

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	25 April 2023		
Subject:	MOA with Franklin County and Council of Governments regarding ARPA funds		
Presenter:	Adam J. Fyall		
Prepared By:	AJF		
Reviewed By:	AJF		
PA Review, Approval to Form:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <i>(If no, include reasoning for no approval)</i>		
Type of Agenda Item:	Type of Action Needed: <i>(Multiple boxes can be checked, if necessary)</i>		
<input type="checkbox"/> Consent Agenda <input type="checkbox"/> Public Hearing <input checked="" type="checkbox"/> Scheduled Business	<input type="checkbox"/> Discussion Only <input checked="" type="checkbox"/> Decision / Direction <input type="checkbox"/> Sign Letter / Document <input type="checkbox"/> Pass Motion <input checked="" type="checkbox"/> Pass Resolution <input type="checkbox"/> Pass Ordinance <input checked="" type="checkbox"/> Execute Contracts		

Summary

The Board will consider execution of a memorandum of agreement (“MOA”) with Franklin County and the Benton-Franklin Council of Governments (“COG”) for the use of American Rescue Plan Act (“ARPA”) funds.

Background

Last year, the COG approached Benton and Franklin Counties regarding financial assistance with the COG’s efforts to conduct economic recovery research, assessment, planning, and assistance in the Tri-Cities as our communities winds its way out of the Covid-19 pandemic. The COG calls this activity its **Economic Recovery Coordination** program. The Counties agreed at that time to assist the COG with up to \$400,000 of ARPA funds, which are intended for these types of Covid-19 recovery purposes. The split would be \$250k Benton / \$150k Franklin, following the traditional and generally-followed split on similar projects based on population. The assistance will be meted-out for about two years, with the MOA being considered today ending in mid-2025.

ARPA funds must be designated by the Counties by December 31, 2024; and must be fully expended by the Counties by December 31, 2026. The MOA meets with those deadlines.

The MOA is approved for form by the Franklin County Prosecutor, and is *not* approved for form by the Benton County Prosecutor, who has raised a concern about reconciling ARPA rules with the state statute RCW 43.09.210.

The COG will consider and likely sign the MOA at their meeting of April 21.

Franklin County will consider and likely sign the MOA at their meeting of April 25, concurrent with the Benton County meeting. Staff’s plan is to take the signed original from Prosser directly to Pasco for final execution.

Fiscal Impact

Up to \$250,000 to be paid from the County's ARPA allocation, to be matched with up to \$150,000 from Franklin County.

Recommendation

Staff recommends entering into the MOA.

Motion

"I move for the County to enter into the memorandum of agreement with Franklin County and the Benton-Franklin Council of Governments, and that the Chairman to be authorized to sign said agreement."

#

JOINT RESOLUTION

BENTON COUNTY RESOLUTION NO. _____

FRANKLIN COUNTY RESOLUTION NO. _____

**BEFORE THE BOARDS OF COMMISSIONERS OF
BENTON COUNTY, WASHINGTON AND FRANKLIN COUNTY, WASHINGTON:
A MEMORANDUM OF AGREEMENT BY AND BETWEEN THE COUNTIES
AND THE BENTON-FRANKLIN COUNCIL OF GOVERNMENTS
FOR ECONOMIC RECOVERY COORDINATION**

WHEREAS, the American Rescue Plan Act (“ARPA”) was signed into law on March 11, 2021, providing federal funding relief for workers, industries, and state and local governments; and,

WHEREAS, Benton County and Franklin County (“Counties”) have received ARPA funds, and will use portions of said funds to assist with funding economic recovery and resiliency efforts in the greater Tri-Cities community owing to unexpected and severe financial hardships resulting from the Covid-19 pandemic; and,

WHEREAS, the Benton-Franklin Council of Governments (“Council”) is an economic development partner of the Counties and is well-positioned to assist the Counties with the types of near and long-term recovery and resiliency efforts that are needed at this time; and,

WHEREAS, it is in the best interests of the Counties and the community for the Counties to contract with the Council for assistance with providing research, facilitation, and implementation of solutions for the community as described in the *Memorandum of Agreement for Support of Economic Recovery Coordination* developed by all three parties;

NOW THEREFORE, BE IT RESOLVED that the Board of Benton County Commissioners and the Board of Franklin County Commissioners approve the *Memorandum of Agreement for Support of Economic Recovery Coordination* between and among the Counties and the Benton-Franklin Council of Governments, and authorize the respective Chairmen to sign said Agreement. The Council shall be reimbursed for up to \$400,000 (up to \$250,000 by Benton County, and up to \$150,000 by Franklin County) for its direct costs associated with implementing the economic recovery coordination services. The agreement shall expire on December 31, 2025.

Dated this day of, 2023.

Dated this day of, 2023.

Chairman of the Board

Chairman of the Board

Chairman Pro-Tem

Commissioner

Constituting the Board of County Commissioners,
Benton County, Washington

Attest:
Clerk of the Board

cc: Benton County Prosecutor
Franklin County Prosecutor
Benton-Franklin Council of Governments

Chairman Pro-Tem

Commissioner

Constituting the Board of County Commissioners,
Franklin County, Washington

Attest:
Clerk of the Board

MEMORANDUM OF AGREEMENT
between and among
the BENTON-FRANKLIN COUNCIL OF GOVERNMENTS
and BENTON COUNTY, WASHINGTON,
and FRANKLIN COUNTY, WASHINGTON,
for
SUPPORT OF ECONOMIC RECOVERY COORDINATION

I.

This Memorandum of Agreement is made by, between, and among the Benton-Franklin Council of Governments, a regional agency known as a “conference” established in 1966 pursuant to Chapter 36.64.080 of the Revised Code of Washington and hereinafter referred to as the “Council,” Benton County, and Franklin County; the two counties hereinafter referred to together as “Counties,” and the three entities being collectively referred to as the “Parties.”

II.

Once signed by the Parties, this document will serve as an Agreement outlining the cooperative effort by the Parties that will allow the Counties to provide the Council with grant funding to be used solely to meet the continued salary and benefits cost of the Council’s existing **Economic Recovery Coordination “ERC” services** through the end of 2024.

III.

The Council is performing ERC services as a part of its economic development mission per its designation as an “economic development district” by the United States Department of Commerce – Economic Development Administration (hereinafter “EDA”). The Council received a Coronavirus Aid Relief & Economic Security Act (hereinafter “CARES Act”) Economic Recovery Grant from the EDA in 2020 to establish and fill the ERC position. The EDA grant provided two years’ worth of position funding. The Council has found value in providing ERC services and has continued to fund staff time for these activities from Council funds, but needs further funds to maintain ERC services through the end of 2024. The primary responsibilities of the **Economic Recovery Coordination** include:

- Research and identification of recovery and development projects for member organizations.
- Provision of technical assistance to member organizations, businesses, and other stakeholders.
- Assistance with coronavirus recovery planning efforts.
- Identification of grant-eligible projects for local impacted communities.
- Facilitation of disaster-generated economic development projects that align with EDA plans and funding opportunities.

IV.

The Counties are in receipt of federal economic stimulus funds through the American Rescue Plan Act (hereinafter “ARPA”). ARPA is a successor to the CARES Act and builds upon many of the CARES Act measures and goals related to economic recovery and long-term resiliency. The ERC helps further those goals and is a permissible use of ARPA funds. These include responding to the public health and negative economic impacts of the pandemic. The Counties find value for the local economy in the Council’s

Economic Recovery Coordination services and wish to assist with funding the staffing required by use of ARPA funds through the end of calendar year 2024.

V.

The Counties agree to provide grant funding to the Council to help it meet expenses of the salary and benefits of the ERC position through the end of 2024 up to the following amounts:

- Benton County shall provide funding in an amount not to exceed \$250,000, payable from its ARPA funds.
- Franklin County shall provide funding in the amount of \$150,000, payable from its ARPA funds.

The Council shall invoice Benton County for 62.5% and will invoice Franklin County for 37.5% of ERC costs. Invoices will include direct staff salary costs for ERC services and the Council's federally determined Indirect Cost Allocation Plan (ICAP) rate covering the benefits and overhead. Each of the two Counties shall receive separate invoices for the amount due from such county under this Agreement as stipulated below. Payments are the responsibilities of each County independently and shall be remitted to the Council by the Counties within thirty (30) days of receipt of invoice:

- Benton and Franklin Counties shall each receive invoices for their percentage of the ERC expenses incurred subsequent to the date of this Agreement as of the following dates: June 30, 2023; December 31, 2023; June 30, 2024; December 31, 2024; and June 30, 2025.

VI.

If at any time it is determined that the use of the grant funds under this Agreement in any way not consistent with ARPA or other federal or state law or the Council as a recipient of said funds utilizes the funds for anything other than the salary and benefits of staff providing ERC services, the Council must return the full amount of any grant funds received under this Agreement to the respective Counties and forego any receipt of future funds authorized under this Agreement.

VII.

Federal requirements prohibit recipients such as the Counties from contracting with or purchasing from parties suspended or debarred from doing business with the federal government. As such, the Council may not be suspended or debarred at any time during the term of this Agreement, and the Council must provide written certification to this effect to the Counties before any grant funds are disbursed. If at any time during the term of this Agreement, the Council is suspended or debarred, the Council must return all federal funds granted under this Agreement to the Counties, and the Agreement shall be immediately terminated.

VIII.

The Council shall submit reports to each County's respective board of commissioners in written and verbal form. Council staff shall work with County staffs as to the specifics of the written reports. The due dates of these reports shall be June 30, 2023; December 31, 2023; June 30, 2024; December 31, 2024; and June 30, 2025. The accompanying verbal presentations will be arranged with each County's staff individually, with the target timeframes being June and December of 2023, 2024, and 2025 respectively.

IX.

The designated contacts for the purposes of administration of this Memorandum of Agreement shall be:

Council of Governments:

Michelle Holt
Executive Director
587 Stevens Drive
Richland WA 99352
509-943-9185
mholt@bfcog.us

Benton County:

Adam J. Fyall
Sustainable Development Manager
7122 W Okanogan Place
Kennewick WA 99336
509-736-3053
adam.fyall@co.benton.wa.us

Franklin County:

Mike Gonzalez
County Administrator
1016 North Fourth Avenue
Pasco WA 99301
509-545-3535
mrgonzalez@franklincountywa.gov

X.

This Agreement may be modified only by written amendment signed by all Parties.

XI.

The Council shall indemnify, hold harmless, and defend the Counties, their elected officials, employees, and agents from all claims, lawsuits, or any liability whatsoever, including costs and attorney's fees, for property loss or damage, bodily injury, sickness or death, personal and advertising injury, and any other tort loss, related to or arising from the Council's actions and activities related to implementation of the Project.

The Council's responsibilities under this indemnification provision include investigating, adjusting, and defending any alleged loss. Provided, the Council shall have no obligation to indemnify the Counties to the extent that the alleged loss is caused by the sole negligence of either or both of the Counties, their elected officials, employees, or agents.

XII.

It is not the intention of this Agreement to create a separate legal entity for the purposes of proceeding with the Project.

XIII.

This Memorandum of Agreement shall become effective when signed by all Parties and shall terminate on December 31, 2025. Any of the Parties may terminate this Agreement before the term date by notifying the other Parties in writing to be effective thirty (30) days from such notice unless otherwise agreed upon.

Remainder of this page intentionally left blank.

This Memorandum of Agreement is executed by the persons signing below, who warrant that they have the authority to execute this Agreement on behalf of their respective Party.

BENTON-FRANKLIN COUNCIL OF GOVERNMENTS

Michelle Holt, Executive Director

Date: _____

BENTON COUNTY

Will McKay, Chairman

Date: _____

Attest:

Cami McKenzie, Clerk to the Board

Date: _____

Approved as to Form:

Deputy Prosecuting Attorney

FRANKLIN COUNTY

Clint Didier, Chairman

Date: _____

Attest:

Clerk to the Board

Date: _____

Approved as to Form:

Chief Civil Deputy Prosecuting Attorney