

PASSENGER SHELTER AGREEMENT

This Passenger Shelter Agreement (“Agreement”) is entered into and made effective this ____ day of _____, 2017 (“Effective Date”) by and among Pace, the Suburban Bus Division of the Regional Transportation Authority, an Illinois municipal corporation (“Pace”); the City of Aurora, an Illinois municipal corporation (“Municipality”); and Intersection Media, LLC, a private corporation (“Intersection”). Pace, Municipality, and Intersection are individually referred to herein as “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, Pace was established under the Regional Transportation Act (70 ILCS 3615.1.01 *et seq.*) for the purpose of aiding and assisting public transportation in the six county Northeastern Illinois area; and

WHEREAS, the Constitution of the State of Illinois, 1970, Article VII, Section 10, authorizes units of local government to contract or otherwise associate among themselves in any manner not prohibited by law or ordinance; and

WHEREAS, the provisions of the Intergovernmental Cooperation Act, (5 ILCS 220/1 *et seq.*), authorize and encourage intergovernmental cooperation; and

WHEREAS, Municipality and Pace are units of government within the meaning of the Constitution of the State of Illinois, 1970, Article VII, Section 10, having the power and authority to enter into this Agreement; and

WHEREAS, Municipality and Pace agree that Pace shall purchase and install passenger shelters (“shelters”) within the Municipality; and

WHEREAS, Pace and Intersection have previously entered into an agreement for the acquisition, installation and maintenance of shelters placed within Pace’s service region and for the sale of advertising space on Pace passenger shelters (Pace Contract #220802, (hereinafter “Contract”)); and

WHEREAS, the Parties wish to set forth revenue sharing principles applicable to the income received from the advertising shelters placed on public right-of-way within the Municipality’s corporate limits, and to establish other parameters of the Agreement.

NOW THEREFORE, in consideration of the aforementioned recitals and the mutual covenants contained herein, the Parties agree as follows:

1. **Term and Termination.** This Agreement shall be in effect beginning on the Effective Date and it shall remain in effect for a minimum of ten (10) years (“Initial Term”). Upon expiration of the Initial Term, this Agreement shall remain in full force and effect unless terminated by any Party upon ninety (90) days’ advance written notice of termination to the other Parties.

2. **Duty to Remove.** In the event any Party exercises its right of termination pursuant to Paragraph 1 above, Pace agrees to remove any shelters within 45 days of request for removal and if they fail to do so, Municipality shall have the right to remove them, and Pace shall be obligated to pay Municipality its actual costs for such removal.
3. **Shelters on Aurora Transportation Center property.** Municipality leases certain real property commonly known as the Aurora Transportation Center (the “Property”) as depicted on Exhibit A from Burlington Northern Santa Fe Railway per the lease agreement dated October 10, 1984, Resolution R84-2239, incorporated herein and attached hereto. Three (3) shelters currently exist on the Property. Each of those shelters will be removed by Pace, at Pace’s expense. A total of eight (8) new shelters will be installed on the east side of the Property as shown on Exhibit B. For each shelter installed on the Property, Municipality will construct the concrete pad, provide and install hand holes and install the electrical conduits. Pace should install all wiring necessary to provide electrical service to each shelter for lighting and electronic signs. Pace will buy and install the eight (8) shelters, and connect each one to the electrical service. At least two (2) of the shelters will contain an electronic sign which is capable of displaying real-time information about bus arrivals and departures, as well as related customer information. The design of any shelter to be installed on Aurora Transportation Center property will be selected by Municipality from among those shelter designs available to Pace at the time of installation. Pace owns and retains title to each shelter at all times and Municipality will not do anything to affect such title.
4. **Other Shelters Within Municipality.** There are currently eleven (11) non-advertising shelters located on public right-of-way within the Municipality. When practicable, Pace will, at its expense, remove any non-ad shelter and replace it with an advertising shelter. Any additional shelters to be installed on public right-of-way within the Municipality shall be located by agreement of Pace and Municipality. The design of any shelter to be installed shall be selected by Municipality from among those shelter designs available to Pace at the time of installation. Pace shall pour any needed concrete pads at its expense and shall be responsible for obtaining any necessary construction permits. Pace owns and retains title to each shelter at all times and Municipality will not do anything to affect such title.
5. **Shelter Inspection, Maintenance and Repair.** Intersection shall inspect, maintain, and clean all advertising shelters covered by this Agreement at least once per week at its expense, including snow removal. Intersection shall repair or remove, if necessary, any shelter so in need, within forty-eight (48) hours of notification from Municipality. Pace shall inspect, maintain, and clean all non-advertising shelters covered by this Agreement at least once per week at its expense, including snow removal. Pace shall repair or remove, if necessary, any shelter so in need, within forty-eight (48) hours of notification from Municipality.
6. **Electricity.** Advertising shelters are electrified for nighttime illumination. At shelters other than those at the Property, Pace may install a solar unit on any shelter(s). Pace may also hardwire any shelter to the nearest municipal streetlight with approval from the Municipality.
7. **Type of Advertising.** Intersection and Pace agree that they will utilize the shelters only for advertising material that is consistent with the Pace Advertisement Guidelines (“Guidelines”) which are incorporated herein by reference. Per those Guidelines, Municipality shall not permit advertising for ~~alcohol beverage~~ [alcohol beverage](#), [cannabis](#) and [tobacco](#) products. Intersection is responsible for the installation and removal of all advertising material as well as removal of any debris created by the aforementioned installation and removal.
8. **Advertising Revenue.** Under the Contract, Pace is entitled to certain percentages of “gross billings”, defined as the invoiced price to advertisers, less advertising agency commission and taxes, if any. For any

advertising transit shelters placed within Municipality's corporate limits as a result of the Program, Municipality shall receive one-half (1/2) of Pace's share of gross advertising billings. This share is to be calculated by giving each Municipality or property owner a pro rata share of one-half (1/2) Pace's share of total gross billings (not including gross alcohol advertising billings), depending on its share of the total number of ad shelters contained within all participating Municipalities. If Municipality does permit advertising for alcohol beverage products in Section 5 above, Municipality shall additionally receive a pro rata share of one-half (1/2) of Pace's share of total gross alcohol advertising billings, by calculating its pro rata share of the total number of ad shelters in all Municipalities and properties that allow alcohol advertising.

9. **Payment.** Pace shall pay Municipality annually its share of advertising revenues referred to in Paragraph 8. Payments shall be made in March of the next succeeding year after any year in which Pace receives advertising income from the shelter(s) placed within the Municipality.

10. **Indemnification.** Except for the negligence or willful misconduct of Municipality, Pace, and their respective officers, directors, employees, and agents, Intersection shall release, indemnify, defend, keep and save harmless Municipality, Pace, and their officers, directors, employees, and agents against all liability, losses, damages, claims, suits, payments, settlements, judgments, demands, awards, expenses, and costs, including attorneys' fees, arising from this Agreement. Upon notice from Municipality and/or Pace of any claim which Municipality and/or Pace believes to be covered hereunder, Intersection shall appear and defend all suits brought upon such claim and shall pay all costs and expenses incidental thereto, but Municipality and/or Pace shall have the right, at their option and expense, to participate in the defense of any suit, without relieving Intersection of its obligations hereunder. This paragraph shall survive the expiration and/or termination of this Agreement.

11. **Insurance.** Intersection will carry insurance as specified in the Contract. Municipality, Pace, and their respective directors, officers, officials, and employees shall be named as Additional Insureds to the General Liability coverage of this policy for the installation, maintenance and usage by passengers of the bus shelters located on Municipality's leased property. Proof of said insurance will be provided upon request by Municipality, Pace, or the RTA.

12. **Public Service Advertising.** Municipality shall have the right to advertise community events or other public service notices if the advertising space is unsold. In such cases, Municipality shall be responsible for any production costs, and must contact Intersection for placement, posting and removal.

13. **Compliance with Laws.** The Parties shall comply with all local, state, and federal laws, statutes, ordinances, and rules applicable to this Agreement.

14. **Entire Agreement.** This Agreement and any Exhibit(s) attached hereto and incorporated herein constitute the entire Agreement between the Parties hereto and supersedes any prior understandings, agreements, or representations by or between the Parties, written or oral, that may have related in any way to the subject matter hereof, and no other warranties, inducements, considerations, promises or interpretations, written or oral, which are not expressly addressed herein, shall be implied or impressed upon this Agreement.

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

16. **Assignment.** No Party shall assign this Agreement or the rights and obligations hereunder to any other Party without the prior written consent of the other Parties.

17. **Amendment.** No changes, amendments, or modifications of this Agreement shall be valid unless in writing and signed by the duly authorized official of each Party.

18. **Notice.** All notices under this Agreement shall be in writing and sent by: personal service, commercial courier, certified or registered mail, return receipt requested, with proper postage prepaid, or email to the respective addresses shown below. Notice shall be considered delivered to recipient on the day of delivery if sent by personal service or commercial courier, and on the second business day after deposit in the U.S. Mail if sent by certified or registered mail.

Municipality:

Pace:

550 W. Algonquin Road
Arlington Heights, IL 60005
Attn: Department Manager, Marketing

Intersection:

1290 N. 25th Avenue
Melrose Park, IL 60160
Attn: Director of Operations

19. **Governing Law.** Any dispute that arises as a result of this Agreement shall be heard in an Illinois court of competent jurisdiction and Illinois law shall be applied.

20. **Authorization.** Each signatory to this Agreement represents and warrants that they have full authority to sign this Agreement on behalf of the Party for whom they sign and that this Agreement shall be binding on the Parties hereto, their respective partners, directors, officers, employees, agents, representatives, successors and approved assigns.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officials on the dates stated below.

Municipality

Pace

Signature: _____

Signature: _____

Thomas J. Ross

Title: _____

Title: Executive Director

Date: _____

Date: _____

Intersection

Signature: _____

Scott Goldsmith

Title: President

Date: _____

EXHIBIT A-
PROJECT LOCATION
AURORA TRANSPORTATION CENTER

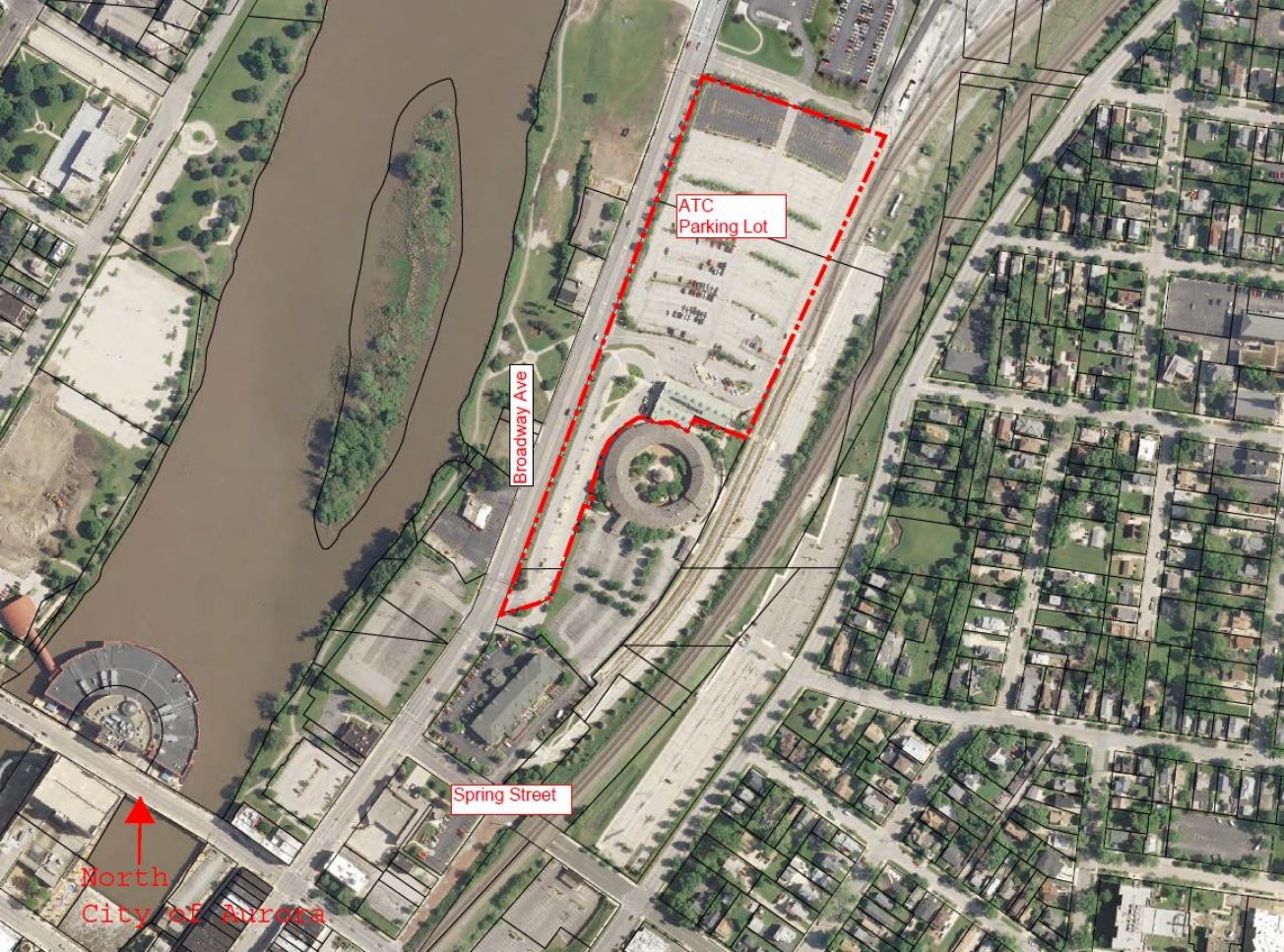
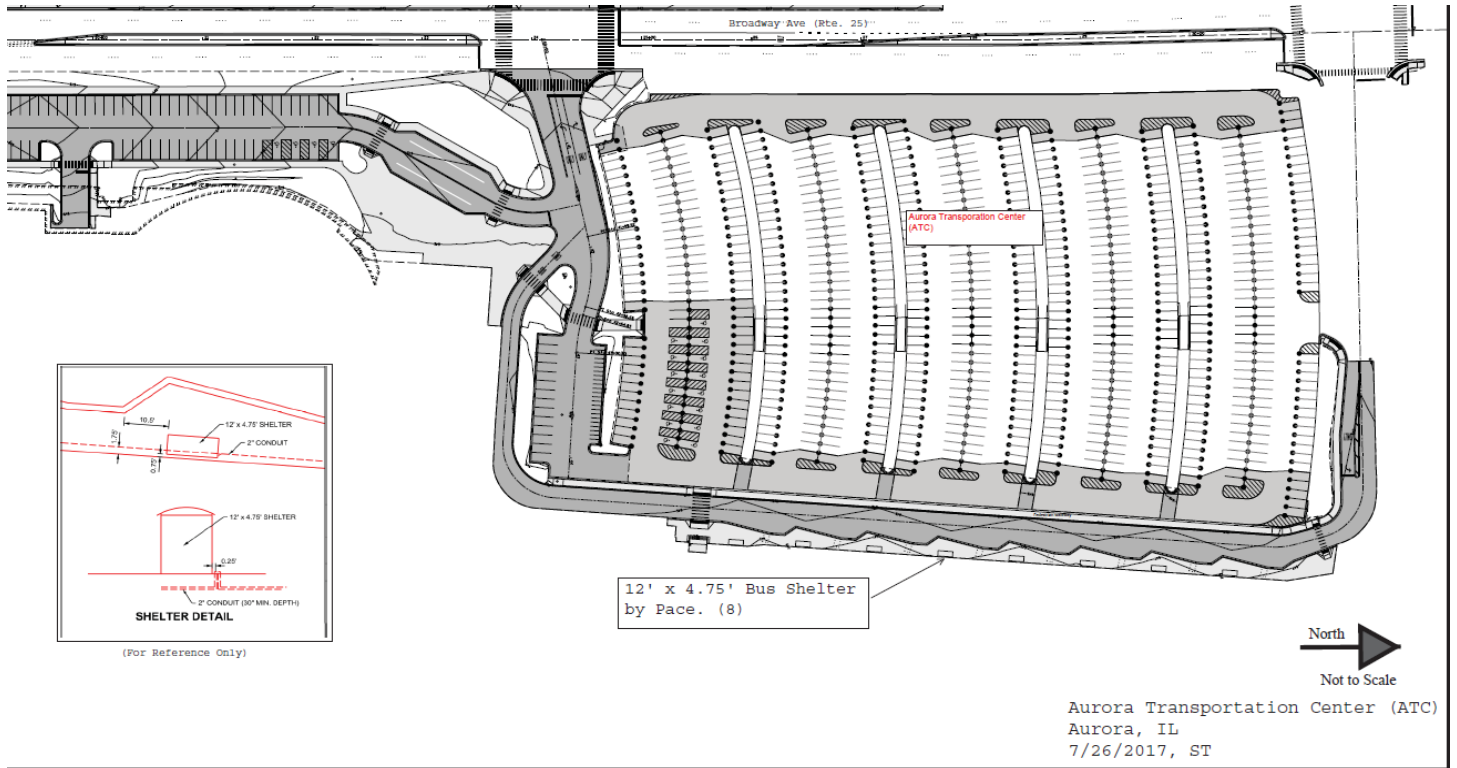


EXHIBIT B-
Pace Staging Area
Aurora Transportation Center



A total of eight shelters shall be located along the east side of the property as shown on the schematic