

Department: Utilities and Development

Date:

Date for Consideration: 12/18/18

Agenda Item Title:

Interagency Agreement - Port of Grays Harbor - Westport Marina

EXPLANATION OF REQUEST

The attached agreement will provide \$300,000 to the Port of Grays Harbor for dredging operations at the Westport Marina. The total cost of this project is \$3,850,000. The Board approved the request on 9/20/17 and the cost has been included in the 2018 budget.

RECOMMENDED ACTION

The department recommends approval.

IMPORTANT INFORMATION

Budget information: General Fund

Miscellaneous Fund:

Amount of request: \$300,000

Funding Source (grant, fees, etc.): 310 Fund

Will this require a supplemental or emergency budget? YES

NO

Term/Dates of item: January 1, 2018 - December 31, 2020

Other:

SIGNATURES/APPROVAL

	Elected Official/ Department Administrator Signature:
	Date: 12/13/17
	Grays Harbor County Commissioner Approval:
	Randy Ross, Chairman
	Wes Cormier, District 1
	Vickie L. Raines, District 3 excused
	Attest/Date: 12-18-17
Was the Contract reviewed by the Prosecutor's Office? (if applicable)	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO Signature of Deputy Prosecuting Attorney:
Was the agenda item reviewed by the Budget Director? (if applicable)	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO Signature of Budget Director:
Was the agenda item reviewed by Risk Management? (if applicable)	<input type="checkbox"/> YES <input type="checkbox"/> NO Signature of Risk Manager:

INTERAGENCY AGREEMENT

THIS AGREEMENT is made and entered into this day by and between **Grays Harbor County**, a political subdivision of the state of Washington, hereinafter referred to as "**the County**," and the **Port of Grays Harbor**, hereinafter referred to as the "**the Port**."

WHEREAS, that portion of sales tax monies collected under authority of RCW 82.14.370 to finance public facilities serving economic development purposes are maintained in the County 310 distressed area Capital Improvement Fund established by County Resolution 97-112 and as thereafter amended; and

WHEREAS, the purpose of said fund is to assist development of public infrastructure improvements in support of economic development and job creation/retention; and

WHEREAS, the Port has need for and requests the County's financial assistance with its Westport Marina dredging project. This project will remove accumulated sediment to restore appropriate drafts for vessels throughout the marina; and

WHEREAS, the County finds such financial assistance to be an appropriate county and municipal purpose and agrees to provide the Port with County 310 distressed area Capital Improvement Fund monies in the sum of three hundred thousand dollars (\$300,000.00), subject to the terms and conditions provided herein.

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein, the parties hereto agree as follows:

1. **FUNDING.** The County agrees to provide to the Port the principal sum of three hundred thousand dollars (\$300,000.00) solely and exclusively from County 310 distressed area Capital Improvement Funds. Payment of said principal sum shall be made by the County to the Port.
2. **PERMITTED USE OF FUNDS.** The Port shall utilize all funds received from the County pursuant to this Agreement only for the Project. The Port hereby recognizes and expressly agrees that all work funded under the authority of this Agreement is intended to support economic development and job creation/retention.
3. **REPORTING REQUIREMENTS.** The Port shall submit a written report to the County not later than December 31, 2018 documenting its compliance with all conditions specified in this Agreement. The report shall include the current status on job creation and retention related to the Project and documentation verifying that the Project is included in the Port Capital Improvement Plan. If the project is not completed by that date, then the Port shall submit a written report to the County stating the status of the project not later than December 31, 2018, and shall thereafter submit a written report to the County annually not later than December 31st of each year including the same documentation and requirements until the project has been completed. This report allows the County to fulfill its annual reporting requirement to the State Auditor.
4. **DURATION OF AGREEMENT.** This Agreement shall be effective on the date the Agreement is signed by both parties hereto and such Agreement is filed with the Auditor or alternatively listed on the Port's web site as required by RCW 39.34.040. This Agreement shall continue for the duration of the Project and terminate upon delivery by the Port of all documents required in Section 3 herein above.

5. **ESTABLISHMENT AND MAINTENANCE OF RECORDS.** The Port shall maintain and keep records of all expenditures and obligations, which accurately reflect the use of the funds provided under this Agreement in accordance with generally accepted accounting principles. The Port shall retain all such records, books, documents, and other material relevant to this Agreement for six (6) years following termination of this Agreement. The Port agrees that such records must be kept current and shall be available to the County, or its designee, for inspection or audit at all reasonable times.
6. **COMPLIANCE WITH LAWS.** At all times in performance of this Agreement, the Port shall comply with all applicable federal, state, and local laws, including federal and state nondiscrimination statutes and regulations. This Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of Washington.
7. **INDEMNIFICATION/HOLD HARMLESS.** The Port shall indemnify and hold harmless the County, its officers, officials, agents and employees and each of them from and against any and all claims by or on behalf of any person arising from any cause whatsoever in connection with the making of the grant herein, other than claims established to be occasioned by the negligence or willful misconduct of the County or its respective officers or employees; any and all claims arising from any act or omission of the Port or any of its agents, servants, employees or licensees, in connection with the grant made hereunder or any facilities expansion project or certification submitted therewith; and all reasonable costs, reasonable attorney fees, or liabilities incurred in connection with any such claim or proceeding brought thereon. In the event that any action or proceeding is brought against the County or any of its respective officers, officials, employees, or agents, with respect to which indemnity may be sought hereunder, the Port, upon written notice from the indemnified party, shall assume the investigation and defense thereof, including the employment of counsel, and the payment of all expenses related thereto, provided that no settlement of a claim or proceeding against the County shall occur without the written consent of the County. The Port agrees that all of Port's indemnification obligations shall survive the termination, completion, or expiration of this Agreement.
8. **RELATIONSHIP.** In the performance of this Agreement, the parties shall be acting in their individual, corporate or governmental capacities and not as agents, employees, partners, joint ventures, contractors, or associates of one another.
9. **TERMINATION AND RECAPTURE OF FUNDS.** In the event that the Port fails to expend funds in accordance with the provisions of this Agreement, the County reserves the right in its sole discretion to terminate this Agreement and/or recapture funds provided under this Agreement in an amount equivalent to the extent of the noncompliance. The County's right of recapture shall exist for a period not to exceed six (6) years following expiration or termination of this Agreement. In the event the County is required to institute legal proceedings to enforce the recapture provision, the prevailing party shall be entitled to its costs thereof, including reasonable attorneys' fees.
10. **REIMBURSEMENT OF FUNDS.** In the event that the Washington State Department of Revenue or other state agency determines that the award and use of funds from the County 310 distressed area Capital Improvement Fund is not appropriate and/or is in violation of its use pursuant to the conditions found in RCW 82.14.370, the Port shall be solely responsible for reimbursement of the funded amount to the County 310 distressed area Capital Improvement Fund or as otherwise directed.
11. **NOTICE.** All official notices required by this Agreement or that either party hereto desires to give the other shall be deemed delivered upon deposit thereof in the United States mail by certified mail, return receipt requested, with postage thereon fully prepaid, addressed as follows:

PORT OF GRAYS HARBOR
111 S. Wooding Street
PO Box 660
Aberdeen, WA 98550
Attn: Alissa Shay

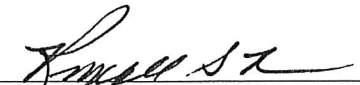
GRAYS HARBOR COUNTY
Board of County Commissioners
100 W. Broadway, Suite 1
Montesano, WA 98563

The above addresses may be changed by either party by giving written notice to the other in the manner directed herein.

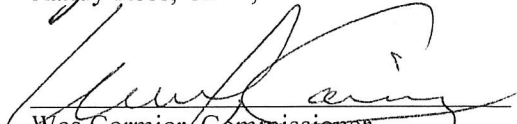
12. **ENTIRE AGREEMENT.** This Agreement contains the complete expression of all terms hereto and any oral representations or understandings not incorporated herein are excluded. This Agreement may be amended, changed, modified or altered only by written instrument signed by both parties hereto.

DATED: 12-18-17

GRAYS HARBOR COUNTY



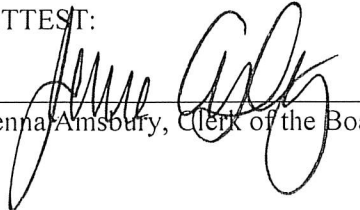
Randy Ross, Chair, Commissioner



Wes Cormier, Commissioner

excused

Vickie L. Raines, Commissioner

ATTEST:


Jenna Amsbury, Clerk of the Board

PORT OF GRAYS HARBOR



Gary Nelson, Director