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2011

PARATRANSIT SERVICE PROVIDER AGREEMENT

BY AND BETWEEN

SUBURBAN BUS DIVISION

OF THE

REGIONAL TRANSPORTATION AUTHORITY (PACE)

AND

Village of Orland Park
SERVICE PROVIDER

PROVIDER

Village of Orland Park
14700 S. Ravinia Avenue
Orland Park, IL 60462

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2011 PARATRANSIT SERVICE PROVIDER AGREEMENT

THIS AGREEMENT, made and entered into this 28th day of December, 2010, to be effective as of January 1, 2011, by and between the **SUBURBAN BUS DIVISION OF THE REGIONAL TRANSPORTATION AUTHORITY**, operating under the name and hereinafter referred to as "Pace" and "Service Provider" as shown on the cover page to this Agreement.

WITNESSETH:

WHEREAS, the Regional Transportation Authority was created as a single authority to be responsible for providing, aiding and assisting public transportation in the northeastern area of the State of Illinois, including financial review and facilitation of public transportation and its providers, (70 ILCS 3615/1.02); and

WHEREAS, Pace was created as the Suburban Bus Division of the Regional Transportation Authority to be responsible for providing public transportation by bus, (70 ILCS 3615/3A.01); and

WHEREAS, Pace may enter into service provider agreements with governmental and private sector entities to obtain public bus service and to provide for payment of operating, capital and other expenses upon such terms and conditions as Pace shall provide in any such agreements; and

WHEREAS, Pace desires to have Service Provider provide the Transportation Services as described in this Agreement and Service Provider desires to provide such services;

NOW, THEREFORE, in consideration of the promises and agreements herein set forth, Pace and the Service Provider **HEREBY AGREE** as follows:

ARTICLE I

DEFINITIONS

Agreement Term. The term specified in Section 11.1 of this Agreement, as such term may be reduced or extended pursuant to the provisions of this Agreement.

Approved Budget. The budget of approved expenses attached to this Agreement as Exhibit A, as the same may be revised from time-to-time pursuant to this Agreement.

Approved Maximum Service Reimbursement Amount. The amount shown on the Approved Budget for the line designated "Approved Maximum Service Reimbursement Amount," as such amount may be increased or decreased during the Agreement Term pursuant to the provisions of this Agreement.

Equipment. Pace Equipment and Service Provider Equipment.

- (d) any expense for local government taxes, fees, licenses or other charges unless specifically included in the Approved Budget or its supporting documents or unless approved in writing by Pace;
- (e) any expense not made in conformance with the Approved Budget or at the direction or with the approval of Pace or pursuant to a requirement of federal or state law determined by Pace to be applicable;
- (f) any expense for insurance policies which are duplicative of coverage provided under Pace's Risk Management Program (as provided in Article XIII of this Agreement);
- (g) any expense resulting from the amortization or payment of any debt incurred prior to the Agreement Term or incurred without the approval of Pace;
- (h) any interest expense unless approved in writing by Pace;
- (i) any sinking fund expense;
- (j) any expense resulting from the amortization of any intangible cost to the extent it does not meet the evaluative criteria for allowable amortization established by Pace from time to time;
- (k) any depreciation expense;
- (l) any non-cash expense incurred or accrued without Pace's prior written approval; and
- (m) any expenses related to service identified in Exhibit D as not being reimbursed by Pace.

Risk Financing Program. The risk management program established by Pace to consolidate into a single comprehensive system the administration of all bodily injury and property damage claims asserted against Pace and Service Providers arising from Transportation Services provided with Pace vehicles, as the same may be from time to time amended or revised, as further described in Section 8.2 of this Agreement.

Transportation Revenue. All amounts properly classified as revenue or income generated by, derived from, attributable to or related to the Transportation Services during the Agreement Term, regardless of the date of collection. This term shall not include any funds agreed to by Pace to be designated as local share in an Approved Budget.

Transportation Services. The services specified in Subsection 2.1A of this Agreement and Exhibit D as the same may be modified from time to time pursuant to the provisions of Subsection 2.1B of this Agreement.

Vehicle. Any means of transportation or conveyance such as, but not limited to, a bus, a truck, a van, or an automobile.

Pace at least 45 days in advance of the date on which the change is proposed to take effect. Such change shall not be implemented unless expressly approved in writing by Pace. Notwithstanding the foregoing, Service Provider may implement minor operational changes that will neither (a) affect any fare or system for passes, transfers, interconnections or similar programs nor (b) substantially change the service area or service hours provided Service Provider first gives Pace at least 30 days notice of its intent to make such minor change and if Pace has not disapproved such proposed minor change in writing within 15 days following receipt of such notice. Service Provider may, in addition, make minor operational changes of an emergency nature without Pace approval; provided, however, that no such change shall be made that would increase reimbursement by Pace and provided, further, that Service Provider shall give Pace notice of each such minor change as soon as possible, and in no event later than 12 hours after it is made.

- (2) **Pace Initiated Changes.** Pace may modify the Transportation Services upon written notice to the Service Provider, to reflect decisions made by Pace with regard to the service design and operation of the service. Pace further reserves the right to modify the Transportation Services described in Exhibit D and to adjust the Approved Budget.
- (3) **Pace Discretion.** Nothing in this Subsection 2.1B shall be construed to require Pace to approve any change to the Transportation Services specified in Subsection 2.1A, and Pace may withhold its approval of any such change in its sole discretion.

Section 2.2. Force Majeure. Service Provider shall not be in default in its obligation to provide Transportation Services as herein required to the extent that it is unable to provide such services as a result of abnormally severe weather or road conditions, strikes or other labor stoppages, unavailability of sufficient vehicles through no fault of the Service Provider and other events and conditions that are beyond the reasonable ability of Service Provider to control or remedy and that render provision of such service impossible or not reasonably feasible. In any such case, Service Provider shall provide such modified or reduced services as are practicable under the circumstances and shall use all reasonable efforts to restore full services in accordance with this Agreement at the earliest possible time. Immediately upon the occurrence of, or the imminent threat of the occurrence of, any such event or condition, and prior to implementing any reduced or modified service, Service Provider shall notify Pace by telephone, with written confirmation as soon as possible thereafter, of:

- (1) The nature of the event or condition;

D. Service Provider Acceptance of Pace Equipment. Service Provider shall accept delivery of Pace Equipment at such times and places within the six county region as Pace shall designate upon notice to Service Provider that such Equipment is available for delivery. In case of any unreasonable delay, neglect, refusal, or failure to accept any Pace Equipment at the time and place designated, all costs and expenses incurred by Pace arising from such delay, neglect, refusal or failure shall be reimbursed by Service Provider immediately upon written demand by Pace. Such costs and expenses shall not be an Operating Expenditure for purposes of this Agreement.

E. Pace Equipment Returns and Substitutions. Any Pace Equipment that Pace designates to be returned or transferred shall, upon reasonable notice, be delivered by Service Provider at the time and to the place designated by Pace within the six county region. Service Provider also shall accept delivery of any substitute Pace Equipment at the time and place designated by Pace within the six county region. All terms and conditions of this Agreement shall apply to such substitute Pace Equipment.

F. Surplus Pace Equipment. Any Pace Vehicle not scheduled for use in providing or supporting the Transportation Services and not required as a spare, as determined by Pace, for a period of ten days or more shall be considered surplus Pace Equipment. Any other Pace Equipment not required, as determined by Pace, for providing Transportation Services or other services pursuant to this Agreement shall be considered surplus Pace Equipment. Pace may require Service Provider either to return such surplus Pace Equipment to Pace, to transfer it to Pace's designee or to store it at such locations as Pace may direct.

G. Pace Right to Repossess Pace Equipment. Upon the failure of Service Provider to return or deliver any Pace Equipment as directed by Pace, or if Service Provider fails to use, repair or maintain any Pace Equipment as required by this Agreement, Service Provider shall permit Pace, without demand, legal process, or a breach of the peace, to enter any premises where the Pace Equipment is or may be located and to take possession of and remove the Pace Equipment. Service Provider shall not prosecute or assist in the prosecution of any claim, suit, action, or other proceeding arising out of any such repossession by Pace. Service Provider shall reimburse Pace for any and all costs incurred by Pace in connection with actions taken by Pace pursuant to this Subsection. Such costs shall not be Operating Expenditures under this Agreement.

H. Pace Equipment Inspection. Pace shall have the right to inspect any and all Pace Equipment or cause any or all Pace Equipment to be inspected at any time, with or without

COMPLIANCE WITH THE REQUIREMENTS OF ANY LAW, RULE, SPECIFICATION OR CONTRACT; OR ITS NONINFRINGEMENT OF ANY PATENT, TRADEMARK OR LICENSE. Provided that Pace or the manufacturer has supplied required warranty documents to Service Provider, Service Provider shall take all actions it is authorized to take under this Agreement to preserve any and all manufacturers' warranties regarding the Pace Equipment. This Agreement shall not operate to release or waive any rights of Pace or Service Provider against any person not a party hereto, including the manufacturer of the Pace Equipment.

Section 3.2. Maintenance of Pace Equipment by Service Provider.

A. Maintenance Requirements. Service Provider shall at all times maintain all Pace Equipment in good mechanical condition in conformity with all applicable safety practices, laws and regulations. In addition, Service Provider shall at all times maintain all Pace Equipment in accordance with the terms and provisions of this Agreement, all maintenance policies, practices, procedures, conditions and requirements contained in the Pace Paratransit Manual and all manufacturers' maintenance schedules and warranty requirements. Service Provider shall perform all preventive maintenance required pursuant to the Pace Paratransit Manual. Service Provider shall keep both the exterior and interior of all Pace Vehicles neat, clean and in first class condition at all times. Service Provider shall be responsible to assure that all Pace Vehicles are maintained at all times so as to meet the requirements of the Illinois Department of Transportation and to assure that all Pace Vehicles have valid Illinois Department of Transportation stickers affixed to them at all times.

B. Maintenance Records. Service Provider shall prepare and maintain accurate records relating to all maintenance work performed by or for Service Provider on all Pace Equipment and in that regard shall comply with the provisions of Article VII of this Agreement and with all applicable Pace policies, practices, procedures, conditions and requirements as set forth in the Pace Paratransit Manual. Service Provider shall maintain a separate maintenance file for each Pace Vehicle containing all maintenance records pertaining thereto. Service Provider shall also complete, maintain and transmit to Pace all maintenance forms required in the Pace Paratransit Manual, and any other records requested by Pace including, without limitation, Vehicle maintenance records, fuel consumption records and all records required under Pace's preventive maintenance program.

ARTICLE IV

EMPLOYEES

Section 4.1. Compliance with Federal, State and Local Laws. Service Provider agrees that with respect to persons employed by it to provide the Transportation Services and Other Services, it will comply with all applicable federal, state, and local labor laws including, but not limited to, any and all laws relating to the minimum wages to be paid to its employees, limitations upon the employment of minors, minimum fair wage standards for minors, the payment of wages due employees, and all applicable regulations established to protect the health and safety of employees, passengers, and the public-at-large. Service Provider also agrees to provide the employee protection, if required, under Section 13(c) of the Urban Mass Transportation Act of 1964, as amended, 49 U.S.C. ' 1609(c), and Section 2.16 of the Regional Transportation Authority Act, (70 ILCS 3615/2.16), for persons employed by it to provide the Transportation Services.

Section 4.2 Employees. Service Provider shall employ only such persons as are competent and qualified to provide the Transportation Services in accordance with the requirements of this Agreement and Pace policies, practices, procedures and standards. All employees shall meet all applicable qualifications established by federal, state and local laws and regulations. Drivers shall display proper courtesy toward passengers and maintain a neat and clean appearance. Service Provider shall comply with all federal and Pace requirements relating to drug and alcohol testing. Service Provider shall participate in driver training programs, if any, established by Pace during the Agreement Term and shall comply with driver and safety standards set forth in the Pace Paratransit Manual. Failure by Service Provider or any Third Party Provider of Service Provider to comply with said requirements shall constitute grounds for nonpayment of the Service Reimbursement Amount for the duration of such noncompliance.

Section 4.3. Employment Contracts and Labor Agreements. Service Provider shall notify Pace of any labor negotiations being conducted with its employees and shall keep Pace fully informed of the status and progress of such negotiations.

ARTICLE V

NON-DISCRIMINATION, EQUAL EMPLOYMENT AND BUSINESS OPPORTUNITY

Section 5.1. Compliance With Federal, State and Local Laws. Service Provider shall comply with all applicable federal, state and local anti-discrimination and equal employment and business opportunity laws and regulations, including, but not limited to, the Age Discrimination in Employment Act, as amended, 29 U.S.C. ' ' 621 et seq., Title

Section 6.2. Records. Service Provider shall create and maintain accurate and complete records of all Transportation Services performed, all time spent, all materials, equipment and supplies purchased, and costs incurred in the performance of the Transportation Services pursuant to this Agreement, including all records required by this Agreement, the Pace Paratransit Manual or any applicable law or regulation. Unless Pace shall consent in writing to the destruction of any such records, and except for records required to be delivered to Pace at the end of the Agreement Term, Service Provider shall make said records available for review, inspection and audit in accordance with Section 6.3 below during the entire Agreement Term and for three years thereafter, or such longer period as may be required by law or any applicable grant; provided, however, that prior to the disposal or destruction of any such record by Service Provider following said period, Service Provider shall give notice to Pace of any record or records to be disposed of or destroyed and the intended date, which shall be at least 90 days after the effective date of such notice, of disposal or destruction. Pace shall have 90 days after receipt of any such notice to give notice to Service Provider not to dispose of or destroy said record or records and to require Service Provider to deliver such record or records to Pace or its designee, at Pace's expense, on a confidential basis if appropriate.

Section 6.3. Inspections and Audits. Pace shall have the right, with or without prior notice to Service Provider, to review, inspect and audit all Transportation Services performed pursuant to this Agreement, and all information and records related thereto, at all reasonable times during and following the performance of the Transportation Services. The phrase "all information and records related thereto" as used in this Section shall mean all information and records under the control or supervision of, or reasonably available to, Service Provider relating to this Agreement or the Transportation Services that are reasonably necessary for Pace to verify or audit Service Provider's performance under this Agreement, or the accuracy or appropriateness of any Operating Expenditure or portion thereof, ridership information, or Service Provider's compliance with this Agreement or any portion thereof, including but not limited to all data, samples, records, reports, documents, memoranda, maps, estimates, specifications, notes, studies, tapes, photographs, film, computer programs or drawings, whether in preliminary, draft, final or other form. Pace shall perform such review, inspection or audit in a manner that will not unduly delay or interfere with Service Provider's performance under this Agreement. Service Provider shall cooperate with Pace, and provide reasonable facilities to Pace to assist Pace in any such review, inspection or audit. Pace may perform any such review, inspection or audit

injury, death, or property damage arising directly out of the provision of Transportation Services provided with vehicles owned by Pace as described in this Agreement, within the scope of Pace's Self-Insured Retention and up to the liability limits of such excess insurance that Pace may purchase, *subject to the following terms, conditions, and exclusions:*

- (a) Pace specifically excludes from insurance coverage afforded to Service Provider and Third Party Provider herein any claims, actions, damages arising as the result of willful and wanton, reckless, or intentional conduct of Service Provider and/or Third Party Provider, its officers, agents, employees, contractors, sub-contractors, agents or volunteers.
- (b) Pace specifically excludes from insurance coverage afforded to Service Provider and Third Party Provider herein claims of injury or death brought directly or indirectly against Pace, the Service Provider, or the Third Party Provider by any employee of the Service Provider, the Third-Party Provider, or any contractors or sub-contractors of the Service Provider or Third Party Provider arising out of or in connection with the Transportation Services described in this Agreement.
- (c) The policies of excess insurance purchased by Pace and Pace's Self-Insured Retention shall be primary over insurance carried by the Service Provider or its Third Party Provider for claims within the scope of Pace's Risk Financing Program. Any insurance or self insurance maintained by Service Provider and Third Party Provider shall be in excess of Pace's Self Insured Retention and the policies of excess insurance purchased by Pace, without right of contribution, for claims within the scope of Pace's Risk Financing Program.
- (d) The Service Provider and its third party provider shall be named as additional insureds in all policies of excess insurance for auto liability coverage purchased by Pace above its self-insured retention.
- (e) Service Provider and/or Third Party Provider shall provide immediate *written* notice of any and all accidents, incidents, claims, and lawsuits to Pace, in the form provided in accordance with the provisions of the Pace Paratransit Manual, including promptly updating Pace in writing when a previously reported incident or

Section 8.3. Loss Prevention. Service Provider shall, upon written notice from Pace specifying and documenting claims or other evidence of incompetence, inattention, carelessness or other fault on the part of Service Provider or any of Service Provider's employees, promptly take all lawful and reasonable steps to prevent claims or losses as a result of such incompetence, inattention, carelessness or other fault. This Section shall not, however, be construed to require Service Provider to take any action in violation of its obligations under any labor agreement or other employment contract.

Section 8.4. Requirements for non-Pace Vehicles. Claims arising from non-Pace owned Vehicles are not within the scope of the Pace Risk Financing Program. The Service Provider shall provide the following liability insurance coverage for all claims arising out of non-Pace owned Vehicles used in providing the Transportation Services:

- (1) For all taxicabs; the minimum Automobile Liability coverage, including Uninsured and Underinsured Motorists coverage, required by law, and
- (2) for all other vehicles; commercial Automobile Liability Insurance Coverage with a minimum Combined Single Limit (CSL) of \$5,000,000 Each Occurrence and \$5,000,000 Aggregate and Commercial General Liability Coverage with at least the following limits:
 - \$5,000,000 General Aggregate
 - \$5,000,000 Each Occurrence Limit
 - \$5,000,000 Products/Completed Operations Hazard Aggregate Limit
 - \$5,000,000 Personal & Advertising Injury Liability Limit
 - \$10,000 Medical Expense Limit (Per Person)

Each Insurance Company providing all Pace required coverage must have a minimum A.M. Best rating of A- VII using the most current data available from A.M. Best Property/Casualty Rating Company.

Contractor, Third Party Provider or any subcontractor shall name Pace Suburban Bus Service as additional insured in its liability policies, as set forth below, and agrees to waive and will require its insurers to waive all rights against the other party, as relates to this Agreement on all of the insurance coverage required under this Agreement.

The insurance policies shall be endorsed to provide that the Suburban Bus Division of the Regional Transportation Authority d/b/a Pace, and the Regional Transportation Authority and their employees are named as additional insured for "liability for 'bodily injury', 'property damage', and 'personal injury' caused in whole or in part, by our acts or omissions or the acts or omissions of those acting on our behalf: (a) in the performance of our ongoing operations; or (b) for claims brought on behalf of our employees, agents, or subcontractors and their employees," in a

intentional conduct of the Service Provider or Third Party Provider and is specifically excluded from this indemnification and insurance coverage, including self-insurance.

Service Provider and its Third Party Provider shall indemnify, hold harmless, and defend Pace and the Regional Transportation Authority, their board members, officers, employees, agents and attorneys from and against (a) all auto liability claims, suits, losses, damages and expenses, which may arise out of the operation of transportation services provided with non owned Pace vehicles in providing services pursuant to the 2011 Paratransit Service Provider Agreement; (b) any claims, suits, actions, damages which arise out of the willful and wanton, reckless or intentional acts of the Service Provider or its Third Party Provider in the performance of this agreement; and (c) claims brought directly or indirectly against Pace by an employee of the Service Provider, or an employee of Service Provider's contractors or sub-contractors (Third Party Provider), or arising out of any injury or death of Service Provider's employee, or an employee of Service Provider's contractors or subcontractors (Third Party Provider), in connection with the Transportation Services described in this Agreement..

The indemnities contained in this Section shall survive termination of this Agreement.

Section 9.2. Service Provider's Damages. Except as expressly provided in Article VIII or Article IX of this Agreement, Pace shall not be responsible to Service Provider or to any of its officers, employees, agents or attorneys for any loss of business or other damage caused by an interruption of the Transportation Services, or for the time lost in repairing or replacing any Pace Equipment, or for any loss, injury, or damage arising out of or relating to Pace's failure to deliver Pace Equipment, or for any other losses or damages sustained by the Service Provider hereunder. Except as expressly provided in Article VIII or Article IX of this Agreement, Pace assumes no liability or responsibility for any acts or omissions of Service Provider, or of Service Provider's officers, employees, agents or attorneys, or for any property of Service Provider or any other person that is damaged, lost, or stolen in the performance, or as a result of the performance, of this Agreement.

ARTICLE X

PAYMENT, BUDGET AND ACCOUNTING

Section 10.1. Maximum Service Reimbursement Amount. Pace hereby agrees to pay the Service Provider a service reimbursement in an amount as limited by the Approved

- (3) Payments shall not exceed the Approved Maximum Service Reimbursement Amount. Any payments made after January 1, 2011 pursuant to any prior reimbursement agreement between the parties whose term extended into calendar year 2010 shall be deemed to be payments made under this Agreement with the exception of payments due for service provided prior to January 1, 2011.
- (4) No payment shall be made with respect to any Operating Expenditure incurred or accrued in violation of this Agreement or any provision of the Pace Paratransit Manual.

Section 10.4. Funding Availability. Notwithstanding anything to the contrary, including in particular (but not limited to the provisions of Section 10.1), it is expressly agreed that the obligation of Pace to pay the Service Reimbursement Amount shall be limited to the availability of funds from Pace's revenues and budget for Pace's fiscal year so that in the event Pace determines that funds are not available, Pace's obligations to pay any such unpaid part or parts of the Service Reimbursement Amount shall be terminated forthwith and Pace shall have no further obligations to make any payments to Service Provider under the Agreement. In the event that Pace determines that no funds will be available to pay the Service Reimbursement Amount, the Service Provider shall be given written notice thereof in accordance with Section 11.2.

Section 10.5. Transportation Revenue. All Transportation Revenue shall be the property of the Service Provider. Service Provider shall comply with Pace policies, practices and procedures relating to the collection, security, and accounting of all Transportation Revenue as set forth in the Pace Paratransit Manual. Should the Service Provider decide to allow any passengers to travel at less than the minimum fares for paratransit established by the Pace Board, then the difference between the minimum Pace fare and fares charged shall be funded by the Service Provider and such funds shall be considered Transportation Revenue.

Section 10.6. Accounting and Reporting Standards. Service Provider shall maintain its books and records, and shall prepare, maintain and file reports, relating to this Agreement and the Transportation Services in accordance with generally accepted governmental accounting principles, Section 15 of the United States Urban Mass Transit Act, the Pace Paratransit Manual, the Approved Budget and any documentation submitted by Service Provider, and approved by Pace, in support of the Approved Budget. In case of any conflict in the aforesaid standards, Service Provider shall seek specific direction from Pace and, pending receipt of such direction, shall comply with that standard that most fairly, accurately and completely records and reports the results of operations.

is determined by Pace that it will be unable to pay the remaining unpaid part or parts of this Agreement.

Section 11.3 Termination for Service Provider Default

A. Immediate Termination. This Agreement shall be terminated, and the Agreement Term shall end, 24 hours after written notice of such termination given by Pace to Service Provider in the event that Service Provider shall, for any reason, other than as specified in Section 2.2 of this Agreement, cancel, eliminate or reduce or diminish service without prior written approval from Pace.

B. Termination Following Failure To Cure. This Agreement shall be terminated, and the Agreement Term shall end, if the Service Provider violates any other material obligation under this Agreement or fails to timely perform any other material obligation under this Agreement and such violation or failure shall continue for a period of 21 days after Service Provider receives written notice from Pace describing in reasonable detail the nature of the violation or failure; provided, however, that in the event such violation or failure cannot be cured within said 21 day period notwithstanding diligent and continuous effort by Service Provider and Service Provider shall have promptly commenced to cure the violation or failure and shall have thereafter prosecuted the curing of same with diligence and continuity, then the period for curing such violation or failure shall be extended for such period as Pace may determine to be necessary for curing such violation with diligence and continuity.

C. Obligations Following Termination. Pace's obligations upon termination of this Agreement in any manner and for any purpose authorized by this Article XI shall be limited to payment of reimbursement obligations for services rendered by Service Provider up to the date of said termination. Immediately upon termination of this Agreement in any manner and for any purpose, Service Provider shall comply with the provisions of Section 11.4 below. In addition, Service Provider shall be liable to Pace for all damages incurred as a result of any violation or failure that leads to termination of this Agreement. Said damages shall include, but shall not be limited to, all court costs, and attorneys' fees and disbursements incurred in connection with enforcing or defending Pace's rights hereunder.

Section 11.4. Return of Pace Equipment and Records Upon Termination.

Immediately following the Agreement Term, Service Provider shall surrender and deliver to Pace at such time or times and at such location or locations within the six-county region as Pace may designate:

Agreement will not result in any breach or violation of, or default under, any judgment, decree, mortgage, contract, agreement, indenture or other instrument applicable to Service Provider.

Section 12.4. Approvals Received. All such approvals, consents, permits, licenses, authorizations, or modifications as may be required to permit the performance by Service Provider of its obligations under this Agreement have been obtained from the appropriate governmental authorities or other persons or entities.

Section 12.5. No Material Litigation. No litigation, investigation or proceeding of or before any court, governmental authority or arbitrator is pending or, to the knowledge of Service Provider, threatened by or against Service Provider, or against any of its properties or revenues (1) with respect to this Agreement, or (2) which is reasonably likely to have a material adverse effect on the operations, property or financial condition of Service Provider.

Section 12.6. No Default. Service Provider is not in default under or with respect to any obligation in any respect that could be materially adverse to the business, operations, property or financial condition of Service Provider or that is reasonably likely to materially adversely affect the ability of Service Provider to perform its obligations under this Agreement.

Section 12.7. No Burdensome Restrictions. No obligation of Service Provider and no requirement of law materially adversely affects, or insofar as Service Provider Agency may reasonably foresee may so affect, the business, operations, property or financial condition of Service Provider or the ability of Service Provider to perform its obligations under this Agreement.

Section 12.8. No Sale, Lease or Encumbrance. Service Provider will not sell, lease, loan, or in any manner dispose of any Pace Equipment during the Agreement Term.

Section 12.9. Payment of Obligations. Service Provider shall pay and discharge all of its obligations and indebtednesses with respect to the Transportation Services and with respect to the Service Provider Vehicles, if any; provided, however, that any such obligation or indebtedness need not be paid if the validity thereof shall currently be contested in good faith by appropriate proceedings and if Service Provider shall have set aside on its books adequate reserves with respect thereto, except that all such obligations and indebtednesses shall be paid forthwith upon an adverse decision in such proceedings and the exhaustion of available appellate relief with respect thereto.

States post office, certified or registered mail, return receipt requested, postage prepaid, properly addressed to Pace as follows:

Attention: Executive Director
Pace Suburban Bus
550 W. Algonquin Road
Arlington Heights, IL 60005-4412

Notices and communications to Service Provider shall be addressed as shown on the cover page to this Agreement. By notice complying with the foregoing requirements of this Section, each party shall have the right to change the address or addressee or both for all future notices and communications to such party, but no notice of a change of address shall be effective until actually received.

Section 13.5. Calendar Days and Time. Any reference herein to "day" or "days" shall mean calendar and not business days. If the date for giving or receiving of any notice required to be given hereunder or the performance of any obligation hereunder falls on a Saturday, Sunday or federal or State of Illinois holiday, then said notice or obligation may be given or performed on the next business day after such Saturday, Sunday or federal or State of Illinois holiday. Any reference herein to time of day shall refer to local time for Arlington Heights, Illinois.

Section 13.6. Singular and Plural. The use of the singular or the plural herein shall be construed to be the plural or singular as the context requires.

Section 13.7. Governing Laws. This Agreement and the rights of the parties hereunder shall be interpreted and enforced in accordance with the laws of the State of Illinois.

Section 13.8. Changes in Laws. Unless otherwise explicitly provided in this Agreement, any reference to laws, ordinances, rules or regulations shall include such laws, ordinances, rules or regulations as they may be amended or modified from time to time.

Section 13.9. No Assignment. Service Provider shall not assign either its rights or its obligations under this Agreement without the prior written consent of Pace, which consent may be granted or withheld at the sole discretion of Pace. Any attempted or purported assignment of such rights or obligations without the prior written consent of Pace shall be void and of no effect. Any successor to Service Provider's rights under this Agreement shall be bound by, and shall comply with, all of the provisions, conditions and requirements of this Agreement.

Section 13.16. Survival Clause. If any provision of this Agreement is construed or held to be void, invalid or unenforceable in any respect, the remaining provisions of this Agreement shall not be affected thereby, but shall remain in full force and effect.

Section 13.17. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original.

Section 13.18. Other Agreements Not Prohibited. Nothing in this Agreement shall be deemed to prohibit Pace from entering into additional or alternative agreements or arrangements to provide replacement, additional, supplementary or duplicative service in the area served by Service Provider.

Section 13.19. No Future Obligations. Nothing in this Agreement or the parties' performance thereof shall be construed to create any obligation to renew this Agreement after the Agreement Term or to enter into any other agreement of any kind or nature.

ARTICLE XIV

REMEDIES

Section 14.1. Remedies. In addition to Pace's right to terminate this Agreement pursuant to Article XI and any other rights otherwise provided in this Agreement, in the event of a breach or an alleged breach of this Agreement by either party, either party may, by suit, action, mandamus or any other proceeding, in law or in equity, including specific performance, enforce or compel the performance of this Agreement. Any cost or expense associated with pursuing any such remedy shall not be an Operating Expenditure under this Agreement.

Section 14.2. Notice and Cure. Neither party may exercise the right to bring any suit, action, mandamus or any other proceeding pursuant to Section 14.1 of this Agreement without first providing written notice to the other party of the breach or alleged breach and allowing a period of 15 days for the curing of said breach or alleged breach; provided, however, that in the event such violation or failure cannot be cured within said 15 day period notwithstanding diligent and continuous effort by the party receiving notice and said party shall have promptly commenced to cure the violation or failure and shall have thereafter prosecuted the curing of same with diligence and continuity, then the period for curing such violation or failure shall be extended for such period as may be necessary for curing such violation with diligence and continuity.

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

Exhibit A

2011 PARATRANSIT SERVICE PROVIDER AGREEMENT

PROPOSED 2011 BUDGET

PROJECT: **VILLAGE OF ORLAND PARK**

REVENUE \$ 26,000

EXPENSES

OPERATIONS \$ 250,165

MAINTENANCE \$ 12,018

ADMINISTRATION \$ 18,617

TOTAL EXPENSE \$ 280,800

OPERATING DEFICIT \$ 254,800

PACE SUBSIDY \$ 42,000

LOCAL SHARE \$ 212,800

RIDERSHIP 14,000

VEHICLE HOURS 3,250

Exhibit B

2011 PARATRANSIT SERVICE PROVIDER AGREEMENT

PACE VEHICLES

VILLAGE OF ORLAND PARK

(List of any Pace vehicles provided to the Service Provider)

5137

5376

Exhibit C

2011 PARATRANSIT SERVICE PROVIDER AGREEMENT

PARATRANSIT REIMBURSEMENT GUIDELINES

The maximum Service Reimbursement shall be the lesser of the amounts calculated in each of the following way:

1. 75% of the projected Operating Deficit in the Approved Budget; or
2. 75% of the actual Operating Deficit; or
3. \$3.00 multiplied by the number of annual one-way passenger trips not to exceed the maximum number of trips in the Approved Budget.

The Approved Budget shall not include any costs in excess of \$46.07 per vehicle service hour nor any expenses associated with any increase in service beyond the amount of service authorized by Pace. The Approved Budget shall be the maximum estimated expenses, deficit, hours of service, and ridership upon which Pace's maximum Service Reimbursement amount will be calculated.

The total of the year to date subsidy payments shall not exceed an amount equal to 1/12th of the annual budgeted subsidy times the number of months elapsed in the year.

Exhibit D

2011 PARATRANSIT SERVICE PROVIDER AGREEMENT

TRANSPORTATION SERVICES FUNDED BY PACE

VILLAGE OF ORLAND PARK REVISED

TYPE OF SERVICE	Dial-A-Ride Bus Service								
SERVICE OPERATED BY	Village of Orland Park								
TRIP RESERVATION METHOD	24 hours in advance								
SERVICE AREA	Orland Park and Orland Hills Village Limits and select destinations outside of the Village boundaries.								
SERVICE HOURS	Monday through Friday 8:00 a.m. to 4:00 p.m.								
HOLIDAYS	Service will <u>not</u> operate on the following holidays: ➤ New Year's Day ➤ Memorial Day ➤ Independence Day (observed Holiday) ➤ Labor Day ➤ Thanksgiving Day ➤ Day after Thanksgiving ➤ Christmas Eve Day ➤ Christmas Day ➤ New Year's Eve Day								
ONE-WAY FARE	<table><tr><td>All passengers except as below</td><td>\$4.00</td></tr><tr><td>Disabled with RTA disabled identification card *</td><td>\$2.00</td></tr><tr><td>*(Attendant for disabled passenger</td><td>No Charge)</td></tr><tr><td>Child under 7 years of age</td><td>No Charge</td></tr></table>	All passengers except as below	\$4.00	Disabled with RTA disabled identification card *	\$2.00	*(Attendant for disabled passenger	No Charge)	Child under 7 years of age	No Charge
All passengers except as below	\$4.00								
Disabled with RTA disabled identification card *	\$2.00								
*(Attendant for disabled passenger	No Charge)								
Child under 7 years of age	No Charge								
RIDER ELIGIBILITY	General Public								

Exhibit E

2011 PARATRANSIT SERVICE PROVIDER AGREEMENT

AFFIRMATIVE ACTION, EQUAL EMPLOYMENT OPPORTUNITY AND DISADVANTAGED BUSINESS ENTERPRISES

- A. Affirmative Action. Service Provider shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability or an unfavorable discharge from military service. Such action shall include, but not be limited to, the following: employment, hiring, upgrading, demotion, transfer, recruitment advertising, layoff of termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Prior to the execution of this Agreement, Service Provider shall furnish Pace with evidence that it has filed with the Illinois Department of Human Rights (the "Department") an affirmative action program covering the Service Provider's employment practices, if a plan is required by the Department. Service Provider shall promptly furnish Pace with a copy of any and all documents filed by it with the Department.
- B. Equal Employment opportunity Clause. Service Provider shall comply with the following provisions, collectively referred to as the "Equal Employment Opportunity Clause".
- (1) That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, and national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service; and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.
 - (2) That, if it hires additional employees in order to perform this Agreement or any portion hereof, it will determine the availability (in accordance with the Department's Rules and Regulations for Public Contracts) of minorities and Women in the area(s) from which it may reasonably recruit and it will hire persons in such a way that minorities and women are not underutilized.
 - (3) That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service.
 - (4) That it will send a notice to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding advising such labor organization or representative of its obligation under the Illinois Human Rights Act and the Department's Rules and Regulations

for Public Contracts. If any such labor organization or representative fails or refuses to cooperate with Service Provider in its efforts to comply with such Act and Rules and Regulation, Service Provider shall promptly so notify the Department, and Service Provider shall recruit employees for other sources when necessary to fulfill its obligations thereunder.

- (5) That it will submit reports as required by the Department's Rules and Regulations for Public Contracts, furnish all relevant information as may from time to time be requested by the Department of Pace, and in all respects comply with the Illinois Human Rights Act and the Department's Rules and Regulations for Public Contracts.
- (6) That it will permit access by Pace and the Department to all relevant books, Records, accounts, and work sites for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the Department's Rules and Regulations for Public Contracts.

C. Subcontracts. Service Provider shall insert the following provisions in all subcontracts relating to the provision of Transportation Services and Other Service except subcontracts for standard commercial supplies or raw materials:

"No discrimination shall be made in any term or aspect of employment because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service, or political reasons or factors.

In addition, Service Provider shall insert verbatim or by reference the provisions of the Equal Employment Opportunity Clause in every performance subcontract as defined in Section 1.1(17)(b) of the Department's Rules and Regulations so that such provisions will be binding upon every such subcontractor. In the same manner as with other provisions of this Agreement, Service Provider will be liable for compliance by all its subcontractors with applicable provisions of this Section; and further it will promptly notify pace and the Department in the event any subcontractor fails or refuses to comply therewith. In addition, Service Provider will not utilize any subcontractor declared by the Department to be non-responsible and, therefore, ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

D. Disadvantaged Business Enterprises. Service Provider shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. Service Provider shall carry out application requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by Service Provider to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such remedy as Pace deems appropriate.

K T JKLEIN, THORPE & JENKINS, LTD.
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Chicago, Illinois 60606-2903
T 312 984 6400 F 312 984 6444DD 312 984 6408
ekfriker@ktjlaw.com15010 S. Ravinia Avenue, Ste 10
Orland Park, Illinois 60462-5353
T 708 349 3888 F 708 349 1506

www.ktjlaw.com

December 21, 2010

Mr. Randy Comstock
Paratransit Department
PACE Suburban Bus
550 W. Algonquin Road
Arlington Heights, IL 60005-4412**EXHIBIT G**
FORM OF OPINION OF
GRANTEE'S COUNSEL

Gentlemen:

Please be advised that I represent the Village of Orland Park, Illinois. Pursuant to Article XII of the Service Provider Agreement ("Agreement"), this Opinion of Counsel is being provided:

1. The Village of Orland Park is duly organized, validly existing and in good standing under the laws of the State of Illinois, and has the legal authority to engage in and carry on the public transportation services as described in said Agreement.
2. Said Agreement has been duly authorized by the President and Board of Trustees of the said Village pursuant to Ordinance No. 460B, and the execution and delivery of said Agreement by all of the parties hereto will constitute a valid and binding obligation of the Village of Orland Park, enforceable in accordance with its terms, and the making of and compliance with the terms and conditions of said Agreement by the Village of Orland Park will not result in any breach or violation of, or default under, any judgment, decree, mortgage, contract, agreement, indenture or other instrument applicable to the Village of Orland Park known to this counsel.
3. All such approvals, consents, permits, licenses, authorizations or modifications as may be required to permit the performance by the Village of Orland Park of its obligations under said Agreement have been obtained, whether from the appropriate governmental authorities or other persons or entities known to this counsel.
4. No litigation, investigation or proceeding of or before any court, governmental authority or arbitrator is pending or, to the knowledge of this counsel, threatened by or against the Village of Orland Park, or against any of its properties or revenues (a) with respect to said Agreement, or (b) which is reasonably likely to

have a material adverse effect on the operations, property or financial condition of the Village of Orland Park.

5. The Village of Orland Park is not in default under or with respect to any obligation in any respect that could be materially adverse to the business, operations, property or financial condition of the Village of Orland Park, or that is reasonably likely to materially adversely affect the ability of the Village of Orland Park to perform its obligations under said Agreement.
6. No obligation of the Village of Orland Park and no requirement of law materially adversely affects, or insofar as Counsel may reasonably foresee based on facts known to him may so affect, the business, operation, property or financial condition of the Village of Orland Park or the ability of the Village of Orland Park to perform its obligations under said Agreement.

Very truly yours,

KLEIN, THORPE AND JENKINS, LTD.

A handwritten signature in black ink, appearing to read "E. Kenneth Friker", is written over the typed name.

E. Kenneth Friker



VILLAGE OF ORLAND PARK

14700 Ravinia Avenue
Orland Park, IL 60462
(708) 403-6150

Certification

STATE OF ILLINOIS COUNTIES OF COOK AND WILL

I, David P. Maher, DO HEREBY CERTIFY that I am the duly elected and qualified Village Clerk of the Village of Orland Park, Illinois, and as such Village Clerk I am the keeper of the minutes and records of the proceedings of the Board of Trustees of said Village and have in my custody the minutes and books of the records of said Village.

I DO FURTHER CERTIFY that the attached and foregoing is a true and correct copy of:

Ordinance No. 4608

I DO FURTHER CERTIFY that the original Ordinance of which the foregoing is a true copy is entrusted to my care for safekeeping and that I am the lawful keeper of the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Village Of Orland Park aforesaid, at the said Village, in the Counties and State aforesaid, this 21st day of December 2010.

David P. Maher, Village Clerk

CORPORATE
SEAL

VILLAGE OF ORLAND PARK

14700 Ravinia Avenue
Orland Park, IL 60462
www.orland-park.il.us

Ordinance No: 4608

File Number: 2010-0628

AN ORDINANCE AUTHORIZING EXECUTION OF 2011 PARATRANSIT SERVICE PROVIDER AGREEMENT (RTA - PACE)

VILLAGE OF ORLAND PARK STATE OF ILLINOIS, COUNTIES OF COOK AND WILL

Published in pamphlet form this 21st day of December, 2010 by authority of the President and Board of Trustees of the Village of Orland Park, Cook and Will Counties, Illinois.

VILLAGE OF ORLAND PARK

Ordinance No: 4608

AN ORDINANCE AUTHORIZING EXECUTION OF 2011 PARATRANSIT SERVICE PROVIDER AGREEMENT (RTA - PACE)

Be It Ordained by the President and Board of Trustees of the Village of Orland Park, Cook and Will Counties, Illinois, as follows:

SECTION 1

This President and Board of Trustees of the Village of Orland Park hereby find that it is in the best interests of the Village of Orland Park and its residents that the aforesaid "ORDINANCE AUTHORIZING EXECUTION OF 2011 PARATRANSIT SERVICE PROVIDER AGREEMENT (RTA-PACE)" be entered into and executed by said Village of Orland Park with said Agreement to be substantially in the form attached hereto and made a part hereof as EXHIBIT 1.

SECTION 2

The President and Clerk of the Village of Orland Park, Cook and Will Counties, Illinois, are hereby authorized to execute for and on behalf of said Village of Orland Park the aforesaid Agreement; provided, however, that all of the other parties to said Agreement have properly signed and executed the same.

SECTION 3

This Ordinance shall take effect from and after its passage and approval in the manner provided by law.

PASSED this 20th day of December, 2010

/s/ David P. Maher

David P. Maher, Village Clerk

Aye: 6 Trustee Murphy, Trustee Fenton, Trustee Dodge, Trustee Schussler, Trustee Gira, and Village President McLaughlin
Nay: 0
Absent: 1 Trustee O'Halloran

DEPOSITED in my office this 20th day of December, 2010

/s/ David P. Maher

David P. Maher, Village Clerk

VILLAGE OF ORLAND PARK

Ordinance No: 4608

APPROVED this 20th day of December, 2010

/s/ Daniel J. McLaughlin

Daniel J. McLaughlin, Village President

PUBLISHED this 21st day of December, 2010

/s/ David P. Maher

David P. Maher, Village Clerk