

COLUMBIA BASIN COMMUNITY COLLEGE
TRANSPORTATION PASS "CBC-PASS" AGREEMENT

THIS AGREEMENT (hereinafter, "Agreement") is made and entered into by and between Columbia Basin College (CBC), a state institution of higher education, and Ben Franklin Transit, a Public Transportation Benefit Area (BFT/PTBA) .

WHEREAS, CBC and BFT/PTBA share the desire to provide a comprehensive transportation pass program that will reduce single occupant vehicle (SOV) commute trips and improve the mobility of students, faculty, and staff at all CBC's campuses; and

WHEREAS, BFT/PTBA is authorized to provide public transportation and generally promote commuting alternatives in Tri Cities and

WHEREAS, CBC has a desire to provide incentives and benefits to their students, faculty and staff which promote non-SOV commuting to all CBC's campuses; and

WHEREAS, the College, and BFT/PTBA desires that the CBC-PASS program be implemented so that CBC's students, faculty and staff have access to public transportation services enabling them to commute by non-SOV modes;

AGREEMENT

IN CONSIDERATION of the above Recitals, CBC and BFT/PTBA further agree:

1.0 PURPOSE

1.1 This Agreement establishes, among other things, the various transportation benefits of the CBC-PASS to be provided by Ben Franklin Transit, the terms under which the CBC-PASS Stickers will be produced and distributed.

2.0 DEFINITIONS

The following definitions shall, unless otherwise indicated, apply to the terms of this Agreement and all its attachments.

- 2.1 *Academic Quarters.* The four periods in a year established for their academic purposes.
- 2.2 *Designated Representatives.* The individuals representing the BFT and CBC who are listed in Attachment 1, which may be amended from time to time.
- 2.3 *Eligible Faculty and Staff.* All current faculty and staff of CBC
- 2.4 *Eligible Students.* All students enrolled at the College
- 2.5 *CBC-PASS.* A right-to-ride transit pass that allows CBC students, faculty and staff to participate in the CBC-PASS program
- 2.6 *CBC-PASS Sticker.* a colored sticker that is supplied by Ben Franklin Transit and affixed to the front of the CBC photo ID card as proof of CBC-PASS membership.

- 2.7 The following dates and sticker colors will be attached to student IDs and honored by BFT as a college transit pass.

Examples of colors and dates follow:		
Fall 2011	Orange	Fall CBC dates: September 1 – December 31
Winter 2012	Green	Winter CBC dates: January 1 – March 31
Spring 2012	Yellow	Spring CBC dates: April 1 – June 30
Summer 2012	Pink	Summer CBC dates: June 1 – August 31

3.0 TERM OF AGREEMENT

This Agreement shall take effect on September 1, 2011. Unless terminated or extended by written agreement of the Parties, this Agreement shall continue in effect until June 30, 2012. The Agreement may be extended or renewed before the termination date.

4.0 DESIGNATED REPRESENTATIVES and LEAD PARTY FUNCTIONS

4.1 To promote effective and efficient cooperation and administration of this Agreement, each of the Parties shall designate a primary contact person ("Primary Contact") as identified in Attachment 1. The CBC's Designated Representative will also be responsible for purposes of the distribution and sale of CBC-PASS Stickers. Either party may change its Designated Representative by providing written notice to the other Parties (including revised contact information). CBC and BFT/PTBA shall provide notice of any changes to their respective Designated Representative contact information. An email shall be sufficient notice.

4.2 The Designated Representative shall receive individual invoices and arrange payments to BFT/PTBA. They shall coordinate all CBC-PASS Sticker distribution, pricing negotiations and other functions as specified in this Agreement.

5.0 CBC-PASS STICKERS

5.1 *Eligible Recipients of a CBC-PASS Sticker.* CBC shall make reasonable efforts to ensure that only eligible students, faculty and staff members receive CBC-PASS Stickers.

5.2 *Production and Distribution of CBC-PASS Stickers.* Ben Franklin Transit shall be responsible for the production of CBC-PASS Stickers, or may work in conjunction with BFT/PTBA for the purchase of stickers. CBC is responsible for the production and distribution of ID cards to all students, faculty and staff for participation in the CBC-PASS program. The costs associated with these responsibilities shall be borne solely by CBC.

5.3 *Security and Replacement of CBC-PASS Stickers.* CBC agrees that they are solely responsible for providing proper storage and security measures for any and all CBC-PASS Stickers. The CBC-PASS Stickers will be considered a non-refundable, non-transferable instrument. BFT/PTBA shall have no responsibility for replacing lost or stolen CBC-PASS Stickers. CBC shall issue the CBC-PASS Stickers and may, at their

cost, provide for any refunds or the replacement of lost or stolen CBC-PASS Stickers in accordance with their adopted policies. In the event of a loss or theft of CBC-PASS Stickers in the CBC's inventory, CBC shall notify BFT/PTBA. Both parties will jointly determine an appropriate course of action.

5.4 *Reporting.* The College shall report to BFT/PTBA within fifteen (15) days of the end of each Academic Quarter the actual number of CBC-PASS Stickers issued to CBC students, faculty and staff.

5.5 *Transit Access.* BFT/PTBA shall allow each student, faculty and staff member displaying a valid CBC-PASS Sticker on his/her valid CBC ID card to ride on all parts of the regular route transportation system, excluding paratransit services, without additional charge. The holder shall receive a credit of \$1.25 toward any premium service excluding Dial A Ride para-transit services. CBC-PASS Stickers are not valid on any other agency's system or special event services operated by BFT/PTBA. BFT/PTBA shall honor each CBC-PASS sticker issued under this Agreement.

5.6 *Confiscation of CBC-PASS Stickers/I.D. Cards.* BFT/PTBA reserves the right to confiscate CBC-PASS Stickers and CBC ID cards which are not valid or have been altered, duplicated, counterfeited, transferred or distributed to unauthorized persons or otherwise invalid under the terms of this Agreement. Confiscated CBC-Passes shall be sent immediately to the CBC's designated representative along with any available supporting information regarding the reasons for, and date of, the confiscation.

6.0 PRICING

The costs associated with this Agreement are specified in the following, *Products, Pricing and Terms*; except as otherwise provided below, these costs shall remain in effect for the term of this Agreement. The pricing is based upon enrollment projections received from CBC and verification with ridership counts completed by BFT/PTBA staff.

Products and Projected Pricing Terms 2011-2012					
	Fall Enrollment	Staff	Quarterly Price		Price per Student
First Quarter Pricing	800	25	\$ 45.00	\$ 19,125.00	\$ 2.25
Second Quarter Pricing	600	25	\$ 45.00	\$ 28,125.00	\$ 4.37

Give a sticker for all and charge for 5% first quarter and 10% second.
 Do a survey in-between or prior to spring quarter and then adjust price accordingly.
 Drivers do a count for two weeks each quarter of trips using stickers to verify usage.
 Spring and Summer Quarters pricing will be negotiated.

7.0 PAYMENTS AND BILLING

7.1 *Invoice and Payment.* BFT shall present quarterly invoices to CBC's designated representatives listed in Attachment 1. CBC shall make payments in full to BFT/PTBA within sixty (60) days.

8.0 PLANNING AND MARKETING ACTIVITIES

- 8.1 *Information and Distribution.* BFT/PTBA will supply rider information and transit guides to CBC in a timely manner.
- 8.2 *Transit Service Planning.* For the duration of this Agreement, BFT will consult with the College in the planning of future transit services affecting the campus to the extent feasible. Planning efforts will include exploring strategies to best match transit capacity to demand on routes serving the College.

9.0 TERMINATION

- 9.1 Termination for Default. The Parties may terminate this Agreement for default in the event any other Party fails to perform a material obligation under this Agreement. Termination shall be effected by serving a Notice of Termination by certified mail, return receipt requested, on the other Parties setting forth the manner in which a Party is in default and the effective date of termination, which shall not be less than thirty (30) calendar days after the date of the notice; provided, however, such termination shall not take effect if the default has been cured within seven (7) calendar days after the date of the notice of termination.
- 9.3 Notwithstanding any termination of the Agreement, the Parties shall remain liable to satisfy and comply with all of their obligations under this Agreement and at law with regard to, or arising out of, any orders submitted or any of its acts or omissions occurring prior to the effective date of the termination, including but not limited to paying all amounts due or incurred prior to the effective date of the termination and any fees, charges, collection costs or other costs arising from a failure to make timely and effective payment.

10.0 FORCE MAJEURE

Any Party to this Agreement shall be excused from performance of any responsibilities and obligations under this Agreement, and shall not be liable for damages due to failure to perform, during the time and to the extent that it is prevented from performing by a cause directly or indirectly beyond its control, including, but not limited to: any incidence of fire, flood, snow, earthquake, or acts of nature; strikes or labor actions; accidents, riots, insurrection, terrorism, or acts of war; order of any court of competent jurisdiction or authorized civil authority commandeering material, products, or facilities by the federal, state or local government; or national fuel shortage ("Force Majeure Event"); when satisfactory evidence of such cause is presented to the other Parties to this Agreement, and provided that such non-performance is beyond the control and is not due to the fault or negligence of the Party not performing. In no event should this provision eliminate the obligation of CBC to make payment to the BFT pursuant to the terms of this Agreement.

11.0 PROHIBITED DISCRIMINATION

The Parties shall not discriminate on the basis of race, color, sex, religion, nationality, creed, marital status, sexual orientation, age, or presence of any sensory, mental, or physical disability in the administration of its transportation program, or the performance of any acts under this Agreement. The Parties shall comply fully with all applicable federal, state and local laws, ordinances, executive orders and regulations which prohibit such discrimination.

12.0 COMPLIANCE WITH APPLICABLE LAW

The Parties shall be solely responsible for their respective compliance with all applicable federal, state and local laws, regulations, resolutions and ordinances, including but not limited to any provisions relating to the provision of compensation, benefits or services to their respective employees or others (e.g. including but not limited to transportation fringe benefits) and any reporting, tax withholding or other obligations related thereto. The Parties expressly acknowledge and agree that: (a) no legal, accounting, tax or other advice has been provided by any Party to another; and (b) it has not relied on any representations or statements by another Party and will not rely on them to provide any legal, accounting, tax or other advice with regard to the provision of compensation, benefits or services to their respective employees or others (e.g. including but not limited to transportation fringe benefits) and any reporting, withholding or other obligations related thereto.

13.0 LEGAL RELATIONS

13.1 *No Partnership, Agency or Employment Relationship Formed.* The Parties are independent parties and nothing in this Agreement shall be construed as creating any joint venture, partnership, agency or employment relationship between and among them or their respective employees.

13.2 *Limitation on Liability.* Each party to this agreement shall be responsible for its own acts and/or omissions and those of its officers, employees and agents related to any loss of use, loss of time, loss of profits, loss of privacy, loss of data, loss of goodwill, inconvenience, commercial loss, loss of anticipated savings, wasted management time or labor, or any special, consequential, indirect, incidental, or punitive damages, when such damages arise out of or are related to this Agreement. Neither party shall be construed to be the officer, agent or employee of the other. In the event the need for litigation arises in the administration of the terms of this Agreement, each party shall bear its own costs and attorney fees.

13.4 Provided, however, nothing in this Agreement shall be construed to require any party to defend, indemnify and hold harmless against any liability to the extent it arises from or is caused by the negligence or fault of the other party, agents, employees and/or officers.

13.4 *No Waiver.* The Parties agree that any failure by one of them to exercise or enforce any legal right or remedy which is contained in the Agreement or under applicable law will not be taken to be deemed to be a waiver or modification of the that Party's rights and remedies and that those rights or remedies will still be available to that Party.

13.5 *Governing Law and Forum.* This Agreement and all provisions hereof shall be interpreted and enforced in accordance with, and governed by, the applicable law of the State of Washington and of the United States of America without regard to its conflict of laws provisions. The exclusive jurisdiction and venue for conducting any legal actions arising under this Agreement shall reside in either the Federal District Court or the State of Washington Superior Court, as applicable, that is located in Franklin County. The Parties hereby consent to personal jurisdiction and venue in said courts.

13.6 *Attorneys' Fees and Costs.* In the event of litigation between the Parties the prevailing party shall be entitled to reasonable attorney fees and reasonable litigation expenses and costs.

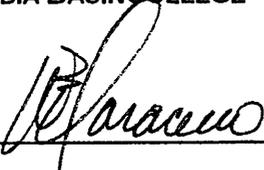
14.0 AUTHORITY TO EXECUTE

Each Party to this Agreement represents and warrants that: (i) it has the legal power and

authority to execute and perform this Agreement and to grant the rights and assume its obligations herein; and (ii) the person(s) executing this Agreement below on the Party's behalf is/are duly authorized to do so and that the signatures of such person(s) is/are legally sufficient to bind the Party hereunder.

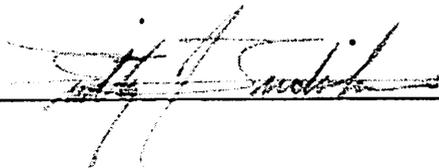
IN WITNESS WHEREOF, the Parties hereto, by their duly authorized representatives, have executed this Agreement as of the Effective Date.

COLUMBIA BASIN COLLEGE

BY:  Date: 7/19/11

William E. Saraceno
Sr. Vice President of Administration

BENTON FRANKLIN PUBLIC TRANSPORTATION BENEFIT AREA

BY:  Date: July 15, 2011

Timothy Fredrickson
General Manager

**ATTACHMENT 1
DESIGNATED REPRESENTATIVES**

	COLLEGE - Primary	Ben Franklin Transit - Primary
Name	William E. Saraceno	Kathleen B. McMullen
Title	Sr. Vice President of Administration	Service Development Manager
Address	2600 N. 20 th Avenue	1000 Columbia Transit
	Pasco, WA 99301	Richland, WA 99352
Telephone	509-542-5546	734-5107
Cell Phone		554-0316
Fax	509-546-0404	783-9956
E-Mail	bsaraceno@columbiabasin.edu	Kmcmullen@bft.org
	COLLEGE - Secondary	Ben Franklin Transit - Secondary
Name	Brady Brookes	Christy Watts
Title	Executive Assistant	Marketing Manager
Address	2600 N. 20 th Avenue	7104 Okanogan Place
	Pasco, WA 99301	Kennewick, WA
Telephone	509-542-5546	734-5109
Cell Phone		
Fax	509-546-0404	
E-Mail	bbrookes@columbiabasin.edu	cwatts@bft.org