

PARATRANSIT LOCAL SHARE AGREEMENT – RIDE DUPAGE
City of Naperville

This Paratransit Local Share Agreement – Ride DuPage (“Agreement”) is between Pace, the Suburban Bus Division of the Regional Transportation Authority, an Illinois municipal corporation (“Pace”), and the City of Naperville, an Illinois municipal corporation (“Sponsor”).

RECITALS

WHEREAS, Pace was established under the Regional Transportation Authority Act (70 ILCS 3615/1.01 et seq.) to aid and assist public transportation in the six-county northeastern Illinois area.

WHEREAS, article VII, section 10 of the Constitution of the State of Illinois (Ill. Const. art. VII, § 10) authorizes units of local government to contract or otherwise associate among themselves in any manner not prohibited by law or ordinance.

WHEREAS, the Intergovernmental Cooperation Act (5 ILCS 220/1 et seq.) authorizes and encourages intergovernmental cooperation.

WHEREAS, the parties are units of local government within the meaning of Article VII, Section 10 of the Constitution of the State of Illinois (Ill. Const. art. VII, § 10) and have the power and authority to enter into this Agreement.

NOW THEREFORE, in consideration of the mutual promises contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Effective Date.** This Agreement will be in effect beginning on January 1, 2022. If a party signs this Agreement but fails to date its signature, the date that the other party receives the signing party’s signature on this Agreement will be deemed to be the date that the signing party signed this Agreement.

2. **Service Description.** Demand response curb-to-curb paratransit service will be provided for eligible passengers as described in the attached Exhibit A (“Service”). The Service and its parameters are subject to change upon approval by Pace and the participating Service sponsor(s).

3. **Term and Termination.** This Agreement will remain in effect through December 31, 2022 unless earlier terminated by a party upon 30 days’ advance written notice to the other party in the event: (a) sufficient funds have not been appropriated to cover the required financial contribution by Pace or any other agency funding the Service; (b) Pace develops alternative public transportation services which, as determined by Pace, will better meet the transportation needs of the public; (c) Sponsor fails to make payments as required by section 6 of this Agreement; (d) Pace has materially failed to perform its obligations under this Agreement; or (e) Sponsor otherwise determines that the Service is not satisfactory.

4. **Service Provider.**

- (a) Pace will contract with one or more outside service providers to provide the Service (“contracted outside service provider(s)”). Pace will not be responsible for any failure to provide the Service due to circumstances beyond the reasonable control of Pace and/or Pace’s contracted outside service provider(s). Pace shall make every reasonable effort to have the Service restored as soon as practical. No fees will be charged by any contracted outside service provider for Service not performed.
- (b) Uber will also be available to provide the Service under a user-subsidy program with Sponsor subsidizing an Uber trip cost up to a maximum of \$25.00 per trip. Pace shall reimburse Uber for the applicable subsidy amount, bill Sponsor for that amount as reimbursement to Pace (which Sponsor shall pay within 30 days of receipt of the bill) and pay for the cost of Uber trip passenger reservations made through the Uber call center in connection with the Service.

5. **Reporting.** Pace shall provide Sponsor with electronic access to or, in the event electronic access is unavailable, a copy of the reports shown on the attached Exhibit B. Pace, in its sole discretion, may design additional reports, as needed.

6. **Local Share Funding.** Sponsor shall participate in the financial support of the Service by reimbursing Pace monthly for the local share incurred by Pace in providing the Service (“Local Share”). The Local Share will equal the total expense of the Service (“Total Expense”) less any fare revenue from the Service less any Pace subsidy for the Service (“Pace Contribution”) less any grants for the Service and will be calculated as follows (see Cost Estimate Worksheet attached as Exhibit C):

- (a) The Total Expense will equal the sum of the hourly Service expense and the per-trip Service expense. The hourly Service expense will be calculated by multiplying the number of vehicle Revenue hours by the hourly rate charged to Pace by Pace’s contracted outside service provider(s) delivering the Service. The per-trip Service expense will be calculated on a trip-by-trip basis. The operating expense will be the aggregate of rates and/or fees charged to Pace by Pace’s contracted outside service provider(s) delivering the Service. The Local Share billing will be determined using the miles allocated to each sponsor monthly.
- (b) The Pace Contribution will equal the lesser of: (1) 75% of the actual Operating Deficit attributed to a maximum of 8,452 vehicle Revenue hours or (2) \$345,736.
- (c) In 2022 only, Pace will remit a one-time lump-sum subsidy check to Sponsor in the amount of \$68,439 which amount represents 15% of Sponsor’s 2021 Estimated Local Share.
- (d) Sponsor shall pay Pace within 30 days of receiving the monthly bill for the Local Share. Sponsor shall mail payment to:

Pace, the Suburban Bus Division of the Regional Transportation Authority
550 W. Algonquin Road
Arlington Heights, IL 60005
Attention: Accounts Payable

7. **Independent Relationship.** Pace is an independent contractor and not an employee, agent, joint venture, or partner of Sponsor, and nothing in this Agreement will be construed as creating any other relationship between Pace and Sponsor or between any employee or agent of Pace and Sponsor. Pace employees will at all times remain employees of Pace, and Pace will be solely responsible for all aspects of their employment, including, without limitation, compensation, benefits, payment or withholding of taxes, Social Security, Medicare, unemployment or other insurance, and workers' compensation.

8. **Insurance.** Pace shall require its contracted outside service provider(s) and Uber to obtain and maintain insurance coverage and furnish Pace with evidence of such coverage, including a certificate of insurance. Pace shall provide Sponsor with a copy of the certificate of insurance upon written request by Sponsor.

9. **Indemnification.** Sponsor shall indemnify and defend Pace and Pace's officers, directors, employees, and agents from and against any and all liability, losses, damages, claims, suits, payments, settlements, judgments, demands, awards, expenses, and costs, including attorneys' fees, resulting from Sponsor's intentional or negligent acts or omissions concerning the performance of any of Sponsor's obligations under this Agreement. Pace shall indemnify and defend Sponsor and Sponsor's officers, directors, employees, and agents from and against any and all liability, losses, damages, claims, suits, payments, settlements, judgments, demands, awards, expenses, and costs, including attorneys' fees, resulting from Pace's intentional or negligent acts or omissions concerning the performance of any of Pace's obligations under this Agreement. No party will be liable for or be required to indemnify the other party for claims based upon the intentional or negligent acts or omissions of third persons. Upon written notice by the party claiming indemnification ("Claimant") to the indemnifying party ("Indemnitor") regarding any claim which Claimant believes to be covered under this section, Indemnitor shall appear and defend all suits brought upon such claim and shall pay all costs and expenses incidental thereto, but Claimant has the right, at Claimant's option and expense, to participate in the defense of any suit, without relieving Indemnitor of Indemnitor's obligations under this section.

10. **Force Majeure.** A party will not be held liable to any other party for damages nor be deemed to have breached this Contract for failure or delay in performing any obligation under this Contract if the failure or delay is caused by or results from causes beyond the reasonable control of and without the fault or negligence of the affected party, including war, fire, flood, other acts of God, civil disturbance, a terrorist act, pandemic, epidemic, or a labor strike or lockout. The affected party will promptly notify the other party of such force majeure circumstances, specifying the cause and the expected duration of the delay, and will promptly undertake all reasonable steps necessary to cure the force majeure circumstances. If a condition of force majeure continues for more than 30 consecutive days, this Contract may be terminated immediately for convenience at the option of Pace after written notice. Where an event of force majeure occurs after a party's failure or delay in performance, the breaching party will not be released from liability.

11. **Compliance with Laws.** The parties shall comply with all local, state, and federal laws, statutes, ordinances, and rules applicable to this Agreement, including but not limited to section 2-105(A)(4) of the Illinois Human Rights Act (775 ILCS 5/2-105(A)(4)).

12. **Headings.** The headings in this Agreement are for reference and convenience only and will not affect the meaning or interpretation of this Agreement.

13. **Waiver.** Failure of a Party to exercise any right or pursue any remedy under this Agreement will not constitute a waiver of that right or remedy.

14. **Binding Effect.** This Agreement will be binding upon the parties and their respective directors, officers, employees, agents, representatives, successors, and approved assigns.

15. **Entire Agreement and Non-Reliance.** This Agreement, including any introductory recitals and any attached exhibits, which are hereby incorporated into and made a part of this Agreement, constitutes the entire agreement between the parties and supersedes any prior written or oral understandings, agreements, or representations between the parties that may have related in any way to the subject matter of this Agreement, and no other written or oral warranties, inducements, considerations, promises, representations, or interpretations, which are not expressly addressed in this Agreement, will be implied or impressed upon this Agreement. Sponsor represents and warrants that: (a) Sponsor has conducted such independent review, investigation, and analysis (financial and otherwise) and obtained such independent legal advice as desired by Sponsor to evaluate this Agreement and the transaction(s) contemplated by this Agreement; (b) Pace has not made any representations or warranties to Sponsor with respect this Agreement and the transaction(s) contemplated by this Agreement, except such representations and/or warranties that are specifically and expressly set forth in this Agreement; and (c) Sponsor has relied only upon such representations and/or warranties by Pace that are specifically and expressly set forth in this Agreement and has not relied upon any other representations or warranties (whether oral or written or express or implied), omissions, or silences by Pace. Without limiting any representations and/or warranties made by Pace that are specifically and expressly set forth in this Agreement, Sponsor acknowledges that Pace will not have or be subject to any liability to Sponsor resulting from the distribution to Sponsor or Sponsor's use of any information, including any information provided or made available to Sponsor or any other document or information in any form provided or made available to Sponsor, in connection with this Agreement and the transaction(s) contemplated by this Agreement.

16. **Conflict.** In the event of a conflict or ambiguity between the terms and conditions of this Agreement and any exhibit to this Agreement, the terms and conditions of this Agreement will control.

17. **Survival.** Any provision of this Agreement that imposes an obligation after termination or expiration of this Agreement will be deemed to survive termination or expiration of this Agreement.

18. **Severability.** If any provision of this Agreement is held invalid or unenforceable by an Illinois court of competent jurisdiction, that provision will be deemed severed from this Agreement and the remaining provisions of this Agreement will remain in full force and effect.

19. **Assignment.** No party may assign, delegate, or otherwise transfer all or part of its rights and obligations under this Agreement without the prior written consent of the other party.

20. **Amendment.** No changes, amendments, or modifications to this Agreement will be valid unless they are in writing and signed by the duly authorized signatory of each party.

21. **Notice.** Any notice under this Agreement must be in writing and given in the following manner:

- (a) by personal delivery (deemed effective as of the date and time of delivery);
- (b) by commercial overnight delivery (deemed effective on the next business day following deposit of the notice with a commercial overnight delivery company);
- (c) by registered or certified mail, return receipt requested, with proper postage prepaid (deemed effective as of the second business day following deposit of the notice in the U.S. mail); or
- (d) by facsimile with confirmation of transmission (deemed effective as of the date and time of the transmission, except the effective date and time will be 8:00 a.m. on the next business day after transmission of the notice if transmitted during non-business hours).

Business days are defined as Monday through Friday, excluding federal holidays. Business hours are defined as 8:00 a.m. to 5:00 p.m. Central Time on Monday through Friday, excluding federal holidays. The notice must be addressed as follows or to such other address as either party may from time to time specify in writing:

If to Pace:

550 W. Algonquin Road
Arlington Heights, IL 60005
Attention: Executive Director
Facsimile No.: (847) 228-4205

If to Sponsor:

City of Naperville
400 S Eagle Street
Naperville, IL 60540
Attention: Douglas A. Krieger
Facsimile No.: (630) 420-6111

22. **Governing Law, Jurisdiction, and Venue.** This Agreement will be governed by and construed in accordance with the laws of the State of Illinois without regard to principles of conflicts of law, and the parties shall submit to the exclusive jurisdiction and venue of the state courts of DuPage County, Illinois for any dispute arising out of or related to this Agreement.

23. **Counterparts.** This Agreement may be executed in counterparts, each of which when so executed and delivered will be deemed to be an original and all of which when taken together will constitute one and the same agreement.

24. **Electronic Signatures.** This Agreement may be executed through the use of electronic signatures. Electronic signatures and signatures scanned and transmitted via email will be deemed original signatures for purposes of this Agreement.

25. **Authorization.** The signatories to this Agreement represent and warrant that they have full authority to sign this Agreement on behalf of the party for whom they sign.

The parties have caused this Agreement to be executed by their respective duly authorized signatory on the dates below.

PACE

SPONSOR

By: _____
Signature

By: _____
Signature

Print Name: Melinda J. Metzger

Print Name: _____

Print Title: Interim Executive Director

Print Title: _____

Date: _____

Date: _____

EXHIBIT A
RIDE DUPAGE SERVICE DESCRIPTION

TRIP RESERVATION METHOD

Monday through Friday: 6:00 a.m. to 6:00 p.m.
Saturday, Sunday, and Holidays: 8:00 a.m. to 5:00 p.m.

Reservations will be accepted at the Pace call center one to seven days in advance of the day of the Service.

Trips requested on the same day of the Service may be accommodated if the schedule allows.

Subscription service (as defined by Pace) is allowable. Passengers are to contact the Sponsor to apply for subscription service.

Uber may be accessed through the Uber application on a mobile device or the Uber call center.

SERVICE AREA

DuPage County and the surrounding areas.

Uber will be available for trips within DuPage County only.

SERVICE HOURS

Seven days a week, 24 hours a day, including holidays.

Whenever possible, pick-up times are negotiated to optimize the efficiency of daily routes.

ONE-WAY FARE

\$2.00 to load vehicle and \$1.00 for every mile thereafter.

Registered passengers are allowed one personal care attendant (PCA) or companion at no additional charge. Additional PCAs or companions are limited to vehicle capacity and must pay the full applicable fare. This includes children of all ages.

Registered passengers will be responsible for the first \$5.00 of an Uber trip cost and for the Uber trip cost in excess of the maximum \$25.00 per trip subsidy.

SERVICE CAPACITY

Service demand dictates service capacity. Denials of trip reservations are not allowed for trip reservations made one to seven days in advance of the Service.

PASSENGER ELIGIBILITY

Sponsors of Ride DuPage or their respective designee(s) determine passenger eligibility.

PASSENGER REGISTRATION FOR SERVICE

Sponsors shall submit registration forms to the Pace call center through an email box designated by Pace. Pace shall enter registrations within three to five business days. Pace shall maintain a database of registered passengers. Passengers must be registered for the Service.

Sponsors shall provide Pace with the name, address, email address, and mobile phone number for each eligible passenger that Sponsors want registered to use Uber. Pace shall provide that information with Uber on a weekly basis.

EXHIBIT B

Report(s) Description

The following is a list and brief description of each category of reports which have been designed and are being produced to generate data for the Ride DuPage Program.

1. **Detailed Funding Source (Sponsor) Report**

The intent of this report is to produce a detailed listing of one-way trips delivered for each Ride DuPage funding source (Sponsor) for a user specified period of time. The normal report period would be monthly, but the report is intended to have the flexibility to produce data for shorter or longer periods as specified by the user.

The report is intended to match the design and content, as closely as possible, of the Detailed Provider Report. Data provided for each trip will include associated trip data such as rider name, scheduled pick-up time, actual pick-up time, point of origin address, destination address, funding sources (Sponsors), total cost of the trip, fare for the trip, distance of the trip, revenue hours (if applicable). The exact content of the report in its final form may vary depending on the feasibility of including the large amount of data specified in one report. It is possible that the report may be broken into one or more additional reports to make the data more manageable for the user.

Plans call for the report to be sorted by provider, funding source, rider, and fare type.

2. **Monthly Funding Source (Sponsor) Invoice Report**

The intent of this report is to produce one or more summary reports of trips delivered for each funding source (Sponsor) for the purposes of generating an invoice type report which may be used to bill funding sources for transportation provided. The normal report period would be monthly, but the report is intended to have the flexibility to produce data for shorter or longer periods specified by the user.

Data provided for each trip will include associated trip data necessary to provide an accounting of the amount owed by each funding source for the specified period, such as the number of one-way trips by Fare Type, total cost of the trips, total expected fare, liquidated damages deducted, the total net reimbursement. The exact content of the report in its final form may vary depending on Pace and provider needs. The report may be broken into one or more additional reports if that design is more useful.

Plans call for the report to be sorted by provider, funding source, fare type, and rider.

3. **Missed Trip Report**

The Missed Trip Report is intended to produce a list of all trips picked up 61 or more minutes after the scheduled time; the Ride DuPage Program service guideline defining a missed trip. Sufficient detail will be provided to identify the trip within Trapeze and to

give the report user the necessary information for review.

4. **On-Time Performance Report**

The On-Time Performance Report (late pickups) is intended to produce a list of all trips picked up 31 or more minutes late; the Ride DuPage Program service guideline defining a late trip. Sufficient detail will be provided to identify the trip within Trapeze and to give the report user the necessary information for review.

5. **Other Reports**

In addition to the reports described above, reports currently generated can also be made available. Reports currently available include:

Ridership by Category Report – A summary report by funding source indicating trips by fare type, late trips, missed trips, revenue hours, denials, and miles.

Client Trip List Report – A detailed listing alphabetically by rider last name of all trips provided during the specified period. Data included for each trip is rider name, pick-up address, drop-off address, fare type, and funding source.

NOTE: Pace, in its sole discretion, may design additional reports, as needed.

Exhibit C

COST ESTIMATE WORKSHEET

2022 LOCAL SHARE AGREEMENT

PROJECT: **NAPERVILLE / LISLE**

REVENUE	\$ 135,310
EXPENSE	\$1,034,692
DEFICIT	\$ 899,382
NFI GRANT	\$ 156,325
PACE SUBSIDY	\$ 345,736
CALL CENTER GRANT	\$ 165,434
PACE CALL CENTER SUBSIDY	\$ 41,359
¹ LOCAL SHARE	\$ 190,528
ONE-TIME LUMP SUM 2021 SUBSIDY PAYMENT	\$ 68,439

Naperville/Lisle Partners	% Allocation of Lump Sum	Funding Allocation
City of Naperville	53.30%	\$36,478
Townships	46.70%	
Totals	100.00%	
Townships		
Lisle Township	22.80%	\$15,604
Naperville Township	12.45%	\$8,521
Wheatland Township	11.45%	\$7,836
Totals	46.70%	\$68,439

RIDERSHIP 21,200

VEHICLE HOURS 8,452

¹ Local Share for Naperville/Lisle Partners is to be allocated monthly based on total revenue miles with 52% of the Township miles allocated to the City of Naperville. Note, the City of Naperville includes a portion of DuPage Township.