department operates a fleet of approximately 220 DASH buses.

The Community DASH Program carries the highest level of ridership of all fixed route transit programs operated by LADOT. The Community DASH program has seen an approximate 100% increase in total annual ridership over the past ten years, with current ridership levels in excess of 20 million passenger trips per year. Total DASH ridership (including Downtown DASH) is in excess of 28 million passenger trips per year. All 27 Community DASH routes are bundled into five different contract packages. The DASH Package 1, 2 and 3 services consist of 20 Community DASH routes and are located in the Mid-City (Package 1), Northeast Los Angeles/Near Westside (Package 2) and San Fernando Valley (Package 3) areas of the City.

The existing three-year contract with Veolia Transportation for the Community DASH Package 3 services expires on August 31<sup>st</sup>, 2009, while the existing three-year contract with MV Transportation for the Community DASH Package 1-2 services expires on September 17, 2009. The Department has prepared a separate report to the Mayor and Council recommending a month-to-month extension of these two existing contracts until a new contractor is selected and is able to assume operation of the services.

## DISCUSSION

After a period of negotiations with the incumbent contractors, the Department elected to circulate a new RFP for the continued operation of the Community DASH Package 1-3 services rather than extend the existing contracts for a fourth contract year (first option year). The Department made this decision based on modifications to service levels relative to the previous RFP, and the belief that the City could obtain lower costs by going through a new RFP process.

The Department released a new RFP for the Community DASH Package 1, 2 and 3 services on April 1, 2009. The RFP invited firms to submit a proposal for each of the three standalone contract service packages, along with a combined economy of scale proposal for the Package 1-2 services. The RFP reserved the right for the City to award a contract to one or multiple proposers for the operation of the DASH Package 1, 2 and 3 services.

In keeping with the Department's goal of quality service, the RFP required stricter operating and maintenance standards for these services as well as enhanced reporting requirements. The RFP also included further quality assurance measures such as performance standards, improved vehicle maintenance standards and customer service standards. The RFP also encouraged the use of advanced technology, including a request that proposers include an optional GPS-based, automated route management system in their proposals to address the issue of on-time performance on the DASH Package 1-3 services. All of these requirements serve the goal of improving service quality on the City's DASH services.

The RFP also included a fuel escalator clause to address the issue of fuel cost volatility. The RFP required all respondents to assume the baseline cost per gallon for fuel contained in the RFP as part of their proposal. If the actual cost of fuel increases above the baseline cost during the contract term, then the Department will reimburse the contractor for the marginal additional cost (less any current and future Federal, State or City rebates). If the actual cost of fuel drops below the baseline cost, the Department will deduct the difference from the contractor's invoices. Therefore, the actual overall contract amounts may vary depending upon how fuel prices rise or fall over the term of the contract. The fuel escalator clause is intended to eliminate the risks of fuel price fluctuation to both the contractor and the City. The City will pay for the actual cost of fuel.

The Department anticipates replacing a portion of the existing DASH Package 1-3 bus fleet with new vehicles during the term of the contract. These new vehicles could be powered by propane and/or compressed natural gas (CNG). Therefore, the RFP required proposers to submit costs for three different scenarios: 1) the existing propane vehicle fleet, 2) a new propane fleet, and 3) a new CNG fleet. The appropriate cost rates will be used depending upon the type of vehicles operated. Proposers were instructed that the evaluation process would be based entirely on the existing vehicle scenario, but costs for the other two scenarios would also be reviewed.

Finally, the RFP required that the selected contractor offer employment to affected employees of the incumbent contractor working on the current DASH service in compliance with the City's Service Contractor Retention Ordinance. The RFP also encouraged the selected contractor to provide similar wages and benefits to employees affected by the selection process. The intent of this RFP language is to minimize the impacts of any contractor transition on existing employees.

### Contractor Selection

Prior to releasing the RFP for the Community DASH Package 1-3 services, the Department sent out a letter of solicitation to approximately 110 firms to determine those potential proposers interested in receiving a copy of the RFP. The Department also advertised the RFP in several newspapers including the Daily News, LA Opinion, Los Angeles Sentinel, LA Daily Journal and a national public transit trade publication. The Department's RFP was ultimately sent to 13 potential proposers who expressed interest in receiving a copy of the RFP.

A pre-proposal conference was held by the Department on April 15, 2009 to discuss major issues concerning the RFP and to answer questions from potential proposers. Representatives from the Department were in attendance to answer questions pertaining to the City's various contract requirements including MBE/WBE/OBE Outreach Effort, the Contractor Responsibility Ordinance, the Equal Benefits Ordinance, Service Contractor Retention Ordinance, and the Living Wage Ordinance.

The Department received a total of two (2) responses to the RFP by the proposal due date of May 22, 2009. The two firms that submitted responses were Veolia Transportation and MV Transportation. Both firms submitted proposals for each of the three individual service packages and for the combined Package 1-2 services. Both firms received passing scores for the City's MBE/WBE/OBE Good Faith Outreach Effort requirement and were deemed responsive to the RFP.

The selection panel, consisting of representatives from the MTA, Santa Monica Big Blue Bus and LADOT, evaluated all written proposals and interviewed representatives from each firm. The panel determined that Veolia Transportation submitted the best proposal for the DASH Package 1-3 services based on the evaluation criteria established for this RFP. All proposals were evaluated based on the following categories:

<u>Rating Categories</u>	<u>Points</u>
1. Qualification of Proposer	20
2. Qualification of Proposed Staff	20
3. Operating Methodology	20
4. Cost Effectiveness	40
Total	100 (per rater)

The panel evaluated the proposals and determined that the recommended award of the DASH Package 1-3 service contract to Veolia Transportation represented the most cost-effective option for the City. Veolia Transportation was rated higher by the evaluation panel for each of the three individual DASH service packages and for the combined DASH Package 1-2 services. The evaluation panel's scores are presented below for each proposer for the combined DASH Packages 1-2 services and for the DASH Package 3 services.

**Evaluation Scores  
DASH Packages 1-2 (Combined)**

<u>Proposers</u>	Raters				<u>Total</u>
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	
Veolia Transportation	90	91	89	89	359
MV Transportation	87	89	85	85	346

**Evaluation Scores  
DASH Package 3**

<u>Proposers</u>	Raters				<u>Total</u>
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	
Veolia Transportation	94	94	86	90	364
MV Transportation	87	88	83	82	340

Qualifications of Proposer and Staff

Veolia Transportation is an experienced transit service provider that possesses years of experience providing fixed route transit service at the local, national and international levels. Veolia Transportation is the incumbent contractor for several of LADOT's fixed route services that include DASH Package 3, DASH Package 5A (South Los Angeles) and, most recently, the DASH Downtown services. Veolia also operates service contracts locally and regionally on behalf of the MTA, Antelope Valley Transit Authority (AVTA), Santa Clarita Transit and San Diego metropolitan transit systems.

Veolia Transportation has performed well as a Community DASH operator on behalf of the City. Since Veolia assumed operation of the DASH Package 3 and 5A services, the performance levels for these services have improved in all the key areas of service, including a significant increase in ridership and a reduction in the number of road calls, missed service and complaints. Veolia Transportation has proposed a management team

drawn primarily from the existing Packages 3 and 5A services. Therefore, the Department has had first hand experience with the quality of the proposed personnel.

MV Transportation is a California based, WBE firm with extensive experience providing contracted fixed route transit services at the local and national level. MV Transportation currently operates the DASH Package 1-2, DASH Package 4 (Central/East), DASH Package 5B (South), Commuter Express (Region 2) and Cityride services on behalf of the City. In addition, MV Transportation has a significant presence in the Southern California region, including contracts with the County of Los Angeles, MTA, and the cities of Glendale, Beverly Hills and La Mirada.

MV Transportation has also performed well as service provider for the many varied services they provide on behalf of the City. MV proposed a well qualified team made up primarily of staff from the current DASH Package 1-2 services. Therefore, the Department has had first hand experience with the skills and abilities of the proposed staff.

#### Operating Methodology

Although both Veolia Transportation and MV Transportation submitted a responsive and comprehensive operating methodology, the panel rated MV Transportation's operating methodology higher based on the thoroughness and completeness of their responses to the information required by the RFP. While Veolia Transportation's proposed operating methodology was also deemed to be comprehensive, the evaluation panel was concerned that Veolia Transportation proposed to share selected key management staff (specifically the project manager, operations and data manager positions) with other existing DASH contracts. This sharing of selected staff was contrary to the requirements of the RFP. Consequently, the panel did not score Veolia Transportation as highly in this category. Veolia Transportation did confirm with LADOT that, if awarded the contract, they would comply with the staffing requirements outlined in the RFP at no additional cost to the City.

As the incumbent contractor for Package 1-2 services, MV Transportation is familiar with the issues and concerns of the services and has proposed additional resources to address these issues in their proposal. MV has proposed a comprehensive maintenance program including their fleet focus software, a competitive wage and benefit package and a strong quality assurance program with significant regional and corporate support. The proposed quality assurance program includes driver service checks (observed and unobserved), daily gate checks and maintenance audits. Moreover, MV has also proposed to continue the use of the Drive Cam system (driver safety/accident reduction software) with wireless downloads for the DASH Package 1-2 services and proposed to include it on the DASH Package 3 service vehicles.

MV has proposed sufficient road supervisors, dispatchers and maintenance staff to adequately address issues relating to vehicle maintenance and on-time performance. Further, MV's wages and benefits for both the driver, administrative and management



staff were competitive with Veolia Transportation's and exceeded the requirements of the City's Living Wage Ordinance. MV Transportation has also proposed an incentive program for both drivers and mechanics.

Veolia Transportation has also submitted a strong proposed operating methodology including a comprehensive vehicle maintenance program featuring the Ron Turley fleet maintenance system, an incentive program for drivers and mechanics, use of the DriveCam system, a quality assurance program (mystery rider with appropriate staffing), a high level of support vehicles and strong regional and corporate staffing. Veolia Transportation has proposed the current (MV Transportation) bus facility for DASH Package 1-2 services located on Avenue 21, which is close to the service area. Veolia Transportation has also proposed some significant upgrades to that facility. Veolia Transportation is proposing to keep their current Package 3 bus facility.

Veolia Transportation has proposed competitive staff hours, wages and benefits for the proposed staff, including the driver staff. Moreover, Veolia has agreed to honor the existing seniority, wages and benefits for affected employees of the incumbent contractor if it is awarded the contract.

Both proposers have submitted costing options for the route management systems as required by the RFP.

#### Cost Effectiveness

The cost-effectiveness criterion is defined as the relationship between the proposed cost and the quality of the overall proposal, including the experience of the firm and proposed staff, and the proposed operating methodology. Proposers that submit the lowest costs are not necessarily rated the highest in terms of cost-effectiveness if concerns about the overall quality of the proposal, and by extension the anticipated quality of service provision, are deemed by the panel to outweigh the savings in cost. Those proposals rated as most cost-effective by the panel are considered to be of the highest value to the City in terms of cost and service quality.

The panel evaluated the cost proposals (existing fleet) of the two proposers for the standalone DASH Package 1, 2 and 3 services, and the combined Package 1-2 services, and rated Veolia Transportation higher in terms of overall cost-effectiveness for all service options. Overall, the panel rated Veolia Transportation's combined proposal for DASH Package 1-2 services and their standalone proposal for Package 3 to be the most cost-effective. The panel also considered the proposed costs for the two other scenarios spelled out in the RFP, specifically new propane vehicles and new CNG vehicles, and determined that those proposed costs were similar in rank to the existing vehicle option.

The following table details the submitted DASH Package 1-3 combined total costs (existing fleet) from each of the two proposers in response to the RFP. Stand-alone costs for the three separate DASH packages and the combined DASH Package 1-2 services are included in this report as Attachment 1.

**Proposed Total Costs  
DASH Package 1-3 Services**

<b>Proposers</b>	<b><u>3-Year Total Cost*</u></b>	<b><u>3-Year Difference Compared to Low Cost</u></b>
Veolia Transportation	\$64,994,963	Low Cost
MV Transportation	\$75,329,965	\$10,335,002 (+15.9%)

Note:

\* Total proposed cost includes \$2,360,000 for fuel contingency, support for the hybrid-electric vehicle program, as-needed service and the purchase of a route management system.

As indicated in the table above, Veolia Transportation's proposed overall total cost for the combined DASH Package 1-3 services was significantly lower, approximately \$10.3 million or 15.9% less than the proposed costs submitted by MV Transportation over the three year contract term. Veolia Transportation's proposed costs were also significantly lower for each of the three separate service packages and the combined DASH Package 1-2 services. Additionally, Veolia Transportation's proposed cost for the combined (economy of scale) Package 1-2 services was approximately \$1.4 million lower than their own proposed cumulative stand-alone costs for the DASH Package 1 and DASH Package 2 services.

Veolia Transportation's proposed first year cost per service hour for the DASH Package 1-3 services actually represent a cost decrease to the City compared to the existing third year costs under the current DASH Package 1-3 contract. Veolia Transportation's first year proposed hourly rate for the DASH Package 1-2 services is \$65.99 per hour, which is a 3.5% reduction compared to the existing \$68.37 per hour rate paid by the City to MV Transportation. Veolia Transportation has also proposed a reduction in the cost per revenue hour for the DASH Package 3 service from their current rate of \$86.76 per hour to a new proposed first year rate of \$82.82 per hour (4.5% reduction).

The evaluation of the proposals submitted by the two firms indicates that they were comparable in terms of proposed costs associated most closely with direct service provision, including staffing levels, staff wages and benefits, vehicle maintenance and facility costs. The higher total proposed costs submitted by MV Transportation appears to be attributable to higher overhead costs associated with administration, workers compensation and insurance costs. The evaluation panel did not believe that the higher proposed costs submitted by MV Transportation would result in proportionately improved overall quality relative to the lower cost proposal submitted by Veolia Transportation. Therefore, the panel rated the proposal submitted by Veolia Transportation to be the most cost-effective.

Honorable Antonio R. Villaraigosa,  
Mayor

- 9 -

July 24, 2009

City Contract Requirements

Both of the proposals complied with the City's various contract requirements including the MBE/WBE/OBE Outreach Effort, the Living Wage Ordinance, the Service Contractor Worker Retention Ordinance, the Equal Benefits Ordinance, the Contractor Responsibility Ordinance and the Child Support Obligations Ordinance.

The proposed contract between the City and Veolia Transportation for the DASH Packages 1, 2 and 3 is included as Attachment 2.

**FINANCIAL IMPACT**

Adequate funding for the DASH Package 1-3 services has been included in the City's adopted Proposition A Local Transit Assistance (PALTA) Budget for FY 2009-10. Therefore, there is no financial impact to the Budget.

Attachments

**DASH PACKAGE 1 - COST COMPARISON**

(Existing Vehicles)

Rank	Proposer	3-Year Total Cost*	From Lowest Cost	% Difference	3-Year Average Rate
1	Veolia Transportation	\$18,486,863			\$74.04
2	MV Transportation	\$23,840,493	\$5,353,630	28.95%	\$95.49

**DASH PACKAGE 2 - COST COMPARISON**

(Existing vehicles)

Rank	Proposer	3-Year Total Cost*	From Lowest Cost	% Difference	3-Year Average Rate
1	Veolia Transportation	\$26,739,866			\$71.16
2	MV Transportation	\$31,093,447	\$4,353,581	16.28%	\$82.74

**DASH PACKAGE 3 - COST COMPARISON**

(Existing vehicles)

Rank	Proposer	3-Year Total Cost*	From Lowest Cost	% Difference	3-Year Average Rate
1	Veolia Transportation	\$18,822,348			\$86.98
2	MV Transportation	\$22,655,035	\$3,832,687	20.36%	\$104.69

**DASH PACKAGES 1&2 - COST COMPARISON**

(Existing vehicles)

Rank	Proposer	3-Year Total Cost*	From Lowest Cost	% Difference	3-Year Average Rate
1	Veolia Transportation	\$43,812,615			\$70.04
2	MV Transportation	\$50,314,930	\$6,502,315	14.84%	\$80.44

**AGREEMENT  
BETWEEN THE  
CITY OF LOS ANGELES  
AND VEOLIA TRANSPORTATION SERVICES, INC., FOR  
THE OPERATION OF DASH PACKAGE 1, 2 AND 3 LOS ANGELES TRANSIT  
SERVICES**

**THIS AGREEMENT** is made and entered into on ..... by and between the City of Los Angeles, a municipal corporation (hereinafter referred to as the "City"), and Veolia Transportation Services, Inc., (hereinafter referred to as the "Contractor").

**WITNESSETH**

WHEREAS, the City is desirous of obtaining services for the management and operation of the DASH Packages 1, 2 and 3 Los Angeles transit services, known herein as the DASH transit services;

WHEREAS, the City issued a Request for Proposal (RFP) dated April 1, 2009, locally and nationally for companies interested in providing such services, which RFP is on file in the office of the City and is incorporated herein by reference;

WHEREAS, the Contractor has the management and technical expertise and other assets necessary for the operation of a fixed route transit system;

WHEREAS, the Contractor submitted a proposal in response to the RFP, which proposal is dated May 20, 2009, and is incorporated herein by this reference (collectively hereinafter referred to as the "Proposal");

WHEREAS, the said Proposal was selected as the most responsive received by the City Council and Mayor on ..... for said DASH transit services; and

WHEREAS, the City has requested that the Contractor operate the DASH Packages 1, 2 and 3 transit services, and the Contractor has agreed to operate the services requested in the time and manner set forth in the RFP and Proposal incorporated into this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, the parties hereto agree as follows:

**SECTION I. INTRODUCTION AND CONDITIONS PRECEDENT**

A. Parties to this Agreement

The Parties to this Agreement are:

1. The City of Los Angeles, a municipal corporation, having its principal offices at 200 North Main Street, Los Angeles, CA 90012.
2. The Contractor, known as Veolia Transportation Services, Inc., located at 2015 Spring Road, Suite 750, Oak Brook, IL 60523.

B. Representatives of the Parties and Service of Notices

1. The representatives of the respective parties who are authorized to administer this Agreement and to whom formal notices, demands and communications shall be given are as follows:

- a. The representative of the City shall be, unless otherwise stated in the Agreement:

Rita L. Robinson, General Manager  
City of Los Angeles  
Department of Transportation  
100 S. Main Street, 10<sup>th</sup> Floor  
Los Angeles, CA 90012

- b. The representative of the Contractor shall be:

Mark Joseph, CEO  
Alan Moldawer, General Council  
Veolia Transportation Services, Inc.  
750 East Butterfield Road, Suite 300  
Lombard, IL 60148

2. *Notices.* Formal notices, demands and communications to be given by either party shall be made in writing and may be affected by personal delivery or by mail. The notice of breach of Agreement, liquidated damages, or performance penalties will be sent via certified mail.
3. *Changes.* If the name of the person designated to receive the notices, demands or communications or the address of such person is changed, written notice shall be given, in accordance with this section, within five (5) working days of said change.

C. Contract Modifications

This Agreement fully expresses all understanding of the parties

concerning all matters covered and shall, with the RFP (and the addenda to the RFP) and contractor's proposal, constitute the total Agreement. In case of conflict, the RFP (and the addenda) shall have precedence over the contractor's proposal. The City will not re-negotiate the existing terms, including costs, of the Agreement. It is the contractor's responsibility to ensure that proposals and related costs are plausible and realistic for the entire contract term. Except as may otherwise be provided herein, no addition to, or alteration of, the parties, their officers, agents or employees, shall be valid unless made in the form of a contract amendment, which must be approved by the Mayor and/or Council and executed by the parties.

D. Conditions Precedent

1. *Required Facilities.* The Contractor shall, prior to the commencement of service, have all facilities required for all necessary functions in place for the operation, administration and maintenance of service.
2. *Position and Task Report.* The Contractor shall, prior to the commencement of service, and thereafter as per the RFP and addendum revisions, provide the required Position and Task Report each month (see Exhibit 20 of the RFP) to the City. The report shall include the following current information:
  - a. Name and position/title of all employees under this Agreement
  - b. Percentage of involvement of all the employees under this Agreement
  - c. The starting salary to be paid to the employee
3. *Insurance Requirements.* The Contractor shall comply with all of the insurance requirements under this Agreement. Appendix B of the RFP describe in detail the insurance coverage and amounts required by this Agreement.
4. *Changes to Documentation.* Changes to the foregoing documents affecting the performance of the Contractor under this Agreement shall receive City approval in writing before the Contractor may effect the change.
5. *Contract Assignment.* This Agreement is not to be assigned to a substitute contractor, a successor in interest, or a purchaser of the current Contractor without the permission of the City. This Agreement will be terminated if the City does not approve or grant permission to a subsequent contractor to assume the services.

**SECTION II. TERMS OF CONTRACT**

A. Contract Period

1. This Agreement shall be in effect for three years from.....  
2009 to ..... 31, 2012. The City reserves the right to extend the contract for two additional years with the same terms and conditions. Such extension will be done with a contract amendment, subject to Mayor and/or Council approval.
2. City obligations under this Agreement are contingent upon the City's ability to obtain the funds from the funding agencies and the availability of City funds in this and subsequent fiscal year budgets to finance operating costs of this contract. Either party may terminate this Agreement if the City is unable after using its bonafide best efforts, to obtain funding for this Agreement.
3. The Contractor shall perform service hereinafter indicated in accordance with the terms and conditions of this Agreement.
4. Upon Termination or completion of the contract term the Contractor shall be responsible for returning all vehicles to the City in the condition in which they were received (with the exception of normal wear and tear). To insure the condition of each vehicle the City will require a turn-over inspection of all vehicles to evaluate their condition at the end of the current contract period.

### **SECTION III. CONTRACTOR DUTIES AND SCOPE OF WORK**

#### **A. Independent Contractor/Status of the Contractor**

1. In rendering service hereunder, the Contractor shall be and remain an independent Contractor. It is expressly understood and acknowledged by the parties hereto that any amounts payable hereunder shall be paid in gross amount, without reduction for any federal or state withholding or other payroll taxes, or any other governmental taxes or charges. The Contractor is responsible for assuming and remitting any applicable federal or state withholding taxes, estimated tax payments, social security payments, unemployment compensation payments, or any other fees or expenses whatsoever.
2. The Contractor shall refrain from any action that would create or tend to create obligations, express or implied, on behalf of the City, it being understood that the Contractor is not and shall not be the legal representative or agent of the City and that the Contractor shall not be authorized to make any promise, warranty or representation except as



specifically provided for in this Agreement or as otherwise agreed to in writing between the parties.

3. The City shall have no liability to any subcontractor(s) for payment for service under this Agreement or other work performed for the Contractor and any subcontract entered into by the Contractor pursuant to the conduct of service under this Agreement. It shall be duly noted that the responsibility for payment for technical services or any other work performed shall be the sole responsibility of the Contractor.
4. All vehicles, computer hardware and software and communication equipment purchased directly by the City or through the Contractor for this Agreement shall be owned by the City and are not to be used by the Contractor for any purpose other than for this service. Said equipment shall be returned to the City at the end of the contract term.

**B. Service Delivery**

1. It is the intention of the City to begin DASH Package 1, 2 and 3 on February 1, 2009 or as soon after this date as administratively possible.
2. The Contractor shall operate bus services and related tasks in accordance with the City's operating policies, standards and procedures and the terms and conditions specified and indicated in this Agreement and the RFP. The Contractor shall also be responsible for operating in compliance with the governmental codes, regulations, ordinances, and directives applicable to such operations and as defined in this Agreement.
3. The Contractor shall be responsible to ensure that all services to be operated as part of this Agreement shall be in compliance with the Americans with Disabilities Act (ADA) of 1990. The City is responsible for the establishment of policy concerning ADA and the Contractor is responsible for the implementation of said policy.
4. The City shall monitor the service in order to assess the performance of the Contractor in delivering the service. The City shall maintain the right to assess Performance Penalties against the Contractor, as set forth in the RFP, based on the Contractor's failure to meet the established standards. The standards and performance penalties described in this RFP are applicable and thereto shall be charged as described in the RFP.

5. The routes and schedules for services are specified by the City and are subject to change and modification within the scope of service.
6. The Contractor shall ensure that all City-owned vehicles and any non City-owned vehicles dedicated to this program are used as specified by the City for the purpose of this Agreement at all times. Any changes to the fleet shall be approved by the City and the Contractor in writing. Use of City-owned vehicles for any other purposes shall be approved in advance by the City.
7. The City reserves the right to order a decrease in the fleet size or service hours with a 30-day notice to the Contractor, if the ridership does not meet City goals and does not warrant the vehicle service hours. The City reserves the right to decrease service hours by up to 15% relative to the hours contained in the RFP with no increase in the hourly rate. Any additional service hours requested by the City over and above the requirement of this Agreement will be compensated at the Additional Service Adjustment Hourly Rate indicated in the Proposal.

#### **SECTION IV. COMPENSATION**

- A. The City shall pay the Contractor for the satisfactory performance of the terms and conditions of this Agreement.
  1. The Contractor shall submit monthly claims for payment for scheduled vehicle service hours in the form and number required by the City within the time specified by the City (Section 12. F of the RFP). Monthly payments will be calculated as follows: the number of scheduled revenue service hours of operation (less any missed revenue service hours as defined in the RFP) multiplied by the rate per scheduled revenue service hour of operation as indicated in Exhibit A of this document.
  2. The Contractor shall also be reimbursed for the marginal additional cost of fuel if the average cost of fuel (actual gallons x price per gallon) increases above the proposed cost of fuel (proposed gallons x baseline price established in the RFP). If the average cost per gallon drops below the baseline costs (proposed gallons x baseline rate per gallon), the Department shall reduce the rate of compensation to the Contractor by the appropriate amount (See Section 4, Cost - Effectiveness, subsection (e) of the RFP). Adjustments will be made only to the amount of fuel utilized by the Contractor and under no circumstances will a contractor be reimbursed for fuel utilized in excess of what had been originally proposed.

3. In an emergency, the City may ask the Contractor to provide bus service according to routes and schedules developed by the City. The hourly rate for the services shall be the Additional Service Adjustment Hourly Rate as indicated in Exhibit A of this document.
4. Payments to the Contractor may be withheld by the City, if the Contractor fails to comply with the provisions of this Agreement.
5. The contractor shall be reimbursed for maintenance work performed on behalf of and approved by the City that had not been completed by the previous contractor prior to the termination of the previous DASH transit service contract. The Contractor shall be reimbursed for all approved repairs upon submission and approval of invoice(s), together with back-up documentation to the City. The City authorizes the Contractor to repair vehicles formerly operated by First Transit, in accordance with the findings of the final vehicle inspection. The Contractor will be reimbursed directly from funds allocated to the contract between First Transit, Inc. (C-106106) and the City.
6. Contractor must submit supporting documentation (receipts, work orders, and billing statements) with any invoice that is submitted to the City for processing. The City has the right to deny payment of any expenses that might be deemed unwarranted.

B. Fare Revenue Collection

The following is a supplement to the Fare Collection and Accountability provisions in the RFP and the Proposal.

1. The Contractor's bus operators or other authorized personnel shall collect from all passengers on each vehicle the amount of fare (including collection of cash, tickets, coupons and transfers and notation of the use of any and all passes by type of pass) determined in accordance with the RFP specifications and the bus service schedules.

The Contractor shall maintain the security of fareboxes and associated revenue collection systems. The Contractor shall not accept from passengers any tickets, transfers, tokens, passes or non-cash fare substitutes other than those specified by the City.

The Contractor shall be responsible for providing security over collected funds, equipment in service, and all inventoried fareboxes and associated equipment. The Contractor shall provide a revenue

counting room equipped with a vault, security cameras and other security devices that will prevent theft or expose pilferage.

2. The Contractor shall ensure that all collected revenue are accurately counted. The Contractor shall provide LADOT's Accounting Division with a daily receipt and the Contractor's own revenue collection statements as a verification of the revenue collected (see Section 6.C.3) and all ridership figures shall be reported in accordance with the RFP (see Section 6.C.3)

The proposer shall develop and provide a detailed security plan as part of the proposal that outlines procedures to protect farebox revenues against theft or fraudulent reporting and outline methodologies to reconcile revenues with appropriate boardings to evaluate ridership counts (see Section 6.C.3)

## **SECTION V. DOCUMENTS, RECORDS AND AUDITS**

### **A. Audits and Inspections**

1. The Los Angeles County Metropolitan Transportation Authority (LACMTA) may deem necessary, the Contractor shall make available to the City or possibly the LACMTA for examination, all of its records with respect to all matters covered by this Agreement. The City and LACMTA shall have the authority to audit, examine and make excerpts or transcripts from records, including all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other statistical data relating to all matters covered by this Agreement.
2. The City reserves the right to dispatch auditors of its choosing to any site where any phase of the project is being conducted. The City auditors shall be provided adequate and appropriate work space in order to conduct audits and shall be allowed to interview any employees of the Contractor.
3. It is agreed that examination of books, records, trip logs, driver time sheets and payroll records, reports, and accounts of the Contractor will be made in accordance with generally accepted auditing standards applicable in the circumstances and that as such, said examination does not require a detailed audit of all transactions. Testing and sampling methods may be used in verifying invoices and related reports submitted by the Contractor. Deficiencies ascertained

by the use of such testing and sampling methods by applying the percentage of error obtained from such testing and sampling to the entire period of reporting under examination will be binding on the Contractor and to that end shall be admissible in court to prove any amounts due to the City from records and figures in court to rebut the sampling method. In the event any deficiency in the amount of five percent (5%) or greater of the compensation payable to the City hereunder is ascertained, the Contractor agrees to pay the City for the entire cost of the audit as well as any other deficiencies, payments and liquidated damages due under this or any other provision of this contract within 60 days of receipt of the City's billing (see Section 11.A)

4. The City shall have the authority to make physical inspections and to require such physical safeguarding devices as locks, alarms, safes, etc., to safeguard property and/or equipment authorized by this Agreement. In the event the City requires equipment to be purchased beyond what was originally proposed, the Contractor has the right to renegotiate the hourly rate to reflect the cost of the equipment.
5. If a fiscal or special audit determines that the Contractor has billed the City for inaccurate or unsubstantiated revenue service hours or has reported inaccurate farebox or other revenues in its billings to the City, the Contractor shall be notified and given the opportunity to justify the inaccurate billings. The City shall determine the amount to be paid to the Contractor during the period of audit. If the Contractor fails to respond within fifteen (15) days from the notice date, the City shall make the final determination of disallowed billed revenue service hours and/or unreported farebox revenues and the findings will be incorporated in the final audit report. Reimbursed over billings shall be deducted from the Contractor's current or future invoices.

## **SECTION VI. STANDARD CONTRACT PROVISIONS**

Hereby incorporated by reference into this Contract are the following Standard Provisions for City Personal Services Contracts, revised October 2003, which are attached hereto as Attachment 1 and hereby included herein by reference.

### **A. Termination of Contract**

1. The City may terminate this Agreement without cause, in whole or in part, at any time by written notice to the Contractor. The Contractor shall be paid its reasonable costs, including contract closeout costs, and profit on work performed up to the time of termination. The

Contractor shall promptly submit its termination claim for payment to the City. If the Contractor has any property in its possession belonging to the City, the Contractor shall account for the same, and dispose of it in the manner the City directs.

2. Upon receiving notice of Agreement termination the Contractor will begin transition of service and equipment back to the City and the City's designated replacement contractor in an amount of time to be determined by the City.
3. If the City determines that the Contractor has not materially complied with the terms of the contract, the City shall notify the Contractor of such noncompliance and reserves the right to terminate this Agreement. Reasons for such termination may include, but shall not be limited to the failure to provide service within agreed performance standards as evidence by City inspection, through surveys, or by communications from users of a service. Termination shall be effected by giving a notice of termination to the Contractor setting forth the manner in which the Contractor is in default. In the event of termination for default of Contract, the Contractor shall only be paid the contract price for supplies delivered and accepted, and for services performed in accordance with the manner of performance set forth in this Agreement.
4. In the event of contract termination due to noncompliance, the Contractor may request a delay in such termination in order to present an appeal to City Council.
5. In case of default by Contractor, the City reserves the right to procure the articles or services from other sources and to hold the Contractor responsible for any excess costs incurred by the City.

#### B. Contractor Evaluation Program

1. At the end of this contract, the City will conduct an evaluation of the Contractor's performance. The City may also conduct evaluations of the Contractor's performance during the term of the contract. As required by Section 10.39.2 of the Los Angeles Administrative Code, evaluations will be based on a number of criteria, including the quality of the work product or service performed the timeliness of performance, the Contractor's compliance with budget requirements, and the expertise of personnel that the Contractor assigns to the contract. The Contractor will be provided with a copy of the final City evaluation and allowed 14 calendar days to respond. The City will use the final City evaluation, and any response from the Contractor,

to evaluate proposals and to conduct reference checks when awarding other personal services contracts.

## **SECTION VII. MISCELLANEOUS**

- A. Neither party assumes any liability for failure to fulfill the terms and conditions of this Agreement caused by events beyond the reasonable control of such party. Such events may include, but are not limited to the following: natural disaster, acts of the government in either its sovereign or contracted capacity, a failure or shortage of fuel, water, fuel oil or other utility or services, strikes, riots, fires, floods, epidemics, war, insurrection or other national or local emergency, freight embargo, impasse of routes due to construction, and unusually severe weather but in every case the failure to perform must be beyond the control and without the fault or negligence of either party or the Contractor's subcontractor(s).
- B. In the event that circumstances arise beyond the Contractor's control that significantly affect the cost of operation, the City would be willing to discuss, without obligation, the possibility of adjusting the hourly rate pertinent to the changed circumstances, without any commitment on the part of the City to make any such adjustment.
- C. This Agreement, the RFP, and all Addenda to the RFP, and this Proposal and all exhibits contain the entire understanding between the Contractor and City. No modification or addition to this Agreement shall have any affect whatsoever unless set forth in writing and signed by both parties hereto.
- D. Any item of work contained in either the RFP or the Proposal shall be performed by the Contractor as though it appeared in this Agreement. In the event of any conflict, the terms of this Agreement and the RFP govern over the Proposal unless specifically stated otherwise.
- E. Disputes regarding the interpretation or application of any provisions shall, to the extent reasonably feasible, be resolved through good faith negotiations between the parties. The City shall make every effort to limit the negotiating period for a time not to exceed 30 days. Failure to come to a negotiated settlement will allow the aggrieved party to seek recourse in the courts of law (Refer to the Standard Provisions for City Personal Services Contract, Appendix B, Section PSC-8 of the RFP).
- F. The failure of the City to insist upon strict performance by Contractor of any

provision hereunder in every one or more instances shall not constitute a waiver of such provision by City, nor shall, as a result, City relinquish any rights that it may have under this Agreement.

- G. This Agreement shall be binding on and insures to the benefit of the heirs, executors, administrators and assigns of the parties hereto.



**DASH Packages 1, 2 and 3**

**Revenue Service Hourly Rates & Line Item Expenses**

	Year 1	Year 2	Year 3
<b>Services</b>			
Hourly Rate	\$70.32	\$74.19	\$78.70
Line Item: Additional Service Cost	\$40,000	\$40,000	\$40,000
Line Item: Fuel Contingency	\$500,000	\$632,000	\$744,000
Line Item: GPS Vehicle Tracking System	\$600,000	0	0

**DASH Packages 1, 2 and 3**

**Additional Revenue Service Hourly Rate**

	Year 1	Year 2	Year 3
<b>Services</b>			
Hourly Rate	\$58.70	\$61.95	\$65.72

IN WITNESS WHEREOF, the City of Los Angeles and the Contractor have caused this Agreement to be executed by their duly authorized representatives.

Executed for:

The City of Los Angeles

Executed for:

Veolia Transportation Services, Inc.

\_\_\_\_\_  
Rita Robinson  
General Manager  
Department of Transportation

\_\_\_\_\_  
Mark Joseph  
Chief Executive Officer

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to Form and Legality:

Carmen A. Trutanich, City Attorney

ATTEST:

June A. Lagmay, City Clerk

\_\_\_\_\_  
Shelley I. Smith  
Assistant City Attorney  
City of Los Angeles

\_\_\_\_\_  
City Clerk  
City of Los Angeles

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Council File Number: \_\_\_\_\_

Contract Number: \_\_\_\_\_