

Jerome Delvin, District 1
Michael Alvarez, District 2
Will McKay, District 3



Jerrod MacPherson
County Administrator
Matt Rasmussen
Deputy County Administrator

Board of County Commissioners

August 26, 2025

Franklin County Board of Commissioners
1016 N 4th Avenue
Pasco, WA 99301

Re: Apportioning liability in interlocal agreements

Honorable Commissioners:

Our two counties have enjoyed a long and cooperative relationship as evidenced by numerous interlocal agreements governing a variety of bi-county activities. These interlocal agreements have become even more important as we face an ever-increasing litigious landscape in our state that has increased the risk in providing many government services. Our jointly operated juvenile justice center is the most recent example of a government service being attacked.

Our interlocal agreements are intended to clarify our respective obligations to each other, such as indemnifying the other in cases of negligence. Yet we have noted a glaring hole in these agreements. They are silent on how liability is to be shared between our counties when the claim is not based on negligence, such as the six sexual abuse and molestation claims we have received alleging abuse at our jointly operated juvenile justice center. We understand Franklin County does not believe it should share liability for these claims because the facility is located in Benton County, is staffed by people hired by Benton County, and is not subject to Franklin County's day-to-day control.

Benton County takes on significant risk when providing services like juvenile detention on behalf of other municipalities. We accept that increased risk in the name of government efficiency and providing the best possible service to the residents of Benton County and partnering counties. However, that does not mean our taxpayers should be shouldering the entire burden. To be sure, we could negotiate which of us might be responsible for each portion of any claim on a case-by-case basis, but that takes time, resources, and can result in unnecessary and protracted litigation. Rather than have each of our counties arguing over who is going to be responsible for a claim, when we should be collectively fighting to refute that claim, we propose that we amend our interlocal agreements to apportion liability.

We recently sent over a renewal of the agreement for which Benton County provides services related to behavioral health, development disabilities, and homelessness to Franklin County

through our Human Services Department. This agreement contained new language which equally apportions any liability resulting from a claim between our counties. When each of our County Administrators met about the status of the agreement a few weeks ago, your County Administrator advised our County Administrator that Franklin County would not be signing the agreement. To avoid the possibility of a miscommunication between our county administrators, we are requesting a formal response from the Franklin County Board of Commissioners on the status of that agreement by September 30, 2025, as it directly impacts the likelihood of future agreements being negotiated between our two counties. If we do not receive a response by September 30 we will assume that you do not wish to continue our Human Services agreement and we will begin the necessary steps to separate the work performed by that department and all related grant funding.

For our part, we feel that equal sharing of the liability related to joint services is reasonable and prudent. Benton County does not profit from the services we provide for the mutual benefit of our citizens, only being reimbursed for our direct and actual costs and a small amount to cover our indirect costs through the negotiated administrative fee. By Franklin County committing to share equally in any resulting liability ensures that we can continue to provide these joint services without unnecessarily burdening our own taxpayers.

Respectfully,

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Jerome Delvin – Chair of the Board

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Michael Alvarez – Chair Pro Tem

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Will McKay – Commissioner