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**AGREEMENT FOR  
PROFESSIONAL TRANSIT MANAGEMENT CONSULTING SERVICES  
BCB, LLC BELIEVE CREATE BUILD**

THIS AGREEMENT ("Agreement"), is made between Yamhill County, a political subdivision of the State of Oregon ("County") and BCB, LLC *Believe Create Build*, an Oregon limited liability company, located at 14138 S Caufield Road, Oregon City, OR 97045("Contractor")

**RECITALS:**

A. County, through its Yamhill County Transit Agency, an ORS 451 County Service District, furnishes and operates public transportation services. In order for County to provide these public transportation services it is necessary for County to contract with a qualified consultant with training and expertise in professional transit management services.

B. Contractor is qualified to provide the required professional transit management services and to perform the duties required by County and imposed by this Agreement. County and Contractor desire to enter into this Agreement and County is authorized to enter into this Agreement under ORS 203.010(3).  
NOW, THEREFORE

**AGREEMENT**

In exchange for the promises and other consideration as set forth below, the receipt and sufficiency of which is hereby acknowledged, IT IS HEREBY AGREED BETWEEN THE PARTIES AS FOLLOWS:

**SECTION 1 SERVICES OF CONTRACTOR.**

1. Contractor agrees to perform the following services (the "Services"):

*See Exhibit A*

In addition to the services found in Exhibit A, Contractor agrees to perform the following:

- a.           n/a
- b.           "
- c.           "

Any additional work beyond the Services may be negotiated individually at Contractor's hourly rate or at a negotiated project rate.

**SECTION 2 COUNTY'S DUTIES.** County shall provide the following items during the duration of this Agreement.

1 If any Services are provided at County offices, County shall provide the office space, terminals, telephone, office equipment, office furniture, computer hardware and software, and fixtures necessary to perform Services.

*B.O. 15-34*

**SECTION 3 INDEPENDENT CONTRACTOR.** Contractor is engaged hereby as an independent contractor, and will be so deemed for purposes of the following:

1. Contractor will be solely responsible for payment of any federal or state taxes required as a result of this Agreement. County will not withhold any state or federal income taxes from payments owed Contractor.
2. As an independent contractor, Contractor acknowledges and agrees that Contractor is not entitled to any benefits granted to County employees. Without limitation, but by way of illustration, the benefits which are not granted to Contractor include vacation, holiday and sick leave, other leaves with pay, tenure, medical, and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits, except as otherwise required by law.
3. Contractor is an independent contractor for purposes of the Oregon Workers' Compensation law (ORS Chapter 656) and is solely liable for any Workers' Compensation coverage under this Agreement. If Contractor has the assistance of other persons in the performance of this Agreement, Contractor will qualify and remain qualified for the term of this Agreement as a carrier-insured employer or a self-insured employer under ORS 656.403 et. seq.

**SECTION 4 COMPENSATION; PAYMENT SCHEDULE.** Contractor will provide the Services for a flat fee of \$6,000 per month, beginning in February, 2015 and continuing through the end of June, 2015. In addition, Contractor will receive a one-time engagement fee of \$4,000 due upon the full execution and approval of this Agreement. Contractor shall be compensated in the total amount of \$34,000.00 for Services rendered under this Agreement, which amount shall also be the maximum not-to-exceed amount to be paid under this Agreement unless this Agreement is amended in a writing signed by both parties. The above rates are inclusive of any per diem rates described on Exhibit A. Any expenses incurred by Contractor in the performance of the Services under the terms and conditions of this Agreement not specifically provided for herein shall be the sole and separate responsibility of Contractor, unless preapproved in writing by County. The only compensation due Contractor is specifically stated in this Agreement. Upon request of County, but in no event less frequently than monthly, Contractor will provide written documentation of completed and ongoing tasks, hours and deliverables. Contractor shall submit an initial invoice for the engagement fee and February billing, then submit monthly invoices by 25<sup>th</sup> of the month and, following receipt, review and approval of such invoices (in its sole discretion), County will issue bi-monthly checks for \$3,000 on approximately the 1<sup>st</sup> and 15<sup>th</sup> of each month or on the dates that best coincide with the County's standard billing cycle. (*Refer to invoice/payment schedule attached*)

**SECTION 5 INDEMNIFICATION.** CONTRACTOR AGREES TO INDEMNIFY AND HOLD COUNTY HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS AND ACTIONS, LIABILITIES, DAMAGES OR EXPENSES RESULTING THEREFROM, INCLUDING COURT COSTS, ALLEGING INJURIES TO PERSONS OR DAMAGE TO PROPERTY OF ANY THIRD PARTY, RELATING TO OR ARISING OUT OF ANY OF THE SERVICES PERFORMED BY CONTRACTOR UNDER THIS AGREEMENT.

**SECTION 6 INSURANCE.** Contractor, at Contractor's own expense, shall obtain the following insurance coverage and keep them in effect during the entire term of this Agreement (except with respect to Professional Liability Insurance, which shall be kept in effect for a period of the term of this Agreement plus two years):

1. Workers' Compensation Insurance in compliance with statutory requirements;

2. Commercial General Liability Insurance (including contractual liability and completed operations coverage, and coverage for liability resulting from hazardous substances), on an occurrence basis, with not less than \$1,000,000 per occurrence for bodily injury and property damage liability, with an annual aggregate limit of \$2,000,000;
3. Professional Liability Insurance, including errors and omissions coverage, with a per occurrence and aggregate limit of not less than \$1,000,000, to protect against all loss suffered by County or third parties, including financial and consequential loss, caused by error, omission, or negligent acts related to provision of the Services;
4. Commercial Automobile Liability Insurance, with a combined single limit, or the equivalent of not less than \$1,000,000 per occurrence, for bodily injury and property damage with respect to Contractor's vehicles, whether owned, hired, or non-owned, assigned to, or used by Contractor in connection with the Services;

The required insurance coverages shall be (i) with insurance companies admitted to do business in the state of Oregon and rated A or better by Best's Insurance Rating, and (ii) acceptable to County. At County's request, Contractor shall furnish County with certificates of insurance for each of the required insurance coverages. The certificates of insurance shall indicate (a) the types of insurance coverage, (b) the identity of all persons or entities covered, (c) the amounts of insurance coverage, and (d) the period of insurance coverage. Any required insurance coverage shall provide that it may not be canceled except after at least 30 days written notice to County.

The Commercial General Liability and Commercial Automobile Liability shall (i) name County, its directors, officers, and employees, as additional insureds, (ii) provide that it is primary insurance with respect to the interests of County and that any insurance maintained by County is excess and not contributory, and (iii) include a cross-liability and severability of interest clause and a waiver of subrogation clause.

**SECTION 7 PRIVATE BUSINESS.** Contractor shall not operate any private business from any County property, nor shall Contractor utilize any County property for Contractor's private business, except to perform the Services described in this Agreement. However, phone calls received or made by Contractor using County equipment and while on County property shall be allowed only on an emergency, occasional basis. If a long distance telephone call is made on an emergency, occasional basis, it shall be charged to Contractor's private business telephone number or credit card.

**SECTION 8 TERM; TERMINATION; DEFAULT.**

1. Term. Unless terminated in accordance with subsection (2), the term of this Agreement is from February 5, 2015 through June 30, 2015 and supersedes any prior agreements between the parties.
2. Termination. Either party may terminate this Agreement on thirty (30) calendar days written notice to the other party. In addition, in the event County no longer receives funds adequate to enable it to continue this Agreement, it will provide written notice of immediate termination of this Agreement to Contractor. Upon issuance of notice, this Agreement is terminated. However, any obligations existing at the time of termination will survive termination. Contractor shall not make expenditures, enter into agreements, or encumber funds in its possession, or to be transferred by County, after notice of termination or termination as set out above, without prior written approval from County. Termination shall not excuse liabilities incurred prior to the termination date.

3. Default. If Contractor defaults in the performance of any of its material obligations under this Agreement for a period of thirty (30) days after the County sends notice of such default to the address on this Agreement, County may, at its option, terminate the Agreement, such termination to be effective immediately upon expiration of the thirty day notice period; provided, however, that in the event Contractor provides written notice to County that the default cannot reasonably be cured by Contractor within said thirty (30) day period and the Contractor provides written certification that it is, in good faith, endeavoring to cure said default, then the thirty (30) day cure period shall be extended for an additional reasonable period to allow for such cure, but any such extended period shall not exceed 30 additional days, unless otherwise mutually agreed in writing by both County and Contractor.

**SECTION 9 CONFIDENTIALITY.** Contractor acknowledges that Contractor may, in the course of its performance under this Agreement, be exposed to or acquire information that is the confidential information of County or County's clients. Any and all (i) County or County client information, (ii) information provided by County and marked confidential, or (iii) information identified as confidential in a separate writing, that becomes available to Contractor in the performance of this Agreement shall be deemed to be confidential information of County ("Confidential Information"). Any reports or other documents or items, including software, that result from Contractor's use of the Confidential Information are also deemed Confidential Information. Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of Contractor's own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Information for any purposes whatsoever, except as may be provided elsewhere under this Agreement or in conformance with Exhibit A. Contractor agrees that, upon termination of this Agreement or at County's request, Contractor will turn over to County all documents, papers and other matter in Contractor's possession that embody Confidential Information.

**SECTION 10 COMPLIANCE WITH APPLICABLE LAWS.** Contractor agrees to comply with the rules and regulations of County, applicable state and federal regulations and all other provisions of state and federal law relating to Contractor's performance of Services under this Agreement. To the extent applicable Contractor certifies it will comply with ORS 279B.220 through 279B.235, which provisions are hereby incorporated into this Agreement by reference. Contractor will provide services to County clients without regard for race, color, creed, religion or national origin in compliance with Title IV, Civil Rights Act, 1954.

**SECTION 11 SUBCONTRACTS; ASSIGNMENT.** Contractor shall not enter into any subcontracts for any of the Services required under this Agreement without County's prior written consent. Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld).

**SECTION 12 GOVERNING LAW; VENUE.** This Agreement, and any disputes arising out of or related hereto, shall be governed exclusively by the internal laws of the State of Oregon without regard to its conflicts of laws rules. Any claim, action, suit or proceeding between County and Contractor that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Oregon for Yamhill County. **CONTRACTOR HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF THESE COURTS AND WAIVES ANY OBJECTION TO VENUE IN THESE COURTS AND ANY CLAIM THAT THIS FORUM IS AN INCONVENIENT FORUM.**

**SECTION 13 COUNTERPARTS.** This Agreement may be executed by facsimile and in counterparts, which taken together shall form one legal instrument.

**SECTION 14 WAIVER AND CUMULATIVE REMEDIES.** No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

**SECTION 15 ATTORNEY FEES.** In the event of legal suit or action, including any appeals therefrom, brought by either party against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions under this Agreement, each party shall pay their own attorney's fees and costs incurred in the suit or action, including investigation costs, expert witness fees and all costs of depositions.

**SECTION 16 SEVERABILITY.** If any term of this Agreement is held to be invalid or unenforceable, it shall be severed from this Agreement and the balance of the Agreement shall be reasonably construed to carry out the intent of the parties as evidenced by the terms of this Agreement.

**SECTION 17 NO THIRD PARTY BENEFICIARIES.** Except as expressly provided herein, nothing contained in this Agreement is intended, nor shall it be construed to create rights for the benefit of third parties.

**SECTION 18 INTEGRATION CLAUSE.** This Agreement constitutes the entire agreement of the parties. No modifications of the Agreement shall be allowed except in a written document signed by all the parties.

**SECTION 19 EXHIBITS AND RECITALS.** All exhibits and schedules referenced herein are incorporated herein. The recitals set forth above are incorporated into this Agreement as a material and substantive part of this Agreement.

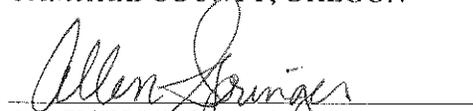
**SECTION 20 Time Essence.** Time is of the essence in the performance of this Agreement

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth adjacent to their signatures below.

**BCB, LLC BELIEVE CREATE BUILD**

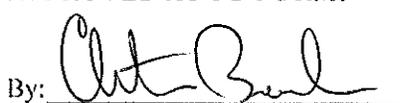
  
Cynthia Thompson  
Title: President  
Date: 2-5-15

**YAMHILL COUNTY, OREGON**

  
ALLEN SPRINGER, Chair  
Board of Commissioners  
Date: 2-9-15

SS# /Tax ID#: 47-3016661

**APPROVED AS TO FORM:**

By:   
CHRISTIAN BOENISCH, County Counsel

  
LAURA TSCHABOLD, County Administrator  
Date: 2-9-15

Accepted by Yamhill County  
Board of Commissioners on  
2-5-15 by Board Order  
# 15-36

**EXHIBIT A**  
**SERVICES**  
**(see attached)**

B.O. 15-34

Contract Attachment A

**Yamhill County  
Yamhill County Transit Area**

**Scope of Work**

February 1, 2015 – June 30, 2015

Contractor agrees to provide the following products and services to Yamhill County for Yamhill County Transit Area and report to the County Administrator or her designee.

**Deliverables**

BCB will provide professional transit management services for Yamhill County Transit Area (YCTA), Yamhill County's transit system. BCB contractor will be available as requested during YCTA operating hours and will work remotely when not on-site. Contractor will be available on-site in McMinnville 8-10 days per month from February – June 2015, typically the second and third week of the month or as requested. Contractor will attend required staff meetings, County Board of Commissioner Meetings, County Director meetings, STF and Transit Advisory Committee meetings, and other meetings specified by the County Administrator or Deputy County Administrator.

**Administrative**

- Review former Transit Coordinator files and assess current situation as it relates to grants, budget, BETC, contracts, grant compliance, vehicle procurement, etc.
- Assist, provide advice and make recommendations to Deputy County Administrator and Grant Coordinator regarding day to day management and operational issues.
- Assess current systems and determine if new systems need to be in place and prepare a recommendation. Fifteen (15) hours is included in this scope for systems related tasks. If it requires more than 15 hours BCB will provide estimate to County Administrator to complete.
- Review County Audit and determine documentation needed to meet audit requirements.
  - Ten (10) hours included in this scope to research and prepare documentation. If it requires more than 10 hours BCB will provide an estimate to County Administrator.

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## HR/Transit Coordinator Recruitment

- BCB will prepare input and recommendations regarding the Transit Coordinator recruitment process to begin March 15<sup>th</sup>, 2015.

## Budget

- Review budgets from previous years and provide input and recommendation to the Deputy County Administrator for the 2015/16 budget.
  - Confirm grant revenue projections
  - BETC and other revenue projections
  - After assessment of current system provide input and recommendations if appropriate regarding transit expenditures for 2015/16 budget

## Grants

- Review prior year applications and assess current situation with all grant sources.
- Draft and submit annual or periodic grant applications and prepare and submit required reports and/or billings for the following grant opportunities.
  - Rural and Small Urban Areas (FTA Section 5311) Due February 20, 2015 (Short time line- this proposal based on standard 5311 application)
  - Special Transportation Fund (State of Oregon STF) Due April 17, 2015
  - Elderly and Disabled Specialized Transit Program (FTA Section 5310) Due March 20, 2015
  - 2015-2018 STIP – Transit Vehicles (Research and determine if steps need to be taken for vehicle acquisition)
- Work with Yamhill County Grant Coordinator and train as necessary on the various grants and grant report requirements for YCTA.
- By the end of June clarify appropriate roles and responsibilities for Transit Coordinator and Grant Coordinator as it relates to YCTA grants.
- Contact appropriate representatives for the various grant funds and provide a summary for Grant Coordinator and Deputy County Administrator of necessary funding review committee meetings and other pertinent meetings. Attend necessary funding review meetings upon request.

## ODOT –FTA Audit

- Confirm status of upcoming ODOT audit and determine YCTA readiness for audit.
- Prepare summary of areas of compliance, requirements and immediate priorities.

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- (This proposal does not include the ODOT audit process which includes meetings, compliance reports, plans, documents etc.)

## **BETC**

- Research and determine status of YCTA BETC applications. If YCTA did not miss the deadline and steps need to be taken to find pass through partners to purchase tax credits.
- Take steps to secure BETC pass through partner. Work closely with Department of Energy staff to assure all steps of the process have been accomplished;
  - Project documentation is complete and pass-through-partner identified through DOE
  - If necessary work with vendor to secure a partner.
- Fifteen (15) hours is included in this scope for BETC related tasks. If it requires more than 15 hours BCB will provide estimate to County Administrator to complete.

## **Contract Management**

- Review grant contracts, identify compliance requirements and make necessary recommendations. Communicate requirements to Grant Coordinator and appropriate county departments or service contractor as necessary.
- Assure that required reports and/or billings such as the following are submitted: (coordinate with Grant Coordinator, advise and/or train as needed)
  - Annually:
    - Reports for all Grants funded with 5310, 5311
    - MIS Report, NTD Report, TEAM Report, Certifications & Assurances, STF report and others upon request
  - Quarterly: – Reports for all Grants funded with 5310, 5311, STF
  - Monthly: - First Transit Invoices and Performance Measurement Reports, any internal reporting necessary to STF Committee, County Administrator or Board of Commissioners etc.

## **Special Transportation Fund Advisory Committee (STF)**

- Review correspondence with STF committee members and prior STF allocation to sub-contractors. Review existing contracts or agreements with STF sub-contractors and determine if contract modifications are necessary.
- Facilitate STF Committee Meetings (next meeting February 25, 2015).
- Prepare agenda's and respond to committee requests.
- Prepare summary of STF Committee decision(s) and submit to Grant Coordinator, Deputy County Administrator and County Administrator.

**Service Design and Delivery**

- Research, provide advice and/or resolve issue regarding website and schedules requested by First Transit Manager.

**Community Relations/Marketing**

*(Upon request and if approved by County Administrator)*

- Attend and participate in Board of Commissioner, Departmental, Planning or other meetings as representative for YCTA.
- Attend and participate in community gatherings and events to represent YCTA.
- Serve as YCTA contact with community transit partners, local, regional and state transportation agencies and other appropriate organizations.

<b>BCB 2015 Billing Rates</b>		
<b>BCB Team</b>		<b>2015</b>
Principal - Owner		\$150
Principal – Planner/Strategist		\$130
Administrative		\$85
Project Manager I, II, III		\$90 - \$120
Program Manager I, II, III		\$90 - \$110
Communications/Facilitation/Coordination		\$80 - \$120
Field Experts- Technical Advisor's		\$120- \$200