



BENTON-FRANKLIN COUNCIL OF GOVERNMENTS

Regional Planning Agency for Benton & Franklin Counties

Benton-Franklin Metropolitan Planning Organization • Regional Transportation Planning Organization
Benton-Franklin Economic Development District

RESOLUTION 04-23

A RESOLUTION OF THE BOARD OF THE BENTON-FRANKLIN COUNCIL OF GOVERNMENTS (BFCOG) AUTHORIZING AMENDMENT OF THE INTERLOCAL AGREEMENT OF THE BENTON-FRANKLIN COUNCIL OF GOVERNMENTS

WHEREAS, the jurisdictions referred to collectively as Members of the Benton-Franklin Council of Governments (BFCOG) by Interlocal Agreement have previously acknowledged the need to engage in cooperative planning and decision-making on transportation and economic development issues and the benefits to be derived therefrom; AND

WHEREAS, the Interlocal Agreement of the Benton-Franklin Council of Governments (BFCOG), as approved on September 18, 2020, in Article 16 – Amendments, indicates the process by which the Interlocal Agreement may be amended by a majority vote of all members of the Agency; AND

WHEREAS, the BFCOG Board by Resolution 08-21, A Resolution of the Board of the Benton-Franklin Council of Governments Authorizing Bylaws Review, directed the formation of a Bylaws Review Committee recognizing that the current Bylaws amendments “were made expeditiously to meet Federal requirement” and that “a review of the Bylaws is necessary for the purpose of rectifying inconsistencies and is prudent to ensure organizational effectiveness”; AND

WHEREAS, through the Bylaw review process, past and current changes to the Benton-Franklin Council of Governments Bylaws created inconsistencies between those Bylaws and the Interlocal Agreement; AND

WHEREAS, an amended Interlocal Agreement has been developed in cooperation between staff and the BFCOG Board, which rectifies identified inconsistencies between the BFCOG Bylaws and said Interlocal Agreement; AND

WHEREAS, this amended Interlocal Agreement has been reviewed by the BFCOG Bylaws Committee, the BFCOG Executive Committee, and stakeholder agencies; NOW THEREFORE

BE IT RESOLVED that the Board of the Benton-Franklin Council of Governments hereby authorizes amendment of the Benton-Franklin Council of Governments Interlocal Agreement (Exhibit 1); AND

BE IT FURTHER RESOLVED that the Board of BFCOG now authorizes the Executive Director to provide this Interlocal Agreement to all member jurisdictions for execution and ratification by Resolution on behalf of the organization.

ADOPTED by the Benton-Franklin Council of Governments Board by affirmative vote at the regularly scheduled Board meeting held on the 17th day of March 2023.

By:  _____; and
BRAD PECK, Chair

By:  _____
NICHOLAS (SKIP) NOVAKOVICH, Vice Chair

Exhibit 1 – BFCOG Interlocal Agreement



INTERLOCAL COOPERATION AGREEMENT OF THE BENTON-FRANKLIN COUNCIL OF GOVERNMENTS

Amended May 19, 2023

(As a total and complete replacement for all previous Interlocal Agreements)

Pursuant to Revised Code of Washington (RCW) Chapter 36, Laws of 1959, as amended (RCW 36.70.060) and Chapter 84, Laws of 1965, Extraordinary Session, (RCW 36.64.080), and be it resolved that the local governments of:

- Ben Franklin Transit,
- Benton County,
- City of Benton City,
- City of Connell,
- City of Kennewick,
- City of Pasco,
- City of Prosser,
- City of Richland,
- City of West Richland,
- Franklin County,
- Port of Benton,
- Port of Kennewick, and
- Port of Pasco

Each hereafter referred to as a "Member" or collectively, as "Members," do hereby organize and reaffirm the establishment of a regional agency, hereinafter referred to as the Benton-Franklin Council of Governments or "COG"; and further establish, as an integral component thereof, an Economic Development District organization, hereinafter referred to as the "EDD" by this Interlocal Agreement or "Agreement."

This Agreement terminates and supersedes in all respects the Benton-Franklin Council of Governments Interlocal Agreement dated September 18, 2020; the Benton-Franklin Council of Governments Articles of Association amended November 21, 2014; the Benton-Franklin Council of Governments Articles of Association amended May 22, 1998, and original Benton-Franklin Governmental Conference Articles of Association dated November 7, 1966, and any or all such agreements.

RECITAL

WHEREAS, each of the Members hereto is a public agency pursuant to the terms of RCW 39.34 Interlocal Cooperation Act, and it is the intent and purpose of the Members to exercise their powers and authority in accordance with its provisions; and

WHEREAS, pursuant to the provisions of RCW 39.34, two or more public agencies may jointly cooperate to perform functions that each may individually perform. Therefore, Members enter into this Interlocal Cooperation Agreement to provide for the joint and/or cooperative exercise of their powers, privileges, and authorities for the purpose of comprehensive transportation planning; and

WHEREAS, the Members acknowledge the need to engage in cooperative planning and decision-

making on transportation and economic development issues and the benefits to be derived therefrom as demonstrated by the attached signature pages; and

WHEREAS, Federal transportation legislation, Title 23 United States Code 134 and Title 49 United States Code 5303, requires the establishment, by agreement between the Governor of the State of Washington and units of general-purpose local government, of a Metropolitan Planning Organization (MPO), which, in cooperation with the State of Washington, is to develop transportation plans and programs for urbanized areas of Washington State; and

WHEREAS, 23 CFR §450 sets forth the national policy that the MPO designated for each urbanized area is to carry out a continuing, cooperative, and comprehensive multimodal transportation planning process, including the development of a Metropolitan Transportation Plan (MTP) and a Transportation Improvement Program (TIP); and

WHEREAS, the Washington State Growth Management Act, RCW 36.70A, requires local governments to adopt transportation plans that are consistent with comprehensive land use plans; and

WHEREAS, RCW 47.80 authorizes the formation of a Regional Transportation Planning Organization (RTPO) by the voluntary association of local governments within a county, provided each RTPO shall have as members all counties within the RTPO's boundaries and at least sixty percent of the cities and towns collectively, representing a minimum of seventy-five percent of the population of all incorporated municipalities; and

WHEREAS, pursuant to RCW 47.80.023(7), the Benton-Franklin Council of Governments is designated as the lead planning agency and governing body for the MPO and the RTPO; and

WHEREAS, RCW 47.80.40 provides each RTPO formed by local governments is required to create a Transportation Policy Board to provide policy advice to the RTPO and shall allow representatives of major employers within the region, the department of transportation districts, port districts, and member cities, towns, and counties within the region to participate in policy making; and

WHEREAS, the Members acknowledge the need to provide regional economic development planning and have established the Benton-Franklin Economic Development District for these purposes, which will provide these services through the US Department of Commerce Economic Development Administration's Partnership Planning Program and Comprehensive Economic Development Strategy (CEDS) process; and

WHEREAS, the Members acknowledge the need to promote economic development activities for the region in alignment with the Public Works Economic Development Act of 1965 and to provide services as promulgated by the US Department of Commerce Economic Development Administration, US Department of Agriculture, and other funding sources available to the region; and

WHEREAS, each of the Members has previously adopted one or more resolutions authorizing the execution of this Agreement and that such resolutions are in all ways valid and binding; and

WHEREAS, the Members agree to be governed by Bylaws of the COG approved by a two-thirds (2/3) majority vote of all members in good standing;

NOW, THEREFORE, pursuant to the above recitals that are incorporated into this Interlocal Cooperation Agreement as included below, and in consideration of the terms and conditions set forth below, it is hereby agreed as follows:

ARTICLE I

PURPOSE

The purposes which form the basis of this Agreement are as follows:

1. COUNCIL OF GOVERNMENTS: To study regional and governmental problems of mutual interest and concern as agreed to by the Board and consistent with RCW 36.64.80;
2. REGIONAL PLANNING AGENCY: To initiate regional planning programs and accept/receive state and federal grants and funding as agreed to by the Board and consistent with RCW 36.70.060;
3. METROPOLITAN PLANNING ORGANIZATION (MPO): To implement and perform the functions of an MPO for the Tri-Cities Urbanized Area as such area's boundaries are defined now or in the future (23 USC 134 and USC 49; CFR 23 and 40)
4. REGIONAL TRANSPORTATION PLANNING ORGANIZATION (RTPO): To implement and perform the functions of an RTPO for Tri-Cities Urbanized Area as such area's boundaries are defined now or in the future (RCW 47.80);
5. Economic Development District (EDD): To implement and perform the functions of an EDD for the Benton and Franklin Counties area as promulgated by the Economic Development Administration of the US Department of Commerce. (40 USC Subtitle V)
6. PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT (PWEDA) To implement the PWEDA of 1965, PL 89 136 42 USC 3121 et. seq., and all related/subsequent Federal and Washington State legislation related to the purpose of the said Act;
7. To strengthen the regional economy through planning, program development, and economic diversification activities, and
8. Implement and administer other functions and agencies of regional concern as determined by its Board of Directors.

ARTICLE II

BOUNDARIES

The boundaries of the regional planning district shall be the boundaries of Benton County, Franklin County, Washington, and the Tri-Cities Urbanized Area as such area's boundaries are defined now or in the future, and any local, county, or state jurisdiction located within. All references to the "region" in this agreement shall mean Benton and Franklin Counties, and the Tri-Cities Urbanized Area unless changed by the Board as authorized by the COG Bylaws. The COG may be expanded to include contiguous geographic and statistically relevant areas and agencies economically and socially related to the region to provide mutual benefit.

ARTICLE III

FUNCTIONS AND AUTHORITIES

1. TRANSPORTATION. In meeting its responsibilities for regional transportation planning, the COG will:
 - a. Produce a Regional Transportation Plan (RTP) as prescribed by federal and state law and regulations and based on local comprehensive planning. The RTP will establish

planning direction for regionally significant transportation projects, as defined in state law, and shall be consistent with the regional growth management strategy, including but not limited to:

- i. Certify that transportation elements of local comprehensive plans are consistent with the regional transportation plan.
 - ii. Certify that all transportation projects within the region that have a significant impact on regional facilities or services are consistent with the RTP.
 - b. Carry out MPO functions as prescribed for federally funded projects in the region. These functions include preparing an RTP, an annual or biennial Unified Planning Work Program (UPWP), and a four-year capital plan (with an annual element).
2. ECONOMIC DEVELOPMENT. To further the purposes of regional economic development, pursuant to RCW 39.34, the COG will:
 - a. Cooperatively develop and maintain a regional economic development strategy that complies with the Federal requirements for a Comprehensive Economic Development Strategy (USC 42, Chapter 38 Public Works and Economic Development, Subchapter IV) and is also consistent with the requirements of the state of Washington for comprehensive planning under the Growth Management Act (RCW 47.80).
 - b. Contract for, administer, and manage state and federal economic development programs as authorized in the COG Bylaws.
3. REGIONAL DATABASE DEVELOPMENT. The COG shall provide for the establishment and maintenance of a regional database to:
 - a. Support the development of the Metropolitan Transportation Plan and other regional planning efforts of mutual concern to the Members.
 - b. Forecast and monitor the region's economic, demographic, and travel conditions.
 - c. Develop the database jointly with relevant state agencies for use in the region by local governments and the State of Washington.
 - d. Respond to data prepared by the State Office of Financial Management.
4. TECHNICAL ASSISTANCE. The COG shall provide technical assistance to local, state, and federal governments through regional data collection and forecasting services consistent with the agency's purpose, functions, and budget upon request. In addition, the COG may provide, upon request, general transportation or economic development planning assistance consistent with the COG's purpose and functions to Members.
5. DISCUSSION FORUM. The COG may provide a forum for discussion among local and state officials and other interested parties on common regional issues.
6. RESEARCH AND PLANNING. The COG may act as a research and fact-finding agency for the Members. To that end, it may make such surveys, analyses, research, and reports requested as authorized in the bylaws of the Agency. The COG, upon such authority or requests, may also:
 - a. Make inquiries, investigations, and surveys concerning the resources of Benton and Franklin Counties.
 - b. Assemble and analyze the data thus obtained, the systematic utilization and

development thereof.

- c. Cooperate with other commissions and public and private agencies of the Region, Washington State, and the United States in planning endeavors.
- d. Develop programs of Intergovernmental cooperation for the benefit of Members.

7. OTHER FUNCTIONS. The COG shall, insofar as possible:

- a. Coordinate general planning among and for the Members
- b. Provide a written report to the members each year
- c. Prepare, approve, and administer its own annual budget, which includes setting the amount of cost allocations, member assessments, and dues, hiring an Executive Director (who shall hire and supervise employees), hiring consultants, engaging professional accounting, legal and other services as needed, sue and be sued; and other such additional modified, or removed functions and authorities as authorized in the COG Bylaws.

ARTICLE IV

BYLAWS

The authority to make, amend, or repeal bylaws is vested in the COG so long as such bylaws are consistent with the provisions of these articles and applicable laws. Bylaws for the COG are separately adopted and included in Exhibit A of this Agreement.

ARTICLE V

MEMBERSHIP

General Units of Government (excluding small cities with a population of less than 2,500 population) or Special Units of Government (such as school districts, public utility districts, and port districts) located within the COG's planning area of Benton and Franklin Counties of the State of Washington and the Tri-Cities Urbanized Area as such area's boundaries are defined now or in the future is eligible for voting membership in the COG through execution of this Agreement and the payment of such cost allocations as determined by the Board via dues or assessment. COG Membership shall be open to any general or special units of government located within the boundaries. The COG Board shall be comprised of delegates representing voting members as outlined in the Bylaws.

ARTICLE VI

ALLOCATION OF COSTS

Voting members in the COG shall contribute to the expense of the Agency in amounts as established annually by the COG and agreed to by participating jurisdictions pursuant to the budgetary laws outlined in the Revised Code of Washington (RCW). Members shall be assessed according to a per capita ratio or other equitable assessment established by the Board as authorized in the Bylaws. Services and facilities may be provided by participating agencies at a mutually agreed value in lieu of assessment, as authorized in the Bylaws.

ARTICLE VII

DURATION AND DISSOLUTION

The COG shall have perpetual existence until dissolved by: (1) a vote of 2/3 of the voting Members' provided that all members shall receive one month's written notice of the proposed dissolution and all members provided an opportunity for comment on the motion: or (2) withdrawal of such members so that the MPO/RTPO ratification thresholds are no longer met as required by 47.80 RCW and Ch. 468-86 WAC and/or Title 23 USC and Title 49 USC as currently adopted or as amended and 23 CFR Parts 450 and 500 and 40 CFR Part 613.

Upon termination of this Agreement, any money or assets in possession of the COG after payment of all liabilities, costs, expenses, and charges validly incurred under this Agreement shall be returned to all contributing governments in proportion to their assessment determined at the time of termination. The debts, liabilities, and obligations of the COG shall not constitute a debt, liability, or obligation of any member agency.

ARTICLE VIII

WITHDRAWALS

Any Member shall have the right to withdraw from this Agreement by giving written notice to the Board six months prior to the Board's annual meeting establishing the annual assessment. The Members agree that withdrawal will not absolve them of responsibility for meeting financial or other obligations of annual contracts or agreements which exist between the State of Washington or the federal government and the COG at the time of the withdrawal.

The formation of the MPO is based on the population of the metropolitan planning area. Withdrawal by any Member could put the existence of the MPO at risk, resulting in the loss of federal funding for transportation projects. Withdrawal of member jurisdictions could impact the organization with respect to its designation and funding as an RTPO under Washington State law.

ARTICLE IX

GENERAL PROVISIONS

- A. ADOPTION AND EFFECTIVE DATE. The effective date of this Agreement shall be upon ratification by the Counties and at least sixty percent (60%) of the cities and towns within the council area that represent seventy-five percent (75%) of the cities and towns population ("Ratification"). This Agreement shall be binding upon the Members who have executed this Agreement, their successors, and assigns, provided that upon Ratification, all prior agreements and bylaws between the parties shall be deemed terminated and replaced herewith. Thereafter, no city, town, tribe, or special district shall be a voting member of the Benton-Franklin Council of Governments, the Benton-Franklin Metropolitan Planning Organization/Regional Transportation Planning Organization Transportation Policy Board, or the Benton-Franklin Economic Development District until the Board has approved the entity's membership and the entity's governing body has approved this Agreement and paid assessed dues.
- B. AMENDMENTS. This Agreement may be amended by Board action pursuant to the COG Bylaws.
- C. FILING AND STATE APPROVAL. Pursuant to RCW 39.34.040, this Agreement shall be on the COG website or other electronically retrievable public source. To the extent any

state officer or agency has control over the operations which may be the subject of this Agreement, then this Agreement shall be submitted to such state officer or agency for approval pursuant to RCW 39.34.050 prior to its entry into force.

- D. INVALID PROVISIONS. If any portion of this Agreement, or its application to any local government, person, or circumstances, is held or determined to be invalid, such holding or determination shall not affect the validity or enforceability of any other term or provision, and the application of this Agreement to other local government entities, persons or circumstances shall not be affected.
- E. COUNTERPARTS. This Agreement may be executed in counterparts by the parties. Receipt of executed resolutions having the same effect as if all parties had signed the same agreement.

EXHIBITS

Exhibit A – Benton-Franklin Council of Governments Bylaws, Amended 5.19.2023

ADOPTION

These Bylaws were adopted as a total revision to and replacement of all previously existing Bylaws and amendments by the Benton-Franklin Council of Governments Board of Directors at their Meeting on the 19th day of May 2023 by BFCOG Resolution 04-23.



Brad Peck, Board Chair



Skip Novakovich, Board Vice-Chair



INTERLOCAL COOPERATION AGREEMENT OF THE BENTON-FRANKLIN COUNCIL OF GOVERNMENTS

*Amended May 19, 2023, BFCOG Resolution 04-23
(As a total and complete replacement for all previous Interlocal Agreements)*

PARTICIPANTS

Participants in this agreement shall be whichever of the parties ratify this agreement. If any party fails to ratify this agreement, such action shall not affect this agreement as it pertains to the remaining parties.

WHEREAS, the *Port of Pasco Commission* authorized the execution of this

Agreement by Resolution No. 1611,

Adopted on 08/08/2023 [Date].

IN WITNESS WHEREOF, the parties hereto have set their hands.

By: Fred Jay L

Attest: Maura Reyna

Title: EXEC. DIR.

Title: Director of Properties

Date: 9/26/23

Date: 9/26/23

RESOLUTION NO. 1611

RESOLUTION ADOPTING THE INTERLOCAL COOPERATION AGREEMENT AND BYLAWS OF THE BENTON-FRANKLIN COUNCIL OF GOVERNMENTS

WHEREAS, Pursuant to Revised Code of Washington (RCW) Chapter 36, Laws of 1959, as amended (RCW 36.70.060) and Chapter 84, Laws of 1965, Extraordinary Session, (RCW 36.64.080), The Port of Pasco is by the May 22, 1998, Articles of Association, a member of the regional agency known as the Benton-Franklin Council of Governments; and

WHEREAS, the Board of the Benton-Franklin Council of Governments (BFCOG) determined that amendments made to the Interlocal Cooperative Agreement and Bylaws documents required review and revision to rectify inconsistencies prudent to ensure organizational effectiveness; and

WHEREAS, on May 19, 2023, the BFCOG Board adopted the amended documents **Interlocal Cooperation Agreement of the Benton-Franklin Council of Government, and Bylaws of the Benton-Franklin Council of Governments**, as a total and complete replacement for all previous Interlocal Agreements and Bylaws of BFCOG, by the process outlined in the previously adopted Bylaws; and

NOW THEREFORE BE IT RESOLVED that the governing body of Port of Pasco hereby authorizes the execution and ratification of these documents as attached hereto.

ADOPTED this 9th day of August 2023.

PORT OF PASCO COMMISSION



Vicki Gordon, President



Jean Ryckman, Vice President



Jim Klindworth, Secretary