

RESOLUTION NO. R-06-12

**A RESOLUTION APPROVING A LOCAL SHARE AGREEMENT
FOR A CONNECTOR BUS ROUTE (ROUTE 714)
LINKING THE CITY OF WHEATON WITH THE CITY OF NAPERVILLE
WITH DIRECT SERVICE TO THE COLLEGE OF DUPAGE**

WHEREAS, Pace Route 714, the College of DuPage Connector bus service, links the City of Wheaton with the City of Naperville, with direct service to the College of DuPage, and

WHEREAS, on November 9, 2011, the Pace Board of Directors adopted an FY 2012 budget that includes full funding for Route 714 beginning in May 2012, and

WHEREAS, the current service agreements between DuPage County, City of Naperville, and the College of DuPage expired in November 2011, and an estimated shortfall of approximately \$30,000 will exist to operate the route between December 2011 and May 2012, and

WHEREAS, PACE is seeking a final local contribution of \$7,500 each from the City of Wheaton, the City of Naperville, the County of DuPage, and the College of DuPage, in addition to Pace's continued funding, to cover the last five months of Route 714 operations prior to the commencement of Pace's full funding commitment beginning in May of 2012.

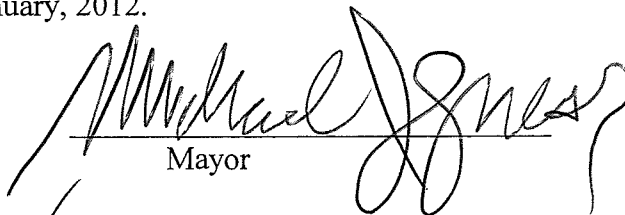
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHEATON, DUPAGE COUNTY, ILLINOIS, in exercise of its home rule authority as follows:

SECTION 1: The City hereby guarantees payment to Pace of up to \$7,500 for its portion of the local share match of the funding of the College of DuPage Connector bus service (Route 714).

SECTION 2: The City Manager and City Clerk are hereby authorized to execute the Service Agreement attached to this Resolution as Exhibit A.

SECTION 3: This Resolution shall be in full force and effect upon its passage and approval.

ADOPTED this 17th day of January, 2012.



Mayor

Attest:


City Clerk

Roll Call Vote:

Ayes: Councilman Rutledge
Mayor Gresk
Councilwoman Pacino Sanguinetti
Councilman Scalzo
Councilman Sues
Councilwoman Ives
Councilman Mouhelis

Nays: None

Absent: None

Motion Carried Unanimously

City of Wheaton
SERVICE AGREEMENT
Route 714

This Agreement made this ____ day of _____, 20__, between the Suburban Bus Division of the Regional Transportation Authority, (hereinafter called "Pace") and the City of Wheaton (hereinafter called Client).

WHEREAS, Pace was established within the Regional Transportation Authority Act (70 ILCS 3615) for the purpose of providing public transportation by bus in the Metropolitan Region as described in 70 ILCS 3615/1.03.

WHEREAS, Pace desires to provide various services as described in the attached Exhibit A.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, the parties agree as follows:

1) Description of Service - Pace shall provide Route 714 transportation service to Client and the general public pursuant to the various route schedules as described in the attached Exhibit A.

2) Payment – Client agrees to pay Pace the rates set forth in the attached Exhibit B. Payment shall be made to Pace within 45 days of receiving an approved invoice. Payment is to be mailed to:

Pace Suburban Bus Service
550 W. Algonquin Road
Arlington Heights, IL 60005
Attn: Accounting Department

3) Calculation of Rates - The payment rate is based on service costs as set forth in Exhibit B calculated using fully allocated operating costs at each facility per trip and/or route.

4) Service Expansion – Any new service agreed to by the parties in writing will be invoiced at Pace's new hourly rate as described in Exhibit B.

5) Term - This Agreement is effective December 1, 2011 through April 30, 2012, or until either party exercises their right to terminate this Agreement under Paragraph 7.

6) Service Provision - Pace shall not be responsible for any failure to provide the Service due to circumstances beyond the control of Pace. However, Pace shall make every reasonable effort to restore Service as soon as practical under the circumstances. Pace shall have the right to make minor revisions to the Service during the term of this Agreement upon written notification to and concurrence by Client. No fees will be charged to the Client for services not performed.

7) Termination of Service - Either party may terminate this Agreement with sixty (60) days advance written notification to the other party. Should either Pace or the Client elect to cancel this service, billing shall be prorated and payment shall be only for the service that was provided prior to the termination of service.

8) Independent Relationship - Pace is an independent contractor and not an employee, agent, joint venture, or partner of Client, and nothing in this Agreement shall be construed as creating any other relationship between Client and Pace, or between any employee or agent of Pace and Client. Pace employees shall at all times remain employees of Pace, which shall 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.

9) Insurance - In the event that Pace directly provides the service described herein, Pace shall arrange for the Client to be named as additional insured under Pace's excess automobile liability policy of insurance with respect to claims asserted against Client arising from any covered negligent acts or omissions of Pace in providing the services described in this Agreement.

In the event that Pace contracts with any outside service providers to provide the service described herein, Pace shall require the outside service provider(s) to arrange for Client to be named as additional insured under the outside service providers auto liability policy of insurance with respect to claims asserted against Client arising from any covered negligent acts or omissions of the outside service providers in connection with the services as described in this Agreement.

10) Indemnification -- In the event that Pace directly provides the service and not through an outside service provide, to the fullest extent permitted by law and within the limits of Pace's self insured retention and the excess/umbrella auto liability insurance policies purchased by Pace, Pace shall indemnify, defend and hold harmless Client, its officers, agents, and employees from and against any and all auto liability claims, suits, losses, damages and expenses, caused by the negligence of Pace, its officers and employees which may arise out of the operation of transportation services provided pursuant to this Agreement, provided that Client provides immediate notice of any claims, suits losses, damages and fully cooperates with the defense of any claims or lawsuits. This indemnification does not extend to negligent, willful and wanton, reckless or intentional conduct of Client, its officers, agents, servants and employees and is specifically excluded from this indemnification and insurance coverage, including self-insurance

11) Compliance with Laws - Pace represents that in the performance of its duties hereunder, it has complied and shall comply with all federal, state and local laws, ordinances and regulations.

12) Severability - The provisions of this Agreement shall be severable. The unenforceability or invalidity of any one or more provisions, clauses or sentences hereof shall not render any other provision, clause or sentence herein contained unenforceable or invalid. The portion of the Agreement which is not invalid or unenforceable shall be considered enforceable and binding on the parties and the invalid or unenforceable provision(s), clause(s) or sentence(s) shall be deemed excised, modified or restricted to the extent necessary to render the same valid and enforceable, and this Agreement shall be construed as if such invalid or unenforceable provision(s), clause(s) or sentence(s) were omitted.

13) Entire Agreement - No prior agreements between the parties, whether written or oral, shall be binding upon the parties.

14) Authority - Pace and Client represent that their representatives whose signatures appear

below have the power and authority to enter into this Agreement and to obligate Pace and Client to the terms of this Agreement.

15) Complete Agreement - This Agreement constitutes the entire Agreement between the parties hereto. Any proposed change in this Agreement shall be submitted to Pace for its prior approval. No modification, addition, or deletion to this Agreement shall be effective unless and until such changes are reduced to writing and executed by the authorized officers of each party. Any changes in service description, payment rates or pass allocations shall be reflected in an Amendment to this Agreement, reduced to writing and signed by both parties, and incorporated into this Agreement.

16) Notices - All notices due to the other party shall be delivered to the address indicated below:

Pace
550 W. Algonquin Road
Arlington Heights, IL. 60005
Attn: Executive Director

City of Wheaton
303 W. Wesley Street
Wheaton, IL 60187
Attn: Don Rose, City Manager

17) Governing Law - This Agreement shall be construed in accordance with the laws of the State of Illinois.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be made effective as of the date set forth above and executed in by their duly authorized officials.

Pace

Wheaton

By: _____
Thomas J. Ross
Executive Director
Pace Suburban Bus Service

By: _____
Name:
Title:
City of Wheaton

Date: _____

Date: _____

EXHIBIT A
Route No. 714 – College of DuPage-Naperville-Wheaton Connector

Description of Service:

Route 714 will provide service between the Metra – BNSF Line Naperville Station and Metra – UP West Line Wheaton Station.

As Described on Attached Route Map and Schedule.

Service Cost:

\$50,550.77 monthly (average)

\$606,609.20 annually

EXHIBIT B
COSTS FOR 2011/2012 SERVICE

Payment – Pace shall bill the Client on a monthly basis for their share of operating costs. The total cost to the Client shall not exceed \$7,500 for the duration of the agreement. Costs will be calculated on a monthly basis less revenue credits.

Below is the estimated cost per funding partner. Ridership, credits, and hourly cost are as last year with a 25% recovery (as May 2011).

<u>Estimated cost:</u>	
December 2011	\$1,995.51
January 2012	\$1,318.92
February 2012	\$851.54
March 2012	\$1,219.64
April 2012	\$1,213.19
T total estimated cost	\$6,598.80
Total not to exceed	\$7,500.00

